

GOLD COAST:  
AKAN LAWS AND  
CUSTOMS  
AND THE  
AKIM ABUAKWA CONSTITUTION

By

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AKAN LAWS AND CUSTOMS

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PREFACE

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## PREFACE

TO wish to write a book is an easy thing, and, for the ready writer, when the materials for the book are well in hand, the job becomes an entertaining enterprise. The difficult thing in the art of authorship is to finish a book.

This work was actually commenced in 1920, and much of it was in manuscript before I left home in the autumn of 1921 to continue my studies in England. My original intention was to write down the facts of Akan customary laws as actually practised in various Akan states in the Colony. On my arrival in England and after a two years' course of study, I became strongly tempted to recast the whole work, substituting for it, if need be, a theoretic or "scientific" treatise on the customary institutions of the Akan people. Eventually I felt compelled to revert to my original intention, for I discovered that although one could get much sound generalization by European writers on African institutions, there were not enough data upon which a true estimate of the essential nature of aboriginal African institutions could be formulated for general, as distinguished from technical, study. That type of work can only come from the African himself.

The result of this discovery is the work as now published, and the reader might be well advised to accept this book as coming from a writer who, despite his six years' stay in the academic atmosphere in England, prefers to look upon the institutions of his country from the African and not from the European standpoint.

I take this opportunity to thank those of my friends and other public men in the Colony who have assisted me in the preparation of this work. I am obliged to Mr. W. J. A. Jones, B.A. (Oxon), of the Gold Coast Political Service, for much useful encouragement. I am indebted to my friend Mr. W. F. Hutchison, of the *African World*, for reading the proof sheets, and the valuable native touches given by my English friend, Mr. N. A. T. Young, B.A. (Oxon), of Achimota College, will, I feel sure, help to commend this work to the most critical scholar of the English language. I owe a debt of gratitude to Mr. Albert Cartwright, Editor of *West Africa*, who gave me a needful and valuable opening by publishing sections of this work in his widely read journal.



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The Minstrels or Amemafo who are also the Executioners  
or Abrafo.

*“Odomankama boo\_adee no  
Oboo degben?  
Oboo Esen,  
Oboo Kyerema,  
Oboo Kwawu Kwabrafo,  
Ditire.”*

*“What else created the Creator?  
An Esen created He;  
A Drummer created He;  
And a merciless Executioner.”*

## INTRODUCTORY

### A

A GLANCE at the political map of the Gold Coast and Ashanti reveals a conglomerate of small states or "divisions" variously described as consisting of Ashantis, Fantis, Twis, Nzimas, Gas, Adangwes, etc. To this difficulty of geographical distribution is added the more complex problem of language and other characteristic differences among the various tribes. Weigh these difficulties side by side with the varied historical past of the numerous states, and the intricacy of the problem of tribal inter-connectedness becomes perfect in its apparent insolubility. But a close and intimate study of the general history and traditions of these tribes shows that, besides the difference of language, there is at bottom, only one fundamental difference noticeable between the Ga-Adangwes on the one hand, and the Twi-Ashanti-Fanti sections on the other. This difference is found in the fact that while the Ga-Adangwe tribes follow the custom of circumcision, looking upon it as an indispensable mark of manhood, the Twi-Ashanti-Fanti tribes regard circumcision as an abominable practice, and this is logically connected with their abhorrence of the habit, common among certain African tribes, of marking or even painting the human face or body in any permanent shape or form.<sup>1</sup>

The Twi-Ashanti-Fanti tribes characterized by these general resemblances (absence of circumcision and tattooing) are commonly referred to as the *Akan* tribes of the Gold Coast and Ashanti. Whether or not the name is justifiably applied to all these tribal states is a historical question which we need not discuss. What it is wished to emphasize is that tribes following circumcision are not usually enumerated among the *Akan-fo*, and tribes in the Gold Coast and Ashanti by

<sup>1</sup> These remarks are not intended to disparage the practice of tattooing among tribal races. On the contrary, evidence adduced in anthropology would seem to show that tribes among whom the practice is common most generally exhibit a highly advanced development in the arts of painting and sculpture; and art is one of the delights of culture.

whom circumcision is not practised may be correctly referred to as belonging to the Akan group of tribal states.

The language spoken by these various tribes, which I call the Akan language, has many variations of dialect, the two principal ones being (1) the *Fanti*, spoken by tribes inhabiting the coastal districts of the Central and Western provinces of the Colony, including some tribes or states in the hinterlands of those provinces; and (2) The *Twi* (*Tshi*), spoken throughout the whole of Ashanti and by all the other Akan tribes in the Colony.

Akan tribes are said to have migrated from Central Africa to the littoral of Western Africa in consequence of the Moorish aggression in about the seventh or eighth century. Their first settlement appears to have been made near the Kong Mountains and subsequently at Takiman, and latterly, on the Pra river in Ashanti.

It was at Takiman that the first split occurred. The Fantis marched further south, and after some warfare with the Obutus, they settled on the seaboard, founding very important states—a sort of empire with Mankessim as its centre and capital.

Considerable Akan settlements were made at Adanse and Denkera, but following the growth of population there arose a corresponding growth in the desire to centralize authority in a single dynasty. Akim, Denkerra, and Ashanti made rival bids for supreme power, but following the founding of the Ashanti confederation in about the year 1660, the Ashanti ascendancy under Tutu made itself felt. The Akims had by this time migrated into the eastern portion of the Colony further south, and after conquering the Akwamus they established their suzerainty over the territories extending from the river Densu or Humo (near Accra) to the borders of the rapidly expanding Ashanti Confederation. In the west their neighbours were the Fantis, and they had the Krobos and other Ga-Adangwe tribes on the borders of their eastern kingdoms.

## B

The Akyems or Akims are a race of people whose greatness in Akan tribal history and tradition has formed the subject of much comment by historians. Bosman, writing of Denkera in about 1705, says: "This country, formerly restricted to a small compass of land and containing but an inconsiderable number of inhabitants, is, by their valour,

so improved in power that they are respected and honoured by all the neighbouring nations, all of which they have taught to fear them, *except Asiante and Akim.*" And again at another place he says, "Akim was already strong, when Denkera improved in power." Speaking of the ancient and famous Akwamu state, Bosman makes another significant reference to the Akims: "The Akwamu Negroes are very haughty, arrogant, and warlike; their power is very terrible to all neighbouring countries *except Akim.*"

Even so modern a historian as Dr. W. W. Claridge, writing with the unfortunate Ashanti events of 1900 still fresh in memory and in spite of his frequent disparaging references to the fighting qualities of Akims, found himself compelled to endorse the better opinion of preceding historians concerning the Akim tribes. Thus he says on pages 155 and 156, Volume I, of his *History of Ashanti and the Gold Coast*: "A very fair idea of the condition of the Gold Coast at the close of the seventeenth century can be gleaned from the writings of Dapper, Barbot, Bosman, Smith, and others who were in the country at that time. . . The Adoms, Jabis, and Akwamus were now the most powerful and warlike of the coast tribes, but the Akwamus *were continually at variance with the Akims, who claimed a feudal right over them and tried to exact an annual tribute.* Akim would have been a much more powerful state than it was if its chiefs had only been able to agree amongst themselves instead of being for ever engaged in petty quarrels and disputes so that their enemies had little cause to fear them."

This passage seems to contain very little of positive value, but for our present contention it conveys much of meaning and significance. The Akims were, in fact, the only people who most frequently were successful in resisting the imperialism of Ashanti. It is a common saying among the Akans that "*Okyenhene nkō ara na Osantehene ne no di nsawoso,*" literally, "The King of Ashanti treats with none but the King of Akim on familiar and equal footing" (see Christaller's *Dictionary*, page 81), and it is a well-known fact of history that the oath "*Koromante*",—"the most binding and dreadful of Ashanti oaths",—takes its origin from a successful but, from the Ashanti point of view, an unfortunate Akim strategy against the Ashanti Army in about 1730.

Besides Akim Abuakwa (sometimes referred to as Eastern Akim, Akem, or Akyem) there are two other Akim states in the Colony to-day, Akim Kotoku (Western Akim) and

Akim Soaduro. My acquaintance with Akan customs and institutions, as actually practised by a self-contained and independent tribal state, was made in Akim Abuakwa while serving under its enlightened Omanhene Honourable Nana Sir Ofori Atta, K.B.E., as secretary in his office and registrar at his Tribunal. The main factual examples chosen to illustrate my descriptive statements in this book are drawn from the rich field which my experience in the Akim royal house opened to me.

Akim Abuakwa stands out prominent as one of the few Akan States whose dialect has remained unadulterated and pure throughout the period of Anglo-European contact with the Gold Coast. Consequently the institutions and customs as practised in that country still retain to a very large extent their original meaning and significance. The Rev. Adolph Mohr, a pioneer Basel missionary in the Gold Coast and Ashanti, writes in the Introduction to his *English-Twi Dictionary* that "The most important of the Akan dialect is that of Ashanti, on account of the extent and power of that tribe. Closely akin to it are the dialects of Asen and Akyem (Akim), the latter is even regarded as the purest and most elegant dialect, being at the same time the most central of all."

For these and other obvious reasons I have chosen Akim Abuakwa as a model Akan state, the institutions and usages of which may be made a basis for the study of general Akan laws and usages. Moreover, many of the topics treated of in this book are not such as to admit generalization without concrete presentation of known facts, and after considering alternative methods of treatment it seemed the best plan to take the existing institutions of Akim Abuakwa for purposes of typical illustration. The pronouncedly conservative character of the Akim Abuakwa people has made it possible for the institutions of the Akans to be preserved under the Abuakwa tradition in a way that would not have been possible had the Akim Abuakwa people embraced European civilization without reference to the authority of their ancient customs and institutions.

In the following pages it is intended to set down a fairly accurate description of Akan customs as witnessed in practice from year to year during the writer's six years' service in an African political entity renowned throughout the ages for its greatness in Akan history.

## C

The subject matter of this book has formed the object of treatises by many eminent writers, including the late Mr. Sarbah (*Fanti Customary Laws*), Mr. Casely Hayford (*Gold Coast Native Institutions*), and more recently by Captain R. S. Rattray (*Ashanti*). After a careful study of these and other well-known works, such as Mary Kingsley's *West African Studies*, Ellis's *Twi-speaking Peoples of the Gold Coast*, and Bosman's *Letters*, it is felt that there is still place for a book like the present one.

Both Mr. Sarbah and Mr. Casely Hayford wrote as members of an Akan tribe, but, while Mr. Sarbah's book teems with learned legal discussion and Mr. Casely Hayford's with well argued and eloquently presented political theories, the present writer, also an Akan, would consider his labours amply done if this book be accepted as a plain and simple presentation of Akan customs by one from within. With one or two exceptions, the principal chapters of this book were all complete in manuscript two years before the author had a chance of reading any scientific book on sociology or anthropology, and the statements in the book may safely be accepted as uninfluenced by preconceived ideas or theories of what Akan customs probably are or ought to be. This book is written by an Akan from the purely African standpoint.

Concerning books on our customs written by European investigators, it seems sufficient to notice Captain Rattray's *Ashanti*, the latest and best in the field.<sup>1</sup> In that book Captain Rattray makes a thorough and fruitful scientific research into the religion of the Akan people, but he does not tell us much concerning the political institutions of the Akans, and his remarks on Akan land tenure, whereby he attempts to draw a comparison of resemblance between the English (Anglo-Saxon) feudal tenure and the Akan system of land control and ownership, seem to betray an incomplete grasp of the real nature of our non-religious institutions.

A few examples from *Ashanti* may help to justify this seemingly adverse comment on an otherwise admirable book. For Captain Rattray to state that "the 'owner' of a fee simple in Ashanti, and the 'owner' in England in the days

<sup>1</sup> Captain Rattray has quite recently published another book, *Religion and Art in Ashanti*, on part of the subjects dealt with in this book. My review of that book in the English weekly *West Africa* sums up my appreciation of that work. No fruitful reference can be made here to the contents of *Religion and Art in Ashanti*, as it reached me long after my typescripts were ready for the press.

of Edward I occupied a very different legal position " (p. 228), and then to proceed to find Ashanti parallels for the peculiarly feudal services of escheat, gift, forfeiture, aids, reliefs, and the feudal tenures of fee simple, estate tail, life estate, etc.—this, I say, is rather a half-hearted way of attempting to find facts to prove a known theory and not a theory to account for known facts. When one is speaking of the right of tenure or ownership of land, and it is confidently asserted (1) that the owner in one system of law is legally different from the owner in another ; (2) that while in the one system individual ownership is the general rule, in the other " individual ownership of land was literally unknown " (p. 229) and (3) that the word " heir " has a different meaning from what it has in the other system (p. 229), what more is there left to form the basis of a comparison of resemblance between the two systems of tenure? Land tenure means possession, i.e. the retaining by one or more persons of a piece of land, the holding by a tenant or holder of a particular portion of land. Where the basis of tenure differs we should expect the superstructure to be different, even though minor resemblances might still be found in the two contrasted systems. Possession is possession all the world over, and, with regard to land, there is sure to be some form or other of resemblance in the nature of possession in different systems of tenure. But it is dangerous to formulate a system or even a theory upon minor and isolated resemblances. In any attempt to make comparisons, if we want to be logical, what we have to look for is the fundamental point of contact between any two contrasted systems ; if at that point we see a similarity of character we may be justified in concluding that the two systems are alike, if they are dissimilar at that essential point the two things are most probably different in nature, and generalization on that score would be unscientific.

Take again the feudal service of relief, described as the practice whereby " an heir of full age was required to pay a fine, called a relief, on succeeding to his ancestor's estate ". Captain Rattray attempts to assimilate the payment of *Ayibuadie* in an Akan funeral to this particular incident of feudal service. It is an unfortunate comparison. In the first place *Ayi-bua-die* means literally " funeral-help-thing ", i.e. money paid to assist in payment of funeral expenses. Now in the above definition of Relief quoted from Williams' *Law of Real Property*, we read that relief is paid by the incoming tenant to the landlord on account of the death of his predecessor as a sort of tax on property.

But where is the point of resemblance between Relief and Ayibuadie? In Akan funeral observances, although Ayibuadie may be paid to any important person or Chief who has come to the funeral, such payment, either in money or goods, is not made in consideration of tenancy. It is a return gift to the chief for his generous help in the celebration of the funeral expenses. No doubt such payment may be in excess of the original sum given by the chief, but be it noted that (1) Ayibuadie will not be given to a chief who has not participated in the celebration of the funeral; (2) the amount given is not a fixed or unalterable one; and (3) Ayibuadie will be paid whether the deceased owned any land or not. The person who pays it may not be the "heir" at all. Generally Ayibuadie is paid by the family before the appointment of an heir. As is shown in our chapter on Funerals, the celebration of the custom entails an elaborate system of fasting. A general observance of "guare" or "bathing", that is, purification, brings an end to the fasting. A sheep is slaughtered for the preparation of a common meal in which all the immediate members of the deceased's family as well as all the mourners should participate. Generally a chief is not supposed to dine on a common table. By reason of his particular sanctity and sacredness, he has to dine alone. Consequently a sheep, with or without a present of money, is given him as a "thing" (*ade*) or gift for having "helped" (*boa*) in the "funeral" (*ayi*). Hence *Ayi-boa-de*. It is a gift intended to purify the chief from his contact with the dead.

Similar criticisms easily suggest themselves with regard to the other usages *Awunyade* (thing possessed on death—inheritance), *Akyede* (thing given—gift), *Tuo* or *too* (tax-toll), *Adwoyie* (seizing of pledge—forfeiture), all of which are employed by Captain Rattray as corresponding to the feudal services of escheat, gift, aids, forfeitures, etc. But enough has, I think, been said to show that if there is any resemblance between the mediaeval feudal system with its military substructure and the Akan system of communal ownership, that resemblance cannot be found either in fee simple, life estate, and estate tail, or in the services of escheat, reliefs, aids, and forfeitures.

Much as I appreciate Captain Rattray's valuable work in connexion with Akan religion, and much as I admire the unprejudiced and sympathetic spirit in which he is handling his official researches into Akan customs and institutions, we have no right to expect him to understand our non-religious institutions until he has dissociated his mind from

theories that can have no application to the indigenous institutions of the Akan people. Such problems as marriage, divorce, land tenure, social, political, and judicial institutions have as yet to be brought under Captain Rattray's masterly grasp. To state, for instance, that marriage in Akan land amounts to a sale of the woman is, putting it mildly, to betray a not very high appreciation of the meaning of the Akan word *Odehye*, "free born". Any one acquainted with the depth of pride in which an uncle or grand-uncle—the head of a large Akan family—guards and broods over his "free-born" would not lightly speak thus on the subject. To suggest to an Akan head of a family, a *nana*, that his niece who has just been married into a stranger-clan or family has been *bought* is about the very last affront one can offer to a member of the proud and haughty Akan race. A bought person in the Akan social order is an *akoa* (connected with *okoro*—one, single, lonely), an isolated individual without a father or a mother, a person cut off from all that gave him being and who can claim no connexion with any of the ancient Akan clans. Such a person is in fact an *Otwea*, a being removed but one stage from the mere animal, and to connect the free-born of an Akan with any such idea should be surprising in any one closely acquainted with the inner social consciousness of the race which chose to call itself *Akan*, the *pure*, the *first* race.

As already mentioned, Captain Rattray's work on Akan religion is wonderful in its perfection and scientific precision. In fact, his treatment is so good that as a tribute to his brilliant chapters on Akan religion, I have deliberately left out of this work an original chapter on that subject written by me five years ago for inclusion in this book. The serious student of Akan religion desirous of getting at their religious conception of life cannot do better than study his subject at the hands of "*Okomfo*" Rattray, the learned white "priest" of Ashanti *Takese*. On other subjects in which Captain Rattray is not so well informed the student had better look elsewhere for a fresh line of research.

## PART I

### INSTITUTIONS AND CUSTOMS CONCERNING THE STATE

## CHAPTER I

### THE CONSTITUTION OF AKIM ABUAKWA

THE tribal state of Akim Abuakwa as at present constituted is governed by an elected king known as *Omanhene*, assisted by three distinct councils, each consisting of elected chiefs, sub-chiefs, elders, and councillors. The three councils are the following :—

(1) The *Kyebi*<sup>1</sup> (*Kibbi*) Council, known as “ Ankobea-ne-Apesemaka-ne-Kyidom ”.

(2) The *Okyeman* Council, the great state council of the nation, consisting of the *Omanhene*, the *Mpakanfo*,<sup>2</sup> and all the chiefs and sub-chiefs of the realm.

(3) The *Amantoo-mmiensa* Council, or the Council of Three Counties, consisting of the following towns and villages, viz. :—

*First Amantoo (County)* : Apapam, Afiesa, Afwenease, and Adadientam ;

*Second Amantoo* : Apedwa (Krobo) ;

*Third Amantoo* : Tete, Wirekyiren, and Pano.

#### 1. THE KIBBI (EXECUTIVE) COUNCIL

The Kibbi Council may be defined as a body of elected chiefs and elders and councillors who are in constant consultation with the King, or *Omanhene*, and to whom is entrusted the direct government of the Division. With the *Omanhene* at its head as sovereign-president, this Council of Chiefs and Elders and Councillors may be called—if we may use an English political term—the Executive Council of the government of the country. The Council consists of three principal sections, parties or bands usually styled, “ Ankobea, Apesemaka, and Kyidom.”

<sup>1</sup> The words “ Kibbi ” and “ Akim ” are used in this work for “ Kyebi ” and “ Akyem ”, the former being the recognized orthography. “ Kyebi ” and “ Akyem ” will be used in certain cases only. Kibbi is the capital town and seat of government of the Akim Abuakwa state.

<sup>2</sup> A chief with the right to ride in a Palanquin (Apan) is *Opakani*. The proper title of an *Opakani* under the new Native Administration Ordinance is “ Divisional Chief ”.

The Ankobea, though first-named, is not the senior party (or "band", as Reindorf calls it), but it holds an unique position on the Council, the nature of which is treated in another chapter. This party—Ankobea—is subdivided into two principal parts:—

(a) The Ankobea proper, whose chief is styled the Ankobea-hene (Ankobea-Chief). He occupies the Amomam<sup>1</sup> Stool.

(b) The Jase sub-part whose Chief is styled the Jase-hene.

All *nhenkwa* (State messengers and State emblem-bearers) are under the Jasehene. Any new sect formed by a part of the people, such as the new Christian confraternity, comes under the Jase-hene. There are a few towns in the Division who owe allegiance to the Ankobea. The Ankobea-hene is senior to the Jasehene, and all under the latter are subject to the former's authority.

The *Apesemaka* has only one head or Chief, known as the Abontendom-hene of Kibbi, his usual appellation being Apesemaka-hene. He is a Principal Chief<sup>2</sup> entitled to ride in a palanquin. He has some sub-chiefs under him. Some functions of this Chief are analogous to that of a Mayor of a European city, but the former's duties are considerably greater in extent, although not so great in magnitude.

The Apesemaka-hene, besides being the first Councillor or adviser to the Sovereign, is also the head of the municipal associations of Kibbi, and the Sovereign looks to the Apesemaka-hene for performance of the duties of an *Odikro* of Kibbi.

The succession to the Apesemaka—or Abontendom-hene—stool is not hereditary in the conventional way in which the term is understood in the Gold Coast; for the successor is nominated direct by the Executive. The only eligible persons for this great post—probably the most honoured ministry in the state—are the sons of the present and the past Amanhene (Kings). In the language of English politics we should say the Apesemaka-hene is the Omanhene's prime minister.

The *Queen Mother* (Ohemma), who is a member of the Kibbi Council, belongs to the Apesemaka section. She is the only person of the Royal Family who—besides the Omanhene—owns a stool and is recognized as a stool-holder on the Council. All other members of the Royal Family on the Kibbi Council are non-stool-owning, and are directly under the authority of the Apesemakahene. It is worth noting

<sup>1</sup> Amomam is a quarter in Kibbi.

<sup>2</sup> I.e. a "Divisional Chief" under the new N.A.O. (1927).

that in Ashanti, Juaben, and other places, there is a separate stool created for the senior male member of the Royal Family on the Council.

As aforesaid, the Apesemaka is the leading and senior party on the Kibbi Council. This party also owns some towns acknowledging allegiance to it.

The third party on the Kibbi Council is the *Kyidom*, which possesses two stools. The senior Chief is the *Kyidomhene*, occupying the Ampebame Stool. The second Stool is occupied by a Chief related to the Ampebamehene. The occupier is termed *Kyidom Panin*, but his position is almost unique, and is practically equal to the Jase Stool. The *Kyidom* section owns certain towns and also certain peculiar privileges, and we will deal with these in subsequent chapters.

For all political purposes four principal stools are counted as forming the Kibbi Council, viz. (a) the Jase Stool, (b) the Ankobea Stool, (c) the Apesemaka Stool, and (d) the *Kyidom* Stool. Other minor interests are represented on this Council, but they are out of treatment here.

The above, then, are the four Chiefs who hold and constitute the Kibbi Council; it is they who, with the Sovereign at their head, manage the political life of Akim Abuakwa; and they have been the mainstay of the present Omanhene, Nana Sir Ofori Atta, in his progressive policies for moulding our ancient laws and customs into accord with modern exigencies, whilst at the same time preserving undisturbed the best that there are in the constitution and institutions of this great Akan tribal state.

## 2. *The Okyeman (State) Council*

*The Okyeman Council*, or the national council of Akim, is by far the greatest body in the government of Akim Abuakwa. It is a council composed besides the Omanhene of all the twelve mpakanfo, of all the members of the Executive Council, of the eight chiefs of the Amantoo-mmiensa Council, and of all other Chiefs and sub-Chiefs of the state. Every town, village, or hamlet which has a Chief owning a stool, has that Chief as its representative on this Council. It may be provisionally defined as the great legislative assembly of the nation.

In this Council the Omanhene is Sovereign-President, and the Adontenhene of Akim Abuakwa—whose permanent residence is Kukurantumi—acts as chairman or leader. All laws and customs and most of the rules and regulations concerning the State are passed by this Council; all matters

relating to war, all controversial questions in which the Omanhene or the State is involved are discussed and decided by the Council ; all foreign affairs, and, in fact, all matters which affect the whole machinery of government in its application to the entire length and breadth of the state, are properly cognizable by the Okyeman Council. It is the final court of appeal. It is the safety-harbour of the oppressed. It is, to say the least, the greatest power in the state which, to make a reference to our own times, has right to discuss and reply to all important communications and other proposals emanating from the British Government. In fact, it is, or was before the advent of the all-masterful Native Jurisdiction Ordinance of 1883, the great Council whose decision was ever final on king, prince, or subject, and imperative on native, stranger, or foreigner who set foot in the kingdom of Akim Abuakwa.

The Okyeman Council is invariably held at Kibbi, the residence of the Omanhene and capital town of Akim. If, however, in a progress of the Omanhene, it is found necessary to hold a state council at any place other than Kibbi, it is usually done, after due libation to the gods and to the spirits of the departed ancestors. The Council is always summoned by the Executive.

Proposals placed before the Council by the Executive are discussed freely by this Council, and when there is unanimity a particular proposal or bill is disposed of or passed into law. Such law is binding on all the inhabitants of the state of Akim Abuakwa. Members of this Council may also propose topics for discussion by the Council. When unanimity is not obtained, the casting vote is always reserved for the Sovereign-President ; but controversies of this kind are, in our experience, very rare.

As mentioned above, the Adontenhene is chairman or leader of the Okyeman (State) Council ; this means, in our custom, that the proceedings of the Council in committee are conducted by him. When the Council goes into committee on a particular question, the Sovereign-President stays behind, and is not, by law, permitted to take part in the discussion of the committee or to influence the opinion of the members while in committee. Thus, it may be gathered, the real machinery of legislation is in the hands of the people's representatives. The Sovereign-President keeps behind when the councillors retire into committee to take a final decision on a question before the Council. Here the Adontenhene, as chairman or leader, has control of the Committee.

The deliverance of the Committee's opinion thus formed is made not usually by a linguist of the Sovereign-President, but by a linguist of the chairman, or of one of the principal Chiefs (either the Nifahene or the Benkumhene) then acting for the Adontenhene. The linguist thus selected to give the report of the Committee's finding to the Omanhene speaks with the authority of the Council and in the name of the State. It is needless to say that all members of the Executive Council take a full share in State Council sessions and play a very active part in committee deliberations. They represent, as it were, the opinion of the Executive, and every weight and consideration is given to their suggestions in the Committee.

The question of linguists is not a trivial matter. In an extraordinary Executive meeting, that is in one in which the Council of three counties and the Kibbi (Executive) Council sit together as one body to decide certain matters, the linguists who deliver the findings of the Committee of this Joint Council are the Omanhene's. The Omanhene's linguists are the only spokesmen permitted by custom to speak for the Executive Council; they may also speak on behalf of the State Council Committee if the subject on which a considered opinion is formed affects the Chiefs as a body or has any bearing on a subject affecting the status of the Chiefs and their subordinates.

On such occasions the eloquence of the linguists or spokesmen is worthy of note. In delivering committee findings linguists are expected to speak with intelligence backed by experience. Exact and definite they must be, but they are not restricted in the use of words and proverbs helping to enforce the proposals or findings effectively. It is at such times that they show their wisdom and intelligence, their wit and rhetoric power. They are unsparing in the use of philosophic reflections, and, in fact, it is chiefly in meetings like this that the best traditions of the nation, and the honour and glory of the Akan people as a whole, are fully displayed to the greatest advantage.

As we have said, any orders, edicts, decrees, laws, or proclamations made by this Council through a duly appointed linguist of the committee are, until repealed by the Council, final, and binding on all the inhabitants of the State in so far as their interests are concerned.

State Councils, besides having full power to make and unmake laws, are also the last courts of appeal in the various Akan states. They are a mark and an evidence of the supreme independence of each Akan nation. Any state council endowed with such powers resents with great bitterness of speech and

action any interference with its authority, or things concerning its sovereignty. Any attempt to over-rule its acts without its own consent is looked upon as underhand work to undermine the existence of the nation, or as a means of coercing the people to surrender their time-honoured principles of self-government.

It is interesting to think that these small nations of the Gold Coast, each consisting of a few towns and villages with a bare handful of population, have been so highly successful in maintaining this well-developed form of self-government. The Akan nations, with all the disadvantages of lack of transferring thought by any means other than speech, and in the absence of any proper medium of communication, have been able to march abreast of the times, adhering to their ancient, but by no means archaic, form of self-government.

### 3. *The Amantoo-mmiensa Council*

*The Amantoo-mmiensa Council* is formed of three towns, or counties, situate within seven miles radius of Kibbi, the seat of government. This Council of Three Counties has political power in the State of Akim Abuakwa.

(i) *Apapam* is the chief town, and the Chief or Odikro of Apapam is president of the Council of Three Counties. With Apapam are the following towns, viz. *Adadientam*, *Afwenease*, and *Afiesa*. Apapam with its county owns one Drum, called the "Asafo Pranpran". The inhabitants of the three towns and their Chiefs are looked upon as the principal leaders of the Amantoo-mmiensa Council.

(ii) *Apedwa* forms the second county. This town also owns an "Asafo Pranpran"—a symbol of authority. There are no other towns with Apedwa (Krobo), and the inhabitants with their Chief are next in importance to the Apapam section on the Council.

(iii) *Tete* heads the third county of three towns, the other two being *Wirekyiren* and *Pano*. This county owns the third "Asafo Pranpran".

These three groups of towns and villages constitute what is generally known as the *Amantoo-mmiensa Council*, or the Council of Three Counties. Their activities are much too wide to make feasible any hard cut definition of their power and its limit. They are nicknamed "Ofori Soldiers", and are regarded as an immediate bulwark of the Stool at Kibbi (*Ofori Akonnua*) against internal inroads, invasions, and insurrections. This is the usual definition given to indicate the

extent of their power. But the definition is vague, and conveys no proper idea of the significance of their activities. It is a description showing the nature of their military power to the exclusion of their civil functions. To make it an exhaustive and convertible definition we must consider the real nature of their activities.

It must be admitted that the origin of our State government and the principles on which it was founded, being solely military in character, one should feel content to accept the fact that the whole structure of the civil government we enjoy to-day is the result of martial adventures. This being so, it is only natural that people whose powers are clearly labelled as "military commanders", etc., should exercise civil powers when the fruit of their labours bring peace. In almost all the Akan institutions, from the lowest servant to the highest officer, there is scarcely any whose civil powers are not based on military appointments. It is, therefore, most natural to fall into the habit of merging a civil into a military power.

This Council of Three Counties has a wide but limited and customary right over the Omanhene and the officers of his Court. They have an undenied right to censure and criticize all acts of the Executive; and the Okyeman Council look to them for direct information on the true state of things in regard to the actual results of the work of the administration.

The Chiefs of these three counties are invariably accompanied in their principal deliberations by their *Asafomma* (the companies of young men). These *Asafomma* are, for all practical purposes, regarded as the real operating forces behind their chiefs, and their influence in many Stool affairs has been cause for much discussion. As a fact, they are a living testimony of the democratic system instituted by our ancestors; they act primarily as a check on any tendency on the part of the Executive towards any exercise of power not in harmony with the true spirit of the customary constitution. The institution is a very real safeguard of the rights of the people. It is a body of *Asafo* company, which owns political rights over the ordinary borders of their own towns or villages; and they would appear to have all the requisite rights which any government by the people aspires to attain. To be a captain or an officer of the *Amantoo-mmiensa*, one has not to be born into any particular family. This is to say, apart from the Chiefs of the towns who are elected according to custom on the principle of maternal succession, the principal leaders of these *Asafo* (companies) called a

*Asafoatsefo* (or company captains) are elected by merit, and the eligible candidates are not selected from any one particular family or clan. Every member of the Asafo, being an Akim Abuakwa by birth or by adoption, is eligible, to the captaincy or Asafoatse.

In short, the Amantoo-mmiensa Council is a unique political body, the members of which are drawn from the two other Councils and are depended upon by the two remaining bodies, viz. the Executive and the State Councils. It is a sort of connecting link or middle term between the two extreme Councils. Nor are they unmindful of their own status and interests, and they recognize their peculiar position in the following familiar ditty usually sung by them on their visits to Kibbi:—

*“ Ofori Nsrafo,  
Yensom 'bi  
Yennan 'bi  
Nso yenne yenho.”*

Meaning :—

“ We are Ofori's<sup>1</sup> soldiers  
We serve no one  
We depend on no one  
And yet we are not free.”

Until quite recent times the appearance of this Council at Kibbi with their three drums and gonggongs was considered by the Executive to be inauspicious, and by the inhabitants of Kibbi as a terror.

Attention is given to this Council in this chapter, not because it is really a supreme council, but because it always supposes itself to be the most supreme authority. On many occasions, particularly in recent times, the Council has chosen to arrogate to itself the sole power of making laws for the State, and their right to make certain rules and regulations is not disputed, but the question as to which of the two councils, the Okyeman and the Amantoo-mmiensa, has greater legislative powers can be very easily decided. The Okyeman Council, as we have shown, represents all interests—both of Chiefs and of people—and to say that the Amantoo-mmiensa Council could make laws over the head of the State Council is to deny the very reason for the existence of the latter Council.

But that the Amantoo-mmiensa Council is a common mouthpiece of the people, that it has a marked influence both over the Okyeman Council and the Kibbi Council, and that it has the right to criticize certain acts of executive officers, are

<sup>1</sup> Ofori here means the Ofori Panin Stool at Kibbi, and not Apadja-Ofori of Akantamasu fame.

truths so abundantly proved by ancient and modern history that it would be futile to attempt a denial. It is the only council whose members are both willing and fearless to represent the people's views to the Executive Council. When the Amantoo-mmiensa approaches the Executive, it does so on its own initiative, and not on the summons of the Executive. The Council can usually represent the common interests of the people.

The common saying is that the Okyeman Council in its absence, or to use a more homely phrase, "when it goes to the country," leaves the government of the state in the hands of the Amantoo-mmiensa Council, and this Council in its turn leaves it with the Executive. This saying is so well-known by every politician in Akim that the real import of its application is seldom seriously realized. The expression as exactly used in the vernacular is as follows: "*Okyeman kɔ nkura a wɔde akyire gya Amantoo-mmiensa, na Amantoo-mmiensa nso de agya Ankobea-ne-Apesemaka ne-Kyidom.*"<sup>1</sup>

Thus it will be gathered that the Amantoo-mmiensa Council is a distinct body of chiefs and people who are not directly under the Executive. It is the only council of chiefs and people having the right to convene and hold meetings of a political nature not summoned by or with the knowledge of the Kibbi Executive Council. It must be mentioned also that it lies within their right to withhold the proceedings of their meetings from or to present same to the Executive whenever they wish. When they present matters for consideration, they habitually do so in a manner entailing consequent serious discussions between the two councils.

When the Amantoo-mmiensa Chiefs are invited to join the Executive Council with a view to obtain the decision of the country on certain measures to be adopted by the Executive, the Chiefs attend the extraordinary meeting without their Asafo people, and in many cases without their Asafoatsefo. In any case, the Amantoo-mmiensa Chiefs in an Extraordinary Executive meeting of the kind reserve the right to take a plebiscite of their people on special points of disagreement between themselves and the Executive.

The above, then, is a descriptive account of the constitution from a legislative and administrative point of view. We cannot in a single chapter define the true nature of our form of

<sup>1</sup> "When members of Okyeman Council go into their villages, they leave (affairs) behind in charge of Amantoo-mmiensa Council, and the Amantoo-mmiensa Council leave affairs behind in charge of the Kibbi Executive Council."

government, and it is a theoretical difficulty to say whether the constitution is democratic or aristocratic, monarchic or autocratic, oligarchic or plutocratic, and, further still, whether it is communistic or socialistic. That it is not plutocratic can be easily shown. As a monarchy or autocracy there is ample evidence in the above to show that the purpose and spirit of our constitution is not solely towards that end. Nor can the Chiefs be regarded as a class having absolute power of government in their hands, though it is an undoubted fact that they are selected to govern because they had proved themselves to be the best members of the governing or royal family. We are left, then, with the speculative problem of showing how far the people enjoy the right of self-government, and how far that self-government is shared between the chiefs as representatives and the people as electors of those representatives.

Does supreme power rest with the people collectively? Does the communistic ownership of property entail government by the commonalty? or is the undoubted control exercised by the chiefs over the lands and other state properties sufficient evidence of a socialistic tendency in our system of government?

These are difficult questions; they are, however, mainly theoretical, and happily we do not choose to reply to such questions in this treatise. All that can be said at present is that the constitution of the central government of Akim Abuakwa is a democracy of limited monarchy controlled by three councils of hereditary and elected chiefs and councillors, but whether this democracy is communistic or socialistic we cannot and we need not say now. What is definite about the constitution is that the chiefs who govern are controlled and checked by the people who are governed.

## CHAPTER II

### THE DIVISION OF FUNCTIONS

#### A. THE SACRED OFFICES

MUCH the most interesting part of Akan institutions and customs is the system that governs the construction of the machinery of government, with particular reference to the specific functions to which the people attach an importance significant as a guide to their inner social and political consciousness. Some of these offices have been described as sacred in the sense that their holders are held immune from the consequences of certain acts for which as "ordinary" persons they would otherwise have been responsible. One of the set-pieces of drum music that an "Atumpan" drummer plays on his pair of talking drums on the occasion of stool ceremonials seems to indicate how highly sacred certain offices are held to be, and it is appropriate that we reproduce it here:—

*Odomankama bog adee no obog deeben ?  
Obog Esen, obog Kyerema,  
Obog Okawu Kwabrafo,  
Ditire.*

I give an English rendering of this below, but it must be remembered that the language of our drums is of such a kind that not everyone—not even the home-bred Akan can, without some study, understand the hidden meaning of the stereotyped phrases expressed in language perhaps centuries of years older than the actual language spoken by the Akans to-day. It is significant also, that throughout the Gold Coast wherever "talking" drums are used, the same, or slightly varied, words are employed even though the actual language of that tribe may be quite unlike any Akan dialect. The Ga language, for instance, is fundamentally different from the Akan, but their state drums are always made to "talk" in the language of the Akan people. This is true also of certain tribes in the western province of the colony, and the fact would seem to show that either the cult of drum language was borrowed by such non-Akan tribes from the Akans or that

all the different tribes in the Colony using "talking" drums must have sprung from one original but now extinct tribe or nation. The following is our nearest rendering of the above in English:—

"What else created the Creator?  
An *Esen*<sup>1</sup> created He;  
A Drummer created He;  
And a merciless Executioner."

Mr. Casely Hayford says on page 26 of the *Native Institutions*:—"The King's household was controlled by a number of captains. There were the Captain of the Sword-bearers, the Captain of the Stool-bearers, the Captain of the Elephant's Tail-bearers, the Captain of the Court-criers, the Captain of the Royal Butlers, the Captain of the Royal Huntsmen, the Captain of the Royal Farmers, and the Captain of the Royal Physicians." And then he summarizes on page 36 by saying "The person of the King is, indeed, sacred". And in a descending order most other personages are held sacred.

The people regard holders of these posts as imbued with sacred trusts. The visitor to an Akan town may meet a young man walking about on the streets and take him for an irresponsible person of no importance. But let the visitor condescend to ascertain the real position of such seeming nonentity, and he need not be surprised if his informant would mention his name and office in the highest terms of respect not unmixed with awe, and refer to him as a person to whom one should not address insulting words, or assault, or put into fetich. That is to say, he is a being whose person is absolutely sacred and therefore beyond the reach of ordinary human visitations.<sup>1</sup> I remember sometime in 1916, when the late F. G. Crowther, Secretary for Native Affairs—an official celebrated as an authority on native usages and customs—visited Kibbi, and I was commanded with some State messengers and a linguist to welcome him in the name of the Omanhene, and deliver certain customary presents to him. One of the bearers of the presents happened to be an *Akrafo* in full attire,<sup>2</sup> and when Mr. Crowther saw the jet-black person with a head shorn of all hairs, with strokes of white clay over the forehead, the brows, and shoulders, the hands, etc., he let out his curiosity in a humorous vein:—"Who is this man?" he asked me. "Which of them, sir?" "The one dressed in white shirting and white clay. Is he

<sup>1</sup> *Esen*, Court Crier.

<sup>2</sup> See Section A, XIV, p. 46.

a Krooboy?" he added, with a smile. When I said he was not a Krooboy, but a State messenger of the highest order, Mr. Crowther listened to my explanation with remarkable interest, and I suppose there was never an occasion for him to err in this way again.

I intend in the various sections of this chapter to give a comprehensive description of the various offices held under an Akan State system having particular reference, as always, to the Akim Abuakwa practice. I have not attempted to state any definite theory as to our form of government based on the immense details provided in the chapter, my object being to provide raw material for the purposes of future research, and not to impose any preconceived ideas on the generosity of the general reader.

The Fetish system is not included under this head, as it stands quite independent of the State system, and the very absence of religious authority in politics in the Akan State system makes the exclusion of the Fetish hierarchy quite excusable. Were we dealing with the State system of the Ga or Adangwe tribes, we should have felt compelled to treat the Fetish system under the present head, since the Chief or King of a Ga community, now known as "Mantse", was formerly high priest as well as political ruler. Most Ga writers go to the extent of tracing their form of government and various institutions, the "Homowo" custom in particular, to the ancient institutions founded by Moses for the Hebrews.<sup>1</sup> In the Ga-Adangwe tribes in days of yore, the Fetish priest was the first and highest person in the State. In the Akan institutions a Fetish priest is "the maker of a country, but not the governor of it", as the saying goes. The military and civil systems are the two principal institutions upon which rest the basic principles of Akan government.

We have found it feasible to restrict ourselves in the following sections to such offices as have a direct bearing on the State system, and in view of the broad treatment that we give to this subject, it seems advisable that we do so. Mr. Casely Hayford in his *Native Institutions* refers to such offices as the Captain of the Huntsmen, the Captain of the Butlers, the Chief of the King's Physicians, etc., and although there are offices such as these in the State system

<sup>1</sup> Such comparisons may be interesting, but, of course, they are quite unscientific. It is like arguing that because *B* behaves like *A* in one or two particulars therefore *B* imitated his peculiar behaviour from *A*. *Non sequitur*. The Ga civilization may, on deeper analysis, be shown to be quite as original as the Hebrew.

of Akim Abuakwa, yet as their importance is limited to the sphere of their respective offices without having any influence on the general community, we have refrained from giving to each a special treatment which may add exhaustiveness at the expense of succinct compactness.

(i) *The Office of Omanhene (Paramount Chief)*

The term "*Omanhene*" is not a primitive Akan word. It is a compound word made of "*Oman*" (Nation) and "*ohene*" (king): thus we have for provisional definition, "the king of a nation." Originally, our kings, now known as *Amanhene*, or better, *Amanahenfo*, were known as "*Ahenfo*", or to use the singular term, "*ohene*." The general ceremonial appellation is *Nana*, which, etymologically, means mother-of-mothers, i.e. grandmother or grandfather. Besides other seemingly pompous and bombastic but really well-meant appellations such as "*Dasebre*", "*Daseensa*" (ever-thankful, ever deserving thanks), "*Otumfo*" (mighty or majesty), "*Deefo*" (maker of good deeds or benefactor), "*Katakya*" (the valiant), etc.—terms used unto this day—it was necessary to distinguish an *Ohene* of a state known as King from the *ohene* of a province known as Chief or Head-Chief; also an *ohene* of one state from another independent Chief; and this was done by adding the word "*ohene*" to the name of the state which such king governed; e.g. in the case of Akim (Akyem) we say *Okyenhene* (Akyem-hene), i.e. the King of Akyem; in the case of Kwahu we say *Kwahuhene*; Asante, *Asantehene*, *Akuapem*, *Akuapemhene*. Or, if it were necessary to distinguish Akim Abuakwa from Akim Kotoku, we say, "*Abuakwahene*," "*Kotokuhene*," etc.

How then did the term *Omanhene* come about? From all inquiries it appears to be the work, or rather the invention, of the Executive Committee of the Gold Coast Aborigines' Rights Protection Society. When after the death of Queen Victoria it was no longer considered convenient for our Aman-Ahimfu to retain the title *king* in the British Empire, the Executive Committee of the Aborigines' Society, at Cape Coast, wrote in reply to a communication from Governor Sir Matthew Nathan, in September, 1903, as follows:—"The term head chief is of recent date. The paramount ruler of a district is known by the term *Omanhin*, which is a compound word made up of *Oman* (district) and *Ohin* (king or ruler); it is used in contradistinction from *Ohin*, who may be simply the ruler of a single town. In speaking of a paramount

ruler we would not say, for an example, Omanhin Kwadwo Mbra, but Ohin Kwadwo Mbra ; not Omanhin Enimil but Ohin Enimil. By official address it would be better to use the compound word."<sup>1</sup>

This is the official origin of the term "Omanhene". But there is some doubt whether the credit or discredit should be given to the Executive Committee of the Aborigines. Some seem to believe that the word was coined by our late friends the Basel Mission Society, for as far back as 1881 the Rev. J. G. Christaller defined the word "Omanhene" in his *Dictionary of the Asante and Fante Language* as the King or Chief of a nation, town or village. Be that as it may, the term Omanhene is now widely used and it has come to stay.

"Omanhene" stands for, and must always be interpreted to mean, the king of an Akan State or Oman as much as an emir is the king or monarch of an emirate.

This, then, may serve as a convenient descriptive definition. But what does the name stand for, what does it denote ?

If we turn to modern official governmental papers we find that the reports of men like Crowther and Harper who conducted inquiries into several state disputes are far too broad in their views ; the legal definitions provided for in the ordinances are not such as to commend themselves to our notice,<sup>2</sup> and when we look up in Sarbah or Casely Hayford, we feel bewildered. It appears in the two last cases that the term "Omanhene" could not be adequately defined without making some reference to the paramountcy inherent therein in respect to lands in a state ; but as we have shown elsewhere a state does not always include paramountcy over all the lands.

The term "Omanhene" we have seen connotes the supreme head of the state. It implies the highest chieftain to whom all the chiefs in a particular state owe allegiance. It denotes the "chief magistrate and highest military officer" in the state ; and it indicates the person for the time being, i.e. for life, other circumstances permitting, sitting on the most Paramount stool to which all other stools with their respective clans,

<sup>1</sup> Sessional Paper (Legislation Council), No. 4, of 1917-18.

<sup>2</sup> "Paramount Chief," the English rendering of "Omanhene", is defined in the Native Administration Ordinance, 1927, as "a person elected and installed as such in accordance with native customary law to administer a State who is not subordinate in his jurisdiction to any other paramount chief." This clearly is a special definition with a local meaning, but not a logical connotation.

families, sub-families, and retainers owe allegiance as subjects and as members of the tribal community. They acknowledge the power and sovereignty of the Paramount Chief in their daily intercourse with him involving habitual obedience to his rule coupled with a permanent expectation that he will protect them and their rights, and they pay customary homage and acknowledge and renew allegiance to him at the yearly celebrations of the Paramount Stool.

The Omanhene is assisted, guided, advised and directed in his government of the state by the people's own elected representative chiefs and councillors. These chiefs and councillors, who are elected from particular families, are not at all unmindful of the great responsibilities attaching to their posts, and they usually exert great influence over the Omanhene, keeping him well alive to the constitution of the country, so as to sustain and support him in the constitutional government of the State. An Omanhene is, in short, a constitutional monarch exercising regal powers in a democratic state. As such his prerogatives and obligations are illimitable. He is great when he is good, and out of place when unconstitutional.

To distinguish an Omanhene from an ohene, in an assembly or other full dress celebrations, you may do well by attaching importance to the number of state umbrellas, drums, and attendants, and to the size and quality of the emblems on linguists' staffs of office, as also to the extraordinary display of gold, beads, and other jewellery. For whilst an ohene has to appear in public with only one or two state umbrellas ornamented with a non-proverbial and ungilded headpiece on the centre-pole, the Omanhene always appears in public with more than three state umbrellas with proverb-bearing gold headpieces. The Omanhene's linguist staffs are all covered in gold with headpieces, conveying proverbial meanings. The linguist staff of an ohene is made of gold with silver mounting and a plain or a moderate-sized proverbial top.

The Omanhene sits, on grand occasions, on a golden stool; an ohene on a silver stool, or in other cases on a plain polished stool. The Omanhene wears a golden crown; an ohene wears a coronet or a velvet or silk fillet with two to four gold or silver mounts according to position. The Omanhene parades in a palanquin supported by eight or more palanquin bearers. An ohene's palanquin is supported by about four persons. As regards drums, an ohene may retain an Mpintin set, and the fontomfrom set, and other single-air drums

similar to the Omanhene's, with a difference of only one, instead of two Boma in the fontomfrom set. It may be easy to distinguish between them by their drums alone—where there are two Boma drums we have the Omanhene, otherwise it is an ohene. When they are seated, it is equally easy to recognize the Omanhene, who sits on a high dais with his stool resting on a lion-skin.

The Court criers of the Omanhene have their caps gilded; those of the ohene have their caps covered with silver. But perhaps the greatest thing which testifies to the supremacy of the Omanhene over the Chiefs is the fact that whilst he speaks to the Chiefs sitting, and through his linguists, the ohene must speak to the Omanhene standing, with his linguist by him. Occasionally, however (as when explaining one or two matters), an Ohene's linguist may speak to the Omanhene's linguist on behalf of his Chief. Another honour done to the Paramount Chief is that whenever the Omanhene dances to the State drums, the assembly of chiefs and people have to stand up and uncover their heads. There are many other respects in which a Paramount Chief may be distinguished from his sub-Chiefs, but the general indication given above will be helpful, we hope, to the earnest investigator.

We must add that the Omanhene as the supreme or Paramount Head, is expected to be present on all State ceremonies, and whenever he is absent his deputy must act for him. The Omanhene may be absent on *Kwasidae* and *Ohum-Kyire* celebrations, but not on *Odwira*, *Ohumkan*, and *Banmu* celebrations. That is to say, he cannot be away from his residence in any one year for more than five consecutive months. The Omanhene of Akim Abuakwa sits on a Stool which is believed to be the oldest and most historical in the Asona clan.

#### (ii) *Of Queen-Mother*

Much the most dignified and perhaps the most sacred post in the State is that of Queen-Mother. It is the first and last word in the native state administration, and it gives us no little pride to remark that in the Akan state system women possess and exercise a high measure of freedom and power. All modern institutional governments have failed to provide any official recognition for the mother of the reigning king.

The Queen-Mother, or Ohema, in the Akan State system, is either a mother, aunt, sister, or cousin of the reigning

Omanhene or Ohene, who has been duly elected to and installed in that office by the same people who elect and instal the Omanhene or Ohene. As such she holds a distinct post in a definite State system. A Queen-Mother is not necessarily next in importance to the Omanhene or Ohene of a state or subdivision, but her office being unique, she seems to exercise more prerogatives than most other Chiefs in the Division. Her influence is very great on the Omanhene or Ohene. It falls to her lot to educate a young Ohene in the history of the country and to remind him of his duty to the memory of the departed sovereigns and other ancestors. Her principal office lies in the domain of the stool-house and of the mausoleum, that is, the resting places of the spirits of departed ancestors. During State celebrations she prepares the customary meals destined for the manes of the ancestors, for sanctification of the stools, and for service in the mausoleum.

She is a recognized head of the Royal Family, the Omanhene himself being head of the State, and she is often privileged to nominate a successor to a vacant stool. She owns a stool herself, and instead of a palanquin or Apakan, she owns a sedan-chair, or *seko* tastefully decorated and adapted for female use. Her State paraphernalia and insignia are slightly below that of an Ohene, although she is unlimited—as the Ahenfo are—in the use of jewellery.

She is the nominal chief or chieffess of all women in the State and has power to investigate "palavers" arising between wives and their husbands of a minor nature or between women and other lower servants of the State.

She is also a member of the Executive Council, and *ex officio* of the Okyeman Council; and great is the weight attached to her counsels, especially those of a traditional or historical nature. She sits in council on the immediate left of the Omanhene, that is the Omanhene sits on her right, and she maintains linguists and councillors of her own. Such linguists or councillors may be male or female. She maintains many other state servants.

Like any other stool-owning Chief, there is a yearly celebration for her stool; that of the Queen-Mother at Kibbi falls due a few days after the yearly celebration of the Omanhene. She is also lady or mistress of the gods (not fetish, see *passim* Rattray's *Ashanti*) called "Abam" (Gemini), supposed to influence the Twin born. The Queen-Mother has drums and other set dances of her own; e.g. the "Adowa" dance, the "Odotō" dance and many other appropriately feminine

and graceful dances, most of which are played to entertain the Omanhene and his Court during State celebrations.

A Queen-Mother, when the male line fails, may herself become "Queen", i.e. Omanhema or Ohema, and until there are competent males to ascend the stool, women in the proper line may ascend it in succession.

Mr. Casely Hayford in his *Native Institutions* makes no particular mention of the existence of this office, and although he repeatedly refers to a *materfamilias*, there is nothing to show that he was aware of the existence of the office of Queen-Mother in the Akan institution. We are given to believe that there are no recognized Queen-Mothers, at least in practice, in the Fanti institutions, but Mr. Casely Hayford assures me that he intends to refer to the Queen-Mother's office in a future edition of *Gold Coast Native Institutions*. Granting that a *materfamilias* is the highest living (or dead) fountain-head of any family in our tribal system, the Queen-Mother would be the living successor of the *materfamilias* in a royal family. Every living female head of a family cannot as such be called a *Queen-Mother*. In Akim Abuakwa, for instance, there are only 13 State-recognized Queen-Mothers, i.e. the supreme Queen-Mother at Kibbi, otherwise styled "Queen-Mother of Akim Abuakwa", and the other 12 Queen-Mothers in the 12 subdivisions. An Odikro may have a Queen-Mother, but she holds no recognized post in the State, although it cannot be denied that Adikrofo Queen-Mothers are in existence and that they exercise proportionate powers and influence over their respective Chiefs as the greater ones do in their respective spheres. On the whole, it may be safer to reconcile the term *materfamilias* with the term Queen-Mother so as to leave no room for doubt.

The Queen-Mother of Akim Abuakwa is familiarly referred to by courtesy, not by right, as "Nana"; her real appellation is "Aberewa" (old dame) or "Awura" (mistress or lady), and she is formally so referred to. The stool of the Queen-Mother at Kibbi is, like the Omanhene's, of the Royal Asona clan.

### (iii) *Of Ohene or Opakani (Head-Chief or Chief)*

Assuming that our definition of Omanhene or Paramount Chief be accepted, it becomes an easy matter to bring within reasonable compass the much talked of topic of Ohene or Chief. Really an Ohene is both a civil and military lord holding office in many respects similar to a grand duke's

in the former Germany. He is the sole head of a subdivision<sup>1</sup> or Province or Ohen-man or *Omansin*, within which he reigns supreme in so far as his ruling power in relation to other chiefs of his rank is concerned. An Ohene may have one or two Ahenfo under him and in such cases the superior Ohene is Head-Chief of the subdivision or Ohen-man. The Head-Chief exercises jurisdiction in all civil and in most criminal matters as well as other matters of importance within the subdivision, and he is always jealous of and antagonistic to any Head-Chief who may choose to interfere with his dearly-bought heritage. In Akim Abuakwa there are five Head-Chiefs, each ruling in a definite name with a definite title within a definite nominal province.<sup>2</sup> Every title of chieftaincy in Akim Abuakwa is derived from a military command, and the greater a Chief is in military affairs the more influential is he in the civil order.

There are in Akim Abuakwa 13 Ahenfo who are entitled to ride in palanquins, and are therefore called *Mpakanfo*, or Palanquin Chiefs. We propose to treat these in their respective order of importance.

1. The *Adontenhene*, whose permanent residence is Kukurantumi, is the Head-Chief next in importance to the Omanhene. According to his title, he is Head-Chief of the Adonten-man and general of the Adontenfo (Advance-guard). Besides that, he is the commander-in-chief of the Akim Abuakwa forces, the Omanhene himself being something like a Field-Marshal, or generalissimo of the army. So much for the Adontenhene's military power.

In civil life the Adontenhene is, as the first person after the Paramount Chief, the chairman of the Okyeman Council, and it is but rare to see the Council execute business with any great freedom in the personal absence of the Adontenhene. If the saying be accepted that "there are always two important Chiefs in an Akan State system, the one carrying the head, the other the leg", then the Adontenhene is the Chief who

<sup>1</sup> According to the Native Administration Ordinance, 1927 (N.A.O.), what was formerly called a "Division" is now a "State", and a "subdivision" is now a "Division". To conform to the new terminology the reader should keep these convenient terms in mind.

<sup>2</sup> I say "nominal" advisedly for the Ahen-man or Amansin (provinces) in Akim Abuakwa are not territorial, i.e. the towns included within the province are not all situated within the same territory or geographical division, and it is usual to find a town in one Omansin separated geographically from the headquarters of his province by two or three headquarters of other provinces.

carries the "legs" of the Okyeman of Abuakwa, whilst the Omanhene as Paramount Chief carries the "head" of it.

In processions the Adonten-man takes the front rank,<sup>1</sup> and the Adontenhene himself has the following Adonten Chiefs to go before him, viz. the *Ohene of Tafo* and his subdivision; the *Ohene of Asuom* and his subdivision; the Odikro of Apapam and his subdivision. These are the three principal chiefs in the Adonten.

The Adontenhene's distinguishing mark of office is a fillet or coronet of velvet, or other fine cloth, with four large gold pieces across it. All his other State paraphernalia and insignia are the same as those of the other four Head-Chiefs, and their Linguist staffs may have a moderately-sized proverbial emblem on the top. The Adontenhene's stool belongs to the Royal Asona clan. The Ohene of Tafo's stool is of the Aduana clan, Asuom stool is of the Asona clan, and the Apapam stool belongs to the Agona clan.

2. The next Head-Chief of almost equal rank with the Adontenhene is the *Nifahene* (Chief of the Right Wing), whose permanent residence is Asiakwa. The present occupant is a woman of much wisdom. She commands the right wing of the army. She is an important member of the Okyeman Council, and in every respect—except the coronet, where she wears one with a gold centre-piece and three silver mountings—her paraphernalia and insignia are the same as the Adontenhene's.

The *Takwahene of Akyease* with his division belongs to the Nifaman, and, except that the Nifahene of Asiakwa takes precedence as Head-Chief of the right wing, the Takwahene or Akyeasehene's stool is considered of equal rank as the Nifahene's. That is to say, when there is something to share between them, they share it equally. Both stools belong to the Royal Oyoko clan, and they trace their descent direct to the Ashanti stool, which is also of the Royal Oyoko clan. The Nifahene's stool is the only one of the five Head-Chief stools which does not belong to the Royal Asona clan. There are about nineteen towns and villages in the right wing.

3. The *Benkumhene* (Chief of the Left Wing), otherwise known as the Fanteakwahene, has his permanent residence at Begoro, one of the largest and most educated towns in the State. His division occupies a very large area of land and covers almost the whole of the territory formerly occupied by

<sup>1</sup> See Appendix B.

the Omanhene of Kotoku. The Benkumhene is commander or general of the left wing of the army.

The principal Chiefs in this division are the *Odauhene of Osenase and Otwereso*; the *Ohene of Apinaman*; the Odikro of Osino, otherwise known as Mumuadu Sei, and the Odikro of Apedwa.

The Benkumhene's dress and coronet are the same as the Nifahene's, both of them being equal in rank.

The Odauhene of Otwereso now residing at Osenase was originally not in the Akim Abuakwa Confederation, but he is now a divisional chief owing allegiance to the Paramount stool of Akim Abuakwa through the Benkumhene; his stool is considered to be equal in rank to the Benkumhene's and they share all things equally. The Benkumhene, however, takes precedence in all matters civil and military and he is the acknowledged Head-Chief of the Benkum division.

In parades the Benkumhene is the third to the Adontenhene. The Benkumhene belongs to the Royal Asona clan. The Odauhene belongs to the Aduana clan. The Apinaman stool is of the Royal Asona clan and the Apedwa stool of the Agona clan.

There are about 17 towns and villages in the left wing.

4. The fourth dynasty of Head-Chiefs is the *Oseawuhene* (Chief of the Stool Guard), of Akim Abuakwa, whose permanent residence is Wankyi. As commander or general of the stool-guard, he is one of the five important Chiefs whose presence in the State Council is always deemed necessary.

The *Ohene of Asamankese* is an important Chief in the Oseawuman. In other matters he is equal to the Oseawuhene, but the latter is the recognized head of the Oseawuman. They share things equally.

The same privileges and powers are enjoyed by the Oseawuhene as the Nifahene or the Benkumhene. The Oseawuman is the largest of all the subdivisions, and the Oseawuhene stool is of the Royal Asona clan. The Asamankese stool is of the Abrade clan, and there are some minor Chiefs under that stool. The *Pomasehene* or *Ohene of Abomosu*, who is of the *Bretu* clan, is also of the Oseawu wing, and there are some towns under him. The Pomase stool is among the earliest emigrants from Adanse. The Pomase people, as first emigrants, appear to have chosen the best land for themselves; for not only are the Pomase lands along the Birim valley fertile, but they are both auriferous and diamondiferous.

As stool-guard, the Oseawu wing precedes the Omanhene

in procession. This wing parades about the stool as it goes before the Omanhene. There are 30 towns in the Oseawuman all told.

✓ 5. The *Jasehene of Akim Abuakwa* is the fifth of the Head-Chiefs. His permanent residence is Kwabeng. He is commander or general of the Jase (Body-guard) and his prerogatives are slightly different from those of the preceding three. Although in the State Council the Jasehene sits with the Kibbi Executive Council, i.e. as a member of the Executive, his position as a Divisional Chief is the same as the other four. As Chief of the Bodyguard he is acknowledged to have jurisdiction over the inhabitants of Kibbi whilst staying there; and he is also what we may call Chief of the Executive Council at Kibbi.

The *Abontendomhene* of Kibbi (i.e. the principal or first councillor in the Kibbi Council) belongs to the Jase wing, and with all the other members of the Executive Council at Kibbi, he renders homage to the Omanhene through the Jasehene.

The Jasehene's power is a little peculiar in this respect. Whenever the Paramount stool is vacant the Jasehene acts as Regent during that interregnum until a successor is appointed. It will, therefore, be seen that the Jasechieftaincy is of no little importance. As Regent he acts with the full authority of a Paramount Chief, and whatever he does with the advice and consent of the Kibbi Council or of the Okyeman Council, holds good as if it had been done under the direction of an elected and installed Omanhene. The Jasehene is of the Royal Asona clan.

The present *Abontendomhene* of Kibbi is of the Agona clan. This stool is not restricted to any one particular clan, the succession being subject to nomination by the Omanhene, with the advice and consent of the Kibbi Council.

✓ The Ahenema or Omanhene's sons are the only people eligible for nomination to this important office, and as an Omanhene's wife may belong to any but the Asona clan, this particular stool can be inherited by a person whose mother belonged to any of the known clans or was even not a member of an Akan clan. The occupant is the custodian and master of ceremonies of the Royal Stools at Kibbi, first councillor or prime minister to the Omanhene, and *ex officio* the Chief through whom the Omanhene's stool heirs render homage to the Paramount Chief. He is, after the Omanhene, and in the absence of the Jasehene, the chief Executive officer; he is known as the Odikro or Ohene of Kibbi the capital town.

There are also some two or three towns under him. There are about fourteen towns in Jase.

It is notable that each of these Head-Chiefs rules as a king or grand-duke in his own province, and each maintains one or two councils which assist him in the administration of his ohen-man. The Omanhene, then, may, to compare small things with great, and with the necessary reservations, be considered as an emperor to whom all these kings or Head-Chiefs are subject, render homage, and owe allegiance. The Omanhene's Tribunal is an appellate to their Tribunals, and there is always an open door for an aggrieved person in a Chief's province to appeal to the Kibbi Council for redress. The Omanhene's jurisdiction and powers over these Chiefs are only limited in so far as the acts of the Okyeman Council are concerned.

The ceremonial appellation of any of the thirteen Chiefs is "Barima", meaning "the manly", or "the valiant", but the five Head-Chiefs are better referred to by their respective titles.

It may be well to remember that the Ahenfo are bound to the Paramount stool not only by the oath of allegiance which is taken at the first Odwiratuo of the Omanhene, or on the enstoolment of the new Chief, but by immemorial ties and ancient traditions, the story of which may be reserved for a future work. The State is a unit which was not founded in a day, a week, or a year. It is the work of untold generations. It is a finished article of the hand-and-brain work of our great men of history. The attachment of the Ahenfo and people of the State to the Paramount Stool is substantial, real, impregnable. The lands and the people, the stools and the Chiefs, the Omanhene and the Councils, constitute a combination of units bound together by ties of blood and by the glorious past of the people. They have had to fight hard for existence in an unkind world—such a world as is found in Africa, where only the fittest survive. May they live long to add to their glories of the past, and enjoy and develop the heritage left them by their noble ancestors.

#### (iv) *Of Adikrofo (Sub-Chiefs)*

Besides the thirteen Head-Chiefs and Chiefs who rule the Provinces or Divisions as they are now called, there are the Asafohene or Adikrofo who rule the several towns and villages with the assistance of their respective councils. An Odikro is, as the name implies, the owner or ruler of a

town or village. An Odikro may have one or two towns under him for which he acts as senior or leader in rendering homage to their common Head-Chief and through him to the Paramount Chief, but his dominion over them is more formal than real; e.g. in the Adonten section, the Odikro of Apapam is as an Ohene having Afiesa (Nsutam), Afwenease and Adadientam under him; the Odikro of Adadientam is also said to be the leader for both his town and the town of Nkronso, which is also of the Adonten wing.

An Odikro does not ride in a palanquin, but since 1919 they have by an Act of the Okyeman Council been allowed to ride in sedan-chairs (seko); to maintain a set of Mpintin drums; to have a black linguist-staff (Amampam Poma), and to retain also for State purposes a horse's tail (Mponkofi). The greater Chiefs use an elephant's tail. Besides these, an Odikro may have a horn and a drum (Twenesin).

An Odikro exercises power in his town as an Ohene does in his province, and all municipal questions are solely in the hands of his Council, over which he presides. An Ohene's tribunal may be an appellate to an Odikro's, but there is nothing to prevent parties taking their cases from an Odikro's Tribunal—especially oath cases—direct to the Omanhene's tribunal, if they so wish.

The Head-man of a village not owning a stool, may, on finding that his village had reached a status to deserve a stool, apply to the Omanhene through the Ohene in whose jurisdiction the village is situate for a stool to be created for him. Such stool when created becomes the property of the family of such head-man for whom it was created, and it subsequently falls into line as a regular ancestral stool. The appellation of an Odikro is "Bafuor", meaning "The Brave".

The custom also is that the Omanhene may, on the advice or with the consent of the Okyeman Council, raise an Odikro or sub-chief (who may or may not have applied for such through his superior Chief) to the position of Ohene or Chief. But before a sub-chief is raised to the position of Chief, the Okyeman Council have always sought to satisfy themselves of certain conditions; e.g. (1) whether the applicant has done any exceptional loyal or patriotic service to the State; (2) whether there are other towns or tribal stools owing allegiance through him; (3) whether the elevation will generally conduce to the greater welfare of the State.

Within living memory it is only the Abontendomhene of

Kibbi who has been raised from his post as Apesemakahene simply, to be Abontendomhene. The Tafo Stool was given an "Apakan" about a generation or two ago.

(v) *Of Ankobeahene (Chief of Body-guard)*

The Ankobeahene of Kibbi is the Chief of the Home or House Guard. Ankobea- means literally "he does not go anywhere", and -hene means Chief. There are towns under him. The Jasehene at Kibbi is also under the Ankobeahene, but they are cousins belonging to the Asona clan. The Ankobeahene is one of the four principal sub-chiefs of the Kibbi (Executive) Council. He has his own yearly celebration, is entitled to ride in a sedan-chair, to maintain a set of Mpintin drums, a drum and a horn. His status is a little higher than that of an Odikro. In processions he steps immediately in front of the Omanhene with the Jasehene of Kibbi going before. In Council he sits on the right side of the Omanhene. The Omanhene himself is of the Ankobea order (Ankobeani). The Ankobeahene's appellation is "Bafuor".

(vi) *Of Jasehene (Chief of Personal Guard or Chamberlain)*

The Jasehene is, if we may draw the comparison, the Chamberlain of the Omanhene.<sup>1</sup> All the State messengers and servants, from the Chief of Stool-Carriers down to the lowest State servant, are under his control and supervision. For the Omanhene to appoint or dismiss a person to or from any of these posts, the Jasehene's advice is essential. He is of the Asona clan; is a cousin of the Ankobeahene, and renders homage to the Omanhene through the Ankobeahene. He has a drum and a horn, but no sedan-chair.

In State ceremonies, the rank and file of the *Nhenkwa* (chief's attendants) have to assemble in the Jasehene's house; from there they proceed, under the orders of their Chief, the Jasehene, to the Omanhene's palace; and with these attending him the Paramount Chief marches out in full state. The Omanhene's Linguists are also directly under the management of the Jase, although they have their own Chief.

In procession he steps before the Ankobeahene, and in council sits with him on the right of the Omanhene. He

<sup>1</sup> *Ja-se-hene* means Chief of the place of fire. His office is comparable to that of the Roman *pontifex maximus* or the Greek *Prytanes*.

is one of the four principal sub-chiefs in the Kibbi (Executive) Council. His appellation is "Bafuor", and he is equal in rank to an Odikro.

(vii) *Of Kyidomhene (Chief of Rear Guard)*

It is not only in the Kibbi Council that we find such offices as Jasehene, Ankobeahene or Kyidomhene. Each Head Chief or Chief has his own Jasehene or Kyidomhene, but we are restricting ourselves in this chapter to defining the offices as held in the Kibbi Council. All the rest are based on the same model.

The Kyidom chieftaincy is held by two sub-chiefs of the Ampebame family, also of the Asona clan. This family represents the whole of the Kyidom section in the Kibbi Council, and the senior of the two chiefs at Kibbi is the Kyidomhene. Kyidomfo are the Rear Guards. Besides the two chiefs at Kibbi, the Chiefs of Tete, Pano, and Wirekyiren are also of the Kyidom.

In procession they keep the utmost rear of the Omanhene. In Council (they all sit with the Kibbi Council) they sit on the left of the Omanhene farther from the Abontendonehene, who sits on the nearer left, the Queen-mother being nearest.

The senior of the two Kyidom chieftains at Kibbi has a drum, a set of mpintin drums, a horn, and other paraphernalia, including a sedan-chair, similar to that of the Ankobeahene. The junior Kyidomhene is equal in position to the Jasehene at Kibbi. The appellation of either of these two chiefs is "Bafuor".

(viii) *Of Osomanyawa or Omankrado (Chief Councillor)*

The term Omankrado, although a *Twi* word, cannot be considered as original with the Akim and Fanti Tribal systems. It has its origin in the Ga-Adangwe tribes. According to its roots, the word means "key or lock of a nation", and if a person holds such post it means he holds the key of the town or sub-division in which he is. At Kibbi there is no person who bears this title or its equivalent Osomanyawa. It forms a part of the Abontendonehene's position. But there are some respects in which the Abontendonehene's position differs from that of an ordinary Osomanyawa. The Abontendonehene rides in a palanquin; an Osomanyawa does not; but the great prerogatives of an Osomanyawa

as (1) the first person after the chief or king of the council in which he serves, and (2) Acting Regent when the stool is vacant, are denied the Abontendomhene. These two prerogatives are enjoyed respectively by the Adontenhene as first person after the Omanhene, and by the Jasehene as Regent during the vacancy of the Paramount Stool.

*Osomanyawa* or *Osokuro-nnyawa* is the real Akan word in use in Akim Abuakwa. By its roots it means "he who carries the legs of a town or district". In any town in the State there is an *Osomanyawa*. Naturally he is the first person after the Chief of the town. He is the first advisor to the Chief, and takes charge of the town during the Chief's absence. He is always Regent during any vacancy.

An Ohene's *Osomanyawa* is almost equal in rank to the *Odikro* of a town. He has a Tribunal of his own with the Chief's as appellate to it. He represents always a great portion of the population in the town, and no alienation of stool-land, nor any act of importance affecting the town can be rightly done without his knowledge. Some *Osomanyawa* have drums, horns, etc.

#### (ix) *Of Stool-holders or Captains-on-Stools*

In any town or district or subdivision there are Chiefs who hold stools as "Patriarchs" in their families, and who, as representing sections of the inhabitants of the town, are always members of the Chief's Council.

Every such Captain-on-Stool, usually referred to as *Osafohene*, has his yearly stool celebration. A Head-Chief's Captain-on-Stool is not bound to take fetish, but a Chief's or a Sub-Chief's is, by law, required to take fetish when swearing or affirming oaths. They are, however, regarded as sacred persons who should not be insulted or molested with impunity. A Captain-on-Stool, provided his stool had held them since the old days, may maintain his drum (*Twenesin*) and horn (*Abentia*). But such paraphernalia are of importance only in the town or district in which their owners live. The Captains-on-Stools of the provinces are great in their provinces, but not in the capital.

#### (x) *Of Stool Heir (Odehye)*

Of all the sacred and hereditary offices the one most likely to puzzle the supercilious foreigner is that of Stool heirs.

By the term "Stool heirs" is meant persons who, by birth,

are eligible to ascend a town, subdivisional, or state stool in an Akan State. It is incorrect to refer to Stool heirs by the English word "Prince", since Stool heirs are not *sons*, but most generally *nephews* of Chiefs. If, however, "prince" be taken in the most general sense as a person who by reason of royal birth belongs to an actually reigning family, then Stool heirs in the Gold Coast may correctly be called "princes". It is extremely misleading to refer to *sons* of Gold Coast Chiefs as "Princes". The nephews are royal, but the sons may not be.

As already shown, succession is through the female line, and whatever be the position of the father of a person born as stool heir, whether he be a slave born, or a person with no social standing, or even if the issue be the result of an unlawful connection, that is to say *aguamanba*, the high value set on the blue maternal blood which runs in the veins of the child is maintained throughout. So long as his mother is of the best blood in the country the child is content. In the Akan institutions the question is not who your father is; it is the mother who counts. The same applies to stool-heiresses.

A stool heir once so born may remain in the service of his father, to be tutored and brought up in the history of the country, and especially of the family stool. His moral, social and intellectual training rests with the father.

A stool heir, when of mature age and of good report, may be made a member of the Council of the reigning Chief. This is also a first-rate tuition for the aspiring stool heir, and it is open to him to improve his knowledge of Court manners and functions. Usually stool heirs have no other civic posts in the country until they are so elected. There is a quaint old custom of making stool heirs lords or dukes of certain towns or districts in the State, whereby a stool heir would stay in a particular town or district and look to that town or district for his means of livelihood. But there being no attraction or inducement for the maintenance of this custom in these days, the practice is being regretfully abandoned.

A Stool heir, whether young or old, is regarded a most sacred and hallowed being. One should not, if we may be permitted to apply the words, insult, assault, reproach or unnecessarily use words or in any way act in a manner likely to aggrieve a stool heir or reflect on his honour. One should not in any way roughly handle, or, in some cases, touch the hands or other parts of the body of the wife or sweet-

heart of a stool heir. Carnal knowledge with the wife of a stool heir is a great crime.

We may state here parenthetically that if a commoner has a stool heiress as wife, he must, according to custom, concede to her what is legally her due. There is no provision in our customary laws permitting a commoner or any other husband to give fetish to his wife—a stool heiress. If he has reason to suspect her of immoral conduct, there are no valid means of forcing the truth from her. She may, of course, be questioned in this respect, but anybody who takes a stool heiress to wife does it on that understanding. But it should not be inferred from this that stool heiresses are, therefore, unchecked in their conduct: their own personal honour—and a sacred one at that—is a safeguard and a protection.

Not on any occasion—not even when being operated upon surgically—should the bones of a stool heir be broken. If this happens, sheep should be slaughtered. In the ancient days, if a stool heir was to be punished by death, he was exempted from the ordinary mode of execution. His death was to be one in which neither blood should flow nor bone broken. Usually, strangulation by his own hands was the mode adopted.

Present-day stool heirs are none the less powerful. Their power and dignity are only superficially diminished and they sustain their respect and independence by their own individual efforts supported by the laws of the country. This sanctity attached to stool heirs is due to the general fact of their being born members of the sacred order of stool worship. The slightest slip of the tongue against a stool heir might end in slaughter of sheep to pacify the ire of the stool heir which had been thus excited; and when it is remembered that in our customary laws, calling a person a fool in any circumstance amounts to culpable slander, it is easy to conceive how many pitfalls one is likely to fall into, in common intercourse with a stool heir. A stool heir, when taking oath, need not call fetish, he only affirms.

These regulations apply especially to the Stool heirs and heiresses of the Paramount Chiefs, and to some extent they apply also to the stool heirs of Head Chiefs and less so to that of Chiefs. The stool heirs of a Sub-Chief (Odikro) have some recognized political status in our State system, but they are required to take fetish when deposing, and they enjoy some minor privileges. They have a good many prerogatives which, in most cases, exempt them from certain laws governing the ordinary free-born. A stool heir's

ordinary ceremonial appellation is "Odehye"; i.e. Blood Royal, but some of the elderly stool heirs may be referred to as "Barima" or "Bafuor", e.g. Barima Biwom who eventually became Omanhene of Akim Abuakwa, Nana Amoako Atta II.

(xi) *Of Linguists, Spokesmen or Akyeame*

Mr. Casely Hayford deals with this high and responsible post with such insight and thoroughness that we can only supplement his treatment with a few words of our own. We shall content ourselves by saying that a linguist, called *Okyeame* in Akan and *Kyiam* in Fanti, is the spokesman for an omanhene, ohene, odikro, or other chief.

A Chief, according to our customary laws, should not speak to an assembly or any person or persons without his linguist having to repeat his words to the person or persons addressed. But it is not always necessary for a linguist to repeat an utterance of his Chief word by word or sentence by sentence, especially when the speech is long and greatly qualified. In such cases the custom is simply for the linguist, who had been standing with his gold cane in his hand throughout the time his Chief had been speaking, to conclude by repeating the customary epilogue, "*Sɛ ohene se ni*" ("so says the king").

We have taken some pains to ascertain the necessity for the linguistship, and all along the persistent reply is that it is not the custom for a Chief to be without a linguist. It is an ancestral and an immemorial custom, and it must at all times be followed. But our inquiries went further than this. We have ascertained the root of the word. "Okyeame" is made up of *Kyem*, and *ame*; *Kyem*, like *Kyem* in *Akyem*, means "to make perfect", "to make whole", "to bring to a finish"; *ame* is the effect of slurring two words, viz., *ma me* "for me". The "O" beginning the word is an abbreviated form for *Ono* meaning *he*. The word "Okyeame" then means by its roots, "He who makes (it) perfect for me." An Okyeama is a person appointed to act as spokesman for an ohene in order to repeat and perfect what the Ohene, who cannot always be an eloquent speaker, might have to say in public. It must be of some interest to note that stammering with Chiefs is considered a regal accomplishment, and invariably most exalted chiefs are professional stammerers. And one can hardly expect an audience to understand what a stammerer says or does

not say all the time without having it interpreted by a person accustomed to the peculiarities of tone and manner of the speaker.

A linguist in perfecting the words of his Chief must not, however, add any fresh matter, but he may extend the phrases and reconstruct the sentences and intersperse the speech with some of the celebrated witty and philosophical reflections for which they are justly celebrated to the credit of both himself and his Chief.

A Chief can never appear in any public place without a linguist ; and not only does he repeat what the Chief says, but whoever would say something to the Chief must address the words to the linguist, who must, leaning on his gold cane, repeat the speaker's words to his Chief. The fact is that, a Chief being considered sacred, there must always be an interpreter between a sacred and a non-sacred person. A Chief can maintain any number of linguists, according to his greatness in power and affluence.

Originally, the post of linguist was not hereditary by the ordinary male or female line. Sons who usually followed their fathers and held the cane during assemblies and state deliberations, used to be appointed successors to their fathers. But in these days when one must perforce fight for a post in the state with a view to maintaining one's dignity, the custom and practice has been to retain the linguist stick in the family of the first holder. This practice, we must add, only tends to reduce efficiency in the capacity of linguists, and it also overburdens the State by having to create new ones really eloquent and more deserving of the posts than the hereditary linguists. A linguist's post can become hereditary if it was created for the first holder not only because of his eloquence, wit or intellectual power, but because of some important service he had done for the State.

The Paramount Chief of Akim Abuakwa has a total of about fifteen linguists, each of whom has a gold cane or staff about 4-5 feet long and 2-3 inches in diameter at the upper end. Each is ornamented at the top with a proverbial head-piece. The chief of the linguists is the sub-Chief of the town of Pramkuma (hereditary). His linguist cane is decorated with a head-piece of a carved model of a lion looking askance at a small boy who is in the act of striking it with a cudgel. The proverb "*Akaa bi a onmim gyata*"<sup>1</sup> would mean in the nearest English equivalent "There is mercy to the ignorant".

<sup>1</sup> Lit. "The 'Kid' (or small boy) ignorant of the prowess of the Lion."

Linguists sit on the right side of their Chief ; they should stand up when the Chief makes a speech or gives a long harangue ; in fact, a linguist must never speak in public sitting down, except when some person other than his Chief is addressing him.

Linguists were not originally classified as sacred persons. In reality, they can never be treated as sacred. But the Omanhene of Akim Abuakwa's linguists have been by an act of Okyeman Council raised to a position whereby they are not expected to take fetish when swearing oath. If any person would impute a bad idea, action or unbecoming language to a Chief in exceptional circumstances, instead of saying the "Chief" had done such thing, or that such baneful thing had happened to, or had been done to or by the "Chief", the speaker should use the Linguist's name where he was really referring to the "Chief". This is one reason why linguists are not, and cannot be, sacred persons. Any bad supposition at all may be imputed to them provided it has particular reference to their Chief. This usually takes place when an envoy is reporting a message from one hostile Chief to another.

A linguist, when duly authorized and instructed, can represent his Chief and act for him as a plenipotentiary or as a legate, and he can, when so empowered, give expression to the Chief's views at any time and at any place.

Linguists because of their intelligence are always looked upon as a Chief's private advisers and counsellors, and as such a linguist is nicknamed the *wife* of his Chief. They have no ceremonial appellation, but are usually referred to by the nickname "Ohen-ye" (*yere*), i.e. The king's wife or *private* adviser.

(xii) *Of Stool carriers (Nkonnuasofo)*

Perhaps the highest post to which a young man in the State, who is not eligible to the linguistship, can aspire is the chieftaincy of stool-carriers, called in the vernacular Nkonnuasofo-hene or, shortly, *Ahennua* (Throne). The emoluments and privileges accompanying the post are very alluring. It is a lucrative post, honourable and peaceful.

The Chief of the Stool carriers at Kibbi is not a member of the Kibbi Council, but in spite of that he is looked upon as equal in dignity to the highest member in the Council, except that he does not ride in a palanquin nor in a sedan-chair. He is master of the stool-house and caretaker of the stools and of the national calendar kept in the stool-house. All

the regalia in the stool-house are under his care. As such he is next in importance in the stool-house to the Abontendomhene. When there are stool celebrations in the stool-house, where both high and low should enter with unsandalled feet and uncovered shoulders, the chief stool-carrier and his retainers attend and regulate the ceremonies under the supervision of the Abontendomhene. During Odwira and other festivals, such as State funeral customs, the stool-carriers and their chief should keep quarters for one week in the stool-house.

As is probably known, in a stool-house is kept the remnant of the stool on which a Chief had sat during his reign. This is what is known as the Black Sacred Stool, the great symbol of Akan ancestor-worship. When so returned to the stool-house after the demise of the occupier, the stool becomes a permanent object of worship, that is to say, of commemorating the memory of its deceased occupant. Sacrifices will henceforth be made on it.

There are as many stools in the stool-house as there have been chiefs in the Royal Family. The chief stool-carrier is expected to know the name of each stool and the history of its occupant. He is, therefore, the recognized official historian of the State.

It is the chief of the Stool-carriers who actually initiates the reigning Chief into the Sacred Order of Stool Worship. After the ceremonies the forehead of every person in the stool-house would be sealed in the blood of the sacrificed sheep. Not every person is eligible to be so sealed. Christians and other non-conformists (of the Order of Stool Worship) and foreigners are never permitted to enter into this sacred adytum. The Order of Stool Worship is about the last surviving ancient order which the hands of Western civilization have not yet touched, and may not for a long time yet approach. (Captain Rattray, author of that great work *Ashanti*, is the only European who, as far as I know, has gained access to a living Stool-house and taken photographs of the Stools.) It is about the last thing—even when fetish worship has died out—which Christianity and Mahomedanism will be able to conquer. Either the Order of Stool Worship must be somehow fused with "African" Christianity (as was done with certain customs of Europe during the infancy of Christianity), or, we are afraid, the bulk of the Akan-Fanti nations will for a long time remain un-Christianized. But to digress for a moment and to speak irresponsibly, what is stool-worship, stripped

of its superstition? Where is the fetishism about it? Is it more than a natural form of remembering one's departed ancestors? And is that ungodly or irreligious? Is it not the basis of all religion? Does that violate the First Commandment? We have yet to know whether it does! What of the monuments in Christian countries? What of the wreaths laid upon them? What of memorials like the Cenotaph? Are not tributes of flowers and prayers and songs offered at these shrines modernized forms of remembering one's departed ancestors? Say that is evil and ungodly, and we will readily admit so much for ancestor worship.

A stool-carriers' distinguishing mark is a clean cut of the hair from the forehead to the back of the neck, about four inches wide, large enough to receive the seat of the stool on the hairless part of the head, with the uncut hair bordering on the left and right brows. They carry the stool or other seat of the Chief before him wherever he goes, and when the Chief is seated, the stool-carriers remain behind him, always taking care to keep in touch with the stool. (They must keep in touch with the stool even when in an assembly the Chief rises for a short time, and then it must be held in a slanting position to prevent evil spirits from sitting upon it.) Stool-carriers are immune from assaults, but they take fetish when swearing oath. The chief of the Stool-carriers never actually carries any stool.

It should be noted that the golden and silver-covered stools are objects more of finery than of necessary custom. Besides their sentimental face value, they have, in fact, no necessary constitutional place in our State system—a Chief might well do without one, and its absence would not in the least minimize the greatness of his Black Stool. Where we use the word Stool in this treatise, as used in fact, in all official and public records, the Black Stool is the object meant to represent the Akan sovereign. The Golden Stool of Ashanti is in a different category; the tradition being that it was the first deified stool of the Ashanti people.

(xiii) *Of Sanna and Fotosanfohene (State Treasurer)*

Sannafo or Fotosanfo are the Treasurers or Keepers of the Chest of State. The post is held by appointment, those eligible for the chieftaincy being the sons of the Paramount Chief. The chief minister of the Stool-chest keeps the *Fotoo* or balance for weighing gold. In these days of silver and paper currency his service does not seem to be of

much utility. Fotosanfo means "the person who unties the weights", or, we may say, "the opener of the safe or chest". This, I think, does not imply that he has any control over the application of the treasure, although it is evident that in the old days the Sannahene must have known a good deal of the State treasure and of the way in which it was administered.

In Kibbi another function of the Sanna-hene<sup>1</sup> is that of performing the preliminaries of the yearly Odwira Festival. The celebration falls due on a Sunday. On the preceding Saturday, the Fotosanfohene opens the ceremonies by parading the streets with the State drums. It may be interesting to describe his dress: He wears a cap called "Akrobonkye" (leopard cap); he holds his State sword, and wears a crimson-red cloth; his body is decorated with red, white, and black-coloured clays, giving an effect called "topresono" (multi-coloured). He has his own horn and drum, and his State sword has a golden handle. The Sannahene or Fotosanfohene is a member of the Kibbi Council, and he has a stool under the Abontendomhene.

The junior members of this Order are recognized by the bunch of silver or golden keys carried hanging across the shoulder on a leather pad with a gold lock and key fixed in it. These officers are usually selected from the *Nkrafo*, or "Soul-keepers", and are, therefore, immune from common assaults and insults and may not take fetish when swearing oath.

#### (xiv) *Of Nkrafo; Awoso; Nkrafohene (Breast-plate Bearers)*

Next to stool-carriers and, perhaps, much more sacred is the post of "Akrafo". *Okra* means the *soul* of a person. When an Ahenkwa by reason of his character and other personal charms succeeds in winning the personal love and attachment of a Chief, he is publicly honoured and declared to be an *Okra*—or *soul* of the Chief, i.e. such person is loved as the Chief loves himself.

When so declared, the Ahenkwa automatically becomes a sacred person. His head must always be clean-shaved, and he wears a gold plate called "Ekyere" suspended on a white cord around the neck. In full dress an Akrafo wears this gold plate and decorates the forehead, brows, shoulders, hands, and elbows with pure white clay. This order is of

<sup>1</sup> *Sanna* really means cooking-place or kitchen, probably the Sannahene used to be the chef on State occasions.

two or more distinct kinds based on what Captain Rattray calls the "Ntoro" Family, where the line is traced through the father, and not, as usual, the mother, the *Bosomptra* and the *Bosomtwe* being general in Akim Abuakwa. There are, of course, other kinds in different States, but the Ofori Stool at Kibbi confers the Order in these two branches only. There are the Poakwas, the Sakyirs, etc.

The *Bosomtwe* is the senior of the two Orders, and is the original Order with the Asona dynasty at Kibbi. The members worship on Sundays. Early on every Sunday morning they have to take a bath in cold and clear brook water, and decorate themselves as above directed and dress in a white cloth. A *Bosomtwe* person must not eat the flesh of the tortoise, the common monkey ("Kwakuo"), the tree-climbing snails (tamira), etc.; nor should he drink palm wine on a Sunday, or eat an all-black feathered fowl. They taboo anything black, and decorate themselves white.

The *Bosomptra*s worship on every Wednesday; they decorate themselves as above, and clothe themselves in black cloth, but they do not taboo white cloth, and in fact they are constantly using white cloth. They are not to dine on white fowls, water-yams, and the white-nosed squirrel (anwenhema). An Akrafo may be made a sword-bearer, a gun-bearer, or a key-bearer. A woman may be made an Okrafo, and the wives and children of the Chief are among the eligible persons.

The chief of Nkrafo called Nkrafohene, is a member of the Kibbi Council. The post is held by nomination. The special duty of the Nkrafo is to attend to sheep slaughtered to revert a fetish oath sworn against the life of the Chief. An Akrafo's person is comparatively as sacred as the Chief's; he is not, therefore, to be assaulted, or insulted, and he *must* not invoke Fetish when swearing oath. An akrafo may be referred to as "okraguarefo" because he is supposed to "bathe" or "wash" the soul of his Chief by attending weekly at the "Ekyere" performances.

An Awoso is an akrafo or other person who has been selected to wear the "Awoso and Fodoo" (the war head-and-collardress of the Omanhene), and to bear the State sword and sceptre during processions. An awoso is of the *Bosomtwe* Order. He is usually under the Nkrafohene, is himself a member of the Kibbi Council, and may be made a chief of all the Nkrafo. The *awoso* as the bearer of the sceptre and sword must always be on the immediate right of the Omanhene in any State function.

They are also to attend the funeral custom of the wife of a Paramount Chief in place of the Omanhene. A court-crier returning to Kibbi from a funeral custom of this nature would appear in the capital riding in one of the Omanhene's palanquins and in half State dress.

A court-crier, although not regarded as a sacred person, is immune from common assaults, and wherever this happens sheep should be slaughtered. His cap once on his head should not fall down, nor is it doffed except when he is giving evidence or making a report to the Chief, in which case it is suspended round the neck on its silver chain. The court-crier's office is very lucrative, and is usually given to people who, like lame or hunchback persons, not being physically whole, require some work likely to give them rest.

(ii) *Of Asoamfo (Palanquin-bearers)*

Next to the office of court-criers, and perhaps more assuming in character, is that of Palanquin-bearers (Asoamfo). They are generally stalwart people, and are selected for this service owing to their good muscular build. They are distinguishable by the long growth of hair in the upper and central part of the head; such part is left uncut for years, perhaps for life.

Their Chief is a life-member of the Kibbi Council. Besides carrying the Omanhene in the State palanquin on all occasions, it is also a part of their duty to keep spectators stationed in their proper places during assemblies and royal processions. With this purpose in view, they keep a scourge and a cudgel about them.

They take fetish when swearing oath, but are not to be assaulted, nor are they to provoke assault. The chief of palanquin-bearers, called Asoamfohene, does not necessarily put up a bow on the head, for he in practice only supervises, and need not carry the palanquin on his shoulders. (The palanquin is not to be carried on the head; it is supported in the palm of the hand over the shoulders). The *apakan*, or palanquin, and its paraphernalia are kept under the control of the chief bearer.

(iii) *Of (a) Tumtofo, (b) Mmenatofo, (c) Fenasofo, and (d) Bankyini-yetufo (Stool-insignia Bearers)*

Much the most popular services among the young men are the *mmenato* and *mfenakura*. They are smart officers of much utility, and they form, as it were, the legion of State messengers.

In Akuapem, as in Akim, the Awoso is always worn by a boy below the age of puberty because of the great sanctity attached to the awoso dress and to the sceptre. When the Omanhene of a State goes forth in procession this young "Awoso" sits in front of him in his palanquin. At Kibbi, the Awoso is highly respected, but has no political influence. None but a Paramount Chief may maintain an awoso.

An akrafo, awoso, or nkrafohene may be deprived of his exalted post if he misbehaves to the displeasure of the Chief.

## B. ORDINARY OFFICES

### (i) *Of Nsenefo (Court Criers or Heralds)*

By sacred office we mean such as is held in our institutions, by either appointment or by birth, carrying with it the privilege of not having to take fetish when swearing oath or suffering common assault with impunity. By ordinary office we mean any office which cannot be classed as sacred—that is to say in which the holder is always under the obligation of taking or conjuring fetish on his own life when swearing oath in Tribunal or any other place. All sacred officers are ex-officio members of the Sacred Order of Stool-Worship.

The first of the non-sacred officers is the Esen or Court-crier or herald. His distinguishing mark is a cap made of black monkey-skin, box-shaped, the upper part being covered with gold or silver according as the chief owning the esen is an omanhene or an ohene. The duty of an esen is to maintain order in an assembly or Tribunal, or in any gathering in which the chief who ordained him as such is present. Thus, the omanhene's esen is not to maintain order in an assembly where the omanhene is not present himself, or where the omanhene's stool, or his linguist with the linguist cane, is not present. A linguist never travels without a court-crier. The chief court-crier's cap, called "Adamasa", is peculiarly fashioned and has more than four gilded parts and a tail. As this office is in imitation of a supposed order of the animal kingdom, wherein it is believed that the black monkey is the officer who maintains order, the chief of the court-crier's cap is made with the skin of Efohene (chief of black monkeys).

The Nsenefo are also the gonggong beaters or beadles or heralds to the State; formerly any law, order, or proclamation was only considered properly published when proclaimed by them in open streets and in all public places. If a person has a thing lost, a sheep, fowl, a ring, or keys, etc., the Nsenefo beat gonggong and request its return for reward.

(a) *Tumtufo* are the Royal Gun-bearers, that is to say, the people who on State ceremonies carry the royal weapons of war. The chief of this office is a member of the Kibbi Council. The most ancient and historical of the royal guns is the one called "Ohum"—a gun with a large brass barrel. In the ancient times if a criminal was to be executed by shooting, one of these State guns was used. *Tumtufo* keep to the left in royal processions. They are of the third order of service, that is to say they can readily engage in any quarrel or take fetish without prejudice to anyone's honour. But this qualification excludes the Chief Gun-bearer, who sits on the Kibbi Council.

(b) *Mmenatofo* are the bearers of elephant tails, ostrich feathers, etc., used in State functions. The young men most eligible for this service are the grandsons of the Paramount Chief or of the Chief. An elephant tail may be natural or in gold or silver form.

The service is of the third order and is governed by the same custom as (a) above. Their duty in assemblies, it would seem apparent, is to fan the Royal Person, protecting him as much as they can from the effect of the sun's heat and from the bite of tsetse flies, etc. They are mostly employed as messengers of State, and, in fact, they exist with that end in view. Their chief is, of course, a life-member of the Kibbi Council. It must be noted that these chiefs or captains are not intended to advise the Omanhene in his Council. They are made members of the Kibbi Executive Council in order to look after the interests of their own retainers and, in so far as other matters are concerned, their advice to the Kibbi Council has no significance. They are, of all councillors, most subject to instant dismissal. These remarks apply to chiefs or heads of the *Nhenkwa*—or messenger—groups. As a matter of fact, they have no voice in the Executive, and in the Tribunal they are little more than figure-heads.

An *odikro* or sub-chief is allowed to maintain one or two horse tails, but not elephant tails or ostrich feathers.

(c) *Mfenasofo* are the bearers of the Sword with the Gold Handle. These State Swords are of enormous length, some four to five feet long and about half a foot wide at the bottom, tapering to a few inches at the top.

The *Mfenasofo* are of the third order, and their Chief is a member of the Kibbi Council. They constitute a legion of State messengers, and always go on State errands like the *Mmenatofo*, with their golden swords. They are recruited

from almost all classes. No Chief is limited in the number of sword-bearers he may maintain. A Chief's influence over, and popularity with, the young men of his town or country may be safely measured by the number of young men who flock to him in this service. Our people, naturally, feel very proud in the service of a popular Chief, but always give the slip to the tyrant.

(D) *Bankyiniyetufo* (*State Umbrella Bearers*) have no distinguishing mark, and in Akim Abuakwa they have no recognized sub-head or chief besides the Jasehene. Their function is to keep the umbrella over the Omanhene or Ohene during State ceremonies and processions. A State umbrella must be held on the Stool while it is carried in front of the Chief in processions. Umbrella bearers may be employed as State messengers.

(iv) *Of Asokwafo, Akyeremadefo and Mpintinkafo (Drummers and Horners)*

We now come to describe the office of Drummers and Horners, a highly important office and a constant source of interest to European and American visitors in Akanland.

There are three heads or captains in this service, viz., the Asokwahene (Captain of Drummers and Horners), the chief Ntumpan Drummer, and the Captain of the set of Mpintin Drummers (*mpintikafohene*). All these are life-members of the Kibbi Council, but the succession to the captaincies is not hereditary.

Drummers are higher in rank than State messengers of the third class, for their work is an art which calls for the use of both brain and brawn. Drummers should become well acquainted with the heroic deeds of our glorious Dead, and they should be well versed in the traditions of the country to strengthen their knowledge of the lyrical, heroic and eulogistic verses used in drumming.

Drummers have their own yearly festival, which takes place a fortnight before the Odwira. On that day—always a Thursday after the preceding Awukudae—the young drummers who have hitherto been receiving private training in the theory of drumming are brought to the Drum-house to be given practical lessons in drumming.

It is a remarkable coincidence that on the very Thursday this section was being written at Ofori Panin Fie, Kibbi (the Omanhene's palace), Drummers were celebrating their yearly festival. As I stood by the side of the Tumpān

Drummer early this morning, I felt myself transported into the clime of the bards of an ancient age, into the very atmosphere of poets and minstrels whose rich legacy of song is the proud possession of the African. The melody was alone sufficient to arouse one's poetic vision, and the rhythmical flow of the sound of drum and stick made one realize the supreme beauty of music divinely inspired. For when the play is over, it leaves one wondering what genius on earth could have brought this quaint primitive music into such homeric harmony!

At the close of the Drummers' Festival during the course of the evening, all the drums in the Drum-house, except the Tribunal drum, are put away to rest until the Odwira Festival. None of the drums may be used until the opening day of the great Odwira festival two weeks hence. There should be no drumming at all during the week following the Drum festival, for the drums are, as it were, consecrated to the forthcoming Odwira festival, and even for emergent purposes drumming could only be permitted after due libation to the gods.

On the Odwira celebration, as already remarked, drumming in its highest perfection is the order of the day.

Our drummers express their supreme gift of music in emotional and exuberant praise of the gods, our kings, our traditions, and of nature. It is indeed a pleasure and a treat to enjoy this music of the drums.

A Drummer in the act of drumming is considered a sacred person and is immune from assaults and annoyances—nor must he be interrupted; they are not as a rule regarded as sacred persons, but while engaged in the actual act of drumming they are protected by the privileges of sacred persons. Drummers are mostly recruited from among the Omanhene's sons and grandsons, but they, in that office, hold equal rank with all the other drummers not of royal birth.

There are altogether three sets of Drums for State purposes; they are:—

I. *Atumpan Kese* (the two *atumpan* or kettle drums); *Fontomfrom* or *Bomata*<sup>1</sup> (the large two trunk drums which are ornamented with human skulls); 4 other small drums for accompaniment; 2 *adukrogya*; 2 *apasoa* or *memma* (short pipes); the large *yedruso* drum; and the *gonggong*. These 14 instruments constitute the set of drums which when played in unison flow with such metrical exactitude. Every

<sup>1</sup> The King of Ashanti used four of these.

drum and each beat on any drum has a meaning. It has its place in the general ordered result. The first four are (2 pairs) the principal instruments, the rest being used as accompaniments. The temporal bar of this mixed music is known by the beats of the gonggong. Every particular piece of drum music has its own peculiar beat on the gonggong.

II. *The second set of drums consists of the Atwenesin or Single-air drums. They are (a) the Korabra ("When you go, return"), kept always in the stool-house and drummed in stool ceremonies; (b) the Nkrawiri ("Fate's decree"), by far the drum of the highest sound, which as soon as beaten brings all the inhabitants of the town to the chief's house. It is beaten only on urgent and pressing occasions. Its air is "woni-mini" (vis-a-vis); probably this means "Immediate presence"; (c) the Mpebi ("Deny or be partial to no one") when always beaten in conjunction with the nkrawiri acts as a summons for all to be at the Omanhene's palace instantly. It is always beaten in connexion with matters of the greatest urgency, such as war. Besides, it is capable of repeating most of the proverbial and lyric pieces played on the big ntumpan drums; (d) the Adodonkurwa or Aburukua is another interesting drum; it is beaten after the song of a bird of that name. The late Hon. F. G. Crowther, Secretary for Native Affairs, took particular preference for the Aburukua, and exhibited great interest in its music. This drum is covered in brass and is rather small in size. It is played when every drum is silent or when the Amomafo or Abrafo (Minstrels) are giving vent to their eloquent recitals. It has a serene melodious tone; and only men with much concentration can play it efficiently; (e) the Etwie drums are noted for their peculiarity of construction and designation. An Etwie drum is not beaten as the others are: the drum-stick is so fashioned as to enable the drummer to "graze" the leather top of the drum instead of beating it; in this way, the total volume of sound gives a perfect imitation of the bass howl of the leopard (Etwie), after whom it is named; (f) the Susubribi Drum is used to summon the councillors to Tribunal. The word "Susubribi" literally means "Ponder over something"; it may mean "Give honour where honour is due"; or, put negatively, "Despise nobody." Many states in Akanland use a similar drum called the "Kantamanto", meaning "immunity from oath penalty", and in some states it is used even as a war-drum. This drum was a much-favoured one with chiefs of the old dynasty, and it*

would appear that none but those having great prerogatives and powers as important chiefs were allowed to use it; (g) there is also the *Brass Drum* used to announce the dinner-hour of the King, or when he goes to the toilets. It is not, in its use, much unlike the gong used to announce meal-time in European countries.

III. The third set of drums is the *Mpintin*. This set contains about 8 to 10 pieces, and is used by itself in half-State assemblies, in the Chief's travels and excursions. It is a most charming set, usually attracting the attention of our European and American visitors. The pieces are formed after the Hausa or Mohammedan drums, and are very popular with the Chiefs and sub-Chiefs, who are, every one of them, now permitted to own a complete set.

### THE HORNS

Attached to the drums are the *Horns*. They vary a great deal in size, pattern, and use. There are the horns capable of repeating every saying or proverb, called *Aseseben* or *Asokoben* (speaking horns); and there are those for single tunes called *Mmentia* (short horns for single airs). The horners are included in the general term *Asokwafo*, used of both horners and drummers. They are also called *Mmenhyenfo* or *Mmentiahyenfo* (Horn-blowers). The principal horn at Kibbi repeats this epigram: "*Owusu-wo-te-sen ni-o*"? ("Owusu, with whom may you be compared"? or "Owusu what may your nature be"? i.e. Owusu the incomparable!); and the oldest horn says: "*Otuo to-e*" ("Shoot, oh gun, shoot!"). There is no recognized captain of horn-blowers, but the blowers of the above two horns are the seniors of the lot.

In processions the drums of the second order lead in the front, and those of the first and third orders, as well as the horns, keep behind the Chief. Drums, it may be noted, must be held high above the head when the Omanhene dances to their music.

We cannot help emphasizing the very large place the drums occupy in our institutions. The drummers are, or should be, very intelligent and gifted people, for they must know the suitable piece to play on each occasion. There is the piece for war or for peace; the music for praise, for condolence, for glad tidings, for funerals, earthquakes, eclipses, and for all natural phenomena and every emotion of the heart. Drummers are our national poets, and therefore the sacred

interpreters or mediators between man and nature. In great calamities, as in war, the Atumpan drummer is expected to be at his post throughout the continuance of the calamity<sup>1</sup> for the purpose of expressing in song the feelings of the King and his people and to invoke the sympathy of their august ancestors. On such occasions the Atumpan drums are played alone without the usual accompaniment, and it is then that what has been called the "talk" of the drum can be heard with profit and interest.

(v) *Of Abrafo or Memafa*

The nearest English name applicable to those of this office is "King's Jesters". But "amema" seems to be something more serious than professional jesting.

The name "Obrafo" means executioner, so-called, and abrafo were, in fact, the professional executioners in the not very distant ages. But that office is now no more. We intend to consider them as Amemafa, or jesters, in this treatise. Properly they are the minstrel poets or bards in the Akan State system.

The distinguishing mark of an "Omemafa" is a cut of the hair bordering on the centre of the head to the back of the neck and to the brows. That is to say, they cut all hair from the fore-part of the head, leaving the hind-part and sides unshaved. Hence they are called "Atikosum" or "Gloomy Occiputs".

For full dress, they use nothing more than a waist-cloth or breeches. They hang "Nnawa" (small bells) and "Asekantwa" (bunch of knives) around the neck, depending on the breast and at the back; they also wear caps made of chimpanzee (kontromfi) skins; and dressed like this, the omemafa, or jester, with his sword in hand, enters the State assemblies, when, amid attentive silence, he addresses the Paramount Chief with eulogistic, sympathetic, and condoling set pieces of speech.<sup>2</sup> The office is therefore of a more business-like nature than that of a jester. An omemafa must deliver the sentences and narrate the facts as they are in a clear and distinct voice and in a most eloquent manner; and to this end the mouth or jaw of the memafa is always held between the thumb and the first finger of his left hand

<sup>1</sup> It is traditionally told that a notable drummer once thus remained at his post for a whole fortnight.

<sup>2</sup> A small collection of the Amema Minstrel Songs will be found in the Appendix H, p. 246.

(vii) *Of Councillors*1. *Hereditary Councillors.*

Councillors, in the main, are of two kinds, viz. (1) hereditary and (2) nominated. Hereditary councillors, or elders as they are called in the lower councils, and chiefs or sub-chiefs in the higher ones, are the heads of houses, families, or towns who have been elected by members of a house, family, or town to be their respective head, patriarch, or chief. When so elected and duly installed, and on payment of a membership fee to the Chief's Council, such person becomes a life-member of the Council of the community to which he belongs as a direct representative of the family or town who had elected him. As such, hereditary councillors are the most important members of any Akan Council. They hold their offices in the pleasure not of the Chief or head Chief, but by the sufferance of the people who have elected them to the Council.<sup>1</sup> They represent their own people at the Councils to which those people are attached, and whose decisions have a binding effect upon them as tribe, clan, or family.

As representatives of the interests of the various communities over which a Chief rules, it is of the utmost importance, in view of our form of government, for the Chief, who is always the President of his Council, to give due weight and make full allowance for the expressed opinion of these councillors. Customarily where all or a majority of the hereditary councillors with some of the nominated ones agree on a particular measure, the Chief, as President of his Council, would be seriously alienating and minimizing the confidence reposed in him and the regard and respect entertained towards him by his advisers, and *à fortiori* by the people over whom he rules, if he should so far be misled as to disregard or overrule their advice, thus acting against the wishes and desires of the people in the sovereignty of whom he holds his regal office. This principle, which is the basic principle of our "monarchical democracy", applies with equal force to all and every council to which we refer in this treatise.

<sup>1</sup> Of course, as member of a Council, an hereditary councillor has got to submit to the internal rules of the council, and he is personally responsible to the council for his actions. The position is comparable to the relationship between an English M.P. and the House of Commons as a body, and between him and his constituency. The House of Commons may suspend a member, but his connexion with Parliament can only be brought to an end during an election by his constituency, unless, of course, the M.P. apply for the Chiltern Hundreds.

during the recitals, while he holds his sword pointed towards the King whom he is addressing.

They have also to get the assembly into a jovial or humorous mood, and they play contortions with the body, thus affording the audience with the sight of something comic or less austere than the presence of their king. But the Omanhene himself is not under any circumstances to give way to the lighter side of his nature on such occasions. He stands the danger of being penalized<sup>1</sup> by the *memafo* if, when being addressed on the prowess and sufferings of his departed ancestors, he should choose to make fun of it by smiling. Our kings are trained to look serious and solemn when in public. A "charming smile" from an Akan King is as rare as rubies.

The Memafo have also the privilege of taking by force much more than they should proportionately have of any provisions, drinkables, meat, food, etc., supplied to the Chiefs and people by the Omanhene during festivals. They are therefore called gormandizers or "Amindifo". Amemafo are immune from common assaults, but their office does not exclude them from the Fetish Law. They have no recognized Chief in Akim Abuakwa.

#### (vi) *Of Dabehene*

This Captain, who is usually referred to wrongly as Jasehene is the chief officer, or master, or steward of the internal economy of the Royal Household.<sup>2</sup> The management of the household, the distribution of presents in the way of wines, meats, and other viands are administered by him. All stewards in the Royal Household are under his protection and management, and he should see that they perform their various duties in form and order. The meals, toilets, etc., of the Omanhene are prepared under his eyes, and nothing in the way of household affairs should escape his notice or be carried out without the Dabehene's knowledge. What Mr. Casely Hayford calls the Captain of the Huntsmen, the Captain of the Butlers, the Chief of the King's Physicians, etc., are, at best, all subordinate captains under the Captain-Steward of the Royal Household; he represents their interests in the Council. The office is not hereditary, being subject to direct appointment by the Omanhene.

<sup>1</sup> The penalty should not exceed Asante Asia (£1 7s.).

<sup>2</sup> *Dabe-* is short for *Dabere*, the bed-chamber: Dabehene means chief or steward of the bed-chamber.

It may be safely laid down that a Chief to whom these terms are adversely applicable is on the right road to autocratic rule.

With regard to the status of hereditary councillors in relation to their own "constituents", much has already been said in the preceding chapters to show what the general principle seems to be. We have only to add, by way of emphasis, that a Councillor should always make it his duty—as in fact it is—to serve the best interests of the people he represents. The best way to do this is to present his views, by which we mean the wishes and desires of his people, boldly and fearlessly as well as wisely and patiently to the Council in which he represents them. Let not his motto be "*Tramen, tramen*" ("It is so, O Majesty!"), but rather let him strive to express his convictions by saying "Yes" when it is the right word, and "No" when he must, in the interests of his people, say so. A hereditary councillor is likely to rise to great eminence and enhanced reputation, not only within the ambit of his own circle, but also among other hereditary families, if his advice to the Chief and his other acts in the Council are meritorious.

## 2. *Nominated Councillors.*

Besides the hereditary councillors who, as already explained are the direct representatives of their respective families or towns in the various councils, a Chief, as President of the Council, has power to nominate to his Council any reasonable number of intelligent and loyal subjects who, in his consideration, deserve to be his advisers or councillors.

The Chief, who had nominated these councillors, or *atrafo*, as they are called—literally meaning "sitters", which strongly reminds one of "Session"—has power to deprive them of office when displeased with their action or conduct. Thus, it may be inferred, the Chief may obtain a majority of minor votes in the Council over which he presides. This does not, however, mean that the nominated councillors always side with the Chief, for after all is said and done their opinion, however unanimous and great it may be, should never outweigh the opinion of the hereditary councillors; for whilst the nominated councillors represent their own persons without having to account to any body of constituents, the hereditary councillors have their families or towns behind them, and their number, be it ever so small, represents the community in its entirety; as such they represent the largest interests.

(The views in this paragraph are purely speculative. In

practice there is no sharp antithesis at present between the Councillors and the *atrafo*, but it looks as though in a generation or two, when men learned in the European tradition come to be Councillors, the matter would come to deserve serious attention.)

Besides, we need not lose sight of the fact that the inhabitants of a county or town, usually referred to as "the young men", may single out a bigoted "nominated" councillor and demand his dismissal if it would appear that he had been making wrongful use of his office to the detriment of the community as a whole. Otherwise, if all goes well, a nominated councillor may hold his office for life. Whenever he sits in Council, a nominated councillor sits by the side of the hereditary councillor who represents the family he belongs to, and he most generally defers to the opinion of his family hereditary Councillor.

### 3. *Asafoatse Councillors.*

In addition to these nominated councillors, there is a third order of councillors who are by their election the direct representatives of the community, not in families, clans, sections, or houses, but of all of these as an integral whole. These are the *Asafoatsefo* or captains of the *Asafo* companies—companies formed by the young men, that is to say, the collective and several inhabitants of the town—including both young and old—who as a collective body can only be so represented in the Chief's Council. The *Asafoatsefo* protect the interests of the community, and they also seek the effective maintenance of the democratic system of government as against an aristocratic, autocratic, or any form of government other than the old-established form.

These representatives of the companies of young men are subject to re-election or rejection every two or three years, but the absence of a fixed methodical system always tends to bring the atmosphere of the re-election or rejection into something not quite unlike "destoolment", although in fact the *Asafoatsefo* have no stools.

This order of Councillors forms an effective check on the actions of a Council, for if it would appear that the Council had been acting contrary to established custom, and against the expressed or implied interests of the companies, i.e. of the community, the *Asafoatsefo* and their companies are always prepared to see that things are done properly and constitutionally.

It may be useful to those fond of inductive speculation to note that in a Council we have three distinct parties, based on the facts presented above, viz. (1) the Tribal party (hereditary); (2) the Royalists' party (elected by the Chief); and (3) the Nationalists' party (elected by the people collectively); but this, as I said, is purely speculative and of no present value. I do not even think there is one Akan word to translate the term "party", of so much meaning in English politics.

## CHAPTER III

### THE LEGISLATURE (OKYEMAN MPANYIN NHYIAM)

As indicated in a previous chapter, the recognized Legislative Authority of the Division is the Okyeman Council. The constitution of this Council has been described. In the vernacular it is referred to as *Okyeman Mpanyin Nhyiam*, literally, meeting or assembly of the elders of the Akim nation.

The Council is invariably summoned by the Omanhene, as Sovereign-President of the Council, who appoints a day on which the sessions begin. The place of meeting is Ofori Panin Fie, Kibbi, or at such other place the Omanhene may be residing at the time the Council is summoned. A number of suggestions or "Bills" are then placed before the Council by the Omanhene through his linguist. The Council then enters into an open discussion of the subject, and all members are unfettered in the free expression of their opinions. When the purport and meaning of a "Bill" are understood by the members of the Council they retire into Committee in one of the Courts at Ofori Panin Fie, at a place beyond hearing of the Council Room, leaving the Omanhene and one or two of his linguists behind. Only recognized members of the Okyeman Council, including the Executive councillors, are required to attend the Committee. Any other person going into the Committee Court with intent to take part in the debates is forthwith expelled and made liable to a fine.

In Committee a more searching investigation is made into the provisions of the Bill, and when unanimity is arrived at one of the linguists of the Mpakanfo, notably an Adonten linguist, will be fully entrusted with the verbatim delivery of the Committee's considered opinion to the Omanhene. The Sovereign-President will then give his formal assent which is generally in accordance with the finding of the Committee. The Bill then becomes law.

There are hardly any instances in which unanimity has not been obtained in a committee meeting. Occasionally, the minority dissenting from the passing of a Bill is not great enough to call for re-consideration of the Bill; but, when there is a controversy or disagreement over a particular

Bill, its passage into law will be deferred until all the five principal and possibly even the whole twelve Chiefs are present. If, however, with the five principal or the whole twelve Mpakanfo present, there is a difference of opinion as regards a particular Bill; the Sovereign-President has the "casting vote", and in such cases his vote is final and can only be revoked by a subsequent act of the Council.

In the writer's personal experience the Sovereign-President usually casts his vote with the majority, for it would seem a desperate step to vote otherwise in a law proposed by the Executive or by the Sovereign himself.

Bills, it may be observed, are not proposed by the Omanhene only; the Mpakanfo also have the right to place before the Council a proposal which may, in due course, be discussed and passed as a law of the land under similar conditions as a Bill placed before the Council by the Sovereign-President. Among the Adikrofo those having similar right of proposing a Bill for passage into law are the Adikrofo in the Amantoo-mmiensa Council. It will be seen that there are about twenty main interests represented in the Okyeman Council. Namely, the twelve or thirteen Mpakanfo, the four or five Chiefs of the Executive, and the three chiefs of the Amantoo-mmiensa Council. A leader of any of these sections is privileged to propose a subject matter for discussion and passage into law.<sup>1</sup>

When a bill has thus become law, it is published by the solemn act of hanging green palm leaves on the public streets and by the additional proclamation on gong-gong throughout the town of Kibbi, the Court Crier, or Esen, who is also the gong-gong beater or herald, proclaiming the provisions of the bill as he passes through the streets and squares beating the gong-gong. On other occasions this may not be found necessary, and in such cases the proclamation by the Adontenhene's Linguist will be a sufficient public announcement of the bill having become law. Decrees, edicts, and orders are best proclaimed on gong-gong; administrative laws are usually proclaimed at the Council only.

Modern developments and improvements on the old means of publication are not wanting. Instead of proclamation by gong-gong, copies of the new law are now supplied by the Omanhene's office to all the principal Chiefs, who will in due course cause them to be published by a modern or

<sup>1</sup> It should, however, be noted that the *Amantoo-mmiensa* does not form a separate body on the State Council, for during the sessions every Chief in the State should sit with its appropriate Wing Chief or *Opakani*.

the ancient method throughout their sub-divisions. And to make these laws effective and permanent, a written record is, as soon as the Bill is passed, signed by all the Chiefs present, and then given effect to, as if the solemn act of hanging palm leaves had been duly observed.

The penalty attaching to the violation of a law is regulated according to the nature and extent of the offence involved. In most cases there is no definite penalty attached to the breaking of a law. But in other instances the penalty will be defined to the extent of breaking the Omanhene's oath, i.e. the Wakuda and Kwanyako oath. Before very recent times there was no limited amount for the violation of this oath, so that when once a Bill was passed into law it was understood that the breaking of it meant the violation of the oath. Now that the penalty attached to the oath is nominally less than *Bena* (£7) it has been found necessary and more practicable to name some definite sum of money as the fine for any particular offence.

The Tribunals having jurisdiction in a particular law are invariably named in the body of the bill, and one or other, or all of the three Tribunals, viz., the Omanhene's, the Mpankano's, and the Adikrofo's, may have jurisdiction with regard to a certain law.

This Okyeman council, it must be explained, is the only body which has the right to make laws affecting the whole country. The necessary quorum does not so much depend upon the number of members of the Council present as upon the relative rank of those who may be present at Kibbi on the enactment of a particular Act. The twelve Mpankano are the most important and leading members of the Council, but it shall not be a constitutionally instituted Council if in any assembly of the Okyeman Council three or more of the following five principal Mpananos were not present, viz., the Adontehene of Kukurantumi, the Nifahene of Asiakwa, the Benkumhene of Begoro, the Oseawuhene of Wankyi, and the Jasehene of Kwabeng. The personal attendance of these premier Mpananko is usually urged, but in the case of sickness a delegation in the person of a Linguist and one or two stool elders may be sufficiently representative of a Principal Chief. In certain instances personal attendance of a principal chief shall be urged.

There are certain laws the discussion of which is not open to the general public, but such are these laws that their provisions do not generally apply to all members of the community. It seems necessary to explain why the great

bulk of the Adikrofo may be dispensed with when passing a law relating to the whole country. The answer may be found in a few words. The Division is historically, and for military and civil purposes, divided into five great sub-divisions,<sup>1</sup> each sub-division having a premier Apakan as its head with two or three ordinary mpakanfo under him; these in their turn retain individually a number of Adikrofo under them. There is a section of the Adikrofo who do not render homage to their Opakani direct, but do so through a senior Odikro. This being so, it is held that what a Premier Opakani does is done for his sub-Pakani, and the sub-Pakani does or says something for the Adikrofo under him. Hence the presence of a principal chief implies that all the sub-chiefs under him, and, consequently, all the people of his sub-division, are represented.

The rigid application of this principle, however, leads to a great deal of discontent among the sub-chiefs, so that all along a good administrator endeavours to see that before any important law is passed, a full advantage of its discussion is given to the greatest number of the members of the Council. The fact is, if the opinions of the Adikrofo are not obtained when making laws, suspicion arises that the higher chiefs have taken power into their own hands, with a resultant discontent among the minor chiefs and the mass of the people. The Adikrofo, it need be repeated, represent the larger percentage of the *Oman* town by town, although it cannot be said with any amount of certainty that they represent the people in the commonly accepted sense of a European or American democracy; the mere fact that they are elected to their ancestral posts for life is sufficient indication that they also have material privileges as lower members of an aristocracy.

There is still another side of the legislature which deserves some attention. There are besides the Okyeman Council, the two other councils, viz., the Kibbi Council (the executive) and the Amantoo-Mmiensa Council, which occasionally make laws for the country. A close study of "laws" which have been accepted as lawfully enacted by these two councils, either jointly or severally, will be found to refer to rules having particular reference to the following:—

(1) On appointments of servants and officers of the Executive;

<sup>1</sup> The reader is reminded that under the new N.A.O., 1927, an *Oman* is called a state, not a division, and an *Omansin* is called a sub-state or division, not a sub-division (see note 1, p. 30).

(2) On the management of the Executive in its control over the affairs of the Division ;

(3) On Executive Duties ;

(4) On Local needs.

Speaking from actual experience, it can be stated that these two bodies have not the right to enact laws as a separate or conjoined body with regard to land, marriage and divorce, inheritance and succession, fiscal affairs, changes in the constitution, etc., and in fact they have not the right to interfere in acts and deeds whose operation affect the basic machinery of the government of the country.

The Amantoo-mmiensa and the Kibbi Councils may be said to have the right to make rules and to issue orders under laws that have been passed by the State Council. Rules and Orders issued by them are even subject to revision by the Okyeman Council, and where found unsatisfactory they can be repealed by the State Council, which is for all purposes the supreme legislative, judicial, and military council in the State.

## CHAPTER IV

### THE TRIBUNALS

#### *Section A.—The Four Tribunals*

THE Akan state system, like all institutions of its class very early recognized the head of the family, tribe or nation as being the fountain and main source of justice, the determinant of rights, the redresser of wrongs, the dispenser of mercy. The head or Chief of the family or tribe, the Ohene or King of the town or nation, was the one impartial judge, who, sitting with his councillors, the patriarchs of the various tribes, clans or families composing the community, could fearlessly support the claim of the weak against the strong, sustain right against wrong, and enforce remedies for wrongs committed within that unitary community. The wise old men of the tribe sitting with the chosen head of the community thus formed the court or assembly which, under the Akan State system, acted at once as the legislative, executive and judicial assembly of the people. It was this same assembly of wise and brave men which formed the council of war and acted as leaders of the tribe or nation in all matters affecting their security and safety.

In a previous chapter,<sup>1</sup> we have seen this assembly functioning as a legislature; we have now to study its function as a judiciary

According to the Akan State constitution an assembly is legally a Tribunal which has a Stool-owning Chief as its president or chairman, with councillors and elders either owning stools as representatives of their respective families, or without stools but elected to the council because of their intelligence and general fitness. Such Tribunal sits in the community within which it exercises jurisdiction, but its activities are limited by the existence of a higher Tribunal having jurisdiction in the territory over which the lower Tribunal exercises authority. That is to say, no two Tribunals of equal powers or authority can exercise jurisdiction within the same community. Thus any Council in a town or village

<sup>1</sup> Chapter III.

with the recognized chief presiding over it is legally a Tribunal<sup>1</sup>; and no assembly is a Tribunal whose presiding head is not a Chief recognized as such and whose other members are not Elders or Councillors appointed for the purpose of acting as the customary assembly of a tribe or tribes or of a nation.

There are four distinct kinds of Tribunals in every Akan State. The first and lowest of these is a Tribunal presided over by the chief or sub-chief of a town or village with the captains and elders of the town or village as members of the council. Every Odikro of a town is entitled to sit with his elders and councillors as such a Tribunal, and every Chief, Ohene or Pakani sitting with the elders and captains of his town, sits as such a Tribunal. This is generally known as the Town Tribunal.<sup>1</sup>

Higher up in the scale we have a Tribunal presided over by a Chief, Ohene or Pakani with the sub-chiefs, Adikrofo, captains and elders of the *sub-division* as Councillors. Such Tribunal is composed of the stool-owning patriarchs or heads-of-families in the Ohene's sub-division, together with various persons who are by custom entitled to sit as councillors in the sub-divisional Tribunal. The principal duty of such a Tribunal is to decide causes between political parties in cases arising out of the sub-division. Such cases are indeed very rare, and in Akim Abuakwa most of such political cases are in practice heard by the Omanhene's Tribunal as a Court of first instance. The Sub-Divisional Tribunal presided over by the Chief or Ohene can act as appellate to the Odikro's or Town Tribunal in certain criminal or political cases.

The third and most important, and really the premier Tribunal in every Akan State, is an assembly presided over by the Paramount Chief or Omanhene with the Chiefs, sub-chiefs, Elders and captains of his capital town and seat of government, as members. This Tribunal, commonly called the Omanhene's Tribunal, is the supreme Tribunal in every Akan State. It is a court of first instance for all cases, criminal and civil, and acts also as an appellate to all lower Tribunals in the State. Members of the Council composing this Tribunal are always those patriarchs or Elders who have their permanent residence in the capital town. In Akim Abuakwa, with the exception of the Abontendomhene of Kibbi town, and the Jasehene of Kwabeng, within whose sub-divisional area Kibbi is included, no Ohene or

<sup>1</sup> The legal meaning of Tribunal in this respect has obtained a specialized significance in the N.A.O. (1927).

Opakani is ordinarily entitled to sit as a member of the Omanhene's supreme Tribunal: some Chiefs such as the Amantoo-Mmiensa, are occasionally co-opted as extraordinary Councillors of the supreme Tribunal, but whenever the Ahemfo or Mpakanfo are invited to sit with the supreme Tribunal it ceases to act as the *Omanhene's* Tribunal and becomes a judicial department of the Okyeman or National Council with the Omanhene as its president.

Thus we are brought to the fourth and highest Tribunal in the State. With the Omanhene as president, all the Chiefs or Mpakanfo, sub-chiefs or Adikrofo, Elders and captains sit in this high Tribunal in their capacity as *ex-officio* members of the national or Oman assembly or Council. It is thus the highest Tribunal in the State, and acts as a Court of first instance and an appellate Tribunal. Its decisions and edicts were in the ancient days absolute and final, and beyond it there was no higher court of appeal. Regarded as a judiciary attached to the legislative assembly of the nation, this Tribunal has undoubtedly very definite functions to perform in the Akan State system, and it seems regrettable that the Native Jurisdiction Ordinances have not given it the same legal recognition as was extended to the various lower Tribunals in the Akan States. So long as there is assurance that this high Tribunal would draw a clear distinction between judicial and legislative and other purely political matters, there is no reason why the national Tribunal, the crowning achievement of our constitutional regime, should not continue to exercise its power for the welfare of the State and the security of rights and liberties of the people.<sup>1</sup>

#### *Section B. Tribunal Procedure*

There are three main processes by means of which an action may be commenced at any of the four Tribunals in the State of Akyem-Abuakwa. These are:—

- (α) Oath.
- (β) Procedure by Summons.
- (γ) *Amanenya* (Criminal Cases).

<sup>1</sup> I am glad to note that the sponsors of the Native Administration Ordinance were successful in obtaining legal recognition for the State Tribunal, and the Legislative Council of the Gold Coast has by that act recognized the sovereign independence of every State in the Colony.

## (1) Accused Summons.

## (2) Arrest on Information.

As stated above, even before the advent of European or to be precise, British jurisdiction, there were four main Tribunals in Akyem Abuakwa, viz. (i) Omanhene's Tribunal, (ii) Ohene's Tribunal, (iii) Odikro's Tribunal, and the greatest of all (iv) the judicial department of the Okyeman (State) Council. Side by side with these Tribunals there are to be found as many sub-tribunals in every town or village as there are enstooled-heads-of-families, and every *Obusua-panin* so called, has a certain jurisdiction over particular members of the family of which he is the head. An *Obusua-panin's* jurisdiction cannot be exercised over any person not a member of his family without that person's consent. An *Obusua-panin* again cannot hear an oath case, nor can he deal with cases of a highly criminal nature.

## (a) Oath Procedure.

There are three main kinds of oath, viz. :

(1) Fetish Oath (*Dua-bo*).(2) A Chief's Personal Oath (*Brep̄o* or *Nhyira*).(3) National Oath (*Okyenhene Ntam*).

(1) It is proposed to deal with these three under separate heads. First as to Fetish Oath. *Duabo*, to give it its proper Akan name, is a purely personal oath. It is the act of invoking the penal wrath of a Fetish on one's own life (*dinse*) or on the life of another person (*bo obidua*). An example may help us. One *Kwadjo* suspecting that somebody has stolen his *Kente* cloth, goes to the yard of a house, or to a public street or square, and with a piece of wood (*dua*) or stone in his hand, calls aloud : "*Onipa ko a wawia me Kente se wamfa amma a Anokye nku no*," meaning "He who has stolen my *Kente* cloth ; if he does not return it may the fetish *Anokye* kill him". Thereupon he strikes the ground with the stone or wood. This is called "*bo dua*" (striking (with) wood),<sup>1</sup> i.e. putting (life) into fetish power. The next morning *Kwaku*, a brother or cousin or relative of *Kwadjo's*, who, we may suppose, had taken *Kwadjo's* *Kente* cloth to attend a festival in a

<sup>1</sup> This is a custom that calls to mind the English superstition to "touch wood" whenever an unsophisticated Englishman or woman begins to speak of an unexpected good fortune which has attended his or her venture.

poured on the chief's hereditary stool. The fetish itself is not usually entitled to any fees or fines when invoked in the manner above described, but if the victim of a fetish curse failed to admit the offence charged, or refused to desist from his action, and as a consequence he subsequently became ill, then the fetish is entitled to such fees and fines as its Priest or any Fetish Doctor may prescribe. If the case was heard before a Tribunal, the Chief might order the reversion to take place before the shrine of the Fetish, in which case certain fees and fines will be paid to the priest.

The mere fact of a person being put into fetish would not give a right of action, except, of course, the fetish was improperly invoked. If, however, the person invoking the fetish refused to revert it on a proper occasion, then either a criminal summons or an oath may be interposed to secure the other party's presence in Tribunal.

A witness giving evidence before a Tribunal or other judicial authority is required to take fetish oath. The oath is said to be "given" him by the Chief's Linguist in the following formulary words: "*Ka Wukuda ne Kwanyako, na fre Anokye di nse se wobe ka nokware (wo asem yi mu)*" "Be sworn by Wukuda and Kwanyako oath; and invoke Anokye against your life that you will speak the truth (in the present cause)." To this the witness, with his right hand raised upwards, deposes: "*Me ka Wukuda ne Kwanyako<sup>1</sup> se meka nea menim, se manka nokware a Anokye nku me*" "I swear by Wukuda and Kwanyako Oath that I shall say what I know, if I do not speak the truth may Anokye kill me".

After the evidence, if there is a case of perjury the Fetish curse must be reverted in the formal manner either with blood of sheep or with wine or rum. . If there is no case of perjury the witness is not liable to any fetish fine even though his side lost the case. But if in later years any witness confessed under fetish or other lawful influence that he spoke a falsehood when giving evidence on oath, and if it were advanced that his present illness was due to that untruth, then after due reversion of the fetish curse, the Tribunal may or may not adjudge him liable to the expenses paid by the losing party, if it appeared, on investigation, that the

<sup>1</sup> Or he may use the more dignified terms of oath *Ntankesee mmiensa* ("the three great Oaths"), but he must not adjure in the name of a deceased Omanhene nor even of the living one; he cannot say "I swear Amoako Atta's Wukuda and Kwanyako Oath". A sheep must be slaughtered when this archaic and forbidden formula is used. This oath is called *Tram Kese*.

nearby town, returns the cloth to Kwadjo. Even though the cloth which was not actually stolen had been returned to him, Kwadjo has still to revert the fetish curse. But he may spitefully or reasonably refuse to do this. When this happens Kwaku would call him before the head of their family or an elderly man known to both of them for reversion of the curse. If Kwadjo fails to attend or refuses to revert the curse before the elder, oath may be sworn on him or a summons taken against him to appear in the chief's court and explain his conduct towards Kwaku.

Here then the fetish oath ends with a process of commencing an action, oath or summons having been interposed. Before the chief's court Kwadjo may be able to put up a defence if for instance there were no intimate relation between him and Kwaku to justify the latter taking Kwadjo's cloth away without first obtaining his consent. If Kwadjo succeeds in his defence the fetish curse may be reverted by him when he had been paid pacification money or had received some form of redress from Kwaku.

Fetish oath is reverted by striking a stone or wood on the ground, with or without wine libation, and pronouncing the words "*Anokye Kokoṭwea*" (Anokye Fetish, take thou away the curse.)

Fetish oath may also be called personally against a person who is doing some act of violence against you or your property. The formal words are, usually: "If you do not desist from molesting me or destroying or taking away my property, may Anokye kill you." The delinquent may or may not stop. If he does not stop the National Oath, which has greater momentum than the fetish curse, may be sworn against him to desist from his action or appear in court and answer to the oath.

When fetish curse is called upon a person and it becomes necessary to revert it, the ceremony may be performed either with wine, or the blood of some domestic animal, e.g. a sheep or fowl. This is poured on the ground whilst words contrary to the terms of the fetish curse are being pronounced, thus permanently nullifying the effective operation of the curse. The ceremony has to be done in the presence of witnesses, and it must be outside a house. If the person put into fetish is the owner of a house or is a nobleman, then the reversion must be performed at the entrance of his own residence. If he is a chief or a captain on Stool, it may be necessary to revert the fetish curse both as to his person and his stool. In the latter case the blood or wine must be

false evidence could or could not have misled the Tribunal to the decision arrived at in the case.

The statement that persons giving evidence before Tribunal are required to take fetish oath must be taken with some reservation. Chiefs and other noblemen classed as sacred persons are never under any obligation to take fetish oath, and if they do so, either intentionally or through a mistake, sheep must be slaughtered. The number of sheep varies with the rank of the sacred person. Sacred persons are those who either by birth or by appointment are members of the most high and sacred order of Ancestral Stool Worship. To belong to the order is alone sufficient to mark one as a person of honesty, honour and strict integrity, since the slightest violation of any of the rules of the order would render such person incapable of high office. This practice reminds one of the usage in the High Court of England where eminent Counsel are generally not required to give evidence on oath from the witness box, but only to make unsworn statements from the Bar. Such sacred persons are therefore not required to take fetish oath when deposing on evidence before a Tribunal, for if a stool worshipper told a lie the *Akonnua-tuntum* (Hereditary Stool) would find him out. From this account it would seem that Stool Worship is regarded as of a higher order than fetish worship, and that in fact is the case. For while mere associate members of the order of Stool Worship, such as Nkrafo, are not required to take fetish oath, the fetish priest who is himself the highest master in the order of fetish worship is bound to take fetish oath whenever giving evidence on oath before a tribunal. Sacred persons are entitled to several privileges, and whenever any of them is put into fetish, assaulted or insulted, an appropriate number of sheep must be slaughtered. The topic of Sacred Officers is dealt with in the chapter on "Division of Functions".

Some imperfect exemption from fetish oath is granted to persons who are not regarded as fully sacred. A chief is regarded as only partially sacred whose stool is not of the highest rank. To be a member of the order one must possess an ancestral stool, and to belong to the highest degrees of the order one must be a chief above the rank of captain in the State. Members of a Stool Family as well as persons associated with such stools by having been created as such (e.g. Nkrafo) are regarded as imbued with the rank and privileges of the Stool to which they are attached. But those chiefs who belong to the lower chieftaincy are only partially

exempted from fetish oath. Such middle rank chiefs called occupiers of "Nkonnua-wa", lesser stools, are legally expected to take fetish oath, but they are forbidden to conjure the fetish against their own lives, and are allowed to invoke the penal wrath of the fetish on the life of a junior member of their family. This exemption is not applicable to a captain-on-stool in an Odikro's Tribunal; but it applies to a captain-on-stool in a chief's (not a Head-Chief's) Tribunal who is neither a Jasehene, nor Kyidomhene, nor Mankrado, nor holding some office of the like rank. Captains-on-Stools belonging to this grade are simply representatives of their respective families or clans, and are in the Chief's tribunal without holding a definite State or sub-divisional office (i.e. Chiefs "without portfolio").

The formula for a fully sacred person such as the Adontenhene, who belongs to the highest rank in the order of stool worship, when taking oath on evidence before Tribunal is as follows: "*Me kã ntamkese mmiensa se mekã nokware*" "I swear by the three great oaths to speak the truth." The formula for a half sacred or middle rank person, such as a Captain-on-Stool in an Odikro's Tribunal is: "*Meka Wukuda ne Kwanyakõ se mekã nea menim; se manka nokware a Anokye nkum me dehye Asomasi*" "I swear by Wukuda and Kwanyako oath to say what I know; if I do not speak the truth let Anokye kill my free-born heir (brother, sister, niece, or nephew) So-and-so." The formula for all ordinary persons is what is properly called "di nse", i.e. invoking fetish on one's own life. This is the one given on p. 71 *supra*.

## 2. A Chief's personal oath *Brepo* or *Nhyira*:

The personal fetish oath of private persons (*Duabo*) as described above is not so much a mode of commencing a process in the Tribunal as a cause giving rise to such process. On the other hand a chief's personal oath, *Nhyira* or *Brepo*, as soon as sworn gives rise to immediate action.

A Chief's personal oath is said to be sworn when a party to a case either already before Tribunal or not yet before it, calls the penal wrath of a fetish on the life of an Odikro, Ohene, or Omanhene. In fact, every person of rank whose office is deemed sacred, i.e. who does not himself take fetish when giving evidence on oath, comes under this definition as having a personal oath of greater magnitude than that of a private person.

A Chief's oath may be sworn when for instance (1) a complainant finds himself incapable of obtaining immediate judicial action from the parties whose duty it is to assist him in that respect ; it may also be sworn when (2) one party to a dispute not yet before the court wishes to press on his adversary the justice of his claim ; and (3) when a man finds himself in such a desperate position that nothing short of a *Breṣo* would give him relief from his tormentors.

The formula usually employed in *Breṣo* oath is as follows : In the first of the three instances above the person swearing the oath would say: "*Se asem a merekã yi (anase amaneḡ a merebo yi) se enim a breṣo nkum Kuroyi<sup>1</sup> Kyeame,*" which means "If the information or report I give is incorrect let the solemn (palm leaves) oath kill the Linguist of this or that town". In the second instance he would use some such words as the following : "*Se adeḡ yi nni wḡ me ampa ara, na makunkum manim se ewḡ me a, breṣo nkum Kuroyi Kyeame*" "If this property is not really mine, but I am making a false claim, let the solemn (palm leaves) oath kill the linguist of this or that town." In the third instance he would say "*Se wanyae me ahoyeraw a breṣo nkum Kuroyi Kyeame*" "If you do not desist from molesting me let the solemn (palm leaves) oath kill the linguist of this or that town."

Here it may be noticed that all the language used is indirect. The fact remains that although the oath is manifestly sworn against the personal life of the real chief yet his name or even the name of his office is not mentioned. All that the abjurer says is "the linguist (Okyeame) of this or that town". This is why Linguists cannot strictly be regarded as sacred persons. The linguist is a full temporal representative of his chief, who is sacred and, withal, spiritual; the oath is therefore sworn against the chief through the office of his representative. Despite the fact that the terms of the oath are indirect, its effect has all the implication that the chief and not his linguist is the person really meant.

Again the jurant does not, as in private oaths, invoke the name of the fetish—he uses the expression *breṣo*—literally "the knot of palm leaf." This is explained by the old custom of solemnly hanging palm leaves on the streets and public places whenever there occurred any grave event affecting the State or an important Chief. Hence the oath is called

<sup>1</sup> He will mention the name of a town, Kuroyi, i.e. "This or that town."

*Breṗo*, or "the oath of Solemn palm leaf". He who swears it is said to (*bo breṗo*) "tie the knot of palm leaf".<sup>1</sup>

When the oath is taken in the indirect manner described above, the jurant is said to "*hugya*" or "wave away", and then the penalties are moderate. But there is a more serious stage to which the oath may be carried. When the jurant mentions in a direct manner the official name of the chief whose life he is invoking into the power of fetish as well as the name of the particular fetish he is conjuring, then the oath is not a mere *hugya*, or indirect *breṗo*. It is then called "*Asita*" or direct *breṗo*, and the jurant is said to have ("*sii Asita*")<sup>2</sup> sworn in the bold direct manner. This more serious form of *Breṗo* is generally called *Ntamkōkō* or red oath, but either term is indiscriminately applied to one or other of the two forms. The jurant who swears so directly is said in common parlance to have "bumped his head against the wall" (*ode ne ti apem dan*), which explains that the person taking such oath is deemed to be as senseless as a madman. It is the most terrible oath any sane (or insane) person can swear. It has few advantages and a fatal disadvantage. The advantage would seem to be that action is taken on such *Breṗo* or *Ntamkoko* oath immediately; the parties involved must be brought before the highest tribunal near the place where the oath was taken, so that apparently relief to the man in distress is not long delayed. If the chief whose oath was sworn has jurisdiction in the cause which gave rise to it, or has jurisdiction over the town in which the oath was sworn, the case must be taken before him, and the chief under *breṗo* oath must be informed without the least delay. Such chief may be one in sympathy with the jurant either because the latter is related to him, or because he is in the chief's service, or because the cause which gave rise to the oath concerns the chief or his state; or, further still, as happens in the case of strangers, because he expects to enlist the sympathy of the chief of his native place in his trouble in a strange land. The advantages especially in the case of strangers and such other persons in distress are

<sup>1</sup> The other name of the oath, *Nhyira*, is still more sinister in meaning. *Hyira* ordinarily means "to bless", and one would expect that the noun *Nhyira* would always mean "blessedness"; the meaning, however, follows the occasional use of the English "blessed" in an euphemistic, ironical, or intensive sense. As it happens, it means just the opposite of "divine favour".

<sup>2</sup> *Si Asita* means to "step or walk boldly", hence "to speak in a bold direct manner".

no doubt quite considerable. Of the disadvantages one cannot speak too pointedly.

There are practically no set limits to the expense and cost involved. As soon as the oath is reported to any responsible chief or captain, sheep must be slaughtered. If the jurant has no money of his own to buy sheep the chief to whom the oath was reported must provide a sufficient number of sheep. If the oath was sworn against the life of a superior chief such as an Ohene or Omanhene then, if the necessary number of sheep is not immediately provided, the jurant or the chief to whom the oath has been reported is allowed by custom to seize the first two or three suitable sheep found anywhere to be sacrificed for the purpose of the oath. A report of the oath must be sent at once to the chief whose life is involved, and this cannot be made without the heads and skins of the sheep so slaughtered.

The jurant must provide ample securities for his due appearance for the Brèpò case, and, not being a chief or some nobleman of position, if he failed to do this, he would be apprehended as an untried prisoner and sent to the proper tribunal. A further disadvantage is that in Brèpò oath the other party to the cause in connexion with which the oath arose is not bound to respond with another Brèpò oath. He may, if he likes, do so perhaps to give an appearance of strength to his own case, but if he do not, it is no evidence against him (as it is in a case of national oath) in regard to the justice of his claim. Consequently the jurant who takes Brèpò oath just as a means of intimidating the other party stands to gain no evidentiary advantage by invoking such prohibitive powers to his aid. Formerly the costs involved in the Brèpò case were borne by the guilty party in the original cause. This rule, however, has now been abolished, and the jurant, whatever be the ultimate issue of the original cause, is held liable to the fees and fines involved in the Brèpò case. In ancient times the punishment for Brèpò case was capital, involving loss of life, confiscation of property, or, where necessary, banishment. The number of sheep to be slaughtered in a Brèpò case depends upon the rank of the Chief under fetish curse. The care of sheep slaughtered in such cases is in the hands of the Chief's *Nkrafo* (soul-"guardians"), who, being regarded as the "Kra" or soul keepers of their Chief, are on intimate terms of fellowship with his life, and know best how the curse may be reverted. The oath case is investigated prior to the hearing of the cause which gave rise to it. The jurisdiction is extraordinary,

it being cognizable not by any ordinary tribunal but by a special council, as at Kibbi by a council formed of the Kibbi Council and the Chiefs of the Amantoo-mmiensa. The special council which hears the case must not sit in any ordinary court house but in a special one suitable for the purpose.

Breṗo oath as we have said is expensive and unreasonable. Its advantages can hardly be said to counter-balance the disadvantages, and it is well that it has now been made unlawful to swear a Breṗo oath. It is illegal to swear a chief's personal oath; but since people still find themselves in such circumstances where their only means of escape from distress seems to be in Breṗo oath, the law is now and again broken. When the oath is sworn to-day the jurant is first of all fined for swearing an illegal oath, and then condemned to pay the cost of sheep slaughtered. In addition to these and the ordinary court fees he has to pay a sum of money as pacification to the chief against whose life fetish curse was invoked.

We are still in the realm of personal oaths. We have seen that the personal oath of a private person (*dua-bo*) is only a cause to initiate an action. A chief's personal oath (Breṗo) goes only a step further. It only enables a dispute to be brought to the immediate notice of the judicial authorities, or conversely, it suspends immediate action in a particular case before the tribunal. It was, for instance, a frequent expedient in former times for litigants before a minor tribunal who thought that they were being unfairly judged to swear Breṗo oaths in order to arrest immediate delivery of judgments, thus resulting in transfer of the civil action to a higher chief. This practice has also been abolished. When resorted to the only effect it has at the present day is to suspend the sitting of the tribunal for a short interval until a sheep or two are slaughtered, and then the tribunal resumes to hear the case in the ordinary manner. Breṗo, then, is not a proper or legal means for commencing an action. Even when Breṗo is sworn, the cause on account of which it was so sworn cannot be heard before a tribunal if there is no national oath or summons or procedure by arrest in the case. The investigation into a Breṗo oath is held apart from the hearing of the real dispute between the original parties.

Of the four tribunals it would appear that an Odikro's Tribunal has no jurisdiction in a Breṗo or Ntamkoko oath. Even where the Breṗo concerns an Odikro the case must be heard by a higher tribunal, an Ohene's or the Omanhene's.

BreƆo oath is almost always taken by persons who are desirous of appealing to a higher tribunal. If we may be allowed a stretch of imagination, we may say that BreƆo oath has its roots in the primitive practice of trial by combat so common among ancient civilizations. This may seem a far-fetched comparison. But when it is remembered that both parties to a suit may invoke fetish not only against their own lives but also against the lives of superior chiefs of high military rank, apparently enlisting their strength and prestige in their favour, it would be allowed that the explanation offered is not only possible but theoretically justifiable. This view is further strengthened by the fact that a stranger or foreigner in distress in a foreign country invariably took advantage of the BreƆo oath, thus summoning to his assistance the sympathy and where possible the intervention of the chief of his nation or tribe. When this happens even to-day, the foreign chief must be informed immediately and the BreƆo oath cannot be investigated except in the presence of a duly accredited representative (e.g. an Okrafo) of that foreign chief. BreƆo oath was a frequent cause of tribal warfare in ancient times, and has been a means whereby people have sought to obtain their desires at the expense of law and order. Consequently certain persons have always been deemed incapable of taking BreƆo oath, e.g. prisoners of war, mad persons, outlaws, habitual criminals, condemned persons under torture (atopre) and persons who may generally be said to be "rightless". When any of these persons takes a BreƆo oath all that is done is to break the egg of a hen on the ground with appropriate incantations declaring the BreƆo ineffective. Thus what is a crime with the bearer of rights has little or no significance with the rightless.

### 3. *National Oath (Okyenhene Ntam)* :

The third form of oath, called *Okyenhene Ntam*, is the most popular means of commencing an action. The National Oath of Akyem Abuakwa is "Wukuda nè Kwanyako". Kwanyako is the name of a town in Fanti, and Wukuda is the Akan word for Wednesday, *Nè* means and. The two names were consecrated as the National Oath of Akyem Abuakwa because of some tragic event which befell the State whilst an occupant of the Paramount Stool of Akyem Abuakwa (the Ofori Stool) and his people were engaged in terrific warfare at Kwanyako on a Wednesday. Wednesday is a consecrated holiday in Akyem Abuakwa and no ordinary

work connected with the state is done on this day. There is a special celebration held every six weeks on a Wednesday, called "Awukudae" in commemoration of the event. The National Oath is also called "Ntankeseē Mmiensa" or the three great oaths, owing to the fact that besides the Kwanyako incident, two other fatal events have happened to the Ofori Stool on Wednesdays.

It should be clearly noted that what is here called "National Oath" is only so objectively in the sense that it is used by the nation as their common inheritance. In point of fact the Wukuda nè Kwanyako oath is never said to belong to the people. It is legally the property of the Ofori Stool, and it is called Omanhene's Oath. The incident that gave rise to the oath befell the person of an occupant of Ofori Stool and not directly the State as a whole. It is only called a National Oath in the special sense that the Okyenhene has presented it to his people to be used when they need an oath to preserve their person and property. Every chief in Akyem Abuakwa has his own Stool oath, but such oaths are not recognized for judicial purposes. The Omanhene's Oath, then, being the only one which has judicial sanction, all fees and fines collected in respect of the oath are in strict accordance to the customary law, the property of Ofori Stool. For convenience we propose in this treatise to refer to the Okyehene's oath "Wukuda nè Kwanyako" as the National Oath of the State of Akyem Abuakwa.

As already stated, the National Oath is the commonest and most popular means of commencing an action at the tribunal. An action may thus be commenced in one of three ways, by

- (a) *Ntamkekā*
- (b) *Ntamkāguso*, and
- (c) *Ntamto*.

(a) *Ntamkekā* is when both parties to a dispute swear the national oath in vindication of their respective claims. Kofi has a piece of farm which is bounded by Kwadjo's farm. Kofi suspects that Kwadjo has trespassed over the boundary, which is marked by an Odum tree. Kofi, thereupon, with one or two witnesses, pays a visit to Kwadjo to demand explanation. Kwadjo denies that he has gone over the boundary, which is not the Odum tree but an Ntome tree. Kofi at this juncture, if dissatisfied with Kwadjo's explanation, cannot leave Kwadjo without affirming his claim on oath.

He therefore swears by the National Oath that the boundary is not the Ntome tree but the Odum tree. He would use words in a formula like this: "*Mekā Wukuda mekā Kwanyako se Odum no ne hyee a eda yentam.*" "I swear by the Wukuda and Kwanyako oath that the Odum tree is the boundary between us (i.e. our farms)." Kwadjo in turn has to reply to this oath; if he does not and Kofi goes away with his witnesses, the latter's claim by the Odum tree has been more than strengthened; in fact it has henceforth become the established boundary. To render this consequence inoperative Kwadjo replies to Kofi's oath as follows: "I swear by the Wukuda and Kwanyako oath that the Ntome tree is the boundary between our farms." Kofi having sworn and Kwadjo having replied the oath with regard to the same piece of property or the same right, both parties are said to have ("*ke kā ntam*") sworn oath severally, and they will be immediately apprehended as oath prisoners.<sup>1</sup> As oath prisoners the Nhenkwa or other State messengers present are to take them to the chief of the town and report the oath. Each of the parties has to pay about 4s. (domafa) as oath reporting fee, called "Apasobode", to the Nhenkwa who apprehended them. The fee charged by the Nhenkwa varies according to the distance from the place where the oath was sworn to the town where the case is to be heard. 4s. is the minimum, but in cases where one of the oath prisoners or both are chiefs, or where the claim is connected with the ownership of Stool lands or other valuable property, the fee might be as high as £2 8s. (*osua ne doma*). This high fee is usually charged when the Nhenkwa may have to leave their own private pursuits for a good length of time to ensure due attendance of the oath prisoners at the proper tribunal having jurisdiction in the case. The Nhenkwa thus act as police or constables or peace officers. When the Apasobodee fee is paid and the oath reported to a responsible chief the case may be heard forthwith or a date fixed for hearing. If one of the parties fail to pay the reporting fee he may be incarcerated and the case would not be proceeded with until payment of the fee. When both parties pay they are released as oath prisoners and become practically free except that they have to appear before tribunal on the day fixed for hearing. Until the case is fully disposed of each of the parties is deemed bound to justify the grounds upon which

<sup>1</sup> "The idea underlying the swearing of an oath is as a means of removing a dispute from the sphere of possible private settlement and securing a trial *in judicio*." Rattray, *Ashanti*, p. 124.

he swore the great National Oath. It would appear therefore that the oath is not to be taken in vain. The privilege of taking the oath is, as we have said, a grant from the Ofori Stool to the people, and he who takes it is bound to show why he had to swear by it, and if he fails to do so, he is liable to a fine. Inordinate use of the oath for frivolous purposes, as in play, is strictly prohibited.

The parties, having duly satisfied this initial stage of the process the next step is the hearing of the case. Kofi who first swore the oath, is plaintiff and Kwadjo is defendant. As to the tribunal having jurisdiction, it rests with the parties to choose one of the three principal tribunals, viz., the Odikro's, the Ohene's or the Omanhene's. If they choose the first they must appear before the Odikro and his Elders and argue their respective cases until judgment. After judgment the dissatisfied party can appeal to an Ohene's tribunal and from there to the Omanhene's, or, an appeal lies for him direct to the Omanhene's tribunal. What happens in tribunal after joinder of issue is common to all the other processes, and we shall postpone treatment of it until the initial stages of those others have been dealt with.

(b) *Ntamkāguso* is where one of the parties to a dispute swears the oath on the other, the latter not being left the option of swearing or not swearing in reply. The party swearing first is said to swear *on* or *against* the other, and whether the latter replies or not both have to be apprehended as oath prisoners on the strength of the first oath only. An example may help us. Kwame has a grievance that Kwasi has been using slanderous language against him in the town in regard to a recent commercial deal of his. He therefore approaches Kwasi in the company of one or two witnesses<sup>1</sup> to demand explanation. If Kwasi admits that he has done Kwame any wrong the difference may be there and then settled. But if Kwasi hedges away and gives no clear explanation to Kwame, the latter will swear that Kwasi had slandered him or defamed his character. Kwasi, well knowing that he had somewhere said a word or two about Kwame's commercial deal, may try to evade replying to Kwame's oath. Thereupon Kwame, still feeling the sting of the slander, will swear on Kwasi in the following formula: "*Kwasi, Kwasea a wabu me yi, se wamma amekyere me aseɛ wo mpanyin (anase Ohene, a.s. Okyenhene) anim a*

<sup>1</sup> One of these witnesses is invariably an Ahenkwa or State Messenger having authority to apprehend oath prisoners, and he is, therefore, called for that purpose.

*wotō Wukuda (ne Kwanyako).*" "Kwasi, for the wrong you have done me if you do not appear before the elders (or Ohene, or Omanhene) to justify it to me, you violate the Wukuda (and Kwanyako) oath." Kwame is here said to have sworn on or against Kwasi (*Kwame aka ntam agu Kwasi so*), and whether the latter replies or not it makes no difference. Both he and Kwame are oath prisoners; Kwasi has to pay the oath reporting fee, as does Kwame, for appearance before the tribunal to which he has been summoned. Sometimes Kwame may feel so offended that he would be perfectly justified if he had immediately sworn on Kwasi without first giving him the option of replying to *Ntamkeka* oath. After the parties have been taken to tribunal and a day fixed for hearing, the procedure which follows is the same as in all other civil cases, and description of that procedure is left for the concluding part of this section.

(c) *Ntamto* is the violation of oath. Ordinarily this happens when one party to an oath case has been adjudged wrong and found guilty. But *Ntamto* happens also in the initial stages of a case, and it is in fact a frequent cause to action. This is best illustrated by an example. Kwabena has a wife Akua Kuma who is prohibited of Yao Preko. So far as Kwabena is concerned he does not care whether Yao Preko knows of the prohibition or not. But Yao Preko violates the Wukuda and Kwanyako oath on which Akua Kuma was prohibited of him if after divorce from Kwabena, he married her. He is at once liable to certain prescribed fees and fines payable to the Omanhene and to Akua Kuma's former husband. If Yao Preko disputes the *fact* of the prohibition a fresh oath case may be necessary, but if he disputes only his legal liability under the prohibition, alleging for instance that he was one of three persons prohibited of Kwabena's wife (the law only allowing two to be prohibited at the time of divorce but not *during* marriage) then the case will be brought before the tribunal, Kwabena and Yao Preko being deemed oath prisoners on the strength of Kwabena's oath prohibiting his wife. There is here no necessity for a fresh oath, and the legal plea by Yao Preko will be fought on that oath only; because by doing what had been prohibited by oath he had *ipso facto* violated such oath. The hearing of the case will proceed as if there had been fresh oaths sworn by both parties, whereas in truth Yao Preko had not sworn any oath nor had any been directly sworn upon him. Being deemed a breaker of the oath sworn by Kwabena, the tribunal

proceeds at once to hear the case. For the procedure after joinder of issue see the end of this section, and reference may be made to "Asonmo" under the Chapter entitled "Ayefare" for the meanings of "prohibition", in respect to marriage.

(β) *Procedure by Summons*

*(Fre wo mpanin anim)*

An action is commenced by summons where one person having a grievance against another verbally lodges his claim with a chief or other elder having some form of jurisdiction over both of them. A small fee, about domafa (4s.), is invariably charged from and paid by the claimant to the chief. The chief then sends for the defendant and informs him of the plaintiff's claim. When this happens the plaintiff is said to have "called the other party before elders" ("*wafre no wo mpanin anim*"). Such mode of procedure avoids the inevitable hostility attached to an action commenced by oath. It is generally pursued by a plaintiff out of consideration for the defendant either because he is a fellow townsman or relative or friend. This process is the most common and perhaps the only mode in which actions may be legitimately commenced before a head-of-family (*Obusua-panin*). A head-of-family has no jurisdiction in an oath case, and even if he is a captain-on-Stool his privilege is very limited in sitting over and deciding cases in which the National Oath has been sworn. Whenever an oath case is brought to the notice of a captain-on-Stool he cannot proceed with the hearing without express permission from an Odikro or Ohene or from the Omanhene himself.

The actual hearing of a case commenced by summons follows the same form as the procedure pursued in oath cases. The parties before a chief are said to be "deciding a cause" (*di asem*). When the case is heard before a head-of-family or before an Odikro *in camera* the parties are said to be investigating a cause ("*bo nkuro*"). The Elders assembled for the latter procedure are called "Baguafo" or shortly "Bagua" (Arbitrators), and those engaged in a proper tribunal as before an Odikro or Chief are properly called "Mpaninfo" (Elders). Any adult person can be invited to sit as member of a *Bagua* which is always summoned *ad hoc*; on the other hand Elders are permanent members of a chief's tribunal. The place where the Mpaninfo meet to decide a case is called "Asenii" (place of "palaver")

and where Baguafo meet is called "Baguam" (literally, public assembly of chairs).

It seems the proper place here to discuss the "Nkrobo" procedure before an Obusuapanin or head-of-family with whom a summons has been lodged. As already pointed out invariably parties before an Obusuapanin are members of his own family or clan. No fees then besides the summons fee are charged. Sometimes even summons fee may not be demanded. No hearing fee (*dwentade*) is usually charged, and the procedure is more or less of a friendly nature. We will examine an illustration. Kofi is owed a debt by Yao; both parties live in the same town and are probably members of the same family or clan. They are both amenable to the authority of the same Abusua-panin, and it is the latter's duty to effect amicable relations between members of his family. In the instance before us, Kofi is plaintiff and Yao defendant. Kofi states his claim and lays his case before the Bagua. He stands up while speaking to the spokesman or Okyeame of the Bagua. At the conclusion of his case he need not swear the National Oath; but fetish oath must be taken either before or after he has given his statement. After Kofi's case Yao is called upon to give his case on fetish oath. When both parties have been heard the Bagua assembled put a series of questions to either of the contending parties. After this series of questions the scale turns in favour of one of the parties, the questions being now concentrated on the other. All the doubtful and controversial points are finally diverted to one supreme point, e.g., in the example above if Yao denies the debt or the full amount claimed by Kofi or that the amount is payable at all to Kofi, then the onus of proving any of these points rests on Yao. He will then be asked if he has a witness to substantiate his contention. Yao then names a witness who must not have been present in the Baguam. Kofi who has not been called upon to produce a witness can object on cause shown to any person mentioned by Yao as a possible witness. When a witness has been accepted by both parties he is sent for immediately and the Bagua should not disperse until the witness had arrived and been heard. The witness, called "Odanseni"<sup>1</sup> is given fetish and asked to state what he

<sup>1</sup> *O-dan-se-ni*: *O* is for *Ono* "he"; *dan* means to turn; *se*, fetish oath (*nse*); *ni* is the general suffix for agent or doer, hence the word means "he who-reverts-fetish oath"; that is as the witness comes to give evidence in a case in which fetish oath has been taken, if his evidence corroborates someone's statement then the oath curse on that person is reversed or rendered ineffective.

knows about any money transaction between Kofi and Yao. More often than not the witness does not know which of the two parties has called him, and in fact he is not supposed to know who summoned him or on what particular point he has been called to give evidence. It is customary for the witness to ask for a payment of money (*adansede*) before he takes fetish and gives evidence. When all these conditions have been fulfilled then his evidence is heard and may be taken as reliable and decisive. If in his statement he confirms Yao's contention that the debt is not due to Kofi, or that the amount is below the sum claimed or that Kofi is not the proper person to whom the debt is payable, the point is there and then decided. The Bagua next retires into committee and returns to deliver their finding in favour of Yao. On the other hand, if the witness gave evidence in favour of the plaintiff Kofi, if, for example, he said that although the amount Kofi claimed was not the original debt due but that with interest properly reckoned it would amount to so much, then Kofi gets the Bagua's finding in his favour. A judgment fee called "*abene*" is then charged by the Bagua from the successful party, the other party being ordered to pay the costs in the case. If it was Kofi who succeeded the claim must also be paid by the defendant in addition to the costs. As this Bagua has no effective means of enforcing execution of its judgment, the defendant may refuse to satisfy the judgment and costs. In that case the total amount can be enforced as an ordinary debt. The principal aim of such actions is not so much to enforce payment as to seek for a definite evidence of liability before competent witnesses. If therefore, after such amicable settlement Yao proved a defaulter, Kofi would have a better title if subsequently he brought his case before a proper tribunal.

If during the hearing of the *Nkrobo* case one of the parties deliberately swear the National Oath, the other party has three courses open to him. Either to (1) withdraw his claim, or desist from contesting the other's claim, or, (2) proceed with the case without swearing oath in reply preferring to abide by the consequences of the investigation, or (3) reply to the oath.

1. If he adopts the first alternative then judgment will be entered against him without the necessity of going through the case. He is then liable to the other's claim if defendant, or loses his claim if plaintiff. He is also liable to an oath fine even though it was not he who swore the oath, and had not even replied to it. The National Oath is not to be taken

in vain, and whenever it is taken the party whose conduct gave cause to it is liable to a fine.

2. If he adopts the second alternative, not replying to the oath, it is open to the party who has sworn the oath either to consent to further hearing of the case before the Bagua or to swear on the other party (Ntamkaguso) for the case to be commenced afresh in a proper tribunal. If the party who swore the oath takes neither of these courses, the case will be proceeded with by the Bagua, and their finding duly pronounced. But in any event whoever is found guilty by the Bagua is liable to the oath fine, it does not matter whether or no such party was the one who swore the oath. Whenever the oath is sworn under such circumstances the Odikro or Ohene or the Omanhene himself should be informed for him to assess the amount of fine payable. If the Obusuapanin trying the case is a captain-on-Stool he is allowed by custom to assess the oath fine and report to the chief. It is his duty to see that the fine is paid to the chief.

3. If he adopts the last alternative there arises a *de facto* oath case (Ntamkeka), the Bagua cannot proceed with the case, and the parties will be apprehended as oath prisoners and taken to tribunal.

As stated above an action or summons when taken before a chief's ordinary tribunal entails the same procedure at the subsequent trial as in an ordinary action commenced by oath. The procedure described under the present subsection is what is called *Nkrobo* which can take place either before a head-of-family having no recognized tribunal or before a chief *in camera* and out of his ordinary course of procedure. Among the rapidly growing Christian communities, a clergyman and his Presbyters are allowed to investigate minor disputes arising between members of the church under the "Nkrobo" procedure, and the system has worked admirably.

We now proceed to deal with the third form in which an action may be commenced.

### (γ) *Amanenya*

#### (1) *Accused Summons*

*Amanenya* is where a person who has committed some offence or omitted the performance of some act thereby amounting to offence is summoned before a tribunal not on the initial application of another private person but on the initiative of the chief himself or of an officer of his tribunal

upon information supplied to the tribunal. This is equivalent to the process which in English Courts is termed criminal<sup>1</sup> or accused summons. Such accused person may be merely brought to the tribunal on summons or under arrest. The accused summons procedure will be discussed in this subsection. (a) An Amanenya case can generally only be heard and determined by the Omanhene's Tribunal. It may become cognizable by an Ohene's Tribunal when it happened in the Ohene's own town, and, in some cases in a town in his sub-division and situate near the locality of his own sub-divisional capital. Even then the Omanhene must be duly informed and his permission where necessary obtained. If the case is not of a serious nature an Ohene can hear and determine it, but the fines must be sent to the Omanhene who will give the Ohene's due share to him. An Odikro cannot hear and determine an Amanenya case. A case of the nature coming before him has to be brought to the notice of the Omanhene's tribunal. This must be done as soon as the Odikro is satisfied, upon enquiry, of the serious nature of the offence, and of the evidence available for prosecution. An instance of this class of offence is a case of incestuous marriage (e.g. where a person marries his own grand-niece of the same maternal clan); where a native of the Division owning a farm sells the farm to a stranger without paying the Omanhene's one-third share to him; and where a person swears the National Oath on a person in an abnormal state, e.g. a lunatic, or a woman in certain condition, or an outlaw. In all these instances the Omanhene's Tribunal, as the supreme custodian of the National Oath, is the proper tribunal having cognizance of them. In some minor cases, e.g. where a person disobeys a local municipal order on oath to attend public labour, the Odikro or Ohene in whose town the case occurred has full jurisdiction.

In an Amanenya case the Omanhene's Linguist (Okyenhene Kyeame) represents the Stool as plaintiff or prosecutor, the accused being defendant. Apart from this the process in an Amanenya case is the same as in ordinary cases between private persons, except that the Linguist does not personally receive any money award besides his personal

<sup>1</sup> It may be inferred from this that there is a well-defined distinction between criminal and civil cases. Whenever a case before tribunal is such that one or other of the parties may become liable to a penalty the cause involving the penalty or fine is called *Amanenya-sem*; a mere civil case is referred to as *Mansôtwe-sem*; and a habitual litigant is called *Omansotwefo*.

costs if he succeeds in his prosecution. The amount involved, as in the sale of farm instanced above, will be ordered to be paid, the accused fined and ordered to pay costs. If the matter giving rise to the prosecution has been the means of grievance to any private person, as where a case of incest is alleged to have brought calamity to the family or clan, the accused found guilty will be ordered to pay pacification to the head-of-family or other person chiefly concerned in the prosecution as principal witness or even as the actual prosecutor. In every Amanenya case, except the tribunal orders to the contrary, sheep must be slaughtered. In fact, the chief difference between an Amanenya case and an ordinary civil action is the probable slaughter of sheep both at the commencement and conclusion of every Amanenya case. Sometimes sheep are ordered to be slaughtered in lieu of fine. The accused found guilty is liable to the cost of sheep killed, except otherwise ordered.

It should be added also that every case before tribunal in which the National Oath is sworn either for the purposes of evidence or as a means of commencing action, ends as an Amanenya case, that is, the party found guilty is, by that very fact, deemed to have violated the National Oath. He will therefore be prosecuted in the name of the Omanhene's Linguist and fined. This is what is called Ntamto, and the accused is called "Ntamtofo" or violater of oath.

In an Amanenya case of this nature no lengthy prosecution takes place. What happens is a dramatic turn of events. The prisoner who was until judgment but a defendant in a civil action, is immediately after delivery of judgment in that action, brought up and arraigned for violating the oath involved in the civil case. If the prisoner had sworn oath to commence his action and had also sworn oath for his evidence, and was, in the end found guilty, then apparently he had violated the oath twice, but no person can be fined twice for violating the National Oath so many times in the same civil or criminal action.

The prisoner thus charged for violating oath usually pleads guilty, and he does this in the customary formula "*Mpanin me dwan toa mo, moma Okyeame dibem ma me*" (Elders I run (i.e. appeal) to you to intercede with the Linguist (i.e., the Omanhene) on my behalf, for he is right). He goes out of the witness box to the leader of the tribunal, makes the customary obeisance, and utters the formula above. It is always well for the accused to follow this customary procedure, for having violated the National Oath

he is liable to a heavy fine and the maximum penalty is likely to be exacted from him if his conduct in the tribunal betrayed any lack of respect towards the authority of the tribunal. (This statement must not be accepted with its full implication. The fine imposed in an oath case is not so capriciously assessed, for the amount to be imposed depends upon the nature of the case itself, but the conduct, character, and antecedents of the prisoner are not altogether overlooked when a fine is being imposed.)

After the prisoner has uttered the formulary words for intercession one of the Linguists will inform the Elders of the prisoner's plea in the following formulary words "*Mpanin odwanefo bi aba ha*", "Elders a runaway (prisoner) has come here." Whereupon the Elders of Tribunal, following custom, intercede for the prisoner in the following words; they with the prisoner say to the Omanhene "*Nana, wodi bem*", "Nana, you are right", which is only court language for "Nana, we beseech thy clemency on the prisoner's behalf". The Omanhene responds to the intercessory words of his Elders by thanking them for finding him right. Thereupon a Linguist (not the prosecuting Linguist) will name the amount of fine to the prisoner at the bar. This named amount is invariably the maximum oath penalty. The prisoner is not expected to pay this maximum, but the usage of naming the high penalty is kept up, perhaps, for a good reason. For, as was revealed in an experiment made by Nana Sir Ofori Atta in an attempt to simplify and modernize the antiquated and complex nature of the system of imposing and collecting fines, however small the amount of fine actually named in Tribunal, the custom is for the oath prisoner (Ntamtofo), after the sitting of Tribunal, to approach one or two of the Elders for them to intercede personally with the Omanhene for further reduction of the oath fine. In almost every such case, the Omanhene had to reduce the fine publicly declared in Court to a much smaller figure; in some cases nothing would be charged at all. But a prisoner found guilty and ordered to pay a certain amount of fine cannot leave the court house except he produces on request sureties whose duty will be to see that the fine (if any) is paid and the costs of the successful party, when assessed, duly satisfied. If the prisoner fails to find a surety to bail him out of Court he will be sent to prison to serve a term of months for violating the oath. Following the recently introduced practice of the British Courts, a term of imprisonment, unlike a pecuniary fine, is never reduced through private intercession.

After this stage the process of execution is to-day very much modelled after the manner of the British Courts. It would seem, from all available evidence, that the ancient method of putting a judgment into execution was not much different from the modern British method, especially as regards the incarceration of the prisoner for failure to pay fine, the giving of sureties, and the obligation to pay the costs of the successful party. This part of the procedure will be further explained in the last sub-section of this chapter.

(γ) *Amanenya (continued)*

(2) *Arrest on Information*

An action is commenced at Tribunal by first apprehending the person of the accused when the offence committed or act omitted is an Amanenya-sem (criminal offence) of a more serious nature than one calling for mere criminal summons. Such high offences are those which in ancient times would have entailed capital punishment by means of *atopere* (torture) and execution by decapitation. Criminal intercourse with a superior Chief's wife, selling forest land attached to Stool without due authorization, swearing a Chief's personal oath (*Brepo*), treason, conspiracy and offences which directly or indirectly infringed the sacred rights of Stool, were deemed capital offences. To-day, as in ancient times, any private person committing an offence of this nature is liable to instant arrest.

Owing to the fact that writing was unknown until our contact with Europe, the processes of arrest and summons were carried on by set forms of verbal instruction or order. A chief despatching a State messenger or Ahenkwa to arrest a criminal provides him with a State emblem, such as a gold sword, and issues his instruction to him through an Okyeame in some such words as the following: "*Mate se Kwaku Kuma Akoton Amanyakuroom asase a minnim ho fwe, enti kokyere no bre me*", "Information has reached me that Kwaku Kuma has sold Stool Land attached to the town of Manya without my knowledge and consent, therefore I hereby order you to *arrest* and bring him to me." This formula differs slightly from that used in the case of accused summons: The Ahenkwa is provided with a State emblem, and the order is as follows: "*Mate se Kwaku Kuma aseε Ntam enti kō kōfa no bre me*", "Information has reached

me that Kwaku Kuma has abused the national oath (by swearing it against an improper person or on an improper occasion) therefore go and *bring* him before me." In a civil or oath summons the formal words are usually as follows: "*Kwadjo Kotto se onè Kwaku Kuma wo nkuro (anase akeka ntam) enti kohyia no bra.*" "*Kwadjo Kotto alleges a claim (or an oath case) against Kwaku Kuma therefore go and invite the latter to come before me.*" After the introduction of writing and British jurisdiction all these formulæ were replaced by printed forms in accordance with the regulations of the Native Jurisdiction Ordinance.

(a). *Jurisdiction.* As already stated Ahemfo and Adikrofo have but very limited jurisdiction in criminal cases. In ancient times the right of holding "*Osekan*", the knife of life and death, was a privilege conferred by the Omanhene on certain favoured Chiefs only. From all accounts it seems pretty certain that before the advent of the British regime there were, besides the Omanhene, only five Chiefs in Akyem Abuakwa who had the power "to hold the knife of life and death" (*Ahemfo a wɔwɔ osekan*). These were the Mpakanfo of Kukurantumi, Asiakwa, Begoro, Wankyi and Kwabeng; and it is even doubted whether the Jasehene of Kwabeng, being a member of the executive council at Kyebi of which the Omanhene is head, ever had the full power of life and death conferred on him, independently of his executive authority. Besides these Mpakanfo, no other Chief except specially so permitted had the right of putting a criminal to death, and *a fortiori* no head-of-family could exercise this right over a member of his family. A head-of-family (Obusua-panin) could sell a member of his family, was bound to deliver him for any capital punishment, and was liable himself to capital punishment for the offence of a member of his family, but he could never himself exercise this right of life and death over any member of his family. The saying was that "*Okyenhene na owɔ sekan*", "the Omanhene alone has the knife (of life and death)", and the dread of the Omanhene's power had a great deal to do with the knowledge of this fact. Another saying was "*Nea osekan wo na tumi wɔ*", "where there is the knife there power is." In short the power of life and death would seem to have been so highly developed and centralized in the paramount Stool and other important and favoured Stools associated with it, so much so that to possess the skull of an executed person, whether a criminal or war prisoner, was deemed the highest mark of supreme executive power. No explanation could otherwise be advanced for decorating

a State drum with the skulls of executed persons, other than that such occipital display was designed to symbolize the superior power of the chief possessing the drums and their ornaments. It must needs be noted that to-day under British regime this power of life and death has, in the nature of things, passed from our natural rulers to the British Courts. The prestige of the Akan Stools in regard to their people is still upheld by such penal acts as imprisonment, pecuniary mulcts, and, in extreme cases, confiscation of property and banishment.

Having now noticed who have and who have not jurisdiction in capital offences, namely, that the Omanhene and the principal Mpakanfo have, but that the Adikrofo (except in some minor cases) have not such jurisdiction, it remains to notice briefly what the procedure was before being replaced by the modern forms practised under the regulations of the Native Jurisdiction Ordinance.

(b) *The Ancient Practice.*

In ancient times if a criminal charged, e.g. with violating a Chief's wife was brought before the Tribunal, he either had to confess or be made to do so. It being an established rule of custom that in cases of misconduct a woman's evidence was scarcely rebuttable, a man brought up on such a charge, except very strong evidence of absolute innocence could be produced, stood no chance of escaping the penalties of justice. If an accused before Tribunal was charged with a less heinous crime he might be asked to give sureties who would undertake to produce him until final judgment. If it was a heinous crime no such sureties would be demanded, and as prison houses were a rarity, if they existed at all, the accused would be secured to a log (*bɛ no pam*) formed of an iron fork fixed into a block of wood. A witness may be called when, on investigation into the case, a doubtful and decisive point arises for evidence by a third party. His evidence, if accepted, definitely decides the issue in the case. If there was no witness fetish swearing was brought in to help the cause of justice. If this spiritual ordeal failed to produce confession, physical ordeal by means of torture was called in. The iron fork nailed right across the wrist into a heavy block of wood was made loose and free to enable the prisoner to move his hand, but the longer he persisted in denying the charge, the closer and tighter the fork was hammered down over the wrist. This might be repeated until perhaps it

was close enough to break the bone of the wrist. Besides this, there was much physical infliction of the concomitants of torture with a view to subsequent beheading. After the accused had confessed, then came the decision of Tribunal.<sup>1</sup> If it was an heinous offence all his near relatives, his head-of-family or his nephews and nieces, all of whom must have been put into stocks to speed up confession of the prisoner, would be brought up to take their share of the verdict.

If it was an offence against the safety of the State, e.g. treason or conspiracy, the condemned man would be subjected to a further stage of torture (*atopre*). Here the condemned, having lost all right to live, was naturally not to be permitted any earthly protection. To escape the sufferings of the torture dance the condemned man could have sworn the personal oath (*Breṇṇo*) of a great Chief against his torturers. *Breṇṇo* oath when sworn being generally immediate and magical in its effect, the ends of justice could have been easily defeated. To prevent this a slender knife called "*sepo*" was pierced through the mouth of the prisoner over the tongue from one cheek to the other by State executioners (*Abrafo*). Being thus prevented from speaking the smooth course of justice was secured. After the *atopre* dance the condemned man would either be released, his property confiscated, he being banished, or, as was more often the case, he would be put to death by decapitation. We need not state that torture, so far from being the rule, was the exception in these cases, and that decapitation was sometimes so swiftly carried out after verdict, especially when the accused and his family had been all condemned to death, that the vengeful course of justice was comparatively swift and devoid of much unnecessary pain. An executioner's chief mark of efficiency was not the prolonged pain to which he could put his victims, but the agility and swiftness with which his king's order was executed upon disobedient subjects. Hence it is that even to-day court executioners (*Abrafo*) are persons of good physique, swift of feet and hands. Decapitation was in fact deemed the heaviest punishment for a condemned man and the savagery of torture was not generally carried to refined extremes such as were practised in the mediaeval inquisitions or in such practices familiar to readers of Scott's *Old Mortality*.

<sup>1</sup> Torture may precede or follow the decision according to the nature of the case.

(c). *The Modern Practice*

We have to dwell for a while on a description of the practice followed to-day when a delinquent is brought up on a charge which in ancient times would have entailed capital punishment. Some of these offences, such as unauthorized dealings in land, have been brought under a definite classification in the native Jurisdiction Ordinance passed by the British Government. But apart from these, there are other offences, such as criminal intercourse with a Chief's wife which have as yet received no adequate notice in the regulations made by the British Government for the jurisdiction of our Chiefs. Such cases are therefore still dealt with not by the Omanhene's Tribunal, which is the highest Tribunal recognized by the native Jurisdiction Ordinance, but by the State Tribunal composed of all the Chiefs and sub-Chiefs of the realm. This tribunal having, as such, extra-judicial powers can be very comprehensive in the extent of its jurisdiction. It tries cases arising between the Omanhene and a Chief or sub-Chief, cases of insubordination of Chiefs and other officers of State, cases of attempted secession, questions arising from destoolments and enstoolments, and more generally criminal offences against the well-being of the State, the authority of the Paramount Stool, and the security of tenure of lesser Stools.

The procedure at the State Tribunal when all the Chiefs of the realm are assembled with the Omanhene as presiding judge (*Okyeman mpanin atra ase*), has been very largely modelled on the system laid down in the Native Jurisdiction Ordinance. But at the State Tribunal every matter or cause does not start in the form of a judicial investigation. Many of the cases before the Tribunal start in the form of administrative enquiries and end with judicial decrees and decisions. The State Tribunal has no prescribed hours of meeting, although it generally sits in daylight. Its place of meeting varies. At Kyebi sometimes it can meet in the inner court at Ofori Panin Fie (the Omanhene's Palace), at other times at the permanent Tribunal house, and in Brepɔ cases in the Drums Court. In political cases of deep gravity such as a case between the Omanhene and the Amantoo-mmiensa (the Council of Three Counties) it meets in the public square outside the palace. Before the State Tribunal, there is generally no definite plaintiff or defendant. It invariably is a political inquiry. The State Messengers (Nhenkwa) concerned are usually called upon to deliver special messages

(*bo amanee*) entrusted to them, and the persons implicated by such Nhenkwa reports are next called upon to explain or answer the charges (*asem ko a wowo ka*) mentioned by the messengers against them. After explanation by the accused party, if no offence appears to have been committed, the Omanhene gives a short summing-up containing his view of the case, and then, if no one had already been put to expense, the enquiry is considered at an end. But if a genuine case appears to lie against any person, then, after the explanation by the accused party, the person aggrieved is called upon. Sometimes, following modern practice, the complainant speaks first, but in most cases he is asked for his statement after both the Ahenkwa and the accused have spoken. Next the accused is called upon; then witnesses, if any, are called. Sometimes, before witnesses are called, both parties will be subjected to a series of questions in order to elucidate points at issue for the Tribunal to be better informed of the merits or demerits of each claim. After this examination, witnesses are heard; the Omanhene sums up the whole case and his considered opinion or recommendation is delivered to the Tribunal. If the Omanhene himself happens to be a party to the cause before State Tribunal then the summing up will be made by the Adontenhene or by some other *Opakani* then acting as chairman of the State Tribunal. At the conclusion of the Omanhene's address his Linguist will say "*Mpanin se ohene see nen*" (Elders, so says the King). Thereupon the Chiefs assembled, leaving the Omanhene and one or two Linguists behind, retire into committee. Having arrived at a unanimous decision, generally on the lines of the Omanhene's expressed opinion, they return to the Tribunal and deliver their verdict through one of the Linguists. Whilst in committee the Councillors fix and determine the amount of judgment fee (*abene*) they intend to charge, the maximum fines and fees to be imposed, and the number of sheep to be slaughtered. If this was a case directly affecting the Paramount Head or the honour and integrity of any sacred office attached thereto, the Omanhene will, after delivery of judgment, make a statement showing exactly where the honour due to the national Stool had been impaired, either on the part of the person found guilty, or, in certain cases, even by the successful party. At the conclusion of the Omanhene's statement, if the party implicated has any defence he makes it in a reply to the tribunal, if he has none and admits the wrong charged against him he asks the Elders in the formulary words to intercede for him.

After due intercession by the Chiefs following the offenders' plea of guilty the tribunal again retires into committee, returning to deliver a second judgment against the party whose conduct had offended the Ofori Stool. Sheep will then be ordered to be slaughtered, fees and fines payable by the parties fixed for them, and the hearing is concluded. Abene (judgment fee) must be paid by the successful party before this final stage is reached. Where judgment was entered for the Omanhene, judgment or Abene fees are charged by the Tribunal from the Omanhene's Linguist, upon whose head a line of white chalk (*Abene hire*), indicative of the Omanhene's success, is made. After due payment of all the Abene fees the Tribunal rises, or if there is another case it is called and heard.

The pacification money by way of damages and fines awarded by the Tribunal to the successful parties must be paid within a week of the judgment. If not paid in due time the sureties who secured or bailed the condemned man (*nea ode onipa a odiifo no koofie no*) will be called upon for full payment, or payment may be enforced as an ordinary debt. In high State cases, however, sureties who secure payment of judgment fees are usually men of means and position, and therefore due satisfaction of the claims within a fortnight of the judgment is certain and assured.

As already stated the fees and fines charged in the State Tribunal are not based upon any fixed scale, and where Abene would be £1 in an ordinary Tribunal, in the State Tribunal the Abene ranges from £2 8s. to as high as £24 for a great national case decided. Pacification money awarded in tribunal is not reducible, but fines imposed by or in favour of the Omanhene as well as the pacification nominally awarded to him in open Tribunal may be reduced if the Omanhene is duly approached through one or two of his influential Elders.

Sheep slaughtered in connexion with any such case are given to those persons who succeeded in the case, the legs of the sheep being retained by the condemned man, who paid for the sheep. One or two of the sheep awarded to the Omanhene are given to the Elders of the Tribunal. The Omanhene himself is not supposed to partake of the flesh of such sacrificial sheep, and what he retains for himself is given away as presents to deserving persons, chiefs, and courtiers. In some cases good-sized live sheep will be ordered to be delivered in addition to the pacification money awarded to the Omanhene; such sheep are not to be slaughtered before delivery, and they must be of the finest type (" *adwansae*

*a wotua dua*”). The State Tribunal, as indicated elsewhere, is composed also of the Presbyters and Elders of the Christian communities. But these Presbyters and Elders, apparently suffering under the weakness indicated in St. Paul's exhortation, have made it a rule not to partake of these sacrificial sheep else they might hurt the susceptibilities of their unbaptised countrymen, but the Christian Presbyters receive without undue scruples their share of the court fees collected by the Tribunal in connexion with violation of the National Oath.

Having given a brief description of the procedure at State Tribunals we have now to notice the ordinary procedure of the Omanhene's Tribunal based on the regulations of the Native Jurisdiction Ordinance, 1883, as amended 1910.

### *Section C. Ordinary Procedure*

#### *(1) On Hearing a Case (Diasem)*

The scale of fees and fines to be charged in an Omanhene's Ohene's, or Odikro's Tribunal has been placed under regulations provided by the Native Jurisdiction Ordinances, and the forms to be used at the commencement of an action as well as in the execution of a judgment have also been placed under systematic regulations. It should not therefore have seemed necessary to enter into this branch of procedure in Akan Tribunals but for the fact that there are certain characteristic and formulary processes observed in the various Akan Tribunals, which, although modified by the influence of the British courts, are still peculiarly adapted to the customary usages of the Akan people such as to give matter of interest for the purpose of this book.

The initial processes applicable to civil, oath, accused or criminal summonses have already been described. In order to meet the clerical service required for these forms, there is attached to the important Tribunals a Registrar's office where summonses and all the other processes are taken. The Registrar has charge of the cause list and the Record Books. In Akim Abuakwa the tribunal sits for five days in the week, Wednesday being excluded by the "Awukudae" custom, and Sunday by the British connexion and other Christian influences. Sittings of Tribunal last for about 6 to 10 working hours each day, and the Omanhene, as responsible judge, is always expected to be present throughout the day's sitting. We have already described the constitution of the

Tribunal as consisting of the Omanhene, his Linguists, his four principal Executive Chiefs, the Queen-Mother, the non-Stool owning Elders and Councillors (including in the latter term the Christian Elders and Presbyters). The Tribunal is summoned by the "Kantamanto" or "woni-mini" drum (*q.v.*) and on the Omanhene taking his seat at the third beating of the drum, the Registrar proceeds to deal with his cause list.

When a case is called both plaintiff and defendant enter the witness-box; the plaintiff's claim or complaint is then read to the defendant, the latter's plea entered in the Minute Book, which is kept in English by the Registrar. Defendant's plea being duly entered against the plaintiff's claim a "hearing fee" (*Dwentadee*) is charged from the plaintiff. This fee, which varies from 2s. 6d. to one pound, must be paid before any evidence can be heard. "Dwentadee" (hearing fee), before the Native Jurisdiction Ordinance, used to be charged not from one party only but from both plaintiff and defendant. The fee charged was a sum more nearly equal to the claim in dispute. The party who lost the action forfeited his deposit of hearing fee, which went towards the payment of Tribunal fees and the other party's costs. If there was any balance due to the unsuccessful party after all claims had been satisfied, it would be returned to him by the Linguist with whom the amount was deposited; if the balance was against him for satisfaction of the costs the unsuccessful party had to make up for it. In some Akan Tribunals *Dwentadee* later on came to be taken as security from both parties towards the payment of oath fine which was almost always inevitable in a case before Tribunal. To-day, however, adequate remedies are provided for exacting punishment in case of violation of the National Oath and hearing fees are not now charged for the purpose of oath fine.

At commencement of proceedings it was the custom in all cases before Tribunals of whatever description to request plaintiff and defendant to provide sureties each of whom would undertake on oath to satisfy the costs in the case should the party for whom he stood sponsor be found guilty. The principal parties (plaintiff and defendant) were allowed to have their respective sponsors standing behind them in the witness-box, and the practice grew to the extent of allowing sureties to give hints and guidance to the principal parties, especially when it came to putting questions to the other party. Sometimes the surety would take charge of his principal's case, replying and especially putting questions direct to the other party. The practice did not stop here.

It went on to increase until there grew around the precincts of the Tribunal a class of professional sponsors (*Akyigyinafo*) who undertook upon payment of an agreed fee to stand surety to their clients and assist them in the witness-box to a successful victory. These "advocators", as we may call them, became a source of nuisance to litigants, and, what is more, they caused a great deal of dilatoriness and finesse in proceedings at the Tribunal such as were quite foreign to the sure-as-sure intuitive apprehension of salient truths which characterized the findings of the ancient Tribunals. To prevent this artful subtlety of cross-examination (*Asem-misa*) the Okyeman Council, by express enactment, denied to the principal party his ancient privilege of receiving hints and cautions from his surety. This remedy was found of little avail. The sponsors in the witness-box developed the habit of whispering into the ears of their principals, and much inconvenience followed. The people had come to look upon advocacy as a legitimate practice much favoured even in the British Courts, and it required strong measures to put a stop to the innovation of increasing cross-examination. The Okyeman Council, with its strict zeal for conserving the ancient spirit of our institutions, subsequently put a stop to the growing practice by abolishing this form of sponsorship altogether. To-day, except of course in the case of chiefs, who are not allowed by custom to speak anywhere without having their Linguists by them, no sureties or sponsors are ever allowed to private litigants in the witness-box. Cross-examination, if any, must be carried on by the principal parties themselves.

Resuming the thread of our argument, we have the plaintiff and defendant before us in the witness box. After payment of the hearing fee, the plaintiff is sworn by the National Oath<sup>1</sup> and fetish curse, and can then give his statement in narrative form. At the conclusion of his eloquent and emotional narrative, the chief points of which have been duly taken down in English in the record book by the Registrar, the defendant is next called upon to examine the plaintiff on his evidence (*bisa n'asem*). Following the defendant's examination the members of the Tribunal, including the Omanhene, will put questions to the plaintiff in order to elucidate points left obscure in the plaintiff's statement of his own case. If, after its examination, the Tribunal is satisfied that the

<sup>1</sup> Or if a Christian or Mohammedan by the Bible or the Koran, and without fetish, or if he is a free thinker by the National Oath alone. See page 71 for the formula for swearing a witness.

plaintiff has a probable cause of action against the defendant, the case will be proceeded with; otherwise the plaintiff's claim will be dismissed with or without costs to the defendant. But, as is more often the case, if the hearing is proceeded with, the next thing is to call the plaintiff's witness already waiting in the witness room at a distance from Tribunal. The witness also gives evidence in narrative form, at the conclusion of which the plaintiff may be allowed to put a few questions to his witness. After him, the defendant cross-examines the witness. Next comes the examination by the Tribunal, and the plaintiff's second witness is called. As another consequence of the growing habit of lengthy cross-examination it was found necessary to bring forward proposals that no party to a suit should be allowed more than two witnesses in any ordinary case. The suggestion, though brought up frequently at various assemblies of the State Council, was never passed into law, but it had the effect of reducing the unnecessary number of witnesses which the "advocators" thought fit to advise their clients to muster up for attack and defence. After hearing the plaintiff and his witnesses the defendant and his witnesses are heard and examined in a like manner.

Next follows judgment or verdict by the Tribunal.

## (2) *Judgment (Atemmu)*

Now granting that all things are in order, the Ohene or Omanhene, being present with his Registrar, Linguists and Elders, the Tribunal having heard all the available evidence offered by both sides, the next thing is the delivery of judgment. In the Omanhene's Tribunal there must always be present at least two or three Linguists with one or two gold linguist canes or staffs (*Akyeame poma*), to be used when they stand up to speak.

Before the Tribunal delivers its decision in the case, both plaintiff and defendant, after all their witnesses have been heard, are recalled into the witness box.<sup>1</sup> As it is not the practice for either of these parties to address the Tribunal by way of summing up the evidence adduced, the Tribunal

<sup>1</sup> The witness-box or dock which, at the Omanhene's Tribunal, Akim Abuakwa, stands in the open Courtyard of the Assembly House (*Asenii*), is a wooden structure about 12 feet high, raised on a platform. It has a roof affording protection from sun and rain, and the bar is divided into two sections, the plaintiff or his witnesses occupying the right section, the defendant or his witnesses the left.

affords them an opportunity of elucidating points raised by their witnesses by putting direct questions to either plaintiff or defendant. After this final examination by Tribunal, a peroration or summing up will be made by the Omanhene in important cases, or, in ordinary minor cases, by the Apesemakahene who is leader of the Tribunal. The latter's peroration is usually a short and formal one; it is concerned mainly with emphasizing the most decisive point which really strikes the mind as an actionable wrong done by one of the parties to the other. Every such decision must be based on the customary law and practice, and the customary laws are an embodiment of the result of a well tried and balanced traditional sense of what is right and just. Where one party's conduct towards another infringes that traditional sense, custom requires that a right adjustment should be made. The Apesemakahene therefore ends his address with calling upon his brother Councillors to retire into committee with him for the purpose of fixing the burden of blame. He uses the formulary words: "*Mpanin monsoṛe mā yenko agyina*," "Elders, let us retire into council." Whereupon if the Omanhene does not intervene (and it is rare for him to do so), the Elders retire from the Tribunal to an adjacent court for the ostensible purpose of considering the grounds upon which one or other of the contending parties is to be found guilty. If, as already remarked the case is an involved and complex one, the Omanhene himself does the summing up, expressing his considered opinion by way of advice or direction to his Councillors. Thereupon the Elders, on the invitation or motion of their leader, retire into committee. But the fate of the guilty party is not decided in this more or less secret conclave of Elders and Councillors. Before the Elders retire, the Apesemakahene's peroration or the Orhanhene's summing up in the open assembly must have left it unmistakably clear who, in the Tribunal's opinion, had failed to convince them of the justice of his cause. The real purpose therefore of this seclusive committee is the fixing of such fees and fines chargeable on the guilty party, and also to determine clearly for the Linguist the precise counts on which the losing party is to be declared guilty. In this Committee the Omanhene is not allowed by custom to be present nor, not being a lengthy affair, are any records kept in writing; and the Tribunal Registrar has no place on the committee. Not that the Omanhene is never found in committee with his Elders—for this can happen in a political case—but because as the



presiding magistrate, whose decision is final, the Councillors must be allowed every freedom in arriving at an independent verdict upon their own interpretation of the customary law applicable in the case. Here we cannot resist the temptation of noticing a great point of resemblance between the English practice of jurymen who retire to consider their verdict in seclusion and out of hearing of the judge. The Omanhene's position as the highest judicial officer needs no greater evidence than that found in this ancient customary process of his Elders retiring into committee and arriving at their decisions out of his hearing. Be this as it may, the Omanhene's right to have the final word with his Tribunal is very well guarded, and, on the Elders returning from committee, their finding is usually communicated to him by one of the Linguists, and when he nods in acquiescence, the decision can be publicly declared. If not, it is the Omanhene's greatest prerogative to step in now and advance reasons why in his opinion the decision should be otherwise. When a disagreement of this kind arises, which is extremely rare, the Elders after hearing the Omanhene, and agreeing with him, will have to retire into committee again and accommodate their finding on the lines indicated by the Omanhene. If the Omanhene's opinion is not definitely and decisively declared in such a difference of opinion the judgment might be reserved until a subsequent sitting. The practice here described is quite a rare phenomenon, but the prerogative exists, and it is only right that we show its place in the constitution. It helps us to see also how far the Omanhene's judicial authority extends, and by how much he is responsible for any unanimous decision arrived at in his presence by his Elders and Councillors. This view on the whole applies to every Council or Tribunal having an Omanhene, Ohene or Odikro as the presiding magistrate.

If then the Omanhene assents to the verdict of his Council on the particular case before it, the Tribunal's decision has to be delivered by one of his Linguists, after the following customary formula: Taking hold of a gold linguist cane in his left hand, and stepping down into the courtyard, with an Esen (Court Crier q.v.) by him, the Linguist addresses the losing party with his right hand in the following formulary words: (Suppose Kwadjo plaintiff and Kwabena defendant, and the latter is to be pronounced guilty): The Linguist declares: "*Mawirakwa Kwabena fwe m'anim: Kwadjo de wo baa ha sew'afa ne yere Akosua na wose worento no ayefare. Okyenhene ne ne mpaninfo atra ase; waka n'asem*

*ama woaka w'asem ; adansefo abedi ; yafwefwem' na yeahunu se wannu no yiye. Eyi na Ankobea ne Apesemaka ne Kyidom*<sup>1</sup> *asore ako agyina ; na yese meba a menka nkyere wo se : 'Se w'amfa asem yi amma ha, amma yeamfa asopa antie na wukukruu aba deboo Kwadjo a, wuku no a wudi no aboa' "* ; which means, " Kwabena, my fellow citizen,<sup>2</sup> look into my face (i.e., listen to me). Kwadjo brought you here for taking his wife and refusing to pay him satisfaction money. Omanhene and his Elders have sat down (to hear the case) ; Kwadjo has given his case, and you have given yours ; witnesses have been heard ; we have investigated and found that you did not act rightly.<sup>3</sup> Thereupon *Ankobea* and *Apesemaka* and *Kyidom* Council have consulted and I was ordered to tell you on my return (from that consultation) that ' Had you not brought this case here, that we might listen with a just ear, but had you, instead, seized a wand and struck Kwadjo dead, you should have dealt with him like a beast ' "

It is impossible to refrain from noticing the excellent material offered here for making certain conclusions. It is such material that no earnest student of the development of social justice can well overlook. The condemnatory words pronounced by the Linguist in the latter section of the formula is pregnant with ideas for the possible confirmation of a theory. His reference to Kwabena as " striking Kwadjo dead with a wand ", which reminds one of the Roman *fe tuca* used in *vindicatio*, the pertinent insistence on the fact of the cause being brought to Tribunal and there to be heard with a " just ear ", the significant and vivid simile drawn between what would have been the conduct of Kwabena, a rational being, as compared with that of a wild beast in the state of nature : all these go to confirm the theoretically established fact that the earliest form of seeking redress was private vengeance<sup>4</sup> by the strong arm, that with the ancient primitives there could be no right where there was no might,

<sup>1</sup> Or preferably " Wentirem ne Anwanfi " which is the Council's ancient title.

<sup>2</sup> Or fellow-subject. If the losing party is an ordinary private citizen he may be so addressed ; but if he happens to be a Chief or other person higher than the Linguist himself in rank, then the former's Linguist must be called and addressed, or if, being a person of rank he had no official Linguist, he could be addressed as a mark of courtesy with his full title.

<sup>3</sup> Here if the Linguist is an able man and there happen to be several points in the verdict, he can mention them specifically, otherwise the general statement is sufficient.

<sup>4</sup> See note 1, p. 80, quotation from Rattray's *Ashanti*.

and that, in the exaction of redress, State intervention in the form of an organized court of justice, was a relatively late product of mature thought. The Romans, whose half-civilized, half-primitive, practices are better known to the civilized world to-day because they were fortunate to possess the glorious art of writing, followed a "customary" legal process on much the same lines as the Akan procedure described above. In the *legis actio sacramenti* after both plaintiff and defendant had each laid his wand (*festuca*) ("*ecce tibi vindictam imposui*") on the subject of dispute, e.g. a slave, it became the duty of the presiding magistrate, to order both of them to release the slave ("*mitte ambo hominem*") so as to enable him to hear their case *in jure*. The plaintiff (*actor*) and defendant (*reus*) then challenged each other with a money bet ("*sacramento te provoco*" . . . "*et ego te*") which was payable by the losing party to the priest or the state. In both these Akan and Roman processes one can clearly see "a dramatization of the origin of justice". And to this view, at any rate in the Roman form, Sir Henry Maine thinks it "impossible to refuse assent". In primitive ages "two armed men are wrangling about some disputed property. The Praetor (or Elder), *vir pietate gravis* happens to be going by and interposes to stop the contest. The disputants state their case to him, and agree that he shall arbitrate between them, it being arranged that the loser, besides resigning the subject of the quarrel, shall pay a sum of money to the umpire as remuneration for his trouble and loss of time". (Sir Henry Maine, *Ancient Law*; Sir Frederick Pollock's annotated edition, page 385.) After reading this we need no more explanation for the otherwise obscure phrases used by the Linguist in the condemnatory formula. We can see clearly why he would compare Kwabena's behaviour to an animal's conduct if he had not brought the case to the "just ears of the elders, but had instead taken it upon himself to strike Kwadjo dead with a wand or cudgel". We can also see why "dwentadee"<sup>1</sup> (hearing fee) was and is still charged, and why that fee used to be claimed not from one party only but from both the contesting parties.

Returning now to the point where we just left off, we find

<sup>1</sup> "Dwem-ta-de." *Dwem* means "assembly place"; *ta*, "a forced sitting" (*tra* being the more common term for "to sit"); *de* means "thing or money". Dwentade, then, following Sir Henry Maine, would mean a sum of money payable "as remuneration for the trouble and loss of time" involved in sitting (to hear a case) at the assembly place

the Omanhene's Linguist delivering judgment with an Esen (Court crier) by him wearing a gold-and-fur cap. The Court crier has ready in the hollow of his palm a handful of white chalk. Now as soon as the Linguist pronounces the last word of the formula of judgment, the whole assembly, the tribunal as well as the general public present at the assembly place, respond with an approving and prolonged cheer: "Heii", which of course means "Aye, well said". Thereupon the successful party turns from his place in the witness-box to receive the Court crier's powder of white chalk on the central part of his head from forehead to nape of the neck. With this white mark of justice on his head he goes round to thank the whole assembly, the Tribunal, and the Omanhene. At the same time the guilty party, not to be done in or forsaken in adversity, goes or rather "runs" to the Elders of the Tribunal to appeal to them for intercession. He does this in the formulary words already quoted elsewhere: "Mpanin me dwan toa mo, mo ma Okyeame dibem ma me." "Elders, I run (i.e. appeal) to you for intercession, please say with me to the Linguist (which is meant for the Omanhene) that he is right." Then he and the Elders say together to the Omanhene "Nana wudi bem, Amen", "Nana, you are right, oh Majesty." This formulary procedure by the guilty party has nothing at all to do with his views on the soundness or otherwise of the judgment just delivered against him. It has reference only to the violation of the oath involved, since the National Oath having been sworn in the case, he is deemed to have violated it by the very fact of his being found guilty. The practice of running to the Elder for intercession is even followed by persons such as Christians who, not having taken the National Oath in their evidence, could not be held to have violated it. No fine is exacted from such persons in respect of the oath, but the act of appealing to the Elders to intercede with the Omanhene, and the very sympathetic manner in which the Elders intercede for him as well as the assuring tone of the Omanhene in accepting the submission of a tribal member condemned by the general voice of the community as having trespassed the bounds of the liberty given him by the customary law, these have the effect of impressing the guilty person with a measure of the moral disapproval of his conduct, while at the same time the ready response of the Elders to his appeal fills him with the hope that he is not as yet an outcast. Hence the eagerness in which the person found guilty seeks for sympathetic intercession.

After this dramatic display, the Linguist steps back to his place in the Tribunal, and, if in pronouncing judgment, he had delivered himself eloquently, he would receive warm congratulations from his fellow Linguists. A brief consultation is then held amongst the Linguists, and both plaintiff and defendant being back again in the witness-box, the Linguist calls upon the successful party to pay the judgment fee (Abene). At the present day, following the spirit of the Native Jurisdiction Ordinance, the fee charged for Abene is one pound, or with the customary court fees added, £1 5s. 6d. After due receipt of the judgment fee the Linguist names to the guilty party the amount in money of damages, pacification, satisfaction or other award, as well as the fine and, where necessary, the number of sheep, payable by him.

To ensure that these fees and fines are duly satisfied the losing party is asked to produce a surety who shall undertake payment of fees, fines, and other awards. This surety shakes hand with the Linguist, thus pledging his honour for the payment of costs and fines, and then the person found guilty is allowed to go home with his surety (*obi de no ko fie*). If he fails to produce an acceptable person who would undertake to "take him home" and satisfy the judgment the person found guilty is there and then convicted and sentenced for a term of months for violating the National Oath. After serving the sentence the costs of the successful party are left to be satisfied by the party who lost the case, or being a judgment debtor, he can either go to prison as such, or his goods will be seized in execution. On the other hand, if after verdict he produces a surety who pledges to pay the costs then the latter is bound to see that not only the fines imposed by Tribunal but also the costs of the successful party are satisfied; the oath fine, which according to the Native Jurisdiction Ordinance must be under "bena" £7, is almost always easily satisfied. But as to the other party's costs there is sometimes a default of payment. When this happens, both the judgment debtor and his surety can be proceeded against as ordinary debtors by commencing a fresh action for debt against them both, or if the successful party prefers it, he can ignore the surety and pursue the losing party direct as a judgment debtor, send him to debtor prison, or sell his goods in execution of the judgment.

*Section D. Appeals*

We have seen that there are four types of Tribunals in an Akan State. These are (1) the Odikro's Tribunal, jurisdiction of which extends to the people of the town over which the Odikro rules; (2) The Ohene's Tribunal, having jurisdiction within the Sub-Divisional area; (3) the Omanhene's Tribunal which has complete and efficient jurisdiction over all the towns and sub-divisions comprised in the whole length and breadth of the territorial State of Akyem Abuakwa; and (4) the hitherto unrecognized but certainly existing jurisdiction of the State Tribunal. Besides these there are the numerous unclassified, unrecognized and, perhaps, unrecognizable tribunals of the various sub-chiefs or captains-on-Stools below the rank of an Ohene's Mankrado. (An Ohene's Mankrado or Osomanyawa has a Tribunal equal in power, from a historical point of view, to that of Odikro of a town).

An appeal lies from an Ohene's town or sub-divisional Tribunal to the Omanhene's Tribunal. An Appeal may lie also from an Odikro's town Tribunal to an Ohene's, but it can be made direct to the Omanhene's Tribunal. Under the existing provisions of the Native Jurisdiction Ordinance an appeal can be made from the Omanhene's Tribunal to the District Commissioner's Court where the thing in dispute is not land and the value does not exceed £25. If it is a land case an appeal can be made direct from the Omanhene's Tribunal to the Provincial Commissioner's Court, then to the Divisional Court, and ultimately to the Full (Appeal) Court of His Majesty's Supreme Court of the Gold Coast Colony.

An appeal from an Odikro's Tribunal to an Ohene's or Omanhene's when no record was taken in writing of the proceedings in the Tribunal below, is conducted as a re-hearing by the higher Tribunal. In certain cases where there appears to be a confusion of procedure, an absolutely fresh proceeding may be commenced at the Omanhene's Tribunal. An appeal from an Ohene's Tribunal is conducted in much the same fashion unless a written record from the proceedings in the Ohene's Tribunal is supplied. Where there are written proceedings from the lower Tribunal the appeal in the Omanhene's Tribunal consists in a reading of the minutes of the Tribunal below by the Omanhene's Registrar, the parties concerned being present in the witness box. The constitution of the Omanhene's appeal Tribunal is the same as the Omanhene's ordinary Tribunal. If the evidence

adduced on both sides was considered sufficient no further witness need be called. Otherwise on application by either of the parties but first especially by the appellant, the Omanhene's Tribunal may hear fresh evidence to supplement the written record of the appeal proceedings. The decision of the Tribunal below may be reversed or upheld. The order as to costs always depends upon the nature of the case, and the Tribunal has discretion in allowing or disallowing costs.

In certain cases a re-hearing of a case tried by the Omanhene's Tribunal may be allowed to the losing party if adequate grounds are advanced in support of the application.

Within his own realm every Akan monarch, even before the advent of the all masterful Native Jurisdiction Ordinance, is and was independent in his jurisdiction over the people inhabitant in the Division, and no appeal could be made from one Omanhene's Tribunal to another Omanhene's Tribunal. Between friendly States, however, certain arrangements, both political and juridical, were always effected so that cases affecting a foreign Stool or a foreign National or *Brefo* oath, might be heard and determined by one Omanhene's Tribunal with co-opted representatives of the other Omanhene's Tribunal; or alternatively by a joint-tribunal consisting of representatives from two independent States, but either under the personal direction of one of the two monarchs or of their duly accredited representatives.

## CHAPTER V

### ENSTOOLMENT AND DESTOOLMENT

THE terms "enstoolment" and "destoolment" are used in the Gold Coast to indicate, as to enstoolment (1) the customary procedure of electing and installing a member of the stool family as Chief or King of the tribe or nation over which that stool rules, and, as to destoolment, (2) the converse procedure of deposing a reigning Chief or King from his former position as ruler. Owing to the importance attached to the hereditary position of Chief either as Odikro (Chief of a town), or Ohene (Chief of a sub-divisional state) or Omanhene (Paramount Chief of an independent state), there has been much litigation in recent times in connexion with disputes on the legality or otherwise of particular Enstoolments or Destoolments, and instances are not wanting of such disputes passing through the African and British Courts in the Colony to the Judicial Committee of the Privy Council in England.

Many are the causes which have given rise to such frequent disputes, but to examine such causes is not the object of this article, our purpose in writing which is more theoretical than practical. Enstoolment used to be a peaceful and dignified procedure. But the frequency of modern disputed elections has changed the peace and dignity which used to attend the ancient mode of making the best men of the tribe King or ruler.

Many political theorists versed in the craft have traced the cause of this frequent deposition of Chiefs to the effects of the Native Jurisdiction Ordinances. We are not prepared to deny or accept this view, but we are inclined to think that the present discontent among the mass of the people against the ruling houses must have one cause in the general administration of affairs, and another in the irreconciled differences existing between the old system of government and the form of government which seems to be demanded by the present generation. However much we may admire the Akan institutions, we should not be doing our duty for the effective maintenance of the best that should be preserved in our institutions were we to suffer both Ormuzd and Ahriman

to grow strong together. Where an existing order leads to creation of disorder nothing but a reform of the former would lead to a cessation of the latter.

We are not, however, concerned in this treatise with debatable political considerations, and having stated a sufficient preamble for the present subject, we proceed to discuss it so far as present limitations will permit.

### *A. Enstoolment*

#### *(1) Qualifications of a Stool Candidate.*

If a Chief dies, or "goes to his village", as the untoward incident is euphemistically described, it remains for the family, after the first funeral obsequies to name a successor to the stool. There are usually in every town, about two or three divisions, or "houses" in the ruling Royal family. It does not rest with any one of these "houses" to say whose turn it is to ascend the stool. It is the will of the people which determines what particular member of the Family taken as a whole is most fit to ascend the stool and to rule over them. The question of the choice of a stool candidate by the mater-familias, which will be explained later, is purely a formal ceremony chiefly dependent upon the people's will. For if the initial selection were the absolute privilege of any individual member of the family, no town or tribal stool would be worthy of the name. It is necessary to remember that the people's allegiance to stools are not as subjects of an absolute monarchy, but as citizens of a more or less democratic country, and were it that they had to accept any haphazard choice thrown upon them by the Head of the Royal Family, the popular veto would seem a shadowy thing. We do not say this to disparage the authority of the Heads of families, we say it to demonstrate the principle that the selection by the female head derives its source from the popular will, and this will is always easily known.

In the case of succession to Stool, be it family, town, tribal, or divisional, either a brother (we speak solely of the female line) or a nephew, an uncle, or a grand-uncle, a cousin or an adult member of the Royal Family, can be selected to succeed a dead or destooled Chief; for, no matter how far removed in blood he may be from the out-going Chief, so long as he belongs to the same recognized Royal Family, any member of the Stool family stands the good fortune of being elected. The mere fact of one being in the second or third house places

no bar on one's right to ascend the stool. The same blue blood runs in the veins of any member of the family who can be proved to be a direct descendant in the female line of the known materfamilias. Every member of the Royal Family is, as it were, an heir-presumptive. Character and influence, then, are the determining factors. That stool heir must be fortunate who is unsullied in character, influential withal, and respected by all.

However, if the heir-apparent—the eldest sister's eldest son—i.e. the nearest nephew—is of good age, of good repute or character as well as rich, there are but two things that stand between him and the stool. One is foul play. He must guard against being played out. The other danger is general or physical health and bodily accomplishments. He must be strong in body and have no personal and bodily defects. His weakness and bodily defects are enough grounds to destroy his candidature. In Akim Abuakwa, for instance, a circumcised person cannot ascend any stool, be it a cottage or town stool. The stools are considered sacred, and a stool aspirant who is circumcised has, by his own act, rendered himself ineligible to ascend a sacred Akan stool.

## (2) *Election.*

After the funeral obsequies of a Chief, or the final determination of the deposition of an unwanted Chief, all who must have a voice in the election of the new Chief assemble in the public place at the invitation of the Chief who is Regent *ex-officio*. Thereupon, the sub-Chiefs, Elders and Councillors of the town, together with the Captains of the Asafo companies, call upon the female head, or in her absence, the male head of the Royal Family, to name a person fit for the stool. The members of the Royal Family would then retire into council with a view to consult on the question of the proper person to be selected for the stool. The Head of the Family is, however, the moving spirit of the whole. On the return of the Head of the Royal Family with her people, she names a suitable candidate for the election. If the nominee is acceptable to the sub-Chiefs, Elders, and Councillors assembled, the name is submitted to the meeting, and the general approval of the Asafo or "Werempi" Company (of young men) obtained. If he is not acceptable, the Asafo or "Werempi" Company would signify their disapproval through their respective captains, and their opinion being in consonance with that of the sub-Chiefs, Elders, and Councillors,

the Head of the Royal Family would have to make other suggestions until the proper candidate desired by the people would be nominated and accepted.<sup>1</sup>

The accepted candidate is then taken hold of and beaten, as in a "rag", he is powdered with white clay and carried on the shoulders by the Asafo or Werempi Company from one end of the town to the other, three times, amid an animated outburst of civic and war songs. After this impressive ceremony of public acclamation by the Asafo Company an "Aseda" money would be taken from the elected Chief when he had been made to sit on the election stool. The amount or value of "Aseda" taken on this occasion is calculated on the relative position of the Chief, and not on the Chief's wealth. Drinks are generally offered by the Chief to all the sub-Chiefs and people there and then assembled. Drumming goes on the whole time, and if there are any State paraphernalia they are brought out in the service of the new Chief.

### (3) *Oath of Allegiance.*

But the elected is as yet little more than an ordinary member of the Royal Family. There remains the ceremony of swearing-in, and then the grander and more solemn ceremony of installation. The swearing-in may be done the same, or on the following day. All the minor Chiefs of the new Chief, the sub-Chiefs so-called, hasten to swear in a renewal of their allegiance to the stool, and then the new Chief would swear to them of his unswerving support and assistance to them in the administration of his dominion. The new Chief has also to swear allegiance to the representative of his superior Chief who must be present before any of the above ceremonies are gone through, and the representative would in turn swear on behalf of his over-lord, never to forsake him but to support and uphold him in the service of the country. This swearing to one's superior Chief's representative does not exonerate one from the obligation of swearing allegiance personally

<sup>1</sup> This is a statement of the theory of "the choice of a Stool heir by the Queen-mother". In practice, and as observed in several modern elections, the most important chiefs or councillors of a Stool would meet in a secret conclave of which meeting the queen-mother might be a member, and there agree on the person for election. The nominee being thus agreed upon, the election in a public assembly of all the chiefs and people would result in the appointment of the candidate unanimously chosen. The queen-mother's voice is sought in the nomination because of her natural position as the mother or grandmother (*materfamilias*) of all the Stool heirs.

to the superior Chief. It is the very first thing to be observed on any proper occasion that such new Chief comes into the presence of his superior Chief. We may here state that in former times it was not the custom for a newly elected Opakani or Chief to make his appearance at the capital town until three years after his election and installation, when such principal Chief had to swear the Oath of Allegiance to the Paramount Stool. It is difficult to trace the reason for this custom, but its very impracticability in modern chieftaincy has gradually brought it into disuse. Probably it was to permit the newly elected chief to perform his own *Odwiratuo*, grand triennial festival, at the end of his third year, before coming to see his Paramount Chief.

#### (4) *Installation.*

The next custom is Installation. This is a solemn ceremony done with great privacy, and almost always at night. It may properly be called the ceremony of enstoolment, as being the occasion on which the new chief is ceremonially placed on his ancestral stool. The new Chief would be taken to the Stool-house, accompanied by the sub-Chiefs and Elders and Councillors of his stool, with the select few who are allowed inside the Stool-house. (A Stool-house is strictly closed against strangers and undesirables, and is open only to members of the order of Stool Worship. This means that a Christian or a Mohammedan is not allowed to go there, certainly not a European nor even an educated African in European dress.)

It is much to the credit of Captain R. S. Rattray, Government Anthropologist, Gold Coast, author of that intensely interesting and well-informed book *Ashanti*, that not only has he had the exceptional privilege of being initiated into the well-guarded secrets of Akan-Ashanti religion, but he has actually been suffered to enter a real Stool-house and to be present in the most sacred adytum of a powerful Ashanti dynasty, witnessing and *taking photographs* of the ancient and sacred cult of Stool worship. Like no one else before him, Captain Rattray can truly use that much abused phrase of true pioneers, telling all the world that with five centuries contact between West Africa and Europe, he, Captain Rattray, was the first European to have lived through that experience.)

In the Stool-house certain ceremonies are done. The new Chief is given his final initiation into the highest part of the great Order in the nation—the most solemn Order of the

worship of ancient stools—and the highest honours that any member of the tribe can obtain are there and then poured on him. The impressive and recordable part of the initiation is that of holding the new Chief suspended three times over a black consecrated stool—the oldest and most famous of the collection—and declaring him lord and ruler of his dominions, by the direction and guidance of the spirits of his departed and august ancestors. The ceremony begins and ends with slaughter of sheep. Among other things the Chief who is being installed must observe that it is improper for him to bring his body in contact with the black consecration-stool on which he is thrice suspended, for it is regarded unlucky, and it is said that the unfortunate person who does so, stands the risk of weakening for ever his organs of reproduction. This assumption is based on the belief that the black consecration-stool is a living force, and that its spirit is so strong that actual contact with human beings is sure to produce disastrous results.

After this solemn ceremony the new Chief is worthy enough to regard himself as the most elevated person amongst his peers, and he is now endowed with the right and correlative duty to rule and govern his dominions with the advice and counsel of the members of the Administration.

#### (5) *Difference Between Stools*

Before we proceed further, we shall examine the distinction between a town-stool, a tribal-stool, and a family-stool. There is no tribal-stool as a fact, and there is no town-stool in theory. Family stools are the real things. For to call a stool a town-stool or a tribal-stool is to imply that its ascension should be open to every member of the tribe or of the town. A Family-stool, by means of the influence, prowess and intelligence, or sagacity of its occupants, can become a town-stool, a tribal-stool, a provincial stool, and at last a Paramount or National Stool. Having once attained this high pinnacle of success by gradual social evolution, the Paramount Stool comes to be looked upon as endowed with supernatural powers, and consequently no power on earth should attempt to undo what the gods have brought to perfection. It becomes sacred to the nation or tribe. It becomes an object of worship. The spirit of their history, the soul of their ancestry and tradition come to be enshrouded by and enshrined within it. The same principle applies to town-stools, but the term tribal-stool seems misleading, although we do not hesitate to accept the general

meaning usually attached to it. The truth is, no nation, tribe, or clan as such ever had a proprietary stool. Every stool belongs to a Family certain, but such family-stool may grow to have power of dominion over a clan, tribe, or a whole nation.

### *B. Destoolment*

#### *(1) Causes for Destoolment.*

References have been made above to the existing state of stool affairs and a wish expressed that certain modifications might be made in the existing institutions. Destoolment questions, in the character they usually attain, bear sufficient testimony to the need for reforms on sound customary lines.

Strangely enough, the matter of destoolment is the most important question demanding exhaustive treatment in all its aspects at the present time. But it should be clearly stated at the outset that it is scarcely possible in this treatise to define or collocate the numerous theories which have been recently advanced by people concerned in important judicial cases of destoolment.

Destoolment, for all that, is not a new thing to the Akan peoples. It has been a part of their constitution since the earliest times. There is a case of destoolment in the Ashanti dynasty at Kumase itself. We need go no further for instances.

The question is not whether destoolment is or is not a lawful act; what we are here concerned with is whether destoolment is (1) admissible on any offence; (2) effective if carried out by (a) all or a section of a Chief's Councillors, or (b) by the Stool Family.

To answer the first question demands some consideration as to what is considered offence by our code of morals. A Chief cannot simply be destooled because he is in the habit of getting drunk, but a Chief may be destooled if, when drunk or sober, he insults his Elders, and is in the habit of referring contemptuously to the genealogy or pedigree of his subjects and Elders, some of whom might have arisen from a low degree.

A Chief absenting himself continuously from his public duties and utilizing the time for his own private purposes, is liable to be called to question. Unwarranted disposal of stool property, including land, is another great cause for deposition. A Chief who is in the habit of depriving his subjects of their wives and sweethearts, courts the ire of his subjects and does so at his own risk. A Chief making use of

his subjects with a view to his personal aggrandisement in a way inconsistent with his position, is liable to be called upon for explanation, or otherwise to be given a formal advice to depart from his evil ways.

A Chief defiling his stool is liable to instant destoolment.

Insufficient provision for the members of the Stool family is a count for destoolment.

Personal infirmities which are considered "unholy", such as leprosy, is a cause for destoolment. In cases like this, the Chief may be asked to resign. Such unusual diseases are thought to be inflicted by the gods and departed ancestors as punishment for a private sin the Chief may have committed. If physical infirmities render a Chief incapable of performing his ordinary labours, he would be asked to make way for a stronger person. An old Chief, infirm with blindness and old age, in one of the Jase towns, in Akim Abuakwa, was formally made to resign, the reason being that as a result of his physical infirmities, his administrative capacities had been greatly impaired.

A Chief circumcising is liable to instant destoolment. Our custom looks upon circumcision as an attribute of inferior foreign people. No stool in Akan land (especially the Asona and Oyoko stools) tolerates circumcision. It is strictly tabooed. The anthropological significance of this fact cannot be dealt with here.

If a Chief resigns his position, he cannot succeed in regaining his rank except he is re-elected and properly installed in his old place. Very often, destooled Chiefs are taken back to resume their former positions; the famous Ofori Panin of Akim Abuakwa is said to have ascended the Paramount Stool three times.

A Chief who does not give sufficient support to the Asafo-mma (Company of Young Men) in his town is liable to question, and if his attitude against a properly organized Asafo Company is not shared by his Elders and Councillors, serious results are likely to follow. Excessive fines in Tribunal, and unlawful or frequent exaction of money, are sufficient causes of grievance, which may lead to serious results.

Lastly, a Chief who repeatedly ignores the advice and counsels of his people, especially of his Elders and Councillors, is liable to destoolment, notably when it appears that his disrespect for his people's advice brings nothing but injurious results on the townspeople.

In ancient times it is said that if a Chief could not, owing to cowardice, lead his army to war, he was liable to be deposed.

A Chief may be destooled if in the absence of definite offences, his general policy brings discontent, unrest, and general unhappiness on his people. That is to say, if he is disliked in his general management of affairs by his people. Such cases usually happen when, for instance, a Chief makes it a habit of engaging in expensive litigations resulting in the taxation of his people.

It is also generally assumed that a Chief should save a certain part of the money from his revenue. If in the absence of any concrete national calamity, it is found that instead of saving a substantial part of the revenue, all of it has been squandered in unimportant affairs, i.e. in undertakings which did not or would not benefit the people, he will be questioned, and if the people are not satisfied, destooled.

And it follows that if a Chief embarks upon a novel business or political transaction without the consent of his people, he has only himself to blame for the fatal consequences.

These, it will be seen, are faults which are liable to be committed by a Chief who forgets that he is honoured as a monarch of a political institution more or less democratic in nature, and not, strictly, of an absolute monarchy.

These are few of many acts which are considered offences against the constitution, upon which a Chief's authority and status depend. But instances abundantly prove that a Chief may not be destooled for a single minor offence in many of the forms enumerated above. However, the fact that the gravity of any single offence may be a proper cause for unquestionable destoolment, cannot be too much emphasized. Generally speaking, it has been the custom to indict a Chief on two or three grievous offences, and tag these with a long list of minor ones. Without any great stretch of memory, it can be said with certainty that it is not so much the number as the nature and gravity of offences which count in a case of destoolment.

## (2) *The Power to Destool.*

With regard to the other point whether the act of destooling a Chief is effective if carried out by all or a section of the Council, we have to emphasize this fact, that every hereditary member in the Council represents a section of the community; and as every section of the community has an inherent right to self-determination, it follows that no single section of the town could be properly ignored in a matter of this nature. (The hereditary Councillors in a Chief's Council are all elected by single Family Sections, and these hereditary Elders can

only be deprived of their positions as Councillors by the Family Sections, and not in any way by the Chief under whom they serve as Councillors.) Legally, however, some hereditary Councillors or Elders have more powers in destoolment and enstoolment questions.<sup>1</sup> The *Osomanyawa*, as the next person to the Chief in the community, has great powers in destoolments and enstoolments. The exercise of such powers is, however, subject in one way or the other, to the considered opinion of the Council or of a majority thereof. The fact is that however highly placed a person may be, the constitution of the Akan monarchies is such that no single person standing independent of advice of a council, can legally decide any question, be it minor or great. But the *Osomanyawa*, has in a superficial degree, certain arbitrary power, the existence of which is, however, more apparent than real.

For, if we may take a parallel case, and call the Adontenhene of Kukurantumi the first Chief after the Omanhene of Akim Abuakwa as the "*Osomanyawa*", then we find our statement fully corroborated by the procedure adopted in a recent popular enstoolment. From the report to the Government on the subject of the election of the present Omanhene of Akim Abuakwa we cull the following interesting paragraph :

"On the 27th November, a day after the destoolment of Amoaka Atta III, Adontenhene Kwabena Kana *with* other Ahenfo and Sub-Chiefs, proceeded to Omanhene's House to take inventory of the State properties.

"They found a great many things missing.

"On the 30th November, Adontenhene Kwabena Kana asked the Queen-Mother to *bring* before the Assembly of the Ahenfo and Sub-Chiefs all the blood relatives to the Stool, to afford the opportunity of electing one to occupy the Stool.

"The Adontenhene with the *consent and concurrence* of all the Ahenfo, and sub-chiefs, *laid his hand* on one, Mr. A. E. B. Danquah who was immediately proclaimed Omanhene, 'Ofori Atta' of Eastern Akim<sup>2</sup>, amidst great rejoicing and firing of guns in honour of the occasion."

This report of 5th December, 1912, prepared under the supervision of Mr. H. J. Hobbs, District Commissioner, was signed by the Adontenhene only, and its authenticity has never been questioned. The italicised words taken

<sup>1</sup> Reference may be made to the Chapter on "Division of Functions" for the extent of the power which a Councillor can exercise in accordance with his position.

<sup>2</sup> *i.e.* Akim Abuakwa.

conjointly with the three paragraphs, serve to prove the extent of the authority of "Oso manyawa" supported by his brother Chiefs or Councillors.

(3) *The Asafo young men and Destoolment.*

Another important factor is the Asafo Companies or National Institutes of young men. In recent years, these "companies" have persistently claimed to possess absolute "power to enstool, and chiefly to destool, a Chief". This claim seems in a sense to be supported by facts of history and long-established customary practice. But the truer view is that, although the Asafo Companies may have powers similar to those of any single body of electors, yet such powers are not, and never have been absolute, final or arbitrary. The Asafo Companies cannot act independent of the Head Chiefs or Mpakanfo, although it is true that in matters of this nature the lead is always taken by the Asafo Companies.

Let us suppose that the Amantoo-mmiensa Council is, in some respects, one of these Asafo Companies and suppose they claim on long customary usage, to have a decisive voice in affairs at Kibbi, would it be easy to show that they by themselves can legally and customarily take any serious step in the succession at Kibbi without being opposed by the Okyeman Council? Would they be in a position to execute their plans without the previous sanction and co-operation of the State Council?

If Reindorf's *History of the Gold Coast and Ashante* be any authority, let us examine the following quotation from page 183:—

"Not long after the messengers<sup>1</sup> had gone, Dokuwa<sup>2</sup> was quitting Akim for Ashante, and had reached Abompe, when the Chiefs Okru of Apapam,<sup>3</sup> Obeng Ayekwa of Apedwa,<sup>3</sup> and Kwasi Asimen of Tete,<sup>3</sup> determined to force her back or deprive her of the Akem stool. She was supported by Tanno Asiakwa of the Oyoko tribe, an adherent of the King of Ashante, and the most influential Chief in all Akem.<sup>4</sup> He was at Abompe vanquished in a battle against the three Chiefs and beheaded."

Rev. Carl Reindorf does not tell us whether, owing to

<sup>1</sup> Messengers from Sir Charles MacCarthy.

<sup>2</sup> Late Paramount Queen of Akim Abuakwa of most honoured memory.

<sup>3</sup> The principal Amantoo-mmiensa towns.

<sup>4</sup> Akem is an old spelling of Akim.

their victory over Tanno, Nifahene of Asiakwa, the Amantoommiensa Chiefs succeeded in their extraordinary exploit; but we know for certain that the noble Queen, after this incident, proceeded to Accra in her capacity as Queen of Akim Abuakwa, and that three years afterwards she assumed the chief command over her Army in the war between the Colony and Ashanti (1825-6). We also know as a fact that in the Dodowa (Akantamasu) Battle of 1826 Apedwa and Apapam took prominent parts. In connexion with this there is a legend in Akim Abuakwa that "Apagya" Fori, Chief of Apapam and leader of the Advance Guard in the Adonten, heroically offered his life in voluntary fulfilment of a prediction made by the National Fetish for ensuring the success of Akim arms against the Ashantis. This legend is told unto this day.

What we gather from the above quotation and the remarks following it, is that the attempt made by the Amantoommiensa Chiefs was not made unopposed. By both legal and armed forces it was resisted by the Nifahene of Asiakwa who is, in the State Council, only second in importance to the Adontenhene of Kukurantumi. The mere fact that the Nifahene was defeated and beheaded by the Chiefs of Apapam Apedwa and Tete does not prove that they were justified or unjustified in their cause. What is important to note is that their action was rigidly resisted, as of right, by a member of the Okyeman Council. The Nifahene took this step in defence of his right and prerogative. The Amantoommiensa Chiefs cannot act independent of the Head Chiefs or Mpankfo, although it is true that in matters of this nature the lead is always taken by the Amantoommiensa Council.

It therefore follows that the young men institutes cannot have more power than the Elders and Councillors in any particular town or sub-division; nor can they, for that matter, be ignored with impunity by any of the hereditary or elected members of a Chief's Council. This seems a paradox, and we must find a *via media* out of the chaos.

The Asafo Company in a town, if they are unanimous, have the right to refuse the election of a particular candidate on any specific reasons properly assigned by them. So also have they the right, when they are unanimous, to bring a Chief to question and request his destoolment at the hands of the Chief's own Elders and Councillors. The nearest resemblance between this and an English practice is that of Impeachment. The Commons impeach a political delinquent before the Lords. The Lords decide the issue. In the same

way the Asafo Companies request a Chief's destoolment at the hands of the hereditary Chiefs and Councillors.

Destoolments always involve complicated questions, which sometimes defy solution. Invariably, the actual act of displacement—taking the Chief's sandals off his feet, and withdrawing the stool from under him—is carried out by either the Captain of the Asafo Company or an ordinary member or a *sripi* (lieutenant) of it. The writer has never yet come across a single instance in which this disgraceful and detestable act had been done by a captain-on-stool or other prominent member of the Chief's Council. Besides its being considered an undignified act for an aristocratic sub-Chief to do, it is apparent also that none but the most ungrateful would initiate disgrace on a Chief on whom he had been dependent for many years, and with whom he had had the most intimate intercourse.

As a result of this, proceedings in enquiries into questions of destoolment, have almost always tended to show that it was the young men who had displaced the Chief without the necessary co-operation of the Elders and Councillors.

This is rather fallacious. At the back of every important movement of the Asafo Companies, you cannot but find that the Elders and Councillors are the pillars. These Elders and Councillors are in daily intercourse with the young men, and anything they feel constrained to do themselves by reason of their proximity to the Chief, is inculcated into the minds of the young men. The disease thus spreads. Discontent follows. A first complaint is made. The Elders and Councillors make a feeble resistance to the young men in defence of the Chief, and try as best they can to explain matters away. The second and third complaints for redress of grievances are more often forerunners of threatened destoolment; and the Chief whose people have commenced to be so aggressive in their attitude, must begin to repair wrongs, abandon his evil ways, and serve his people as they wish him to do, or he will in the end be compelled to make way for a better man.

#### (4) *Can the Stool Family itself destool?*

With regard to the question whether members of the Stool Family have a right to destool a Chief, we have only to say that the letter (quoted above) from the Adontenhene to the Government implicitly indicates the extent of the power of the Stool Family or the Head of it. The Stool Family have no visible power in the matter of destoolment. In Akim

Abuakwa any action on the part of the Stool Family which indicates that they are concocting by clandestine or overt acts to have the existing Chief destooled, is punished most severely. The head of the Stool Family has only a formal right to nominate one of the members of the Stool Family for enstoolment, but nothing parallel to this prerogative is conceded to the Head of a Stool Family in the matter of destoolment.

If a theoretical explanation of this anomalous position of the Stool Family be needed I may hazard the opinion that the principle arises from the nature of what may be called "Stoolocracy" (government by Stool)<sup>1</sup> and the proprietary rights over the Stool. As remarked elsewhere a Stool comes into being as the private property of a more or less private family. This family in time rises to the position of rulers of a people—a group of clans or a whole tribe. These people are governed by the Stool, but they are governed with their own consent. The Stool, however, throughout its existence belongs to the Family for or by whom it was founded. Hence the Head of the Stool Family is *de jure* custodian or owner of both the Stool and the Family. Consequently, if the people desire a new member of the Stool Family to rule them they *have* to approach the legal head of the Family to nominate a fit person *to sit on the Stool* and rule them. The Stool does not belong to the people, and when a thing does not belong to you you cannot do what you like with it, but if the one who actually occupies the property thereby acquires rights over you, then, naturally, a corresponding duty arises. (I am inclined to think that this principle would seem to be the same as in succession to the British Throne. For note that although Parliament may change the succession, it is doubtful if, historically, Parliament has actually changed the British succession by giving the Throne to a prince or sovereign who had no family connexion with the long line of British sovereigns. Of course, Parliament can have a non-monarchical democracy to-morrow if they want it, but that is a different matter. The contention here is, that so long as the British Throne remains what it has always been, it would be unconstitutional if the House of Commons, for instance, made a Labour Prime Minister King, thus

<sup>1</sup> "Stoolocracy," so far as I know, is a term that is now for the first time being introduced into the English language, and it behoves me, as its author, to provide a definition. Many of my readers will agree with me on defining the term as the government by right of a tribal or national stool for the benefit of the members of a tribe or nation.

transferring the British Throne from one family to another unrelated family. Everybody knows that Cromwell's twelve years' Commonwealth in English History is regarded as a *tabula rasa* by many historians, whilst William III, the only apparent example of the English Throne passing to a foreigner's family was really a member of the old line of British Sovereigns, being a grandson through the female line of Charles I.) The point to note here with regard to the Akan system is that *none* but members of the Stool Family may sit on the Stool, but he who sits on the Stool rules over all the people, and these people suffer his rule by their own consent (as evidenced by the fact that they can destool him), consequently when the people are dissatisfied with the rule of a Chief they simply destool him. They do not wait on the Queen-Mother and say: "Nana, we asked you for a fit person to rule us; the man, Kofi, given to us by you ten years ago has failed to rule us properly, therefore Queen, take him away and give us another." This would seem a logical way of putting the principle. But the logical is not always the practicable. What the people in effect say to the head of the royal family is this: "Nana, we asked you for a ruler and you gave us one; he has failed to satisfy us and therefore we have declared that we refuse to serve him, he is destooled.<sup>1</sup> The Stool, however, still remains the property of your Family; there are other suitable men in the Family. We pray thee, Queen, give us the best of them and we shall serve him."

It is not in the interests of the Stool Family that the Stool should remain vacant, hence when such a request is made to the Queen-Mother, nomination is made by her for the election and installation to follow. Here it is quite clear that any head of the Stool Family who cares to preserve and conserve the supremacy of the Stool over the subjects of that Stool would not lightly interfere with the continuous rule of any occupant of the Stool, for such a practice can only lead to dissatisfaction among the ruled with the concomitant loss of prestige for the Stool. It is the Queen-Mother's particular concern that the people should always remain governed by her Family Stool, and most often her advice to the reigning Chief to govern well is prompted primarily by the desire to maintain the integrity of the Stool, and, of course, indirectly, the well-being of the governed.

<sup>1</sup> A destooled person remains a competent member of the Stool Family unless otherwise debarred.

(5) *Final Position of an ex-Chief.*

There is yet one point with which we will conclude this chapter, viz., the relative position of a destooled Chief. There are three main degrees of chieftaincy in the Akan institution ; 1st, that of Omanhene or Paramount Chief ; 2nd, Mpankfo, divided into two : (a) Head Chief who is semi-paramount in a sub-division, and (b) Chief who is responsible to the Head-Chief of the sub-division and to the Paramount Chief. Thirdly, the sub-Chief of a town who is responsible to the Chief, to the Head Chief of the sub-division, and to the Paramount Chief.

If a Chief of a third degree is destooled, he retires into private life as an ordinary member of the Stool Family, and if he has many wives one or two will be assigned to him ; he retains his private farms, evacuates the Stool-house, and in most cases he is made to live in a small town within the sub-division ; that is to say, he should not approach the person of the new King or hold communication with him.

A Head Chief, when destooled, is treated as a man of rank and his position henceforward will not be very much below the rank of a sub-Chief. He is made to leave the town for a village, and one or two of his wives and a similar number of servants will wait on him. He will reap the produce of his private farms and can dispose of the farms as well as of his private house situate in the town he is abandoning.

When a Paramount Chief meets the unhappy fate of destoolment he is provided for. He is appointed to live in a town far removed from the capital of the Division ; and he will have three or four of the wives of the harem and a similar number of servants assigned to him. He is prohibited from approaching the person of the new Paramount Chief. Some money allowance will be made for him ; he retains his private properties, and if they are in the town he had left, he has the right to dispose of them.

The reason for an ex-Chief being prevented from approaching the person of the Chief who succeeds him is held to be that the misfortune which had resulted in the former's destoolment might spread out to affect the new Chief and bring similar ill-luck on him. A destooled Chief, however high he may have been, can never hold a Court of his own, but may become a member of a national or sub-divisional Council.

## CHAPTER VI

### FESTIVALS (AFĀHYE)

EVERYONE of the Akan tribes or nations has one or two periodic festivals held for the purpose of celebrating first fruits of the harvest, or in commemoration of some historic event, or as is most commonly the case, it may be an occasion for public worship of the ancient ancestral Stools. The dates of these festivals vary with the variation of purpose for which they were instituted, and they differ also from tribe to tribe. The harvest festival, called *Ahuba* in Fanti-land, and *Ohum* or *Odwira* in Ashanti, Akim, and Akuapem, falls generally in July or August on the first harvest of Yam, a very rich and wholesome vegetable food.

In Akim Abuakwa three principal yearly festivals are observed, and these, in their order of importance, are the *Odwira*, connected mainly with Stool and ancestor worship, the *Ohum-Kan* (first Ohum) and *Ohum-Kyrie* (second Ohum), the two important harvest festivals. Besides these, there are two other festivals, the *Wukudae* and the *Kwasidae* held on every fortieth day Wednesday<sup>1</sup> (*Wukuda*), and fortieth day Sunday (*Kwasida*). Festivals falling on the fortieth day Monday (*Fodjuor*), the fortieth day Tuesday (*Kwabena*), and the fortieth day Friday (*Fofie*), are celebrated in different Akan States, the choice of day in each case depending on the particular day of the week held sacred to a tribe or nation. Generalizations with regard to the character of festivals are therefore not a safe guide since the only particular in which the festivals have a common feature is that a day might be held sacred to a tribe because of some propitious event that happened on that day to the ruling family in the tribe or clan. The particular performances held on the day will vary with the object for which it was created. In Akim Abuakwa, Wednesday is the most sacred day, and Sunday seems generally considered

<sup>1</sup> The phrase "fortieth day Wednesday" means the Wednesday after every forty days ("six" weeks), and there are nine such Wednesdays in the year.

a sacred day by most of the Akan tribes. These two days of the week are set apart in Akim for the fortieth day celebration, and every Wednesday is a day of worship and of rest. Tribunals do not sit on any Wednesday.

(1) *Ohum-Kan*

The Ohum-Kan or first Ohum falls due on the next Wednesday following the 5th Kwasidae (the 5th fortieth day Sunday, counting from Odwira). Eight days before this Wednesday, the Ohene of Tafo commences the initial celebrations in the River Birrim, the sacred river, at Bunso, and subsequently at Tafo. This ceremony at Bunso is connected with a tradition which shows that the ancestors of the Akims inhabiting the Birrim Valley came from, or emerged out of, the *Bun* (deep pool) at this part of the sacred river Birrim, but the festival of Ohum, besides marking the anniversary of the birth of the Akim nation is also utilized for celebrating the blessings of departed ancestors on the harvest of the year.

If on the occasion of the ceremony at Bunso a favourable sign<sup>1</sup> is received by the Ohene of Tafo, preparations for the Ohum festival will begin in earnest, and on the following Tuesday the celebrations commence. On the other hand if the augury received be unfavourable, the festival has to be postponed till the receipt of a favourable sign indicating the pleasure of the ancestral spirits that their people should safely enjoy the first fruits of the delicious Yam. For, be it noted, until the actual performance of the Ohum festival, no self-respecting person in the State could appease his hunger for the new Yam by breaking the customary law prohibiting the enjoyment of food unhallowed by the blessing of the spirits.

As soon as the order removing the taboo on the new Yam is received the initial performances of the festival are observed in the towns or villages lying on the banks of the sacred river. The customary usages observed on this occasion are such as to encourage the people to seek spiritual communion with their gods or ancestral spirits. In particular, on this notable Tuesday, no one is permitted to travel over a distance of three miles; no strenuous occupations are

<sup>1</sup> A "favourable sign" is obtained if the Ohumtufo succeeds in pulling the petiole of the young shoots or sheathing leaf (*mmrekesono*) from the top of the palm-tree. Otherwise, the time is not ripe for harvesting, and the ceremony will be postponed for forty days.

engaged in, but every good wife should go into her new farm and bring home with her the first harvest of the year. Tributary rivers to the Birrim are visited and religious rites performed on their banks. At Kibbi, the capital of Akim Abuakwa, early on Tuesday morning, the Omanhene and his Chiefs and Elders visit the sacred river, and, in anticipation of the procession to take place the next day, the roads to particular rivers are cleared of weeds and fallen trees. The Mausoleum and the Stool House are also visited for the necessary preliminary libations.

The ideal on this Tuesday is to maintain a quiet, humble and calm attitude with regard to oneself and toward one's neighbours. No noise of any kind should be made. No music of any sort, not even drumming, is permitted. "Fu-fu," the usual meal of pounded coco-yam, plaintain or yams, is not allowed to be prepared, chiefly because of the noise involved in its preparation and also because this is observed as the national day of fast. Nor is any drinking permitted, and he who makes any noise on the streets or even in his own house may become liable to prosecution after the festival, or the unfortunate breaker of silence may be left at the mercy of the gods. For on this day the spirits of the ancestral kings and chiefs are supposed to visit the people and the Stools, and it were sacrilege to welcome them with anything but submissive reverence, calmness and humility. All then is quiet on Tuesday, and a dead calm is maintained until sun-down. But just about 7 p.m. when day is no more, the dolorous boom of the Atumpan drums dispels the silent enchantment with their heart-stirring sonorous music. The town is astir for a short while, but the drummer presently reminds the people of their duty to the gods and spirits; drumming soon ceases and the town relapses into a dead calm for the night. Wednesday is a day of feast and the Queen-Mother prepares a quantity of food made of the new fruits of the harvest for the Omanhene to distribute the new food among high and low, rich and poor, young and old. Drumming which had commenced early that morning goes on for a considerable part of the day, and the festal orgies of Wednesday are enjoyed by all the community in the true carnival spirit.

At dusk, the Omanhene goes out in state to receive his Chiefs and other notables in his capital. Every person who comes to greet the Omanhene on this festive and ceremonious day brings with him a piece of firewood as a present to the Omanhene for maintenance of the national fire

kept in the Jase section of the palace. In recognition of this yearly offering of firewood, the Omanhene usually makes public money and other presents to every section of his assembled people, and valuable presents are usually given to individual visitors, strangers or foreigners, who must be there to greet the sovereign with the customary present of firewood.

Immediately after this ceremony, the Omanhene sits again to witness the annual dance of the "Ohum-tufo"—boys between the ages of 8 and 12, sons and grandsons of Chiefs and other notables who have gone to the sacred river that morning and received full initiation into the Ohum ceremonies. Directly on their return from the sacred river, and still attired in their initiation dresses and decorations, the Omanhene gives these youngsters a fitting audience to the accompaniment of the state drums, and, at the conclusion of the ceremony, presents of shea-butter, money, clothing, etc., are made to each individual young dancer.

Special Stool ceremonies are performed in the Stool House, a sacrifice of sheep is made, and those of the order of Stool Worship receive duesanctification in the blood of the sacrificial lamb, the forehead of each of them being sealed with three vertical strokes made with the central fingers of the right hand dipped in the blood of the sacrifice. It is the privilege of the *Ahennua* (Chief of Stool Carriers) to make these finger marks on the forehead of the Omanhene.

From the foregoing it may be noticed that the Ohum celebration is not merely a festival of the harvest, but also an occasion for worship of the ancestral Stools and the spirits of those who formerly occupied them. Ceremonies are performed at all likely places, the rivers, the sacred groves, the highways and byeways where some historic or traditional association with particular ancestral spirits can be traced or related.<sup>1</sup>

The first Ohum festival falls due in July or early August each year, and among the Gã-Adangwe people, the *Homowo* or "hooting of hunger" falls in July or August on the first harvest of corn, the principal food crop of the Gã people.

## (2) *Ohum-Kyire* \*

The Ohum-Kyire or second Ohum falls due on the 80th day (2nd Wukudae) after the Ohum-Kan. All the ceremonies

<sup>1</sup> It is also the occasion for replenishing the stock of fuel for the national fire which is kept aflame perpetually in the fire temple (*Jase*) under the *Jasefo* (board of flamens) with the Jasehene (chief of the place of fire) at their head.

and observances are as in the first Ohum, except that in the second there is no public presentation of firewood. On this occasion the silver stool is used instead of the Akim golden stool, the latter being reserved for use only on Ohumkan, Odwira, and other important occasions.

### (3) *Odwira* (Purification).

The second and most entertaining festival, noted for its magnificence and great display of finery is the *Odwira* or purification festival. It is held once a year and the ceremonies usually cover a period of one week or more.

It seems to be held by some writers<sup>1</sup> and other students of Gold Coast customs that the *Odwira* is a harvest festival, but a consideration of a few of its chief characteristics will show that although the *Odwira* might be correctly described as a thanksgiving festival, it is really an occasion for public annual worship of the great tutelary gods of the nation, the sanctification of the Stools and of their holders, and the purification (*καθαρμοί*) of the people from their transgressions of the passing year. The festival falls generally in December or January when the season for reaping the new harvest had passed, and when in fact it was time to commence fresh cultivation.

The word "*Odwira*" is defined by Christaller in his "*Two-English Dictionary*" as "the Yam Custom", and in this one may be over-hasty in ascribing inaccuracy to him. In many Akan States the "*Odwira*" festival is usually celebrated between July and September, during the season of harvest, and it would seem that the meaning given by Christaller may have been suggested by that fact. However, in Akim Abuakwa, as in Akuapem—a daughter nation of Akim Abuakwa—the real Yam Custom is the Ohum, and its celebration in July or August synchronises with the "*Homowo*" of Accra, the "*Aherekwasi*" of Akwamu, and the "*great*" and "*small*" (first and second) "*Ahuba*" of Fanti.

The verb "*dwira*", according to Christaller, means "to cleanse from guilt or moral and religious uncleanness; to sanctify, to consecrate", and the root of the word *guare*, or *dware* to wash oneself or to bathe is the same as *dwira*, to cause to wash. It is thus clear that the significance of

<sup>1</sup> With the significant exception of Captain R. S. Rattray; see his *Religion and Art in Ashanti*, the chapter on *Odwira*. This book (published early in 1927), reached me at a time when the MS. of *Akan Laws and Customs* was ready for the press, and I regret that I am not in a position to refer fully to Rattray's valuable work.

the Odwira festival is not to be sought for in a conception of thanksgiving or festal celebration, but in an idea of purification or consecration. It is a religious and not, strictly, a harvest festival, while the Ohum festival is characteristically carnival.

The Odwira, again, is the only festival religiously observed, generally and in common, by all the people in the state under the supreme direction of the national sovereign. There is undoubtedly a national "Fetish" or "God" in Akim Abuakwa, but the writer's investigations have not disclosed the existence and observance of a national or public general festival in honour of the Fetish or God. The festival of the "God" Anokye is practically regarded as the festival of the Fetish Priest, whereas the Odwira festival is national in spirit and intention. This may be due to the fact that among the Akan peoples, and unlike the Gã-Adangwes, supreme authority rests not with the Fetish or its Priest, but with the Ohene or King, as being the possessor and occupant of the Sacred Stool in which the soul of the people is enshrined. Hence the importance of the Odwira festival as the occasion for purifying and sanctifying the soul of the whole of the people. Those who have taken any trouble to study the religion of the Akan people are gradually coming to recognize this fact, that the real central and living religion of the Akans is not the worship of Fetishes or nature gods, but rather a religion which in all essential respects displays the genius of the people's spiritual interpretation of life in a highly developed system of ancestor-worship. It may be the privilege of the author in a future work to show that far from the Akans being idolators, the Fetish worship or idolatory found among them to-day is as foreign to their religious outlook as certain aspects of Christian dogma could have been to the ancient Egyptian.

In general, we may say that the Odwira festival is the occasion on which Chiefs and people sanctify themselves, the Stools of their ancestors and the abodes of the spirits of their greater gods. It is the occasion in which ancestor-worship is employed as a religious means of purifying the souls of the people and bringing them in closer communion with their ancestry, their history and tradition, and their spiritual connexion with beings higher than themselves.

The Odwira festival is "national" in the further sense that the whole people, all the tribes and clans in the state, have to take part in the celebrations. In this sense the Ohum festivals are not national. There are several towns

in the state, the inhabitants of which have nothing to do with the various ceremonials of the Ohum. They observe the days as notable in the national calendar, but they take no part in the performance of customary or formal Ohum celebrations. This is principally so with those towns and villages having no direct connexion with the sacred river Birrim, and through whose territories the river does not drain.

Being thus national, the Odwira festival must be attended by every Chief or sub-Chief, and even all able bodied men and women in the state are expected to attend the *Odwira-tuo* festival in the capital town of the division. All the people come with a common object in view, viz., to honour the great national and royal Stools and to witness and partake in the sanctification and purification of their king who is the living representative of that with which their soul, as a nation and a people, is eternally enshrined.

If the festival in any year happens to be the "Odwira-tuo", i.e., the grand triennial Odwira, the Chiefs and their people should be in Kibbi and suburbs on or before the Friday preceding the Odwira Sunday. If it is an ordinary yearly Odwira, the Chiefs and people usually arrive on the Saturday preceding it. Odwira falls on Sunday, Ohum on Wednesday.

The principal articles used in the Odwira sanctification ceremonies are (1) the special variety of Yam called "Ode", from which name the Stool heirs or members of reigning families derive their title "Ode-hye", meaning "Famous or illustrious as Ode"; (2) clear brook water as in all purification ceremonies; (3) sands from a brook; (4) a consecrated leaf called *somme*, and (5) the blood of the sacrificed sheep.

#### (4) *Odwira Celebration.*

This day falls due on the second Kwasidae following the celebration of the Ohumkyire. But as it is not a fixed festival it may be postponed to the following or even the second following Kwasidae.

On the Saturday preceding the Odwira Sunday, called Dapada, a formal Reception will take place on the small dais in the Public Square near the Palace. The Omanhene will receive all the provincial Chiefs, welcome them and entertain them with refreshments. This is also the day on which the Sanahene, *q.v.* (the State Treasurer) will commence the initial celebrations by parading the streets during the morning in full State dress, and with the State drums.

On the following morning, which is an Akwasidae and the

Odwira day itself, drumming, in its highest excellence and perfection, is the order of the day. The Queen-Mother will play the Adewa before the Omanhene, and the interesting part of the Adewa dance is that any notable present is required to go into the arena and dance to the Adewa drums as soon as his or her name or position is played on the drums with song accompaniment.

Next follow various specific dances, among which may be mentioned the Totusie and Abofosie (Hunters' and executioners' dances) and a few others of more or less complexity and significance.

During the course of the day the Amantoo-mmiensa Asafo (Council of three Counties) have been playing on their long shrill-toned drums, and as soon as the Omanhene is disengaged from the earlier dances and ceremonies, he goes out with a few followers to take his place in the Amantoo-mmiensa Asafo. Here a quaint old custom must be observed. The Omanhene sings with them and perambulates the streets of Kibbi with them, not in a palanquin, but on foot as one of the Asafo, and finally one of the three long Asafo drums, the "Asafo-pranpran", is handed over to him to play. After this, the Asafo companies follow the Omanhene to his Palace where they are served with refreshments.

This ceremony over, there follows a very pompous and magnificent spectacle. The Omanhene has now to appear in state, passing through the main streets of Kibbi. It will be noticed that in all the ceremonies the central figure is the Omanhene. Everything is done to his honour and glory. It is a feast to behold the great display of gold, gold cloths, gold-gilted insignia and paraphernalia, State umbrellas and quaint ancient drums. The Omanhene goes out in full State dress. He holds the Ohum gun on the left shoulder, and the Bosomtwe sceptre in the right hand. He rides in the velvet and silk-covered palanquin, and there is the golden flint in his mouth; on his head is the magnificent crown of gold with its fluttering gold feathers, and on his feet the golden sandals. The scene presents an effective contrast of gold, silver and silk, with a glorious background of tropical sunshine. All is blue and bright above—the sun is in full strength; the multitude is great; the boom of the drums is deafening; the spectacle is stupefying!

But this, as we have said, is only the outward manifestation of the spirit and life of the Festival. The real ceremonies take place in the Stool-House, where none but the select few are to enter. With regard to these ceremonies it will suffice

to say that the principal event in the Stool-House is to sanctify and consecrate the Omanhene. With due permission, we give the exact words pronounced upon the sacred person of the Omanhene when being sanctified and consecrated. The ceremony of sanctification is done by the Abontendomhene, who is grand-master of the order and Chief custodian of the Stools.

Dipping the sacred Somme<sup>1</sup> leaves three times in the consecrated brook water, and applying them on the person of the Omanhene in a striking ceremonious manner, he repeats the formula :—

*“ Me bɔ wo asuo,<sup>2</sup> me bɔ wo asuo !  
Efi bi aka woa mebɔ wo asu !  
Mesɛ nkwa ma wo ;  
Mesɛ siadeɔ ma wo ;  
Mesɛ abawoɔ ma wo ;  
Mesɛ amanno ma wo ;  
Nyin bɔ akora posoposo.  
Mebɔ woasuo ! meɔ woasuo !*

which in English would mean :—

*“ I sanctify thee, I sanctify thee !  
I sanctify thee of all stains !  
May you live long !  
May you have good fortune !  
May you have children ;  
May your reign be peaceful ;  
May you have a long, long life.  
I sanctify thee ; I sanctify thee.”*

After the Omanhene's sanctification or purification, follow the remaining Stool ceremonies. The next person to offer sheep after the Omanhene's sacrifice, is the Omanhene of Akuapem, whose representative must be present every year to offer sheep to the great Ofori Stool from which the former's Stool is descended.<sup>3</sup> Next comes the Adontenhene of Akim Abuakwa's sacrifice of sheep, and then follow all the Chiefs in due order of seniority.

It is interesting to note, that none—not even the Omanhene—should enter the Stool-House on his sandals. Prior to the opening of the Stool-House for the purpose of the ceremonies, the Amantoo-mmiensa Chiefs will block the

<sup>1</sup> Christaller defines “Asomme” in his Dictionary as “a plant, an emblem of purification and peace”.

<sup>2</sup> *Bɔ asu* means literally, to purify with water = to baptize.

<sup>3</sup> At the celebration of the Odwira of the Omanhene of Akuapem the Omanhene of Akim Abuakwa also sends a representative. Whether it be a State funeral or a State festival the two kings must always be represented at each other's court.

entrance and demand a sheep, and the Omanhene cannot enter the Stool-House until he has given them a sheep. This is, perhaps, to show that the Amantoo-mmiensa are *Ofori nsrafo* (Ofori's soldiers) i.e., the personal guards of Ofori's Stool. They are admittedly the *werempefo*, or "Stool Remembrancers".

On Monday follows another grand manifestation of the importance of this Festival. Monday is a festive day, and a great assembly, surpassing the Sunday celebration in splendour will be held on the square dais in the Public Square. Here, every Chief excels in dress and other finery, and a great display of wealth and magnificence is the order of the day. The ceremony on Monday is called "Sa-gua", Drink Durbar. The meeting is not, for that matter, Bacchanalian. It is a formal sort of thing, sober and strict in its orderliness.

The Omanhene sits on the Akim Golden Stool, placed on a lion-skin. The wealth of the country is displayed to the greatest advantage on this day; everybody is in his or her best. The Chiefs and people are now served with palm wine and other drinks from the Royal jugs and decanters. Meanwhile, the drums and horns are untiring in their melodious, deafening tones, and the deep boom of the Fontomfrom is heard miles and miles away. The meeting comes to an end after the Chiefs to whom drinks had been served make the customary obeisance before the Omanhene, thanking him for the banquet of wine.

The following four days, except Friday, are days of rest, but on each of these days libations are made in the Stool-House.

Friday is reserved for the celebration of Abam, the Akan deity of the twin-born. The Queen-Mother is mistress of this ceremony, and her principal dance, Adewa, will have to be played, the Omanhene having also to honour her quarter in the palace with his personal presence. The Nifahene of Asiakwa, who is the most honoured Progenitor of the Royal Twins,<sup>1</sup> is one of the chief actors in the Abam ceremonies. All parents of twins, and all children born as twins, will attend the celebration, and be dressed in white during the week of the Abam festival.

On this Friday the Shrine of Abam is carried on the Queen-Mother's sedan-chair to the Sacred River for its due sanctifica-

<sup>1</sup> A previous Nifahene of Asiakwa married into the Akim Royal house, gave birth to twin sons, both of whom ascended the Paramount Stool of Akim Abuakwa, hence the ceremonies and the significance of those who perform them.

tion. Some of the Omanhene's State insignia and drums accompany the procession till the end of the town, but they are not to be taken to the Sacred River. The Omanhene himself, being the sovereign of the Order of Abam, has to be present at the sanctification ceremonies.

The Stool ceremonies are brought to a finish on Sunday ; the Omanhene having now passed through the natural purification period of seven days, he is held fully sanctified and purified, and in testimony of this the Omanhene's forehead is sealed in the blood of the consecrated sheep sacrificed to the Stools. This solemn act concludes the celebration of Odwira in so far as the Omanhene is concerned.

During the following week, the Chiefs resident at Kibbi commence their festivals in turn, and the *Queen-Mother's Festival* falls due on the Sunday on which the Odwira is concluded.

The Omanhene is to be present at the Queen-Mother's celebration both in the house and in her Stool-House, and he has to accompany her in her parade on the streets of Kibbi. The State drums will also be placed at her disposal. The Omanhene of Akuapem's representative must, of course, attend the Queen-Mother's celebration as well, and he is the next to offer libation to the Queen-Mother's Stool, after the Omanhene.

The Festivals of the sub-Chiefs at Kibbi—the Jasehene's, the Ankobeahene's, the Abontendomhene's, and the Kyidomhene's—are celebrated on similar lines :—(1) Service in the sub-Chief's own Stool-House and (2) Parade on the streets of Kibbi. These are not attended by the Omanhene, but he sends a representative with drink for the libations.

(5) *Odwira-Tuo* (*Grand Odwira*).

As we have seen " Odwira " means sanctification. *Odwira-Tuo* would then be festive and ceremonial sanctification (*Odwira*) rendered grander by the *firing of guns* (*Tuo*). This is held triennially. The first *Odwiratuo*, called " ahoyie ", first manifestation or debut, is held at the end of the first three years of a new Omanhene's reign. That must be, and is, in fact, grander than the ordinary yearly or triennial celebrations.

On this occasion, as the Sannahene commences the preliminary celebrations on Friday, the provincial Chiefs, sub-Chiefs and their people are to be in Kibbi on Friday evening. The reception on Saturday is more orderly and impressive than the *Odwira Reception*, since all the Chiefs had been

in the town the previous evening and had had to prepare for it.

On Sunday, before proceeding with any of the initial ceremonies of the celebration, the new debutant must test the fidelity and loyalty of his Chiefs and people. This is the day to swear the great Oath of Allegiance and Fealty.

The ceremonies commence in the morning. The Adontenhene, the first Chief after the Omanhene, steps in to swear the oath. He comes in his Palanquin, with his hosts before and after him. The Omanhene is seated on the round dais at Manyinase. The Adontenhene descends from his palanquin about 100 yards off, and coming in all his glory, power and dignity, he bends low, he unsandals his feet, uncovers his shoulders, doffs his coronet, and then, in the greatest state of humility, he puts the handle of his sceptre under the feet of the Omanhene. Here is the greatest testimony of true Paramountcy. The Omanhene according to custom has to step three times on the forehead and on the sceptre of the kneeling Chief with his sandalled foot, and the Chief will then get up and pronounce the formula of allegiance. Imagine the elaborate ceremony, picture for yourself the scene and its setting. Here in swearing with the sword raised in the front of the Omanhene the Chief does not point the narrow end, but rather the hilt or handle, of his Royal sceptre, towards the Omanhene. That is to say the right to hold and own the sceptre originates from the Paramount Stool.

And this is how he swears. After declaring his unswerving loyalty, submission, and allegiance, in terms of the greatest respect, he concludes by repeating the formula :—

*“ Me ka Ntankeseꝑ-mmiensa sē babiara a Okyenhene besoma me, sē mankō a, metō. Sē ofrē me awia anasē anadwo na miyi mani mihinta a (misuae a miyi oyareꝑ) Metō-,”*

meaning :—

“ I swear by the three great oaths, if I ever fail to go to any place the Okyenhene<sup>1</sup> shall send me, I violate the oaths. By day or by night, whenever I am summoned should I ever refuse to attend (literally, if I hide my face) I violate the oaths.”

(Of course, exception is made to sickness, and the Allegiant makes a point of that). At the conclusion, the Sovereign-lord thanks the Adontenhene, and then the next Chief in importance steps in the arena to swear. And so on with all the principal Chiefs. The sub-Chiefs (*Adikrofo*) need not

<sup>1</sup> Omanhene of *Akyem* Abuakwa (*Akyem-hene*).

take any oath ; their head Chiefs and Chiefs do it on behalf of themselves and for all of them. The Queen-Mother like any other Chief will swear the oath of Allegiance and Fealty.

After this the Ahenfo and all their people, all in their proper places with their respective retainers, file out, and by rapid succession of gun-fire and their clamorous excitement, display a living indication of their loyalty and attachment to their King and country.

Subsequently, there will be a short interval of rest ; the Omanhene withdraws from the heat, and dismisses the assembly, but the populace returns soon to witness the most impressive sight of all—the Omanhene taking his oath of office. First, every wing of the Army will be supplied with so many kegs of gunpowder to be fired when the Omanhene proceeds to and from the Sacred River.

A striking phenomenon precedes the taking of oath of office. All the Royal Stools wrapped in *Nsa* (Antique) cloths and carried under gorgeous State umbrellas, are, for the first occasion in a lifetime, taken to the Sacred River, for due consecration. The Omanhene appears in his palanquin and in full state. His dress is the same as on Odwira, except that on this occasion he wears the war accoutrement and the Awoso and Fodoo, hitherto borne in processions by the "Awoso Bearer". (q.v.).

On the Omanhene's return from the Sacred River Birrim he resumes the stately procession, and the scene is now well set for the Sovereign to swear his oath of office. Firing of guns is revived in full force and drumming competes with the booming of gun-fire for mastery of the occasion. After parading the streets and passing up and down the assembly of his Chiefs, in his palanquin, the Omanhene at last descends from his *apakan* and the next thing is to swear the oath to his Chiefs. Here it is interesting to note, that he has first to approach each one of his principal Chiefs and swear personally to him, but whereas a principal Chief swears with the reverse end of the sceptre the Omanhene holds his sceptre by the handle and he speaks with his sandals fully on, and his shoulders duly covered. After going the round of his principal Chiefs the Omanhene may then address the whole assembly before he fires the long expected gun-shot which serves as a seal to the act of swearing. Then, and not till then, a person ignorant of what sovereignty or monarchy means in our State system needs no other testimony. The enthusiasm of the people, the unrestrained excitement at the thought of the Omanhene firing a gun to seal their connexion with his sovereignty, and their eagerness to catch a

glimpse of their hero, their king, their god—these are moments that fill the next space of time with a medley of rejoicing, commotion, and rapturous expressions of unsophisticated loyalty. The whole spectacle has its perfection in the super-grand style in which the Omanhene—the Paramount Chief—the King, if you wish, fires the gun of sovereignty. Standing on his Dais in the presence of the greatest assemblage of his Chiefs and people, he addresses all the thirteen Chiefs and the Queen-Mother by name, and then sceptre in hand, the golden hilt firmly grasped in his right hand, and the narrow end pointed towards them, he speaks to his Chiefs and people—all the multitude standing. How calm is the moment; how effective his earnest and gentle majestic voice holds the great assembly in a hundred seconds of suspense. But at last he repeats a special formula and then, “boom . . . !” he fires the long, long expected shot. This finale is met with plauditory drumming, *feu de joie*, and the greatest acclamation conceivable. He is acclaimed by all as their lord, and king, now and for ever!

The ceremonies of the day are concluded by service in the Stool-House.

Monday celebrations on the Odwiratuo are the same as on the ordinary Odwira, i.e., the Drink or Dress Durbar is held, the Omanhene sitting on the golden stool and on the square dais.

On Tuesday there will be another ceremony by the Omanhene and his Chiefs. This time they do not meet to drink, or to shoot guns, or to swear big oaths. They meet to receive presents from the Omanhene. The thirteen Chiefs and the Queen-Mother are each given a velvet, silk or other valuable cloth; and each of the remaining sub-Chiefs (Adikrofo)—over 106 in all—are given a valuable cloth, now generally Manchester prints. These presents of cloths are treasured not so much for their monetary worth as for the great sentimental value attached to a present from the Omanhene on the occasion he swore the oath of office. Every Chief will take great care to see that the cloth is carefully preserved, for, on his death, it is of paramount importance that his body be covered with the Omanhene's present. It has to be taken to, and shown to the people (Kings, Chiefs and people) in Asaman (Hades) as a mark or evidence to them of his importance on this earth.

On the Odwiratuo the Abam celebration will be held and there will be a gun-shot by the side of the Sacred River during its consecration.

On the following Sunday, the Queen-Mother's celebration is the same as her celebration on Odwira, to be accompanied this time with firing of guns.

During this season, every Chief or sub-Chief who celebrates his yearly Festival, makes it grander than usual, and there must be firing of guns with the additional display of finery and distribution of presents to his sub-Chiefs and people.

On the Sunday following the first Kwasiadae after the Odwiratuo, comes the *celebration of "Bosomtwe"*, and on this occasion all the Bosomtwe Nkrafo (see "Division of Functions") will be in seclusion for a week. The Sannahene, the Odikro, of Adadientam and the Nkrafo are masters and servants of this most sacred and dignified order of Soul Worship and the Omanhene is Sovereign of the Order.

The principal features of this sanctification are almost the same as the Stool-house celebration except that here the gold breast plates (*Ekyere*) worn by the members of the Order, and also the sceptre "*Bosomtwe*" are placed together for consecration in place of stools. Another principal feature is the Royal Bath in the Sacred River. None but members of the Order may attend the Omanhene, and all of these have to enter the water after the Omanhene's bath, to purify and consecrate themselves.

The *Bosomptra Celebration* follows on the Wednesday falling after the last Sunday, and on this day instead of white cloth, black cloth will be used by members of the Order of Bosomptra. The details of the ceremonies, consecration, sanctification, and bathing, are the same as the Bosomtwe Soul ceremonies.

The Odwiratuo is celebrated every three years unless there is something to prevent the country embarking on a custom involving gaiety and splendour, when it will be postponed to another year, but the ordinary Odwira must be performed every year. In subsequent Odwiratuo after the first public manifestation, the Omanhene has not to take any oath of office, but any new Chief who had not taken his Public Oath of Allegiance must do so on any subsequent Odwira or Odwiratuo.

(6) *Banmukoro (Celebration in the Mausoleum).*

When the Stool celebrations are over, there remains another important ceremony. This is the ceremony of *inferiæ* in the Royal Mausoleum. It is a fixed day which falls due on the Thursday following the first Awakudae after the Odwira Day. This ceremony on the vaults of departed

kings and members of the Royal Family is held on a Thursday because that particular day is considered propitious for things produced by or consecrated to the earth. As Captain Rattray has shown, the God or Goddess of the earth is called "Asase Ya", or Goddess Earth, born on a Thursday.

On the preceding Tuesday the Odikro and people of Nkronso who are the keepers of the Royal Mausoleum, arrive at Kibbi with necessary materials to repair the wall or fence around the Mausoleum and generally to clean the place for the approaching ceremony. They finish their work on Wednesday.

Drumming of condolence and sympathy goes on all Wednesday, and during that night the Ntumpun Drummer must keep his post until daybreak.

On Thursday, just after noon, the Royal procession sets forth towards the Mausoleum. On his approach to the fence of the sacred enclosure, the Omanhene, who is dressed in a stuff of red and white mixture, descends from the palanquin, and in a state of the greatest humility, passes through the gate with unsandalled feet, uncovered shoulders, and bare head. But before the Omanhene and his retinue gain entrance, the overseer of the royal sepulchres (Adadentam) and the keeper of the Mausoleum (Nkronso) will be present, the latter receiving Asia and 2 pieces of cloth. All the drums and other paraphernalia are left outside the fence and none but the very select gain admittance to this super-sacred grove—this holy of holies. This grove is not entered on sandals.

The sheep for the inferiæ at Mausoleum have to be taken there alive; they are slaughtered there, their blood sprinkled on the sepulchres by way of libation, and the cooking of the meat is also done in the Mausoleum.

Banmu custom terminates the celebrated Odwira Festival, which takes more than two months to go through all its stages.

#### (7) *Wukudae (Wednesday Celebration).*

We now come to consider the other five festive days, two of which—the Awukudae and Kwasidae—are of importance.

The third Monday following Kwasidae (Sunday celebration) is called Dwoada Fodjuor. This day is used to reckon days in Akim Abuakwa, and there are no celebrations observed. Fodjuor is held a sacred and festive day to some other Akan nations. The second Wednesday following Fodjuor is Awukudae or Wednesday celebration. It falls

nine times during the year, being held on every fortieth day being a Wednesday.

On the Tuesday preceding it, there will be drumming to announce the approach of the day, and the drumming has to be resumed on Wednesday morning. This drumming on Aday morning is what is called "*Wo tu adae*". (Announcing the day's celebration). The Fontomfrom drums are not used. The Atumpan Drummer and the Drummers of the Single-air drums, and the Horners are those who observe this initial ceremony. There are set pieces of music to be played on this occasion, and we reproduce one of these interesting pieces:—

*" Wufri Kotoko,<sup>1</sup>*  
*Wie Kotoko,*  
*Wufri Kyebi.*  
*Bakwante Brempon ba Brempon ;<sup>2</sup>*  
*Sekyere Bonti Brempon ba Brempon ;*  
*Kokuroko :*  
*Ma wo homere so ! "*

which may mean in English:—

*" Thou who cometh from Kotoko,*  
*Thou who art traced to Kotoko ;*  
*Thou lord of Kyebi.*  
*Kingly son of Bakwante the king ;*  
*Kingly son of Sekyere Bonti the king :*  
*Oh, mighty one,*  
*Up-lift thyself ! " <sup>3</sup>*

When the Atumpan sound the last words, all the drummers and horners reply in a chorus. This is done three times, after which, in the forenoon, ceremonies are carried on in the Stool-House.

<sup>1</sup> Kotoko is a general term applicable to all the Akan tribes, and it is just probable that it was the original name borne by the Akan-Fanti-tribes before the disintegration. Asante is unto this day called Asantii Kotoko.

<sup>2</sup> *Brempon* originally meant "great man": *Banin* ("man"), *pon* ("great"), hence prince, duke, king. In these days an "Obrempon" is a foppish sort of self-made Chief, holding no position in our constitution, but respected for his wealth and influence.

<sup>3</sup> Literally the quotation means:—

You come from Kotoko,  
(You) Finish at Kotoko,  
You come from Kyebi ;  
Bakwante the great King's  
Son great King ;  
Sekyere Bonti the great  
King's son great King ;  
Mighty  
Lift up your true self.

As already pointed out, besides the observance of the fortieth day Wednesday, all ordinary Wednesdays are held sacred to the nation; no one should work or travel. The great national oath names Wukuda (Wednesday) and Kwanyako (name of a town) trace the occasion of their origin to this day.

Fofie falls on the second Friday following Awukudae. There are no Stool celebrations, but the day is kept sacred and no regular occupation is followed.

The Tuesday following this Friday is Kwabena, and the customary obsequies on this day are the same as on Fofie.

(8) *Kwasidae (Sunday Celebration).*

The Sunday following this Tuesday is Kwasidae (Sunday celebration). Ceremonies on this day are more elaborate than the Wednesday ceremonies. There will be the usual Drumming announcement on Saturday evening at sun-down. This Saturday is called Dapaa. On Sunday there will be the same Drumming as on Wukudae morning. (*Tu adae*).

In addition to service in the Stool-House, which is to-day more elaborate and prolonged, there is held an assembly or reception at Ofori Panin Fie (the Palace) by the Omanhene and his Chiefs and people. It is one of finery and splendour, and the drums are kept playing continuously.

The assembly is for the purpose of making money and drink presents to the Chiefs and people there and then assembled. It is a ceremony loved by most people, for at the assembly every notable stranger in the town who had not as yet had an audience of the Omanhene, would be duly introduced and "presented at Court". Drumming and dancing form a principal feature of this celebration. The Omanhene's dance to the State drums concludes the days' ceremonies.

The Kwasidae is held on every fortieth day Sunday; there are nine all through the year, and the ninth is the Odwira. There are nine white ancient stones strung on a string in the Stool-House by which the 40th day festivals are reckoned to the year. This national calendar is kept by the Chief Stool Carrier who is also, *ex officio*, Chief Stool Historian.

PART II

INSTITUTIONS AND CUSTOMS  
CONCERNING INDIVIDUALS

## CHAPTER VII

### MARRIAGE

THE marriage question has been the cause of much controversy among foreign and African writers on West African customs. The central point of dispute is whether there is really an element of sale in the marriage custom of the Akan people.

Without wishing here to take part in the controversy, we shall state at the outset that prospective brides—girls just a day old, or already above their teens, are not offered for sale or made chattels of as some investigators would have us believe. A man may take his wedding to-day and have the marriage dissolved in a week or two, and be none the worse off. In the following pages we intend to set out the custom as actually practised in Akim Abuakwa, but such comments as we make should not be taken as *ex cathedra* pronouncements.

Owing to the existence of multiplicity of wives in our institutions, the wife has to retain her maiden name throughout and it does not need to be changed for her husband's. An *Ohene's* (Chief's) wife, be the husband great or small, is never to be referred to as Queen or *Ohemma*. This latter term is a substantive title, given to the senior member of the female branch of a Royal Family.

A full consideration of the laws pertaining to marriage must, for the purposes of this chapter, be classified into 7 sub-heads, viz. :—

1. (a) Love and Courtship ; (b) Asiwa.
2. The giving-in-marriage ; head-money and dowry.
3. The Wedding.
4. The Married Life.
5. The Divorce. The Expenses.
6. *Hiregno* or Ceremony of Divorce.
7. Death of Husband or Wife.

#### 1. (a) *Love and Courtship*

The most elementary idea that the European forms on his first acquaintance with the forms and processes of our African marriages, is that love—as understood in European

countries—is rarely displayed in certain African marriages. In fact, it has been said that there is no love in West African marriages. Some writers even make the preposterous attempt to assert that the Akan language has no word for the general conception of "love". To the reader who has not succumbed to the whirlpool of twentieth century psychologism, as for instance that primitive languages have no single terms for abstract conceptions such as Truth (*Nokware*), Goodness (*Yieye*), or Beauty (*Ahoofe*), it seems sufficient to say that the greatest of all Books has been translated into the Akan language, and that the translators saw no necessity for borrowing foreign words or using long phrases to translate abstract conceptions in the Bible. As to the assertion that we have no word for *love* this common proverb "*Qoq ye Owu*", which means literally and word for word "Love is death", is I think sufficient to convince the partial inquirer that it was time he started with a clean slate.

It has been my special experience to notice in forensic cases and elsewhere, the very affectionate qualities which young men and women display in their love affairs. A young man will make love to a girl, giving her presents in money or its kind as an assurance of his love, and the girl will sometimes give return presents as a sympathetic assurance of her affection. Usually he meets with his sweetheart at different places and at the dances, but not very often in public for fear of scandal. The part of the young man in proving his love is usually to do her service in odd moments—such as relieving her of a burden or assisting her in time of trouble. The girl's part is also well played. The best exhibition of her love—when it is old enough to be made public—is to form songs in his name and sing them with praises when in the moonlit nights she and her comrades assemble to dance and sing in the ring. Soon the fact of her courtship would get abroad, and it would be the young man's lot to announce it to the girl's parents or guardians.

Money presents of a value recently regulated by law according to the position of the husband, are given to the parents and other near relations of the girl's family. The intended husband should also, as far as his means allow him, make occasional money presents to the mother or grandmother of his betrothed, otherwise the absence of such presents may be a ground for cancelling the betrothal, for it is a test of the husband's benevolence. This, though not enforced by law, is a custom with which the ardent lover never fails to comply.

(b) *Asiwa* (*Infant Betrothal*)

Another form of courtship—if I may so call it—is “*Asiwa*” or *Infant betrothal*. This had almost become the principal form of getting married until it was abolished, in 1918, by the Okyeman Council. It was simply a form of marriage in which a girl might upon, or some days after, her birth—whilst she was still a minor—be lawfully given in marriage by her father to his nephew, i.e., his sister's son, or to such relative or any person who may have done some service to the father or mother of the infant girl. But such person cannot be a member of the girl's clan. In this case, besides the usual “*Aseda*” (“*Thanks-money*”), the husband of the infant girl had to pay certain extra fees and to perform certain peculiar customs, such as tying a small nugget of gold on the infant girl's hand. The young man was to care for the girl in many ways, and was at least once every year to give her a present until the infant girl reached the age of puberty. The manner of celebration of the day on which the girl attains puberty largely depends upon the means of the husband. Consequently, if such a wife was, prior to her being properly wedded, committed into adultery, the adulterer had to pay an extra half amount of the lawful *Ayefare* ordinarily due to the injured husband. This money is called “*Twebon*”.<sup>1</sup> This was a procedure which brought many innocent young men into the unpleasant experience of being arraigned on trivial grounds as adulterers, and the Okyeman Council thought it wise to abolish the system. In its working order it clashed with certain modern ideas of social life. It also led to very ill-matched unions, which in many cases resulted in unhappiness in the married life.

Another form of “*Asiwa*” is called “*Abaso Kyekyere*” usually followed by a Chief or a rich man by laying hand on an infant girl as his future wife. The same rules apply in both cases.

2. *The giving-in Marriage : Head-money and Dowry*

When the lover has completely gained the heart of his fiancée, it falls upon him to introduce himself to the parents of the girl. This may be done by appearing personally or sending messengers with drinks, to make the announcement. When the parents' consent is given, she automatically becomes betrothed to him. There is no need for engagement rings or other superficial intimations of the deed. In course of time the husband, having previously obtained certain domestic necessities, would inform his parent or guardian of his

<sup>1</sup> That is, for having made her cease to be *virgo intacta*.

intention, and it devolves upon the father, uncle or other guardian, with whom he has been living, to send to the parents of the intended wife, for the purpose of "begging" them to give their daughter in marriage to his son or nephew, as the case may be.

We may here state in parenthesis that in many cases it happens that a father may voluntarily give his daughter away in marriage, sometimes against the protest of the girl, to any man, young or old, whom such father might fancy as deserving of his daughter. This practice, though not definitely abolished, is to-day growing archaic and going out of use.

In any event, the necessity arises for the parent or other guardian of the young man to send, or go, to the girl's parent, whose consent, when given, makes the marriage a lawful one. The parent's or guardian's consent is given in these words: "I present my daughter to your son in marriage." It is never "I sell my daughter, etc." Any person professing the least knowledge of our custom should know that under the Akan system of social life it could not be otherwise. As was said above, the intending husband sends to the girl's parents to "beg" them for their daughter to be his wife. His words to the marriage-messengers (*aware gyefo*) are these: "*Mesoma mo amā moakɔsre Asomasi ba Obenten amā m'aware.*" I send you to beg *Asomasi's* daughter *Obenten* for me to marry." He gives his messengers no more than 12s. *Aseda* or sanction-money, and when the presentation of the girl is made by her parents that money is paid over to the *Bagua* or witnesses present, the husband's own messengers retaining for their own use half (6s.) of this amount in their capacity as witnesses or *Baguafo*. The girl's uncle, i.e., her mother's brother, has to be informed before any grant of marriage is made of his niece, but his consent is not always necessary.

On the other hand, should the father or guardian of the girl refuse to give her in marriage, and signify his dissent thereto, the connexion should henceforth cease. If the wooer has no hope of attaining his desires by fair means he would be well advised to stop his wooing. It will be impossible to "elope" with the girl or to contract marriage under any circumstance whatsoever. He may continue his love but he must be sure that should there be any scandal, the issue of the illegal connexion will be "illegitimate"—not that the child would be disinherited, or in any way inconvenienced in its general progress in life, for illegitimacy of children is unknown in our institutions. The putative father, can, therefore, in course of time apply to his child's

uncle or other maternal relation for the presentation of the child to him. In this case, he will be required to pay certain fees, generally comprising the amount the baby's mother (i.e., the lover) and her parents must have expended on account of the birth and care of the child. The baby's uncle or grandparents will also be pacified by payment to them of a sum of money. This rule also applies to the case when with no object to marriage at all, an accidental issue springs from the connexion of a young man and a girl. We propose to deal fully with this question in another chapter.

If, however, the girl's parents or other guardians give their consent to the marriage then "Thanks Money", varying from 12s. to £2 8s. (always limited by law according to the position<sup>1</sup> of the husband), will have to be paid to the father or uncle making the presentation, and one must always be careful how much is paid this time, for the *ayefare*, or satisfaction money for adultery is calculated on the basis of this amount. If the man pays more than he is entitled to, the extra amount paid is valueless. If he pays less than he should it would react on the amount of his satisfaction money.

It is to be noted, however, that payment made when one held a lower position would not affect a claim for a higher amount of satisfaction money if in the interval there had been a rise in one's rank or position.

This payment of 12s. has just as equal legal value as the marriage ceremony in a church or under other conditions. When once paid, it renders the man paying and the woman in respect of whom it is paid to be recognized as properly and legally married.

After this payment of *Aseda* the father names an amount as the head-money of the girl. This varies from *Doma* (8s.) to *Predwan* (£8), or even more. The value is determined by the circumstances of the girl's marriage, not by her beauty or other feminine attractions.

What has been called "dowry" has very little comparison with head-money, which is paid not by the bride's parents as in dowry, but by the intending husband or his people. Head-money is usually paid to the father or uncle, but it is the latter who has to return it to the husband in case of divorce.

This head-money, which may in some cases, especially in cases of divorced women, be as high as £40, must be paid in full, else although the marriage itself is valid for all purposes, *Ayefare* or satisfaction money cannot be claimed in case of adultery. There are exceptions to this hard rule. If the

<sup>1</sup> Most decidedly not according to the rank of the woman.

parents or uncles name an amount as head-money, the husband is at liberty to ask for time to pay, during which period he may take the woman to his home as his properly-married wife. A time may be given—any length of time from three days to three years or more—and the marriage will be regarded as legal; but if after the period specified the amount had not been paid, the legal force of the marriage in case of adultery or divorce will not stand a test in the Tribunals. We must here remind ourselves again, that the payment of "Head-money" does not in any way take the form of purchase money. A girl's head-money is invariably fixed. No negotiation or bargaining is necessary. One does not measure his love or attachment to his bride by the smallness or largeness of the head-money paid. There are no bids for a girl's hand, where the highest bidder may have her to wed. It is purely a simple affair based upon the customary demand for payment of head-money. The applicant for a girl's hand pays the "Aseda" or "thanks-offering", and he is then told what the girl's head-money is. If he is unable to pay forthwith, he may be given time in which to pay, but the thought of the wife not being fully recognized as such will alone urge upon the husband the importance of having the head-money paid as early as possible.

Another aspect of the question is when the man is not called upon at all to pay head-money. In such cases the wife will be fully recognized as such in law. The fact is, in this case, the 12s. Aseda is alone sufficient to legalize the union.

In practice, it may be argued with point, that the head-money is a mere means of making money from young men intending marriage. But this is a mistaken assumption. The amount we have seen is returnable in case of divorce. Now, if one is marrying a member of a family not very well-off, one may be asked to pay head-money ranging from £10 to £20 or more. This amount may be used in paying a family debt. When this is the case a good clanswoman would not make herself the cause of any trouble to her family by leaving them in their debt when by staying in marriage she could get them out of hardship. She would therefore endeavour to keep her temper under control to prevent a possible rupture in her married life. The psychological effect of this on the character of women is obvious. Instances are not at all wanting in which an unruly wife, if she felt unduly the heavy masculine hand on her, would take courage and literally "throw her head-money over to her husband". That is, she would challenge the husband to divorce her.

There is one point which might still be taken by the foreigner as an indication of the sale and purchase of marriagable women. This is the fact that head-money bears a fixed amount of interest payable to the husband in addition to the principal head-money in case of divorce. But, be it observed, that the interest charged in this case is not calculated on the basis of ordinary loans. In Akim Abuakwa the interest on an ordinary loan is calculated at rates varying from 20 per cent to 50 per cent. On head-money the interest is £2 on every £10 (i.e., 20 per cent), and this amount does not increase with the increase of years. In my view, the fact of interest being paid on head-money seems to deny rather than affirm the theory of sale. The custom with regard to head-money and its interest is a peculiar one, almost exclusive to the Akan races of the Gold Coast. It is therefore not surprising that it has given cause for so much misunderstanding of the real nature of the marriage custom.

### 3. *The Wedding*

I do not know whether I am trespassing on propriety in the use of words by employing such social terms as "Betrothal", "Courtship," "Marriage," and the more pompous one "Wedding", in my description of Akan marriages contracted under customs so strange and different to English-speaking people. True it is that some form of social function takes place in the form of "wedding" before a bride crosses the threshold of a bridegroom. Of course there are no bridesmaids and there are no best men. But attendants who do not fall far short of the terms so-called are not wanting.

The Bridegroom, having gone through the formalities of "introduction", "begging", and "thanking", and paying of head-money, a day is fixed on which the bride is to be brought to the bridegroom. There are no church bells, and for that matter no gong-gong or drum-beating. The bridegroom calls his friends together to assist in the reception, and they then remain with him waiting for the coming of the bride. The female relatives of the bridegroom are then asked to bring in the bride. She is usually dressed in gold and valuable beads in readiness for the bridegroom's people. This is possible only when bride and bridegroom live in the same town. If they do not, she will be sent for in the same way, with the difference that travelling necessarily makes. In any event, she must appear in bridal dress before the bridegroom. When the bride and bridegroom live in the

same town, there are some customary functions of giving and taking, and then the lucky lady will be handed to the bridegroom's relatives. The mother does the giving-away ceremony. She sends her other female relatives to accompany her daughter. While some of the bridesmaids carry the wedding goods in boxes and highly-polished brass pans or enamelled basins, the others follow her in train, but no ostentatious display is generally made.

Among the women chosen to accompany the bride is invariably an old woman whose chief qualification is that she must have been very successful as a wife in her own married life. This successful wife will perform the ceremony of handing the bride to the bridegroom. The bride enters the house with her train under the guidance of this leading and successful wife. The latter presents the bride three times to the bridegroom who is seated on a chair, with many wishes and words of blessing for a successful marriage to the new couple. The old lady will be given customary presents for her services, and the marriage ceremony is then complete.

There is no kissing in our love affairs. Kissing is known, but only babies are kissed. In fact, one would be considered immodest if not rude, to kiss his love or bride. The habit of kissing, it must be admitted, is gradually growing among the young in the new social life.

A feast is generally held on the next day, the bride or her maids preparing the meal with a sheep or a fowl supplied by the husband.

The feast consists principally of "*Fufu*", the principal meal of the Akans. It is generally made of yam, coco-yam or plaintain boiled and pounded in wooden mortars. The bride gives this food to the bridegroom for distribution among their friends, neighbours and relatives. This may, perhaps, be called the wedding breakfast.

The bride and bridegroom enjoy the first week or perhaps the first month, as heartily and as jovially as their social standing permits. There is no time limit. But soon they must direct their attention to business, to the preparation of their farms, and there is no prolonged honeymoon for them.

It must here be added that if the bridegroom was already a married person, he must "pacify" each of his old wives with money to an extent regulated by law. The new wives must also "pacify" the old wives through the husband, otherwise there will be no end to perpetual "Koratwe" or wife-brawls actuated by jealousy.

#### 4. *The Married Life*

I make no attempt here to describe the many peculiarities inherent in married lives based on polygamy and succession by the maternal line. I am mainly concerned with describing what the first duties of husband and wife towards one another, and towards both their and their children's welfare, should be. From the foregoing it is clear that there is much in their connubial life that stands to compare with the married life in other countries.

The following is only a brief indication of what seems to me to be peculiar in an Akan marriage as compared to the institution in other countries.

Such is the state of a married couple that in many instances a wife may well guard against receiving any large presents in the form of clothing, etc., from her husband, or she might one day regret her action. This is so because, should there be a rupture, ending in divorce, all that the husband had since the payment of "Aseda" and during the time of their married life, given to the wife by way of presents, etc., must be returned to the husband. Even in cases where the wife is seeking for divorce without good cause shown or with a view to marrying another man in the immediate future, she has to pay for all the clothing which had become useless by wear and tear. Consequently, while husband and wife are living together, there may be constant dread on the part of the wife to make use of things given to her by her husband, else she may one day be divorced a bankrupt. If she is rich in her own right, the wife will prefer to dress in clothing bought with her own money, and she would not wait for her husband to provide her clothing.

The married life would appear to be a close union or social pact between man and woman; and married people in truth, are not regarded as two persons in one. Two, and perhaps only two, things are expected of a wife by her husband, viz., to bear and care for their children and to do all domestic and some of the farm work, and she must of course, maintain her fidelity unimpaired. From the purely legal point of view it seems true to say the union of man and woman under Akan marriage law is a "physical" and not a "spiritual" union, a contract, not a sacrament. Upon this principle only is polygamy turned into a practical business transaction. The interests of the husband, apart from their conjugal life, is no part of the wife's business. She has her own rights to look after. We revert to this subject again under the heading of Divorce.

Let us consider A and B as happily married and settled in their new home. Then, A, the husband's first thought after the wedding days are over, is to take the wife to his various farms and start farming with her in due season. The clearing of the farm land and the heavier farm-work are done by the husband, while the female partner follows with cultivating the soil with foodstuffs, etc. And it need be noted that it is always the wife's duty to go to the farm almost every day for the purpose of bringing foodstuff, firewood, etc., for their daily consumption. She is considered a most lazy wife who fails to keep her larder filled with food all the year round. The husband has to provide meat and fish, and if he cannot hunt or fish himself he must give money to his wife to buy these from the market. The habit is also growing for husbands to buy not only meat but foodstuffs also for the household; this is usually the case when there is not sufficient crop in the plantation or in case of famine.

In these days of economic farming the wife has to give due assistance to her partner in attending his cocoa and kola farms, or making new ones. The proceeds of the principal economic and food crops reaped from the farms belong to the husband, who may give presents to the wife to any high value, but the wife has prescriptive right to the green-crops, pepper plants, garden eggs, etc.

If, however, the wife would do some work for her own benefit, such as make cocoa farms, etc., on her own ancestral land, the husband has a right to half the property on divorce. So also if she trades. Should the husband, whether native or stranger, farm with her on the ancestral land of his wife, she would be entitled to half share of such a cocoa farm in case of divorce.

Further, should the wife be the fortunate finder of a treasure trove, the husband would be lawfully entitled to half the value of such trove, the one-third share due to the State being duly taken from the whole value. It therefore follows that if a wife incurs debts arising from or in connexion with her marriage the husband is liable to pay half of such debt. This does not include debts incurred by her on behalf, or in the interest of her own family or clan.

In domestic and household duties the wife's part is of course heavier; and where there are no near relatives to assist the wife in her house-keeping, it falls upon the husband to give full assistance. Before domestic slavery was abolished, it was the husband's lot to procure servants to assist his wife in the farm and housework, but now the absence of this harmless service has greatly doubled the woman's work,

for the system of engaging regular servants is unknown in the country, and in the present state of Akan social life it cannot be regarded as practicable. The husband's lot becomes heavier in case of his wife's confinement, for should he have no other wives, it would devolve upon him to perform the necessary domestic and household work.

If husband and wife go on a journey, it is the wife's part to carry the bag or trunk containing their necessaries, the husband relieving her occasionally when the luggage is found heavy for her. We should here state emphatically that, although much liberty is not given to our women-folk by way of permitting them to influence their husbands, or controlling their interests, it is clear that wives are not subjected to extreme and abject submission as prevails in some parts of the continent of Africa.

Above all, the first care of the wife is, naturally, to safeguard her honour and to strengthen the husband's belief in her fidelity. For this reason, there is always the right for the husband to call upon the wife at any time to "take fetish" before her relatives as to her fidelity and past conduct. The wife is bound to confess as much as she knows on pain of being killed or adversely acted on by the National or other Tribal Fetish which had been invoked. The best opportunity for knowing the truth from one's wife is considered to be the time of illness or of confinement. The doctor or fetish man is most likely to ascribe her illness or indisposition to some sin she had committed, and she must now confess and get cured, or Death, once so near, will not leave empty-handed!

The family life, however close, is not exclusive. There are the members of the community who are ever ready to render themselves useful to the poor and helpless. The communistic system provides sufficient succour for every isolated family, and, in fact, there is scarcely any one family who may be said to be isolated from its neighbours.<sup>1</sup>

<sup>1</sup> It is not uncommon to read in English newspapers of two or three families living in one house without knowing anything about one another besides perhaps their surnames; quite recently it was reported that when a woman failed to disclose the death of her aged brother with whom she was living in a flat, the other occupants in the house knew nothing of the brother's death, although he had been dead in bed for a period of one month. Here the penalty of extreme individualism is fully paid, and the poor lady wept and watched over the corpse of her brother for four weeks, and perhaps it would have turned fatal for herself had not the landlord called upon her for the rent of the flat. The Akan system of communal life prevents any such grim inhuman tragedy overtaking any family, however poor they may be.

We may add, by way of giving a glimpse of the intimate social life of the people, that in the system which governs society in Akan land, woman is considered far too delicate a being to mingle with the opposite sex in his elevated society. Women have their own and separate social gatherings and the men have their own. There are always two sides to every dance, the male's dance, and the female's. One need not be asked to a party with the obligation of inviting one's wife also.

In Akan social life one can truly say, with Plato, that "woman is not undeveloped man, but diverse".

### 5. *The Divorce, The Expense*

It cannot be exaggerated how easily and rapidly marriages may be dissolved with little trouble. Should a husband feel that he had been offended by the wife's conduct, he would summon her before friends for the settlement of differences. When her conduct continues to the inconvenience of the husband, a "palaver" is generally held, either before both the sureties to their marriage or before other influential friends, notably the head of the wife's family. The saying is "*Awaree gu nkuro*", i.e., every divorce is preceded by "palaver". Therefore the aggrieved party will have to state his or her case before responsible men. The arbitrators deliver their finding after hearing each party, and then an attempt is made to reconcile the couple. At this juncture there is no law to bind either husband or wife to the other consort. He or she may or may not take the representations of the arbitrators. If it is the husband who is pressing for divorce because of his wife's misconduct, the odds are that he would rather divorce and get his money to marry a better girl, than retain an unserviceable wife. If it is the wife who has applied for divorce, because of ill-treatment, there is not the least probability of her submitting again to the wild habits of an imprudent husband. The argument on either side is strong and heated. The Arbitrators give in. The divorce is pronounced. They need not go to the Chief's Court, except for some special reason one of them wishes to do so. Any court of self-constituted arbitrators can witness a divorce. The fact is, it lies within nobody's power to declare married partners divorced. It rests with the will of the partners alone. A Chief's Court may, however, enforce a divorce when some special personal bodily harm is being done or had already been done by a husband who refuses to grant divorce to his wife. It is always easy for a husband to divorce

his wife. There are minor difficulties in the way of a wife who applies for divorce, for she must satisfy her husband or her family, or the arbitrators, with at least one reason for her application. But on the whole it lies with the will of husband or of wife to say whether he or she will continue in the present married life. The saying is, "*Nea oda ne gya no onim senea ehyehye no,*" i.e., "He who is lying by the fire knows how much (or how little) the heat torments him."

When divorce is once pronounced, its execution is left entirely in the hands of the husband. First he presents his Bill of Expenses. The wife may also present a bill stating any money due to her by her husband. These bills, or rather the husband's bills, will be subjected to the examination of the arbitration, and then all unlawful items are excluded from the bill. It shall not be lawful, for instance, for the husband to claim any amount to whatever value if it was presented to the wife prior to the payment of *Aseda*, i.e., during the period of courtship, but the cost of a cloth or kerchief presented to one's wife ten, fifteen or twenty years ago would be lawfully claimable if the divorce is on her application; if the divorce is being voluntarily given by the husband, then he shall only have payment for those cloths, etc., which are still new; he shall also have nothing more than the actual head-money paid; i.e., it need not be doubled, and no interest can be claimed. The Bill of Expenses, when properly settled, will then be added to the head-money plus the interest (if any), and together the surety to the wife's marriage will be called upon to pay. Laws passed recently make it lawful to double a wife's head-money when a divorce had been literally forced from the husband. The only exception to this rule is when the husband is known to be impotent. In such a case, the bare head-money, without interest, must be paid.

The surety may be given time for the repayment of the husband's bill; any length of time may be given, and when it is the wife who is applying for divorce the condition is that the customary "white clay" which declares a woman as fully divorced shall not be sprinkled on her as a testimony of her having been so divorced, and although there would be a practical end to their married life, the wife would not be at liberty to contract another marriage or make love with another person, or she stands the risk of putting her new lover in jeopardy. The fact is, until the repayment of the head-money and other expenses is completed, the husband would have a right to claim satisfaction for adultery

against the adulterer if the semi-divorced wife was so committed. This may properly be called a separation or suspensive divorce, not a final dissolution.

But as soon as the husband's bill is settled, the wife comes to him early in the morning before witnesses, ready to receive the chalking of white clay. It is a taboo to breakfast before going for the chalking, and the husband should not, when bedecking her with the white clay, sprinkle her feet with it, for that also is tabooed.

#### 6. *Hireguo or Ceremony of Divorce*

Before the white clay is given as directed above, the wife must have taken the national or a family fetish, swearing as to her past fidelity towards her husband; and for fear of being adversely acted on by the fetish she should now mention the name of every person who had had carnal knowledge of her during her married life. This custom is termed "*Wiakyere*", or "exposing" to the sun, i.e., bringing hidden facts to light. We may here state that it is in the interests of the husband giving divorce, to let his wife swear now, and it would also benefit the out-going wife to confess everything at this time. We are discussing the conclusions deducible from these statements under the heading "*Ayefare*".

The wife stands the further risk of losing any prospective lover she might privately have, for the husband, whether there is any known reason or no, is perfectly right to prohibit the out-going wife from getting married to any specific person, and she may even be prohibited to mention the name of, or have anything to do with, any particular person or persons. The wife is prohibited under pain of being adversely acted on by fetish and on penalty of the National Oath.

The expenses in connexion with the divorce, added to the original head-money, become another head-money which a new husband may be called upon to pay. This process is, however, adopted only in extreme circumstances, and however poor a family may be, care is always taken to see that a member of their family is left happy in her married life. So that in most cases the expenses are paid by the head of the divorced wife's family as ordinary debt, whilst the head-money remains the same. In several instances, it is not infrequent to see a family rallying to share for payment the expenses so incurred just to relieve them or their family from the consciousness of having among them a woman who is heavily loaded with head-money.

A careful reading of decided cases shows at once that

this question of head-money is no trivial one. But the chief point to remember is that whilst the payment of "Aseda" alone, in the absence of any named amount of head-money is sufficient to make a woman one's proper wife, the non-payment of the head-money, however small the amount, despite any larger sum one must have spent on one's wife at or before the wedding, disqualifies the marriage for full legal recognition.

With regard to expenses, it must be borne in mind that the wife is at liberty to deduct any debt owing to her by the husband from the husband's bill, and—but this is very rare—anything or its value which the wife may have given to the husband in the form of presents, etc., must also be claimed by the wife, for the saying is: "*Obi nnko obi abusua mu nnkobo dwetiri.*" "One does not go into another's family to accumulate wealth."

It is likewise a prevailing custom to claim from the wife as a part of the expense any amount that may have been spent by the husband at the funeral custom of any of the wife's relatives by way of condolence-money (Nsewabodee), etc. Sometimes there may be presents which had been given to the wife's relations on her behalf or by virtue of being married to a member of the family. These presents are often returnable to the husband.

We may add that not only does the law provide for deserted wives, but it explicitly limits the time for reasonable desertion. "If," says the Law Record, "a wife is deserted by her husband for a continued period of two years, she shall be at liberty to approach the relatives of her husband and demand a divorce." The head-money is in this case not doubled, nor is the interest thereon payable. If there are any financial matters to go through, they would be reserved to await the husband's arrival. The husband's family may give her fetish to swear as to her fidelity, and may prohibit her, in the ordinary way, of any persons they wish. Whether the wife was or was not married on her husband's arrival, he would not be prejudiced to go into accounts with her.

### 7. *Death of Husband or Wife*

Much has already been said about the married life of the husband and his wife, and it now remains to indicate as far as possible the relative position of husband or wife on the death of one of them.

From the relationship shown to exist between husband and wife it goes without saying that any expense incurred

by the husband towards the sickness of his wife, must be divided into two between him and the wife or her family, but if the wife actually dies of the illness the husband alone bears the cost of doctors' bills. Whenever the wife becomes ill as a result of infidelity, her relatives are bound to pay half the cost of sickness expenses incurred by the husband.

Whenever any serious illness befalls the wife, it is for the husband to keep her relatives informed of the occurrence, in order that in case of her death they might not have any reason to accuse him of having hastened the wife's death. The husband is fortunate if in such a case he escapes unsuspected of having caused her death.

The funeral expenses of the dead wife are, of course, payable by the family. The fact is, the husband performs a separate funeral custom apart from that of the dead wife's relatives. Whatever he might spend, he only has to name the value to the relatives on the day of reckoning the "*Ayiaseka*" or funeral expenses, but such amount is not to be claimed from them. And the family claims nothing from the husband. But he provides the coffin, for if he had provided shelter for his wife during her life-time, it is only fair for him to provide her another in after-life.

The head-money and other expenses which are claimable on divorce, are not, of course, repayable by the wife's family or by anyone else when the wife had died during her married life. Certain sub-divisions, until recently, retained a custom which was exactly the opposite to this, perhaps as the survival of an old usage, but since the Okyeman Council brought all the various marriage laws under one recognized system, such obsolete systems are not recognized as legal or proper.

The successor to the property of the deceased wife is not commonly one of her own female children. It may be one of her sisters or other female relatives. As a husband, you are not concerned as to who inherits your wife's property. If she owned anything now in your possession, if you are in debt to your wife, if there are any farms in which she had any share, mention of them should be made, and those due to her paid to the members of your wife's family, taking care, of course, not to prejudice your own interests. If the husband is a squatter and has been staying in his wife's house, he will probably have to quit for good; his children can, however, stay with him and remain in his service. See chapter IX for a detailed account of the customary usage concerning children.

The custom appertaining to the habit of husband or wife

at the death of one or the other, is dealt with under Funeral Customs, in Chapter XII. It only remains to show the relative position of the wife after the death of her husband.

The wife has no share in the payment of the funeral expenses of her husband. She had to act as a nurse only when her husband was sick, the party bearing the sickness expenses or other incidentals thereto being her husband's relatives; it is they who have to shoulder the responsibility for the proper burial of a dead husband. Of course, as a wife, your relatives have to condole with the bereaved family in their loss, but beyond that nobody cares. It is solely a matter for the husband's relatives to manage. The wife's only trouble may be found in the manner she is expected to keep up the funeral ceremony and observe multifarious obsequies in connexion with her late husband's funeral. It is the children's share to provide a good coffin for their deceased father, while their mother perpetuates his memory by wearing the perennial widow's weeds.

After the funeral the wife is not yet a free widow; as a matter of fact she is not strictly a wife-without-living husband. The successor to her late husband's title or property has a legal right to regard her as his, the successor's wife. There is a custom to be performed before the successor can take her in to wife. He has to present her with a cloth, a head-kerchief, an undergarment, money to the value of *Ntakuommiensa* (1s. 6d.); this to be done in the presence of witnesses, mainly members of her clan or family. The effect of this, when accepted, is to persuade the widow to abandon the *Kunadoso*, the customary relics of her late husband, which all widows are expected to wear during the period of the funeral rites.

It lies within the successor's power to take the widow to wife personally or to give her away in marriage to a member of her late husband's family. But if the widow chooses to apply for divorce, she is free to do so. The divorce procedure in this case is as if the original husband was alive.

There are a few cases in which a good wife, owing to the high respect she held her husband, would refuse either to become married to her husband's successor—who possibly was the husband's nephew known to her since his boyhood—or to accept the alternative of divorce. Her contention in this case is that she prefers to remain the widow of her "good old man". In such a case, the successor has to respect her as his uncle's wife, provide her with certain necessaries of life and give her access to her old foodstuff farms on the

husband's land, and there must also be given to the faithful old widow occasional money presents. This exception to the general rule of "divorce or marriage" for widows is only really practicable in the case of rich men, and especially Chiefs and *Abrempon* (notables). A widow who thus keeps faith to the memory of her husband, would on her death, receive exceptional burial honours.

## CHAPTER VIII

### AYEFARE (SATISFACTION FOR ADULTERY)

THE reader who may have come across the term *Ayefare* in the last preceding chapter perhaps for the first time, must have been struck with the importance attached to its signification, and not the less so by the suavity with which it was there approached. To satisfy the curiosity thus aroused as to why our institutions in many cases give precedence to cases of Ayefare, it is proposed in the following paragraphs to set out the pros and cons which go to make this particular custom (called *Byabbu* by the Fantis), an institution of no little importance.

Whatever we may have to say on this subject, it seems safe to say at the outset that we have no intention of challenging the propriety of retaining the Ayefare custom under our present system of marriage. Speaking personally, the writer's antagonism to the practice is only aroused when an attempt is made by some of our fortunate brethren who have availed themselves of the European system of marriage to under-rate the facilities given to them by that respectable form of marriage, when, in their less guided moments, they claim the right to enjoy benefits under our native form of compensating an injured or wronged husband. It would seem that husbands married in the European way and who resort to the African remedy, lay claim to this right in apparent ignorance of the provision in the Gold Coast Ordinance which quite clearly debars them from taking advantage of the aboriginal observances in respect of cases of adultery. The Supreme Court Ordinance, Chapter VII, says in its section 19:—

"No party shall be entitled to claim the benefit of any local law, or custom, if it shall appear either from express contract or from the nature of the transactions out of which any suit or question may have arisen, that such party agree that, his obligations in connexion with such transactions should be regulated exclusively by English law; and in cases where no express rule is applicable to any matter in controversy the Court shall be governed by the principles of justice, equity, and good conscience."

(1) *The Akan-Fanti Customs*

The procedure for claiming satisfaction for adultery committed with one's wife as obtaining in Akim Abuakwa, is a little different from that in Fanti-land, at least, this appears to be so from the treatment given to that branch of our institutions in the memorable work of the Honourable John Mensah Sarbah. Perhaps their long intimacy with European modes of enforcing satisfaction (if any) has rendered it necessary for the Fantis to compromise most of the customs appertaining to Ayefare. Let us instance in one or two cases only, to illustrate some unexpected differences between the Fanti and the Akim practice.

"Where a married woman is seduced," says Sarbah on page 48 of the "Fanti Customary Laws", "her seducer is bound to pay to the husband as damages a fine or penalty called Brabbu, which is for the pacification of the injured husband, and is not less than the value of *consawment* dowry<sup>1</sup> and all the marriage expenses." We take leave to say that such a claim would not succeed in any Akim Abuakwa Tribunal. It has no precedence in that State either before or after the passing of the Native Jurisdiction Ordinances of 1883 (as amended 1910), nor does any custom admit it. In our custom there is a fixed amount of money payable for seducing another man's wife, i.e. depriving a person of his wife to make her one's lawful wife. If, for instance, Kwaku, whose fixed ayefare fee is £4 16s., had his wife seduced by Kwadjo, the amount of damages that Kwaku has to claim is £8 16s., a double of the principal amount of ayefare. (The 16s. which is called Nteho or Nterakyire "sanction fee"—and which is an appendage to £4 as much as 1s. is an appendage to a guinea—is not doubled.) The fine payable to the Paramount Chief for seducing another man's wife—whether the case was taken to Tribunal or not—is £12, i.e. twice as much as for violation of an ordinary oath. It is patent, therefore, that the *consawment* dowry or head-money and the expenses, need not be paid by the seducer. These are repayable by the wife's parents to the husband now divorcing his wife on account of the seduction, but the parents may have to reclaim the head-money, but not the expenses, from the seducer before the validation of the marriage. We may add here by way of parenthesis that if the wife's family choose to let the new husband pay the expenses, they may do so by adding it to the old head-money, thus making the wife's

<sup>1</sup> We have called this "head-money" (*tira-sika*) in Chapter VII.

head-money heavier than before. But this practice is rarely followed.

"If the marriage is continued," adds Sarbah in the same page, "only a pacification fine can be claimed, the amount of which is fixed according to the social standing of the injured husband, guided by the general character of the seduced woman." As to the first part of the excerpt, we agree with Mr. Sarbah, except that we would substitute for the words *social* standing of the injured husband *civic* position in the municipal and judicial institutions of the country. E.g. there are two persons in Tribunal, Quarshie and Kwesie, each claiming satisfaction money for adultery committed on his wife. Quarshie is a prominent merchant, wealthy and prosperous; Kwesie is a young Ahenkwa (Court Officer) in a Chief's Tribunal and his occupation, which is not always very paying and which does not require him to attend the Tribunal on all days of the week had, on several occasions, obliged him to seek for odd jobs in Quarshie's establishment, where he had been rather liberally recompensed. Kwesie, the Court Officer, might be a permanent paid employee of Quarshie, yet this social distinction goes no farther. At the Tribunal Kwesie obtains judgment for £4 16s. with a sheep in addition; Quarshie, on the other hand, though on a higher social standing than Kwesie, yet because he holds no civic or judicial post in the country, is awarded a satisfaction-money of £3 12s., i.e. the lowest satisfaction payable to any native of the Division. Herein lies a basic distinction in our State system of government.

But the question for us is, how can the payment of compensation to a wronged husband be "guided by the general character of the seduced woman?" We acknowledge the force of the proposition, but we are not ashamed to own that Akim Abuakwa laws make no such liberal allowance; for, except it be proved that the woman had acted not as a wife, but as a whore by lewdly prostituting herself with a great number of persons of the other sex, in which case no application for compensation or satisfaction would be entertained by the Tribunals, the husband looks upon the fornicator to satisfy him in the fixed amount of Ayefare provided by law, no matter what the "general character" of his wife is.

### (2) *What is Ayefare?*

We believe we are doing justice to many of our readers by attempting to define this term, although we do not at all

pretend to present them with a definition in logic. We have already dealt with many aspects of this subject in some paragraphs above, and it seems sufficient now to say that Ayefare is an amount of money fixed by law and payable by a person taking another's wife to the husband so wronged.

There are about five grounds<sup>1</sup> on which Ayefare may be claimed, even if actual carnal connexion had not manifestly taken place between male and female.

### (3) "Wiakyere" (*Confession of Adultery*)

Before a husband could know that *Asiamasi* or *Obenten* (this or that person) has committed adultery with his wife he must first ascertain the fact from his wife. The most safe process is to hand her over to her relatives with an injunction that they ask her to swear in the name of the National Fetish as to her fidelity towards the husband. You will not be right to specify persons about whom she should swear. If after she had "taken fetish" and confessed, you had reason to suspect that she had suppressed any names or failed to tell you all the truth, it lies within your right to press for a full confession and perhaps you may then go to extremes and question her as to her conduct with specified persons. But you must be sure that you have grounds for your speculation. You must not at all use any unlawful inducements or employ obnoxious medicines or charms to procure confession.

After she had fully confessed and sworn as to her fidelity, your uncle or parent or other guardian should be informed, and he would then send to the adulterer's father or the person *in loco parentis*, for him to satisfy you the fixed compensation that is legally due for the adultery committed by his son on your wife. The parent has to consult his son before taking any action. If the son admits adultery the *Nteho* or *Ntarekyire* must be paid forthwith, and a time limit given for payment of the principal amount of satisfaction. The *Nteho* is shared by the *Bagua* or Arbitrators assembled for the affair by way of testimony, half going to those on your part and the other half to those on the part of the offender.

<sup>1</sup> (1) Actual connexion with penetration; (2) sleeping on the same bed with intentional contact of their respective persons; (3) exuding semen on any part of her body; (4) undue handling of her waistbeads; (5) Unfastening her shame-cloth from the waist-beads. Or, in the vernacular: (1) *Obarima no pe ohea no pe pa*; (2) *One no da ketg koro so de ne barima si nano so*; (3) *Ne hō ba gu no so*; (4) *Ososo nasenem-deg mu basabasa*; (5) *Otu nano so*.

If the son denies having committed the offence, he must state on oath to the messengers of the aggrieved husband *all* that he knows sexually of the wife. Here we feel we must strike a warning note to the weak and cowardly young man who might be tempted to suppress nocturnal acts in broad daylight. Any of the five points suppressed this time, be it even accidentally committed during his intercourse with the wife, would be a sufficient ground for the Tribunal to find him fully liable in case the injured husband, knowing that the adulterer had suppressed facts, had replied to the oath and taken the accused to Tribunal. This unfortunate piece of denial is called "Nsankyee" or "rigid denial". If, on the other hand, in denying actual adultery with the woman the accused had confessed as much as the wife had done, and supposing that his knowledge of the wife did not amount to an offence making him liable to a full claim of satisfaction, there would be no necessity for the husband to reply to the oath, and the accused would accordingly obtain judgment and be made to pay the Nteho or testimony fee and nothing more. This is to show that he had been made free of the husband's accusation of having actually committed adultery with his wife. It is necessary to state that the husband was not in any way wrong, if, for instance, he had directly accused any one of actual adultery, whereas in reality his wife had confessed something less serious than that. It must be known also that in most cases the evidence of the wife would be considered sufficient proof of the accused having had wrongful intercourse with her, if, before a Tribunal, he is unable to adduce conclusive evidence to disprove her allegations. Remember the saying, "*Oba na oka nokware*" (Woman speaks the truth) and rely less on the opposite retort, "*Obarima na oka nokware*" (Man speaks the truth). You must be sure that at any rate without the slightest intercourse having previously taken place, a creditable woman would not take fetish to accuse a veritably innocent person. We have a wide experience on this point in our long connexion with the Tribunal.

It would have been thought that rather than allow her to give evidence as a witness on behalf of her husband the wife who accuses a person with an offence should be made a principal party in an action for or in a defence against a charge of adultery. The custom, however, is plain on the point and the husband being the real person wronged—for in fact, the fidelity of his wife is exclusively his own concern—it stands to reason that he and not the woman must seek

redress at law. Nevertheless, if the person charged succeeds in disproving the evidence (or *Kwadubo*) of the wife, he would be awarded damages against the wife (or her husband, if he had chosen to stand for her).

It sometimes happens that the wife may be asked to swear as to her fidelity without referring her to her relations ; in such a case no step towards the recovery of satisfaction must be taken until the relatives of the wife have been informed of her confession. This is necessary, because should it turn out that the wife had made a false " wiakyere ", her relatives who had been informed of the accusation would be held liable to the persons falsely accused for the costs involved. If, on the other hand, the husband hands the wife over to her relatives for the necessary confession, custom demands that he give the wife a present in money before the actual confession. It is unlawful to let a wife take fetish whilst in bed, and whenever possible, she must swear to her husband or to anyone on his behalf, always in daylight and before witnesses. If a wife refuses to swear as to her fidelity, some reasonable amount of force may be used, or she may be taken to Tribunal.

A word or two concerning the wife seems necessary. It not infrequently happens that a wife might, for reasons best known to herself, suppress the names of one or two persons, especially at time of divorce, when taking oath as to her fidelity, etc. In such a case, if ever the husband—even long after divorce—happens to learn that somebody had committed adultery with her during the period she was married to him, the offender would not be legally liable to the ayefare, and the ex-wife or her relatives would be liable to pay the ayefare money to the ex-husband.

But if a husband, for one reason or another, had omitted to give oath or fetish to his wife, and the wife had after divorce confessed of her own free-will or through the influence of a fetish, etc., that *Asiamasi* or *Obenten* had committed an offence with her whilst married, the offender would not be right to contend that as his name was not mentioned upon oath at time of divorce, he could claim immunity from payment of satisfaction. In a case like this, the husband is perfectly justified to claim satisfaction from the offender.

If in another case a wife would be so unfortunate as to have sexual intercourse with a stranger (i.e. a non-native of the State) and had failed to mention such person's name to her husband at a time he could easily have laid hands upon

him, the wife's family is liable to satisfy the husband in the full amount due to him. This course is usually taken when the wife could not say where her lover was, or when the present residence of the lover is beyond the jurisdiction of the Tribunal. So also if a wife failed to confess the adulterer's name to her husband and the former died, the relatives of the wife are liable. It is thus clear that the offence is purely personal, and has no effect on a person's estate or office of honour.

We have also to say that the case of a woman under pregnancy being committed into adultery is a serious affair. So also if one put a married woman under pregnancy. In each case the offender is liable to pay the ayefare plus 50 per cent of the value; this money is called "*adwantwadee*" (i.e. sheep money).

Again, if a young man still keeps sexual intercourse with a married woman, in respect of whom he had previously paid the usual satisfaction money for adultery, the husband would be entitled on this second occasion to claim satisfaction from the offender twice as much as he had claimed before.

In all these cases, any presents in money, clothing, etc., that a woman might have received from her lover, are all repayable to the husband, and in confessing the names of her lovers, she is bound in law to mention the money value of as much as they had given her.

Before we close this section we feel we must emphasize that the five points upon which ayefare is claimable apply to only cases of ordinary persons. When any person comes to have criminal conversation with the wife of a chief or aristocrat, he must remember his offence is a crime next to murder, and, in fact, in historical times, both the adulterer and the adulteress were put to death, besides subjecting their respective families to very heavy penalties, which in most cases sent the whole members thereof to perpetual slavery. Even now that our Chiefs have been thrown on a pittance of exhausted resources for penalties, there are still other forms of punishment which are, in the modern way of viewing things, as heavy as the offence sufficiently warrants. The offender may indeed congratulate himself as fortunate if, rather than being sent into exile for ever—and that perhaps with the members of his family, in addition to having his estates confiscated to the Stool, he is only made to pay fines and slaughter six or eight sheep. We readily admit that there are different degrees of punishment when a Chief's wife is committed, graded according to the relative position

of the injured husband. The punishment here stated is the most extreme form. We may say that the same measure of submissive reverence that is accorded to women in Moslem harems, is exactly a counterpart of the honour and venerable courtesies which must be and are held out to an Akan Maam.<sup>1</sup>

#### 4. *Asommo (Seduction)*

Beyond the fact that "Asommo" is the custom by means of which a person *seducing* another's wife, is made to pay double fees and fines, in respect of the wife taken away or divorced from the former husband, we do not see that there are any differences in the procedure in regard to Asommo and in that for claiming *ayefare* or satisfaction for simple adultery.

To Englishmen and other persons accustomed to view marriage as a sacrament rather than a social contract the fact of striking significance in the Akan conception of marriage relation is that which renders it tolerable for wife and husband to live together in apparent happiness even after the female consort had publicly confessed that she had committed an offence with two, three, or more men. This, however, is a fact in Akan social life, and the husband who claims and receives satisfaction money for the adultery of his wife does not as a rule cease to call his wife as wife or pretend to believe that his love for her should cease to be what it is. On the contrary, particular instances that have come to knowledge would seem to show that if the husband chose to share connubial life with her again he would accept from the wife the customary payment of a small amount of pacification money, and, having forgiven her, re-instate her in her former position as his affectionate wife.

If anyone with knowledge of our customs disputes this statement as representing the general and common usage, the onus rests upon him of finding an answer to the question whether even to-day in Akanland there are not many happy couples, the female partners of which had, on more than one occasion, confessed misconduct with other men.

The above statement should not be taken to warrant the usual inference that the sexual morality of many African tribes is most generally of a low standard. We have already mentioned that the habit of kissing a loved one either on

<sup>1</sup> *Maam* really means the portion of a Chief's house allotted to females, i.e. the Chief's wives and their female attendants (including in the olden times, castrated males).

the hand or on the lips is unknown among the Akan people. This fact, together with the fact that in addition to actual carnal knowledge there are four or five other grounds on which *ayefare* may be claimed, ought to afford psychological grounds for acquitting the common and communal Akan life of the charge of inordinate or promiscuous expression of the sexual instinct. And it is useless or unnecessary to speak of the sublimation of the sex attraction in a society where payment of a nominal and fixed fine is deemed sufficient atonement for a violation of the sacredness of married life.

It seems to follow also from the Akan social arrangement that professional prostitution among their womenfolk should be, and is, in fact, altogether unknown; not that it is tabooed, but, simply, the need for the evil does not arise. Prostitution is often a concomitant of monogamy, rarely of polygamy.

There are now only three grounds upon which a husband can claim the benefit of the *Asommo* custom. The hitherto clap-trap rules, whereby the slightest previous connexion with another's wife in whatever way or form made one liable to satisfy the claims of the husband if one at any time thereafter married the ex-wife in her unmarried divorced state, have been at last abolished to the satisfaction of all concerned. E.g., formerly, if you had been one of the *Baguafo* or *Arbitrators* when a husband was having a "palaver" with his wife, which "palaver" had ended in divorce, you had rendered yourself liable to the penalty of *Asommo* if you afterwards married the ex-wife.

We will here interpret the 3 rules as found in the Law Records:—

A. If a man is prohibited of another's wife during marriage or at time of divorce, and the prohibited person marry the woman any time thereafter, he shall have committed an act of seduction.

B. If a man had paid *ayefare* in respect of another's wife during marriage, but was not expressly prohibited during marriage or at time of divorce, and he marry the woman any time thereafter, he shall have committed an act of seduction.

C. If a man had been once questioned about his conduct with another's wife, and he denied any sexual knowledge of her or had admitted any sexual affinity so trivial (whether on oath or otherwise), and he subsequently marry the woman, whether he had been expressly prohibited or not, he shall have committed an act of seduction.

The process of prohibiting a person against a wife is rather

a peculiar one, which merits explanation. Here Kwaku suspects that *Asiamasi* or *Obenten* is in love with his wife, which has perhaps induced her to apply for divorce. In prohibiting the wife of her lover, the words usually used by Kwaku, the husband, are something to this effect:—"If from to-day you mention the name of, or speak with, or receive presents from, or have any intercourse with *Asiamasi* or *Obenten*, may the national fetish kill you and may you be arraigned for violating the National Oath." These words are addressed to the wife, and the same words are used in prohibition in married days or at time of divorce. The wife has no right to contend against anything in this sort of prohibition.

But if it should appear that some person the husband desires to prohibit from having anything to do with his wife had been once a husband of the woman, or had in any way lived with her before, possessing children by her, the prohibition must be simply to penalize wife and lover on getting married. They may speak to each other, receive presents from one another, and keep all and every intercourse other than sexual.

Further, should the person against whom a husband intends to prohibit his wife be a public servant such as a Fetish priest whereby it may be necessary for the one to consult the other in regard to matters of importance, the husband must content himself with prohibiting his wife on oath only without adding fetish, and the wife and the prohibited person may on account of their indispensability to one another, keep all and every intercourse, other than sexual.

Again, if a wife has some aristocratic connexions, owing to which she cannot be ordinarily put into fetish, the husband will only be justified in prohibiting her on oath.

It should be noted that the law does not permit a husband to prohibit his wife against more than two persons at time of divorce. If a prohibited person has good reason to believe that he had been prohibited out of sheer enmity, and that there was no ground for supposing that he had any sexual intentions towards the woman, he has a remedy in law. A husband having failed to obtain children with a present or a former wife—because of his impotence—cannot claim to exercise the prerogative of prohibiting a person from marrying his out-going wife. The law looking on marriage as a principal means of increasing population, such impotent persons are practically denied most of the privileges enjoyable by their more favoured brethren. An impotent cannot,

for instance, double his wife's head-money, or claim interest thereon, nor must he claim the value of any presents he had given to his wife except for such clothing which, at time of divorce, is still in good wearing condition.

"Questioning" a person with regard to one's wife is not new to our readers, but a fuller explanation seems to be required. If a man is asked to pay ayefare in respect of criminal intercourse with another's wife and he is acquitted of the claim, whether he admitted or denied the charge, he renders himself liable under rule C if he ever afterwards married the woman. The mere fact of his having sworn or not sworn oath on the occasion would be no excuse for the present obligation.

The following is an interesting case determined by the Omanhene's Tribunal about the time this chapter was being written. Kwaku Adae in June, 1918, had Kofi Tano arraigned at the Tribunal for having had criminal intercourse with his wife. The claim was for ayefare of £4 16s. Adae, unfortunately, had not paid the head-money of £1 named to him by the relatives of his wife at the time of marriage, and, although Tano admitted having slept on one bed with the wife, perhaps by accident, the Tribunal found that the complainant was not, in law, entitled to the claim. In September, 1921, Tano married the woman. Adae, who had failed to establish that the woman was his wife, now lodges a complaint with the Tribunal to the effect that at least the accused Tano by marrying the woman had rendered himself liable to an oath fine, if not to Asommo fees. *Held*, that the accused could in no way be mulcted in a penalty despite the fact that he had been previously questioned about the woman, and had admitted on oath that he had had criminal intercourse with her. The case at once decides two questions, viz. (1) the non-payment of head-money acts as a legal bar to a claim for satisfaction for adultery in respect of the wife; (2) the swearing of oath at time of questioning gives no immunity from subsequent liabilities. The second complaint in this case was decided by a Tribunal consisting of the Kibbi Council and the Okyeman Council, and there is no likelihood of its being reversed.

#### (5) *How the Penalties are Met*

Despite the fact that in prohibiting persons against marriage with a wife, the law permits only swearing of oath and invocation of fetish on the wife, the onus of having the

penalties met rests solely on the ex-wife's lover. If the husband has guessed correctly that his wife is in love with a particular person whom he had prohibited, such particular young man who now desires to marry the woman, must approach her relatives with a view to obtaining the usual formal consent to the marriage. If the wooer receives an affirmative reply, he must then approach the Chief of the town and acquaint him with his intention to "seduce" the woman. The ex-husband will then be informed, and the wooer will have to pay to him double of the ayefare fee ordinarily due, and he will also pay the penalty of *Tasuanu* £12 (this is an invariable amount fixed by law), in respect of the oath. A sheep will then be slaughtered to revert the curse of the Fetish sworn on the wife. This concludes the ceremony of *Asommo*, for when once the blood of the sheep falls on the ground to appease the fury of the fetish, the wife is free to mention the name of, or receive presents from the lover, as if no fetish curse had been called on her. After the ceremony the prospective husband has to approach his wife's family in the ordinary way to pay the "Aseda" and "Head-money" without which the high figures he had paid to the ex-husband and to the Chief could not alone make the woman his wife. If after paying say £8 16s. and £12 for *Asommo* fees, the seducer is asked to pay say £10 as head-money with 16s. as *Aseda*, he will find that—with a sheep at 20s. or 30s.—he had had to pay something in the neighbourhood of £33, besides other wedding presents that he might have to give to the wife.

If the family refuse to give their consent to the marriage, suppose the seducer had not consulted them before paying the fees and fines of seduction, the woman would not be regarded as a wife, and until a proper customary marriage is granted by the family, all the money paid would be as nought. If on the other hand, the intending husband keeps any sexual intercourse with the woman but makes no offer for legal marriage, he is liable to pay the simple ayefare only. The oath fine in this respect is also the ordinary, i.e. £6. But if the person prohibited had previously paid ayefare fee in respect of the same woman, and being now prohibited he failed to "seduce" the woman in the legal way, but continued intercourse with her, double ayefare fees would have to be paid, together with an oath fine of £6.

It is to be assumed that the woman's consent must have been previously obtained before her lover embarked upon payment of the high fees involved in seduction; consequently

if she hereafter sought to obtain divorce, she would be held liable to a refund to the husband of half the amount expended by him in respect of the seduction.

(6) *Rules for Claiming Ayefare*

If a woman in her travail should mention the name or names of certain people as having committed adultery with her, the husband, fearing that his wife may not live to prove her accusation, should take the earliest opportunity of conveying news of the charge to the offenders. They should even be informed when staying at remote places away from the scene of the untoward event. If any of these unfortunate offenders has any statement to make which would necessitate rebuttal by the woman, he must hasten to the approaching death-bed of the lover and state his denial on oath. The dying woman must then reply. If she could not do this before death, the accused is free. But if oath is sworn by both sides, an investigation may there and then be held, or the woman's statement taken in the presence of witnesses to submit to Tribunal during the subsequent hearing of the case. If in such a case the accused is found guilty, he will be liable to the ayefare plus half the sickness expenses incurred by the husband in respect of the sickness of his wife. If there is more than one adulterer, the sickness expenses must be shared equally between the husband and the adulterers.

So also if a married woman is infected with any venereal disease and her husband cures her, the adulterer would be liable to half such sickness expenses plus the ayefare.

There are various sub-rules upon which one may escape or render oneself liable to the payment of ayefare; but as these rules are more or less determined by commonsense as strengthened by the customary law and equity, we will state a few leading points only to indicate the principle. Thus, if Kwaku commits adultery with the wife of Kwadjo and the wife does not herself have either the opportunity of mentioning the fact to her husband, or intentionally conceals such fact from him, and Kwasi a third party, perhaps out of enmity to Kwaku or of love for Kwadjo, makes the offence known to Kwadjo, Kwaku would be right to refuse paying the ayefare, which is properly payable by Kwasi the informant.

Again, if Kwadjo Kotto's wife, suspecting that Kwabena Ogyam's wife is in love with her husband, makes a general quarrel with Kwabena Ogyam's wife, thereby arousing Kwabena Ogyam's suspicions, Kwadjo Kotto would be right

to disclaim responsibility to the ayefare involved, and his wife who revealed the secret is properly the responsible party.

Again—if a person in paying the head-money of his wife failed to pay the "Aseda" fees, the marriage would be invalid in law, and he would have no right to divorce, i.e. to give "white clay", to his wife—or concubine properly so-called—nor can she be given fetish to swear as to her fidelity. A wife in respect of whom "Aseda" was not paid, is looked upon in the husband's household as a house-mistress or house-keeper. This is so even if the man had paid head-money (tirisika) of say, £30, but had failed to pay the "Aseda" of 12s.

Provision is also made for a case in which a wife falsely charges an innocent person with adultery. The innocent person can claim damages for slander, and the wife and her family are responsible for all expenses relative to the original claim and to the counterclaim. The husband is not liable to the person charged by his wife and discharged by the Tribunal.

If, in the absence abroad of the husband, his wife commits adultery, the relatives of the wife are not entitled to claim the satisfaction on behalf of the husband, except a divorce is being effected in the husband's absence, and even in that case, it is the husband's relations who should act.

As to the meaning of terms used in this chapter, it seems necessary to explain that the actual amount of fixed ayefare paid to a husband by someone committing adultery with his wife is properly called in the Tribunals, "satisfaction money." There is, however, a custom which recognizes as essential the payment of pacification to a wronged husband apart from the actual satisfaction money already paid. The pacification in this case is never very high and the least is 2s.; in ordinary cases the highest would be 12s. If an adulterer after paying the legal ayefare fee deliberately refuses to pacify the wronged husband, he is stopped from keeping the least social acquaintance with wife or husband, or he renders himself liable to an action for any familiarity or liberty taken with wife or husband.

We may mention that where a higher Chief's wife commits adultery—in which case there is no fixed satisfaction in law—the amount that arbitrators would fix for the adulterer to pay is not properly "satisfaction money", the correct term is pacification, for the adulterer is taken to be incapable of satisfying a Chief whose wife has been

violated, but he may "pacify" or soothe him. Such pacification money to a Chief is usually higher than any fixed ayefare fee—but it may be lower.

The Basel (now Scottish) Mission Christians have their ayefare fee, *inter se*, fixed at £5, nothing higher or lower being permissible.

For the benefit of our Akan readers—and for the use of students of anthropology and of our state socialism, we append here under a table showing the fixed ayefare fees payable to husbands in cases of adultery. Here again it should be noted that the grade of valuation is not based upon the principle of *social* equality or inequality, but upon that of *civic* standing.

(7) Table of Ayefare Fees<sup>1</sup>

## (Ayefare Boo)

	£	s.	d.
1. Any native of Akim Abuakwa <sup>2</sup> ( <i>Osua ne suru ne nsano</i> )	3	12	0
2. Ohenenana (Omanhene's grandson): <i>Asuanu ne dwoa suru</i> . If he is a State servant in addition, two sheep are added: £2 8s. each	4	16	0
3. Ohenaba (Omanhene's son): <i>Predwan asia</i> with two sheep, <sup>3</sup> £2 8s. each	9	10	0
4. Okyenhene Kyeame (Omanhene's linguist): <i>Predwan Asia</i> with two sheep £2 8s. each	9	10	0
Okyenhene Akyeame-hene (Chief of the Omanhene's linguists): <i>Tasuanu</i> , with three sheep—two sheep at £2 8s. each, and the third at 15s. for the Linguist's own stool	12	0	0
5. Okyenhene Ahenkwa (Omanhene's state servant), <i>Asuanu-ne-dwoa suru</i> , with a sheep Akrafo (Gold Breast Plate Bearer) has two sheep at £2 8s. each in addition	4	16	0
6. Okyenhene Tweręfoo Panyin (Omanhene's Chief Clerk) <i>Predwan Asia</i> with a sheep (£2 8s.)	9	10	0
7. Okyenhene Atwerefō a aka (other clerks in the Omanhene's office) <i>Bena</i>	7	0	0
8. Okyenhene Atrafo a yente nkonwaso (Omanhene's non-stool holding councillors), <i>Bena</i> , with two sheep £2 8s. each.	7	0	0

<sup>1</sup> The word "ayefare" means in fact the actual amount of money payable. The roots of the word are Oyere-fa-de (a thing, i.e. money, given for taking one's wife.) The words in italics in the table are the Akan names for the English figures in the right-hand column.

<sup>2</sup> The inter-state ayefare—when a native of one state commits adultery with the wife of a person of another state—was agreed upon at the Conference of the Paramount Chiefs of the Eastern Province, held at Accra in 1918 at Domiabra Park. It was fixed at *Osua-ne-doma*, £2 8s.

<sup>3</sup> The value of sheep is not included in the figures column.

	£	s.	d.
The same for Banmuhene (Chief Keeper of the mausoleum—resident at Kibbi).			
9. Nkonwasoafohene (Chief of the stool carrier) <sup>1</sup> <i>Tasuanu</i> with two sheep at £2 8s. each . . . . .	12	0	0
10. Nkrafohene (Chief of the Gold Breast Plate-bearers) <i>Predwan Asia</i> with two sheep, £2 8s. each . . . . .	9	10	0
11. Ankokeabene; Jasehene; Kyidomhene <sup>2</sup> <i>Tasuanu</i> , with two sheep, one £2 8s. for the Omanhene, and the other £1 4s. for himself) . . . . .	12	0	0
12. Amantoo-mmiensa—Adikroto (the Chiefs of the Council of three counties): each <i>ntanu</i> , with three sheep, one for his own stool, 15s.; one for his Opakani, i.e. the Principal Chief under whom he serves), £1 4s.; another for the Omanhene, £2 8s. . . . .	16	0	0
13. Opakani ba (Principal Chief's son) <i>Asuanu ne dwa suru</i> . . . . .	4	16	0
14. Opakani Kese Kyeame (Linguist of a Head Chief— one of the five) <i>Bena</i> . . . . .	7	0	0
15. Opakani kuma Kyeame (Linguist of one of the other principal Chiefs) <i>Asuanu ne-dwoa-suru</i> . . . . .	4	16	0
16. Opakani Kese Dehyee (Stool Heir of one of the five Head Chiefs) <i>Predwan Asia</i> . . . . .	9	10	0
17. Opakani Kese Panin (Councillor on Stool of one of the five Head Chiefs) <i>Predwan Asia</i> . . . . .	9	10	0
18. Opakani kuma Dehye (Stool Heir of one of the seven principal Chiefs). <i>Bena</i> . . . . .	7	0	0
19. Opakani kuma Panin (Councillor on Stool of one of the eight Principal chiefs). <i>Bena</i> . . . . .	7	0	0
20. Opakani biara Hotrafo aonte Akonwuaso (a principal Chief's Councillor not holding Stool)— ( <i>Asuanu nedwoa suru</i> ) . . . . .	4	16	0
21. Odikro biara (An Odikro Chief of a town) <i>Predwan</i> , with three sheep, one at 15s., for his own Stool; the second at £1 4s., for his principal Chief's Stool; and the third at £2 8s. for the Omanhene's Stool . . . . .	8	0	0
22. Odikro biara Panin a oye Osomanyawa (an Adikro's Chief Councillor called Osomanyawa or Mankrado). <i>Asuanu ne dwa suru</i> with two sheep—one at 8s. for his own Stool and the other at 15s. for the Chief's Stool . . . . .	4	16	0
23. Odikro biara Hotrafo a onte akonwaso (Odikro's Councillor not holding a Stool) <i>Osua ne suru ne nsano</i> ; with a 15s. sheep for the Odikro . . . . .	3	12	0
24. Akomfo Akese (the principal Fetish Priests— <i>Predwanasia</i> with two sheep, one at 15s. for the Fetish; the other at £2 8s. for the Omanhene . . . . .	9	10	0

<sup>1</sup> This is a very high post in our institutions. It is not hereditary. it is held at the Omanhene's pleasure, but almost always for life. *Vide* Chapter II, A. 14.

<sup>2</sup> These are the principal stool-holding councillors of the Kibbi Council. *Vide* Chapter II, A. 5-8.

	£	s.	d.
25. Akomfo nkuma (the Ordinary Fetish Priests) <i>Asuanu ne dwoa suru</i> with a sheep, 9s. . . . .	4	16	0
26. Odikro bi ba (Son of an odikro) <i>osua ne suru ne nsano</i> with a sheep, 15s. . . . .	3	12	0
27. Osafohene Charles Amoako (the "Captain" appointed by the Okyeman Council to head the Volunteers subscribed by this Division towards the Gold Coast Regiment to East Africa) <i>Predwan</i> ; with a sheep . . . . .	8	0	0
28. Osafo a aka no (the other volunteers), Bena <sup>1</sup> . . . . .	7	0	0

A study of this table gives us some practical conclusions:—

1. A person's importance in the State may be judged by the value of ayefare he is entitled to.
2. Taking another's wife is not looked upon as an irremediable offence.
3. One's greatness is not judged by his own self-acquired opulence, but by the recognition given to the post he holds in our State system, either by birth or appointment.
4. Committing adultery with an important person's wife, amounts to a defilation of his Stool and those of his superiors and sheep are therefore to be slaughtered to sanctify the Stools or Fetishes.

It may be observed that the above list, though exhaustive of the fees fixed by law, does not include the ayefare payable to a Stool Heir (Odehwe) of the Omanhene or to an Opakani (Chief), or to the occupants of other high and exalted posts. The reason is that the law looks upon itself as incompetent to limit the amount of ayefare payable to such people whose persons are considered sacred and whose displeasure when aroused was, in the old days, only appeasable with human blood. It is a crime to trespass on the wife of any of these exalted men of State. They are the higher Chiefs of our State system, who are regarded by the law as immune from the operation of most ordinary laws—" *Obi nnfwe Opanin nntwa mmra*," i.e., "Nobody makes law for a prince." What the law is in these days competent to do in case of violation of a Chief's wife is to give power to a temporary arbitrate council having a recognizable authority to decide on the spot what reasonable amount should, on the merits of each case,

<sup>1</sup> It is worthy of note that the Volunteers from this Division (over 300) are looked upon as having done a real service of value to the State. As a mark of appreciation for such valuable service, the Okyeman Council distinguished them from their other non-combatant brethren by raising their ayefare fee from £3 12s. to £7. Charles Amoako, who was appointed to supervise them, was on their return made a life member of the Kyebi Council with a distinguishing ayefare of *Predwan* (£8). (East African Campaign 1914-18.)

be paid as pacification to a Chief for the purpose of restoring the honour of his wife thus trespassed upon. Many are the sheep slaughtered on such occasions. In the same way, if any of the Chiefs should condescend to flirt with a commoner's wife, the amount of pacification payable to such commoner would be decided by an Arbitrative Council having a recognizable authority. The fixed amount ordinarily payable to a commoner is not to be taken into consideration in cases of this nature.

## CHAPTER IX

### SUCCESSION

THE theory of succession among the Akan people is so interwoven with many branches of their institutions—such as marriage, divorce, chieftaincy, land tenure—that no treatment of those institutions can be complete without an adequate treatment of the problem of inheritance to person and estate.

The first fundamental fact that meets us in our inquiry is that descent is traced through the female. The woman is the vehicle through whom the direct line of the first clan mother, the *materfamilias*, is kept unbroken throughout the ages. Under a system of polygamy with its attendant easy means of divorce, it is possible for the paternity of a child to remain doubtful, perhaps problematical, never so, its maternity. A child is easily identifiable with its mother, not so with the father. Hence, the Akan institution, following natural law with a slight superimposed social convention, adopts the female line of descent as that by which alone the clan system is to be determined, material family relations classified, property inherited or transferred, and positions of trust or honour conferred or inherited.

To insure adequate treatment we will divide the topic under some four heads:—

1. Succession to Stool.
2. Ordinary inheritance.
3. Paternity and Custody of Children.
4. Cutting of Kahire (Ekal): Disinherison.

#### 1. *Succession to Stool.*

A Stool, as we have explained elsewhere, is the symbol of authority of a king or chief. But it is something more. It is the shrine containing the soul or spirit of the family, tribe or nation to whose Head or Chief it is said to belong. This Head or Chief is chosen by the family, tribe or nation from one particular family, every member of which is potentially eligible to ascend the Stool. These members are traced through the female line, and the recognition of apparent right to inherit is usually acknowledged to belong

to the first male son of the last occupant's maternal sister, that is to say, to the maternal nephew of the last "purchaser" or occupier of the Stool. The gift of succession is not in the power of the person who last occupied the Stool, be such occupier male or female. If a Chief or present occupier of a Stool is on his deathbed and desires to nominate a successor to his Stool, he cannot choose an heir in such a way as to override the subsequent choice by the members of his family. He can as a fact recommend a member of the family or clan as his possible successor, but there is nothing in the Akan institutions to bind the members of the Stool to defer in every respect to the dying wish or testament. They may as a matter of sentiment strive to give effect to his wishes, but his "will" or testament stands very little chance of taking effect. The saying is "*Nea wawuo mmpra ne hō*", "a dead man does not or cannot look after his mundane affairs." The dead as it were have to bury their dead, and the quick will care for the living.

This then is the principle, that succession to a vacant Stool is determinable by the family or members of a tribe or nation over whom the Stool has authority. It is here sufficient to add that a person's actual right to ascend a Stool is not acquired by birth alone but by that fact plus the act of choice. And this applies equally in the case of succession to ordinary property, that is property not attached to a Stool or over which a Chief with a Stool has no direct connexion. In both cases, whether it be a Stool or non-Stool property, the right to choose a successor or inheritor usually rests with the surviving relations of the last purchaser. If there be any possible difference between succession to Stool and ordinary inheritance, it may conceivably be mere differences of degree and not of kind.

Succession to Stool in its entire procedure is treated fully in Chapter V, "Enstoolment and Destoolment."

## 2. *Ordinary Inheritance.*

We have said that there is only a difference of degree between succession to Stool and succession to ordinary property, but even in that we are apt to make a good deal of allowance. In point of fact, if there is any difference at all, it lies in the procedure. Although the saying goes, "*Nniwa mma nsaea wofase nni adee*", i.e., "Except there are no mother's sons (i.e. brothers), no nephew inherits," yet there is very good reason to show that the dictum does not always accord with practice and the dictates of prudence.

The most common form of succession, and the one subject, comparatively, to least quarrels and family disputes, is nephew succession. If a man's nephew is made to succeed him, it leaves little or no cause for rivalry among the brothers and other relatives of the deceased. On the other hand, if, despite the claim of a nephew, a brother does not hesitate to inherit his late brother's property, he may be sure that his peace is likely to be disturbed by other members of the family. The truth is, although the deceased may be C.'s (the claimant's) brother of the same womb, yet there may be a "brother", i.e. a cousin of C., who has a better right to inherit C.'s brother's property. Such a cousin is the son of C.'s mother's elder sister (aunt). He has a prior right by reason of seniority of succession to that of C., a brother of the same womb as the deceased, but the brother's legal right is often indefeasible.

Another, but stronger claim, is the mother's. There is none to supersede her claim to succeed her son. If the mother steps in, in case of any controversy, it is to be realized that she does so *de jure*, and her living son or any male eligible appointed by her would consequently be the successor *de facto*.<sup>1</sup>

We may state the line of succession in the following form: The first claims precedence and the others follow in regular order:—

1. Mother of deceased male.
2. Cousin, i.e. eldest aunt's son.
3. Brother, who is commonly waived in favour of
4. Nephew.
5. Sister,
6. Nieces,
7. Aunt, i.e. Mother's younger sister.
8. Issue of Mother's younger sister, etc.

This tree of succession is fully treated in Sarbah's *Fanti Customary Laws*, to which we refer the searching reader.

We have here stated the only system on which succession is legal. The case of domestics becoming "extraordinary" successors cannot be denied. The practice is, however,

<sup>1</sup> According to a law passed recently by the Akim Abuakwa State Council, the mother cannot come in if the deceased's brother or a first cousin (maternal) is alive. Sarbah's tree of succession is therefore varied by substituting for No. 1, the brother; No. 2, the cousin remains; and No. 3, becomes the mother, then No. 4 the nephew, etc.

rapidly dying out. Its shadow is clearly reflected in innumerable instances where a "blue-blood" having been made to inherit the property of an erstwhile wealthy domestic, that domestic's nephew or "proper" successor, who must have been a minor at the time of his uncle's death, now claims right of succession to the property of the blue-blood. Here, it is apparent that the domestic succeeds not to the *bona fide* property of a blue-blood, but of his own kith and kin.

The procedure to be followed before entering into possession of an inheritance is very simple. It consists first in the person chosen paying an "Aseda" or thanks money to the members of the family. When this is paid and some drink in testimony of the transaction has been offered to and drunk by the members of the family, the succession becomes a completed transaction. The inheritor enters automatically into possession of all the property owned by the deceased, and if there are any debts owing by the deceased they would be paid by this successor. If the debt is greater than the gross value of the property, the successor would be justified in calling on the other members of the family to assist in paying debts which have become veritable family debts. If, on the other hand, there are no debts, or rather if the deceased was a rich man, it would be unlawful for any member of the family to lay hands on any portion of the deceased's property—personal or otherwise—without the expressed consent of the inheritor. That is to say, the whole estate must remain in the hands of the inheritor to manage it in such a way as to assist every individual member of the family to get out of his difficulties. If there are many wives more than the present inheritor chooses to retain, he may distribute such wives among the senior members of the family.

It must be noted that the successor to a female relative's property is usually a woman. There are hardly any instances in the writer's experience where a male relation has been made to succeed a female; except in the rare instance of a female occupant of a family or town Stool dying, in which case it would, of course, be proper for a male relation to ascend the Stool. If there is no daughter living, a son may succeed his mother. There is nothing like the "salic law" in our institution.

### 3. *Influence of Christian Missions.*

It is needless for us to state that the presence of European Christian Missions and western education in general is gradually effecting modifications in what our mission friends

consider to be extreme primitive customs. In Akim Abuakwa the erstwhile Basel Mission Society—the only mission society which has successfully operated in the Akim dominions—has evolved a form of succession for the benefit of its Christian communities. This form of succession, which seems to have obtained favour among the Christians, is shortly, as follows :—When a member of the Basel (now Scottish) Mission Denomination dies, his property would be divided into three—one third goes to the wife, the second third to the children, the remaining third to the relatives of the deceased. The house belongs to the deceased's wife and children, but if the widow re-marries, the children alone retain the house.<sup>1</sup>

This rule, which has taken a strong hold on the minds of the Christian converts—a rapidly increasing community—has also effected other distinct changes among the general mass of the people. A rich man, for instance, would in these days of economic agriculture, provide well for his children by apportioning to them in his life-time substantial parts of his property. The act is done in the presence of the family, but their assent is not required by law. The transfer would then be for ever. When drink is given in testimony and an "Aseda" taken, the gift bears legal examination in the Tribunals. It is not denied that there must have been some indigenous basis for this practice which led to the establishment of the missionary procedure in the country, but when we remember that there was very little of the individualistic ownership of property before the missionary and the trader went to Africa, it can easily be seen that modern tendencies have much to do with the changes brought about by the contact of Europe and West Africa.

#### 4. *Paternity and Custody of Children.*

We turn now to another reason why our present form of succession by the maternal line hardly admits of any aggressive attack on its fundamental principles. The paternity of children is a contributory cause, and it depends mainly on the form of union subsisting between husband and wife. We have already alluded to the status of a child born to parents who were not properly married (*vide* Chapter VIII), and in doing so, touched slightly upon the maternity of the issue. The law, as it stands at present, recognizes as legitimate

<sup>1</sup> I have found it necessary to state the modifications made in the aboriginal mode of inheritance by the Mission Societies, because of the fact that a large percentage of the aborigines are now living under that system of succession.

a child born to a man who had cared for an unmarried girl for whose baby he stands as putative father. Marriage is necessary to make a child legitimate, but it would seem that among the Akans a bastard child is not particularly one whose mother and father are unmarried, but one whose paternity is indeterminable, his father (or fathers) not being known. Hence the name *Aguaman-ba* (a child of harlotry).

But in a case where, for instance, Kwaku had kept Ya, a married woman, in a state of concubinage for a period of four or five years, having two or three children as issue of the connexion, Kofie the real husband of Ya, would be quite in his right to lay claim to the children, besides claiming from Kwaku satisfaction money for adultery. In this case, too, Kwaku has no right to claim any amount he must have spent on the children or on the wife from Kofie or anyone else, except, perhaps, there was any member of Ya's family who had given countenance to the illicit connexion. That person may be held responsible for Kwaku's expenses if he lived with the girl believing that she was unmarried. We have already shown in Chapter VIII that Kofie, the husband, is entitled to claim from his wife Ya, any amount of presents, etc., that Kwaku must have given her during their concubinage.

Kofie is also entitled to prohibit Kwaku from having anything to do with his (Kofie's) children, nor would any names that Kwaku had given them be perpetuated, for such names would be abolished by Kofie and new ones substituted therefor. In fact, Kwaku has no right in law to call the issue as his children.

Further, where Kwadjo and Kwame are known to have had connexion with Akosua, a spinster, as a result of which she expected a child, and where none of them could in law be compelled to provide for her during the nine months of pregnancy, the issue is properly the property of Akosua's family, and they have the right to give it a name.

If, on the other hand, Kwaku had kept Adjoa in concubinage for any length of time, she being unmarried, and he subsequently applied to the parents of Adjoa for a grant of lawful marriage, the previous issue of their connexion automatically become legitimate as soon as the marriage is lawfully solemnized.<sup>1</sup> It therefore follows that if the family refuse

<sup>1</sup> We have carefully refrained from making comparisons or drawing conclusions from any facts stated by us, but here we cannot help expressing the striking similarity between our custom and the well-known rule which, in the law of Rome as in the law of Scotland, recognized the *legitimatío per subsequens matrimonium*.

to grant the application for marriage, the issue of Kwaku and Adjoa's connexion would be "illegitimate", and Adjoa's family would be the proper persons to give names to them. The saying is, "*Okromfo nni ba*" (a "thief" has no child), and, consequently, until the issue of an illegal connexion is in one way or another legalized, there is no hope for the putative father possessing his own natural children. The worst case is when one obtains a child with a married woman, for then every avenue for gaining possession of the child is closed to the unfortunate "thief".

Now, as regards the custody of children in general, the law is clear on the point. A child belongs to his father—or rather to his father's household, and so long as the child remains with his parents his custody is in the hands of the father. A mother cannot take a child away from the father. If the child is young the father may be ordered by Tribunal to leave it in the nursing hands of its mother. After the first two or three years of infancy a father can always claim possession of his lawful child. But there are times when a child ceases to be the "property" of his father, and becomes a "part or appendage" only of him.<sup>1</sup> A child goes along with, or pertains to, his father until the parent has, on his son reaching the age of puberty, obtained for him a gun and a wife. Then the son is launched on to the sea of life to steer his own course, and the father would no more be ordinarily responsible for debts contracted by his son, although there is no doubt that all cases of misconduct would be brought before the father for adjustment. The father, in fact, becomes the nominal debtor when, for instance, a grown-up child becomes involved in an *Ayefare* case, but in reality the son pays the debt in the end.<sup>2</sup>

The duty of a child towards a father would seem to wane in proportion to the diminution of the parental support. The children may rally round the father in time of a catastrophe or distress, and they may even go to the extent of giving him substantial financial assistance, which may not be repayable, but the father must, of course, remember that this is more an act of courtesy and of filial affection than of legal obligation. Their only unshirkable duty is that on their father's death they should provide a decent coffin for his burial.

<sup>1</sup> There are even times when a father loses complete control over his child; but this may be better treated under another section (*Tamboba*).

<sup>2</sup> This should not be taken to mean that a father at any time ceases to be regarded in law as the natural guardian of his child.



5. *Tamboba*.<sup>1</sup>

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[In view of some interest recently aroused in West African laws and customs it seems to me desirable to give to readers of *West Africa* the advantage of closer acquaintance with those of our customs and institutions which have up till now received but very little attention from writers on this subject. One of these much neglected institutions is what I select for the topic of this article. The custom of "Tamboba" is prevalent among practically all the Akan tribes of the Gold Coast. "Akan" as a general term covers all the Tshi speaking tribes of Ashanti and the Gold Coast, and it includes, I think, all the Fanti tribes. The present writer's experience of Akan customs and usages was gained mainly in Akyem (Akim) Abuakwa, where he was for many years actively connected with the Native State administration of law and justice. Although Akyem Abuakwa is admittedly one of the largest and most conservative of the numerous Akan States, the writer has no desire to dogmatize on the basis of the experience gained in that country, and the views expressed in this article are not offered as final solutions of the problems involved. It may perhaps be added that the subject of this article is culled from a general work on Akan customs and institutions at present under preparation.]

As is generally known the system of inheritance among the Akan peoples is that of maternal succession or "mutterecht". Whatever may be the disadvantages attached to this form of succession there is no doubt that, to quote Miss Mary Kingsley, "when once you have mastered the simple fundamental rules that underlie the Native African idea of property, they must strike you as just, elaborately just"; for "all forms of property are subject to the same law—land, women, china, basins, canoes, slaves, it matters not what, there is the law".

Ignoring for the present any implied sarcasm in the above quotation we desire to show that although children are not legal inheritors of their father's property, according to Akan customary laws, the upkeep of a child is the father's duty.

<sup>1</sup> Reprinted from *West Africa*, with the kind permission of the Editor. The reader who has gone through the preceding paragraphs of this chapter need not read pages 188-9 of the topic Tamboba, and he may continue from page 190.

From childhood until the age of puberty a father is held responsible for the care and welfare of his child. This personal responsibility for a child is held to be terminated when a son is given a gun and a wife or a daughter is given in marriage. But this act in itself does not wholly extinguish the interest of the father in his child. Even when a child has passed the age of puberty the father is recognized by the customary law as natural guardian. He may cease to be actively responsible for his child, especially if such child was not staying in his household, but nominally, as happens, for instance, in a case of "Ayefare" (money payable for taking another's wife), the father would have to act publicly as the person responsible for commitments of a like nature incurred by his child.

Running directly counter to this principle is the cognatic relationship of children by which they are regarded as belonging to their maternal family and clan. Children are, it is true, recognized as members of their father's household, but in reality they belong to their mother's clan. A father has right of use over his children, but the true ownership is vested in their maternal family. The tie between mother and child can scarcely be broken; but the relationship between father and child can be destroyed by a customary process. This is the process involved in "Tamboba". It not infrequently happens that a father has to part with his "right of use" over his children in favour of their maternal relations. This demand is generally made by the wife's family when, for instance, the children are required for service as priests of the family fetish, or to take some inheritance in their maternal family. For the father to part with his life interest in the children our customary law provides that a sum of money fixed by law and called Tamboba<sup>1</sup> should be paid to him in respect of each child so taken away by its maternal relations.

The amount payable was formerly "Osua" (£2) for a boy, or "Asia" (30s.) for a girl, but owing to modern economic conditions these figures have been raised by the Okyeman Council in Akyem Abuakwa to Mpredwan mmiensa (3 Predwans, equal to £24 or 25£) in respect of each son so taken away, and Ntanu (2 Predwans equal to £16) in respect of each daughter.

On account of certain monetary payments connected with

<sup>1</sup> *Tam-boba*: "Tam"—uterus, "bo-ba"—small stone. Hence, a small weight of money payable when emancipating an offspring of marriage.

the transfer of persons in this and the marriage system, it seems necessary to distinguish clearly between Tamboba and "Tiri-sika" (Head-money). The latter term is properly used in connexion with a customary payment made in respect to a girl's marriage. A girl eligible for marriage has head-money, but no head-money is claimable on behalf of a boy. On the other hand, every girl or every boy has Tamboba. We have here a partial but strong disproof of the view that our girls are married on a system of purchase. If it were so we should naturally expect to find (as was the law in Rome) that a reciprocal head-money (*dos*, in exchange for the boys' *dotalis*) should be demanded of girls intending marriage.

The fact is if there is any system of purchase in respect to transfer of persons such system is found not in marriage but in Tamboba. In a transaction of marriage a husband does not purchase the freedom of his wife. He marries her for the purposes of procreation and mutual assistance in domestic life. Whatever may be the value of head-money paid by a husband in respect of his wife she never becomes a member of his family. (It may be well to state that in these discussions we exclude persons of slave status. It is well known that in the days when slavery was legal a man could have a slave wife called *tò-yere* or bought-wife. This slave woman, having lost connexion with her clan, had no cognatic family, and therefore her marriage was not an Akan marriage. It was a peculiar form of union with its own special customary rules.) In the case of marriage between free persons the husband has no clan or family relations with his wife. She remains throughout a member of her own clan or cognatic family, and in most cases of her agnatic family. Even in ancient times a husband could never sell his wife. On the other hand, a child whose Tamboba has not been paid, though held free in the wide civic sense, its family-freedom is limited by the fact of its being subject to the rule of two masters or heads-of-families. On the one hand the child is in the service of its father and on the other of its maternal uncle. It has not, as such, complete individual freedom. To obtain this the child's uncle has to reclaim from the father that part of its individuality still under the control of its agnatic family. Hence the institution of Tamboba. (Those interested in the theoretical side of our customs may here find what resemblance there is between the Tamboba system and the Roman institution of *Emancipatio*. Apart from details of procedure the only essential difference between the two institutions seems to be that while a Roman father

or pater familias can emancipate his son or filius familias to any other Roman citizen, an Akan father cannot accept a settlement of Tamboba from any but the uncle or other person representing the maternal uncle of his child.)

To complete the contrast between Tamboba and Head-money it should be noted that the former may safely be described as a customary mode of absolute sale; on the other hand, head-money paid for a girl in marriage involves transfer of possession but not of ownership. By our custom, in giving a girl away in marriage head-money may or may not be claimed from the intending husband. This money is not claimable by or payable to the father. It is paid to the uncle of the prospective wife. Tamboba is, on the contrary, paid by the uncle to the father. Interest is chargeable on head-money. No interest is charged on Tamboba. Head-money is returnable in case of divorce. Tamboba once paid is never returned. These constitute the chief differences between head-money (*tiri-sika*) and Tamboba. The latter is a fixed and determinate sum. The former depends upon the circumstances of the marriage and especially of the relationship between the parties to the marriage.

A word more about Tamboba. Children, as we have said, are regarded as being in the service of their father; they are not, however, in his absolute power. In ancient times a father could not sell his child except its uncle or other maternal guardian refused to pay the Tamboba or to take his due share in the payment of some extraordinary debts incurred by the child in consequence of its crimes or misdeeds. In modern times, however, the law has been strengthened in favour of children, so that except a child's maternal relations voluntarily undertake to pay Tamboba and take away their *dehye* (*dihi-Fanti*), i.e. freeborn, the father cannot in any circumstance relieve himself of the burden of having to support his child. In the great majority of cases fathers are most happy to retain their children in their own households, but in other cases this is not so. Not that a father would easily forsake his child were it not for the consciousness that he might be deprived of the pleasure and satisfaction obtainable from his child if he were to assist him or her in attaining any state of affluence.

The principle seems to be that the active progress in life of a child is the father's own concern; the maternal relations of a child are quite apathetic with regard to the condition of a useless member of the clan, who is, after all, "another man's child." Consequently at the present day there is a

strong tendency towards active improvement in the condition of children and in getting them to become members of their father's family, and not only of his household. This tendency no doubt is due to the influence that Western education is likely to bring; it is also due largely to the fact that children are more easily accessible to the father than his own maternal nephews and nieces. The tie between father and child seems to be closer and more affectionate than that between uncle and nephew, i.e. a sister's child. This filial attachment naturally could not have made much difference in the olden days when conditions of living were practically the same in every household. To-day things have changed, or perhaps I should say *are* changing—which is worse. Paternal responsibility is no more a simple question of the upkeep of a child. It also involves an active improvement in a child's condition—the care and proper training of the child on lines required by modern social and economic exigencies.

This is one of the ways in which change in the conditions of living may vitally affect the established order of laws and customs, and where unbending conservatism for its own sake becomes a mere matter of sentiment. There is no doubt that contact with European civilization and conditions of living is bound to react on our customs and institutions, and, unless our statesmen, with their usual foresight, revise our laws in anticipation of the contingency, most of our usages and practices now held in respect and observed by all classes are sure to fall to a minimum level in public recognition. All things considered, there is little doubt that our system of succession, long ago recognized by ancient civilizations as the most natural form of inheritance, is at present the most suitable, for "every country deserves the government it has". But it is also apparent that there is bound to come concomitant with the present developments in several aspects of life a growing demand for a new order of usages and customs to fit in with the altered conditions of living. The change is, fortunately for us, a gradual one, and no serious danger is as yet imminent. Of one thing, however, we are sure, and that is that if, amongst the small private families of limited means as distinguished from the great Stool families, the system of maternal succession ever breaks down, it will be due largely to the increasing difficulties and responsibilities involved in the care and training of children.

### 6. *Paternal Responsibility.*

The question of responsibility of fathers mainly arises in cases where a child has contracted a debt or acquired an immense property. A specific case may perhaps help us here. Kwaku Kuma, who is barely out of his teens, is the son of Kwadjo Kotto, who is anything but a rich man. Kwaku Kuma is unmarried. Kwadjo Kotto has been called upon on more than one occasion to pay debts incurred by his son Kwaku Kuma in connexion with his conduct with people's wives. Kwadjo Kotto has on all the specific occasions met the debts of his son. One day, Kwaku Kuma discovers a treasure-trove out of which, after the State has taken its one-third share, a considerable amount of money is left to bring Kwaku Kuma and his maternal family a long lease of monetary happiness. This amount is, we may suppose, greater than the amount Kwadjo Kotto has paid for his son's unfortunate love affairs. But we pause to ask: in this case where does the father come in? Is he legally entitled to appropriate the whole amount? The law says "No; he is entitled to only one-half the amount, and the boy and his family to the other half".

The law then is this: the father is always alone responsible for the charges connected with his son's immoral conduct; for all other charges the maternal relations are equally responsible. In a like manner all other property acquired by the child in any proper way as in the instance cited above is shared between the father and the child's maternal relations.

The principle seems to be that the father having brought his son into existence, is naturally liable to check him from getting loose on others' wives, for the child's image is the stamp of the father; the father must provide him with a wife and clear the path of all obstacles against his success in life. But when a child's immoral acts are other than sexual the law of the land has the personality of motherhood in view, and then the maternal family is called upon. We should state at once, however, that when, for instance, a son has relations with a Chief's wife, the wrong is more than a mere offence; it is a "statutory" crime, and the maternal relations are therefore equally responsible with the paternal family.

### 7. *Kahire or Ekal (Family Tie).*

We have spoken of the tie binding parents and their immediate issue. We now have to say a few words on the

tie binding the members of a family to their head, and to individual members of the family. If you would know what an Akan regards as most sacred and inviolable, attempt to make distinctions between him and members of his clan, or worse still, of his family. The family being more or less the unit personality in society, an individual tends to regard himself as out of touch with all existence when divorced from his family. Hence the absolute sacredness of the family tie. In a sense, and a very real sense, whatever appears natural is considered sacred, and therefore to undermine its existence is sacrilege. A custom, however, exists which, on very grave provocation, enables the principal members of an *Abusuapon* (great family) to cut off a member thereof from the tie connecting him to the family. This act of cutting "*Kahire*", or disinheriting a member of his family, is, as already stated, a singular and unusual act, scarcely countenanced by our institutions.

In the happy years spent by the writer at the highest native Tribunal in Akim Abuakwa, there never was adduced at the Omanhene's Tribunal or elsewhere a single instance wherein a head-of-family was shown to have succeeded in disinheriting a member of his family. A head-of-family on his death-bed, for instance, cannot make a testament providing that any particular member of the family shall cease to be regarded as such. It is out of the keeping of a dying person to say who should inherit his property, and the question as to the status of any *obusuani* (family relation) is solely a matter for surviving members of the family to determine. They, the living members, are the people held responsible for the conduct of any single member of the family.

We read in Sarbah's *Fanti Customary Laws* that a solemn act of publicly "turning" a member of one's family away from the family house in the presence of witnesses amounts in law to disinheriting. However much this may be true as a theoretical statement of law, it is doubtful whether such an act would be supported by an Akan Tribunal whose primary duty is not to dispense abstract principles of law but to exercise its prerogatives in a way that would best maintain tribal and family hegemony intact. Disinherison means in our legal phraseology "cutting of *Kahire*". To avoid all possibility of doubt, let us analyse the meaning of the word "*Kahire*" or "*ekal*"—the roots are the same no matter what the Akim or Fanti calls it. The primary meaning of the word *Kahire* indicates that soft substance used when carrying articles on the skull of the head—and made with

either cloth or leaves—which rests between the head and its load, giving the skull a minimum amount of pressure from the weight of the load—hence, figuratively, the “tie which binds or connects the members of a family to bear each other’s sorrows and share their burdens”. This is the real meaning of “Kahire” or “ekal”, and the mention of it brings vividly to one’s memory the traditions to which clans and families are traced. Examine it to see whether with the substance of our institutions and usages already before you, it would be easy to break this apparently flimsy fabric of family link.

We should say that in Akim Abuakwa the law looks upon any attempt to “cut the family tie” as a crime, and there is scarcely one person in a hundred who would venture to acknowledge that he had actually done the deed. Should a member of the family be disinherited by the supreme head of his family or by a minor head of his immediate relations there is invariably the possibility of the one or other of these two heads siding with the disinherited clansman to secure his reinstatement. Thus the process, as those acquainted with our Stool disputes are well aware, is sure to end in the destoolment of the head of the family if he fails to defend and justify his action. For his own personal safety, a head of family would therefore look twice before he jumps to the conclusion of disinheriting a member of his family or clan.

In high quarters, that is to say in the case of succession to a Stool, there is in vogue a system which, when solemnly adopted, places a ban or a “bar-sinister” on the right of a particular member of a family, and his or her issue, ascending the Stool. This, it is essential to note, is different from the cutting of “kahire” in some notable respects. That rule of law simply provides that the people so banned never do ascend the Stool. They may, however, succeed to other property in the family, for they remain members of the Stool family even though they cannot ascend the Stool itself. And here again it is not the Head of the Family or the present occupant of the Stool alone who acts; the consent and concurrence of a major portion of the family must be obtained. The process is called “Wiem-Tuo”. *Wiem* means “In the air”, *Tuo* “gun” or “gun-shot”. Kahire cutting has fatal consequences, although it is not employed with regard to stool questions. When a man is successfully dismissed from a family by means of the cutting of “kahire”, he ceases to enjoy the privileges enjoyable by the clan or family to which he once belonged. “Wiem-Tuo,” on the other hand, only places the “bar-sinister” on the man’s future progress

in the family; nevertheless, it is looked upon as more abominable than the cutting of kahire. And the process is simple. A gun would be "fired into the air" (*Wiem-tuo*) and proclamation made, recounting the crimes of the delinquent so solemnly punished. This form of punishment is usually employed for serious political offences, but the act of firing a gun into the air is not itself the concrete punishment as if the offender's name were being declared or exposed to the gods above. Rather it is to be regarded as a public testimony of the judicial punishment of banishment from the family already pronounced. When for instance an *Odehye* (Blood Royal) becomes hostile in a civil or military sense not only to the person of the reigning king but also to the fundamental position of his ancestral Stool, such *Odehye* would be declared incapacitated from ever ascending the Stool, and the gun fired in the air is a testimony of the declaration. As already shown, "firing a gun into the air" is the customary procedure of setting seal to the solemn declaration of sacred language concerning sacred persons, kings, chiefs, men of the blood royal, etc. The Paramount Chief, we have seen, fires a gun into the air when he takes his oath of office, and it is significant that the distinctive part of a royal funeral custom or an *Odwira* festival is the great concourse of people who assemble to fire guns.

## CHAPTER X

### PROPERTY

#### (1) *On Property in General*

WE have already dealt with the question of succession as it obtains in Akan land. The main principles to be kept in view are that descent is traced through the female; that the head of a family (*abusua*) is generally the uncle or grand-uncle of various members of the family, and, if they are not his maternal nephews or nieces, they must be cognatically related to him to entitle them to claim membership of the family. Every member of an Akan family must, in short, be of the same clan as the head, and further, to entitle him or her to inherit property in that family, he or she must be related by blood to the head-of-family in a direct maternal line. Before proceeding to deal *seriatim* with the various departments of ownership in property it will be well to have a general view of the Akan law of property.

Under the ancient regime private ownership of movable or immovable property was not the basis of Akan political and social life. Land, the most valuable of earthly possessions, was held in common by the people, and where a head of family, chief of a tribe, or king of a nation was said to own land, all that was meant was that he held that land for the direct benefit of the members of the family, sections of the tribe or subjects of the national Stool. Even to-day in several Akan States this is still the law. The pursuit of wealth was followed for the sake of the family, for on the death of a wealthy member of an *Abusuapon* (great family) all his wealth—lands, slaves, wives, houses, and all personal property—became subject to family control and disposition. The very idea of individuals acquiring wealth for absolute individual control *and disposition* was not as well developed as it is to-day.

Slaves, for instance, passed on to the successor of the deceased owner, and they could be apportioned to the senior members of the family, the actual successor taking the largest share. So also were widows disposed of. Even in a man's lifetime he could not always regard his own acquired property—property not inherited—as under his absolute disposition, for if he wished to make valid any conveyance of his land,

or gift or transfer of any particle of his wealth he could only do so with the knowledge of members of his family so that on his death the recipients could enjoy the property conveyed to them without any question from the surviving members of his family. This strict rule of law seems to be well justified under the Akan social system. For under that system it was scarcely possible for an ambitious or aspiring member of a family to amass great wealth without enlisting active financial and other support from individual members of the family. Under the old system there was no paid labour, and even to-day under a practice called *Nnoboadi* (mutual assistance in cultivation), individual members of a family making farms or plantations enjoy the benefit of their neighbours' services in connexion with the work on the plantation, and such exchange of services being free of financial charges, the communal system of social arrangement can still be said to predominate. Further, plantations or farms are usually made at a place where an ancestor has farmed before; houses are usually built on ancestral sites, and the people usually remain within the tribe or nation in which they were born. Thus, then, the farm or house on ancestral land becomes automatically ancestral property on the owner's death. Individuals, in short, would seem to have a title of use for life to their self-acquired property, although such title of use is wide enough to cover all dealings with the property in any possible way so long as alienation or transfer takes place with the knowledge of the members of the family. Testamentary disposition (unwritten) is in fact known, but the will of a deceased member is subject to the approval of the senior surviving members; consequently, if it is desired, for instance, to make someone beneficiary of an estate, the donee must be given an opportunity of possessing and owning that estate during the donor's lifetime. The owner of a piece of "private" property can sell it, mortgage it, or dispose of it in any known form. But his death ends his interest in property not so disposed of. That interest reverts to the family.

### (2) *Stool Property*

Property, in the sense shown above, may be divided after Sarbah, into three main forms:—

- (1) Stool or tribal property.
- (2) Family or patriarchal property.
- (3) Private or individual property.

In a small book by the late Mr. O. K. Quardie, entitled *Akuapem: Past and Present*, a similar classification is given, and so far as is known, no writer on Akan customary laws has shown why this classification should not be accepted as universal among the different Akan nations.<sup>1</sup> Accepting then Sarbah's formulation of the form of Akan tenure, we proceed to deal with the first of these, "Stool property," under the present section. Miss Mary Kingsley, who seems to be in agreement with the above classification, defines the first as being "ancestral property connected with the office of headmanship, the Stool, as this office is called in the true Negro state, the cap, as it is called down in Bas Congo".<sup>2</sup>

The Stool itself is, in legal interpretation, a primary and unique portion of Stool property, and after the Stool the various insignia and paraphernalia follow in due order. The principal property of the Stool is the land attached to it, and the slaves and domestics and wives are also considered Stool property; but in minor stools wives may be separate adjuncts, not altogether attached to the stool.

Stool property, with particular reference to land, is acquired in one of many ways. A war-like tribe invades a country under a supreme commander or war-lord with commanders and captains and their respective people and retainers. The country is overrun; the invaded tribes are enslaved, massacred, or driven away from their own country by force of arms. The invaders occupy the devastated and evacuated towns, and after setting up defences against attacks by the conquered tribes or any others, they portion out the conquered territories among themselves and destroy the institutions which they find in the country to substitute their own. The supreme commander, almost always the highest prince of the tribe, becomes *ex officio* supreme lord of the whole lands. Every commander, captain, or head of tribe retains such land as falls to his lot in the general apportionment and the land thus retained is held by him in virtue of his allegiance to the supreme lord of the tribe and of his headship of his own tribal or family section. This was one way of acquiring stool land in historic times. The Chiefs and Captains, princes

<sup>1</sup> Captain Rattray, in his *Ashanti*, offers to show that the Akan system of land ownership is of the nature of feudal tenure. We have no desire to enter into polemics with an experienced writer like Captain Rattray, and we prefer to leave our readers to form their own conclusions after reading the facts presented in the following sections of this chapter.

<sup>2</sup> *West African Studies*, p. 428.

in their respective families, would render homage to the overlord, recognize him as both their civil and military lord, and admit his supremacy over all in and above the conquered territory.

Another form of acquiring stool property in land is by confiscation to the stool. Long and uninterrupted occupation would also make a stool the permanent owner of land. Long and undisputed acknowledgment of a superior stool's ultimate ownership of a stool land is also another form. A comparatively modern form of stool ownership is by purchase. A piece of land may become stool property by means of gift.

In all of these cases, the present occupant of the Stool acts like a "trustee" for the members of the clan or tribe or family who are subject to the stool. The stool occupier is in common parlance, or by courtesy, referred to as the *owner* of the land; but he is only so in so far as he occupies the stool and represents the sovereignty of the people, giving due respect to the sacredness of the stool. If we were pressed for an answer to the fundamental question as to the ultimate owner of stool property, we should readily say the thing called "stool", whose supremacy is acknowledged by members of the family, sections of the tribe, or subjects of the State, and to which they are bound by their own traditions and laws to serve and respect, is the ultimate and absolute owner. By Stool we here mean the ancestral consecrated Stool which represents the source of authority of a head-of-family, chief of a tribe, or king of a nation. The legal occupant of such Stool is the conservator of all rights belonging to the Stool, and in exercising his authority over those subjects to the Stool he is revered as endowed with the overflowing sanctity and sacredness inherent in an Akan Stool, a venerable object of ancestor worship. He represents in his person the sacred trust of the *Asamanfo*, the great departed ancestors who once were rulers in the family, tribe or nation. No one can deny the reality of Stool ownership, for to deny that is to deny the Stool, and for an Akan to do so is to forfeit membership of the tribe or nation which gave him birth and being and to which he claims to belong.

In short, Akan chiefs hold the lands and other stool property in trust for the *Asamanfo* and to the benefit of subjects of the Stools. If then a Chief or occupant of a Stool, instead of developing a Stool property, disabuses his trust or mismanages the property in a manner which, in the view of members of the ancestral family or tribe or of the subjects

of the stool, might lead to loss of that property without compensating return, he would be immediately displaced by them and a better person appointed in his place.

A Stool in official parlance is not usually referred to as a thing possessed by or belonging to the present occupant. If you would refer to a Stool now occupied by Kwasi Bodua and founded by Kwabena Ogyam, it is proper to call it Kwabena Ogyam's Stool, e.g. the Paramount Stool of Akim Abuakwa (barring the ancient stools founded in Adanse by the Oduro and Boakye dynasties), is always referred to and called "Ofori's Stool" after the name of Ofori Panin, (i.e. Ofori the Elder or the First, the present Omanhene being Ofori Atta or Ofori II), who laid the foundations of the existing Asona dynasty reigning over the Akim Abuakwa kingdom. It is evident, therefore, that in all Akan and Fanti nations, a person occupies a Stool not, as former European monarchs, in his own right whereby he could be a despot and act independent of advice, but purely as an elected King, which word King has its true analogy in a President of a European or American Republic, with only this difference, that whilst a President is subject to re-election at the end of a period or term of years, and holds the position for a limited time only, a King or chief in our State system is elected by right of birth qualified by merit, once only, and holds his trust for life, so long as he keeps within constitutional bounds.

Both the occupant of a Stool and the subjects thereof have equal right to cultivate the family or Stool land and they are at liberty to use the crops either for domestic or trade purposes. There is no claim on the farmer with regard to the fruits of his individual efforts on the land. Strictly speaking, such property cannot be alienated without the knowledge of the head of the family or of the occupant of the ancestral stool. In Akim Abuakwa the right to make farms or plantations on ancestral, family, or tribal land is very liberal, so much so that a person born in a town at the most easterly end of the country, as at Begoro, is at liberty to farm free of all rent or toll charges on a land situate at the most westerly part, as at Otwereso.<sup>1</sup> So long as a person is a native of the

<sup>1</sup> This is not to say that the Stool has no right to levy tax or toll from natives of the soil. As a matter of fact, in case of any family, tribal, or national emergency, taxes called "Etoq" or collections are always levied, but the right to levy tax is not only because the person paying the tax occupies a particular piece of Stool land, but principally because he is a subject of the Stool and an inhabitant in the State.

soil, he has a right to make farms on land in any part of the State where he is domiciled provided that that land has not been cultivated by some other native or alienated as private property. If the right of the stool to a particular piece of land remains unimpaired, there is nothing to prevent a native from cultivating an unoccupied or unreserved area within the locality of his residence.

A house or farm made on Stool or ancestral land by a person occupying the ancestral stool, automatically becomes part and parcel of stool family property. But a house or farm made by a person at a time he had not ascended that stool, remains his private property and is disposable by him to any member of the family, and the clansmen by making him Chief and trustee of their stool property, do not thereby deprive his immediate descendants of the right to enjoy that property as a distinct family property. This distinction is most noticeable in large and populous families having a stool occupier as head or patriarch.

During the week in which this section was being written at Kibbi a case in point was decided by the Okyeman Council, to which we may profitably refer.

Kofi Djamera was a private and wealthy person belonging to the Aduana reigning house at Osiem, and being content with the fortune he made in the memorable years of the boom of "Accra biscuits", he did not aspire to the Family Stool, although he had as much right to it as any other member. Either because of his wealth or of his sagacity and intelligence, or of his general fitness, he was selected from among a host of other eager claimants to succeed to the deceased Chief. It was not his intention to refuse the appointment, and he did, in fact, accept the offer, considering the fact that there was the lure of large tracts of forest land supposed to belong to the Osiem stool awaiting development. In 1921, after he had reigned for seventeen years and improved the general condition of his town, followed by the amelioration of living conditions of his people, and after he had built a two-storied house on the old site of the Chief's house, he was suddenly pressed by the logic of events to resign the stool. An investigation was held into his resignation, and the Chief, thinking better of the matter, and after obtaining judgment against his sub-Chiefs and Elders at the Adontenhene's Tribunal, expressed a desire to be reinstated. But it was too late. His sub-Chiefs and people were now bent upon destooling him in favour of a young aspirant with modern ideas. Destooled he was, and his destoolment was duly confirmed.

Now the ex-Chief lays claim to the two-storied building and other outhouses he has built on the ancestral site, besides a feeble claim for damages for the loss of the wealth of his youth spent in the general welfare of the town. The Okyeman Council, however, held that he could have had his claim to the building sustained if (1) he had resigned the stool himself without being declared destooled, and (2) if he had not built his house on the ancestral site. But it was adjudged that the ex-Chief should have all his personal property, as also his farm, etc., which were not acquired or made with the assistance of the *Oman* or people of Osiem.

This Osiem case further taught one interesting fact. The personal or movable property of a Chief which cannot be called Stool property, such as the clothing, fineries, and other luxuries, except gold rings and gold chains and other ornaments made for the purposes of State, are retainable by an ex-Chief, or a deceased Chief's relatives, without an adverse claim by the stool elders.

All documents in the form of deeds of transfer or alienation, and other important papers for the purposes of government, are, of course, stool property. In fact, it not infrequently happens that a deceased Chief's personal inheritor would, not because of his fitness, but because all the valuable property suitable for state use had gone into his possession, be asked to ascend the stool, although such candidate's other qualities were far from meritorious. It is in cases like this that a slave or domestic is made to ascend a stool, perhaps for the town or the family to reap the benefit of his wealth or rather of his master's wealth which had unfortunately fallen into the vassal's hands by means fair or foul.

Before closing this section we must dwell for a moment on the question of the wives of a destooled Chief. In many cases, wives are made to remain as property attached to the stool, and in the case of a provincial or subdivisinal stool, the ex-Chief may be permitted to retain one or two of his five or six wives. The claim of an ex-Chief to his wives is not always disputed, perhaps out of consideration for the natural affection between husband and wife. A deceased Chief's wives are, however, stool property, and the new Chief has to undergo the usual procedure for remarrying the widows of a predecessor to establish his right of consortium over them. In olden times, the most beloved wives of a deceased Chief—as also the favoured slaves and servants—were sacrificed and buried with the dead Chief's body. These wives and slaves were destined to serve or attend their master in *Asaman* (Hades).

(3) *Family or Patriarchal Property*

The term "patriarchal" has so many foreign associations in its meaning that a natural prejudice is aroused against its use in connexion with the Akan system of family arrangement, in which descent is traced not through the *pater* or patriarch but through the *mater* or matriarch. The use of the term patriarch is, however, convenient for this reason: we have seen that descent is traced through the female, and that the grand old dame or materfamilias is the most important member in the family, yet the actual ruling or governing head is male and not female. This ruler or head of the family is most often the eldest son of the old dame (who is called *Ohemma* or queen-mother in the higher Stoolocracy), or he might be some male member of the family who by reason of his personal fitness had been chosen to rule them, govern their affairs, and be their mouthpiece in the Chief's Council or the nation's assembly. The term patriarch is used therefore for this male head of the family not because he stands to any single member of it as a natural or legal father, but because of the special meaning of the word as indicating the ruling head of a community of related families. In Akan land such head most often has a stool which is the source and symbol of his authority. Even where a patriarch has not a stool the property in the family is regarded as common family property, and the head who is in charge of it holds it in the interests of his family.

This being understood, there is no difference in the general application of the custom pertaining to the property of a national, tribal or patriarchal community, the main principle of which is that such property should be held in the interests of and at the disposition of the family or people.

Here we cannot help differing from the principle stated by Mr. Sarbah in the following words: "In the patriarchal family all the lands are under the control of the patriarch, who alone directs how they are to be cultivated. He is entitled to all the produce of the land, and nothing can be done with anything belonging to the family without his approval or confirmation." This statement may be true of the patriarch defined by Mr. Sarbah (following Sir Henry Maine) as the "head of a group of natural or adoptive descendants held together by subjection to that head", but the point I am here urging is that such a patriarch who is "always practically despotic"<sup>1</sup> cannot be found in the Akan family economy.

<sup>1</sup> *Fanti Customary Laws*, p. 62.

There is no single occupant of a Stool, or any non-stool owning head of a family, who can rightly advance a claim to possess "all the produce" of a stool or family land. An Akan patriarch, as I understand the term, is a person called *Abusuapanin* ("elder of the family") and addressed "Wofa" (uncle) or "Nana" (grand-uncle), who is elected by reason of birth and merit to rule and govern his fellow-members of the family, most of whom indeed are his maternal descendants, but a good many of whom might also be his seniors or maternal ascendants. The highest English term which best describes the office of an Akan patriarch is "Trustee", a trustee, however, who is himself one of the *cestius que trust*, and who on the whole is more than a *primus inter pares*, in that besides sharing the rights and duties connected with the trust property with all members of the family, he is entitled to exercise the power of ruler over them and act as governor or final arbiter in their internal family affairs. He is responsible to the town or tribal stool for the conduct of any member of the family of which he is head, but just as he would not personally suffer for any misdeed of any member of the family where that member could sufficiently atone for the offence, so he would not be entitled to the produce of the labour of any member of the family if that member requires the produce to sustain himself and the members of his personal family or household during his lifetime. It should be borne in mind that a patriarch of the kind we are discussing may be the head of a family several members of which are staying in separate and distinct houses with their respective wives and children, and it is even possible for some members of the *Abusuapon* (great family) to stay in several distinct towns away from the seat of their patriarch. A patriarch is the head of the family, but his headship does not destroy the unity of the family, that is to say, the recognition of "unity" implies the existence of pluralities who are unified in the "head", but that is not to say that the adult members of the family have no personal independence of their own. As a matter of fact it is their independence that enhances the richness of the union centralized in the *Obusuapanin* who represents the unity of their family or clan.

#### (4) *Private or Individual Property*

##### (a) *What Constitutes Private Property and How Acquired*

No person can have absolute control over property except he owns it *sui juris*. Property may be held in a man's own right in one of several ways. It may be held by a son as a

gift from his father. It may be held by one member against all others as a gift received from another member of the family or from a member of a strange family. Lastly, it may be acquired by outright purchase, or by other business means out of income earned through one's own individual efforts. A building made by a member of a family is regarded as private property in his lifetime, but on his death the privacy of the ownership dies with him, and it becomes part and parcel of family property. This is the same with a farm. Previous cultivation of, and in some cases, occupation with a definite intention to cultivate, a forest-land, entitle the cultivator and occupier to a privilege of private ownership over the particular land in so far as agricultural rights are concerned. The law is very clear on the point. "If any person, being a native of the State, first cultivate a forest-land, he shall become owner of the tract so cultivated, and the extent of the forest immediately adjoining the cleared land must be conserved by and for him for the purposes of future cultivation." No person can enter upon such land without the knowledge (except for hunting and snailing purposes) of the first occupier. Not even the Chief or Head of the Family could lay an adverse claim. If the stool wishes to grant a concession over the lands, the first occupier has a right to expect compensation from the intending concessionaires for any actual loss sustained. If he abandons the farm for any number of years as an uncared-for "orchard" or, as it is usually termed, a "farmstead" or "farmlet" (*mfuwa*), only members of his family, and, with formal permission, his children, can cultivate it; and whilst his relatives and children are cultivating it, the right to the palm and kola-trees in the farm are always reserved for him.

But his title stops here. He can make use of his *farm* in any way or form. But he cannot alienate the *land*. That privilege or right is only inherent in the stool. Should he desire to alienate such farm, the stool's right to a third share of the proceeds of such sale must be strictly guarded. A disrespect of this patent and well-established rule has, on many occasions, led to the confiscation of the property to the loss of both vendor and vendee.

There are still other forms of ownership of private property which deserve consideration. All that a trader has, all that he has bought with his own money, and all the riches amassed therefrom, are considered private property. The golden and other ornaments of an individual, the furniture and other things usually classed under the term personal property,

come within the category of private property. A thing is either family property if inherited or acquired in the name or by right of family relationship, or otherwise it is deemed private property. Things given away to children or other dependents cease to be accountable as the donor's family or private property. The death of a person owning private property automatically brings his property, both real and personal, within the ambit of stool, tribal, or family property. This is so because the successor to the estate of a deceased can only be appointed by the members of the deceased's family; when so appointed he holds the property apparently as his own, but he cannot alienate any part of it without the knowledge of the family or a major part thereof. He is not restrained in any use he may make of it either for his personal advancement or even in the interests of his own children. He can use the property as if it were his own, only he cannot alienate it permanently without their knowledge.

Arguments have from time to time been brought to bear against this form of succession. Thus Miss Mary Kingsley says on page 437 of *West African Studies*:—"The bad point is, of course, that the system is cumbersome, and, moreover, it tends with the operation of the general African law of *mutterecht*, the tracing of descent through females, to prevent the building of great families. For example," continues Miss Kingsley, "you have a great man, wise, learned, just, and so on; he is esteemed in his generation, but at his death his property does not go to the sons born to him by one of his wives, who is a great woman of princely line, but to the eldest son of the sister by the same mother as his own. This sister's mother and his own mother was<sup>1</sup> a slave-wife of his father's; this, you see, keeps good blood in a continual state of dilution with slave blood." A remarkable passage, and true. Note particularly the point about "the building of great families", and the keeping of "good blood in a continual state of dilution with slave blood". A sociologist or biologist would probably read into this form of succession the cause of the alleged lack of continuous or progressive achievement on the part of the African. The effect of the system on individual families and on the race as a whole might be to produce isolated instances of great men or of brilliant but short flashes of racial advance, but never a long line of great heads-of-families or a progressive historical development of the race or tribe.

Miss Mary Kingsley does not, however, carry her argument to such lengths, and she hastens to correct whatever unfavour-

<sup>1</sup> Not always so

able impression her words might create. Thus she says :—  
 “ I do not say the system is unjust or anything like that, mind ; I merely say that it does not tend to the production of great men in one family. Nevertheless,” she continues, “ when once you have mastered the simple fundamental rules that underlie the native African idea of property, they must strike you as just, elaborately just ; and there is another element of simplicity in the thing, and that is, that all forms of property are subject to the same law, land, women, china, basins, canoes, slaves, it matters not what, there is the law.”

(b) *Private Property of Husband or Father in relation to Wife or Children*

We have already dealt with some aspects of this head, and the governing principle must now seem clear. We will here give a statement of what the relations of husband and wife, father and children, are, in respect to things owned by them.

A wife is entitled to none of her husband's property, real or personal, except those of the following description :—

- (i) Real or personal property presented to a wife by the husband during his lifetime ;
- (ii) Free use of the husband's foodstuff farms ;
- (iii) Free use of the husband's implements for agricultural and other purposes as well as utensils, etc., for housekeeping ;
- (iv) Free cultivation in conjunction with the husband of his ancestral lands.

Children have a legitimate use of—

- (i) The father's ancestral farmed lands (i.e. “ farmsteads ” or “ farmlets ”) for purposes of agriculture ; this remains inherent in them even after the father's death ; this right would seem to include use of the land to raise economic crops such as cocoa, but not palm-trees and perhaps wild rubber ;
- (ii) Property—real or personal—presented to one or other of them, during the father's lifetime ;
- (iii) The ancestral building site, with knowledge of the father ;
- (iv) The father's house, that is, part of it, for residential purposes, even after the father's death ;
- (v) Free meals at the father's table for life.

It is to be noted that the successor to a deceased relative must extend the same privileges to the children he meets in his predecessor's service, as well as to those of his ancestor's children who might choose to live with him.

(c) *Private Property of Wife*

In the sense that a widow is inherited as wife in much the same way as any part of the inheritance it seems to follow that a wife is as much the property of her husband as any other kind of property, but our system of succession bars the husband from the enjoyment of his widow's self-acquired property. We have already seen, however, that a husband is entitled to one-half portion of his wife's property, which assumes the following forms:—

(i) Property in agriculture acquired by the wife during her married life ;

(ii) Income obtained by the wife in any trade or profession, also the income realized in selling foodstuffs of a farm made in conjunction with the husband or made by her alone ;

(iii) Any treasure-troves, gold nugget, or sudden fortune obtained by the wife.

It is worthy of note that the debts of a wife, caused by her own behaviour, not involving the husband's participation, are payable by her without any assistance from her husband. Also, if a wife or a husband should, in consequence of a family—we here mean the English word *family*—quarrel, commit suicide, the surviving partner is not in law responsible for his or her death.

A wife's personal property is, as a whole, her own family property, and when she dies her family would take all of it from her husband's control.

(d) *Private Property of Children*

A father has no right to his child's private property, except in so far as his half-share in a treasure-trove or gold nugget discovered by the child, is concerned. Whatever a son acquires, whether in the service of the father or out of it, belongs to him and his family. A father, if in need, may, however, look to his children to provide well for him and save him from starvation. A father cannot inherit the property of his child, nor a son his father's, but a mother may succeed her child, and the child the mother.

(e) *Private Property of a Head of Family*

A Head of Family may be on the safe side to assume at succession that all he has is family property. Otherwise if, assuming that certain things were his private property—which they may legally be—he “wasted” the property in a way not approved of by the members of the family, he must be sure his act would receive their censure, and, perhaps, lead to his downfall. So long as a head of a family behaves himself, he is the most fortunate person in the family. The members under him are always ready to serve him free of cost, not only in emergencies, but at all times and places. He will be honoured and respected as their patriarch, and his word would be as their law. The Head must, therefore, hold the trust in the highest respect, and be courteous to all members of his family.

We have already indicated what is and what is not private property of a stool occupant, and with very few modifications as regards authority and rule the same customs apply in the case of a head of family (*vide* p. 200 and pp. 204-5).

(f) *Private Property of a Slave or a Domestic or Dependent*

There are no slaves in the country at the time of writing. Freed-slaves there are who, however, acknowledge their relationship to the heads of families in which they were previously serving. This is necessary and indispensable on the part of the slaves, for it is the only means to cover up the links of slavery in a past generation. By belonging to a known family a freed-man acquires clan membership, and only free men can belong to an Akan clan. Such slave may voluntarily relinquish to the head of the family or to a member of it his personal and real property. This is a practice not enforced by law, and when property is so relinquished by way of gift, it becomes family property on the death of the slave. Otherwise a slave or better a freed-man is the absolute and entire owner of both his real and personal property, and he is at liberty to dispose of it in any way he likes. Domestic, such as pawn-slaves and others, do not come under the category of slaves or *Nnonkofo*, and there are always the relative of a pawn-slave or other domestic to lay claim to half of any large fortune made by him. If he owed a debt or was pawned for a debt, the living relatives may pay those debts before his death and by doing so they

acquire the right to retain possession of his property. His funeral ceremony will be performed by the relatives with due honours. The master of a pawn-slave or domestic retaining him in his service as a pledge for debt due and owing by his relatives, has no more claim on him than half of any nugget of gold or other treasure-trove that might be discovered by the pawn-slave or domestic.

*Dependents* who are not members of any family are, generally speaking, rarely met with. There is not, and cannot be, a real native of the soil who has not some relative or family, or who cannot trace his descent through either the male or the female line to a living relative. So that if a person had given himself up to the head of a family by commendation, the mere fact that he had been dependent on the head of a strange family would not deprive him of an honourable burial as *Odehye* or freeborn (*ingenuus*): nor has anyone a right to his property other than those who are affiliated to him by blood or other relationship. The one who can truly claim that he is the proper person to perform the dependent's funeral custom, and who does perform it is the legal successor to such dependent. Dependents then are those who, while staying in the service of a Chief or a wealthy man, perhaps for the purpose of being trained up for future careers, have a home and a family of their own. As such, their property cannot fall into their master's hands.

(g) *Private Property of a Squatter or Peregrine*

If a total stranger to the tribe settles on stool land as a squatter not paying anything therefor, his successor would be that person with whom he had been staying and on whose land he had been working. Such a squatter, if he had married the daughter or other female relative of the landlord, would do well to make provision for his wife and children before his death. There have been cases in which the Okyeman Council has ruled that a squatter's property owned in his own right could not be inherited by a blood relation of his who had not been staying in the same town with him for at least three years before his death; i.e. a peregrine in Akim Abuakwa cannot make his property heritable by a person not staying in Akim Abuakwa to assist in developing the property. But a squatter's property may be inherited by any relation he has named as his successor provided that person was previously staying in the same town or district.

(5) *Alienation of Property*

- (i) Theory of Alienation.
- (ii) Different forms of Alienation.

- (a) Purchase.
- (b) Gift.
- (c) Mortgage.
- (d) "Abusa" System.
- (e) Rent, Tax, Toll.
- (f) Loan of Property and Suretyship.

(i) *The Theory of Alienation.*

Tradition has it that absolute alienation of land was until recent times not generally practised by the Akan people. Alienation or transfer of land as between family and family, tribe and tribe, or even between State and State, was certainly common, but sale of land for private or non-communal purposes was foreign to the people. At any rate the short-sighted and reckless manner in which lands are disposed of to-day, as if they were so many pieces of common cowries to be had for the asking, cannot pretend to have any historical evidence in support of the practice. In those ancient days land was held in very high respect and esteem, and this for the simple reason that tribal or stool lands were judged to be as sacred as the stool itself. Every piece of land was under a stool and therefore regarded as falling under the guardianship of ancestral spirits (*Asamanfo*). On the whole, it seems safe to say that the conception of land ownership was part of the general religious scheme, for the many ramifications of ancestral worship could scarcely have left land—the most valuable of all material possessions—free and unprotected within the category of things sanctified in religion. An absolute sale of land by an Akan was therefore not simply a question of alienating realty; notoriously, it was a case of selling a spiritual heritage for a mess of pottage, a veritable betrayal of ancestral trust, an undoing of the hope of posterity.

To-day, however, all this is changed. Money is cheap, but not cheaper than land, for although a piece of land which would have sold for one *predwan* (£8) fifty years ago would to-day be cheerfully bought for 12 *predwans*, the esteem for land as land, the sentiment for the sacred trust of ancestry, and the necessity for tribal hegemony in the reality of a common *heritage of land*—all these have been sacrificed for

the glaring prize of modern gold. Undoubtedly modern gold is something, but it has not that characteristic something which makes brave men brave enough to span the seas to the Antipodes. To sell one's heritable land with no prospect of investing the money in other real estate is like killing the goose for its golden eggs.

Mr. Sarbah tells us in his *Fanti Customary Laws* that "land was about the last thing which became the subject of an out-and-out sale. Owners of land were as reluctant and unwilling to part with their land and inheritance as was Ephron, the Hittite, to sell a burying-place to Abraham, as recorded in Holy Writ. Rather than sell his land, the Fanti prefers to grant leave to another, a friend or alien, to cultivate or dwell upon it for an indefinite time, thus reserving unto himself the reversion and the right to resume possession whenever he pleases".

Things have changed since Sarbah wrote these words, and the Akans are not less anxious to sell lands than to lease them.

The principal reason usually given as an indispensable ground for alienating stool, family, or town land, is to relieve a family from crushing debts. We sympathize with this view. Although we cannot recommend the alternative adopted by our ancestors in meeting crushing debts as stated by Mr. Sarbah on page 86 of his book, and which we quote below, there is no doubt that with the exercise of some prudence, "crushing debts," whether in a family or clan, could be met in some less precarious manner than is practised at the present time.

Let not my sense of responsibility forsake me. But there are overwhelming instances in which stools owning large tracts of good virgin forest lands have sold all away, so that even at this early date some towns are hard pressed for small lots of lands on which the inhabitants are to cultivate their annual foodstuff plantations. It used to be said that lands about three miles away from a town might be safely sold without danger of the inhabitants starving for land. This can hardly be a safe policy. If in this generation when the population of the country is comparatively small the town farmers are pressed for lands on which to cultivate, what would happen, what would be the position of the farmers, and what would our children's lot be, when the population (after two or three generations) had grown ten times greater than it is to-day? The danger is real; if we cannot indirectly prevent it, we should do so directly and courageously.

Mr. Sarbah himself recognizes the situation, but fails to find an adequate remedy :—

“ Before the prohibition of slavery and pawning on the Gold Coast, rather than part with the family inheritance, members of a family have cheerfully volunteered to be sold to raise money for the payment of a pressing family liability. But, in process of time, and especially since the emancipation of slaves and the prohibition of slavery, the sale of land has been of more frequent occurrence in the coast towns.” Thus says Sarbah. Nobody can or would advocate a return to such pernicious practice as the pawning of persons, and even though we fail to suggest an alternative method of meeting heavy family debts, we still plead that alienation of stool lands is a dangerous and unprecedented way of (to parody Shakespeare) “ taking our life and all ; you take our right when you do take the prop that doth sustain the right ; you take our life when you do take the land whereby we live ”.

Before dealing *seriatim* with the various sub-sections under this head, it seems appropriate to say a few words in regard to Stool-ownership of land in Akan land. It is universally acknowledged that in West Africa “ there is not one acre of land that does not belong to someone ”. Equally, it is generally true to say that there is not an acre of tribal or stool land in Akan land over which a Paramount Stool has not inherent right of ultimate ownership. First the Paramount Stool has jurisdiction over every foot of land whether alienated or not, and then it has an inherent right of ultimate ownership in lands which have not been self-acquired by private persons. This is specially so in countries like Warsaw, Akim Abuakwa, Kwahu, etc.

Therefore, to obtain an unimpeachable title to stool land in Akim Abuakwa, it is necessary first to acquire an option over the land from the Chief of the town or village owning the stool by which such land is mediately held, and then obtain the sanction and approval of the Paramount Chief. It is rightly becoming the custom now to approach the Paramount Chief in the first instance who will then introduce the sub-stool owner of land to the applicant.

In stating this aspect of land tenure as it obtains in Akim Abuakwa, we are not unconscious of the fact that the principle stands in conflict with those obtaining in some Akan States. This perhaps was not originally the case. In Akuapem, for instance, although the Paramount Stool was established by virtue of the prowess and valour of the Akim reigning house, it is apparent that besides certain stool lands appropriated

by the new Akim king at Amamprobi and other places, there is no recognition of the Paramount Stool of Akuapem's inherent right of ultimate ownership in all the Akuapem lands, although his absolute and indisputable jurisdiction over all the lands of Akuapem and the inhabitants thereof, has never been denied.

In Fanti proper (Borebori Fanti) there are but very few Paramount stools which can claim absolute right of ultimate ownership in all the lands in their state divisions. But, in places like Kwahu, Warsaw, and Akim Kotoku, the fact of the Paramount Stool's ultimate ownership in all the lands in those States is fully acknowledged.

It remains to be shown, however, that our constitution as it stands at present recognizes the Paramount Stool's acquiescence as indispensable in so far as its right of paramountcy is concerned. It is sometimes vaguely inferred that such paramountcy includes all that the term can possibly connote. Herein we should be wrong to support the contention. Sarbah puts the interpretation of that title with its full signification in law in the following words:—

“The holder of such property is called a tenant in fee-simple; strictly speaking the term ‘fee-simple’, as used in English law, cannot be correctly applied or used when speaking of the highest kind of the tenure obtaining on the Gold Coast. Even in those parts, such as Warsaw Amenfi, where the king is the owner of all the lands in his district, the use of the term ‘fee-simple’ is misleading. *At the most, the king or head chief is but a trustee who is as much controlled in his enjoyment of the public lands by his subordinate chiefs and councillors as the head of a family by the senior members thereof.*” (Vide p. 65.) And Mr. Sarbah quotes Sir D. P. Chalmers' decision in *Barnes v. Attah*, 17th July, 1871, in support: “I apprehend,” decided the learned Judicial Assessor, “that not even the regular occupant” (of an Egua) “could alienate property without some concurrence by the people of the stool (agua) who have an interest in it, and are usually consulted on such a matter.”

The point we wish to emphasize here is that among certain tribes or states Paramount Stools are held really paramount over the land or over the Chiefs and people, but the sense of paramountcy over land would seem to be covered by the meaning implied in a trust. Thus says Mr. Casely Hayford in *Gold Coast Native Institutions*, page 45, “To him (the Paramount Chief or King), “indeed, belongs the power of

ratifying and confirming what the subject grants, though he may not himself grant that which is given. Such ratification is not even absolutely essential to make the transaction valid,<sup>1</sup> though as being evidence of good faith, such ratification or confirmation is resorted to, and is, indeed, becoming quite common in modern grants." Again, on page 48, he says, "Where a paramount Chief happens to receive *abusa*, that is one-third share of the proceeds of land, then it is by reason of the fact that the right to possess is ultimately traceable to his stool." Why ownership of Stool land is "ultimately traceable" to the Stool may be explained by the fact of military conquest, but we should be putting a severe strain on this solitary fact were we to interpret it to imply that lands in the Akan system were held under a usage similar to the English feudal or military tenure.

(ii) We now proceed to discuss the different forms of alienating land in Akan land.

(a) *Purchase*.—To acquire land or tenements by outright purchase the first and most essential thing is to ascertain the true owner or owners of the land and the next step is for the intending purchaser to inspect it. The vendor may go on the property with the vendee, or he may appoint somebody to represent him. After the vendee has satisfied himself as to the nature and value of the property, comes the bargaining or barter for the purchase price.

In land the sale is based on the number of fathoms one intends to buy. If the market price of land is cheap, it is possible to obtain a land of 12 fathoms by 6 fathoms—a good virgin forest-land of the very best West African quality—for £2. The price of land in Akim Abuakwa varies a great deal. The lowest in recent times has been 20s. and the highest £7 per 12 fathoms. It all depends upon the situation of the land and the ruling market price at time of barter. Price per fathom being agreed upon the boundaries of the land will be cut, and boundary marks in the nature of "Ntome" trees, bottles, and stones fixed on all the corners of the land. It is always safe to have the land bounded by such natural features as may be met with: rivers, notable trees, caves; or preferably *Ntome* trees may be planted on specific points on the boundary.

The boundary cutters are to be remunerated by the vendee, and their fee is usually 5 per cent of the purchase money.

<sup>1</sup> This view would not of course hold water in Akim Abuakwa; Mr. Casely Hayford was constrained to insert a negative saving or mitigating clause because of his experience in Fanti land.

The cutting and measuring of the land is completed by the slaughter of sheep, which act is considered customarily essential. If a sheep is not provided by the vendee to be sacrificed to the spirits or gods of the land to appease their anger in cutting the bush and entering upon the land, it is believed that the purchaser will not thrive on the land, nor will the vendor be profited by the purchase money now paid to him. So a sheep is usually slaughtered after the boundaries have been cut.<sup>1</sup> After the slaughter of a sheep, not, of course, unaccompanied with libation, the vendee will be called upon to make payment for the land. If part payment is made, time may be given for settlement of the balance purchase money. But the mere fact that the total cost, or part of it, has not been paid on the spot, is no ground to rescind the sale. The important thing is the cutting of "Guaha", or paying of *trama* in case of a chattel for "guaha cutting" is the customary way of giving "livery of seisin". Quite a small sum must have been used for the purpose of cutting "guaha" in the olden times, and judging from the name of the money, "Trama" (cowries interpreted to mean "earnest-money" by Sarbah), it is evident that cowries must have been used for the purpose when gold was the principal currency. It is notable that in Roman law earnest-money (*arra*) was not given as evidence that a contract had been concluded; it was given to show that there were negotiations pending for a sale. This is just the contrary in Akan land sale, and earnest-money or *guaha* is evidence that the sale is both complete and valid.

The custom is for both vendor and vendee to pay a small amount of money, usually *doma-fa* (4s.), to two witnesses, one from each side, who will be asked to force a piece of string to break whilst a declaration is being made by the vendor to the effect that the land has been sold to the vendee for agricultural or mining or timber purposes, and that the only law to apply to the sale was the customary law of the country. To prove any legitimate purchase of land, the British Law Courts in the colony have constantly, and rightly, sought to satisfy themselves as to whether this custom has been observed. It is in fact a *sine qua non* in the system, and where it is not observed the sale is considered null and void.

<sup>1</sup> There was once a case in the Omanhene's Tribunal in which it was alleged that a wound received by one of the servants of the purchaser who had "not sacrificed sheep on the day he purchased the land" was due to that unfortunate omission. The wound was received on the very first day they entered upon the land to work.

If after a sale of this nature the purchase money is not paid, it can be demanded as an ordinary debt, but the land may be seized by Court processes to satisfy the claim of the vendor if after a considerable lapse of time the amount still remains unpaid.

If there is an adverse claim by another stool, the onus of proof of the vendee's right and title to the property rests with the vendor's stool. He is the principal witness of the vendee. If he could not establish his right against the adverse claimant, the purchaser would call on him to make good his loss by way of repaying the purchase money already paid, or to be replaced with another land by the vendor. But no compensation is payable by the vendor to the vendee for any work done on the land, the customary law providing that it was for the vendee to explore all avenues of information ascertaining the valid title of the vendor to the particular property before making his purchase.<sup>1</sup>

On the other hand, if the adverse claim is made by a person subject to the vendor's stool, the purchaser has nothing to lose—not indeed his title to the land. Such family disputes usually end in getting the aggrieved member who has not been consulted prior to the sale to express his concurrence in the transaction after some amount of pacification money has been paid him by the vendor.

When a sub-stool or subject-stool sells land without the knowledge and consent of the Paramount Stool, and where the purchaser has occupied the property for a number of years, or improved considerably upon the ordinary value of the land, it has not been the usual practice for the Paramount Stool to exercise its right of rescinding the sale. Every sale made with the knowledge and consent of the Paramount Stool must be made in the presence of its representative. It follows, therefore, and it is, in fact, the custom, that where a sub-stool sells land without the knowledge and consent of the Paramount Stool, it lies within the power of the latter to annul the sale, and the purchaser will have his money returned to him in full, exclusive, of course, of the cutting fees and the value of sheep slaughtered on the land.

In the case of the sale of personal property it is not the custom to cut "guaha". Payment and delivery complete

<sup>1</sup> If on investigation it was disclosed that not only was the vendor not entitled to sell or dispose of the land absolutely, but also that he had no appearance of title to sell the land, no interest in the value of the land, then of course a different question arises, and the vendee may obtain damages for his labour on the land.

the transaction. Private property may be sold in one of two ways: (1) by the Akan custom as expounded above; or (2) by the English mode of sale and conveyance recently introduced.

(b) *Gift* is a modified form of sale. Whenever a gift is made, and especially when the thing given is in the form of landed property, it is always customary to give drink or money thank-offering to the person making the gift in the presence of witnesses. When this is done the transaction is complete. To withdraw or recall a gift is always a matter of controversy. It can hardly be done, but if a father grants his son or daughter a piece of cocoa farm in anticipation of filial services, and the child deliberately fails to do any service for the father, the gift may be taken back.

(c) Giving one's immovable property as security for debt due to another person, known in English law as *mortgage*, and giving one's movable property in security for debt, known in English law as *pledge*, are both the most common and the most ancient forms of alienation.

At the present day the practice in this respect follows the English system in many particular details, and we state here a few essentials which should be observed in connexion with both mortgage and pledge in the Akan form:—

(1) Property given on mortgage or pledge is taken on the understanding that the mortgagee may use it. If it was a cloth or other wearing article, it may be returned to the debtor on repayment of the debt without the pledgee incurring responsibility for the wear and tear.

(2) If payment is not made within an appointed period, the creditor may, after due notice to the debtor, sell the property. If, after paying all expenses, there is any balance over and above the amount due, it must be repaid to the mortgagor or pledger. If the sale is made with the mortgagor's knowledge and the realized value of the property sold falls short of the amount due, the debtor will be called upon to make good such balance.

(3) The mortgagee may, upon previous arrangement, use the proceeds of a farm so mortgaged in lieu of interest on the amount; or interest may be taken on the amount, and the proceeds of the farm left with the debtor to use same in reduction of the debt. Generally farms are taken by way of security for the debt.

(4) Whilst a farm or other property remains in the hands of the mortgagee he may improve upon it with a view to realizing the interest therefrom, but the cost of such improve-

ment is not repayable by the mortgagor, except when the mortgagor has settled the amount due and owing on an earlier date than would make it possible for his creditor to realize full interest on the amount. In that event the debtor must reimburse the creditor of all expenses and compensate him for the loss of interest sustained.

(5) In having property mortgaged, it is essential to satisfy oneself as to the mortgagor's title, and when the property is found to be family property, it is necessary to ascertain whether the debt is family debt or whether the family have assented to the transaction.

(d) *Abusa System*.—This is a system by which an owner of land arranges with a tenant for payment to him of one-third share of the proceeds of crops realizable from the tenanted property. If forest-land is given for the cultivation of cocoa, etc., on the *Abusa* system, the food-stuffs in the farm belong to the tenant, who pays all expenses in connexion with the working of the property. If it is a food-stuff farm, the landowner's share must be paid from the proceeds. The landowner never pays any part of the cost of working or keeping the property.

In this case also the tenant must satisfy himself that his landlord's right to the property is secure and unquestionable. The *Abusa* system is widely used in Akim Abuakwa and it is supposed to be the best and safest means of securing good return from an unoccupied piece of land: *Abusa* means sharing into three.

An arrangement on the *Abusa* system, where the crops cultivated are of a permanent nature, is always made on the understanding that the tenant's successors-in-ordinary are entitled to enjoy the interests of their predecessor.

A landowner who has levied a tax on a free user of his land can, whenever he chooses to do so, call on his tenant for payment of an *abusa* share of the proceeds henceforth to be obtained by the tenant; but of proceeds already obtained the landlord would be well advised not to disturb his tenant's title with respect thereto.

Long and undisturbed possession of Stool property by a person not a native of the State, does not entitle such stranger to absolute ownership of the land itself, although his right and title to the farm thereon, except when he refuses to pay the third share, may not be disturbed.

A tenant on the *Abusa* system has no right to alienate the property held, but he may transfer his own share to a third person, with due notice to the landlord.

If the landlord gives the mining right in the land to a third person whereby the tenant's produce is destroyed, the latter is entitled to compensation for such of the crops destroyed in so far as his two-thirds share is concerned.

Palm-trees and kola-trees in an old farm now given under the Abusa system are excluded—except provided for to the contrary—from the operation of the tenancy, and the landlord alone has a right to the fruits thereof, even if the tenant has had to do the work for the improvement of these and the other crops.

Timber and mining rights in a forest-land given to a tenant on the Abusa system are also reserved for the landlord.

In any transaction in land it is best to define and fix the boundaries of the property involved.

(e) *Rent, Tax, and Toll*.—Rent or tax is a modified form of the Abusa system: both tenant and landlord derive mutual benefit from the property involved and similar laws apply to both a taxed or rented farm and a farm on the Abusa system.

A native of the State has an inherent right to cultivate or build on any stool land free of any and all charges and he is never taxed for the farm in any way or form. Strangers not belonging to the Akim tribe and who are not excluded by law are taxed for cultivating stool lands for farming purposes. On this principle, Juabens in Akim Abuakwa used to be taxed at the rate of one pound *per annum per capita* on every cocoa, rubber, and kola farm<sup>1</sup>; and ten shillings *per annum per capita* on any farm exclusively containing food-stuffs. Natives of Kumase, i.e. Ashanti proper, Kotoku, Kwahu, Adanse, etc., were not taxed under this system. Fantis and other tribes were also not taxed. The Juaben Tax was a purely differential one. There has been much controversy about this of late. The principle received the sanction of the British Government, but we are made to understand that the tax has now been placed under a more general basis.

*Toll* is levied on both strangers and natives. If for instance people in one town go away to the stool land of another town to collect snails, they are made to pay toll to the Chief owning that stool land. Of every head-load of snails (*nwakyem*) the Chief on whose stool lands snails are collected, takes one

<sup>1</sup> Since writing the above, the Juaben tax had been reduced to £1 *per annum per capita* with no regard to the extent of property owned. (This rule is also now repealed, and the tax in 1927 for all non-Abuakwa farmers is one penny per cocoa-tree.)

“Kyem” or portion of snails. Part of these collected tolls are sent to the Paramount Stool as an acknowledgment of its ultimate ownership of the land on which snails are collected.

A person killing big game on a stool land, whether on the stool land of his own town or on another Chief's stool land, has to hand over, by way of toll, the leg of the game so killed, to the owner of the stool land, and the Chief has to send a share to the Paramount Stool in acknowledgment of its ultimate ownership. That is to say, any stool receiving tax or toll on a land has a *prima facie* right to such land. This is widely believed to be strong evidence of title because it is inconceivable that hunters and other strangers coming to a land in another part of the State should regularly yield the stool's portion to a chief who was not generally reputed to be the owner of the land.

When a native of the State discovers a treasure-trove or gold nugget, the stool-owner of the land is entitled to one-third share of it or its value, which third share must be surrendered to the Paramount Stool to apportion a part to the sub-stool. A stranger on a tenanted piece of land has no share, other than a present, in the gold nugget or treasure-trove so discovered by him.

There is yet one point in regard to sale of land as practised in Akim Abuakwa that deserves notice. Nobody sells land in Akim Abuakwa for two or three purposes at one and the same sale. Either it is sold for mining purposes or for agricultural or for timber purposes. If for mining purposes the purchaser has no right to the timber on the land, nor has he agricultural rights over it, and where there are no stipulations to the contrary in the deed of conveyance, the holder may be sure that none but only his mining or timber or agricultural right is secure. When a purchaser comes in to acquire land for agricultural purposes he naturally limits his right to agriculture only and has no claim to the mining rights in the land. Hence the cheapness of land sold for agricultural purposes.

So far as I know the point here involved has not been judicially decided, but the same principle seems to apply to rivers and streams in a land sold, for the general practice is that the right over waters is not transferable on a sale of the land.

(f) *Loan of Property and Suretyship*.—The principle involved in borrowing a person's property, or in taking a loan from another, only varies from the English system in so far as some details of procedure are concerned.

Suretyship has nothing peculiar or distinctive about it. It seems necessary to state, however, that to stand surety for a loan of money means in our custom that the surety has made himself directly responsible for the amount. If the money-lender could not lay his hands on the principal debtor, the surety would be called upon to pay. If it becomes necessary to take action for the recovery of the amount, both the principal and his surety must be sued.

If the principal debtor is at any time demanded payment of the debt without the knowledge of the surety then the surety would cease to be responsible for the amount, the money-lender having gone behind him to claim the amount.

A surety, except when he is interested in the money borrowed, should not be personally responsible for any part of the debt, and whatever he pays must be afterwards repaid to him by the principal debtor.

## CHAPTER XI

### SOCIAL INSTITUTIONS

IF one had to make a choice between a purely social as distinguished from a political institution in the Akan state system it would be difficult to point to a characteristic mark by which to differentiate between the two. "Society" at the stage in which we are studying it among the Akan peoples is not far removed from the idea of association of families, clans, or tribes. Invariably the head of the family is not only the patriarch but also the social leader of that family or clan. Matches between marriageable youths are contracted under his personal advice; free consent of girl or boy to a marriage is only conditional on the sanction of the head of family. Dances are usually held within the family compound and when the youth of two or more families meet for some social purpose they do so under the ægis of the central head of those families. Society is more or less clannish in structure, and in proportion as the family tie is close, the youth of the family or tribe are constrained to model their social intercourse on the structure of the political or tribal units. Thus then starting from the highest structure in the State with the Omanhene as its head, we meet a descending scale of social institutions having some head or other who partakes of the hierarchy inherent in the supreme head. The town with a Chief or Odikro as political head has also a corresponding head for the social activities of the town. This head is directly under the Odikro or Chief, but in so far as members of his association are concerned, he is supreme as supremacy goes in the Akan institutional regime. There are several such institutions in every Akan state, and almost every town in an Akan state has a social association of young men with their own leaders called captains (Asafohene or Asafoatse) and lieutenants (Sripi). These Asafo companies as they are called have very definite functions in the political and social community wherein they are found, and as the host (Asafo) of all the young men in a town or state, they were in historical times the only disciplined association

of able-bodied men who fought their country's battles in time of war and did yeoman service in time of peace.

Thus, then, these Asafo Companies of young men are established with very different and diverse purposes, and their activities in recent years have given cause to much controversy as to whether they should be regarded as indispensable parts of the Akan constitution, or whether they are mere associations of young men working for their own immediate benefit and enjoyment. At one time, the rivalry between the different companies, the so-called "company fights", became so serious that Government had to institute inquiries into the origin, constitution, and status of the Company System. The result of these inquiries did not make the contemplated abolition of the system necessary or practicable, and, for sociological purposes, the value of such associations admits of no cursory treatment.

Mr. Casely Hayford deals with the Company System in his *Native Institutions*, but apparently he has in mind the relation between an Asafo Company and the Chief of a town or division, or between the Government and the Company System. He does not, however, lose sight of the fact that the Asafo Companies are the backbone of the country. Such a company in a town consists really of the whole male inhabitants of a town or village, exclusive only of boys under sixteen or seventeen, and of the Councillors in a Chief's Tribunal. They form a strong body of commons who, besides other duties, have also a distinct voice in the enstoolment or destoolment of local Chiefs. Without them, the governments of the Akan nations would not have that glamour of liberal sanction which makes the government of any free people at once orderly and democratic.

The Asafo Companies have assumed different forms in successive ages. First there is the company which for services rendered to the town or country in time of war or of peace, has been raised to a status which entitles it to participate in the direct government of the town or country. This is effected by making the Company's captain or leader a Captain-on-Stool (*Okonnuasoni*). It should be observed that captains of Asafo companies have, as a fact, no stools, and until a Company captain is created as a stool-holding captain, the succession to the captaincy is always made by vote of the members. In the old days companies were usually formed not by the admixture of different members of various families, as is the case at present, but by a collection of the members of a single family, primarily for

defensive and offensive purposes. This class of Asafo Companies is now extinct. They have all of them obtained statutory right to partake in the direct government of the town or country to which they belong.

The form of the institution now in vogue consists of the young men of a town who have brought themselves together for social intercourse, and for the purpose of developing a unified national spirit.

It must be noted that the first form of company system attained its present state after passing through years of strenuous existence. This accounts for the incongruity in the names of the various companies. At Kibbi, for instance, we have the Ankobea; and the Apesemaka—true survivals of the ancient form of unions of families. They are, at the present time, the principal governing parties in the Executive Council at Kibbi. In other localities, it is commonly found that companies bearing these particular names belong to the second order of the system, that is to say, they have not yet been raised to a position entitling them to participate in the direct government of the town to which they belong. At Assen Apemanim, for instance, there is a very active and influential body of young men called Ankobea. It is, however, a type of the second class of companies, although it bears a name which in another Akan country belongs to a company of the first order.

Of the second class of Company system, the best example is the Fanti seven-companies system; but assuredly more united and systematic is the Amantoo-mmiensa, or the Council or Company of Three Counties, found in Akim Abuakwa. In Kwahu, another prosperous Akan country, all the companies in the towns of the State have recently joined together for the purpose of united action. The Amantoo-mmiensa Company in Akim Abuakwa is instituted on a very different basis. To give it its true place, it should be said at once the Amantoo-mmiensa is the third of the three principal councils governing the State of Akim Abuakwa. It is a system which has been widely nationalized and endowed with very unusual powers.

As we have said in another chapter, they form a true representative body of commons directly concerned in the affairs of the State, and they very jealously guard their right to investigate the proper or improper direction of affairs by the Executive. Bereft of its wild character, prompted by an inherent self-knowledge of its potentialities, this council is regarded by all true lovers of good government as an indispensable institution in the State.

When we speak of them as wild, we refer to their hardly controllable external manifestations. The coming of the Amantoo-mmiensa to Kibbi, the Omanhene's seat, is, and has ever been, dreaded as the coming of Hannibal was dreaded by the Romans. This is not conducive to secure government and good order, and it seems that if the policy of the present Executive at Kibbi continues to receive general support it would not take much trouble to make the Amantoo-mmiensa Council live a life worthy of its antecedents.

Now again in an Akan state we have, besides this national institution, others who might be referred to as local or municipal companies. These are more like social institutions which have received recognition to participate in the national affairs to a certain recognized but indefinite extent. A close study of their usual movements, committee meetings, interviews with the Chiefs' Councils, coupled with the nature of various obligations they are usually called upon to perform, is likely to lead one to believe that they form an integral part of the constitution of the country.

Invariably they figure prominently in enstoolment and destoolment questions; whatever might be said against the methods adopted by them in those movements, the truth remains that their existence as an important national factor can not be lightly thought of. They are not such as to permit of their being ignored with impunity in any matter of national or local importance.

The captains appointed by these companies every two or three years are, by the existing laws of the country, and as long as they remain captains of their companies, recognized members of the Councils of the Chiefs of the various towns. This, at least, is sufficient proof of their position as a national institution.

With regard to the multiplicity in the number of companies in any single town, it all depends upon the population rather than the ordinary importance of the town. In Kibbi, for instance, there is only one company called the "Chirem". Begoro, a very large town, has two companies; Asamankese, another large town, about the same number; and Akyease heads the list with three or four companies.

It cannot be shown with any degree of accuracy what exactly are the limits of the powers of these companies. The absence of written records gives great scope to the opportunist to interpret or misinterpret anything in a way that would best help the cause in hand. Had there been written records, many ordinary matters which sometimes endangered

the downfall of Chiefs would have been readily and peaceably decided.

We are, however, able to sum up in a few words what can be gathered from various experiences. Asafo company, or companies, in a town, is or are acknowledged to possess:—

(i) A definite and popular voice in the Chieftaincy of the town;

(ii) A right to advise on the prices of commodities brought to the local markets;

(iii) Recognition as the only organized body for local emergencies; for road work, town work, and civil and military services. In time of war they appear on the battlefield with guns purchased by themselves, either individually or collectively, and they are supplied with other war munitions by their Chiefs. In some cases, however, the Chief would be obliged to provide guns, gunpowder, etc., when the Company has exhausted its own resources.

A town without an Asafo Company is theoretically as good as dead. Practically, it could be besieged and destroyed by a neighbouring town without any serious attempt at resistance. But the truth is also prominent that a town without an Asafo of this kind is perhaps the more fortunate in that it has no history.

The *third* order of the Company system is what may perhaps be put down as a purely social institution. Associations of this nature are generally formed by members of both sexes—by the children so to speak. They form associations for the amusement of themselves and for the general enjoyment of the townspeople. In forming a society of this nature, the sanction of the Chief is not required, although it lies within the latter's power to dissolve the "club", if in the opinion of his Council it is found to threaten the well-being of the town.

Youths and lasses form these social gatherings and meet on the streets on moonlit nights to dance and sing and play. Occasionally, during the great festivals and important funeral customs, they would appear in full dress suitable for the occasion and celebrate the festivities. If there are two or more in a town, it usually happens that they vie with each other in general accomplishments. They sing satirical songs against each other, make demonstrations of superiority in one cause or the other, amusing themselves and the spectators with the success or failure of their activities. It is a pleasure to hear them sing songs composed by the artful and clever among them. Some of their songs are fragments of real

poems concerning love, nature, kings, and the gods. It is a different form of poetry, much lighter than the higher form played on the State drums.

These social companies or bands assume different names at different times. There have been within the last twenty years or so, the Asiko, Ankedam, Franapo (Fernando Po), Ahima, Siti, and the more modern craze of brass bands. Dances and bands like these go to make the life pleasure of an Akan boy or girl.

They are not at all limited in their means of enjoyment. They have games of all sorts: the boys have organized swimming and shooting parties, and the girls have parties for collecting firewood and picking snails. At the riverside they have sports of peculiar kinds, chief among which is what is called in the Akan language *Avensin*, or *Aguma*. Two opponents meet to wrestle arm to arm, leg to leg, and body against body, in a rather violent but artful manner. Until one of them succeeds in conquering the other by sending him down or getting his opponent exhausted, the contest is a draw. This game is somewhat similar to the Japanese "Ju-jitsu", at least in principle.

Our regret, however, is that with the growth of English schools, this healthy and muscle-developing pastime is being gradually given up for the more attractive games of cricket and football. Cricket and football are good games; nobody doubts that. The fear is not that we are discarding the good for the bad, but that we are dispensing with the essential for the convenient. Our national character as a race of people having endurance and capable of prolonged exertion involving determination to see a thing through to its end, stands the risk of being modified, and in time altogether lost, if we give up our national games, pastimes, and customary practices. Cricket and football games help to make good sportsmen, good soldiers, good administrators, as well as good conservatives. But if the Akans have to acquire or enrich these qualities, should they do so at the risk of losing their national character?

The elderly people, including the Chiefs, are also very active partisans of social organizations of various kinds. They are even of a more sociable disposition than the young since the many demands of custom and usage, prohibitions and taboos, come to them like second nature, and free and easy social life is possible for them. For their enjoyment, Adowa, Densem, and many dances are established and managed by the elderly men, or by young people appointed for the purpose.

## CHAPTER XII

### FUNERAL CUSTOMS

#### (1) *The Akan Belief in a Hereafter*

" Human power failing, super-human power is called in ; the mysterious and the invisible are believed to be present ; and there grow up among the people those feelings of awe, and of helplessness, on which all superstition is based, and without which no superstition can exist."—Buckle, *History of Civilization*, Chapter 2.

Of all the customs that we have had occasion to give our spare hours to study, funeral customs are the least desirable. We believe they are the only existing customs which, all shades of opinion are agreed, should receive thorough revision under the standards set by modern conditions.

Death, according to the belief of the Akan people, is a painful process of transition from an unhappy material world to a spiritual or ghostly world called *Asaman* (Hades), equally unhappy, but where the unhappiness is rendered tolerable by the enhanced freedom of thought and power. In *Asaman* there is the self-same monarchy that a man was subject to when clad in his mortal self, and a person dies only to find his immortal self in the clutches of those judges and magistrates whose successors had judged and ruled him when clothed in the outer garment of the soul. It is easy according to Akan belief for the spirit of a dead person to demand the presence of a living person in *Asaman* for the settlement of an outstanding controversy between them ; it is easy, in due season, for spirits to materialize and communicate with their living relations in either a bodily form or in an invisible but audible spiritual phenomenon.

Death is a punishment for the wicked. But death is also a relief to the unhappy in this mortal world. Death beyond is impossible ; and in *Asaman* there is the end of mortality. The *Asamanfo* (the inhabitants of Hades) live in perpetual happiness or unhappiness according as their earthly lives were justified or unjustified in the eyes of the law. The *Asamanfo* have greater powers over the will and thoughts of the living (*Ateasefo*), and they can either direct a living

person to mischief, prevent a living person from doing mischief, or guard the footsteps of a living relation from falling into impending danger.

An *Osaman* (an inhabitant of Hades) never quits his grave ; or rather the belief is that he makes periodical visits to the resting-place of his mortal ego. Within every forty days or within every year, an *Osaman* would once or twice hover over his grave, perhaps in disport, perhaps in despondency. He would on other occasions visit the most frequented places while living. This, in a way, accounts for the perpetual inferiæ to the manes of the dead. Food placed on the grave of an *Osaman* is necessary and useful because the essence of it is in one way or the other consumed by the *Osaman*, and besides that, the offering is a great mark of respect to the memory of one's deceased relative.

A dead person has his ghost about his body until it is buried; and the spirit of a dead person has greater insight to discern the bad and good in men. Death, in this world of evil, is either caused by the machination of witches, by poisoning through the means of unseen agencies, or by a fetish as punishment for sin. The spirit of a dead person could tell who had caused his death, and immediately after death one would see a young girl or boy of a prophetic turn seized in a frenzy and jibbering a half-articulate language, which would be interpreted as words of confession or revelation coming from the spirit of the dead person. These are the media employed to receive messages from beyond. Natural death is not unknown to exist ; but that a person in apparent good health should suddenly die is certainly an event that deserves supernatural explanation. In fact, in this age of hustle and bustle no person dies a natural death. That sickness is a sure means to curtailment of one's life is a fact, but there would be hardly any sickness if a witch or wizard, a poisoner or a fetish, were not involved.

There is also a strong belief in reincarnation. The belief is that persons in *Asaman* can by some supernatural process return into this old world to be reborn. This process takes place three times over in the life of every single soul. It is all a continual process of change, of birth and rebirth. What has happened to-day, happened but yesterday, and it will happen again to-morrow.

These are but the theoretical elements of our people's belief in life and the hereafter. They believe, of course, in the existence of a supreme Being, an *only* Supreme Being, a *Nyankopon*. But their belief in God ends just where

Christianity begins. Nyankopon is for both the quick and the dead, the heathen and the Christian. He does not like bad things, nor bad people. "*Nyame mpe bone.*" But when you attempt to go farther, when you mention the last and final end of the world—the last judgment—then their belief is hazy and conjectural. Perhaps, after all, their belief is in conformity with advanced knowledge in modern science, of nature and the creation.

## (2) *The Truth about the Funeral Customs*<sup>1</sup>

To begin with, when an *obusuaponi* (member of a great family) dies, the first public announcement is made by two gun-shots. Then the chief mourner appoints some sober person to supervise the funeral rites. This person called "*Nea ote ayi pa so*" distributes rum to all deserving persons by way of inviting their sympathy, and he also receives money, cloth, or liquor donations "*Nsewabode*" from those sympathizing friends who would care to give something to the bereaved family. Rum or gin or palm wine is given to any person who has gone there to express his sympathy.

Or if the sympathizing friend be a near relative of some means, or other person of importance, and he choose to appear in a grandiloquent sort of way, then there must be redoubled firing of guns and a freer hand with the "grog". Everybody must have his booze.

<sup>1</sup> I particularly request the reader to note this. The following description of a funeral custom, especially of the widow's (*Kunafu's*) share in it, was written by me about six years ago when in the Gold Coast.

There is no concealing the fact that the account of the custom as here presented would seem repulsive, perhaps objectionable, to the sympathetic student of Akan customs, whereas to the more sophisticated, civilized man, it may seem possibly entertaining. Reading this chapter in 1927, I feel strongly inclined to omit it from this book; on the other hand, I have reluctantly decided to publish it with slight modifications in the original script, for, although my whole mental attitude to the problem of funeral customs is to-day totally different from what it was in 1921, there is not one fact in the chapter which was either not in accordance with actual practice or is unduly exaggerated. The reader will note also that my attitude to the funeral rights was not that of an African participating in them, but of an external spectator, a hybrid Afro-European product of Western Christian education who had been taught to believe that all that was opposed to the religion of Europe was ethically bad. To-day, after having had a smattering of the higher western knowledge, I have reason to know otherwise concerning the nature of European ideas of life, and the implied psychological attitude betrayed by my account of the funeral custom should not be credited to my mature judgment.

Simultaneously, the young are steeped halfway into the whirl of the funeral. They have the street all to themselves, and whilst their fathers are dancing "akrodo" and the mothers are singing the funeral dirges, here they are playing their dance in apparent sympathy with the bereaved family. Even they are not spared. "*Moma gofomma no nsa*" ("give drink to the young dancers") is the order that goes round. Just a sip in the glass at a funeral festival does no harm to the young. And thus rum, what has been aptly called "Ruin-Useful-Men", has its own imperious and destructive sway. The seed of barrenness is sown in the girls, and the source of many countless evils is here openly administered to the boys. But this is only a stage in the process.

The funeral proceeds. Every member of the family may give drink, i.e. rum or gin—the proof—to anybody, but this expense is on his own accord.

As we have said somewhere else the cost of the coffin is borne by the children of the deceased. To the wife of the deceased belongs the worst lot. She must enter into the deepest mourning. She must follow certain prescribed customs to indicate her true feeling of the affliction she had suffered in the loss of her husband. She must exchange the state of woman for that of non-woman. The first thing to do is to uncover her head, and she must subsequently have her hair shorn. She must also strip herself of all ordinary beads and trinkets, and use those prescribed by custom. Next she must, as soon as it is day, begin to wail and lament, not in the house, or in the precincts of the house, but in the very centre of the town, the very heart of it. She must lament, all interested women following her and singing dirges after her, from one end of the town to another, from one street to the other. Next she comes home to sit in her dejected, disgraceful state before the dressed body of the dead husband. This is the first scene in act one of the wife's part.

Let us see the second scene. Sitting before her husband, apart from her own unwillingness and inability to take food whilst the dead body of her husband is still unburied, she is painfully reminded by custom that she should neither take any meal, nor eat kola, nor even drink water. She must fast as a Spartan would. And so she sits down flat on the ground to lament her own life and the death of her husband! The heads of her children should be shorn of all hair, and the hair is heaped together in front of the dead body. So much for scene two.

We will now see what others, besides the widow, have to

do. The daughters-in-law of the deceased must, with salt and brass pans, enter into certain customary rites called *Bredwane* and *Asimeremen*, wherein some women will have to dance and be liberally served with the all-masterful rum.

While everybody is forbidden to break his fast, there has been the finest repast—the best dishes that the deceased loved while alive—cooked and set before the dead body. Here are his toilettes, and there is the mutton or fowl soup ready for consumption by the spirit or ghost of the dead person. These remain in the presence of the dead body even until burial, and they must be taken to the burial ground to be placed on the tomb. But even then there is no end to the unqualified pouring of rum and gin which has already set the surrounding atmosphere into a blaze of liquors.

The dead body is properly dressed as befits his position. Half his personal effects are gone with his body. His gold rings, chains, his best sandals, and his best valuable cloths in addition to such cloths that friends may have presented to him after his death, are all on the body. All must be taken away to Asaman, or otherwise where was his greatness? If he took nothing with him to Asaman, those there might minimize him and call him a "nobody". Even the belief goes further. One might just as well send by the body of the dead man any clothing or other article he would wish to present to a relative who had died two, five, ten, or twenty years ago, whose clothing in use in Asaman must have become worn-out. That is the belief. "Human power failing, super-human power is called in; the mysterious and the invisible are believed to be present. . ."

Now it is sun-down. They prepare for the burial ground. The grave already dug is about three feet deep. Here we have the third scene of the widow's first act. She carries an earthen jug of palm wine. She leads the procession. Her left arm must be placed round her neck, the right holding the jug. As she reaches the *Nsaman-pom* (Grove of the Dead) she breaks the earthen jug, and runs home from the grove of the dead to lament while continuing the fast.

Meanwhile the coffin is being placed in the tomb and there is no end to the firing of guns and the downpour of rum and gin by way of libation. The dancers are already about and nobody sings for a half-hour without drink. Both at home and at the burial grove drink is being liberally served. It would otherwise be derogatory to the chief mourners.

"Drink, drink, bring more drink" (" *nsa, nsa, womfa nsa mera* ") is the cry all about.

After the burial the funeral obsequies are only about half done. Now is the time to keep Wake for the person dead and buried. All members of the deceased's family must somehow doze about in the house of death and liquor in their half inane state, and the widow must pass the night on the husband's bed, for fear that he might not find her when he comes into his bedroom for the night.

Early the next morning they start the wailings and lamentations, preceded by general thanksgiving by the family singing round about the town, and at the doors of the sympathizing friends; the sympathizers come to the house of mourning to return their thanks, and the funeral revives with full vigour. This goes on for five or six days until the chief mourners fix another day for the second part—the real customary observances—of the funeral. It may be 40 days, or 80 days, or 6 months, fixed for this customary funeral. It matters not when. The widow's lot is that from the day of her husband's death till the day when these customary obsequies will come and go, she must keep fast for, perhaps, 40 days, or 100 days. She takes nothing more than a light broth or something more light. Nothing in the way of the usual meals. She had not truly kept the memory of her husband in perpetuity if she did otherwise.

But before the date of the customary funeral obsequies the family of the dead must meet a week after the death to go into accounts. It is no exaggeration to say that a person who had left property not much over £60 in gross value (excluding lands) may have the expenses of his funeral bordering over £40 or £50. That is formal and usual. It only shows how the members of the deceased's family respected him. "*Abusuafoo no aye ade*" ("the family have done well") would be said to their praise. Presents in money, etc., received as donations from friends, perhaps a much smaller sum, would be struck off this figure, and the balance is a debt. The deceased's children will also mention the total value of their expenses, but that must, owing to the fact of non-paternal succession, be paid by them without any assistance from the family.

At this time also, a week after the demise, food must be cooked and placed on the grave. That is the end of the first part of the custom. It is just the truth about the funeral custom.

The second stage of the obsequies is *Yida*, or Funeral

Day. Preparation—elaborate in itself—must be made for the day. The relatives of the deceased directly concerned with the death must now look about for a loan if they themselves have not money to carry out the funeral obsequies. Rum and gin, meat and other necessaries must all be provided for. The widow must obtain new earthenware, hearth-pots, dishes, and a sheep for the purpose of the inferiæ.

On the preceding day a small shed must be built on the street with certain customary plant-stems and leaves, where the relatives must pass the night. They must all sleep in the open air, under the sheds. When these arrangements are complete, there must be a gun report to announce the intentions of the bereaved family to the town.

Early on the morning of the appointed day the funeral commences in all earnest. All is as if the deceased were just dead. The wailing and lamentations know no bounds. The firing of guns is started afresh, and there is every indication but the bier to show that somebody or other is dead. The great boom of gun-fire in most cases resemble the *feu-de-joie* at an Odwira festival. The deputy of the chief mourner is there again to receive donations, and to distribute rum and gin to all and sundry. The cooking is commenced. Here are the relatives on one part cooking the best mutton soup for the offering, and the poor widow is busily engaged in the same line.

But she appears on the scene rather apathetic to the debasing ceremonies awaiting her. To-morrow she regains her liberty, so she must muster enough courage to face the ordeal. The first scene in the second act of the widow discloses her cooking in her forlorn macerated condition. Scene two shows the widow holding in her hand the stalk of a wild sugarcane especially decorated with leaves for her, upon which she heaves her last breath to lament and wail for her dear dead husband. Towards dusk she must have her head shorn of all hair, and prepare for the third horrible scene. Here is the woman in the hands of her tormentors being flogged with another cane-plant called "*sensam*". Here you may picture the poor forlorn widow, with her hair shorn to the skull, her glory all gone, standing before her "benefactors", who pretend to be flogging "*musu*" (calamity) away from her. Here, if you are sympathetic, this is the time to express your feelings for her. Presents are given to the widow to sympathize with her in her loss and suffering.

Now they are in the procession to the burial grove. On the grave of the deceased will be placed every kind of dish

that the deceased liked best ; besides there is his toilet basin, his bath jug, his dining table, with food freshly prepared set on it, drinking jug, and all that he may have need of in Asaman. All are set in their proper places under a shed built over the tomb. As I gaze at this heap of sumptuous dishes and toilet and table ware all exposed to sun and rain and to public view on a side of the public road, I feel to weep within my soul. ". . . and there grow up among the people those feelings of awe and of helplessness on which all superstition is based, and without which no superstition can exist."

To the credit of the mourners we must mention a miniature statuette made of wood or of some strong metallic clay, standing boldly in the offering. It is made after the form of the dead person. The sculptor seems, however, uninstructed in his work, for he does it as a hobby rather than a profession or occupation. One might discern the hand of art in it, but the conspicuous absence of any attempt to ensure excellence may be due not to lack of aesthetic interest, but of economic motive. At this juncture we may be permitted to express our regret at the havoc that the sudden economic welfare of our people has wrought in the arts and crafts of the nation. Formerly, even a little more than a couple of decades ago, one could scarcely visit a house in Akim without coming across an architectural or mural decoration of some form or other, and in it one could find that the artists exhibited great interest in their work. In Ramseyer's *Dark and Stormy Days in Ashanti* we are shown in one of the interesting pictures a design on the walls of the Palace at Kumasi displayed in an elegant *alto-rilievo*. In these days, it is considered the clearest mark of poverty for one to live in a house built on the old lines and retaining any artistic decoration. In fact, art in the people is dying. Now, it is all a question of how to own the largest cocoa farm and reap the greatest harvest.

But we digress. The statue on the grave may have some religious or spiritual significance. A complete set of these statues is called "*Abusua kuruwa*", or family cup. Before they are placed on the grave of a high personage they will be carried through the streets ; and it is not uncommon to see the bearers of these statues suddenly obsessed with the spirit of the dead person and ready to make themselves mediums of communication between the living and the dead.

The widow is last seen on this day sweeping the place where the licentious revelry had taken place, and the rubbish, together with her hair, will be taken by her and placed at the outskirts of the town.

The day's ceremonies are concluded by the pouring of palm wine libations to the spirit of the dead, to invoke his blessing on the house and to wish prosperity to the family.

On the following morning the widow appears in her last act. She is now well dressed, and with a pan of sand on her head she goes about to thank the people. It must be observed that since the husband's death, the woman had been considered an unclean person, and in saluting people she had not to shake them by the hand; nor had she the right to cross the threshold of any but those nearest to her in affinity. But to-day she is relieved of all her burdens, for she enters into a happy widowhood.

A week later the members of the deceased's family must meet and render their bills of expense. They find in the last moment that their liquor bill is rather a heavy one. However, good-natured as they are, they share the debt among themselves, and finally appoint a successor to the deceased. This ends the greatest ceremony to the memory of the dead, whose spirit is parted from the land of the living (*Ateasefo*) to the land of the Dead (*Asamanfo*).

It must be mentioned that the present form of funeral customs is but a dim and ghostly semblance of the rites performed by our fathers twenty to thirty years ago. "*Afunsoa*" (the custom of carrying the coffin through the streets with a view of its striking down the person who had caused the deceased's death) and such other customs, have been suppressed by the British Government.<sup>1</sup>

<sup>1</sup> The funeral custom described in this chapter may be that of an ordinary member of a well-to-do clan. The funeral of Chiefs and other great men is generally on the grand scale, but being a public ceremony there is little personal suffering except that when, for instance, a queen-mother dies, all the women of the tribe must cut their hair in her honour, and also in the ancient days human sacrifice was an inseparable part of the funeral ceremonies of kings. Slaves, servants, wives, and even court officials were killed to accompany the departed king and form part of his household or court in *Asaman* (Hades).

Since this chapter was written the writer understands that the Omanhene of Akim Abuakwa, who saw this work in manuscript, has caused certain of the harsh aspects of funeral obsequies to be abolished, and to-day the widow's lot is not half so bad as it was five years ago, perhaps it is decidedly better. Funeral expenditure has also been standardized under penalty, and the people are being made to reduce the excessive conviviality of the festival to within reasonable limits. As, however, Akim Abuakwa is not the only Akan State in which these customs prevail, the chapter is published in its original form in the hope that it may still be of use in leading to the abolition of all undesirable aspects of an Akan funeral.

## CHAPTER XIII

### APPENDICES

#### A

#### A TABLE SHOWING THE CONSTITUTION OF AKIM ABUAKWA COUNCILS

##### *Councils*

There are three permanent Councils (A, B, C) in Akim Abuakwa, with one Extra-ordinary Council (A 1) called for special purposes. These Councils are:—

##### *(A) The Executive*

1. *Nana Otumfo* Omanhene of Akim Abuakwa, Paramount Chief.
2. The Jasehene of Akim Abuakwa (Kwabeng) Regent; *ex officio*.
3. The Abontendomhene of Kibbi, Apesemakahene; First Councillor.
4. The Ankobeahene, Chief of the Home or House Guard.
5. The Jasehene, Chief of the Personal Body Guard.
6. The two Kyidom Chiefs, and the Chiefs of Wirekyiren, Tete, and Pano (Chiefs of the Rear Guard); and
7. The Queen-Mother.

##### *(A 1) The Extra-ordinary Executive*

1. The members of the Executive Council; and
2. The Chiefs of the Amantoo-mmiensa Council (the Council of Three Counties).

##### *B) The Okyeman (State) Council. (The National Legislative, Judicial, and Army Council.)*

1. *Nana Otumfo* Omanhene of Akim Abuakwa; Sovereign-President.
2. The Adontenhene of Akim Abuakwa (Kukurantumi); Chairman of Committes and General Chief of the Advance Guard.
3. The Nifahene of Akim Abuakwa (Asiakwa); Chief of the Right Wing.

4. The Benkumhene of Akim Abuakwa (Begoro); Chief of the Left Wing.
5. The Oseawuhene of Akim Abuakwa (Wankyi); Chief of the Stool Guard.
6. The Jasehene of Akim Abuakwa (Kwabeng); Chief of the Body Guard.
7. The Ohene of Tafo (Adonten); Advance Guard.
8. The Ohene of Asuom (Adonten); Advance Guard.
9. The Takwahene of Akyease (Nifa); Right Wing.
10. The Odauhene of Osenase and Otwereso (Benkum); Left Wing.
11. The Ohene of Apinaman (Benkum); Left Wing.
12. The Ohene of Asamankese (Oseawu); Stool Guard.
13. The Pomasehene of Abomосу (Oseawu); Stool Guard.
14. The Abontendomhene of Kibbi (Executive, Jase Wing); supported by all the members of the Executive Council; and
15. All the Sub-Chiefs of the State, including the Amantoommiensa Chiefs.

(C) *The Amantoommiensa Council. (The Council of Three Counties.)*

1. The Chiefs and the People of Apapam, Afiesa, Afwenease, and Adadentam (Asafo Pranpran). The Chief of Apapam is President of this Council.
2. The Chief and the People of Apedwa. (Asafo Pranpran).
3. The Chiefs and the People of Tete, Pano, and Wirekyiren (Asafo Pranpran).

B

AKAN ORDER OF PRECEDENCE

Showing places of Chiefs and people in Processions.

The figures indicate the various positions occupied by Sections of the *Oman* or Nation. Thus:—

1. Omanhene (Paramount Chief).
2. Kyidom (Rear Guard).
3. Ankobea and Jaseman (Body-Guard).
4. Oseawuman (Stool-Guard).
5. The Stool. (*Note.*—It is still immediately guarded by 3).
6. Adontenhene (Chief of Advance Guard).
6. Adonten-man (Advance Guard).
7. Nifa-man (Right Wing).
8. Benkumman (Left Wing).

## C

## GUARDIAN SPIRITS AND GENII

(1) *Natal.* (After Christaller)

Like the ancient Egyptians, Indians, Babylonians, and Germans, the Akan people named the seven days of the week after certain spirits or genii. If one is born on a Monday, he is always greeted with the name of his genius as a mark of reverence. Every person has a natal name (*Krada-din*), literally soul's day's name, and it forms the first of his two names.<sup>1</sup>

Day of Week.		Natal Name of		Name of Genius.	Title of Genius.
		Male.	Female.		
Sunday	Kwasida	Kwasi	Akosua (Asi)	Ayisi (Awusi)	Bodua (Tail of the Beast).
Monday	Dwowda	Kwadjo	Adjoa	A(d)wo	Okotto (Suppli- cant, Mediator).
Tuesday	Benada	Kwabena	Abena	Bena	Ogyam (The Sym- pathiser).
Wednesday	Wukuda	Kwaku	Akua	Wuku (Aku)	Ntoni (Voluntary Adjudicator).
Thursday	Yaoda	Yao	Yaa (Aba)	Awo (Aberaw)	Preko (The Bellicose).
Friday	Fida	Kofi	Afua	Afi	Okyin (The Wanderer). <sup>2</sup>
Saturday	Memenda	Kwame	Ama	Amen	Atoapoma (The ever-ready). Or Oteananka- nnuro (The healer of snake- bites).

(2) *Patronymic*<sup>3</sup>

The table below gives a list of the different ancient Ancestors or deities of Mythology honoured by particular families, through the male, but not, as usual, the female line. Strictly, a person may be

<sup>1</sup> E.g., the author of this book, who was born on a Saturday, is known among his intimate relations as Kwame Atoapoma Okyeretwie, the last name which means "the catcher of Live Leopard", being his *menane* or strong name. Kwame is the natal name and Atoapoma is title of his genius or guardian spirit.

<sup>2</sup> Thus a man born on say Friday is born *with* two complete names, "Kofi Okyin" and when such person greets another with a "good morning" (*m'akye*) the reply is "Ya Afi", as a mark of honour and recognition of his good birth under the protection of Afi, the genius of Friday.

<sup>3</sup> This is referred to by Capt. R. S. Rattray in *Ashanti* as *Ntoro*.

said to "wash" in the Soul of this or that *Ntoro*, not that he serves, or "worships" it. Being a masculine God, *Ntoro* concerns itself mainly with the ceremonies of Birth, Marriage, and Death and all other ceremonies affecting the metamorphoses of the soul.

1. Bosomtwe = Lake Bosomtwe in Ashanti—*bosomi*—God—*Twe*—Antelope.
2. Bosomptra = River Pra, River God Pra.
3. Bosom-muru = *Obo*-stone, rock plural *mmo*, the God stone.
4. Poakwa = *Epo*—The Sea, God of the Sea.
5. Atwere = *twere* to lean upon as a support. This *Ntoro* is composed mainly of the children and grand-children of the Asona Kings.
6. Konsi = a tenacious and strong-willed *Ntoro*.

## D

## (C) KINGS OF AKIM ABUAKWA. (ASONA CLAN)

- |   |   |
|---|---|
| <ol style="list-style-type: none"> <li>1. Apeanin Kwaframoa Woyiawonyi</li> <li>2. Kuntunkrunku</li> <li>3. Damran</li> <li>4. Pobi Asomaning</li> <li>5. Oduro</li> <li>6. Boakye I</li> <li>7. Boakye II</li> <li>8. Agyekum Adu Owaree I</li> <li>9. Boakye (Mensa) III</li> <li>10. Agyekum Adu Owaree II</li> <li>11. Agyekum Adu Owaree III</li> <li>12. Animkwatia</li> <li>13. Ofori Panin<sup>1</sup> (about 1733; sudden growth of Ashanti Kingdom, headed by Tutu).</li> <li>14. Bakwante (d. 1742).</li> <li>15. Pobi (1743).</li> <li>16. Owusu Akem, "Ohenkoko" (the Red King).</li> <li>17. Twum Ampoforo "Okasu" (deposed and executed about the middle of the century).</li> <li>18. Obirikorane (died about 1770).</li> <li>19. Apraku (1770).</li> <li>20. Atta Wusu Yiakosan (d. 1811).</li> <li>21. Asare Bediako (suicide, 1811).</li> <li>22. Kofi Asante, "Baninyiye" (the Good Man), 1811.</li> <li>23. Twum II.</li> <li>24. Dokua<sup>2</sup> (about 1817); first and greatest queen; and</li> </ol> | } Circa 1500 A.D.<br>Reigned in Adanse. |
|---|---|

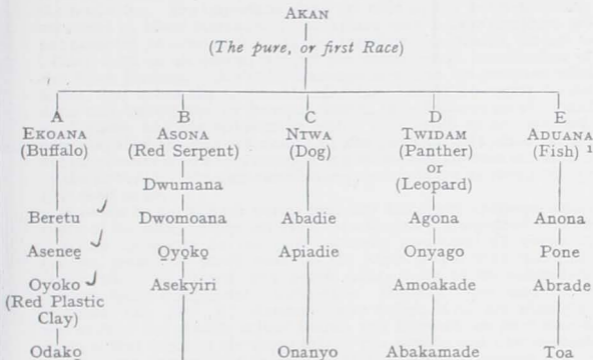
<sup>1</sup> Ofori Panin reigned in Adanse and in Akim Abuakwa.

<sup>2</sup> Note.—Akim Abuakwa became a British Protectorate (1851) during the Dokua Dynasty.

- 25 & 27. Acting for her twin-sons (26) Atta Panin, 1826 (Atta the Elder), and (27) Atta Biwom, d. 1866 (Atta the Younger).
28. Amoako Atta I, 1866-88.
29. Amoako Atta II, 1888-1911.
30. Amoako Atta III, 1911-12 (deposed), d. 1918.
31. The Hon. Nana Sir Ofori Atta, K.B.E., K.M.A.C. (Ofori II), 1912-

## E

## A PHYLOGENY OF THE AKAN CLANS

Notes on the Clans <sup>2</sup>

Upon this principle of division into clans any Akan person considers himself quite safe and secure as soon as he enters a town whose king or chief belongs to his clan. Even from a private family miles and miles away from his own home and unknown to him, an Akan traveller is sure to receive shelter and food free of charge if only the occupants of the house are of his own clan. The communistic system of social life is rendered practicable by the ordering of Society upon

<sup>1</sup> Goat or perhaps the Chimpanzee—also called *Adu-ana*. The *na* at ends of the clan names stands for *Nana*, literally descendants.

<sup>2</sup> "The first three kings of Asante were of the Ekoona family, but those from Osei Tutu downwards are of the Oyoko family group. The Asona family group is the most numerous and is found in several states, viz., Akim Abuakwa, Akuapem, Wasa, Fanti, Agona, Ofeso, etc. If they could be united, they would form the most wonderful body on the Gold Coast. This family group appears to have been once most powerful, but at what period we are not certain." (Reindorf.) On the coat of arms of the Akim Abuakwa royal house (Asona clan) the emblem of the clan—Red Serpent—occupies a prominent position.

the clan basis. Kingdoms are not politically divided upon this principle ; but a state in which a particular clan is paramount is sure to contain more people belonging to that clan than of any other. For example, there are many Asona people in Akim Abuakwa, the Royal House itself belonging to the Asona clan ; so also in Ashanti because the Royal House is of the Oyoko clan, most Ashanti reigning houses and families are Oyoko.

The clans are divided into five main orders or phyla. (1) Ekoana, (2) Asona, (3) Ntwa, (4) Twidam, and (5) Aduana. These five are referred to as the ("*Mmusua-ban anum a woye gna mma biako*") five great families who are children of one mother, the mother being "Akan".

At the present day the clans are so variously divided that it is difficult to distinguish one from the other without a close study of their affinities. The important thing to note is that however widely separated in blood relationship these clans may be, the members are not expected to inter-marry. If clan members inter-marry, the act is looked upon as an offence against the fundamental constitution of the Akan Nations. Clan inter-marriage is not to be confused with incest, for, unless the incestuous offenders, besides belonging to the same clan, belong also to the same family, the offence is purely social in character and not religious as well. It is much to be regretted, however, that the non-observance of the practice that clans should not inter-marry is now very common and some cases are even sanctioned by the Tribunals. The Clan classificatory system is not as strong to-day as it used to be.

It seems to the present writer that any ambitious anthropological study of the Akan people can but have a shadowy prospect of success if owing to failure on our part to make researches all traces of the one great link which connects the Akan people with the great Bantu tribes of Central and South Africa were to be suffered to weaken with complacent indifference. Happily, now that West Africans like Mr. W. Esuman-Gwira Sekyi, M.A., are adding to the work of the pioneer writers Sarbah and Hayford, we have reason to hope that much of the story told of the genesis and development of the Akan race will be preserved for the incoming generations.

## F

## GOLD WEIGHTS IN USE IN THE AKAN STATES WITH THEIR ENGLISH EQUIVALENTS

Name of Weight.	Peswa.	Ntaku.	Achies.	Old Usage.		Present Usage.	
				£	s. d.	£	s. d.
powa . . . . .	$\frac{1}{2}$	-	-		$\frac{1}{2}$	-	-
pesewa . . . . .	1	-	-		$1\frac{1}{2}$	-	$1\frac{1}{2}$
damma . . . . .	2	-	-		$2\frac{1}{2}$	-	2
takufa . . . . .	3	-	-		$3\frac{3}{4}$	-	3
kokoa . . . . .	4	-	-		$4\frac{1}{2}$	-	4
taku . . . . .	6	1	$\frac{1}{2}$		$6\frac{3}{4}$	-	6
sowafa . . . . .	36	6	$\frac{1}{2}$	3	$4\frac{1}{2}$	-	3 4
Asante dommafa . . . . .	42	7	$\frac{1}{2}$	3	$11\frac{1}{2}$	-	4 0
Akim agyiratwefa . . . . .	48	8	1	4	6	-	4 6
Akim dommafa . . . . .	-	9	-	5	3	-	5 3

Name of Weight.	Peswa.	Ntaku.	Ackies.	Old Usage.			Present Usage.		
				£	s.	d.	£	s.	d.
Akim bodommofa . . . . .	-	10	-	5	7½	-	5	8	
Asante bodommofa . . . . .	-	11	-	5	9	-	5	9	
Sowa . . . . .	-	12	1½	6	9	-	6	9	
fiaso . . . . .	-	13	-	7	3	-	7	3	
Asante domma . . . . .	-	14	-	7	10½	-	8	0	
Akim agyiratwe . . . . .	96	16	2	9	0	-	9	0	
Asante agyiratwe . . . . .	99	-	-	9	6	-	9	6	
Akim domma . . . . .	-	18	-	10	1	2	10	0	
Akim bodommo . . . . .	-	22	2½	11	3	-	11	3	
Asante bodommo . . . . .	-	22	-	11	6	-	11	6	
Asante nsano . . . . .	-	24	3	13	6	-	13	0	
Akim nsano . . . . .	-	30	-	16	10½	-	16	10	
Akim dwoasuru . . . . .	-	32	4	18	0	-	18	0	
Suru . . . . .	-	36	4½	1	0	3	1	0	
peresuru . . . . .	-	40	5	1	2	6	1	2	
takimansua . . . . .	-	44	5½	1	4	9	1	5	
Asante Asia . . . . .	-	48	6	1	7	0	1	6	
Akim Asia . . . . .	-	54	-	1	10	4½	1	10	
Asante dwoa . . . . .	-	56	7	1	11	6	1	12	
Namfi . . . . .	-	60	-	1	12	6	1	12	
Akim dwoa . . . . .	-	64	8	1	16	0	1	16	
osua . . . . .	-	72	9	2	0	0	2	0	
Nnwoa mmienu . . . . .	-	-	16	3	12	0	3	12	
Nnwoa 2 ne dwoa suru . . . . .	-	-	20	4	10	0	(16 ackies) 4	10	
Asuanu . . . . .	-	-	18	4	1	0	4	0	
Asuasa . . . . .	-	-	27	6	1	6	6	0	
benna . . . . .	-	-	32	7	4	0	7	0	
predwan . . . . .	-	-	36	8	2	0	8	0	
Asuanu . . . . .	-	-	54	12	3	0	12	0	
Ntanu . . . . .	-	-	72	16	4	0	16	0	
Ntansa . . . . .	-	-	108	24	6	0	24	0	

Note.—The denominations most commonly used are the pesewa (1½d.), taku (6d.), domafa (4s.), doma (8s.), suru (£1), osua (£2), predwan (£8), and one can easily obtain a combination in the following way, e.g. £96 would be "Mpredwan dumieniu" (nominally £100); £224 9s. 6d. would be "Mpredwan aduonu-nnwotwe, doma ne nntakuo-mmiensa" (28 pr. 1d. 3t.).

It should also be noted that although the second column of English equivalents is the nominal value in English currency, yet there are certain extra fees called *Nterakyire* (appendage) and *ntho* (grace or sanction money), which are charged by the Tribunals in addition to fees and fines. E.g. Suru-ne-domafa is on that principle not £1 4s., but £1 5s. 6d., Predwan is £9 10s. instead of £8; Asuasa is £7 instead of £6, the extra 1s. 6d., £1 10s., and £1 being in each case *nterakyire* and *ntho*. These extra amounts are collected by linguists and other Tribunal officers on fees and fines paid to the Tribunal and it is from this fund that they draw their remuneration.

## G

## A LIST SHOWING THE AKAN DIVISION OF THE MONTHS

<i>Usual.</i>	<i>European Calendar.</i>	<i>Alternative.</i>
1. Openima . . .	January.	1. —
2. Opepon . . .	February.	2. —
3. Ogyefuo . . .	March.	3. Onyamewia.
4. Obenem . . .	April.	4. Ogyenko.
5. Oforisuo-gyenko	May.	5. Otwanyokon, Opraworam.
6. Kitawonsa . . .	June.	6. Ayewoho mumo (Huhuhuhu).
7. Kotonnima . . .	July.	7. Nyanya.
8. Osanna . . .	August.	8. Osiapansam.
9. Odwenwane . . .	September.	9. Kokosukwakwawia.
10. Ebo . . .	October.	10. Ahinime.
11. Opese . . .	November.	11. —
12. Obubuo . . .	December.	12. —

N.B.—Four of the above 12 months are said to contain 28 days each, three 30 days each, and five 32 days each, but, owing to contact with the European calendar, it is difficult for us to distinguish one from the other. The Elders themselves seem to have forgotten all about the months, since they in common with the educated people have fallen into the habit of using the European calendar. The alternate names of the months may be taken as mere surnames or descriptive names showing the peculiar attribute of the months, e.g. Ogyefuo (March) is also called Onyamewia, meaning God's own sun; Kitawonsa (restrain your hands)—June—is also called Ayewoho mumo, "you have made a fool of yourself" (by having no provision in stock) because in June as the corn and yam harvests are a month or two ahead, it may be difficult for one to obtain foodstuff if no provision has been made for the future.

## H

## SELECTIONS FROM THE SONGS OF THE MINSTRELS

## " AMEMA "

## 1. THE SONG OF ATTA'S MIGHT

Wohū Odum aban a  
 Wose Odan aban a;  
 Ne nhina kōkā bom a  
 Na yefre no Kankanfrefe.  
 Tra' Kumi, tra' Kumi!  
 Amoako Atta nye dua?  
 Dua Fefefre,  
 Fefefre ebu akuma?  
 Okrakrape!  
 Oduawuro a edi aba  
 Nkontompa!  
 Atta na ote atuo mu  
 Awisi.

When you see the Odum branch  
 You say it is the Odan branch ;  
 When the two are joined  
 It is called Kankanfre.

It is so, O Kumi, it is so.

Is not Amoako Atta a tree ?

The Fetefre tree,

The Fetefre tree that breaks the axe ?

O hard and tough stuff !

A mighty tree that requires a big (axe-) handle

Which can never bend !

Forsooth ! Atta breaks the ranks of riflemen.

## 2. THE SONG OF ATTA'S MIGHT

(Another Version)

*Wotu nnua aban a, tu nnua aban a, tu nnua aban a*

*Ne nhina kōkā bom a,*

*Na yefre no Kankanfre.*

*Tra' Kumi, tra' Kumi !*

*Amoako Atta nye dua ?*

*Odua Nyankoma,*

*Okrakrape !*

*Oduawuro a edi aba*

*Nkontompa !*

*Atta na ote atuo mu*

*Awisi.*

You uproot a tree, uproot a tree, uproot a tree ;

When all are joined

It is called Kankanfre.

It is so, O Kumi, it is so.

Is not Amoako Atta a tree ?

The Nyankoma tree ?

O hard and tough stuff !

A mighty tree that requires a big (axe-) handle

Which will never bend.

Forsooth : Atta breaks the ranks of riflemen.

## 3. THE SONG OF ATTA'S ADVERSITY

*Woye sa, yee sa, kum Beyeden ;*

*Woakum Mansomew,*

*Woakum opanin a ode mmofra bae,*

*Woakum Gyetia Gugu.*

*Ona ode ne Nkrawiri tuu asuosu,*

*Ode ne Twenesin asi nsoa.*

*Atta na oyee sa, yee sa*

*De Asansatuo tee brofre,*

*Awisi.*

You kept on doing so, and killed Beyeden ;

You have killed Mansomew,

You have killed the elder who came with the children,

You have killed Gyetia Gugu.

He it was who walked down stream with his war-drum :

He it was who made a fishing basket of his common drum.

Forsooth ! It was Atta who kept on doing so,

And had to pluck a pawpaw fruit with his fowling-gun.

## 4. HIS INDIFFERENCE TO ALL TABOOS

*Okwawuo a odi awuo suman Sakyi Amoakwa !  
 Wona wukyiri doa nso woda adqsoa mu. /  
 Wabofra yi, woye frekyere,  
 Woye jefee,  
 Woye brabrafo.  
 Se ade a yekyire na woreye yi ?*

The fetish Sakyi Amoakwa of Okwawuo the murderer.  
 You are the man who taboos *doa* fibre,  
 And yet you sleep in a *doa* netting.  
 You this boy, you are disobedient ;  
 You are too inquisitive ;  
 You are dissimulating.  
 Is not what you are doing  
 The very thing that is tabooed ?

## 5. THE OMNIPRESENCE OF ATTA

*Atta woaye kwanten fokye :  
 Wo twam' a mmrakuma ;  
 Wo kwati a woreyera ;  
 Wo fa ase a gbo wo so.  
 Woama osifog afa twen so.  
 Woakum Tete ato Tete kam'.  
 Atta, wona tuni wowo  
 Awisi.*

Atta, you are like a tree  
 Fallen across the public road.  
 To cut it, you need many axes ;  
 If you try to avoid it in the road  
 You lose your way ;  
 If you pass under the fallen tree,  
 It will crush you.  
 Atta, you have made the lame person  
 Walk on a bridge.  
 You have killed Tete and placed him  
 In his own bathroom drain.  
 Forsooth : Atta, you are capable of power !

## 6. A SEARCH-PARTY FOR ATTA

*Tin koko, tin koko, frikyi, frikyi !  
 Akuti Mireku Amoa Duodu !  
 Atta wokq akenka duro ase a  
 Wusi nneyeg.  
 Atta na oda ahenkewa duro ase  
 Remunimuni ne ho no.  
 Atta wona woayi wo kyenee ato abotan so,  
 Ama obomofog ne n'atweaa  
 Adi ha munsuo,  
 Awisi.*

Tin koko, tin koko (sound of the gonggong)  
 Frikyi, frikyi (music of the drum)  
 Akuti Mireku Amoa Duodu! (Words of the drum—Atta's strong names)

Atta when you are going under a lemon tree,  
 You have got to go carefully.  
 There is Atta lying under the lemon tree,  
 Tumbling about.

(another conclusion)  
 Atta you have made your trail over the rocks  
 (So that you cannot be tracked),  
 And the hunter and his dog being lost,  
 Forsooth! they have got to live on wild food.

## 7. ATTA'S NOBILITY

*Edom ē, sọ wo tuom'!*  
*Atta na oreba no.*  
*(Atta na oyere họ no).*  
*Ofori nana, Bribiako nana.*  
*Woanfuni a anka wudi nheka boam'.*  
*Osre beree bonkhye a woanto awia*  
*Na gtafre abog sọ :*  
*Ofori nana Bribiako nana,*  
*Atta, deę wo nana ayọ,*  
*Na woreye bi,*  
*Awisi.*

To arms, to arms, all the army!  
 It is Atta who is coming.  
 (Atta has taken his seat).  
 Ofori's grand-nephew, Bribiako's grand-nephew.  
 If you had not ploughed  
 You would have been a carnivorous,  
 A wild she-bear that did not bask in the sun,  
 But licked the surface of the rocks.  
 The grand-nephew of Ofori, Bribiako's grand-nephew.  
 Forsooth, Atta, you are following  
 The foot-steps of your ancestors.

## 8. ATTA IS INTERFERING

*Qse "Agyei"!* *Qse "Enae"!*  
*Qse "Anwam aba dua so o!"*  
*Abrigyira, abrigyira,*  
*Suman Kwasi Bosomtwe.*  
*Woakote bribi ama bribi reka wo so.*  
*Atta na woakote bribi*  
*Ama bribi aka no so*  
*Awisi.*

"O father," quoth he; "O mother," quoth he.  
 "Wood-peckers have come on top of the tree."  
 Abrigyira, abrigyira (music of the drum)  
 Fetish Bosomtwe whose day is Sunday. (Words of the drum)  
 You have meddled with something  
 And something is stuck on you.  
 Atta has plucked something,  
 And something is stuck on him.  
 Forsooth!

## 9. HIS SUPERIOR POWER OVER THE FETISH

*Opampame ēē . . . ēi !*  
*Wonnyē ntimu ankama ;*  
*Wonnyē nante ankama ;*  
*Wonnyē mprenpren yiādom ;*  
*Wonnyē okomfoō yōnko.*  
*Wona wo né akomfoō hyia a*  
*Wogyē yēn nsam adawuro,*  
*Yentiamoa oso Pobi.*  
*Kwasi Bosomtwe a oñe*  
*Ne nkramo di asie.*

Opampame . . . (general opening address—probably a strong name of Atta).

You are not an unforgiving lord ;  
 You are not an officious lord ;  
 You are not one whose assistance is temporary ;  
 You are not a friend of the priest.  
 When you meet with the priests  
 You can force their gongongs from them,  
 Even Yentiamoa who is Pobi's priest.  
 You are the fetish Bosomtwe of a Sunday  
 Who is capable of defying his own medicine-men.

## 10. ATTA'S CONNEXION WITH THE CREATOR

(This piece is also produced on the Speaking-horns)

*Hena kōse, hena kōse, hena kōse ?*  
*Hena na oḱōsee 'Te,*  
*Maa 'Te kōsee Ananse,*  
*Maa Ananse kōsee Odomankoma,*  
*Maa Odomankoma bōo aḱē ?*  
*Atokoafre Kwasi Bremḱon ;*  
*Obremḱon nante brēbrē.*

Who said, who said, who said ?  
 Who said to Hearing<sup>1</sup> (te—to hear)  
 That Hearing told Ananse,<sup>2</sup>  
 That Ananse told the Creator,  
 That the Creator made the world ?  
 Atokoafre Kwasi the King,  
 A king should walk nobly.

## 11. THE WHITEMAN'S SUPREMACY OVER ATTA

*Odum tutu ma hama twetwe,*  
*Ama Brofo akyinsa abo no pō.*  
*Atta 'Fori woayē bi a gyae,*  
*Na Brofo de bi aba.*

<sup>1</sup> Compare the idea behind this sentence with " In the beginning there was the Word, and the word (λόγος) was God ".

<sup>2</sup> *Ananse*—the principal hero in all Akan folklore. Probably the name means " the father of grandfathers ". *Se* = *ose*, father ; *Anan* = *Anana*, plural of *Nana*, grandfathers or granduncles—Ananse written in full may thus be *Nananomse*, i.e. our grandfathers' father.

In the fall of the Odum tree,  
 The creeper gets pulled about ;  
 And the whitemen have twisted it  
 And made a knot of it.  
 Atta 'Fori you have done enough in your day,  
 Now you may stop,  
 For the whitemen have brought something (new).

## 12. ATTA THE INDOMITABLE

*Yema yenkoto mmutu,*  
*Yenkoto denkyenjo,*  
*Enkotoa ko na.*  
*Huru tra epo!*  
*Otwea bodom!*  
*Asua kete krakrape*  
*A osa ne men mu.*  
*Enunu no ;*  
*Wo nunu no a obekye wo ;*  
*Wo nunu no a obego ntoa.*

Let us bend and lie low,  
 Let us lie low like the crocodile,  
 That we may attack the hard fighter.  
 Jumps over the Sea ?<sup>1</sup>  
 The damned cur !  
 It is only a small and dry stream,  
 There it hangs between its horns.  
 Do not tease him !  
 If you vex him he will catch you ;  
 If you irritate him he will take to arms.

## 13. ATTA IS INTERMEDDLING

(A version of No. 8)

*Opampame ee . . . ei!*  
*Wona woakum Kwaku Toto atu*  
*Agye ne safoa aka wo dee ho.*  
*Abrigyira, abrigyira,*  
*Suman Kwasi Bosomtwe,*  
*Akote bribi ama bribi aka no so.*  
*Dokua nana akote bribi ama bribi aka no so.*  
*Yema kenkofwe se Atta 'Fori akote bribi*  
*Ama bribi aka no so,*  
*Awisi.*

Opampame . . . (general opening address to Atta)  
 You have killed Kwaku the Snap-shot,  
 And you have taken his key in addition to yours.  
 Abrigyira, abrigyira (the music of the drum)  
 The fetish Bosomtwe of a Sunday (Words of the drum)  
 He has touched something  
 And something has stained him.

<sup>1</sup> To understand the following four lines the reader must remember the Akan proverb: "Abofra huru tra opanin a osa ne men mu," that is "If a little boy (the small river) attempts to jump over an elderly man (the sea), he gets entangled between the elder's horns."

Dokua's grand-nephew has plucked something  
 And something is stuck on him.  
 Forsooth, just imagine Atta 'Fori touching something  
 And something is left on him.

## 14. ATTA IS CAUSE OF THE FAMINE

*Kuro nnua kwa ē,  
 Atta ammā yeannua aburo ō!  
 Atta ama yede siyē afa twene so;  
 Wama akōkoa ketewa anom fodoō;  
 Wama Nsuta Agyeifi-ba Ntitirikuo  
 Adua aburo nkorenkore,  
 Awisi.*

Ye town of barren fruit-trees!  
 Atta did not let us plant corn.  
 Atta has made us cross the bridge  
 With a lame leg;  
 He has made an infant child live on corn-cakes.  
 Forsooth! He has made Ntitirikuo MacAgyeifi of Nsuta  
 Plant his corn seed by seed.

## 15. ON LOVE

*Ogyina nkwanta epae gyēne;  
 Ote nkwanta kēseē so pae gyēne.  
 Wo kō a, me ma n'akye;  
 Ne ne kunu a odi asia.*

She is standing at the cross-roads hawking onion;  
 She sitting at the great cross-roads hawking onions.  
 When you go in the morning  
 Give her my greetings,  
 And her husband whose adultery fee is thirty shillings.

THE END

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GOLD COAST:  
AKAN LAWS AND  
CUSTOMS  
AND THE  
AKIM ABUAKWA CONSTITUTION

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AKAN LAWS AND CUSTOMS

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African Cases

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PREFACE

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## PREFACE

TO wish to write a book is an easy thing, and, for the ready writer, when the materials for the book are well in hand, the job becomes an entertaining enterprise. The difficult thing in the art of authorship is to finish a book.

This work was actually commenced in 1920, and much of it was in manuscript before I left home in the autumn of 1921 to continue my studies in England. My original intention was to write down the facts of Akan customary laws as actually practised in various Akan states in the Colony. On my arrival in England and after a two years' course of study, I became strongly tempted to recast the whole work, substituting for it, if need be, a theoretic or "scientific" treatise on the customary institutions of the Akan people. Eventually I felt compelled to revert to my original intention, for I discovered that although one could get much sound generalization by European writers on African institutions, there were not enough data upon which a true estimate of the essential nature of aboriginal African institutions could be formulated for general, as distinguished from technical, study. That type of work can only come from the African himself.

The result of this discovery is the work as now published, and the reader might be well advised to accept this book as coming from a writer who, despite his six years' stay in the academic atmosphere in England, prefers to look upon the institutions of his country from the African and not from the European standpoint.

I take this opportunity to thank those of my friends and other public men in the Colony who have assisted me in the preparation of this work. I am obliged to Mr. W. J. A. Jones, B.A. (Oxon), of the Gold Coast Political Service, for much useful encouragement. I am indebted to my friend Mr. W. F. Hutchison, of the *African World*, for reading the proof sheets, and the valuable native touches given by my English friend, Mr. N. A. T. Young, B.A. (Oxon), of Achimota College, will, I feel sure, help to commend this work to the most critical scholar of the English language. I owe a debt of gratitude to Mr. Albert Cartwright, Editor of *West Africa*, who gave me a needful and valuable opening by publishing sections of this work in his widely read journal.



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The Minstrels or Amemafo who are also the Executioners  
or Abrafo.

“*Odomankama boo\_adee no*  
*Oboo degben?*  
*Oboo Esen,*  
*Oboo Kyerema,*  
*Oboo Kwawu Kwabrafo,*  
*Ditire.”*

“What else created the Creator?  
An Esen created He;  
A Drummer created He;  
And a merciless Executioner.”

## INTRODUCTORY

### A

A GLANCE at the political map of the Gold Coast and Ashanti reveals a conglomerate of small states or "divisions" variously described as consisting of Ashantis, Fantis, Twis, Nzimas, Gas, Adangwes, etc. To this difficulty of geographical distribution is added the more complex problem of language and other characteristic differences among the various tribes. Weigh these difficulties side by side with the varied historical past of the numerous states, and the intricacy of the problem of tribal inter-connectedness becomes perfect in its apparent insolubility. But a close and intimate study of the general history and traditions of these tribes shows that, besides the difference of language, there is at bottom, only one fundamental difference noticeable between the Ga-Adangwes on the one hand, and the Twi-Ashanti-Fanti sections on the other. This difference is found in the fact that while the Ga-Adangwe tribes follow the custom of circumcision, looking upon it as an indispensable mark of manhood, the Twi-Ashanti-Fanti tribes regard circumcision as an abominable practice, and this is logically connected with their abhorrence of the habit, common among certain African tribes, of marking or even painting the human face or body in any permanent shape or form.<sup>1</sup>

The Twi-Ashanti-Fanti tribes characterized by these general resemblances (absence of circumcision and tattooing) are commonly referred to as the *Akan* tribes of the Gold Coast and Ashanti. Whether or not the name is justifiably applied to all these tribal states is a historical question which we need not discuss. What it is wished to emphasize is that tribes following circumcision are not usually enumerated among the *Akan-fo*, and tribes in the Gold Coast and Ashanti by

<sup>1</sup> These remarks are not intended to disparage the practice of tattooing among tribal races. On the contrary, evidence adduced in anthropology would seem to show that tribes among whom the practice is common most generally exhibit a highly advanced development in the arts of painting and sculpture; and art is one of the delights of culture.

whom circumcision is not practised may be correctly referred to as belonging to the Akan group of tribal states.

The language spoken by these various tribes, which I call the Akan language, has many variations of dialect, the two principal ones being (1) the *Fanti*, spoken by tribes inhabiting the coastal districts of the Central and Western provinces of the Colony, including some tribes or states in the hinterlands of those provinces; and (2) The *Twi* (*Tshi*), spoken throughout the whole of Ashanti and by all the other Akan tribes in the Colony.

Akan tribes are said to have migrated from Central Africa to the littoral of Western Africa in consequence of the Moorish aggression in about the seventh or eighth century. Their first settlement appears to have been made near the Kong Mountains and subsequently at Takiman, and latterly, on the Pra river in Ashanti.

It was at Takiman that the first split occurred. The Fantis marched further south, and after some warfare with the Obutus, they settled on the seaboard, founding very important states—a sort of empire with Mankessim as its centre and capital.

Considerable Akan settlements were made at Adanse and Denkera, but following the growth of population there arose a corresponding growth in the desire to centralize authority in a single dynasty. Akim, Denkerra, and Ashanti made rival bids for supreme power, but following the founding of the Ashanti confederation in about the year 1660, the Ashanti ascendancy under Tutu made itself felt. The Akims had by this time migrated into the eastern portion of the Colony further south, and after conquering the Akwamus they established their suzerainty over the territories extending from the river Densu or Humo (near Accra) to the borders of the rapidly expanding Ashanti Confederation. In the west their neighbours were the Fantis, and they had the Krobos and other Ga-Adangwe tribes on the borders of their eastern kingdoms.

## B

The Akyems or Akims are a race of people whose greatness in Akan tribal history and tradition has formed the subject of much comment by historians. Bosman, writing of Denkera in about 1705, says: "This country, formerly restricted to a small compass of land and containing but an inconsiderable number of inhabitants, is, by their valour,

so improved in power that they are respected and honoured by all the neighbouring nations, all of which they have taught to fear them, *except Asiante and Akim.*" And again at another place he says, "Akim was already strong, when Denkera improved in power." Speaking of the ancient and famous Akwamu state, Bosman makes another significant reference to the Akims: "The Akwamu Negroes are very haughty, arrogant, and warlike; their power is very terrible to all neighbouring countries *except Akim.*"

Even so modern a historian as Dr. W. W. Claridge, writing with the unfortunate Ashanti events of 1900 still fresh in memory and in spite of his frequent disparaging references to the fighting qualities of Akims, found himself compelled to endorse the better opinion of preceding historians concerning the Akim tribes. Thus he says on pages 155 and 156, Volume I, of his *History of Ashanti and the Gold Coast*: "A very fair idea of the condition of the Gold Coast at the close of the seventeenth century can be gleaned from the writings of Dapper, Barbot, Bosman, Smith, and others who were in the country at that time. . . The Adoms, Jabis, and Akwamus were now the most powerful and warlike of the coast tribes, but the Akwamus *were continually at variance with the Akims, who claimed a feudal right over them and tried to exact an annual tribute.* Akim would have been a much more powerful state than it was if its chiefs had only been able to agree amongst themselves instead of being for ever engaged in petty quarrels and disputes so that their enemies had little cause to fear them."

This passage seems to contain very little of positive value, but for our present contention it conveys much of meaning and significance. The Akims were, in fact, the only people who most frequently were successful in resisting the imperialism of Ashanti. It is a common saying among the Akans that "*Okyenhene nkō ara na Osantehene ne no di nsawoso,*" literally, "The King of Ashanti treats with none but the King of Akim on familiar and equal footing" (see Christaller's *Dictionary*, page 81), and it is a well-known fact of history that the oath "*Koromante*",—"the most binding and dreadful of Ashanti oaths",—takes its origin from a successful but, from the Ashanti point of view, an unfortunate Akim strategy against the Ashanti Army in about 1730.

Besides Akim Abuakwa (sometimes referred to as Eastern Akim, Akem, or Akyem) there are two other Akim states in the Colony to-day, Akim Kotoku (Western Akim) and

Akim Soaduro. My acquaintance with Akan customs and institutions, as actually practised by a self-contained and independent tribal state, was made in Akim Abuakwa while serving under its enlightened Omanhene Honourable Nana Sir Ofori Atta, K.B.E., as secretary in his office and registrar at his Tribunal. The main factual examples chosen to illustrate my descriptive statements in this book are drawn from the rich field which my experience in the Akim royal house opened to me.

Akim Abuakwa stands out prominent as one of the few Akan States whose dialect has remained unadulterated and pure throughout the period of Anglo-European contact with the Gold Coast. Consequently the institutions and customs as practised in that country still retain to a very large extent their original meaning and significance. The Rev. Adolph Mohr, a pioneer Basel missionary in the Gold Coast and Ashanti, writes in the Introduction to his *English-Twi Dictionary* that "The most important of the Akan dialect is that of Ashanti, on account of the extent and power of that tribe. Closely akin to it are the dialects of Asen and Akyem (Akim), the latter is even regarded as the purest and most elegant dialect, being at the same time the most central of all."

For these and other obvious reasons I have chosen Akim Abuakwa as a model Akan state, the institutions and usages of which may be made a basis for the study of general Akan laws and usages. Moreover, many of the topics treated of in this book are not such as to admit generalization without concrete presentation of known facts, and after considering alternative methods of treatment it seemed the best plan to take the existing institutions of Akim Abuakwa for purposes of typical illustration. The pronouncedly conservative character of the Akim Abuakwa people has made it possible for the institutions of the Akans to be preserved under the Abuakwa tradition in a way that would not have been possible had the Akim Abuakwa people embraced European civilization without reference to the authority of their ancient customs and institutions.

In the following pages it is intended to set down a fairly accurate description of Akan customs as witnessed in practice from year to year during the writer's six years' service in an African political entity renowned throughout the ages for its greatness in Akan history.

## C

The subject matter of this book has formed the object of treatises by many eminent writers, including the late Mr. Sarbah (*Fanti Customary Laws*), Mr. Casely Hayford (*Gold Coast Native Institutions*), and more recently by Captain R. S. Rattray (*Ashanti*). After a careful study of these and other well-known works, such as Mary Kingsley's *West African Studies*, Ellis's *Twi-speaking Peoples of the Gold Coast*, and Bosman's *Letters*, it is felt that there is still place for a book like the present one.

Both Mr. Sarbah and Mr. Casely Hayford wrote as members of an Akan tribe, but, while Mr. Sarbah's book teems with learned legal discussion and Mr. Casely Hayford's with well argued and eloquently presented political theories, the present writer, also an Akan, would consider his labours amply done if this book be accepted as a plain and simple presentation of Akan customs by one from within. With one or two exceptions, the principal chapters of this book were all complete in manuscript two years before the author had a chance of reading any scientific book on sociology or anthropology, and the statements in the book may safely be accepted as uninfluenced by preconceived ideas or theories of what Akan customs probably are or ought to be. This book is written by an Akan from the purely African standpoint.

Concerning books on our customs written by European investigators, it seems sufficient to notice Captain Rattray's *Ashanti*, the latest and best in the field.<sup>1</sup> In that book Captain Rattray makes a thorough and fruitful scientific research into the religion of the Akan people, but he does not tell us much concerning the political institutions of the Akans, and his remarks on Akan land tenure, whereby he attempts to draw a comparison of resemblance between the English (Anglo-Saxon) feudal tenure and the Akan system of land control and ownership, seem to betray an incomplete grasp of the real nature of our non-religious institutions.

A few examples from *Ashanti* may help to justify this seemingly adverse comment on an otherwise admirable book. For Captain Rattray to state that "the 'owner' of a fee simple in Ashanti, and the 'owner' in England in the days

<sup>1</sup> Captain Rattray has quite recently published another book, *Religion and Art in Ashanti*, on part of the subjects dealt with in this book. My review of that book in the English weekly *West Africa* sums up my appreciation of that work. No fruitful reference can be made here to the contents of *Religion and Art in Ashanti*, as it reached me long after my typescripts were ready for the press.

of Edward I occupied a very different legal position " (p. 228), and then to proceed to find Ashanti parallels for the peculiarly feudal services of escheat, gift, forfeiture, aids, reliefs, and the feudal tenures of fee simple, estate tail, life estate, etc.—this, I say, is rather a half-hearted way of attempting to find facts to prove a known theory and not a theory to account for known facts. When one is speaking of the right of tenure or ownership of land, and it is confidently asserted (1) that the owner in one system of law is legally different from the owner in another ; (2) that while in the one system individual ownership is the general rule, in the other " individual ownership of land was literally unknown " (p. 229) and (3) that the word " heir " has a different meaning from what it has in the other system (p. 229), what more is there left to form the basis of a comparison of resemblance between the two systems of tenure? Land tenure means possession, i.e. the retaining by one or more persons of a piece of land, the holding by a tenant or holder of a particular portion of land. Where the basis of tenure differs we should expect the superstructure to be different, even though minor resemblances might still be found in the two contrasted systems. Possession is possession all the world over, and, with regard to land, there is sure to be some form or other of resemblance in the nature of possession in different systems of tenure. But it is dangerous to formulate a system or even a theory upon minor and isolated resemblances. In any attempt to make comparisons, if we want to be logical, what we have to look for is the fundamental point of contact between any two contrasted systems ; if at that point we see a similarity of character we may be justified in concluding that the two systems are alike, if they are dissimilar at that essential point the two things are most probably different in nature, and generalization on that score would be unscientific.

Take again the feudal service of relief, described as the practice whereby " an heir of full age was required to pay a fine, called a relief, on succeeding to his ancestor's estate ". Captain Rattray attempts to assimilate the payment of *Ayibuadie* in an Akan funeral to this particular incident of feudal service. It is an unfortunate comparison. In the first place *Ayi-bua-die* means literally " funeral-help-thing ", i.e. money paid to assist in payment of funeral expenses. Now in the above definition of Relief quoted from Williams' *Law of Real Property*, we read that relief is paid by the incoming tenant to the landlord on account of the death of his predecessor as a sort of tax on property.

But where is the point of resemblance between Relief and Ayibuadie? In Akan funeral observances, although Ayibuadie may be paid to any important person or Chief who has come to the funeral, such payment, either in money or goods, is not made in consideration of tenancy. It is a return gift to the chief for his generous help in the celebration of the funeral expenses. No doubt such payment may be in excess of the original sum given by the chief, but be it noted that (1) Ayibuadie will not be given to a chief who has not participated in the celebration of the funeral; (2) the amount given is not a fixed or unalterable one; and (3) Ayibuadie will be paid whether the deceased owned any land or not. The person who pays it may not be the "heir" at all. Generally Ayibuadie is paid by the family before the appointment of an heir. As is shown in our chapter on Funerals, the celebration of the custom entails an elaborate system of fasting. A general observance of "guare" or "bathing", that is, purification, brings an end to the fasting. A sheep is slaughtered for the preparation of a common meal in which all the immediate members of the deceased's family as well as all the mourners should participate. Generally a chief is not supposed to dine on a common table. By reason of his particular sanctity and sacredness, he has to dine alone. Consequently a sheep, with or without a present of money, is given him as a "thing" (*ade*) or gift for having "helped" (*boa*) in the "funeral" (*ayi*). Hence *Ayi-boa-de*. It is a gift intended to purify the chief from his contact with the dead.

Similar criticisms easily suggest themselves with regard to the other usages *Awunyade* (thing possessed on death—inheritance), *Akyede* (thing given—gift), *Tuo* or *too* (tax-toll), *Adwoyie* (seizing of pledge—forfeiture), all of which are employed by Captain Rattray as corresponding to the feudal services of escheat, gift, aids, forfeitures, etc. But enough has, I think, been said to show that if there is any resemblance between the mediaeval feudal system with its military substructure and the Akan system of communal ownership, that resemblance cannot be found either in fee simple, life estate, and estate tail, or in the services of escheat, reliefs, aids, and forfeitures.

Much as I appreciate Captain Rattray's valuable work in connexion with Akan religion, and much as I admire the unprejudiced and sympathetic spirit in which he is handling his official researches into Akan customs and institutions, we have no right to expect him to understand our non-religious institutions until he has dissociated his mind from

theories that can have no application to the indigenous institutions of the Akan people. Such problems as marriage, divorce, land tenure, social, political, and judicial institutions have as yet to be brought under Captain Rattray's masterly grasp. To state, for instance, that marriage in Akan land amounts to a sale of the woman is, putting it mildly, to betray a not very high appreciation of the meaning of the Akan word *Odehye*, "free born". Any one acquainted with the depth of pride in which an uncle or grand-uncle—the head of a large Akan family—guards and broods over his "free-born" would not lightly speak thus on the subject. To suggest to an Akan head of a family, a *nana*, that his niece who has just been married into a stranger-clan or family has been *bought* is about the very last affront one can offer to a member of the proud and haughty Akan race. A bought person in the Akan social order is an *akoa* (connected with *gkoro*—one, single, lonely), an isolated individual without a father or a mother, a person cut off from all that gave him being and who can claim no connexion with any of the ancient Akan clans. Such a person is in fact an *Otwea*, a being removed but one stage from the mere animal, and to connect the free-born of an Akan with any such idea should be surprising in any one closely acquainted with the inner social consciousness of the race which chose to call itself *Akan*, the *pure*, the *first* race.

As already mentioned, Captain Rattray's work on Akan religion is wonderful in its perfection and scientific precision. In fact, his treatment is so good that as a tribute to his brilliant chapters on Akan religion, I have deliberately left out of this work an original chapter on that subject written by me five years ago for inclusion in this book. The serious student of Akan religion desirous of getting at their religious conception of life cannot do better than study his subject at the hands of "*Okomfo*" Rattray, the learned white "priest" of Ashanti *Takese*. On other subjects in which Captain Rattray is not so well informed the student had better look elsewhere for a fresh line of research.

## PART I

### INSTITUTIONS AND CUSTOMS CONCERNING THE STATE

## CHAPTER I

### THE CONSTITUTION OF AKIM ABUAKWA

THE tribal state of Akim Abuakwa as at present constituted is governed by an elected king known as *Omanhene*, assisted by three distinct councils, each consisting of elected chiefs, sub-chiefs, elders, and councillors. The three councils are the following :—

(1) The *Kyebi*<sup>1</sup> (*Kibbi*) Council, known as “Ankobeane-Apesemaka-ne-Kyidom”.

(2) The *Okyeman* Council, the great state council of the nation, consisting of the *Omanhene*, the *Mpakanfo*,<sup>2</sup> and all the chiefs and sub-chiefs of the realm.

(3) The *Amantoo-mmiensa* Council, or the Council of Three Counties, consisting of the following towns and villages, viz. :—

*First Amantoo (County)* : Apapam, Afiesa, Afwenease, and Adadientam ;

*Second Amantoo* : Apedwa (Krobo) ;

*Third Amantoo* : Tete, Wirekyiren, and Pano.

#### 1. THE KIBBI (EXECUTIVE) COUNCIL

The Kibbi Council may be defined as a body of elected chiefs and elders and councillors who are in constant consultation with the King, or *Omanhene*, and to whom is entrusted the direct government of the Division. With the *Omanhene* at its head as sovereign-president, this Council of Chiefs and Elders and Councillors may be called—if we may use an English political term—the Executive Council of the government of the country. The Council consists of three principal sections, parties or bands usually styled, “Ankobeane, Apesemaka, and Kyidom.”

<sup>1</sup> The words “Kibbi” and “Akim” are used in this work for “Kyebi” and “Akyem”, the former being the recognized orthography. “Kyebi” and “Akyem” will be used in certain cases only. Kibbi is the capital town and seat of government of the Akim Abuakwa state.

<sup>2</sup> A chief with the right to ride in a Palanquin (Apakan) is *Opakani*. The proper title of an *Opakani* under the new Native Administration Ordinance is “Divisional Chief”.

The Ankobea, though first-named, is not the senior party (or "band", as Reindorf calls it), but it holds an unique position on the Council, the nature of which is treated in another chapter. This party—Ankobea—is subdivided into two principal parts:—

(a) The Ankobea proper, whose chief is styled the Ankobea-hene (Ankobea-Chief). He occupies the Amomam<sup>1</sup> Stool.

(b) The Jase sub-part whose Chief is styled the Jase-hene.

All *nhenkwa* (State messengers and State emblem-bearers) are under the Jasehene. Any new sect formed by a part of the people, such as the new Christian confraternity, comes under the Jase-hene. There are a few towns in the Division who owe allegiance to the Ankobea. The Ankobea-hene is senior to the Jasehene, and all under the latter are subject to the former's authority.

The *Apesemaka* has only one head or Chief, known as the Abontendom-hene of Kibbi, his usual appellation being Apesemaka-hene. He is a Principal Chief<sup>2</sup> entitled to ride in a palanquin. He has some sub-chiefs under him. Some functions of this Chief are analogous to that of a Mayor of a European city, but the former's duties are considerably greater in extent, although not so great in magnitude.

The Apesemaka-hene, besides being the first Councillor or adviser to the Sovereign, is also the head of the municipal associations of Kibbi, and the Sovereign looks to the Apesemaka-hene for performance of the duties of an *Odikro* of Kibbi.

The succession to the Apesemaka—or Abontendom-hene—stool is not hereditary in the conventional way in which the term is understood in the Gold Coast; for the successor is nominated direct by the Executive. The only eligible persons for this great post—probably the most honoured ministry in the state—are the sons of the present and the past Amanhene (Kings). In the language of English politics we should say the Apesemaka-hene is the Omanhene's prime minister.

The *Queen Mother* (Ohemma), who is a member of the Kibbi Council, belongs to the Apesemaka section. She is the only person of the Royal Family who—besides the Omanhene—owns a stool and is recognized as a stool-holder on the Council. All other members of the Royal Family on the Kibbi Council are non-stool-owning, and are directly under the authority of the Apesemakahene. It is worth noting

<sup>1</sup> Amomam is a quarter in Kibbi.

<sup>2</sup> I.e. a "Divisional Chief" under the new N.A.O. (1927).

that in Ashanti, Juaben, and other places, there is a separate stool created for the senior male member of the Royal Family on the Council.

As aforesaid, the Apesemaka is the leading and senior party on the Kibbi Council. This party also owns some towns acknowledging allegiance to it.

The third party on the Kibbi Council is the *Kyidom*, which possesses two stools. The senior Chief is the *Kyidomhene*, occupying the *Ampebame Stool*. The second Stool is occupied by a Chief related to the *Ampebamehene*. The occupier is termed *Kyidom Panin*, but his position is almost unique, and is practically equal to the *Jase Stool*. The *Kyidom* section owns certain towns and also certain peculiar privileges, and we will deal with these in subsequent chapters.

For all political purposes four principal stools are counted as forming the Kibbi Council, viz. (a) the *Jase Stool*, (b) the *Ankobea Stool*, (c) the *Apesemaka Stool*, and (d) the *Kyidom Stool*. Other minor interests are represented on this Council, but they are out of treatment here.

The above, then, are the four Chiefs who hold and constitute the Kibbi Council; it is they who, with the Sovereign at their head, manage the political life of Akim Abuakwa; and they have been the mainstay of the present Omanhene, Nana Sir Ofori Atta, in his progressive policies for moulding our ancient laws and customs into accord with modern exigencies, whilst at the same time preserving undisturbed the best that there are in the constitution and institutions of this great Akan tribal state.

## 2. *The Okyeman (State) Council*

*The Okyeman Council*, or the national council of Akim, is by far the greatest body in the government of Akim Abuakwa. It is a council composed besides the Omanhene of all the twelve *mpakanfo*, of all the members of the Executive Council, of the eight chiefs of the *Amantoo-mmiensa Council*, and of all other Chiefs and sub-Chiefs of the state. Every town, village, or hamlet which has a Chief owning a stool, has that Chief as its representative on this Council. It may be provisionally defined as the great legislative assembly of the nation.

In this Council the Omanhene is Sovereign-President, and the *Adontenhene* of Akim Abuakwa—whose permanent residence is *Kukurantumi*—acts as chairman or leader. All laws and customs and most of the rules and regulations concerning the State are passed by this Council; all matters

relating to war, all controversial questions in which the Omanhene or the State is involved are discussed and decided by the Council ; all foreign affairs, and, in fact, all matters which affect the whole machinery of government in its application to the entire length and breadth of the state, are properly cognizable by the Okyeman Council. It is the final court of appeal. It is the safety-harbour of the oppressed. It is, to say the least, the greatest power in the state which, to make a reference to our own times, has right to discuss and reply to all important communications and other proposals emanating from the British Government. In fact, it is, or was before the advent of the all-masterful Native Jurisdiction Ordinance of 1883, the great Council whose decision was ever final on king, prince, or subject, and imperative on native, stranger, or foreigner who set foot in the kingdom of Akim Abuakwa.

The Okyeman Council is invariably held at Kibbi, the residence of the Omanhene and capital town of Akim. If, however, in a progress of the Omanhene, it is found necessary to hold a state council at any place other than Kibbi, it is usually done, after due libation to the gods and to the spirits of the departed ancestors. The Council is always summoned by the Executive.

Proposals placed before the Council by the Executive are discussed freely by this Council, and when there is unanimity a particular proposal or bill is disposed of or passed into law. Such law is binding on all the inhabitants of the state of Akim Abuakwa. Members of this Council may also propose topics for discussion by the Council. When unanimity is not obtained, the casting vote is always reserved for the Sovereign-President ; but controversies of this kind are, in our experience, very rare.

As mentioned above, the Adontenhene is chairman or leader of the Okyeman (State) Council ; this means, in our custom, that the proceedings of the Council in committee are conducted by him. When the Council goes into committee on a particular question, the Sovereign-President stays behind, and is not, by law, permitted to take part in the discussion of the committee or to influence the opinion of the members while in committee. Thus, it may be gathered, the real machinery of legislation is in the hands of the people's representatives. The Sovereign-President keeps behind when the councillors retire into committee to take a final decision on a question before the Council. Here the Adontenhene, as chairman or leader, has control of the Committee.

The deliverance of the Committee's opinion thus formed is made not usually by a linguist of the Sovereign-President, but by a linguist of the chairman, or of one of the principal Chiefs (either the Nifahene or the Benkumhene) then acting for the Adontenhene. The linguist thus selected to give the report of the Committee's finding to the Omanhene speaks with the authority of the Council and in the name of the State. It is needless to say that all members of the Executive Council take a full share in State Council sessions and play a very active part in committee deliberations. They represent, as it were, the opinion of the Executive, and every weight and consideration is given to their suggestions in the Committee.

The question of linguists is not a trivial matter. In an extraordinary Executive meeting, that is in one in which the Council of three counties and the Kibbi (Executive) Council sit together as one body to decide certain matters, the linguists who deliver the findings of the Committee of this Joint Council are the Omanhene's. The Omanhene's linguists are the only spokesmen permitted by custom to speak for the Executive Council; they may also speak on behalf of the State Council Committee if the subject on which a considered opinion is formed affects the Chiefs as a body or has any bearing on a subject affecting the status of the Chiefs and their subordinates.

On such occasions the eloquence of the linguists or spokesmen is worthy of note. In delivering committee findings linguists are expected to speak with intelligence backed by experience. Exact and definite they must be, but they are not restricted in the use of words and proverbs helping to enforce the proposals or findings effectively. It is at such times that they show their wisdom and intelligence, their wit and rhetoric power. They are unsparing in the use of philosophic reflections, and, in fact, it is chiefly in meetings like this that the best traditions of the nation, and the honour and glory of the Akan people as a whole, are fully displayed to the greatest advantage.

As we have said, any orders, edicts, decrees, laws, or proclamations made by this Council through a duly appointed linguist of the committee are, until repealed by the Council, final, and binding on all the inhabitants of the State in so far as their interests are concerned.

State Councils, besides having full power to make and unmake laws, are also the last courts of appeal in the various Akan states. They are a mark and an evidence of the supreme independence of each Akan nation. Any state council endowed with such powers resents with great bitterness of speech and

action any interference with its authority, or things concerning its sovereignty. Any attempt to over-rule its acts without its own consent is looked upon as underhand work to undermine the existence of the nation, or as a means of coercing the people to surrender their time-honoured principles of self-government.

It is interesting to think that these small nations of the Gold Coast, each consisting of a few towns and villages with a bare handful of population, have been so highly successful in maintaining this well-developed form of self-government. The Akan nations, with all the disadvantages of lack of transferring thought by any means other than speech, and in the absence of any proper medium of communication, have been able to march abreast of the times, adhering to their ancient, but by no means archaic, form of self-government.

### 3. *The Amantoo-mmiensa Council*

*The Amantoo-mmiensa Council* is formed of three towns, or counties, situate within seven miles radius of Kibbi, the seat of government. This Council of Three Counties has political power in the State of Akim Abuakwa.

(i) *Apapam* is the chief town, and the Chief or Odikro of Apapam is president of the Council of Three Counties. With Apapam are the following towns, viz. *Adadientam*, *Afwenease*, and *Afiesa*. Apapam with its county owns one Drum, called the "Asafo Pranpran". The inhabitants of the three towns and their Chiefs are looked upon as the principal leaders of the Amantoo-mmiensa Council.

(ii) *Apedwa* forms the second county. This town also owns an "Asafo Pranpran"—a symbol of authority. There are no other towns with Apedwa (Krobo), and the inhabitants with their Chief are next in importance to the Apapam section on the Council.

(iii) *Tete* heads the third county of three towns, the other two being *Wirekyiren* and *Pano*. This county owns the third "Asafo Pranpran".

These three groups of towns and villages constitute what is generally known as the *Amantoo-mmiensa Council*, or the Council of Three Counties. Their activities are much too wide to make feasible any hard cut definition of their power and its limit. They are nicknamed "Ofori Soldiers", and are regarded as an immediate bulwark of the Stool at Kibbi (*Ofori Akonnua*) against internal inroads, invasions, and insurrections. This is the usual definition given to indicate the

extent of their power. But the definition is vague, and conveys no proper idea of the significance of their activities. It is a description showing the nature of their military power to the exclusion of their civil functions. To make it an exhaustive and convertible definition we must consider the real nature of their activities.

It must be admitted that the origin of our State government and the principles on which it was founded, being solely military in character, one should feel content to accept the fact that the whole structure of the civil government we enjoy to-day is the result of martial adventures. This being so, it is only natural that people whose powers are clearly labelled as "military commanders", etc., should exercise civil powers when the fruit of their labours bring peace. In almost all the Akan institutions, from the lowest servant to the highest officer, there is scarcely any whose civil powers are not based on military appointments. It is, therefore, most natural to fall into the habit of merging a civil into a military power.

This Council of Three Counties has a wide but limited and customary right over the Omanhene and the officers of his Court. They have an undenied right to censure and criticize all acts of the Executive; and the Okyeman Council look to them for direct information on the true state of things in regard to the actual results of the work of the administration.

The Chiefs of these three counties are invariably accompanied in their principal deliberations by their *Asafomma* (the companies of young men). These *Asafomma* are, for all practical purposes, regarded as the real operating forces behind their chiefs, and their influence in many Stool affairs has been cause for much discussion. As a fact, they are a living testimony of the democratic system instituted by our ancestors; they act primarily as a check on any tendency on the part of the Executive towards any exercise of power not in harmony with the true spirit of the customary constitution. The institution is a very real safeguard of the rights of the people. It is a body of *Asafo* company, which owns political rights over the ordinary borders of their own towns or villages; and they would appear to have all the requisite rights which any government by the people aspires to attain. To be a captain or an officer of the *Amantoo-mmiensa*, one has not to be born into any particular family. This is to say, apart from the Chiefs of the towns who are elected according to custom on the principle of maternal succession, the principal leaders of these *Asafo* (companies) called a

*Asafoatsefo* (or company captains) are elected by merit, and the eligible candidates are not selected from any one particular family or clan. Every member of the Asafo, being an Akim Abuakwa by birth or by adoption, is eligible, to the captaincy or Asafoatse.

In short, the Amantoo-mmiensa Council is a unique political body, the members of which are drawn from the two other Councils and are depended upon by the two remaining bodies, viz. the Executive and the State Councils. It is a sort of connecting link or middle term between the two extreme Councils. Nor are they unmindful of their own status and interests, and they recognize their peculiar position in the following familiar ditty usually sung by them on their visits to Kibbi:—

*“ Ofori Nsrafo,  
Yensom 'bi  
Yennan 'bi  
Nso yenne yenho.”*

Meaning :—

“ We are Ofori's<sup>1</sup> soldiers  
We serve no one  
We depend on no one  
And yet we are not free.”

Until quite recent times the appearance of this Council at Kibbi with their three drums and gonggongs was considered by the Executive to be inauspicious, and by the inhabitants of Kibbi as a terror.

Attention is given to this Council in this chapter, not because it is really a supreme council, but because it always supposes itself to be the most supreme authority. On many occasions, particularly in recent times, the Council has chosen to arrogate to itself the sole power of making laws for the State, and their right to make certain rules and regulations is not disputed, but the question as to which of the two councils, the Okyeman and the Amantoo-mmiensa, has greater legislative powers can be very easily decided. The Okyeman Council, as we have shown, represents all interests—both of Chiefs and of people—and to say that the Amantoo-mmiensa Council could make laws over the head of the State Council is to deny the very reason for the existence of the latter Council.

But that the Amantoo-mmiensa Council is a common mouthpiece of the people, that it has a marked influence both over the Okyeman Council and the Kibbi Council, and that it has the right to criticize certain acts of executive officers, are

<sup>1</sup> Ofori here means the Ofori Panin Stool at Kibbi, and not Apadja-Ofori of Akantamasu fame.

truths so abundantly proved by ancient and modern history that it would be futile to attempt a denial. It is the only council whose members are both willing and fearless to represent the people's views to the Executive Council. When the Amantoo-mmiensa approaches the Executive, it does so on its own initiative, and not on the summons of the Executive. The Council can usually represent the common interests of the people.

The common saying is that the Okyeman Council in its absence, or to use a more homely phrase, "when it goes to the country," leaves the government of the state in the hands of the Amantoo-mmiensa Council, and this Council in its turn leaves it with the Executive. This saying is so well-known by every politician in Akim that the real import of its application is seldom seriously realized. The expression as exactly used in the vernacular is as follows: "*Okyeman kɔ nkura a wɔde akyire gya Amantoo-mmiensa, na Amantoo-mmiensa nso de agya Ankobea-ne-Apesemaka ne-Kyidom.*"<sup>1</sup>

Thus it will be gathered that the Amantoo-mmiensa Council is a distinct body of chiefs and people who are not directly under the Executive. It is the only council of chiefs and people having the right to convene and hold meetings of a political nature not summoned by or with the knowledge of the Kibbi Executive Council. It must be mentioned also that it lies within their right to withhold the proceedings of their meetings from or to present same to the Executive whenever they wish. When they present matters for consideration, they habitually do so in a manner entailing consequent serious discussions between the two councils.

When the Amantoo-mmiensa Chiefs are invited to join the Executive Council with a view to obtain the decision of the country on certain measures to be adopted by the Executive, the Chiefs attend the extraordinary meeting without their Asafo people, and in many cases without their Asafoatsefo. In any case, the Amantoo-mmiensa Chiefs in an Extraordinary Executive meeting of the kind reserve the right to take a plebiscite of their people on special points of disagreement between themselves and the Executive.

The above, then, is a descriptive account of the constitution from a legislative and administrative point of view. We cannot in a single chapter define the true nature of our form of

<sup>1</sup> "When members of Okyeman Council go into their villages, they leave (affairs) behind in charge of Amantoo-mmiensa Council, and the Amantoo-mmiensa Council leave affairs behind in charge of the Kibbi Executive Council."

government, and it is a theoretical difficulty to say whether the constitution is democratic or aristocratic, monarchic or autocratic, oligarchic or plutocratic, and, further still, whether it is communistic or socialistic. That it is not plutocratic can be easily shown. As a monarchy or autocracy there is ample evidence in the above to show that the purpose and spirit of our constitution is not solely towards that end. Nor can the Chiefs be regarded as a class having absolute power of government in their hands, though it is an undoubted fact that they are selected to govern because they had proved themselves to be the best members of the governing or royal family. We are left, then, with the speculative problem of showing how far the people enjoy the right of self-government, and how far that self-government is shared between the chiefs as representatives and the people as electors of those representatives.

Does supreme power rest with the people collectively? Does the communistic ownership of property entail government by the commonalty? or is the undoubted control exercised by the chiefs over the lands and other state properties sufficient evidence of a socialistic tendency in our system of government?

These are difficult questions; they are, however, mainly theoretical, and happily we do not choose to reply to such questions in this treatise. All that can be said at present is that the constitution of the central government of Akim Abuakwa is a democracy of limited monarchy controlled by three councils of hereditary and elected chiefs and councillors, but whether this democracy is communistic or socialistic we cannot and we need not say now. What is definite about the constitution is that the chiefs who govern are controlled and checked by the people who are governed.

## CHAPTER II

### THE DIVISION OF FUNCTIONS

#### A. THE SACRED OFFICES

MUCH the most interesting part of Akan institutions and customs is the system that governs the construction of the machinery of government, with particular reference to the specific functions to which the people attach an importance significant as a guide to their inner social and political consciousness. Some of these offices have been described as sacred in the sense that their holders are held immune from the consequences of certain acts for which as "ordinary" persons they would otherwise have been responsible. One of the set-pieces of drum music that an "Atumpan" drummer plays on his pair of talking drums on the occasion of stool ceremonials seems to indicate how highly sacred certain offices are held to be, and it is appropriate that we reproduce it here:—

*Odomankama bog adee no obog deeben ?  
Obog Esen, obog Kyerema,  
Obog Okawu Kwabrafo,  
Ditire.*

I give an English rendering of this below, but it must be remembered that the language of our drums is of such a kind that not everyone—not even the home-bred Akan can, without some study, understand the hidden meaning of the stereotyped phrases expressed in language perhaps centuries of years older than the actual language spoken by the Akans to-day. It is significant also, that throughout the Gold Coast wherever "talking" drums are used, the same, or slightly varied, words are employed even though the actual language of that tribe may be quite unlike any Akan dialect. The Ga language, for instance, is fundamentally different from the Akan, but their state drums are always made to "talk" in the language of the Akan people. This is true also of certain tribes in the western province of the colony, and the fact would seem to show that either the cult of drum language was borrowed by such non-Akan tribes from the Akans or that

all the different tribes in the Colony using "talking" drums must have sprung from one original but now extinct tribe or nation. The following is our nearest rendering of the above in English:—

"What else created the Creator?  
An *Esen*<sup>1</sup> created He;  
A Drummer created He;  
And a merciless Executioner."

Mr. Casely Hayford says on page 26 of the *Native Institutions*:—"The King's household was controlled by a number of captains. There were the Captain of the Sword-bearers, the Captain of the Stool-bearers, the Captain of the Elephant's Tail-bearers, the Captain of the Court-criers, the Captain of the Royal Butlers, the Captain of the Royal Huntsmen, the Captain of the Royal Farmers, and the Captain of the Royal Physicians." And then he summarizes on page 36 by saying "The person of the King is, indeed, sacred". And in a descending order most other personages are held sacred.

The people regard holders of these posts as imbued with sacred trusts. The visitor to an Akan town may meet a young man walking about on the streets and take him for an irresponsible person of no importance. But let the visitor condescend to ascertain the real position of such seeming nonentity, and he need not be surprised if his informant would mention his name and office in the highest terms of respect not unmixed with awe, and refer to him as a person to whom one should not address insulting words, or assault, or put into fetich. That is to say, he is a being whose person is absolutely sacred and therefore beyond the reach of ordinary human visitations.<sup>1</sup> I remember sometime in 1916, when the late F. G. Crowther, Secretary for Native Affairs—an official celebrated as an authority on native usages and customs—visited Kibbi, and I was commanded with some State messengers and a linguist to welcome him in the name of the Omanhene, and deliver certain customary presents to him. One of the bearers of the presents happened to be an *Akrafo* in full attire,<sup>2</sup> and when Mr. Crowther saw the jet-black person with a head shorn of all hairs, with strokes of white clay over the forehead, the brows, and shoulders, the hands, etc., he let out his curiosity in a humorous vein:—"Who is this man?" he asked me. "Which of them, sir?" "The one dressed in white shirting and white clay. Is he

<sup>1</sup> *Esen*, Court Crier.

<sup>2</sup> See Section A, XIV, p. 46.

a Krooboy?" he added, with a smile. When I said he was not a Krooboy, but a State messenger of the highest order, Mr. Crowther listened to my explanation with remarkable interest, and I suppose there was never an occasion for him to err in this way again.

I intend in the various sections of this chapter to give a comprehensive description of the various offices held under an Akan State system having particular reference, as always, to the Akim Abuakwa practice. I have not attempted to state any definite theory as to our form of government based on the immense details provided in the chapter, my object being to provide raw material for the purposes of future research, and not to impose any preconceived ideas on the generosity of the general reader.

The Fetish system is not included under this head, as it stands quite independent of the State system, and the very absence of religious authority in politics in the Akan State system makes the exclusion of the Fetish hierarchy quite excusable. Were we dealing with the State system of the Ga or Adangwe tribes, we should have felt compelled to treat the Fetish system under the present head, since the Chief or King of a Ga community, now known as "Mantse", was formerly high priest as well as political ruler. Most Ga writers go to the extent of tracing their form of government and various institutions, the "Homowo" custom in particular, to the ancient institutions founded by Moses for the Hebrews.<sup>1</sup> In the Ga-Adangwe tribes in days of yore, the Fetish priest was the first and highest person in the State. In the Akan institutions a Fetish priest is "the maker of a country, but not the governor of it", as the saying goes. The military and civil systems are the two principal institutions upon which rest the basic principles of Akan government.

We have found it feasible to restrict ourselves in the following sections to such offices as have a direct bearing on the State system, and in view of the broad treatment that we give to this subject, it seems advisable that we do so. Mr. Casely Hayford in his *Native Institutions* refers to such offices as the Captain of the Huntsmen, the Captain of the Butlers, the Chief of the King's Physicians, etc., and although there are offices such as these in the State system

<sup>1</sup> Such comparisons may be interesting, but, of course, they are quite unscientific. It is like arguing that because *B* behaves like *A* in one or two particulars therefore *B* imitated his peculiar behaviour from *A*. *Non sequitur*. The Ga civilization may, on deeper analysis, be shown to be quite as original as the Hebrew.

of Akim Abuakwa, yet as their importance is limited to the sphere of their respective offices without having any influence on the general community, we have refrained from giving to each a special treatment which may add exhaustiveness at the expense of succinct compactness.

(i) *The Office of Omanhene (Paramount Chief)*

The term "*Omanhene*" is not a primitive Akan word. It is a compound word made of "*Oman*" (Nation) and "*ohene*" (king): thus we have for provisional definition, "the king of a nation." Originally, our kings, now known as *Amanhene*, or better, *Amanahenfo*, were known as "*Ahenfo*", or to use the singular term, "*ohene*." The general ceremonial appellation is *Nana*, which, etymologically, means mother-of-mothers, i.e. grandmother or grandfather. Besides other seemingly pompous and bombastic but really well-meant appellations such as "*Dasebre*", "*Daseensa*" (ever-thankful, ever deserving thanks), "*Otumfo*" (mighty or majesty), "*Deefo*" (maker of good deeds or benefactor), "*Katakya*" (the valiant), etc.—terms used unto this day—it was necessary to distinguish an *Ohene* of a state known as King from the *ohene* of a province known as Chief or Head-Chief; also an *ohene* of one state from another independent Chief; and this was done by adding the word "*ohene*" to the name of the state which such king governed; e.g. in the case of Akim (Akyem) we say *Okyenhene* (Akyem-hene), i.e. the King of Akyem; in the case of Kwahu we say *Kwahuhene*; Asante, *Asantehene*, *Akuapem*, *Akuapemhene*. Or, if it were necessary to distinguish Akim Abuakwa from Akim Kotoku, we say, "*Abuakwahene*," "*Kotokuhene*," etc.

How then did the term *Omanhene* come about? From all inquiries it appears to be the work, or rather the invention, of the Executive Committee of the Gold Coast Aborigines' Rights Protection Society. When after the death of Queen Victoria it was no longer considered convenient for our Aman-Ahimfu to retain the title *king* in the British Empire, the Executive Committee of the Aborigines' Society, at Cape Coast, wrote in reply to a communication from Governor Sir Matthew Nathan, in September, 1903, as follows:—"The term head chief is of recent date. The paramount ruler of a district is known by the term *Omanhin*, which is a compound word made up of *Oman* (district) and *Ohin* (king or ruler); it is used in contradistinction from *Ohin*, who may be simply the ruler of a single town. In speaking of a paramount

ruler we would not say, for an example, Omanhin Kwadwo Mbra, but Ohin Kwadwo Mbra ; not Omanhin Enimil but Ohin Enimil. By official address it would be better to use the compound word."<sup>1</sup>

This is the official origin of the term "Omanhene". But there is some doubt whether the credit or discredit should be given to the Executive Committee of the Aborigines. Some seem to believe that the word was coined by our late friends the Basel Mission Society, for as far back as 1881 the Rev. J. G. Christaller defined the word "Omanhene" in his *Dictionary of the Asante and Fante Language* as the King or Chief of a nation, town or village. Be that as it may, the term Omanhene is now widely used and it has come to stay.

"Omanhene" stands for, and must always be interpreted to mean, the king of an Akan State or Oman as much as an emir is the king or monarch of an emirate.

This, then, may serve as a convenient descriptive definition. But what does the name stand for, what does it denote ?

If we turn to modern official governmental papers we find that the reports of men like Crowther and Harper who conducted inquiries into several state disputes are far too broad in their views ; the legal definitions provided for in the ordinances are not such as to commend themselves to our notice,<sup>2</sup> and when we look up in Sarbah or Casely Hayford, we feel bewildered. It appears in the two last cases that the term "Omanhene" could not be adequately defined without making some reference to the paramountcy inherent therein in respect to lands in a state ; but as we have shown elsewhere a state does not always include paramountcy over all the lands.

The term "Omanhene" we have seen connotes the supreme head of the state. It implies the highest chieftain to whom all the chiefs in a particular state owe allegiance. It denotes the "chief magistrate and highest military officer" in the state ; and it indicates the person for the time being, i.e. for life, other circumstances permitting, sitting on the most Paramount stool to which all other stools with their respective clans,

<sup>1</sup> Sessional Paper (Legislation Council), No. 4, of 1917-18.

<sup>2</sup> "Paramount Chief," the English rendering of "Omanhene", is defined in the Native Administration Ordinance, 1927, as "a person elected and installed as such in accordance with native customary law to administer a State who is not subordinate in his jurisdiction to any other paramount chief." This clearly is a special definition with a local meaning, but not a logical connotation.

families, sub-families, and retainers owe allegiance as subjects and as members of the tribal community. They acknowledge the power and sovereignty of the Paramount Chief in their daily intercourse with him involving habitual obedience to his rule coupled with a permanent expectation that he will protect them and their rights, and they pay customary homage and acknowledge and renew allegiance to him at the yearly celebrations of the Paramount Stool.

The Omanhene is assisted, guided, advised and directed in his government of the state by the people's own elected representative chiefs and councillors. These chiefs and councillors, who are elected from particular families, are not at all unmindful of the great responsibilities attaching to their posts, and they usually exert great influence over the Omanhene, keeping him well alive to the constitution of the country, so as to sustain and support him in the constitutional government of the State. An Omanhene is, in short, a constitutional monarch exercising regal powers in a democratic state. As such his prerogatives and obligations are illimitable. He is great when he is good, and out of place when unconstitutional.

To distinguish an Omanhene from an ohene, in an assembly or other full dress celebrations, you may do well by attaching importance to the number of state umbrellas, drums, and attendants, and to the size and quality of the emblems on linguists' staffs of office, as also to the extraordinary display of gold, beads, and other jewellery. For whilst an ohene has to appear in public with only one or two state umbrellas ornamented with a non-proverbial and ungilded headpiece on the centre-pole, the Omanhene always appears in public with more than three state umbrellas with proverb-bearing gold headpieces. The Omanhene's linguist staffs are all covered in gold with headpieces, conveying proverbial meanings. The linguist staff of an ohene is made of gold with silver mounting and a plain or a moderate-sized proverbial top.

The Omanhene sits, on grand occasions, on a golden stool; an ohene on a silver stool, or in other cases on a plain polished stool. The Omanhene wears a golden crown; an ohene wears a coronet or a velvet or silk fillet with two to four gold or silver mounts according to position. The Omanhene parades in a palanquin supported by eight or more palanquin bearers. An ohene's palanquin is supported by about four persons. As regards drums, an ohene may retain an Mpintin set, and the fontomfrom set, and other single-air drums

similar to the Omanhene's, with a difference of only one, instead of two Boma in the fontomfrom set. It may be easy to distinguish between them by their drums alone—where there are two Boma drums we have the Omanhene, otherwise it is an ohene. When they are seated, it is equally easy to recognize the Omanhene, who sits on a high dais with his stool resting on a lion-skin.

The Court criers of the Omanhene have their caps gilded; those of the ohene have their caps covered with silver. But perhaps the greatest thing which testifies to the supremacy of the Omanhene over the Chiefs is the fact that whilst he speaks to the Chiefs sitting, and through his linguists, the ohene must speak to the Omanhene standing, with his linguist by him. Occasionally, however (as when explaining one or two matters), an Ohene's linguist may speak to the Omanhene's linguist on behalf of his Chief. Another honour done to the Paramount Chief is that whenever the Omanhene dances to the State drums, the assembly of chiefs and people have to stand up and uncover their heads. There are many other respects in which a Paramount Chief may be distinguished from his sub-Chiefs, but the general indication given above will be helpful, we hope, to the earnest investigator.

We must add that the Omanhene as the supreme or Paramount Head, is expected to be present on all State ceremonies, and whenever he is absent his deputy must act for him. The Omanhene may be absent on *Kwasidae* and *Ohum-Kyire* celebrations, but not on *Odwira*, *Ohumkan*, and *Banmu* celebrations. That is to say, he cannot be away from his residence in any one year for more than five consecutive months. The Omanhene of Akim Abuakwa sits on a Stool which is believed to be the oldest and most historical in the Asona clan.

#### (ii) *Of Queen-Mother*

Much the most dignified and perhaps the most sacred post in the State is that of Queen-Mother. It is the first and last word in the native state administration, and it gives us no little pride to remark that in the Akan state system women possess and exercise a high measure of freedom and power. All modern institutional governments have failed to provide any official recognition for the mother of the reigning king.

The Queen-Mother, or Ohema, in the Akan State system, is either a mother, aunt, sister, or cousin of the reigning

Omanhene or Ohene, who has been duly elected to and installed in that office by the same people who elect and instal the Omanhene or Ohene. As such she holds a distinct post in a definite State system. A Queen-Mother is not necessarily next in importance to the Omanhene or Ohene of a state or subdivision, but her office being unique, she seems to exercise more prerogatives than most other Chiefs in the Division. Her influence is very great on the Omanhene or Ohene. It falls to her lot to educate a young Ohene in the history of the country and to remind him of his duty to the memory of the departed sovereigns and other ancestors. Her principal office lies in the domain of the stool-house and of the mausoleum, that is, the resting places of the spirits of departed ancestors. During State celebrations she prepares the customary meals destined for the manes of the ancestors, for sanctification of the stools, and for service in the mausoleum.

She is a recognized head of the Royal Family, the Omanhene himself being head of the State, and she is often privileged to nominate a successor to a vacant stool. She owns a stool herself, and instead of a palanquin or Apakan, she owns a sedan-chair, or *seko* tastefully decorated and adapted for female use. Her State paraphernalia and insignia are slightly below that of an Ohene, although she is unlimited—as the Ahenfo are—in the use of jewellery.

She is the nominal chief or chieffess of all women in the State and has power to investigate "palavers" arising between wives and their husbands of a minor nature or between women and other lower servants of the State.

She is also a member of the Executive Council, and *ex officio* of the Okyeman Council; and great is the weight attached to her counsels, especially those of a traditional or historical nature. She sits in council on the immediate left of the Omanhene, that is the Omanhene sits on her right, and she maintains linguists and councillors of her own. Such linguists or councillors may be male or female. She maintains many other state servants.

Like any other stool-owning Chief, there is a yearly celebration for her stool; that of the Queen-Mother at Kibbi falls due a few days after the yearly celebration of the Omanhene. She is also lady or mistress of the gods (not fetish, see *passim* Rattray's *Ashanti*) called "Abam" (Gemini), supposed to influence the Twin born. The Queen-Mother has drums and other set dances of her own; e.g. the "Adowa" dance, the "Odotō" dance and many other appropriately feminine

and graceful dances, most of which are played to entertain the Omanhene and his Court during State celebrations.

A Queen-Mother, when the male line fails, may herself become "Queen", i.e. Omanhema or Ohema, and until there are competent males to ascend the stool, women in the proper line may ascend it in succession.

Mr. Casely Hayford in his *Native Institutions* makes no particular mention of the existence of this office, and although he repeatedly refers to a *materfamilias*, there is nothing to show that he was aware of the existence of the office of Queen-Mother in the Akan institution. We are given to believe that there are no recognized Queen-Mothers, at least in practice, in the Fanti institutions, but Mr. Casely Hayford assures me that he intends to refer to the Queen-Mother's office in a future edition of *Gold Coast Native Institutions*. Granting that a *materfamilias* is the highest living (or dead) fountain-head of any family in our tribal system, the Queen-Mother would be the living successor of the *materfamilias* in a royal family. Every living female head of a family cannot as such be called a *Queen-Mother*. In Akim Abuakwa, for instance, there are only 13 State-recognized Queen-Mothers, i.e. the supreme Queen-Mother at Kibbi, otherwise styled "Queen-Mother of Akim Abuakwa", and the other 12 Queen-Mothers in the 12 subdivisions. An Odikro may have a Queen-Mother, but she holds no recognized post in the State, although it cannot be denied that Adikrofo Queen-Mothers are in existence and that they exercise proportionate powers and influence over their respective Chiefs as the greater ones do in their respective spheres. On the whole, it may be safer to reconcile the term *materfamilias* with the term Queen-Mother so as to leave no room for doubt.

The Queen-Mother of Akim Abuakwa is familiarly referred to by courtesy, not by right, as "Nana"; her real appellation is "Aberewa" (old dame) or "Awura" (mistress or lady), and she is formally so referred to. The stool of the Queen-Mother at Kibbi is, like the Omanhene's, of the Royal Asona clan.

### (iii) *Of Ohene or Opakani (Head-Chief or Chief)*

Assuming that our definition of Omanhene or Paramount Chief be accepted, it becomes an easy matter to bring within reasonable compass the much talked of topic of Ohene or Chief. Really an Ohene is both a civil and military lord holding office in many respects similar to a grand duke's

in the former Germany. He is the sole head of a subdivision<sup>1</sup> or Province or Ohen-man or *Omansin*, within which he reigns supreme in so far as his ruling power in relation to other chiefs of his rank is concerned. An Ohene may have one or two Ahenfo under him and in such cases the superior Ohene is Head-Chief of the subdivision or Ohen-man. The Head-Chief exercises jurisdiction in all civil and in most criminal matters as well as other matters of importance within the subdivision, and he is always jealous of and antagonistic to any Head-Chief who may choose to interfere with his dearly-bought heritage. In Akim Abuakwa there are five Head-Chiefs, each ruling in a definite name with a definite title within a definite nominal province.<sup>2</sup> Every title of chieftaincy in Akim Abuakwa is derived from a military command, and the greater a Chief is in military affairs the more influential is he in the civil order.

There are in Akim Abuakwa 13 Ahenfo who are entitled to ride in palanquins, and are therefore called *Mpakanfo*, or Palanquin Chiefs. We propose to treat these in their respective order of importance.

1. The *Adontenhene*, whose permanent residence is Kukurantumi, is the Head-Chief next in importance to the Omanhene. According to his title, he is Head-Chief of the Adonten-man and general of the Adontenfo (Advance-guard). Besides that, he is the commander-in-chief of the Akim Abuakwa forces, the Omanhene himself being something like a Field-Marshal, or generalissimo of the army. So much for the Adontenhene's military power.

In civil life the Adontenhene is, as the first person after the Paramount Chief, the chairman of the Okyeman Council, and it is but rare to see the Council execute business with any great freedom in the personal absence of the Adontenhene. If the saying be accepted that "there are always two important Chiefs in an Akan State system, the one carrying the head, the other the leg", then the Adontenhene is the Chief who

<sup>1</sup> According to the Native Administration Ordinance, 1927 (N.A.O.), what was formerly called a "Division" is now a "State", and a "subdivision" is now a "Division". To conform to the new terminology the reader should keep these convenient terms in mind.

<sup>2</sup> I say "nominal" advisedly for the Ahen-man or Amansin (provinces) in Akim Abuakwa are not territorial, i.e. the towns included within the province are not all situated within the same territory or geographical division, and it is usual to find a town in one Omansin separated geographically from the headquarters of his province by two or three headquarters of other provinces.

carries the "legs" of the Okyeman of Abuakwa, whilst the Omanhene as Paramount Chief carries the "head" of it.

In processions the Adonten-man takes the front rank,<sup>1</sup> and the Adontenhene himself has the following Adonten Chiefs to go before him, viz. the *Ohene of Tafo* and his subdivision; the *Ohene of Asuom* and his subdivision; the Odikro of Apapam and his subdivision. These are the three principal chiefs in the Adonten.

The Adontenhene's distinguishing mark of office is a fillet or coronet of velvet, or other fine cloth, with four large gold pieces across it. All his other State paraphernalia and insignia are the same as those of the other four Head-Chiefs, and their Linguist staffs may have a moderately-sized proverbial emblem on the top. The Adontenhene's stool belongs to the Royal Asona clan. The Ohene of Tafo's stool is of the Aduana clan, Asuom stool is of the Asona clan, and the Apapam stool belongs to the Agona clan.

2. The next Head-Chief of almost equal rank with the Adontenhene is the *Nifahene* (Chief of the Right Wing), whose permanent residence is Asiakwa. The present occupant is a woman of much wisdom. She commands the right wing of the army. She is an important member of the Okyeman Council, and in every respect—except the coronet, where she wears one with a gold centre-piece and three silver mountings—her paraphernalia and insignia are the same as the Adontenhene's.

The *Takwahene of Akyease* with his division belongs to the Nifaman, and, except that the Nifahene of Asiakwa takes precedence as Head-Chief of the right wing, the Takwahene or Akyeasehene's stool is considered of equal rank as the Nifahene's. That is to say, when there is something to share between them, they share it equally. Both stools belong to the Royal Oyoko clan, and they trace their descent direct to the Ashanti stool, which is also of the Royal Oyoko clan. The Nifahene's stool is the only one of the five Head-Chief stools which does not belong to the Royal Asona clan. There are about nineteen towns and villages in the right wing.

3. The *Benkumhene* (Chief of the Left Wing), otherwise known as the Fanteakwahene, has his permanent residence at Begoro, one of the largest and most educated towns in the State. His division occupies a very large area of land and covers almost the whole of the territory formerly occupied by

<sup>1</sup> See Appendix B.

the Omanhene of Kotoku. The Benkumhene is commander or general of the left wing of the army.

The principal Chiefs in this division are the *Odauhene of Osenase and Otwereso*; the *Ohene of Apinaman*; the Odikro of Osino, otherwise known as Mumuadu Sei, and the Odikro of Apedwa.

The Benkumhene's dress and coronet are the same as the Nifahene's, both of them being equal in rank.

The Odauhene of Otwereso now residing at Osenase was originally not in the Akim Abuakwa Confederation, but he is now a divisional chief owing allegiance to the Paramount stool of Akim Abuakwa through the Benkumhene; his stool is considered to be equal in rank to the Benkumhene's and they share all things equally. The Benkumhene, however, takes precedence in all matters civil and military and he is the acknowledged Head-Chief of the Benkum division.

In parades the Benkumhene is the third to the Adontenhene. The Benkumhene belongs to the Royal Asona clan. The Odauhene belongs to the Aduana clan. The Apinaman stool is of the Royal Asona clan and the Apedwa stool of the Agona clan.

There are about 17 towns and villages in the left wing.

4. The fourth dynasty of Head-Chiefs is the *Oseawuhene* (Chief of the Stool Guard), of Akim Abuakwa, whose permanent residence is Wankyi. As commander or general of the stool-guard, he is one of the five important Chiefs whose presence in the State Council is always deemed necessary.

The *Ohene of Asamankese* is an important Chief in the Oseawuman. In other matters he is equal to the Oseawuhene, but the latter is the recognized head of the Oseawuman. They share things equally.

The same privileges and powers are enjoyed by the Oseawuhene as the Nifahene or the Benkumhene. The Oseawuman is the largest of all the subdivisions, and the Oseawuhene stool is of the Royal Asona clan. The Asamankese stool is of the Abrade clan, and there are some minor Chiefs under that stool. The *Pomasehene* or *Ohene of Abomosu*, who is of the *Bretu* clan, is also of the Oseawu wing, and there are some towns under him. The Pomase stool is among the earliest emigrants from Adanse. The Pomase people, as first emigrants, appear to have chosen the best land for themselves; for not only are the Pomase lands along the Birim valley fertile, but they are both auriferous and diamondiferous.

As stool-guard, the Oseawu wing precedes the Omanhene

in procession. This wing parades about the stool as it goes before the Omanhene. There are 30 towns in the Oseawuman all told.

✓ 5. The *Jasehene of Akim Abuakwa* is the fifth of the Head-Chiefs. His permanent residence is Kwabeng. He is commander or general of the Jase (Body-guard) and his prerogatives are slightly different from those of the preceding three. Although in the State Council the Jasehene sits with the Kibbi Executive Council, i.e. as a member of the Executive, his position as a Divisional Chief is the same as the other four. As Chief of the Bodyguard he is acknowledged to have jurisdiction over the inhabitants of Kibbi whilst staying there; and he is also what we may call Chief of the Executive Council at Kibbi.

The Abontendomhene of Kibbi (i.e. the principal or first councillor in the Kibbi Council) belongs to the Jase wing, and with all the other members of the Executive Council at Kibbi, he renders homage to the Omanhene through the Jasehene.

The Jasehene's power is a little peculiar in this respect. Whenever the Paramount stool is vacant the Jasehene acts as Regent during that interregnum until a successor is appointed. It will, therefore, be seen that the Jasechieftaincy is of no little importance. As Regent he acts with the full authority of a Paramount Chief, and whatever he does with the advice and consent of the Kibbi Council or of the Okyeman Council, holds good as if it had been done under the direction of an elected and installed Omanhene. The Jasehene is of the Royal Asona clan.

The present *Abontendomhene* of Kibbi is of the Agona clan. This stool is not restricted to any one particular clan, the succession being subject to nomination by the Omanhene, with the advice and consent of the Kibbi Council. ✓ The Ahenema or Omanhene's sons are the only people eligible for nomination to this important office, and as an Omanhene's wife may belong to any but the Asona clan, this particular stool can be inherited by a person whose mother belonged to any of the known clans or was even not a member of an Akan clan. The occupant is the custodian and master of ceremonies of the Royal Stools at Kibbi, first councillor or prime minister to the Omanhene, and *ex officio* the Chief through whom the Omanhene's stool heirs render homage to the Paramount Chief. He is, after the Omanhene, and in the absence of the Jasehene, the chief Executive officer; he is known as the Odikro or Ohene of Kibbi the capital town.

There are also some two or three towns under him. There are about fourteen towns in Jase.

It is notable that each of these Head-Chiefs rules as a king or grand-duke in his own province, and each maintains one or two councils which assist him in the administration of his ohen-man. The Omanhene, then, may, to compare small things with great, and with the necessary reservations, be considered as an emperor to whom all these kings or Head-Chiefs are subject, render homage, and owe allegiance. The Omanhene's Tribunal is an appellate to their Tribunals, and there is always an open door for an aggrieved person in a Chief's province to appeal to the Kibbi Council for redress. The Omanhene's jurisdiction and powers over these Chiefs are only limited in so far as the acts of the Okyeman Council are concerned.

The ceremonial appellation of any of the thirteen Chiefs is "Barima", meaning "the manly", or "the valiant", but the five Head-Chiefs are better referred to by their respective titles.

It may be well to remember that the Ahenfo are bound to the Paramount stool not only by the oath of allegiance which is taken at the first Odwiratuo of the Omanhene, or on the enstoolment of the new Chief, but by immemorial ties and ancient traditions, the story of which may be reserved for a future work. The State is a unit which was not founded in a day, a week, or a year. It is the work of untold generations. It is a finished article of the hand-and-brain work of our great men of history. The attachment of the Ahenfo and people of the State to the Paramount Stool is substantial, real, impregnable. The lands and the people, the stools and the Chiefs, the Omanhene and the Councils, constitute a combination of units bound together by ties of blood and by the glorious past of the people. They have had to fight hard for existence in an unkind world—such a world as is found in Africa, where only the fittest survive. May they live long to add to their glories of the past, and enjoy and develop the heritage left them by their noble ancestors.

#### (iv) *Of Adikrofo (Sub-Chiefs)*

Besides the thirteen Head-Chiefs and Chiefs who rule the Provinces or Divisions as they are now called, there are the Asafohene or Adikrofo who rule the several towns and villages with the assistance of their respective councils. An Odikro is, as the name implies, the owner or ruler of a

town or village. An Odikro may have one or two towns under him for which he acts as senior or leader in rendering homage to their common Head-Chief and through him to the Paramount Chief, but his dominion over them is more formal than real ; e.g. in the Adonten section, the Odikro of Apapam is as an Ohene having Afiesa (Nsutam), Afwenease and Adadientam under him ; the Odikro of Adadientam is also said to be the leader for both his town and the town of Nkronso, which is also of the Adonten wing.

An Odikro does not ride in a palanquin, but since 1919 they have by an Act of the Okyeman Council been allowed to ride in sedan-chairs (seko) ; to maintain a set of Mpintin drums ; to have a black linguist-staff (Amampam Poma), and to retain also for State purposes a horse's tail (Mponkofi). The greater Chiefs use an elephant's tail. Besides these, an Odikro may have a horn and a drum (Twenesin).

An Odikro exercises power in his town as an Ohene does in his province, and all municipal questions are solely in the hands of his Council, over which he presides. An Ohene's tribunal may be an appellate to an Odikro's, but there is nothing to prevent parties taking their cases from an Odikro's Tribunal—especially oath cases—direct to the Omanhene's tribunal, if they so wish.

The Head-man of a village not owning a stool, may, on finding that his village had reached a status to deserve a stool, apply to the Omanhene through the Ohene in whose jurisdiction the village is situate for a stool to be created for him. Such stool when created becomes the property of the family of such head-man for whom it was created, and it subsequently falls into line as a regular ancestral stool. The appellation of an Odikro is "Bafuor", meaning "The Brave".

The custom also is that the Omanhene may, on the advice or with the consent of the Okyeman Council, raise an Odikro or sub-chief (who may or may not have applied for such through his superior Chief) to the position of Ohene or Chief. But before a sub-chief is raised to the position of Chief, the Okyeman Council have always sought to satisfy themselves of certain conditions ; e.g. (1) whether the applicant has done any exceptional loyal or patriotic service to the State ; (2) whether there are other towns or tribal stools owing allegiance through him ; (3) whether the elevation will generally conduce to the greater welfare of the State.

Within living memory it is only the Abontendomhene of

Kibbi who has been raised from his post as Apesemakahene simply, to be Abontendomhene. The Tafo Stool was given an "Apakan" about a generation or two ago.

(v) *Of Ankobeahene (Chief of Body-guard)*

The Ankobeahene of Kibbi is the Chief of the Home or House Guard. Ankobea- means literally "he does not go anywhere", and -hene means Chief. There are towns under him. The Jasehene at Kibbi is also under the Ankobeahene, but they are cousins belonging to the Asona clan. The Ankobeahene is one of the four principal sub-chiefs of the Kibbi (Executive) Council. He has his own yearly celebration, is entitled to ride in a sedan-chair, to maintain a set of Mpintin drums, a drum and a horn. His status is a little higher than that of an Odikro. In processions he steps immediately in front of the Omanhene with the Jasehene of Kibbi going before. In Council he sits on the right side of the Omanhene. The Omanhene himself is of the Ankobea order (Ankobeani). The Ankobeahene's appellation is "Bafuor".

(vi) *Of Jasehene (Chief of Personal Guard or Chamberlain)*

The Jasehene is, if we may draw the comparison, the Chamberlain of the Omanhene.<sup>1</sup> All the State messengers and servants, from the Chief of Stool-Carriers down to the lowest State servant, are under his control and supervision. For the Omanhene to appoint or dismiss a person to or from any of these posts, the Jasehene's advice is essential. He is of the Asona clan; is a cousin of the Ankobeahene, and renders homage to the Omanhene through the Ankobeahene. He has a drum and a horn, but no sedan-chair.

In State ceremonies, the rank and file of the *Nhenkwa* (chief's attendants) have to assemble in the Jasehene's house; from there they proceed, under the orders of their Chief, the Jasehene, to the Omanhene's palace; and with these attending him the Paramount Chief marches out in full state. The Omanhene's Linguists are also directly under the management of the Jase, although they have their own Chief.

In procession he steps before the Ankobeahene, and in council sits with him on the right of the Omanhene. He

<sup>1</sup> *Ja-se-hene* means Chief of the place of fire. His office is comparable to that of the Roman *pontifex maximus* or the Greek *Prytanes*.

is one of the four principal sub-chiefs in the Kibbi (Executive) Council. His appellation is "Bafuor", and he is equal in rank to an Odikro.

(vii) *Of Kyidomhene (Chief of Rear Guard)*

It is not only in the Kibbi Council that we find such offices as Jasehene, Ankobeahene or Kyidomhene. Each Head Chief or Chief has his own Jasehene or Kyidomhene, but we are restricting ourselves in this chapter to defining the offices as held in the Kibbi Council. All the rest are based on the same model.

The Kyidom chieftaincy is held by two sub-chiefs of the Ampebame family, also of the Asona clan. This family represents the whole of the Kyidom section in the Kibbi Council, and the senior of the two chiefs at Kibbi is the Kyidomhene. Kyidomfo are the Rear Guards. Besides the two chiefs at Kibbi, the Chiefs of Tete, Pano, and Wirekyiren are also of the Kyidom.

In procession they keep the utmost rear of the Omanhene. In Council (they all sit with the Kibbi Council) they sit on the left of the Omanhene farther from the Abontendonehene, who sits on the nearer left, the Queen-mother being nearest.

The senior of the two Kyidom chieftains at Kibbi has a drum, a set of mpintin drums, a horn, and other paraphernalia, including a sedan-chair, similar to that of the Ankobeahene. The junior Kyidomhene is equal in position to the Jasehene at Kibbi. The appellation of either of these two chiefs is "Bafuor".

(viii) *Of Osomanyawa or Omankrado (Chief Councillor)*

The term Omankrado, although a *Twi* word, cannot be considered as original with the Akim and Fanti Tribal systems. It has its origin in the Ga-Adangwe tribes. According to its roots, the word means "key or lock of a nation", and if a person holds such post it means he holds the key of the town or sub-division in which he is. At Kibbi there is no person who bears this title or its equivalent Osomanyawa. It forms a part of the Abontendonehene's position. But there are some respects in which the Abontendonehene's position differs from that of an ordinary Osomanyawa. The Abontendonehene rides in a palanquin; an Osomanyawa does not; but the great prerogatives of an Osomanyawa

as (1) the first person after the chief or king of the council in which he serves, and (2) Acting Regent when the stool is vacant, are denied the Abontendomhene. These two prerogatives are enjoyed respectively by the Adontenhene as first person after the Omanhene, and by the Jasehene as Regent during the vacancy of the Paramount Stool.

*Osomanyawa* or *Osokuro-nnyawa* is the real Akan word in use in Akim Abuakwa. By its roots it means "he who carries the legs of a town or district". In any town in the State there is an *Osomanyawa*. Naturally he is the first person after the Chief of the town. He is the first advisor to the Chief, and takes charge of the town during the Chief's absence. He is always Regent during any vacancy.

An Ohene's *Osomanyawa* is almost equal in rank to the *Odikro* of a town. He has a Tribunal of his own with the Chief's as appellate to it. He represents always a great portion of the population in the town, and no alienation of stool-land, nor any act of importance affecting the town can be rightly done without his knowledge. Some *Osomanyawa* have drums, horns, etc.

#### (ix) *Of Stool-holders or Captains-on-Stools*

In any town or district or subdivision there are Chiefs who hold stools as "Patriarchs" in their families, and who, as representing sections of the inhabitants of the town, are always members of the Chief's Council.

Every such Captain-on-Stool, usually referred to as *Osafohene*, has his yearly stool celebration. A Head-Chief's Captain-on-Stool is not bound to take fetish, but a Chief's or a Sub-Chief's is, by law, required to take fetish when swearing or affirming oaths. They are, however, regarded as sacred persons who should not be insulted or molested with impunity. A Captain-on-Stool, provided his stool had held them since the old days, may maintain his drum (*Twenesin*) and horn (*Abentia*). But such paraphernalia are of importance only in the town or district in which their owners live. The Captains-on-Stools of the provinces are great in their provinces, but not in the capital.

#### (x) *Of Stool Heir (Odehye)*

Of all the sacred and hereditary offices the one most likely to puzzle the supercilious foreigner is that of Stool heirs.

By the term "Stool heirs" is meant persons who, by birth,

are eligible to ascend a town, subdivisional, or state stool in an Akan State. It is incorrect to refer to Stool heirs by the English word "Prince", since Stool heirs are not sons, but most generally *nephews* of Chiefs. If, however, "prince" be taken in the most general sense as a person who by reason of royal birth belongs to an actually reigning family, then Stool heirs in the Gold Coast may correctly be called "princes". It is extremely misleading to refer to sons of Gold Coast Chiefs as "Princes". The nephews are royal, but the sons may not be.

As already shown, succession is through the female line, and whatever be the position of the father of a person born as stool heir, whether he be a slave born, or a person with no social standing, or even if the issue be the result of an unlawful connection, that is to say *aguamanba*, the high value set on the blue maternal blood which runs in the veins of the child is maintained throughout. So long as his mother is of the best blood in the country the child is content. In the Akan institutions the question is not who your father is; it is the mother who counts. The same applies to stool-heiresses.

A stool heir once so born may remain in the service of his father, to be tutored and brought up in the history of the country, and especially of the family stool. His moral, social and intellectual training rests with the father.

A stool heir, when of mature age and of good report, may be made a member of the Council of the reigning Chief. This is also a first-rate tuition for the aspiring stool heir, and it is open to him to improve his knowledge of Court manners and functions. Usually stool heirs have no other civic posts in the country until they are so elected. There is a quaint old custom of making stool heirs lords or dukes of certain towns or districts in the State, whereby a stool heir would stay in a particular town or district and look to that town or district for his means of livelihood. But there being no attraction or inducement for the maintenance of this custom in these days, the practice is being regretfully abandoned.

A Stool heir, whether young or old, is regarded a most sacred and hallowed being. One should not, if we may be permitted to apply the words, insult, assault, reproach or unnecessarily use words or in any way act in a manner likely to aggrieve a stool heir or reflect on his honour. One should not in any way roughly handle, or, in some cases, touch the hands or other parts of the body of the wife or sweet-

heart of a stool heir. Carnal knowledge with the wife of a stool heir is a great crime.

We may state here parenthetically that if a commoner has a stool heiress as wife, he must, according to custom, concede to her what is legally her due. There is no provision in our customary laws permitting a commoner or any other husband to give fetish to his wife—a stool heiress. If he has reason to suspect her of immoral conduct, there are no valid means of forcing the truth from her. She may, of course, be questioned in this respect, but anybody who takes a stool heiress to wife does it on that understanding. But it should not be inferred from this that stool heiresses are, therefore, unchecked in their conduct: their own personal honour—and a sacred one at that—is a safeguard and a protection.

Not on any occasion—not even when being operated upon surgically—should the bones of a stool heir be broken. If this happens, sheep should be slaughtered. In the ancient days, if a stool heir was to be punished by death, he was exempted from the ordinary mode of execution. His death was to be one in which neither blood should flow nor bone broken. Usually, strangulation by his own hands was the mode adopted.

Present-day stool heirs are none the less powerful. Their power and dignity are only superficially diminished and they sustain their respect and independence by their own individual efforts supported by the laws of the country. This sanctity attached to stool heirs is due to the general fact of their being born members of the sacred order of stool worship. The slightest slip of the tongue against a stool heir might end in slaughter of sheep to pacify the ire of the stool heir which had been thus excited; and when it is remembered that in our customary laws, calling a person a fool in any circumstance amounts to culpable slander, it is easy to conceive how many pitfalls one is likely to fall into, in common intercourse with a stool heir. A stool heir, when taking oath, need not call fetish, he only affirms.

These regulations apply especially to the Stool heirs and heiresses of the Paramount Chiefs, and to some extent they apply also to the stool heirs of Head Chiefs and less so to that of Chiefs. The stool heirs of a Sub-Chief (Odikro) have some recognized political status in our State system, but they are required to take fetish when deposing, and they enjoy some minor privileges. They have a good many prerogatives which, in most cases, exempt them from certain laws governing the ordinary free-born. A stool heir's

ordinary ceremonial appellation is "Odehye"; i.e. Blood Royal, but some of the elderly stool heirs may be referred to as "Barima" or "Bafuor", e.g. Barima Biwom who eventually became Omanhene of Akim Abuakwa, Nana Amoako Atta II.

(xi) *Of Linguists, Spokesmen or Akyeame*

Mr. Casely Hayford deals with this high and responsible post with such insight and thoroughness that we can only supplement his treatment with a few words of our own. We shall content ourselves by saying that a linguist, called *Okyeame* in Akan and *Kyiam* in Fanti, is the spokesman for an omanhene, ohene, odikro, or other chief.

A Chief, according to our customary laws, should not speak to an assembly or any person or persons without his linguist having to repeat his words to the person or persons addressed. But it is not always necessary for a linguist to repeat an utterance of his Chief word by word or sentence by sentence, especially when the speech is long and greatly qualified. In such cases the custom is simply for the linguist, who had been standing with his gold cane in his hand throughout the time his Chief had been speaking, to conclude by repeating the customary epilogue, "*Sɛ ohene se ni*" ("so says the king").

We have taken some pains to ascertain the necessity for the linguistship, and all along the persistent reply is that it is not the custom for a Chief to be without a linguist. It is an ancestral and an immemorial custom, and it must at all times be followed. But our inquiries went further than this. We have ascertained the root of the word. "Okyeame" is made up of *Kyem*, and *ame*; *Kyem*, like *Kyem* in *Akyem*, means "to make perfect", "to make whole", "to bring to a finish"; *ame* is the effect of slurring two words, viz., *ma me* "for me". The "O" beginning the word is an abbreviated form for *Ono* meaning *he*. The word "Okyeame" then means by its roots, "He who makes (it) perfect for me." An Okyeama is a person appointed to act as spokesman for an ohene in order to repeat and perfect what the Ohene, who cannot always be an eloquent speaker, might have to say in public. It must be of some interest to note that stammering with Chiefs is considered a regal accomplishment, and invariably most exalted chiefs are professional stammerers. And one can hardly expect an audience to understand what a stammerer says or does

not say all the time without having it interpreted by a person accustomed to the peculiarities of tone and manner of the speaker.

A linguist in perfecting the words of his Chief must not, however, add any fresh matter, but he may extend the phrases and reconstruct the sentences and intersperse the speech with some of the celebrated witty and philosophical reflections for which they are justly celebrated to the credit of both himself and his Chief.

A Chief can never appear in any public place without a linguist ; and not only does he repeat what the Chief says, but whoever would say something to the Chief must address the words to the linguist, who must, leaning on his gold cane, repeat the speaker's words to his Chief. The fact is that, a Chief being considered sacred, there must always be an interpreter between a sacred and a non-sacred person. A Chief can maintain any number of linguists, according to his greatness in power and affluence.

Originally, the post of linguist was not hereditary by the ordinary male or female line. Sons who usually followed their fathers and held the cane during assemblies and state deliberations, used to be appointed successors to their fathers. But in these days when one must perforce fight for a post in the state with a view to maintaining one's dignity, the custom and practice has been to retain the linguist stick in the family of the first holder. This practice, we must add, only tends to reduce efficiency in the capacity of linguists, and it also overburdens the State by having to create new ones really eloquent and more deserving of the posts than the hereditary linguists. A linguist's post can become hereditary if it was created for the first holder not only because of his eloquence, wit or intellectual power, but because of some important service he had done for the State.

The Paramount Chief of Akim Abuakwa has a total of about fifteen linguists, each of whom has a gold cane or staff about 4-5 feet long and 2-3 inches in diameter at the upper end. Each is ornamented at the top with a proverbial head-piece. The chief of the linguists is the sub-Chief of the town of Pramkuma (hereditary). His linguist cane is decorated with a head-piece of a carved model of a lion looking askance at a small boy who is in the act of striking it with a cudgel. The proverb "*Akaa bi a onmim gyata*"<sup>1</sup> would mean in the nearest English equivalent "There is mercy to the ignorant".

<sup>1</sup> Lit. "The 'Kid' (or small boy) ignorant of the prowess of the Lion."

Linguists sit on the right side of their Chief ; they should stand up when the Chief makes a speech or gives a long harangue ; in fact, a linguist must never speak in public sitting down, except when some person other than his Chief is addressing him.

Linguists were not originally classified as sacred persons. In reality, they can never be treated as sacred. But the Omanhene of Akim Abuakwa's linguists have been by an act of Okyeman Council raised to a position whereby they are not expected to take fetish when swearing oath. If any person would impute a bad idea, action or unbecoming language to a Chief in exceptional circumstances, instead of saying the "Chief" had done such thing, or that such baneful thing had happened to, or had been done to or by the "Chief", the speaker should use the Linguist's name where he was really referring to the "Chief". This is one reason why linguists are not, and cannot be, sacred persons. Any bad supposition at all may be imputed to them provided it has particular reference to their Chief. This usually takes place when an envoy is reporting a message from one hostile Chief to another.

A linguist, when duly authorized and instructed, can represent his Chief and act for him as a plenipotentiary or as a legate, and he can, when so empowered, give expression to the Chief's views at any time and at any place.

Linguists because of their intelligence are always looked upon as a Chief's private advisers and counsellors, and as such a linguist is nicknamed the *wife* of his Chief. They have no ceremonial appellation, but are usually referred to by the nickname "Ohen-ye" (*yere*), i.e. The king's wife or *private* adviser.

(xii) *Of Stool carriers (Nkonnuasofo)*

Perhaps the highest post to which a young man in the State, who is not eligible to the linguistship, can aspire is the chieftaincy of stool-carriers, called in the vernacular Nkonnuasofo-hene or, shortly, *Ahennua* (Throne). The emoluments and privileges accompanying the post are very alluring. It is a lucrative post, honourable and peaceful.

The Chief of the Stool carriers at Kibbi is not a member of the Kibbi Council, but in spite of that he is looked upon as equal in dignity to the highest member in the Council, except that he does not ride in a palanquin nor in a sedan-chair. He is master of the stool-house and caretaker of the stools and of the national calendar kept in the stool-house. All

the regalia in the stool-house are under his care. As such he is next in importance in the stool-house to the Abontendomhene. When there are stool celebrations in the stool-house, where both high and low should enter with unsandalled feet and uncovered shoulders, the chief stool-carrier and his retainers attend and regulate the ceremonies under the supervision of the Abontendomhene. During Odwira and other festivals, such as State funeral customs, the stool-carriers and their chief should keep quarters for one week in the stool-house.

As is probably known, in a stool-house is kept the remnant of the stool on which a Chief had sat during his reign. This is what is known as the Black Sacred Stool, the great symbol of Akan ancestor-worship. When so returned to the stool-house after the demise of the occupier, the stool becomes a permanent object of worship, that is to say, of commemorating the memory of its deceased occupant. Sacrifices will henceforth be made on it.

There are as many stools in the stool-house as there have been chiefs in the Royal Family. The chief stool-carrier is expected to know the name of each stool and the history of its occupant. He is, therefore, the recognized official historian of the State.

It is the chief of the Stool-carriers who actually initiates the reigning Chief into the Sacred Order of Stool Worship. After the ceremonies the forehead of every person in the stool-house would be sealed in the blood of the sacrificed sheep. Not every person is eligible to be so sealed. Christians and other non-conformists (of the Order of Stool Worship) and foreigners are never permitted to enter into this sacred adytum. The Order of Stool Worship is about the last surviving ancient order which the hands of Western civilization have not yet touched, and may not for a long time yet approach. (Captain Rattray, author of that great work *Ashanti*, is the only European who, as far as I know, has gained access to a living Stool-house and taken photographs of the Stools.) It is about the last thing—even when fetish worship has died out—which Christianity and Mahomedanism will be able to conquer. Either the Order of Stool Worship must be somehow fused with "African" Christianity (as was done with certain customs of Europe during the infancy of Christianity), or, we are afraid, the bulk of the Akan-Fanti nations will for a long time remain un-Christianized. But to digress for a moment and to speak irresponsibly, what is stool-worship, stripped

of its superstition? Where is the fetishism about it? Is it more than a natural form of remembering one's departed ancestors? And is that ungodly or irreligious? Is it not the basis of all religion? Does that violate the First Commandment? We have yet to know whether it does! What of the monuments in Christian countries? What of the wreaths laid upon them? What of memorials like the Cenotaph? Are not tributes of flowers and prayers and songs offered at these shrines modernized forms of remembering one's departed ancestors? Say that is evil and ungodly, and we will readily admit so much for ancestor worship.

A stool-carriers' distinguishing mark is a clean cut of the hair from the forehead to the back of the neck, about four inches wide, large enough to receive the seat of the stool on the hairless part of the head, with the uncut hair bordering on the left and right brows. They carry the stool or other seat of the Chief before him wherever he goes, and when the Chief is seated, the stool-carriers remain behind him, always taking care to keep in touch with the stool. (They must keep in touch with the stool even when in an assembly the Chief rises for a short time, and then it must be held in a slanting position to prevent evil spirits from sitting upon it.) Stool-carriers are immune from assaults, but they take fetish when swearing oath. The chief of the Stool-carriers never actually carries any stool.

It should be noted that the golden and silver-covered stools are objects more of finery than of necessary custom. Besides their sentimental face value, they have, in fact, no necessary constitutional place in our State system—a Chief might well do without one, and its absence would not in the least minimize the greatness of his Black Stool. Where we use the word Stool in this treatise, as used in fact, in all official and public records, the Black Stool is the object meant to represent the Akan sovereign. The Golden Stool of Ashanti is in a different category; the tradition being that it was the first deified stool of the Ashanti people.

(xiii) *Of Sanna and Fotosanfohene (State Treasurer)*

Sannafo or Fotosanfo are the Treasurers or Keepers of the Chest of State. The post is held by appointment, those eligible for the chieftaincy being the sons of the Paramount Chief. The chief minister of the Stool-chest keeps the *Fotoo* or balance for weighing gold. In these days of silver and paper currency his service does not seem to be of

much utility. Fotosanfo means "the person who unties the weights", or, we may say, "the opener of the safe or chest". This, I think, does not imply that he has any control over the application of the treasure, although it is evident that in the old days the Sannahene must have known a good deal of the State treasure and of the way in which it was administered.

In Kibbi another function of the Sanna-hene<sup>1</sup> is that of performing the preliminaries of the yearly Odwira Festival. The celebration falls due on a Sunday. On the preceding Saturday, the Fotosanfohene opens the ceremonies by parading the streets with the State drums. It may be interesting to describe his dress: He wears a cap called "Akrobonkye" (leopard cap); he holds his State sword, and wears a crimson-red cloth; his body is decorated with red, white, and black-coloured clays, giving an effect called "topresono" (multi-coloured). He has his own horn and drum, and his State sword has a golden handle. The Sannahene or Fotosanfohene is a member of the Kibbi Council, and he has a stool under the Abontendomhene.

The junior members of this Order are recognized by the bunch of silver or golden keys carried hanging across the shoulder on a leather pad with a gold lock and key fixed in it. These officers are usually selected from the *Nkrafo*, or "Soul-keepers", and are, therefore, immune from common assaults and insults and may not take fetish when swearing oath.

(xiv) *Of Nkrafo; Awoso; Nkrafohene (Breast-plate Bearers)*

Next to stool-carriers and, perhaps, much more sacred is the post of "Akrafo". *Okra* means the *soul* of a person. When an Ahenkwa by reason of his character and other personal charms succeeds in winning the personal love and attachment of a Chief, he is publicly honoured and declared to be an *Okra*—or *soul* of the Chief, i.e. such person is loved as the Chief loves himself.

When so declared, the Ahenkwa automatically becomes a sacred person. His head must always be clean-shaved, and he wears a gold plate called "Ekyere" suspended on a white cord around the neck. In full dress an Akrafo wears this gold plate and decorates the forehead, brows, shoulders, hands, and elbows with pure white clay. This order is of

<sup>1</sup> *Sanna* really means cooking-place or kitchen, probably the Sannahene used to be the chef on State occasions.

two or more distinct kinds based on what Captain Rattray calls the "Ntoro" Family, where the line is traced through the father, and not, as usual, the mother, the *Bosomptra* and the *Bosomtwe* being general in Akim Abuakwa. There are, of course, other kinds in different States, but the Ofori Stool at Kibbi confers the Order in these two branches only. There are the Poakwas, the Sakyirs, etc.

The *Bosomtwe* is the senior of the two Orders, and is the original Order with the Asona dynasty at Kibbi. The members worship on Sundays. Early on every Sunday morning they have to take a bath in cold and clear brook water, and decorate themselves as above directed and dress in a white cloth. A *Bosomtwe* person must not eat the flesh of the tortoise, the common monkey ("Kwakuo"), the tree-climbing snails (tamira), etc.; nor should he drink palm wine on a Sunday, or eat an all-black feathered fowl. They taboo anything black, and decorate themselves white.

The *Bosomptra*s worship on every Wednesday; they decorate themselves as above, and clothe themselves in black cloth, but they do not taboo white cloth, and in fact they are constantly using white cloth. They are not to dine on white fowls, water-yams, and the white-nosed squirrel (anwenhema). An Akrafo may be made a sword-bearer, a gun-bearer, or a key-bearer. A woman may be made an Okrafo, and the wives and children of the Chief are among the eligible persons.

The chief of Nkrafo called Nkrafohene, is a member of the Kibbi Council. The post is held by nomination. The special duty of the Nkrafo is to attend to sheep slaughtered to revert a fetish oath sworn against the life of the Chief. An Akrafo's person is comparatively as sacred as the Chief's; he is not, therefore, to be assaulted, or insulted, and he *must* not invoke Fetish when swearing oath. An akrafo may be referred to as "okraguarefo" because he is supposed to "bathe" or "wash" the soul of his Chief by attending weekly at the "Ekyere" performances.

An Awoso is an akrafo or other person who has been selected to wear the "Awoso and Fodoo" (the war head-and-collardress of the Omanhene), and to bear the State sword and sceptre during processions. An awoso is of the *Bosomtwe* Order. He is usually under the Nkrafohene, is himself a member of the Kibbi Council, and may be made a chief of all the Nkrafo. The *awoso* as the bearer of the sceptre and sword must always be on the immediate right of the Omanhene in any State function.

They are also to attend the funeral custom of the wife of a Paramount Chief in place of the Omanhene. A court-crier returning to Kibbi from a funeral custom of this nature would appear in the capital riding in one of the Omanhene's palanquins and in half State dress.

A court-crier, although not regarded as a sacred person, is immune from common assaults, and wherever this happens sheep should be slaughtered. His cap once on his head should not fall down, nor is it doffed except when he is giving evidence or making a report to the Chief, in which case it is suspended round the neck on its silver chain. The court-crier's office is very lucrative, and is usually given to people who, like lame or hunchback persons, not being physically whole, require some work likely to give them rest.

(ii) *Of Asoamfo (Palanquin-bearers)*

Next to the office of court-criers, and perhaps more assuming in character, is that of Palanquin-bearers (Asoamfo). They are generally stalwart people, and are selected for this service owing to their good muscular build. They are distinguishable by the long growth of hair in the upper and central part of the head; such part is left uncut for years, perhaps for life.

Their Chief is a life-member of the Kibbi Council. Besides carrying the Omanhene in the State palanquin on all occasions, it is also a part of their duty to keep spectators stationed in their proper places during assemblies and royal processions. With this purpose in view, they keep a scourge and a cudgel about them.

They take fetish when swearing oath, but are not to be assaulted, nor are they to provoke assault. The chief of palanquin-bearers, called Asoamfohene, does not necessarily put up a bow on the head, for he in practice only supervises, and need not carry the palanquin on his shoulders. (The palanquin is not to be carried on the head; it is supported in the palm of the hand over the shoulders). The *apakan*, or palanquin, and its paraphernalia are kept under the control of the chief bearer.

(iii) *Of (a) Tumtofo, (b) Mmenatofo, (c) Fenasofo, and (d) Bankyini-yetufo (Stool-insignia Bearers)*

Much the most popular services among the young men are the *mmenato* and *mfenakura*. They are smart officers of much utility, and they form, as it were, the legion of State messengers.

In Akuapem, as in Akim, the Awoso is always worn by a boy below the age of puberty because of the great sanctity attached to the awoso dress and to the sceptre. When the Omanhene of a State goes forth in procession this young "Awoso" sits in front of him in his palanquin. At Kibbi, the Awoso is highly respected, but has no political influence. None but a Paramount Chief may maintain an awoso.

An akrafo, awoso, or nkrafohene may be deprived of his exalted post if he misbehaves to the displeasure of the Chief.

## B. ORDINARY OFFICES

### (i) *Of Nsenefo (Court Criers or Heralds)*

By sacred office we mean such as is held in our institutions, by either appointment or by birth, carrying with it the privilege of not having to take fetish when swearing oath or suffering common assault with impunity. By ordinary office we mean any office which cannot be classed as sacred—that is to say in which the holder is always under the obligation of taking or conjuring fetish on his own life when swearing oath in Tribunal or any other place. All sacred officers are ex-officio members of the Sacred Order of Stool-Worship.

The first of the non-sacred officers is the Esen or Court-crier or herald. His distinguishing mark is a cap made of black monkey-skin, box-shaped, the upper part being covered with gold or silver according as the chief owning the esen is an omanhene or an ohene. The duty of an esen is to maintain order in an assembly or Tribunal, or in any gathering in which the chief who ordained him as such is present. Thus, the omanhene's esen is not to maintain order in an assembly where the omanhene is not present himself, or where the omanhene's stool, or his linguist with the linguist cane, is not present. A linguist never travels without a court-crier. The chief court-crier's cap, called "Adamasa", is peculiarly fashioned and has more than four gilded parts and a tail. As this office is in imitation of a supposed order of the animal kingdom, wherein it is believed that the black monkey is the officer who maintains order, the chief of the court-crier's cap is made with the skin of Efohene (chief of black monkeys).

The Nsenefo are also the gonggong beaters or beadles or heralds to the State; formerly any law, order, or proclamation was only considered properly published when proclaimed by them in open streets and in all public places. If a person has a thing lost, a sheep, fowl, a ring, or keys, etc., the Nsenefo beat gonggong and request its return for reward.

(a) *Tumtufo* are the Royal Gun-bearers, that is to say, the people who on State ceremonies carry the royal weapons of war. The chief of this office is a member of the Kibbi Council. The most ancient and historical of the royal guns is the one called "Ohum"—a gun with a large brass barrel. In the ancient times if a criminal was to be executed by shooting, one of these State guns was used. *Tumtufo* keep to the left in royal processions. They are of the third order of service, that is to say they can readily engage in any quarrel or take fetish without prejudice to anyone's honour. But this qualification excludes the Chief Gun-bearer, who sits on the Kibbi Council.

(b) *Mmenatofo* are the bearers of elephant tails, ostrich feathers, etc., used in State functions. The young men most eligible for this service are the grandsons of the Paramount Chief or of the Chief. An elephant tail may be natural or in gold or silver form.

The service is of the third order and is governed by the same custom as (a) above. Their duty in assemblies, it would seem apparent, is to fan the Royal Person, protecting him as much as they can from the effect of the sun's heat and from the bite of tsetse flies, etc. They are mostly employed as messengers of State, and, in fact, they exist with that end in view. Their chief is, of course, a life-member of the Kibbi Council. It must be noted that these chiefs or captains are not intended to advise the Omanhene in his Council. They are made members of the Kibbi Executive Council in order to look after the interests of their own retainers and, in so far as other matters are concerned, their advice to the Kibbi Council has no significance. They are, of all councillors, most subject to instant dismissal. These remarks apply to chiefs or heads of the *Nhenkwa*—or messenger—groups. As a matter of fact, they have no voice in the Executive, and in the Tribunal they are little more than figure-heads.

An *odikro* or sub-chief is allowed to maintain one or two horse tails, but not elephant tails or ostrich feathers.

(c) *Mfenasofo* are the bearers of the Sword with the Gold Handle. These State Swords are of enormous length, some four to five feet long and about half a foot wide at the bottom, tapering to a few inches at the top.

The *Mfenasofo* are of the third order, and their Chief is a member of the Kibbi Council. They constitute a legion of State messengers, and always go on State errands like the *Mmenatofo*, with their golden swords. They are recruited

from almost all classes. No Chief is limited in the number of sword-bearers he may maintain. A Chief's influence over, and popularity with, the young men of his town or country may be safely measured by the number of young men who flock to him in this service. Our people, naturally, feel very proud in the service of a popular Chief, but always give the slip to the tyrant.

(D) *Bankyiniyetufo* (*State Umbrella Bearers*) have no distinguishing mark, and in Akim Abuakwa they have no recognized sub-head or chief besides the Jasehene. Their function is to keep the umbrella over the Omanhene or Ohene during State ceremonies and processions. A State umbrella must be held on the Stool while it is carried in front of the Chief in processions. Umbrella bearers may be employed as State messengers.

(iv) *Of Asokwafo, Akyeremadefo and Mpintinkafo (Drummers and Horners)*

We now come to describe the office of Drummers and Horners, a highly important office and a constant source of interest to European and American visitors in Akanland.

There are three heads or captains in this service, viz., the Asokwahene (Captain of Drummers and Horners), the chief Ntumpun Drummer, and the Captain of the set of Mpintin Drummers (*mpintikafohene*). All these are life-members of the Kibbi Council, but the succession to the captaincies is not hereditary.

Drummers are higher in rank than State messengers of the third class, for their work is an art which calls for the use of both brain and brawn. Drummers should become well acquainted with the heroic deeds of our glorious Dead, and they should be well versed in the traditions of the country to strengthen their knowledge of the lyrical, heroic and eulogistic verses used in drumming.

Drummers have their own yearly festival, which takes place a fortnight before the Odwira. On that day—always a Thursday after the preceding Awukudae—the young drummers who have hitherto been receiving private training in the theory of drumming are brought to the Drum-house to be given practical lessons in drumming.

It is a remarkable coincidence that on the very Thursday this section was being written at Ofori Panin Fie, Kibbi (the Omanhene's palace), Drummers were celebrating their yearly festival. As I stood by the side of the Tumpun

Drummer early this morning, I felt myself transported into the clime of the bards of an ancient age, into the very atmosphere of poets and minstrels whose rich legacy of song is the proud possession of the African. The melody was alone sufficient to arouse one's poetic vision, and the rhythmical flow of the sound of drum and stick made one realize the supreme beauty of music divinely inspired. For when the play is over, it leaves one wondering what genius on earth could have brought this quaint primitive music into such homeric harmony!

At the close of the Drummers' Festival during the course of the evening, all the drums in the Drum-house, except the Tribunal drum, are put away to rest until the Odwira Festival. None of the drums may be used until the opening day of the great Odwira festival two weeks hence. There should be no drumming at all during the week following the Drum festival, for the drums are, as it were, consecrated to the forthcoming Odwira festival, and even for emergent purposes drumming could only be permitted after due libation to the gods.

On the Odwira celebration, as already remarked, drumming in its highest perfection is the order of the day.

Our drummers express their supreme gift of music in emotional and exuberant praise of the gods, our kings, our traditions, and of nature. It is indeed a pleasure and a treat to enjoy this music of the drums.

A Drummer in the act of drumming is considered a sacred person and is immune from assaults and annoyances—nor must he be interrupted; they are not as a rule regarded as sacred persons, but while engaged in the actual act of drumming they are protected by the privileges of sacred persons. Drummers are mostly recruited from among the Omanhene's sons and grandsons, but they, in that office, hold equal rank with all the other drummers not of royal birth.

There are altogether three sets of Drums for State purposes; they are:—

I. *Atumpan Kese* (the two atumpan or kettle drums); Fontomfrom or Bomata<sup>1</sup> (the large two trunk drums which are ornamented with human skulls); 4 other small drums for accompaniment; 2 *adukrogya*; 2 *apasoa* or *memma* (short pipes); the large *yedruso* drum; and the gonggong. These 14 instruments constitute the set of drums which when played in unison flow with such metrical exactitude. Every

<sup>1</sup> The King of Ashanti used four of these.

drum and each beat on any drum has a meaning. It has its place in the general ordered result. The first four are (2 pairs) the principal instruments, the rest being used as accompaniments. The temporal bar of this mixed music is known by the beats of the gonggong. Every particular piece of drum music has its own peculiar beat on the gonggong.

II. *The second set of drums consists of the Atwenesin or Single-air drums. They are (a) the Korabra ("When you go, return"), kept always in the stool-house and drummed in stool ceremonies; (b) the Nkrawiri ("Fate's decree"), by far the drum of the highest sound, which as soon as beaten brings all the inhabitants of the town to the chief's house. It is beaten only on urgent and pressing occasions. Its air is "woni-mini" (vis-a-vis); probably this means "Immediate presence"; (c) the Mpebi ("Deny or be partial to no one") when always beaten in conjunction with the nkrawiri acts as a summons for all to be at the Omanhene's palace instantly. It is always beaten in connexion with matters of the greatest urgency, such as war. Besides, it is capable of repeating most of the proverbial and lyric pieces played on the big ntumpan drums; (d) the Adodonkurwa or Aburukua is another interesting drum; it is beaten after the song of a bird of that name. The late Hon. F. G. Crowther, Secretary for Native Affairs, took particular preference for the Aburukua, and exhibited great interest in its music. This drum is covered in brass and is rather small in size. It is played when every drum is silent or when the Amomafo or Abrafo (Minstrels) are giving vent to their eloquent recitals. It has a serene melodious tone; and only men with much concentration can play it efficiently; (e) the Etwie drums are noted for their peculiarity of construction and designation. An Etwie drum is not beaten as the others are: the drum-stick is so fashioned as to enable the drummer to "graze" the leather top of the drum instead of beating it; in this way, the total volume of sound gives a perfect imitation of the bass howl of the leopard (Etwie), after whom it is named; (f) the Susubribi Drum is used to summon the councillors to Tribunal. The word "Susubribi" literally means "Ponder over something"; it may mean "Give honour where honour is due"; or, put negatively, "Despise nobody." Many states in Akanland use a similar drum called the "Kantamanto", meaning "immunity from oath penalty", and in some states it is used even as a war-drum. This drum was a much-favoured one with chiefs of the old dynasty, and it*

would appear that none but those having great prerogatives and powers as important chiefs were allowed to use it; (g) there is also the *Brass Drum* used to announce the dinner-hour of the King, or when he goes to the toilets. It is not, in its use, much unlike the gong used to announce meal-time in European countries.

III. The third set of drums is the *Mpintin*. This set contains about 8 to 10 pieces, and is used by itself in half-State assemblies, in the Chief's travels and excursions. It is a most charming set, usually attracting the attention of our European and American visitors. The pieces are formed after the Hausa or Mohammedan drums, and are very popular with the Chiefs and sub-Chiefs, who are, every one of them, now permitted to own a complete set.

### THE HORNS

Attached to the drums are the *Horns*. They vary a great deal in size, pattern, and use. There are the horns capable of repeating every saying or proverb, called *Aseseben* or *Asokoben* (speaking horns); and there are those for single tunes called *Mmentia* (short horns for single airs). The horners are included in the general term *Asokwafo*, used of both horners and drummers. They are also called *Mmenhyenfo* or *Mmentiahyenfo* (Horn-blowers). The principal horn at Kibbi repeats this epigram: "*Owusu-wo-te-sen ni-o*"? ("Owusu, with whom may you be compared"? or "Owusu what may your nature be"? i.e. Owusu the incomparable!); and the oldest horn says: "*Otuo to-e*" ("Shoot, oh gun, shoot!"). There is no recognized captain of horn-blowers, but the blowers of the above two horns are the seniors of the lot.

In processions the drums of the second order lead in the front, and those of the first and third orders, as well as the horns, keep behind the Chief. Drums, it may be noted, must be held high above the head when the Omanhene dances to their music.

We cannot help emphasizing the very large place the drums occupy in our institutions. The drummers are, or should be, very intelligent and gifted people, for they must know the suitable piece to play on each occasion. There is the piece for war or for peace; the music for praise, for condolence, for glad tidings, for funerals, earthquakes, eclipses, and for all natural phenomena and every emotion of the heart. Drummers are our national poets, and therefore the sacred

interpreters or mediators between man and nature. In great calamities, as in war, the Atumpan drummer is expected to be at his post throughout the continuance of the calamity<sup>1</sup> for the purpose of expressing in song the feelings of the King and his people and to invoke the sympathy of their august ancestors. On such occasions the Atumpan drums are played alone without the usual accompaniment, and it is then that what has been called the "talk" of the drum can be heard with profit and interest.

(v) *Of Abrafo or Memafa*

The nearest English name applicable to those of this office is "King's Jesters". But "amema" seems to be something more serious than professional jesting.

The name "Obrafo" means executioner, so-called, and abrafo were, in fact, the professional executioners in the not very distant ages. But that office is now no more. We intend to consider them as Amemafa, or jesters, in this treatise. Properly they are the minstrel poets or bards in the Akan State system.

The distinguishing mark of an "Omemafa" is a cut of the hair bordering on the centre of the head to the back of the neck and to the brows. That is to say, they cut all hair from the fore-part of the head, leaving the hind-part and sides unshaved. Hence they are called "Atikosum" or "Gloomy Occiputs".

For full dress, they use nothing more than a waist-cloth or breeches. They hang "Nnawa" (small bells) and "Asekantwa" (bunch of knives) around the neck, depending on the breast and at the back; they also wear caps made of chimpanzee (kontromfi) skins; and dressed like this, the omemafa, or jester, with his sword in hand, enters the State assemblies, when, amid attentive silence, he addresses the Paramount Chief with eulogistic, sympathetic, and condoling set pieces of speech.<sup>2</sup> The office is therefore of a more business-like nature than that of a jester. An omemafa must deliver the sentences and narrate the facts as they are in a clear and distinct voice and in a most eloquent manner; and to this end the mouth or jaw of the memafa is always held between the thumb and the first finger of his left hand

<sup>1</sup> It is traditionally told that a notable drummer once thus remained at his post for a whole fortnight.

<sup>2</sup> A small collection of the Amema Minstrel Songs will be found in the Appendix H, p. 246.

(vii) *Of Councillors*1. *Hereditary Councillors.*

Councillors, in the main, are of two kinds, viz. (1) hereditary and (2) nominated. Hereditary councillors, or elders as they are called in the lower councils, and chiefs or sub-chiefs in the higher ones, are the heads of houses, families, or towns who have been elected by members of a house, family, or town to be their respective head, patriarch, or chief. When so elected and duly installed, and on payment of a membership fee to the Chief's Council, such person becomes a life-member of the Council of the community to which he belongs as a direct representative of the family or town who had elected him. As such, hereditary councillors are the most important members of any Akan Council. They hold their offices in the pleasure not of the Chief or head Chief, but by the sufferance of the people who have elected them to the Council.<sup>1</sup> They represent their own people at the Councils to which those people are attached, and whose decisions have a binding effect upon them as tribe, clan, or family.

As representatives of the interests of the various communities over which a Chief rules, it is of the utmost importance, in view of our form of government, for the Chief, who is always the President of his Council, to give due weight and make full allowance for the expressed opinion of these councillors. Customarily where all or a majority of the hereditary councillors with some of the nominated ones agree on a particular measure, the Chief, as President of his Council, would be seriously alienating and minimizing the confidence reposed in him and the regard and respect entertained towards him by his advisers, and *à fortiori* by the people over whom he rules, if he should so far be misled as to disregard or overrule their advice, thus acting against the wishes and desires of the people in the sovereignty of whom he holds his regal office. This principle, which is the basic principle of our "monarchical democracy", applies with equal force to all and every council to which we refer in this treatise.

<sup>1</sup> Of course, as member of a Council, an hereditary councillor has got to submit to the internal rules of the council, and he is personally responsible to the council for his actions. The position is comparable to the relationship between an English M.P. and the House of Commons as a body, and between him and his constituency. The House of Commons may suspend a member, but his connexion with Parliament can only be brought to an end during an election by his constituency, unless, of course, the M.P. apply for the Chiltern Hundreds.

during the recitals, while he holds his sword pointed towards the King whom he is addressing.

They have also to get the assembly into a jovial or humorous mood, and they play contortions with the body, thus affording the audience with the sight of something comic or less austere than the presence of their king. But the Omanhene himself is not under any circumstances to give way to the lighter side of his nature on such occasions. He stands the danger of being penalized<sup>1</sup> by the *memafo* if, when being addressed on the prowess and sufferings of his departed ancestors, he should choose to make fun of it by smiling. Our kings are trained to look serious and solemn when in public. A "charming smile" from an Akan King is as rare as rubies.

The Memafo have also the privilege of taking by force much more than they should proportionately have of any provisions, drinkables, meat, food, etc., supplied to the Chiefs and people by the Omanhene during festivals. They are therefore called gormandizers or "Amindifo". Amemafo are immune from common assaults, but their office does not exclude them from the Fetish Law. They have no recognized Chief in Akim Abuakwa.

#### (vi) *Of Dabehene*

This Captain, who is usually referred to wrongly as Jasehene is the chief officer, or master, or steward of the internal economy of the Royal Household.<sup>2</sup> The management of the household, the distribution of presents in the way of wines, meats, and other viands are administered by him. All stewards in the Royal Household are under his protection and management, and he should see that they perform their various duties in form and order. The meals, toilets, etc., of the Omanhene are prepared under his eyes, and nothing in the way of household affairs should escape his notice or be carried out without the Dabehene's knowledge. What Mr. Casely Hayford calls the Captain of the Huntsmen, the Captain of the Butlers, the Chief of the King's Physicians, etc., are, at best, all subordinate captains under the Captain-Steward of the Royal Household; he represents their interests in the Council. The office is not hereditary, being subject to direct appointment by the Omanhene.

<sup>1</sup> The penalty should not exceed Asante Asia (£1 7s.).

<sup>2</sup> *Dabe-* is short for *Dabere*, the bed-chamber: Dabehene means chief or steward of the bed-chamber.

It may be safely laid down that a Chief to whom these terms are adversely applicable is on the right road to autocratic rule.

With regard to the status of hereditary councillors in relation to their own "constituents", much has already been said in the preceding chapters to show what the general principle seems to be. We have only to add, by way of emphasis, that a Councillor should always make it his duty—as in fact it is—to serve the best interests of the people he represents. The best way to do this is to present his views, by which we mean the wishes and desires of his people, boldly and fearlessly as well as wisely and patiently to the Council in which he represents them. Let not his motto be "*Tramen, tramen*" ("It is so, O Majesty!"), but rather let him strive to express his convictions by saying "Yes" when it is the right word, and "No" when he must, in the interests of his people, say so. A hereditary councillor is likely to rise to great eminence and enhanced reputation, not only within the ambit of his own circle, but also among other hereditary families, if his advice to the Chief and his other acts in the Council are meritorious.

## 2. *Nominated Councillors.*

Besides the hereditary councillors who, as already explained are the direct representatives of their respective families or towns in the various councils, a Chief, as President of the Council, has power to nominate to his Council any reasonable number of intelligent and loyal subjects who, in his consideration, deserve to be his advisers or councillors.

The Chief, who had nominated these councillors, or *atrafo*, as they are called—literally meaning "sitters", which strongly reminds one of "Session"—has power to deprive them of office when displeased with their action or conduct. Thus, it may be inferred, the Chief may obtain a majority of minor votes in the Council over which he presides. This does not, however, mean that the nominated councillors always side with the Chief, for after all is said and done their opinion, however unanimous and great it may be, should never outweigh the opinion of the hereditary councillors; for whilst the nominated councillors represent their own persons without having to account to any body of constituents, the hereditary councillors have their families or towns behind them, and their number, be it ever so small, represents the community in its entirety; as such they represent the largest interests.

(The views in this paragraph are purely speculative. In

practice there is no sharp antithesis at present between the Councillors and the *atrafo*, but it looks as though in a generation or two, when men learned in the European tradition come to be Councillors, the matter would come to deserve serious attention.)

Besides, we need not lose sight of the fact that the inhabitants of a county or town, usually referred to as "the young men", may single out a bigoted "nominated" councillor and demand his dismissal if it would appear that he had been making wrongful use of his office to the detriment of the community as a whole. Otherwise, if all goes well, a nominated councillor may hold his office for life. Whenever he sits in Council, a nominated councillor sits by the side of the hereditary councillor who represents the family he belongs to, and he most generally defers to the opinion of his family hereditary Councillor.

### 3. *Asafoatse Councillors.*

In addition to these nominated councillors, there is a third order of councillors who are by their election the direct representatives of the community, not in families, clans, sections, or houses, but of all of these as an integral whole. These are the *Asafoatsefo* or captains of the *Asafo* companies—companies formed by the young men, that is to say, the collective and several inhabitants of the town—including both young and old—who as a collective body can only be so represented in the Chief's Council. The *Asafoatsefo* protect the interests of the community, and they also seek the effective maintenance of the democratic system of government as against an aristocratic, autocratic, or any form of government other than the old-established form.

These representatives of the companies of young men are subject to re-election or rejection every two or three years, but the absence of a fixed methodical system always tends to bring the atmosphere of the re-election or rejection into something not quite unlike "destoolment", although in fact the *Asafoatsefo* have no stools.

This order of Councillors forms an effective check on the actions of a Council, for if it would appear that the Council had been acting contrary to established custom, and against the expressed or implied interests of the companies, i.e. of the community, the *Asafoatsefo* and their companies are always prepared to see that things are done properly and constitutionally.

It may be useful to those fond of inductive speculation to note that in a Council we have three distinct parties, based on the facts presented above, viz. (1) the Tribal party (hereditary) ; (2) the Royalists' party (elected by the Chief) ; and (3) the Nationalists' party (elected by the people collectively) ; but this, as I said, is purely speculative and of no present value. I do not even think there is one Akan word to translate the term " party ", of so much meaning in English politics.

## CHAPTER III

### THE LEGISLATURE (OKYEMAN MPANYIN NHYIAM)

As indicated in a previous chapter, the recognized Legislative Authority of the Division is the Okyeman Council. The constitution of this Council has been described. In the vernacular it is referred to as *Okyeman Mpanyin Nhyiam*, literally, meeting or assembly of the elders of the Akim nation.

The Council is invariably summoned by the Omanhene, as Sovereign-President of the Council, who appoints a day on which the sessions begin. The place of meeting is Ofori Panin Fie, Kibbi, or at such other place the Omanhene may be residing at the time the Council is summoned. A number of suggestions or "Bills" are then placed before the Council by the Omanhene through his linguist. The Council then enters into an open discussion of the subject, and all members are unfettered in the free expression of their opinions. When the purport and meaning of a "Bill" are understood by the members of the Council they retire into Committee in one of the Courts at Ofori Panin Fie, at a place beyond hearing of the Council Room, leaving the Omanhene and one or two of his linguists behind. Only recognized members of the Okyeman Council, including the Executive councillors, are required to attend the Committee. Any other person going into the Committee Court with intent to take part in the debates is forthwith expelled and made liable to a fine.

In Committee a more searching investigation is made into the provisions of the Bill, and when unanimity is arrived at one of the linguists of the Mpakanfo, notably an Adonten linguist, will be fully entrusted with the verbatim delivery of the Committee's considered opinion to the Omanhene. The Sovereign-President will then give his formal assent which is generally in accordance with the finding of the Committee. The Bill then becomes law.

There are hardly any instances in which unanimity has not been obtained in a committee meeting. Occasionally, the minority dissenting from the passing of a Bill is not great enough to call for re-consideration of the Bill; but, when there is a controversy or disagreement over a particular

Bill, its passage into law will be deferred until all the five principal and possibly even the whole twelve Chiefs are present. If, however, with the five principal or the whole twelve Mpakanfo present, there is a difference of opinion as regards a particular Bill; the Sovereign-President has the "casting vote", and in such cases his vote is final and can only be revoked by a subsequent act of the Council.

In the writer's personal experience the Sovereign-President usually casts his vote with the majority, for it would seem a desperate step to vote otherwise in a law proposed by the Executive or by the Sovereign himself.

Bills, it may be observed, are not proposed by the Omanhene only; the Mpakanfo also have the right to place before the Council a proposal which may, in due course, be discussed and passed as a law of the land under similar conditions as a Bill placed before the Council by the Sovereign-President. Among the Adikrofo those having similar right of proposing a Bill for passage into law are the Adikrofo in the Amantoo-mmiensa Council. It will be seen that there are about twenty main interests represented in the Okyeman Council. Namely, the twelve or thirteen Mpakanfo, the four or five Chiefs of the Executive, and the three chiefs of the Amantoo-mmiensa Council. A leader of any of these sections is privileged to propose a subject matter for discussion and passage into law.<sup>1</sup>

When a bill has thus become law, it is published by the solemn act of hanging green palm leaves on the public streets and by the additional proclamation on gong-gong throughout the town of Kibbi, the Court Crier, or Esen, who is also the gong-gong beater or herald, proclaiming the provisions of the bill as he passes through the streets and squares beating the gong-gong. On other occasions this may not be found necessary, and in such cases the proclamation by the Adontenhene's Linguist will be a sufficient public announcement of the bill having become law. Decrees, edicts, and orders are best proclaimed on gong-gong; administrative laws are usually proclaimed at the Council only.

Modern developments and improvements on the old means of publication are not wanting. Instead of proclamation by gong-gong, copies of the new law are now supplied by the Omanhene's office to all the principal Chiefs, who will in due course cause them to be published by a modern or

<sup>1</sup> It should, however, be noted that the *Amantoo-mmiensa* does not form a separate body on the State Council, for during the sessions every Chief in the State should sit with its appropriate Wing Chief or *Opakani*.

the ancient method throughout their sub-divisions. And to make these laws effective and permanent, a written record is, as soon as the Bill is passed, signed by all the Chiefs present, and then given effect to, as if the solemn act of hanging palm leaves had been duly observed.

The penalty attaching to the violation of a law is regulated according to the nature and extent of the offence involved. In most cases there is no definite penalty attached to the breaking of a law. But in other instances the penalty will be defined to the extent of breaking the Omanhene's oath, i.e. the Wakuda and Kwanyako oath. Before very recent times there was no limited amount for the violation of this oath, so that when once a Bill was passed into law it was understood that the breaking of it meant the violation of the oath. Now that the penalty attached to the oath is nominally less than *Bena* (£7) it has been found necessary and more practicable to name some definite sum of money as the fine for any particular offence.

The Tribunals having jurisdiction in a particular law are invariably named in the body of the bill, and one or other, or all of the three Tribunals, viz., the Omanhene's, the Mpankano's, and the Adikrofo's, may have jurisdiction with regard to a certain law.

This Okyeman council, it must be explained, is the only body which has the right to make laws affecting the whole country. The necessary quorum does not so much depend upon the number of members of the Council present as upon the relative rank of those who may be present at Kibbi on the enactment of a particular Act. The twelve Mpankano are the most important and leading members of the Council, but it shall not be a constitutionally instituted Council if in any assembly of the Okyeman Council three or more of the following five principal Mpankanos were not present, viz., the Adontenhene of Kukurantumi, the Nifahene of Asiakwa, the Benkumhene of Begoro, the Oseawuhene of Wankyi, and the Jasehene of Kwabeng. The personal attendance of these premier Mpankano is usually urged, but in the case of sickness a delegation in the person of a Linguist and one or two stool elders may be sufficiently representative of a Principal Chief. In certain instances personal attendance of a principal chief shall be urged.

There are certain laws the discussion of which is not open to the general public, but such are these laws that their provisions do not generally apply to all members of the community. It seems necessary to explain why the great

bulk of the Adikrofo may be dispensed with when passing a law relating to the whole country. The answer may be found in a few words. The Division is historically, and for military and civil purposes, divided into five great sub-divisions,<sup>1</sup> each sub-division having a premier Apakan as its head with two or three ordinary mpakanfo under him ; these in their turn retain individually a number of Adikrofo under them. There is a section of the Adikrofo who do not render homage to their Opakani direct, but do so through a senior Odikro. This being so, it is held that what a Premier Opakani does is done for his sub-Pakani, and the sub-Pakani does or says something for the Adikrofo under him. Hence the presence of a principal chief implies that all the sub-chiefs under him, and, consequently, all the people of his sub-division, are represented.

The rigid application of this principle, however, leads to a great deal of discontent among the sub-chiefs, so that all along a good administrator endeavours to see that before any important law is passed, a full advantage of its discussion is given to the greatest number of the members of the Council. The fact is, if the opinions of the Adikrofo are not obtained when making laws, suspicion arises that the higher chiefs have taken power into their own hands, with a resultant discontent among the minor chiefs and the mass of the people. The Adikrofo, it need be repeated, represent the larger percentage of the *Oman* town by town, although it cannot be said with any amount of certainty that they represent the people in the commonly accepted sense of a European or American democracy ; the mere fact that they are elected to their ancestral posts for life is sufficient indication that they also have material privileges as lower members of an aristocracy.

There is still another side of the legislature which deserves some attention. There are besides the Okyeman Council, the two other councils, viz., the Kibbi Council (the executive) and the Amantoo-Mmiensa Council, which occasionally make laws for the country. A close study of " laws " which have been accepted as lawfully enacted by these two councils, either jointly or severally, will be found to refer to rules having particular reference to the following :—

(1) On appointments of servants and officers of the Executive ;

<sup>1</sup> The reader is reminded that under the new N.A.O., 1927, an *Oman* is called a state, not a division, and an *Omansin* is called a sub-state or division, not a sub-division (see note 1, p. 30).

(2) On the management of the Executive in its control over the affairs of the Division ;

(3) On Executive Duties ;

(4) On Local needs.

Speaking from actual experience, it can be stated that these two bodies have not the right to enact laws as a separate or conjoined body with regard to land, marriage and divorce, inheritance and succession, fiscal affairs, changes in the constitution, etc., and in fact they have not the right to interfere in acts and deeds whose operation affect the basic machinery of the government of the country.

The Amantoo-mmiensa and the Kibbi Councils may be said to have the right to make rules and to issue orders under laws that have been passed by the State Council. Rules and Orders issued by them are even subject to revision by the Okyeman Council, and where found unsatisfactory they can be repealed by the State Council, which is for all purposes the supreme legislative, judicial, and military council in the State.

## CHAPTER IV

### THE TRIBUNALS

#### *Section A.—The Four Tribunals*

THE Akan state system, like all institutions of its class very early recognized the head of the family, tribe or nation as being the fountain and main source of justice, the determinant of rights, the redresser of wrongs, the dispenser of mercy. The head or Chief of the family or tribe, the Ohene or King of the town or nation, was the one impartial judge, who, sitting with his councillors, the patriarchs of the various tribes, clans or families composing the community, could fearlessly support the claim of the weak against the strong, sustain right against wrong, and enforce remedies for wrongs committed within that unitary community. The wise old men of the tribe sitting with the chosen head of the community thus formed the court or assembly which, under the Akan State system, acted at once as the legislative, executive and judicial assembly of the people. It was this same assembly of wise and brave men which formed the council of war and acted as leaders of the tribe or nation in all matters affecting their security and safety.

In a previous chapter,<sup>1</sup> we have seen this assembly functioning as a legislature; we have now to study its function as a judiciary

According to the Akan State constitution an assembly is legally a Tribunal which has a Stool-owning Chief as its president or chairman, with councillors and elders either owning stools as representatives of their respective families, or without stools but elected to the council because of their intelligence and general fitness. Such Tribunal sits in the community within which it exercises jurisdiction, but its activities are limited by the existence of a higher Tribunal having jurisdiction in the territory over which the lower Tribunal exercises authority. That is to say, no two Tribunals of equal powers or authority can exercise jurisdiction within the same community. Thus any Council in a town or village

<sup>1</sup> Chapter III.

with the recognized chief presiding over it is legally a Tribunal<sup>1</sup>; and no assembly is a Tribunal whose presiding head is not a Chief recognized as such and whose other members are not Elders or Councillors appointed for the purpose of acting as the customary assembly of a tribe or tribes or of a nation.

There are four distinct kinds of Tribunals in every Akan State. The first and lowest of these is a Tribunal presided over by the chief or sub-chief of a town or village with the captains and elders of the town or village as members of the council. Every Odikro of a town is entitled to sit with his elders and councillors as such a Tribunal, and every Chief, Ohene or Pakani sitting with the elders and captains of his town, sits as such a Tribunal. This is generally known as the Town Tribunal.<sup>1</sup>

Higher up in the scale we have a Tribunal presided over by a Chief, Ohene or Pakani with the sub-chiefs, Adikrofo, captains and elders of the *sub-division* as Councillors. Such Tribunal is composed of the stool-owning patriarchs or heads-of-families in the Ohene's sub-division, together with various persons who are by custom entitled to sit as councillors in the sub-divisional Tribunal. The principal duty of such a Tribunal is to decide causes between political parties in cases arising out of the sub-division. Such cases are indeed very rare, and in Akim Abuakwa most of such political cases are in practice heard by the Omanhene's Tribunal as a Court of first instance. The Sub-Divisional Tribunal presided over by the Chief or Ohene can act as appellate to the Odikro's or Town Tribunal in certain criminal or political cases.

The third and most important, and really the premier Tribunal in every Akan State, is an assembly presided over by the Paramount Chief or Omanhene with the Chiefs, sub-chiefs, Elders and captains of his capital town and seat of government, as members. This Tribunal, commonly called the Omanhene's Tribunal, is the supreme Tribunal in every Akan State. It is a court of first instance for all cases, criminal and civil, and acts also as an appellate to all lower Tribunals in the State. Members of the Council composing this Tribunal are always those patriarchs or Elders who have their permanent residence in the capital town. In Akim Abuakwa, with the exception of the Abontendomhene of Kibbi town, and the Jasehene of Kwabeng, within whose sub-divisional area Kibbi is included, no Ohene or

<sup>1</sup> The legal meaning of Tribunal in this respect has obtained a specialized significance in the N.A.O. (1927).

Opakani is ordinarily entitled to sit as a member of the Omanhene's supreme Tribunal: some Chiefs such as the Amantoo-Mmiensa, are occasionally co-opted as extraordinary Councillors of the supreme Tribunal, but whenever the Ahemfo or Mpakanfo are invited to sit with the supreme Tribunal it ceases to act as the *Omanhene's* Tribunal and becomes a judicial department of the Okyeman or National Council with the Omanhene as its president.

Thus we are brought to the fourth and highest Tribunal in the State. With the Omanhene as president, all the Chiefs or Mpakanfo, sub-chiefs or Adikrofo, Elders and captains sit in this high Tribunal in their capacity as *ex-officio* members of the national or Oman assembly or Council. It is thus the highest Tribunal in the State, and acts as a Court of first instance and an appellate Tribunal. Its decisions and edicts were in the ancient days absolute and final, and beyond it there was no higher court of appeal. Regarded as a judiciary attached to the legislative assembly of the nation, this Tribunal has undoubtedly very definite functions to perform in the Akan State system, and it seems regrettable that the Native Jurisdiction Ordinances have not given it the same legal recognition as was extended to the various lower Tribunals in the Akan States. So long as there is assurance that this high Tribunal would draw a clear distinction between judicial and legislative and other purely political matters, there is no reason why the national Tribunal, the crowning achievement of our constitutional regime, should not continue to exercise its power for the welfare of the State and the security of rights and liberties of the people.<sup>1</sup>

#### *Section B. Tribunal Procedure*

There are three main processes by means of which an action may be commenced at any of the four Tribunals in the State of Akyem-Abuakwa. These are:—

- (α) Oath.
- (β) Procedure by Summons.
- (γ) *Amanenya* (Criminal Cases).

<sup>1</sup> I am glad to note that the sponsors of the Native Administration Ordinance were successful in obtaining legal recognition for the State Tribunal, and the Legislative Council of the Gold Coast has by that act recognized the sovereign independence of every State in the Colony.

- (1) Accused Summons.
- (2) Arrest on Information.

As stated above, even before the advent of European or to be precise, British jurisdiction, there were four main Tribunals in Akyem Abuakwa, viz. (i) Omanhene's Tribunal, (ii) Ohene's Tribunal, (iii) Odikro's Tribunal, and the greatest of all (iv) the judicial department of the Okyeman (State) Council. Side by side with these Tribunals there are to be found as many sub-tribunals in every town or village as there are enstooled-heads-of-families, and every *Obusua-panin* so called, has a certain jurisdiction over particular members of the family of which he is the head. An *Obusua-panin's* jurisdiction cannot be exercised over any person not a member of his family without that person's consent. An *Obusua-panin* again cannot hear an oath case, nor can he deal with cases of a highly criminal nature.

(a) *Oath Procedure.*

There are three main kinds of oath, viz. :

- (1) Fetish Oath (*Dua-bo*).
- (2) A Chief's Personal Oath (*Brep̄o* or *Nhyira*).
- (3) National Oath (*Okyenhene Ntam*).

(1) It is proposed to deal with these three under separate heads. First as to Fetish Oath. *Duabo*, to give it its proper Akan name, is a purely personal oath. It is the act of invoking the penal wrath of a Fetish on one's own life (*dinse*) or on the life of another person (*bo obidua*). An example may help us. One *Kwadjo* suspecting that somebody has stolen his *Kente* cloth, goes to the yard of a house, or to a public street or square, and with a piece of wood (*dua*) or stone in his hand, calls aloud : "*Onipa ko a wawia me Kente se wamfa amma a Anokye nku no*," meaning "He who has stolen my *Kente* cloth ; if he does not return it may the fetish *Anokye* kill him". Thereupon he strikes the ground with the stone or wood. This is called "*bo dua*" (striking (with) wood),<sup>1</sup> i.e. putting (life) into fetish power. The next morning *Kwaku*, a brother or cousin or relative of *Kwadjo's*, who, we may suppose, had taken *Kwadjo's* *Kente* cloth to attend a festival in a

<sup>1</sup> This is a custom that calls to mind the English superstition to "touch wood" whenever an unsophisticated Englishman or woman begins to speak of an unexpected good fortune which has attended his or her venture.

poured on the chief's hereditary stool. The fetish itself is not usually entitled to any fees or fines when invoked in the manner above described, but if the victim of a fetish curse failed to admit the offence charged, or refused to desist from his action, and as a consequence he subsequently became ill, then the fetish is entitled to such fees and fines as its Priest or any Fetish Doctor may prescribe. If the case was heard before a Tribunal, the Chief might order the reversion to take place before the shrine of the Fetish, in which case certain fees and fines will be paid to the priest.

The mere fact of a person being put into fetish would not give a right of action, except, of course, the fetish was improperly invoked. If, however, the person invoking the fetish refused to revert it on a proper occasion, then either a criminal summons or an oath may be interposed to secure the other party's presence in Tribunal.

A witness giving evidence before a Tribunal or other judicial authority is required to take fetish oath. The oath is said to be "given" him by the Chief's Linguist in the following formulary words: "*Ka Wukuda ne Kwanyako, na fre Anokye di nse se wobe ka nokware (wo asem yi mu)*" "Be sworn by Wukuda and Kwanyako oath; and invoke Anokye against your life that you will speak the truth (in the present cause)." To this the witness, with his right hand raised upwards, deposes: "*Me ka Wukuda ne Kwanyako<sup>1</sup> se meka nea menim, se manka nokware a Anokye nku me*" "I swear by Wukuda and Kwanyako Oath that I shall say what I know, if I do not speak the truth may Anokye kill me".

After the evidence, if there is a case of perjury the Fetish curse must be reverted in the formal manner either with blood of sheep or with wine or rum. . If there is no case of perjury the witness is not liable to any fetish fine even though his side lost the case. But if in later years any witness confessed under fetish or other lawful influence that he spoke a falsehood when giving evidence on oath, and if it were advanced that his present illness was due to that untruth, then after due reversion of the fetish curse, the Tribunal may or may not adjudge him liable to the expenses paid by the losing party, if it appeared, on investigation, that the

<sup>1</sup> Or he may use the more dignified terms of oath *Ntankesee mmiensa* ("the three great Oaths"), but he must not adjure in the name of a deceased Omanhene nor even of the living one; he cannot say "I swear Amoako Atta's Wukuda and Kwanyako Oath". A sheep must be slaughtered when this archaic and forbidden formula is used. This oath is called *Tram Kese*.

nearby town, returns the cloth to Kwadjo. Even though the cloth which was not actually stolen had been returned to him, Kwadjo has still to revert the fetish curse. But he may spitefully or reasonably refuse to do this. When this happens Kwaku would call him before the head of their family or an elderly man known to both of them for reversion of the curse. If Kwadjo fails to attend or refuses to revert the curse before the elder, oath may be sworn on him or a summons taken against him to appear in the chief's court and explain his conduct towards Kwaku.

Here then the fetish oath ends with a process of commencing an action, oath or summons having been interposed. Before the chief's court Kwadjo may be able to put up a defence if for instance there were no intimate relation between him and Kwaku to justify the latter taking Kwadjo's cloth away without first obtaining his consent. If Kwadjo succeeds in his defence the fetish curse may be reverted by him when he had been paid pacification money or had received some form of redress from Kwaku.

Fetish oath is reverted by striking a stone or wood on the ground, with or without wine libation, and pronouncing the words "*Anɔkye Kɔkɔtwea*" (Anɔkye Fetish, take thou away the curse.)

Fetish oath may also be called personally against a person who is doing some act of violence against you or your property. The formal words are, usually: "If you do not desist from molesting me or destroying or taking away my property, may Anɔkye kill you." The delinquent may or may not stop. If he does not stop the National Oath, which has greater momentum than the fetish curse, may be sworn against him to desist from his action or appear in court and answer to the oath.

When fetish curse is called upon a person and it becomes necessary to revert it, the ceremony may be performed either with wine, or the blood of some domestic animal, e.g. a sheep or fowl. This is poured on the ground whilst words contrary to the terms of the fetish curse are being pronounced, thus permanently nullifying the effective operation of the curse. The ceremony has to be done in the presence of witnesses, and it must be outside a house. If the person put into fetish is the owner of a house or is a nobleman, then the reversion must be performed at the entrance of his own residence. If he is a chief or a captain on Stool, it may be necessary to revert the fetish curse both as to his person and his stool. In the latter case the blood or wine must be

false evidence could or could not have misled the Tribunal to the decision arrived at in the case.

The statement that persons giving evidence before Tribunal are required to take fetish oath must be taken with some reservation. Chiefs and other noblemen classed as sacred persons are never under any obligation to take fetish oath, and if they do so, either intentionally or through a mistake, sheep must be slaughtered. The number of sheep varies with the rank of the sacred person. Sacred persons are those who either by birth or by appointment are members of the most high and sacred order of Ancestral Stool Worship. To belong to the order is alone sufficient to mark one as a person of honesty, honour and strict integrity, since the slightest violation of any of the rules of the order would render such person incapable of high office. This practice reminds one of the usage in the High Court of England where eminent Counsel are generally not required to give evidence on oath from the witness box, but only to make unsworn statements from the Bar. Such sacred persons are therefore not required to take fetish oath when deposing on evidence before a Tribunal, for if a stool worshipper told a lie the *Akonnua-tuntum* (Hereditary Stool) would find him out. From this account it would seem that Stool Worship is regarded as of a higher order than fetish worship, and that in fact is the case. For while mere associate members of the order of Stool Worship, such as Nkrafo, are not required to take fetish oath, the fetish priest who is himself the highest master in the order of fetish worship is bound to take fetish oath whenever giving evidence on oath before a tribunal. Sacred persons are entitled to several privileges, and whenever any of them is put into fetish, assaulted or insulted, an appropriate number of sheep must be slaughtered. The topic of Sacred Officers is dealt with in the chapter on "Division of Functions".

Some imperfect exemption from fetish oath is granted to persons who are not regarded as fully sacred. A chief is regarded as only partially sacred whose stool is not of the highest rank. To be a member of the order one must possess an ancestral stool, and to belong to the highest degrees of the order one must be a chief above the rank of captain in the State. Members of a Stool Family as well as persons associated with such stools by having been created as such (e.g. Nkrafo) are regarded as imbued with the rank and privileges of the Stool to which they are attached. But those chiefs who belong to the lower chieftaincy are only partially

exempted from fetish oath. Such middle rank chiefs called occupiers of "Nkonnua-wa", lesser stools, are legally expected to take fetish oath, but they are forbidden to conjure the fetish against their own lives, and are allowed to invoke the penal wrath of the fetish on the life of a junior member of their family. This exemption is not applicable to a captain-on-stool in an Odikro's Tribunal; but it applies to a captain-on-stool in a chief's (not a Head-Chief's) Tribunal who is neither a Jasehene, nor Kyidomhene, nor Mankrado, nor holding some office of the like rank. Captains-on-Stools belonging to this grade are simply representatives of their respective families or clans, and are in the Chief's tribunal without holding a definite State or sub-divisional office (i.e. Chiefs "without portfolio").

The formula for a fully sacred person such as the Adontenhene, who belongs to the highest rank in the order of stool worship, when taking oath on evidence before Tribunal is as follows: "*Me kã ntamkese mmiensa se mekã nokware*" "I swear by the three great oaths to speak the truth." The formula for a half sacred or middle rank person, such as a Captain-on-Stool in an Odikro's Tribunal is: "*Meka Wukuda ne Kwanyakõ se mekã nea menim; se manka nokware a Anokye nkum me dehye Asomasi*" "I swear by Wukuda and Kwanyako oath to say what I know; if I do not speak the truth let Anokye kill my free-born heir (brother, sister, niece, or nephew) So-and-so." The formula for all ordinary persons is what is properly called "di nse", i.e. invoking fetish on one's own life. This is the one given on p. 71 *supra*.

## 2. A Chief's personal oath *Brepo* or *Nhyira*:

The personal fetish oath of private persons (*Duabo*) as described above is not so much a mode of commencing a process in the Tribunal as a cause giving rise to such process. On the other hand a chief's personal oath, *Nhyira* or *Brepo*, as soon as sworn gives rise to immediate action.

A Chief's personal oath is said to be sworn when a party to a case either already before Tribunal or not yet before it, calls the penal wrath of a fetish on the life of an Odikro, Ohene, or Omanhene. In fact, every person of rank whose office is deemed sacred, i.e. who does not himself take fetish when giving evidence on oath, comes under this definition as having a personal oath of greater magnitude than that of a private person.

A Chief's oath may be sworn when for instance (1) a complainant finds himself incapable of obtaining immediate judicial action from the parties whose duty it is to assist him in that respect ; it may also be sworn when (2) one party to a dispute not yet before the court wishes to press on his adversary the justice of his claim ; and (3) when a man finds himself in such a desperate position that nothing short of a *Breṣo* would give him relief from his tormentors.

The formula usually employed in *Breṣo* oath is as follows : In the first of the three instances above the person swearing the oath would say: "*Se asem a merekã yi (anase amaneḡ a merebo yi) se enim a breṣo nkum Kuroyi<sup>1</sup> Kyeame,*" which means "If the information or report I give is incorrect let the solemn (palm leaves) oath kill the Linguist of this or that town". In the second instance he would use some such words as the following : "*Se adeḡ yi nni wḡ me ampa ara, na makunkum manim se ewḡ me a, breṣo nkum Kuroyi Kyeame*" "If this property is not really mine, but I am making a false claim, let the solemn (palm leaves) oath kill the linguist of this or that town." In the third instance he would say "*Se wanyae me ahoyeraw a breṣo nkum Kuroyi Kyeame*" "If you do not desist from molesting me let the solemn (palm leaves) oath kill the linguist of this or that town."

Here it may be noticed that all the language used is indirect. The fact remains that although the oath is manifestly sworn against the personal life of the real chief yet his name or even the name of his office is not mentioned. All that the abjurer says is "the linguist (Okyeame) of this or that town". This is why Linguists cannot strictly be regarded as sacred persons. The linguist is a full temporal representative of his chief, who is sacred and, withal, spiritual; the oath is therefore sworn against the chief through the office of his representative. Despite the fact that the terms of the oath are indirect, its effect has all the implication that the chief and not his linguist is the person really meant.

Again the jurant does not, as in private oaths, invoke the name of the fetish—he uses the expression *breṣo*—literally "the knot of palm leaf." This is explained by the old custom of solemnly hanging palm leaves on the streets and public places whenever there occurred any grave event affecting the State or an important Chief. Hence the oath is called

<sup>1</sup> He will mention the name of a town, Kuroyi, i.e. "This or that town."

*Breṗo*, or "the oath of Solemn palm leaf". He who swears it is said to (*bo breṗo*) "tie the knot of palm leaf".<sup>1</sup>

When the oath is taken in the indirect manner described above, the jurant is said to "*hugya*" or "wave away", and then the penalties are moderate. But there is a more serious stage to which the oath may be carried. When the jurant mentions in a direct manner the official name of the chief whose life he is invoking into the power of fetish as well as the name of the particular fetish he is conjuring, then the oath is not a mere *hugya*, or indirect *breṗo*. It is then called "*Asita*" or direct *breṗo*, and the jurant is said to have ("*sii Asita*")<sup>2</sup> sworn in the bold direct manner. This more serious form of *Breṗo* is generally called *Ntamkōkō* or red oath, but either term is indiscriminately applied to one or other of the two forms. The jurant who swears so directly is said in common parlance to have "bumped his head against the wall" (*ode ne ti apem dan*), which explains that the person taking such oath is deemed to be as senseless as a madman. It is the most terrible oath any sane (or insane) person can swear. It has few advantages and a fatal disadvantage. The advantage would seem to be that action is taken on such *Breṗo* or *Ntamkoko* oath immediately; the parties involved must be brought before the highest tribunal near the place where the oath was taken, so that apparently relief to the man in distress is not long delayed. If the chief whose oath was sworn has jurisdiction in the cause which gave rise to it, or has jurisdiction over the town in which the oath was sworn, the case must be taken before him, and the chief under *breṗo* oath must be informed without the least delay. Such chief may be one in sympathy with the jurant either because the latter is related to him, or because he is in the chief's service, or because the cause which gave rise to the oath concerns the chief or his state; or, further still, as happens in the case of strangers, because he expects to enlist the sympathy of the chief of his native place in his trouble in a strange land. The advantages especially in the case of strangers and such other persons in distress are

<sup>1</sup> The other name of the oath, *Nhyira*, is still more sinister in meaning. *Hyira* ordinarily means "to bless", and one would expect that the noun *Nhyira* would always mean "blessedness"; the meaning, however, follows the occasional use of the English "blessed" in an euphemistic, ironical, or intensive sense. As it happens, it means just the opposite of "divine favour".

<sup>2</sup> *Si Asita* means to "step or walk boldly", hence "to speak in a bold direct manner".

no doubt quite considerable. Of the disadvantages one cannot speak too pointedly.

There are practically no set limits to the expense and cost involved. As soon as the oath is reported to any responsible chief or captain, sheep must be slaughtered. If the jurant has no money of his own to buy sheep the chief to whom the oath was reported must provide a sufficient number of sheep. If the oath was sworn against the life of a superior chief such as an Ohene or Omanhene then, if the necessary number of sheep is not immediately provided, the jurant or the chief to whom the oath has been reported is allowed by custom to seize the first two or three suitable sheep found anywhere to be sacrificed for the purpose of the oath. A report of the oath must be sent at once to the chief whose life is involved, and this cannot be made without the heads and skins of the sheep so slaughtered.

The jurant must provide ample securities for his due appearance for the Brèpò case, and, not being a chief or some nobleman of position, if he failed to do this, he would be apprehended as an untried prisoner and sent to the proper tribunal. A further disadvantage is that in Brèpò oath the other party to the cause in connexion with which the oath arose is not bound to respond with another Brèpò oath. He may, if he likes, do so perhaps to give an appearance of strength to his own case, but if he do not, it is no evidence against him (as it is in a case of national oath) in regard to the justice of his claim. Consequently the jurant who takes Brèpò oath just as a means of intimidating the other party stands to gain no evidentiary advantage by invoking such prohibitive powers to his aid. Formerly the costs involved in the Brèpò case were borne by the guilty party in the original cause. This rule, however, has now been abolished, and the jurant, whatever be the ultimate issue of the original cause, is held liable to the fees and fines involved in the Brèpò case. In ancient times the punishment for Brèpò case was capital, involving loss of life, confiscation of property, or, where necessary, banishment. The number of sheep to be slaughtered in a Brèpò case depends upon the rank of the Chief under fetish curse. The care of sheep slaughtered in such cases is in the hands of the Chief's *Nkrafo* (soul-“guardians”), who, being regarded as the “Kra” or soul keepers of their Chief, are on intimate terms of fellowship with his life, and know best how the curse may be reverted. The oath case is investigated prior to the hearing of the cause which gave rise to it. The jurisdiction is extraordinary,

it being cognizable not by any ordinary tribunal but by a special council, as at Kibbi by a council formed of the Kibbi Council and the Chiefs of the Amantoo-mmiensa. The special council which hears the case must not sit in any ordinary court house but in a special one suitable for the purpose.

Breṗo oath as we have said is expensive and unreasonable. Its advantages can hardly be said to counter-balance the disadvantages, and it is well that it has now been made unlawful to swear a Breṗo oath. It is illegal to swear a chief's personal oath; but since people still find themselves in such circumstances where their only means of escape from distress seems to be in Breṗo oath, the law is now and again broken. When the oath is sworn to-day the jurant is first of all fined for swearing an illegal oath, and then condemned to pay the cost of sheep slaughtered. In addition to these and the ordinary court fees he has to pay a sum of money as pacification to the chief against whose life fetish curse was invoked.

We are still in the realm of personal oaths. We have seen that the personal oath of a private person (*dua-bo*) is only a cause to initiate an action. A chief's personal oath (Breṗo) goes only a step further. It only enables a dispute to be brought to the immediate notice of the judicial authorities, or conversely, it suspends immediate action in a particular case before the tribunal. It was, for instance, a frequent expedient in former times for litigants before a minor tribunal who thought that they were being unfairly judged to swear Breṗo oaths in order to arrest immediate delivery of judgments, thus resulting in transfer of the civil action to a higher chief. This practice has also been abolished. When resorted to the only effect it has at the present day is to suspend the sitting of the tribunal for a short interval until a sheep or two are slaughtered, and then the tribunal resumes to hear the case in the ordinary manner. Breṗo, then, is not a proper or legal means for commencing an action. Even when Breṗo is sworn, the cause on account of which it was so sworn cannot be heard before a tribunal if there is no national oath or summons or procedure by arrest in the case. The investigation into a Breṗo oath is held apart from the hearing of the real dispute between the original parties.

Of the four tribunals it would appear that an Odikro's Tribunal has no jurisdiction in a Breṗo or Ntamkoko oath. Even where the Breṗo concerns an Odikro the case must be heard by a higher tribunal, an Ohene's or the Omanhene's.

BreƆo oath is almost always taken by persons who are desirous of appealing to a higher tribunal. If we may be allowed a stretch of imagination, we may say that BreƆo oath has its roots in the primitive practice of trial by combat so common among ancient civilizations. This may seem a far-fetched comparison. But when it is remembered that both parties to a suit may invoke fetish not only against their own lives but also against the lives of superior chiefs of high military rank, apparently enlisting their strength and prestige in their favour, it would be allowed that the explanation offered is not only possible but theoretically justifiable. This view is further strengthened by the fact that a stranger or foreigner in distress in a foreign country invariably took advantage of the BreƆo oath, thus summoning to his assistance the sympathy and where possible the intervention of the chief of his nation or tribe. When this happens even to-day, the foreign chief must be informed immediately and the BreƆo oath cannot be investigated except in the presence of a duly accredited representative (e.g. an Okrafo) of that foreign chief. BreƆo oath was a frequent cause of tribal warfare in ancient times, and has been a means whereby people have sought to obtain their desires at the expense of law and order. Consequently certain persons have always been deemed incapable of taking BreƆo oath, e.g. prisoners of war, mad persons, outlaws, habitual criminals, condemned persons under torture (atopre) and persons who may generally be said to be "rightless". When any of these persons takes a BreƆo oath all that is done is to break the egg of a hen on the ground with appropriate incantations declaring the BreƆo ineffective. Thus what is a crime with the bearer of rights has little or no significance with the rightless.

### 3. *National Oath (Okyenhene Ntam)* :

The third form of oath, called *Okyenhene Ntam*, is the most popular means of commencing an action. The National Oath of Akyem Abuakwa is "Wukuda nè Kwanyako". Kwanyako is the name of a town in Fanti, and Wukuda is the Akan word for Wednesday, *Nè* means and. The two names were consecrated as the National Oath of Akyem Abuakwa because of some tragic event which befell the State whilst an occupant of the Paramount Stool of Akyem Abuakwa (the Ofori Stool) and his people were engaged in terrific warfare at Kwanyako on a Wednesday. Wednesday is a consecrated holiday in Akyem Abuakwa and no ordinary

work connected with the state is done on this day. There is a special celebration held every six weeks on a Wednesday, called "Awukudae" in commemoration of the event. The National Oath is also called "Ntankeseḡ Mmiensa" or the three great oaths, owing to the fact that besides the Kwanyako incident, two other fatal events have happened to the Ofori Stool on Wednesdays.

It should be clearly noted that what is here called "National Oath" is only so objectively in the sense that it is used by the nation as their common inheritance. In point of fact the Wukuda nè Kwanyako oath is never said to belong to the people. It is legally the property of the Ofori Stool, and it is called Omanhene's Oath. The incident that gave rise to the oath befell the person of an occupant of Ofori Stool and not directly the State as a whole. It is only called a National Oath in the special sense that the Okyenhene has presented it to his people to be used when they need an oath to preserve their person and property. Every chief in Akyem Abuakwa has his own Stool oath, but such oaths are not recognized for judicial purposes. The Omanhene's Oath, then, being the only one which has judicial sanction, all fees and fines collected in respect of the oath are in strict accordance to the customary law, the property of Ofori Stool. For convenience we propose in this treatise to refer to the Okyehene's oath "Wukuda nè Kwanyako" as the National Oath of the State of Akyem Abuakwa.

As already stated, the National Oath is the commonest and most popular means of commencing an action at the tribunal. An action may thus be commenced in one of three ways, by

- (a) *Ntamkekã*
- (b) *Ntamkãguso*, and
- (c) *Ntamto*.

(a) *Ntamkekã* is when both parties to a dispute swear the national oath in vindication of their respective claims. Kofi has a piece of farm which is bounded by Kwadjo's farm. Kofi suspects that Kwadjo has trespassed over the boundary, which is marked by an Odum tree. Kofi, thereupon, with one or two witnesses, pays a visit to Kwadjo to demand explanation. Kwadjo denies that he has gone over the boundary, which is not the Odum tree but an Ntome tree. Kofi at this juncture, if dissatisfied with Kwadjo's explanation, cannot leave Kwadjo without affirming his claim on oath.

He therefore swears by the National Oath that the boundary is not the Ntome tree but the Odum tree. He would use words in a formula like this: "*Mekā Wukuda mekā Kwanyako se Odum no ne hyee a eda yentam.*" "I swear by the Wukuda and Kwanyako oath that the Odum tree is the boundary between us (i.e. our farms)." Kwadjo in turn has to reply to this oath; if he does not and Kofi goes away with his witnesses, the latter's claim by the Odum tree has been more than strengthened; in fact it has henceforth become the established boundary. To render this consequence inoperative Kwadjo replies to Kofi's oath as follows: "I swear by the Wukuda and Kwanyako oath that the Ntome tree is the boundary between our farms." Kofi having sworn and Kwadjo having replied the oath with regard to the same piece of property or the same right, both parties are said to have ("*ke kā ntam*") sworn oath severally, and they will be immediately apprehended as oath prisoners.<sup>1</sup> As oath prisoners the Nhenkwa or other State messengers present are to take them to the chief of the town and report the oath. Each of the parties has to pay about 4s. (domafa) as oath reporting fee, called "Apasobode", to the Nhenkwa who apprehended them. The fee charged by the Nhenkwa varies according to the distance from the place where the oath was sworn to the town where the case is to be heard. 4s. is the minimum, but in cases where one of the oath prisoners or both are chiefs, or where the claim is connected with the ownership of Stool lands or other valuable property, the fee might be as high as £2 8s. (*osua ne doma*). This high fee is usually charged when the Nhenkwa may have to leave their own private pursuits for a good length of time to ensure due attendance of the oath prisoners at the proper tribunal having jurisdiction in the case. The Nhenkwa thus act as police or constables or peace officers. When the Apasobodee fee is paid and the oath reported to a responsible chief the case may be heard forthwith or a date fixed for hearing. If one of the parties fail to pay the reporting fee he may be incarcerated and the case would not be proceeded with until payment of the fee. When both parties pay they are released as oath prisoners and become practically free except that they have to appear before tribunal on the day fixed for hearing. Until the case is fully disposed of each of the parties is deemed bound to justify the grounds upon which

<sup>1</sup> "The idea underlying the swearing of an oath is as a means of removing a dispute from the sphere of possible private settlement and securing a trial *in judicio*." Rattray, *Ashanti*, p. 124.

he swore the great National Oath. It would appear therefore that the oath is not to be taken in vain. The privilege of taking the oath is, as we have said, a grant from the Ofori Stool to the people, and he who takes it is bound to show why he had to swear by it, and if he fails to do so, he is liable to a fine. Inordinate use of the oath for frivolous purposes, as in play, is strictly prohibited.

The parties, having duly satisfied this initial stage of the process the next step is the hearing of the case. Kofi who first swore the oath, is plaintiff and Kwadjo is defendant. As to the tribunal having jurisdiction, it rests with the parties to choose one of the three principal tribunals, viz., the Odikro's, the Ohene's or the Omanhene's. If they choose the first they must appear before the Odikro and his Elders and argue their respective cases until judgment. After judgment the dissatisfied party can appeal to an Ohene's tribunal and from there to the Omanhene's, or, an appeal lies for him direct to the Omanhene's tribunal. What happens in tribunal after joinder of issue is common to all the other processes, and we shall postpone treatment of it until the initial stages of those others have been dealt with.

(b) *Ntamkāguso* is where one of the parties to a dispute swears the oath on the other, the latter not being left the option of swearing or not swearing in reply. The party swearing first is said to swear *on* or *against* the other, and whether the latter replies or not both have to be apprehended as oath prisoners on the strength of the first oath only. An example may help us. Kwame has a grievance that Kwasi has been using slanderous language against him in the town in regard to a recent commercial deal of his. He therefore approaches Kwasi in the company of one or two witnesses<sup>1</sup> to demand explanation. If Kwasi admits that he has done Kwame any wrong the difference may be there and then settled. But if Kwasi hedges away and gives no clear explanation to Kwame, the latter will swear that Kwasi had slandered him or defamed his character. Kwasi, well knowing that he had somewhere said a word or two about Kwame's commercial deal, may try to evade replying to Kwame's oath. Thereupon Kwame, still feeling the sting of the slander, will swear on Kwasi in the following formula: "*Kwasi, Kwasea a wabu me yi, se wamma amekyere me aseɛ wo mpanyin (anase Ohene, a.s. Okyenhene) anim a*

<sup>1</sup> One of these witnesses is invariably an Ahenkwa or State Messenger having authority to apprehend oath prisoners, and he is, therefore, called for that purpose.

*wotō Wukuda (ne Kwanyako).*" "Kwasi, for the wrong you have done me if you do not appear before the elders (or Ohene, or Omanhene) to justify it to me, you violate the Wukuda (and Kwanyako) oath." Kwame is here said to have sworn on or against Kwasi (*Kwame aka ntam agu Kwasi so*), and whether the latter replies or not it makes no difference. Both he and Kwame are oath prisoners; Kwasi has to pay the oath reporting fee, as does Kwame, for appearance before the tribunal to which he has been summoned. Sometimes Kwame may feel so offended that he would be perfectly justified if he had immediately sworn on Kwasi without first giving him the option of replying to *Ntamkeka* oath. After the parties have been taken to tribunal and a day fixed for hearing, the procedure which follows is the same as in all other civil cases, and description of that procedure is left for the concluding part of this section.

(c) *Ntamto* is the violation of oath. Ordinarily this happens when one party to an oath case has been adjudged wrong and found guilty. But *Ntamto* happens also in the initial stages of a case, and it is in fact a frequent cause to action. This is best illustrated by an example. Kwabena has a wife Akua Kuma who is prohibited of Yao Preko. So far as Kwabena is concerned he does not care whether Yao Preko knows of the prohibition or not. But Yao Preko violates the Wukuda and Kwanyako oath on which Akua Kuma was prohibited of him if after divorce from Kwabena, he married her. He is at once liable to certain prescribed fees and fines payable to the Omanhene and to Akua Kuma's former husband. If Yao Preko disputes the *fact* of the prohibition a fresh oath case may be necessary, but if he disputes only his legal liability under the prohibition, alleging for instance that he was one of three persons prohibited of Kwabena's wife (the law only allowing two to be prohibited at the time of divorce but not *during* marriage) then the case will be brought before the tribunal, Kwabena and Yao Preko being deemed oath prisoners on the strength of Kwabena's oath prohibiting his wife. There is here no necessity for a fresh oath, and the legal plea by Yao Preko will be fought on that oath only; because by doing what had been prohibited by oath he had *ipso facto* violated such oath. The hearing of the case will proceed as if there had been fresh oaths sworn by both parties, whereas in truth Yao Preko had not sworn any oath nor had any been directly sworn upon him. Being deemed a breaker of the oath sworn by Kwabena, the tribunal

proceeds at once to hear the case. For the procedure after joinder of issue see the end of this section, and reference may be made to "Asonmo" under the Chapter entitled "Ayefare" for the meanings of "prohibition", in respect to marriage.

(β) *Procedure by Summons*

*(Fre wo mpanin anim)*

An action is commenced by summons where one person having a grievance against another verbally lodges his claim with a chief or other elder having some form of jurisdiction over both of them. A small fee, about domafa (4s.), is invariably charged from and paid by the claimant to the chief. The chief then sends for the defendant and informs him of the plaintiff's claim. When this happens the plaintiff is said to have "called the other party before elders" ("*wafre no wo mpanin anim*"). Such mode of procedure avoids the inevitable hostility attached to an action commenced by oath. It is generally pursued by a plaintiff out of consideration for the defendant either because he is a fellow townsman or relative or friend. This process is the most common and perhaps the only mode in which actions may be legitimately commenced before a head-of-family (*Obusua-panin*). A head-of-family has no jurisdiction in an oath case, and even if he is a captain-on-Stool his privilege is very limited in sitting over and deciding cases in which the National Oath has been sworn. Whenever an oath case is brought to the notice of a captain-on-Stool he cannot proceed with the hearing without express permission from an Odikro or Ohene or from the Omanhene himself.

The actual hearing of a case commenced by summons follows the same form as the procedure pursued in oath cases. The parties before a chief are said to be "deciding a cause" (*di asem*). When the case is heard before a head-of-family or before an Odikro *in camera* the parties are said to be investigating a cause ("*bo nkuro*"). The Elders assembled for the latter procedure are called "Baguafo" or shortly "Bagua" (Arbitrators), and those engaged in a proper tribunal as before an Odikro or Chief are properly called "Mpaninfo" (Elders). Any adult person can be invited to sit as member of a *Bagua* which is always summoned *ad hoc*; on the other hand Elders are permanent members of a chief's tribunal. The place where the Mpaninfo meet to decide a case is called "Asenii" (place of "palaver")

and where Baguafo meet is called "Baguam" (literally, public assembly of chairs).

It seems the proper place here to discuss the "Nkrobo" procedure before an Obusuapanin or head-of-family with whom a summons has been lodged. As already pointed out invariably parties before an Obusuapanin are members of his own family or clan. No fees then besides the summons fee are charged. Sometimes even summons fee may not be demanded. No hearing fee (*dwentade*) is usually charged, and the procedure is more or less of a friendly nature. We will examine an illustration. Kofi is owed a debt by Yao; both parties live in the same town and are probably members of the same family or clan. They are both amenable to the authority of the same Abusua-panin, and it is the latter's duty to effect amicable relations between members of his family. In the instance before us, Kofi is plaintiff and Yao defendant. Kofi states his claim and lays his case before the Bagua. He stands up while speaking to the spokesman or Okyeame of the Bagua. At the conclusion of his case he need not swear the National Oath; but fetish oath must be taken either before or after he has given his statement. After Kofi's case Yao is called upon to give his case on fetish oath. When both parties have been heard the Bagua assembled put a series of questions to either of the contending parties. After this series of questions the scale turns in favour of one of the parties, the questions being now concentrated on the other. All the doubtful and controversial points are finally diverted to one supreme point, e.g., in the example above if Yao denies the debt or the full amount claimed by Kofi or that the amount is payable at all to Kofi, then the onus of proving any of these points rests on Yao. He will then be asked if he has a witness to substantiate his contention. Yao then names a witness who must not have been present in the Baguam. Kofi who has not been called upon to produce a witness can object on cause shown to any person mentioned by Yao as a possible witness. When a witness has been accepted by both parties he is sent for immediately and the Bagua should not disperse until the witness had arrived and been heard. The witness, called "Odanseni"<sup>1</sup> is given fetish and asked to state what he

<sup>1</sup> *O-dan-se-ni*: *O* is for *Ono* "he"; *dan* means to turn; *se*, fetish oath (*nse*); *ni* is the general suffix for agent or doer, hence the word means "he who-reverts-fetish oath"; that is as the witness comes to give evidence in a case in which fetish oath has been taken, if his evidence corroborates someone's statement then the oath curse on that person is reversed or rendered ineffective.

knows about any money transaction between Kofi and Yao. More often than not the witness does not know which of the two parties has called him, and in fact he is not supposed to know who summoned him or on what particular point he has been called to give evidence. It is customary for the witness to ask for a payment of money (*adansede*) before he takes fetish and gives evidence. When all these conditions have been fulfilled then his evidence is heard and may be taken as reliable and decisive. If in his statement he confirms Yao's contention that the debt is not due to Kofi, or that the amount is below the sum claimed or that Kofi is not the proper person to whom the debt is payable, the point is there and then decided. The Bagua next retires into committee and returns to deliver their finding in favour of Yao. On the other hand, if the witness gave evidence in favour of the plaintiff Kofi, if, for example, he said that although the amount Kofi claimed was not the original debt due but that with interest properly reckoned it would amount to so much, then Kofi gets the Bagua's finding in his favour. A judgment fee called "*abene*" is then charged by the Bagua from the successful party, the other party being ordered to pay the costs in the case. If it was Kofi who succeeded the claim must also be paid by the defendant in addition to the costs. As this Bagua has no effective means of enforcing execution of its judgment, the defendant may refuse to satisfy the judgment and costs. In that case the total amount can be enforced as an ordinary debt. The principal aim of such actions is not so much to enforce payment as to seek for a definite evidence of liability before competent witnesses. If therefore, after such amicable settlement Yao proved a defaulter, Kofi would have a better title if subsequently he brought his case before a proper tribunal.

If during the hearing of the *Nkrobo* case one of the parties deliberately swear the National Oath, the other party has three courses open to him. Either to (1) withdraw his claim, or desist from contesting the other's claim, or, (2) proceed with the case without swearing oath in reply preferring to abide by the consequences of the investigation, or (3) reply to the oath.

1. If he adopts the first alternative then judgment will be entered against him without the necessity of going through the case. He is then liable to the other's claim if defendant, or loses his claim if plaintiff. He is also liable to an oath fine even though it was not he who swore the oath, and had not even replied to it. The National Oath is not to be taken

in vain, and whenever it is taken the party whose conduct gave cause to it is liable to a fine.

2. If he adopts the second alternative, not replying to the oath, it is open to the party who has sworn the oath either to consent to further hearing of the case before the Bagua or to swear on the other party (Ntamkaguso) for the case to be commenced afresh in a proper tribunal. If the party who swore the oath takes neither of these courses, the case will be proceeded with by the Bagua, and their finding duly pronounced. But in any event whoever is found guilty by the Bagua is liable to the oath fine, it does not matter whether or no such party was the one who swore the oath. Whenever the oath is sworn under such circumstances the Odikro or Ohene or the Omanhene himself should be informed for him to assess the amount of fine payable. If the Obusuapanin trying the case is a captain-on-Stool he is allowed by custom to assess the oath fine and report to the chief. It is his duty to see that the fine is paid to the chief.

3. If he adopts the last alternative there arises a *de facto* oath case (Ntamkeka), the Bagua cannot proceed with the case, and the parties will be apprehended as oath prisoners and taken to tribunal.

As stated above an action or summons when taken before a chief's ordinary tribunal entails the same procedure at the subsequent trial as in an ordinary action commenced by oath. The procedure described under the present subsection is what is called *Nkrobo* which can take place either before a head-of-family having no recognized tribunal or before a chief *in camera* and out of his ordinary course of procedure. Among the rapidly growing Christian communities, a clergyman and his Presbyters are allowed to investigate minor disputes arising between members of the church under the "Nkrobo" procedure, and the system has worked admirably.

We now proceed to deal with the third form in which an action may be commenced.

### (γ) *Amanenya*

#### (1) *Accused Summons*

*Amanenya* is where a person who has committed some offence or omitted the performance of some act thereby amounting to offence is summoned before a tribunal not on the initial application of another private person but on the initiative of the chief himself or of an officer of his tribunal

upon information supplied to the tribunal. This is equivalent to the process which in English Courts is termed criminal<sup>1</sup> or accused summons. Such accused person may be merely brought to the tribunal on summons or under arrest. The accused summons procedure will be discussed in this subsection. (a) An Amanenya case can generally only be heard and determined by the Omanhene's Tribunal. It may become cognizable by an Ohene's Tribunal when it happened in the Ohene's own town, and, in some cases in a town in his sub-division and situate near the locality of his own sub-divisional capital. Even then the Omanhene must be duly informed and his permission where necessary obtained. If the case is not of a serious nature an Ohene can hear and determine it, but the fines must be sent to the Omanhene who will give the Ohene's due share to him. An Odikro cannot hear and determine an Amanenya case. A case of the nature coming before him has to be brought to the notice of the Omanhene's tribunal. This must be done as soon as the Odikro is satisfied, upon enquiry, of the serious nature of the offence, and of the evidence available for prosecution. An instance of this class of offence is a case of incestuous marriage (e.g. where a person marries his own grand-niece of the same maternal clan); where a native of the Division owning a farm sells the farm to a stranger without paying the Omanhene's one-third share to him; and where a person swears the National Oath on a person in an abnormal state, e.g. a lunatic, or a woman in certain condition, or an outlaw. In all these instances the Omanhene's Tribunal, as the supreme custodian of the National Oath, is the proper tribunal having cognizance of them. In some minor cases, e.g. where a person disobeys a local municipal order on oath to attend public labour, the Odikro or Ohene in whose town the case occurred has full jurisdiction.

In an Amanenya case the Omanhene's Linguist (Okyenhene Kyeame) represents the Stool as plaintiff or prosecutor, the accused being defendant. Apart from this the process in an Amanenya case is the same as in ordinary cases between private persons, except that the Linguist does not personally receive any money award besides his personal

<sup>1</sup> It may be inferred from this that there is a well-defined distinction between criminal and civil cases. Whenever a case before tribunal is such that one or other of the parties may become liable to a penalty the cause involving the penalty or fine is called *Amanenya-sem*; a mere civil case is referred to as *Mansôtwe-sem*; and a habitual litigant is called *Omansotwefo*.

costs if he succeeds in his prosecution. The amount involved, as in the sale of farm instanced above, will be ordered to be paid, the accused fined and ordered to pay costs. If the matter giving rise to the prosecution has been the means of grievance to any private person, as where a case of incest is alleged to have brought calamity to the family or clan, the accused found guilty will be ordered to pay pacification to the head-of-family or other person chiefly concerned in the prosecution as principal witness or even as the actual prosecutor. In every Amanenya case, except the tribunal orders to the contrary, sheep must be slaughtered. In fact, the chief difference between an Amanenya case and an ordinary civil action is the probable slaughter of sheep both at the commencement and conclusion of every Amanenya case. Sometimes sheep are ordered to be slaughtered in lieu of fine. The accused found guilty is liable to the cost of sheep killed, except otherwise ordered.

It should be added also that every case before tribunal in which the National Oath is sworn either for the purposes of evidence or as a means of commencing action, ends as an Amanenya case, that is, the party found guilty is, by that very fact, deemed to have violated the National Oath. He will therefore be prosecuted in the name of the Omanhene's Linguist and fined. This is what is called Ntamto, and the accused is called "Ntamtofo" or violater of oath.

In an Amanenya case of this nature no lengthy prosecution takes place. What happens is a dramatic turn of events. The prisoner who was until judgment but a defendant in a civil action, is immediately after delivery of judgment in that action, brought up and arraigned for violating the oath involved in the civil case. If the prisoner had sworn oath to commence his action and had also sworn oath for his evidence, and was, in the end found guilty, then apparently he had violated the oath twice, but no person can be fined twice for violating the National Oath so many times in the same civil or criminal action.

The prisoner thus charged for violating oath usually pleads guilty, and he does this in the customary formula "*Mpanin me dwan toa mo, moma Okyeame dibem ma me*" (Elders I run (i.e. appeal) to you to intercede with the Linguist (i.e., the Omanhene) on my behalf, for he is right). He goes out of the witness box to the leader of the tribunal, makes the customary obeisance, and utters the formula above. It is always well for the accused to follow this customary procedure, for having violated the National Oath

he is liable to a heavy fine and the maximum penalty is likely to be exacted from him if his conduct in the tribunal betrayed any lack of respect towards the authority of the tribunal. (This statement must not be accepted with its full implication. The fine imposed in an oath case is not so capriciously assessed, for the amount to be imposed depends upon the nature of the case itself, but the conduct, character, and antecedents of the prisoner are not altogether overlooked when a fine is being imposed.)

After the prisoner has uttered the formulary words for intercession one of the Linguists will inform the Elders of the prisoner's plea in the following formulary words "*Mpanin odwanefo bi aba ha*", "Elders a runaway (prisoner) has come here." Whereupon the Elders of Tribunal, following custom, intercede for the prisoner in the following words; they with the prisoner say to the Omanhene "*Nana, wodi bem*", "Nana, you are right", which is only court language for "Nana, we beseech thy clemency on the prisoner's behalf". The Omanhene responds to the intercessory words of his Elders by thanking them for finding him right. Thereupon a Linguist (not the prosecuting Linguist) will name the amount of fine to the prisoner at the bar. This named amount is invariably the maximum oath penalty. The prisoner is not expected to pay this maximum, but the usage of naming the high penalty is kept up, perhaps, for a good reason. For, as was revealed in an experiment made by Nana Sir Ofori Atta in an attempt to simplify and modernize the antiquated and complex nature of the system of imposing and collecting fines, however small the amount of fine actually named in Tribunal, the custom is for the oath prisoner (Ntamtofo), after the sitting of Tribunal, to approach one or two of the Elders for them to intercede personally with the Omanhene for further reduction of the oath fine. In almost every such case, the Omanhene had to reduce the fine publicly declared in Court to a much smaller figure; in some cases nothing would be charged at all. But a prisoner found guilty and ordered to pay a certain amount of fine cannot leave the court house except he produces on request sureties whose duty will be to see that the fine (if any) is paid and the costs of the successful party, when assessed, duly satisfied. If the prisoner fails to find a surety to bail him out of Court he will be sent to prison to serve a term of months for violating the oath. Following the recently introduced practice of the British Courts, a term of imprisonment, unlike a pecuniary fine, is never reduced through private intercession.

After this stage the process of execution is to-day very much modelled after the manner of the British Courts. It would seem, from all available evidence, that the ancient method of putting a judgment into execution was not much different from the modern British method, especially as regards the incarceration of the prisoner for failure to pay fine, the giving of sureties, and the obligation to pay the costs of the successful party. This part of the procedure will be further explained in the last sub-section of this chapter.

(γ) *Amanenya (continued)*

(2) *Arrest on Information*

An action is commenced at Tribunal by first apprehending the person of the accused when the offence committed or act omitted is an Amanenya-sem (criminal offence) of a more serious nature than one calling for mere criminal summons. Such high offences are those which in ancient times would have entailed capital punishment by means of *atopere* (torture) and execution by decapitation. Criminal intercourse with a superior Chief's wife, selling forest land attached to Stool without due authorization, swearing a Chief's personal oath (*Brepo*), treason, conspiracy and offences which directly or indirectly infringed the sacred rights of Stool, were deemed capital offences. To-day, as in ancient times, any private person committing an offence of this nature is liable to instant arrest.

Owing to the fact that writing was unknown until our contact with Europe, the processes of arrest and summons were carried on by set forms of verbal instruction or order. A chief despatching a State messenger or Ahenkwa to arrest a criminal provides him with a State emblem, such as a gold sword, and issues his instruction to him through an Okyeame in some such words as the following: "*Mate se Kwaku Kuma Akoton Amanyakuroom asase a minnim ho fwe, enti kokyere no bre me*", "Information has reached me that Kwaku Kuma has sold Stool Land attached to the town of Manya without my knowledge and consent, therefore I hereby order you to *arrest* and bring him to me." This formula differs slightly from that used in the case of accused summons: The Ahenkwa is provided with a State emblem, and the order is as follows: "*Mate se Kwaku Kuma aseε Ntam enti kō kōfa no bre me*", "Information has reached

me that Kwaku Kuma has abused the national oath (by swearing it against an improper person or on an improper occasion) therefore go and *bring* him before me." In a civil or oath summons the formal words are usually as follows: "*Kwadjo Kotto se onè Kwaku Kuma wo nkuro (anase akeka ntam) enti kohyia no bra.*" "*Kwadjo Kotto alleges a claim (or an oath case) against Kwaku Kuma therefore go and invite the latter to come before me.*" After the introduction of writing and British jurisdiction all these formulæ were replaced by printed forms in accordance with the regulations of the Native Jurisdiction Ordinance.

(a). *Jurisdiction.* As already stated Ahemfo and Adikrofo have but very limited jurisdiction in criminal cases. In ancient times the right of holding "*Osekan*", the knife of life and death, was a privilege conferred by the Omanhene on certain favoured Chiefs only. From all accounts it seems pretty certain that before the advent of the British regime there were, besides the Omanhene, only five Chiefs in Akyem Abuakwa who had the power "to hold the knife of life and death" (*Ahemfo a wɔwɔ osekan*). These were the Mpakanfo of Kukurantumi, Asiakwa, Begoro, Wankyi and Kwabeng; and it is even doubted whether the Jasehene of Kwabeng, being a member of the executive council at Kyebi of which the Omanhene is head, ever had the full power of life and death conferred on him, independently of his executive authority. Besides these Mpakanfo, no other Chief except specially so permitted had the right of putting a criminal to death, and *a fortiori* no head-of-family could exercise this right over a member of his family. A head-of-family (Obusua-panin) could sell a member of his family, was bound to deliver him for any capital punishment, and was liable himself to capital punishment for the offence of a member of his family, but he could never himself exercise this right of life and death over any member of his family. The saying was that "*Okyenhene na owɔ sekan*", "the Omanhene alone has the knife (of life and death)", and the dread of the Omanhene's power had a great deal to do with the knowledge of this fact. Another saying was "*Nea osekan wo na tumi wɔ*", "where there is the knife there power is." In short the power of life and death would seem to have been so highly developed and centralized in the paramount Stool and other important and favoured Stools associated with it, so much so that to possess the skull of an executed person, whether a criminal or war prisoner, was deemed the highest mark of supreme executive power. No explanation could otherwise be advanced for decorating

a State drum with the skulls of executed persons, other than that such occipital display was designed to symbolize the superior power of the chief possessing the drums and their ornaments. It must needs be noted that to-day under British regime this power of life and death has, in the nature of things, passed from our natural rulers to the British Courts. The prestige of the Akan Stools in regard to their people is still upheld by such penal acts as imprisonment, pecuniary mulcts, and, in extreme cases, confiscation of property and banishment.

Having now noticed who have and who have not jurisdiction in capital offences, namely, that the Omanhene and the principal Mpakanfo have, but that the Adikrofo (except in some minor cases) have not such jurisdiction, it remains to notice briefly what the procedure was before being replaced by the modern forms practised under the regulations of the Native Jurisdiction Ordinance.

(b) *The Ancient Practice.*

In ancient times if a criminal charged, e.g. with violating a Chief's wife was brought before the Tribunal, he either had to confess or be made to do so. It being an established rule of custom that in cases of misconduct a woman's evidence was scarcely rebuttable, a man brought up on such a charge, except very strong evidence of absolute innocence could be produced, stood no chance of escaping the penalties of justice. If an accused before Tribunal was charged with a less heinous crime he might be asked to give sureties who would undertake to produce him until final judgment. If it was a heinous crime no such sureties would be demanded, and as prison houses were a rarity, if they existed at all, the accused would be secured to a log (*bɔ no pam*) formed of an iron fork fixed into a block of wood. A witness may be called when, on investigation into the case, a doubtful and decisive point arises for evidence by a third party. His evidence, if accepted, definitely decides the issue in the case. If there was no witness fetish swearing was brought in to help the cause of justice. If this spiritual ordeal failed to produce confession, physical ordeal by means of torture was called in. The iron fork nailed right across the wrist into a heavy block of wood was made loose and free to enable the prisoner to move his hand, but the longer he persisted in denying the charge, the closer and tighter the fork was hammered down over the wrist. This might be repeated until perhaps it

was close enough to break the bone of the wrist. Besides this, there was much physical infliction of the concomitants of torture with a view to subsequent beheading. After the accused had confessed, then came the decision of Tribunal.<sup>1</sup> If it was an heinous offence all his near relatives, his head-of-family or his nephews and nieces, all of whom must have been put into stocks to speed up confession of the prisoner, would be brought up to take their share of the verdict.

If it was an offence against the safety of the State, e.g. treason or conspiracy, the condemned man would be subjected to a further stage of torture (*atopre*). Here the condemned, having lost all right to live, was naturally not to be permitted any earthly protection. To escape the sufferings of the torture dance the condemned man could have sworn the personal oath (*Breṇṇo*) of a great Chief against his torturers. *Breṇṇo* oath when sworn being generally immediate and magical in its effect, the ends of justice could have been easily defeated. To prevent this a slender knife called "*sepo*" was pierced through the mouth of the prisoner over the tongue from one cheek to the other by State executioners (*Abrafo*). Being thus prevented from speaking the smooth course of justice was secured. After the *atopre* dance the condemned man would either be released, his property confiscated, he being banished, or, as was more often the case, he would be put to death by decapitation. We need not state that torture, so far from being the rule, was the exception in these cases, and that decapitation was sometimes so swiftly carried out after verdict, especially when the accused and his family had been all condemned to death, that the vengeful course of justice was comparatively swift and devoid of much unnecessary pain. An executioner's chief mark of efficiency was not the prolonged pain to which he could put his victims, but the agility and swiftness with which his king's order was executed upon disobedient subjects. Hence it is that even to-day court executioners (*Abrafo*) are persons of good physique, swift of feet and hands. Decapitation was in fact deemed the heaviest punishment for a condemned man and the savagery of torture was not generally carried to refined extremes such as were practised in the mediaeval inquisitions or in such practices familiar to readers of Scott's *Old Mortality*.

<sup>1</sup> Torture may precede or follow the decision according to the nature of the case.

(c). *The Modern Practice*

We have to dwell for a while on a description of the practice followed to-day when a delinquent is brought up on a charge which in ancient times would have entailed capital punishment. Some of these offences, such as unauthorized dealings in land, have been brought under a definite classification in the native Jurisdiction Ordinance passed by the British Government. But apart from these, there are other offences, such as criminal intercourse with a Chief's wife which have as yet received no adequate notice in the regulations made by the British Government for the jurisdiction of our Chiefs. Such cases are therefore still dealt with not by the Omanhene's Tribunal, which is the highest Tribunal recognized by the native Jurisdiction Ordinance, but by the State Tribunal composed of all the Chiefs and sub-Chiefs of the realm. This tribunal having, as such, extra-judicial powers can be very comprehensive in the extent of its jurisdiction. It tries cases arising between the Omanhene and a Chief or sub-Chief, cases of insubordination of Chiefs and other officers of State, cases of attempted secession, questions arising from destoolments and enstoolments, and more generally criminal offences against the well-being of the State, the authority of the Paramount Stool, and the security of tenure of lesser Stools.

The procedure at the State Tribunal when all the Chiefs of the realm are assembled with the Omanhene as presiding judge (*Okyeman mpanin atra ase*), has been very largely modelled on the system laid down in the Native Jurisdiction Ordinance. But at the State Tribunal every matter or cause does not start in the form of a judicial investigation. Many of the cases before the Tribunal start in the form of administrative enquiries and end with judicial decrees and decisions. The State Tribunal has no prescribed hours of meeting, although it generally sits in daylight. Its place of meeting varies. At Kyebi sometimes it can meet in the inner court at Ofori Panin Fie (the Omanhene's Palace), at other times at the permanent Tribunal house, and in Brepɔ cases in the Drums Court. In political cases of deep gravity such as a case between the Omanhene and the Amantoo-mmiensa (the Council of Three Counties) it meets in the public square outside the palace. Before the State Tribunal, there is generally no definite plaintiff or defendant. It invariably is a political inquiry. The State Messengers (Nhenkwa) concerned are usually called upon to deliver special messages

(*bo amanee*) entrusted to them, and the persons implicated by such Nhenkwa reports are next called upon to explain or answer the charges (*asem ko a wowo ka*) mentioned by the messengers against them. After explanation by the accused party, if no offence appears to have been committed, the Omanhene gives a short summing-up containing his view of the case, and then, if no one had already been put to expense, the enquiry is considered at an end. But if a genuine case appears to lie against any person, then, after the explanation by the accused party, the person aggrieved is called upon. Sometimes, following modern practice, the complainant speaks first, but in most cases he is asked for his statement after both the Ahenkwa and the accused have spoken. Next the accused is called upon; then witnesses, if any, are called. Sometimes, before witnesses are called, both parties will be subjected to a series of questions in order to elucidate points at issue for the Tribunal to be better informed of the merits or demerits of each claim. After this examination, witnesses are heard; the Omanhene sums up the whole case and his considered opinion or recommendation is delivered to the Tribunal. If the Omanhene himself happens to be a party to the cause before State Tribunal then the summing up will be made by the Adontenhene or by some other Opakani then acting as chairman of the State Tribunal. At the conclusion of the Omanhene's address his Linguist will say "*Mpanin se ohene see nen*" (Elders, so says the King). Thereupon the Chiefs assembled, leaving the Omanhene and one or two Linguists behind, retire into committee. Having arrived at a unanimous decision, generally on the lines of the Omanhene's expressed opinion, they return to the Tribunal and deliver their verdict through one of the Linguists. Whilst in committee the Councillors fix and determine the amount of judgment fee (*abene*) they intend to charge, the maximum fines and fees to be imposed, and the number of sheep to be slaughtered. If this was a case directly affecting the Paramount Head or the honour and integrity of any sacred office attached thereto, the Omanhene will, after delivery of judgment, make a statement showing exactly where the honour due to the national Stool had been impaired, either on the part of the person found guilty, or, in certain cases, even by the successful party. At the conclusion of the Omanhene's statement, if the party implicated has any defence he makes it in a reply to the tribunal, if he has none and admits the wrong charged against him he asks the Elders in the formulary words to intercede for him.

After due intercession by the Chiefs following the offenders' plea of guilty the tribunal again retires into committee, returning to deliver a second judgment against the party whose conduct had offended the Ofori Stool. Sheep will then be ordered to be slaughtered, fees and fines payable by the parties fixed for them, and the hearing is concluded. Abene (judgment fee) must be paid by the successful party before this final stage is reached. Where judgment was entered for the Omanhene, judgment or Abene fees are charged by the Tribunal from the Omanhene's Linguist, upon whose head a line of white chalk (*Abene hire*), indicative of the Omanhene's success, is made. After due payment of all the Abene fees the Tribunal rises, or if there is another case it is called and heard.

The pacification money by way of damages and fines awarded by the Tribunal to the successful parties must be paid within a week of the judgment. If not paid in due time the sureties who secured or bailed the condemned man (*nea ode onipa a odiifo no koofie no*) will be called upon for full payment, or payment may be enforced as an ordinary debt. In high State cases, however, sureties who secure payment of judgment fees are usually men of means and position, and therefore due satisfaction of the claims within a fortnight of the judgment is certain and assured.

As already stated the fees and fines charged in the State Tribunal are not based upon any fixed scale, and where Abene would be £1 in an ordinary Tribunal, in the State Tribunal the Abene ranges from £2 8s. to as high as £24 for a great national case decided. Pacification money awarded in tribunal is not reducible, but fines imposed by or in favour of the Omanhene as well as the pacification nominally awarded to him in open Tribunal may be reduced if the Omanhene is duly approached through one or two of his influential Elders.

Sheep slaughtered in connexion with any such case are given to those persons who succeeded in the case, the legs of the sheep being retained by the condemned man, who paid for the sheep. One or two of the sheep awarded to the Omanhene are given to the Elders of the Tribunal. The Omanhene himself is not supposed to partake of the flesh of such sacrificial sheep, and what he retains for himself is given away as presents to deserving persons, chiefs, and courtiers. In some cases good-sized live sheep will be ordered to be delivered in addition to the pacification money awarded to the Omanhene; such sheep are not to be slaughtered before delivery, and they must be of the finest type (" *adwansae*

*a wotua dua*”). The State Tribunal, as indicated elsewhere, is composed also of the Presbyters and Elders of the Christian communities. But these Presbyters and Elders, apparently suffering under the weakness indicated in St. Paul's exhortation, have made it a rule not to partake of these sacrificial sheep else they might hurt the susceptibilities of their unbaptised countrymen, but the Christian Presbyters receive without undue scruples their share of the court fees collected by the Tribunal in connexion with violation of the National Oath.

Having given a brief description of the procedure at State Tribunals we have now to notice the ordinary procedure of the Omanhene's Tribunal based on the regulations of the Native Jurisdiction Ordinance, 1883, as amended 1910.

### *Section C. Ordinary Procedure*

#### *(1) On Hearing a Case (Diasem)*

The scale of fees and fines to be charged in an Omanhene's Ohene's, or Odikro's Tribunal has been placed under regulations provided by the Native Jurisdiction Ordinances, and the forms to be used at the commencement of an action as well as in the execution of a judgment have also been placed under systematic regulations. It should not therefore have seemed necessary to enter into this branch of procedure in Akan Tribunals but for the fact that there are certain characteristic and formulary processes observed in the various Akan Tribunals, which, although modified by the influence of the British courts, are still peculiarly adapted to the customary usages of the Akan people such as to give matter of interest for the purpose of this book.

The initial processes applicable to civil, oath, accused or criminal summonses have already been described. In order to meet the clerical service required for these forms, there is attached to the important Tribunals a Registrar's office where summonses and all the other processes are taken. The Registrar has charge of the cause list and the Record Books. In Akim Abuakwa the tribunal sits for five days in the week, Wednesday being excluded by the "Awukudae" custom, and Sunday by the British connexion and other Christian influences. Sittings of Tribunal last for about 6 to 10 working hours each day, and the Omanhene, as responsible judge, is always expected to be present throughout the day's sitting. We have already described the constitution of the

Tribunal as consisting of the Omanhene, his Linguists, his four principal Executive Chiefs, the Queen-Mother, the non-Stool owning Elders and Councillors (including in the latter term the Christian Elders and Presbyters). The Tribunal is summoned by the "Kantamanto" or "woni-mini" drum (*q.v.*) and on the Omanhene taking his seat at the third beating of the drum, the Registrar proceeds to deal with his cause list.

When a case is called both plaintiff and defendant enter the witness-box; the plaintiff's claim or complaint is then read to the defendant, the latter's plea entered in the Minute Book, which is kept in English by the Registrar. Defendant's plea being duly entered against the plaintiff's claim a "hearing fee" (*Dwentadee*) is charged from the plaintiff. This fee, which varies from 2s. 6d. to one pound, must be paid before any evidence can be heard. "Dwentadee" (hearing fee), before the Native Jurisdiction Ordinance, used to be charged not from one party only but from both plaintiff and defendant. The fee charged was a sum more nearly equal to the claim in dispute. The party who lost the action forfeited his deposit of hearing fee, which went towards the payment of Tribunal fees and the other party's costs. If there was any balance due to the unsuccessful party after all claims had been satisfied, it would be returned to him by the Linguist with whom the amount was deposited; if the balance was against him for satisfaction of the costs the unsuccessful party had to make up for it. In some Akan Tribunals *Dwentadee* later on came to be taken as security from both parties towards the payment of oath fine which was almost always inevitable in a case before Tribunal. To-day, however, adequate remedies are provided for exacting punishment in case of violation of the National Oath and hearing fees are not now charged for the purpose of oath fine.

At commencement of proceedings it was the custom in all cases before Tribunals of whatever description to request plaintiff and defendant to provide sureties each of whom would undertake on oath to satisfy the costs in the case should the party for whom he stood sponsor be found guilty. The principal parties (plaintiff and defendant) were allowed to have their respective sponsors standing behind them in the witness-box, and the practice grew to the extent of allowing sureties to give hints and guidance to the principal parties, especially when it came to putting questions to the other party. Sometimes the surety would take charge of his principal's case, replying and especially putting questions direct to the other party. The practice did not stop here.

It went on to increase until there grew around the precincts of the Tribunal a class of professional sponsors (*Akyigyinafo*) who undertook upon payment of an agreed fee to stand surety to their clients and assist them in the witness-box to a successful victory. These "advocators", as we may call them, became a source of nuisance to litigants, and, what is more, they caused a great deal of dilatoriness and finesse in proceedings at the Tribunal such as were quite foreign to the sure-as-sure intuitive apprehension of salient truths which characterized the findings of the ancient Tribunals. To prevent this artful subtlety of cross-examination (*Asem-misa*) the Okyeman Council, by express enactment, denied to the principal party his ancient privilege of receiving hints and cautions from his surety. This remedy was found of little avail. The sponsors in the witness-box developed the habit of whispering into the ears of their principals, and much inconvenience followed. The people had come to look upon advocacy as a legitimate practice much favoured even in the British Courts, and it required strong measures to put a stop to the innovation of increasing cross-examination. The Okyeman Council, with its strict zeal for conserving the ancient spirit of our institutions, subsequently put a stop to the growing practice by abolishing this form of sponsorship altogether. To-day, except of course in the case of chiefs, who are not allowed by custom to speak anywhere without having their Linguists by them, no sureties or sponsors are ever allowed to private litigants in the witness-box. Cross-examination, if any, must be carried on by the principal parties themselves.

Resuming the thread of our argument, we have the plaintiff and defendant before us in the witness box. After payment of the hearing fee, the plaintiff is sworn by the National Oath<sup>1</sup> and fetish curse, and can then give his statement in narrative form. At the conclusion of his eloquent and emotional narrative, the chief points of which have been duly taken down in English in the record book by the Registrar, the defendant is next called upon to examine the plaintiff on his evidence (*bisa n'asem*). Following the defendant's examination the members of the Tribunal, including the Omanhene, will put questions to the plaintiff in order to elucidate points left obscure in the plaintiff's statement of his own case. If, after its examination, the Tribunal is satisfied that the

<sup>1</sup> Or if a Christian or Mohammedan by the Bible or the Koran, and without fetish, or if he is a free thinker by the National Oath alone. See page 71 for the formula for swearing a witness.

plaintiff has a probable cause of action against the defendant, the case will be proceeded with; otherwise the plaintiff's claim will be dismissed with or without costs to the defendant. But, as is more often the case, if the hearing is proceeded with, the next thing is to call the plaintiff's witness already waiting in the witness room at a distance from Tribunal. The witness also gives evidence in narrative form, at the conclusion of which the plaintiff may be allowed to put a few questions to his witness. After him, the defendant cross-examines the witness. Next comes the examination by the Tribunal, and the plaintiff's second witness is called. As another consequence of the growing habit of lengthy cross-examination it was found necessary to bring forward proposals that no party to a suit should be allowed more than two witnesses in any ordinary case. The suggestion, though brought up frequently at various assemblies of the State Council, was never passed into law, but it had the effect of reducing the unnecessary number of witnesses which the "advocators" thought fit to advise their clients to muster up for attack and defence. After hearing the plaintiff and his witnesses the defendant and his witnesses are heard and examined in a like manner.

Next follows judgment or verdict by the Tribunal.

## (2) *Judgment (Atemmu)*

Now granting that all things are in order, the Ohene or Omanhene, being present with his Registrar, Linguists and Elders, the Tribunal having heard all the available evidence offered by both sides, the next thing is the delivery of judgment. In the Omanhene's Tribunal there must always be present at least two or three Linguists with one or two gold linguist canes or staffs (*Akyeame poma*), to be used when they stand up to speak.

Before the Tribunal delivers its decision in the case, both plaintiff and defendant, after all their witnesses have been heard, are recalled into the witness box.<sup>1</sup> As it is not the practice for either of these parties to address the Tribunal by way of summing up the evidence adduced, the Tribunal

<sup>1</sup> The witness-box or dock which, at the Omanhene's Tribunal, Akim Abuakwa, stands in the open Courtyard of the Assembly House (*Asenii*), is a wooden structure about 12 feet high, raised on a platform. It has a roof affording protection from sun and rain, and the bar is divided into two sections, the plaintiff or his witnesses occupying the right section, the defendant or his witnesses the left.

affords them an opportunity of elucidating points raised by their witnesses by putting direct questions to either plaintiff or defendant. After this final examination by Tribunal, a peroration or summing up will be made by the Omanhene in important cases, or, in ordinary minor cases, by the Apesemakahene who is leader of the Tribunal. The latter's peroration is usually a short and formal one; it is concerned mainly with emphasizing the most decisive point which really strikes the mind as an actionable wrong done by one of the parties to the other. Every such decision must be based on the customary law and practice, and the customary laws are an embodiment of the result of a well tried and balanced traditional sense of what is right and just. Where one party's conduct towards another infringes that traditional sense, custom requires that a right adjustment should be made. The Apesemakahene therefore ends his address with calling upon his brother Councillors to retire into committee with him for the purpose of fixing the burden of blame. He uses the formulary words: "*Mpanin monsoṛe mā yenko agyina*," "Elders, let us retire into council." Whereupon if the Omanhene does not intervene (and it is rare for him to do so), the Elders retire from the Tribunal to an adjacent court for the ostensible purpose of considering the grounds upon which one or other of the contending parties is to be found guilty. If, as already remarked the case is an involved and complex one, the Omanhene himself does the summing up, expressing his considered opinion by way of advice or direction to his Councillors. Thereupon the Elders, on the invitation or motion of their leader, retire into committee. But the fate of the guilty party is not decided in this more or less secret conclave of Elders and Councillors. Before the Elders retire, the Apesemakahene's peroration or the Orhanhene's summing up in the open assembly must have left it unmistakably clear who, in the Tribunal's opinion, had failed to convince them of the justice of his cause. The real purpose therefore of this seclusive committee is the fixing of such fees and fines chargeable on the guilty party, and also to determine clearly for the Linguist the precise counts on which the losing party is to be declared guilty. In this Committee the Omanhene is not allowed by custom to be present nor, not being a lengthy affair, are any records kept in writing; and the Tribunal Registrar has no place on the committee. Not that the Omanhene is never found in committee with his Elders—for this can happen in a political case—but because as the



presiding magistrate, whose decision is final, the Councillors must be allowed every freedom in arriving at an independent verdict upon their own interpretation of the customary law applicable in the case. Here we cannot resist the temptation of noticing a great point of resemblance between the English practice of jurymen who retire to consider their verdict in seclusion and out of hearing of the judge. The Omanhene's position as the highest judicial officer needs no greater evidence than that found in this ancient customary process of his Elders retiring into committee and arriving at their decisions out of his hearing. Be this as it may, the Omanhene's right to have the final word with his Tribunal is very well guarded, and, on the Elders returning from committee, their finding is usually communicated to him by one of the Linguists, and when he nods in acquiescence, the decision can be publicly declared. If not, it is the Omanhene's greatest prerogative to step in now and advance reasons why in his opinion the decision should be otherwise. When a disagreement of this kind arises, which is extremely rare, the Elders after hearing the Omanhene, and agreeing with him, will have to retire into committee again and accommodate their finding on the lines indicated by the Omanhene. If the Omanhene's opinion is not definitely and decisively declared in such a difference of opinion the judgment might be reserved until a subsequent sitting. The practice here described is quite a rare phenomenon, but the prerogative exists, and it is only right that we show its place in the constitution. It helps us to see also how far the Omanhene's judicial authority extends, and by how much he is responsible for any unanimous decision arrived at in his presence by his Elders and Councillors. This view on the whole applies to every Council or Tribunal having an Omanhene, Ohene or Odikro as the presiding magistrate.

If then the Omanhene assents to the verdict of his Council on the particular case before it, the Tribunal's decision has to be delivered by one of his Linguists, after the following customary formula: Taking hold of a gold linguist cane in his left hand, and stepping down into the courtyard, with an Esen (Court Crier q.v.) by him, the Linguist addresses the losing party with his right hand in the following formulary words: (Suppose Kwadjo plaintiff and Kwabena defendant, and the latter is to be pronounced guilty): The Linguist declares: "*Mawirakwa Kwabena fwe m'anim: Kwadjo de wo baa ha sew'afa ne yere Akosua na wose worento no ayefare. Okyenhene ne ne mpaninfo atra ase; waka n'asem*

*ama woaka w'asem ; adansefo abedi ; yafwefwem' na yeahunu se wannu no yiye. Eyi na Ankobea ne Apesemaka ne Kyidom*<sup>1</sup> *asore ako agyina ; na yese meba a menka nkyere wo se : 'Se w'amfa asem yi amma ha, amma yeamfa asopa antie na wukukruu aba deboo Kwadjo a, wuku no a wudi no aboa' "* ; which means, " Kwabena, my fellow citizen,<sup>2</sup> look into my face (i.e., listen to me). Kwadjo brought you here for taking his wife and refusing to pay him satisfaction money. Omanhene and his Elders have sat down (to hear the case) ; Kwadjo has given his case, and you have given yours ; witnesses have been heard ; we have investigated and found that you did not act rightly.<sup>3</sup> Thereupon *Ankobea* and *Apesemaka* and *Kyidom* Council have consulted and I was ordered to tell you on my return (from that consultation) that ' Had you not brought this case here, that we might listen with a just ear, but had you, instead, seized a wand and struck Kwadjo dead, you should have dealt with him like a beast ' "

It is impossible to refrain from noticing the excellent material offered here for making certain conclusions. It is such material that no earnest student of the development of social justice can well overlook. The condemnatory words pronounced by the Linguist in the latter section of the formula is pregnant with ideas for the possible confirmation of a theory. His reference to Kwabena as " striking Kwadjo dead with a wand ", which reminds one of the Roman *fe tuca* used in *vindicatio*, the pertinent insistence on the fact of the cause being brought to Tribunal and there to be heard with a " just ear ", the significant and vivid simile drawn between what would have been the conduct of Kwabena, a rational being, as compared with that of a wild beast in the state of nature : all these go to confirm the theoretically established fact that the earliest form of seeking redress was private vengeance<sup>4</sup> by the strong arm, that with the ancient primitives there could be no right where there was no might,

<sup>1</sup> Or preferably " Wentirem ne Anwanfi " which is the Council's ancient title.

<sup>2</sup> Or fellow-subject. If the losing party is an ordinary private citizen he may be so addressed ; but if he happens to be a Chief or other person higher than the Linguist himself in rank, then the former's Linguist must be called and addressed, or if, being a person of rank he had no official Linguist, he could be addressed as a mark of courtesy with his full title.

<sup>3</sup> Here if the Linguist is an able man and there happen to be several points in the verdict, he can mention them specifically, otherwise the general statement is sufficient.

<sup>4</sup> See note 1, p. 80, quotation from Rattray's *Ashanti*.

and that, in the exaction of redress, State intervention in the form of an organized court of justice, was a relatively late product of mature thought. The Romans, whose half-civilized, half-primitive, practices are better known to the civilized world to-day because they were fortunate to possess the glorious art of writing, followed a "customary" legal process on much the same lines as the Akan procedure described above. In the *legis actio sacramenti* after both plaintiff and defendant had each laid his wand (*festuca*) ("*ecce tibi vindictam imposui*") on the subject of dispute, e.g. a slave, it became the duty of the presiding magistrate, to order both of them to release the slave ("*mitte ambo hominem*") so as to enable him to hear their case *in jure*. The plaintiff (*actor*) and defendant (*reus*) then challenged each other with a money bet ("*sacramento te provoco*" . . . "*et ego te*") which was payable by the losing party to the priest or the state. In both these Akan and Roman processes one can clearly see "a dramatization of the origin of justice". And to this view, at any rate in the Roman form, Sir Henry Maine thinks it "impossible to refuse assent". In primitive ages "two armed men are wrangling about some disputed property. The Praetor (or Elder), *vir pietate gravis* happens to be going by and interposes to stop the contest. The disputants state their case to him, and agree that he shall arbitrate between them, it being arranged that the loser, besides resigning the subject of the quarrel, shall pay a sum of money to the umpire as remuneration for his trouble and loss of time". (Sir Henry Maine, *Ancient Law*; Sir Frederick Pollock's annotated edition, page 385.) After reading this we need no more explanation for the otherwise obscure phrases used by the Linguist in the condemnatory formula. We can see clearly why he would compare Kwabena's behaviour to an animal's conduct if he had not brought the case to the "just ears of the elders, but had instead taken it upon himself to strike Kwadjo dead with a wand or cudgel". We can also see why "dwentadee"<sup>1</sup> (hearing fee) was and is still charged, and why that fee used to be claimed not from one party only but from both the contesting parties.

Returning now to the point where we just left off, we find

<sup>1</sup> "Dwem-ta-de." *Dwem* means "assembly place"; *ta*, "a forced sitting" (*tra* being the more common term for "to sit"); *de* means "thing or money". Dwentade, then, following Sir Henry Maine, would mean a sum of money payable "as remuneration for the trouble and loss of time" involved in sitting (to hear a case) at the assembly place

the Omanhene's Linguist delivering judgment with an Esen (Court crier) by him wearing a gold-and-fur cap. The Court crier has ready in the hollow of his palm a handful of white chalk. Now as soon as the Linguist pronounces the last word of the formula of judgment, the whole assembly, the tribunal as well as the general public present at the assembly place, respond with an approving and prolonged cheer: "Heii", which of course means "Aye, well said". Thereupon the successful party turns from his place in the witness-box to receive the Court crier's powder of white chalk on the central part of his head from forehead to nape of the neck. With this white mark of justice on his head he goes round to thank the whole assembly, the Tribunal, and the Omanhene. At the same time the guilty party, not to be done in or forsaken in adversity, goes or rather "runs" to the Elders of the Tribunal to appeal to them for intercession. He does this in the formulary words already quoted elsewhere: "Mpanin me dwan toa mo, mo ma Okyeame dibem ma me." "Elders, I run (i.e. appeal) to you for intercession, please say with me to the Linguist (which is meant for the Omanhene) that he is right." Then he and the Elders say together to the Omanhene "Nana wudi bem, Amen", "Nana, you are right, oh Majesty." This formulary procedure by the guilty party has nothing at all to do with his views on the soundness or otherwise of the judgment just delivered against him. It has reference only to the violation of the oath involved, since the National Oath having been sworn in the case, he is deemed to have violated it by the very fact of his being found guilty. The practice of running to the Elder for intercession is even followed by persons such as Christians who, not having taken the National Oath in their evidence, could not be held to have violated it. No fine is exacted from such persons in respect of the oath, but the act of appealing to the Elders to intercede with the Omanhene, and the very sympathetic manner in which the Elders intercede for him as well as the assuring tone of the Omanhene in accepting the submission of a tribal member condemned by the general voice of the community as having trespassed the bounds of the liberty given him by the customary law, these have the effect of impressing the guilty person with a measure of the moral disapproval of his conduct, while at the same time the ready response of the Elders to his appeal fills him with the hope that he is not as yet an outcast. Hence the eagerness in which the person found guilty seeks for sympathetic intercession.

After this dramatic display, the Linguist steps back to his place in the Tribunal, and, if in pronouncing judgment, he had delivered himself eloquently, he would receive warm congratulations from his fellow Linguists. A brief consultation is then held amongst the Linguists, and both plaintiff and defendant being back again in the witness-box, the Linguist calls upon the successful party to pay the judgment fee (Abene). At the present day, following the spirit of the Native Jurisdiction Ordinance, the fee charged for Abene is one pound, or with the customary court fees added, £1 5s. 6d. After due receipt of the judgment fee the Linguist names to the guilty party the amount in money of damages, pacification, satisfaction or other award, as well as the fine and, where necessary, the number of sheep, payable by him.

To ensure that these fees and fines are duly satisfied the losing party is asked to produce a surety who shall undertake payment of fees, fines, and other awards. This surety shakes hand with the Linguist, thus pledging his honour for the payment of costs and fines, and then the person found guilty is allowed to go home with his surety (*obi de no ko fie*). If he fails to produce an acceptable person who would undertake to "take him home" and satisfy the judgment the person found guilty is there and then convicted and sentenced for a term of months for violating the National Oath. After serving the sentence the costs of the successful party are left to be satisfied by the party who lost the case, or being a judgment debtor, he can either go to prison as such, or his goods will be seized in execution. On the other hand, if after verdict he produces a surety who pledges to pay the costs then the latter is bound to see that not only the fines imposed by Tribunal but also the costs of the successful party are satisfied; the oath fine, which according to the Native Jurisdiction Ordinance must be under "bena" £7, is almost always easily satisfied. But as to the other party's costs there is sometimes a default of payment. When this happens, both the judgment debtor and his surety can be proceeded against as ordinary debtors by commencing a fresh action for debt against them both, or if the successful party prefers it, he can ignore the surety and pursue the losing party direct as a judgment debtor, send him to debtor prison, or sell his goods in execution of the judgment.

*Section D. Appeals*

We have seen that there are four types of Tribunals in an Akan State. These are (1) the Odikro's Tribunal, jurisdiction of which extends to the people of the town over which the Odikro rules; (2) The Ohene's Tribunal, having jurisdiction within the Sub-Divisional area; (3) the Omanhene's Tribunal which has complete and efficient jurisdiction over all the towns and sub-divisions comprised in the whole length and breadth of the territorial State of Akyem Abuakwa; and (4) the hitherto unrecognized but certainly existing jurisdiction of the State Tribunal. Besides these there are the numerous unclassified, unrecognized and, perhaps, unrecognizable tribunals of the various sub-chiefs or captains-on-Stools below the rank of an Ohene's Mankrado. (An Ohene's Mankrado or Osomanyawa has a Tribunal equal in power, from a historical point of view, to that of Odikro of a town).

An appeal lies from an Ohene's town or sub-divisional Tribunal to the Omanhene's Tribunal. An Appeal may lie also from an Odikro's town Tribunal to an Ohene's, but it can be made direct to the Omanhene's Tribunal. Under the existing provisions of the Native Jurisdiction Ordinance an appeal can be made from the Omanhene's Tribunal to the District Commissioner's Court where the thing in dispute is not land and the value does not exceed £25. If it is a land case an appeal can be made direct from the Omanhene's Tribunal to the Provincial Commissioner's Court, then to the Divisional Court, and ultimately to the Full (Appeal) Court of His Majesty's Supreme Court of the Gold Coast Colony.

An appeal from an Odikro's Tribunal to an Ohene's or Omanhene's when no record was taken in writing of the proceedings in the Tribunal below, is conducted as a re-hearing by the higher Tribunal. In certain cases where there appears to be a confusion of procedure, an absolutely fresh proceeding may be commenced at the Omanhene's Tribunal. An appeal from an Ohene's Tribunal is conducted in much the same fashion unless a written record from the proceedings in the Ohene's Tribunal is supplied. Where there are written proceedings from the lower Tribunal the appeal in the Omanhene's Tribunal consists in a reading of the minutes of the Tribunal below by the Omanhene's Registrar, the parties concerned being present in the witness box. The constitution of the Omanhene's appeal Tribunal is the same as the Omanhene's ordinary Tribunal. If the evidence

adduced on both sides was considered sufficient no further witness need be called. Otherwise on application by either of the parties but first especially by the appellant, the Omanhene's Tribunal may hear fresh evidence to supplement the written record of the appeal proceedings. The decision of the Tribunal below may be reversed or upheld. The order as to costs always depends upon the nature of the case, and the Tribunal has discretion in allowing or disallowing costs.

In certain cases a re-hearing of a case tried by the Omanhene's Tribunal may be allowed to the losing party if adequate grounds are advanced in support of the application.

Within his own realm every Akan monarch, even before the advent of the all masterful Native Jurisdiction Ordinance, is and was independent in his jurisdiction over the people inhabitant in the Division, and no appeal could be made from one Omanhene's Tribunal to another Omanhene's Tribunal. Between friendly States, however, certain arrangements, both political and juridical, were always effected so that cases affecting a foreign Stool or a foreign National or *Brefo* oath, might be heard and determined by one Omanhene's Tribunal with co-opted representatives of the other Omanhene's Tribunal; or alternatively by a joint-tribunal consisting of representatives from two independent States, but either under the personal direction of one of the two monarchs or of their duly accredited representatives.

## CHAPTER V

### ENSTOOLMENT AND DESTOOLMENT

THE terms "enstoolment" and "destoolment" are used in the Gold Coast to indicate, as to enstoolment (1) the customary procedure of electing and installing a member of the stool family as Chief or King of the tribe or nation over which that stool rules, and, as to destoolment, (2) the converse procedure of deposing a reigning Chief or King from his former position as ruler. Owing to the importance attached to the hereditary position of Chief either as Odikro (Chief of a town), or Ohene (Chief of a sub-divisional state) or Omanhene (Paramount Chief of an independent state), there has been much litigation in recent times in connexion with disputes on the legality or otherwise of particular Enstoolments or Destoolments, and instances are not wanting of such disputes passing through the African and British Courts in the Colony to the Judicial Committee of the Privy Council in England.

Many are the causes which have given rise to such frequent disputes, but to examine such causes is not the object of this article, our purpose in writing which is more theoretical than practical. Enstoolment used to be a peaceful and dignified procedure. But the frequency of modern disputed elections has changed the peace and dignity which used to attend the ancient mode of making the best men of the tribe King or ruler.

Many political theorists versed in the craft have traced the cause of this frequent deposition of Chiefs to the effects of the Native Jurisdiction Ordinances. We are not prepared to deny or accept this view, but we are inclined to think that the present discontent among the mass of the people against the ruling houses must have one cause in the general administration of affairs, and another in the irreconciled differences existing between the old system of government and the form of government which seems to be demanded by the present generation. However much we may admire the Akan institutions, we should not be doing our duty for the effective maintenance of the best that should be preserved in our institutions were we to suffer both Ormuzd and Ahriman

to grow strong together. Where an existing order leads to creation of disorder nothing but a reform of the former would lead to a cessation of the latter.

We are not, however, concerned in this treatise with debatable political considerations, and having stated a sufficient preamble for the present subject, we proceed to discuss it so far as present limitations will permit.

### *A. Enstoolment*

#### *(1) Qualifications of a Stool Candidate.*

If a Chief dies, or "goes to his village", as the untoward incident is euphemistically described, it remains for the family, after the first funeral obsequies to name a successor to the stool. There are usually in every town, about two or three divisions, or "houses" in the ruling Royal family. It does not rest with any one of these "houses" to say whose turn it is to ascend the stool. It is the will of the people which determines what particular member of the Family taken as a whole is most fit to ascend the stool and to rule over them. The question of the choice of a stool candidate by the mater-familias, which will be explained later, is purely a formal ceremony chiefly dependent upon the people's will. For if the initial selection were the absolute privilege of any individual member of the family, no town or tribal stool would be worthy of the name. It is necessary to remember that the people's allegiance to stools are not as subjects of an absolute monarchy, but as citizens of a more or less democratic country, and were it that they had to accept any haphazard choice thrown upon them by the Head of the Royal Family, the popular veto would seem a shadowy thing. We do not say this to disparage the authority of the Heads of families, we say it to demonstrate the principle that the selection by the female head derives its source from the popular will, and this will is always easily known.

In the case of succession to Stool, be it family, town, tribal, or divisional, either a brother (we speak solely of the female line) or a nephew, an uncle, or a grand-uncle, a cousin or an adult member of the Royal Family, can be selected to succeed a dead or destooled Chief; for, no matter how far removed in blood he may be from the out-going Chief, so long as he belongs to the same recognized Royal Family, any member of the Stool family stands the good fortune of being elected. The mere fact of one being in the second or third house places

no bar on one's right to ascend the stool. The same blue blood runs in the veins of any member of the family who can be proved to be a direct descendant in the female line of the known materfamilias. Every member of the Royal Family is, as it were, an heir-presumptive. Character and influence, then, are the determining factors. That stool heir must be fortunate who is unsullied in character, influential withal, and respected by all.

However, if the heir-apparent—the eldest sister's eldest son—i.e. the nearest nephew—is of good age, of good repute or character as well as rich, there are but two things that stand between him and the stool. One is foul play. He must guard against being played out. The other danger is general or physical health and bodily accomplishments. He must be strong in body and have no personal and bodily defects. His weakness and bodily defects are enough grounds to destroy his candidature. In Akim Abuakwa, for instance, a circumcised person cannot ascend any stool, be it a cottage or town stool. The stools are considered sacred, and a stool aspirant who is circumcised has, by his own act, rendered himself ineligible to ascend a sacred Akan stool.

## (2) *Election.*

After the funeral obsequies of a Chief, or the final determination of the deposition of an unwanted Chief, all who must have a voice in the election of the new Chief assemble in the public place at the invitation of the Chief who is Regent *ex-officio*. Thereupon, the sub-Chiefs, Elders and Councillors of the town, together with the Captains of the Asafo companies, call upon the female head, or in her absence, the male head of the Royal Family, to name a person fit for the stool. The members of the Royal Family would then retire into council with a view to consult on the question of the proper person to be selected for the stool. The Head of the Family is, however, the moving spirit of the whole. On the return of the Head of the Royal Family with her people, she names a suitable candidate for the election. If the nominee is acceptable to the sub-Chiefs, Elders, and Councillors assembled, the name is submitted to the meeting, and the general approval of the Asafo or "Werempi" Company (of young men) obtained. If he is not acceptable, the Asafo or "Werempi" Company would signify their disapproval through their respective captains, and their opinion being in consonance with that of the sub-Chiefs, Elders, and Councillors,

the Head of the Royal Family would have to make other suggestions until the proper candidate desired by the people would be nominated and accepted.<sup>1</sup>

The accepted candidate is then taken hold of and beaten, as in a "rag", he is powdered with white clay and carried on the shoulders by the Asafo or Werempi Company from one end of the town to the other, three times, amid an animated outburst of civic and war songs. After this impressive ceremony of public acclamation by the Asafo Company an "Aseda" money would be taken from the elected Chief when he had been made to sit on the election stool. The amount or value of "Aseda" taken on this occasion is calculated on the relative position of the Chief, and not on the Chief's wealth. Drinks are generally offered by the Chief to all the sub-Chiefs and people there and then assembled. Drumming goes on the whole time, and if there are any State paraphernalia they are brought out in the service of the new Chief.

### (3) *Oath of Allegiance.*

But the elected is as yet little more than an ordinary member of the Royal Family. There remains the ceremony of swearing-in, and then the grander and more solemn ceremony of installation. The swearing-in may be done the same, or on the following day. All the minor Chiefs of the new Chief, the sub-Chiefs so-called, hasten to swear in a renewal of their allegiance to the stool, and then the new Chief would swear to them of his unswerving support and assistance to them in the administration of his dominion. The new Chief has also to swear allegiance to the representative of his superior Chief who must be present before any of the above ceremonies are gone through, and the representative would in turn swear on behalf of his over-lord, never to forsake him but to support and uphold him in the service of the country. This swearing to one's superior Chief's representative does not exonerate one from the obligation of swearing allegiance personally

<sup>1</sup> This is a statement of the theory of "the choice of a Stool heir by the Queen-mother". In practice, and as observed in several modern elections, the most important chiefs or councillors of a Stool would meet in a secret conclave of which meeting the queen-mother might be a member, and there agree on the person for election. The nominee being thus agreed upon, the election in a public assembly of all the chiefs and people would result in the appointment of the candidate unanimously chosen. The queen-mother's voice is sought in the nomination because of her natural position as the mother or grandmother (*materfamilias*) of all the Stool heirs.

to the superior Chief. It is the very first thing to be observed on any proper occasion that such new Chief comes into the presence of his superior Chief. We may here state that in former times it was not the custom for a newly elected Opakani or Chief to make his appearance at the capital town until three years after his election and installation, when such principal Chief had to swear the Oath of Allegiance to the Paramount Stool. It is difficult to trace the reason for this custom, but its very impracticability in modern chieftaincy has gradually brought it into disuse. Probably it was to permit the newly elected chief to perform his own *Odwiratuo*, grand triennial festival, at the end of his third year, before coming to see his Paramount Chief.

#### (4) *Installation.*

The next custom is Installation. This is a solemn ceremony done with great privacy, and almost always at night. It may properly be called the ceremony of enstoolment, as being the occasion on which the new chief is ceremonially placed on his ancestral stool. The new Chief would be taken to the Stool-house, accompanied by the sub-Chiefs and Elders and Councillors of his stool, with the select few who are allowed inside the Stool-house. (A Stool-house is strictly closed against strangers and undesirables, and is open only to members of the order of Stool Worship. This means that a Christian or a Mohammedan is not allowed to go there, certainly not a European nor even an educated African in European dress.)

It is much to the credit of Captain R. S. Rattray, Government Anthropologist, Gold Coast, author of that intensely interesting and well-informed book *Ashanti*, that not only has he had the exceptional privilege of being initiated into the well-guarded secrets of Akan-Ashanti religion, but he has actually been suffered to enter a real Stool-house and to be present in the most sacred adytum of a powerful Ashanti dynasty, witnessing and *taking photographs* of the ancient and sacred cult of Stool worship. Like no one else before him, Captain Rattray can truly use that much abused phrase of true pioneers, telling all the world that with five centuries contact between West Africa and Europe, he, Captain Rattray, was the first European to have lived through that experience.)

In the Stool-house certain ceremonies are done. The new Chief is given his final initiation into the highest part of the great Order in the nation—the most solemn Order of the

worship of ancient stools—and the highest honours that any member of the tribe can obtain are there and then poured on him. The impressive and recordable part of the initiation is that of holding the new Chief suspended three times over a black consecrated stool—the oldest and most famous of the collection—and declaring him lord and ruler of his dominions, by the direction and guidance of the spirits of his departed and august ancestors. The ceremony begins and ends with slaughter of sheep. Among other things the Chief who is being installed must observe that it is improper for him to bring his body in contact with the black consecration-stool on which he is thrice suspended, for it is regarded unlucky, and it is said that the unfortunate person who does so, stands the risk of weakening for ever his organs of reproduction. This assumption is based on the belief that the black consecration-stool is a living force, and that its spirit is so strong that actual contact with human beings is sure to produce disastrous results.

After this solemn ceremony the new Chief is worthy enough to regard himself as the most elevated person amongst his peers, and he is now endowed with the right and correlative duty to rule and govern his dominions with the advice and counsel of the members of the Administration.

#### (5) *Difference Between Stools*

Before we proceed further, we shall examine the distinction between a town-stool, a tribal-stool, and a family-stool. There is no tribal-stool as a fact, and there is no town-stool in theory. Family stools are the real things. For to call a stool a town-stool or a tribal-stool is to imply that its ascension should be open to every member of the tribe or of the town. A Family-stool, by means of the influence, prowess and intelligence, or sagacity of its occupants, can become a town-stool, a tribal-stool, a provincial stool, and at last a Paramount or National Stool. Having once attained this high pinnacle of success by gradual social evolution, the Paramount Stool comes to be looked upon as endowed with supernatural powers, and consequently no power on earth should attempt to undo what the gods have brought to perfection. It becomes sacred to the nation or tribe. It becomes an object of worship. The spirit of their history, the soul of their ancestry and tradition come to be enshrouded by and enshrined within it. The same principle applies to town-stools, but the term tribal-stool seems misleading, although we do not hesitate to accept the general

meaning usually attached to it. The truth is, no nation, tribe, or clan as such ever had a proprietary stool. Every stool belongs to a Family certain, but such family-stool may grow to have power of dominion over a clan, tribe, or a whole nation.

### *B. Destoolment*

#### *(1) Causes for Destoolment.*

References have been made above to the existing state of stool affairs and a wish expressed that certain modifications might be made in the existing institutions. Destoolment questions, in the character they usually attain, bear sufficient testimony to the need for reforms on sound customary lines.

Strangely enough, the matter of destoolment is the most important question demanding exhaustive treatment in all its aspects at the present time. But it should be clearly stated at the outset that it is scarcely possible in this treatise to define or collocate the numerous theories which have been recently advanced by people concerned in important judicial cases of destoolment.

Destoolment, for all that, is not a new thing to the Akan peoples. It has been a part of their constitution since the earliest times. There is a case of destoolment in the Ashanti dynasty at Kumase itself. We need go no further for instances.

The question is not whether destoolment is or is not a lawful act; what we are here concerned with is whether destoolment is (1) admissible on any offence; (2) effective if carried out by (a) all or a section of a Chief's Councillors, or (b) by the Stool Family.

To answer the first question demands some consideration as to what is considered offence by our code of morals. A Chief cannot simply be destooled because he is in the habit of getting drunk, but a Chief may be destooled if, when drunk or sober, he insults his Elders, and is in the habit of referring contemptuously to the genealogy or pedigree of his subjects and Elders, some of whom might have arisen from a low degree.

A Chief absenting himself continuously from his public duties and utilizing the time for his own private purposes, is liable to be called to question. Unwarranted disposal of stool property, including land, is another great cause for deposition. A Chief who is in the habit of depriving his subjects of their wives and sweethearts, courts the ire of his subjects and does so at his own risk. A Chief making use of

his subjects with a view to his personal aggrandisement in a way inconsistent with his position, is liable to be called upon for explanation, or otherwise to be given a formal advice to depart from his evil ways.

A Chief defiling his stool is liable to instant destoolment.

Insufficient provision for the members of the Stool family is a count for destoolment.

Personal infirmities which are considered "unholy", such as leprosy, is a cause for destoolment. In cases like this, the Chief may be asked to resign. Such unusual diseases are thought to be inflicted by the gods and departed ancestors as punishment for a private sin the Chief may have committed. If physical infirmities render a Chief incapable of performing his ordinary labours, he would be asked to make way for a stronger person. An old Chief, infirm with blindness and old age, in one of the Jase towns, in Akim Abuakwa, was formally made to resign, the reason being that as a result of his physical infirmities, his administrative capacities had been greatly impaired.

A Chief circumcising is liable to instant destoolment. Our custom looks upon circumcision as an attribute of inferior foreign people. No stool in Akan land (especially the Asona and Oyoko stools) tolerates circumcision. It is strictly tabooed. The anthropological significance of this fact cannot be dealt with here.

If a Chief resigns his position, he cannot succeed in regaining his rank except he is re-elected and properly installed in his old place. Very often, destooled Chiefs are taken back to resume their former positions; the famous Ofori Panin of Akim Abuakwa is said to have ascended the Paramount Stool three times.

A Chief who does not give sufficient support to the Asafo-mma (Company of Young Men) in his town is liable to question, and if his attitude against a properly organized Asafo Company is not shared by his Elders and Councillors, serious results are likely to follow. Excessive fines in Tribunal, and unlawful or frequent exaction of money, are sufficient causes of grievance, which may lead to serious results.

Lastly, a Chief who repeatedly ignores the advice and counsels of his people, especially of his Elders and Councillors, is liable to destoolment, notably when it appears that his disrespect for his people's advice brings nothing but injurious results on the townspeople.

In ancient times it is said that if a Chief could not, owing to cowardice, lead his army to war, he was liable to be deposed.

A Chief may be destooled if in the absence of definite offences, his general policy brings discontent, unrest, and general unhappiness on his people. That is to say, if he is disliked in his general management of affairs by his people. Such cases usually happen when, for instance, a Chief makes it a habit of engaging in expensive litigations resulting in the taxation of his people.

It is also generally assumed that a Chief should save a certain part of the money from his revenue. If in the absence of any concrete national calamity, it is found that instead of saving a substantial part of the revenue, all of it has been squandered in unimportant affairs, i.e. in undertakings which did not or would not benefit the people, he will be questioned, and if the people are not satisfied, destooled.

And it follows that if a Chief embarks upon a novel business or political transaction without the consent of his people, he has only himself to blame for the fatal consequences.

These, it will be seen, are faults which are liable to be committed by a Chief who forgets that he is honoured as a monarch of a political institution more or less democratic in nature, and not, strictly, of an absolute monarchy.

These are few of many acts which are considered offences against the constitution, upon which a Chief's authority and status depend. But instances abundantly prove that a Chief may not be destooled for a single minor offence in many of the forms enumerated above. However, the fact that the gravity of any single offence may be a proper cause for unquestionable destoolment, cannot be too much emphasized. Generally speaking, it has been the custom to indict a Chief on two or three grievous offences, and tag these with a long list of minor ones. Without any great stretch of memory, it can be said with certainty that it is not so much the number as the nature and gravity of offences which count in a case of destoolment.

## (2) *The Power to Destool.*

With regard to the other point whether the act of destooling a Chief is effective if carried out by all or a section of the Council, we have to emphasize this fact, that every hereditary member in the Council represents a section of the community; and as every section of the community has an inherent right to self-determination, it follows that no single section of the town could be properly ignored in a matter of this nature. (The hereditary Councillors in a Chief's Council are all elected by single Family Sections, and these hereditary Elders can

only be deprived of their positions as Councillors by the Family Sections, and not in any way by the Chief under whom they serve as Councillors.) Legally, however, some hereditary Councillors or Elders have more powers in destoolment and enstoolment questions.<sup>1</sup> The *Osomanyawa*, as the next person to the Chief in the community, has great powers in destoolments and enstoolments. The exercise of such powers is, however, subject in one way or the other, to the considered opinion of the Council or of a majority thereof. The fact is that however highly placed a person may be, the constitution of the Akan monarchies is such that no single person standing independent of advice of a council, can legally decide any question, be it minor or great. But the *Osomanyawa*, has in a superficial degree, certain arbitrary power, the existence of which is, however, more apparent than real.

For, if we may take a parallel case, and call the Adontenhene of Kukurantumi the first Chief after the Omanhene of Akim Abuakwa as the "*Osomanyawa*", then we find our statement fully corroborated by the procedure adopted in a recent popular enstoolment. From the report to the Government on the subject of the election of the present Omanhene of Akim Abuakwa we cull the following interesting paragraph :

"On the 27th November, a day after the destoolment of Amoaka Atta III, Adontenhene Kwabena Kana *with* other Ahenfo and Sub-Chiefs, proceeded to Omanhene's House to take inventory of the State properties.

"They found a great many things missing.

"On the 30th November, Adontenhene Kwabena Kana asked the Queen-Mother to *bring* before the Assembly of the Ahenfo and Sub-Chiefs all the blood relatives to the Stool, to afford the opportunity of electing one to occupy the Stool.

"The Adontenhene with the *consent and concurrence* of all the Ahenfo, and sub-chiefs, *laid his hand* on one, Mr. A. E. B. Danquah who was immediately proclaimed Omanhene, 'Ofori Atta' of Eastern Akim<sup>2</sup>, amidst great rejoicing and firing of guns in honour of the occasion."

This report of 5th December, 1912, prepared under the supervision of Mr. H. J. Hobbs, District Commissioner, was signed by the Adontenhene only, and its authenticity has never been questioned. The italicised words taken

<sup>1</sup> Reference may be made to the Chapter on "Division of Functions" for the extent of the power which a Councillor can exercise in accordance with his position.

<sup>2</sup> *i.e.* Akim Abuakwa.

conjointly with the three paragraphs, serve to prove the extent of the authority of "Oso manyawa" supported by his brother Chiefs or Councillors.

(3) *The Asafo young men and Destoolment.*

Another important factor is the Asafo Companies or National Institutes of young men. In recent years, these "companies" have persistently claimed to possess absolute "power to enstool, and chiefly to destool, a Chief". This claim seems in a sense to be supported by facts of history and long-established customary practice. But the truer view is that, although the Asafo Companies may have powers similar to those of any single body of electors, yet such powers are not, and never have been absolute, final or arbitrary. The Asafo Companies cannot act independent of the Head Chiefs or Mpakanfo, although it is true that in matters of this nature the lead is always taken by the Asafo Companies.

Let us suppose that the Amantoo-mmiensa Council is, in some respects, one of these Asafo Companies and suppose they claim on long customary usage, to have a decisive voice in affairs at Kibbi, would it be easy to show that they by themselves can legally and customarily take any serious step in the succession at Kibbi without being opposed by the Okyeman Council? Would they be in a position to execute their plans without the previous sanction and co-operation of the State Council?

If Reindorf's *History of the Gold Coast and Ashante* be any authority, let us examine the following quotation from page 183:—

"Not long after the messengers<sup>1</sup> had gone, Dokuwa<sup>2</sup> was quitting Akim for Ashante, and had reached Abompe, when the Chiefs Okru of Apapam,<sup>3</sup> Obeng Ayekwa of Apedwa,<sup>3</sup> and Kwasi Asimen of Tete,<sup>3</sup> determined to force her back or deprive her of the Akem stool. She was supported by Tanno Asiakwa of the Oyoko tribe, an adherent of the King of Ashante, and the most influential Chief in all Akem.<sup>4</sup> He was at Abompe vanquished in a battle against the three Chiefs and beheaded."

Rev. Carl Reindorf does not tell us whether, owing to

<sup>1</sup> Messengers from Sir Charles MacCarthy.

<sup>2</sup> Late Paramount Queen of Akim Abuakwa of most honoured memory.

<sup>3</sup> The principal Amantoo-mmiensa towns.

<sup>4</sup> Akem is an old spelling of Akim.

their victory over Tanno, Nifahene of Asiakwa, the Amantoommiensa Chiefs succeeded in their extraordinary exploit; but we know for certain that the noble Queen, after this incident, proceeded to Accra in her capacity as Queen of Akim Abuakwa, and that three years afterwards she assumed the chief command over her Army in the war between the Colony and Ashanti (1825-6). We also know as a fact that in the Dodowa (Akantamasu) Battle of 1826 Apedwa and Apapam took prominent parts. In connexion with this there is a legend in Akim Abuakwa that "Apagya" Fori, Chief of Apapam and leader of the Advance Guard in the Adonten, heroically offered his life in voluntary fulfilment of a prediction made by the National Fetish for ensuring the success of Akim arms against the Ashantis. This legend is told unto this day.

What we gather from the above quotation and the remarks following it, is that the attempt made by the Amantoommiensa Chiefs was not made unopposed. By both legal and armed forces it was resisted by the Nifahene of Asiakwa who is, in the State Council, only second in importance to the Adontenhene of Kukurantumi. The mere fact that the Nifahene was defeated and beheaded by the Chiefs of Apapam Apedwa and Tete does not prove that they were justified or unjustified in their cause. What is important to note is that their action was rigidly resisted, as of right, by a member of the Okyeman Council. The Nifahene took this step in defence of his right and prerogative. The Amantoommiensa Chiefs cannot act independent of the Head Chiefs or Mpankfo, although it is true that in matters of this nature the lead is always taken by the Amantoommiensa Council.

It therefore follows that the young men institutes cannot have more power than the Elders and Councillors in any particular town or sub-division; nor can they, for that matter, be ignored with impunity by any of the hereditary or elected members of a Chief's Council. This seems a paradox, and we must find a *via media* out of the chaos.

The Asafo Company in a town, if they are unanimous, have the right to refuse the election of a particular candidate on any specific reasons properly assigned by them. So also have they the right, when they are unanimous, to bring a Chief to question and request his destoolment at the hands of the Chief's own Elders and Councillors. The nearest resemblance between this and an English practice is that of Impeachment. The Commons impeach a political delinquent before the Lords. The Lords decide the issue. In the same

way the Asafo Companies request a Chief's destoolment at the hands of the hereditary Chiefs and Councillors.

Destoolments always involve complicated questions, which sometimes defy solution. Invariably, the actual act of displacement—taking the Chief's sandals off his feet, and withdrawing the stool from under him—is carried out by either the Captain of the Asafo Company or an ordinary member or a *sripi* (lieutenant) of it. The writer has never yet come across a single instance in which this disgraceful and detestable act had been done by a captain-on-stool or other prominent member of the Chief's Council. Besides its being considered an undignified act for an aristocratic sub-Chief to do, it is apparent also that none but the most ungrateful would initiate disgrace on a Chief on whom he had been dependent for many years, and with whom he had had the most intimate intercourse.

As a result of this, proceedings in enquiries into questions of destoolment, have almost always tended to show that it was the young men who had displaced the Chief without the necessary co-operation of the Elders and Councillors.

This is rather fallacious. At the back of every important movement of the Asafo Companies, you cannot but find that the Elders and Councillors are the pillars. These Elders and Councillors are in daily intercourse with the young men, and anything they feel constrained to do themselves by reason of their proximity to the Chief, is inculcated into the minds of the young men. The disease thus spreads. Discontent follows. A first complaint is made. The Elders and Councillors make a feeble resistance to the young men in defence of the Chief, and try as best they can to explain matters away. The second and third complaints for redress of grievances are more often forerunners of threatened destoolment; and the Chief whose people have commenced to be so aggressive in their attitude, must begin to repair wrongs, abandon his evil ways, and serve his people as they wish him to do, or he will in the end be compelled to make way for a better man.

#### (4) *Can the Stool Family itself destool?*

With regard to the question whether members of the Stool Family have a right to destool a Chief, we have only to say that the letter (quoted above) from the Adontenhene to the Government implicitly indicates the extent of the power of the Stool Family or the Head of it. The Stool Family have no visible power in the matter of destoolment. In Akim

Abuakwa any action on the part of the Stool Family which indicates that they are concocting by clandestine or overt acts to have the existing Chief destooled, is punished most severely. The head of the Stool Family has only a formal right to nominate one of the members of the Stool Family for enstoolment, but nothing parallel to this prerogative is conceded to the Head of a Stool Family in the matter of destoolment.

If a theoretical explanation of this anomalous position of the Stool Family be needed I may hazard the opinion that the principle arises from the nature of what may be called "Stoolocracy" (government by Stool)<sup>1</sup> and the proprietary rights over the Stool. As remarked elsewhere a Stool comes into being as the private property of a more or less private family. This family in time rises to the position of rulers of a people—a group of clans or a whole tribe. These people are governed by the Stool, but they are governed with their own consent. The Stool, however, throughout its existence belongs to the Family for or by whom it was founded. Hence the Head of the Stool Family is *de jure* custodian or owner of both the Stool and the Family. Consequently, if the people desire a new member of the Stool Family to rule them they *have* to approach the legal head of the Family to nominate a fit person *to sit on the Stool* and rule them. The Stool does not belong to the people, and when a thing does not belong to you you cannot do what you like with it, but if the one who actually occupies the property thereby acquires rights over you, then, naturally, a corresponding duty arises. (I am inclined to think that this principle would seem to be the same as in succession to the British Throne. For note that although Parliament may change the succession, it is doubtful if, historically, Parliament has actually changed the British succession by giving the Throne to a prince or sovereign who had no family connexion with the long line of British sovereigns. Of course, Parliament can have a non-monarchical democracy to-morrow if they want it, but that is a different matter. The contention here is, that so long as the British Throne remains what it has always been, it would be unconstitutional if the House of Commons, for instance, made a Labour Prime Minister King, thus

<sup>1</sup> "Stoolocracy," so far as I know, is a term that is now for the first time being introduced into the English language, and it behoves me, as its author, to provide a definition. Many of my readers will agree with me on defining the term as the government by right of a tribal or national stool for the benefit of the members of a tribe or nation.

transferring the British Throne from one family to another unrelated family. Everybody knows that Cromwell's twelve years' Commonwealth in English History is regarded as a *tabula rasa* by many historians, whilst William III, the only apparent example of the English Throne passing to a foreigner's family was really a member of the old line of British Sovereigns, being a grandson through the female line of Charles I.) The point to note here with regard to the Akan system is that *none* but members of the Stool Family may sit on the Stool, but he who sits on the Stool rules over all the people, and these people suffer his rule by their own consent (as evidenced by the fact that they can destool him), consequently when the people are dissatisfied with the rule of a Chief they simply destool him. They do not wait on the Queen-Mother and say: "Nana, we asked you for a fit person to rule us; the man, Kofi, given to us by you ten years ago has failed to rule us properly, therefore Queen, take him away and give us another." This would seem a logical way of putting the principle. But the logical is not always the practicable. What the people in effect say to the head of the royal family is this: "Nana, we asked you for a ruler and you gave us one; he has failed to satisfy us and therefore we have declared that we refuse to serve him, he is destooled.<sup>1</sup> The Stool, however, still remains the property of your Family; there are other suitable men in the Family. We pray thee, Queen, give us the best of them and we shall serve him."

It is not in the interests of the Stool Family that the Stool should remain vacant, hence when such a request is made to the Queen-Mother, nomination is made by her for the election and installation to follow. Here it is quite clear that any head of the Stool Family who cares to preserve and conserve the supremacy of the Stool over the subjects of that Stool would not lightly interfere with the continuous rule of any occupant of the Stool, for such a practice can only lead to dissatisfaction among the ruled with the concomitant loss of prestige for the Stool. It is the Queen-Mother's particular concern that the people should always remain governed by her Family Stool, and most often her advice to the reigning Chief to govern well is prompted primarily by the desire to maintain the integrity of the Stool, and, of course, indirectly, the well-being of the governed.

<sup>1</sup> A destooled person remains a competent member of the Stool Family unless otherwise debarred.

(5) *Final Position of an ex-Chief.*

There is yet one point with which we will conclude this chapter, viz., the relative position of a destooled Chief. There are three main degrees of chieftaincy in the Akan institution ; 1st, that of Omanhene or Paramount Chief ; 2nd, Mpankfo, divided into two : (a) Head Chief who is semi-paramount in a sub-division, and (b) Chief who is responsible to the Head-Chief of the sub-division and to the Paramount Chief. Thirdly, the sub-Chief of a town who is responsible to the Chief, to the Head Chief of the sub-division, and to the Paramount Chief.

If a Chief of a third degree is destooled, he retires into private life as an ordinary member of the Stool Family, and if he has many wives one or two will be assigned to him ; he retains his private farms, evacuates the Stool-house, and in most cases he is made to live in a small town within the sub-division ; that is to say, he should not approach the person of the new King or hold communication with him.

A Head Chief, when destooled, is treated as a man of rank and his position henceforward will not be very much below the rank of a sub-Chief. He is made to leave the town for a village, and one or two of his wives and a similar number of servants will wait on him. He will reap the produce of his private farms and can dispose of the farms as well as of his private house situate in the town he is abandoning.

When a Paramount Chief meets the unhappy fate of destoolment he is provided for. He is appointed to live in a town far removed from the capital of the Division ; and he will have three or four of the wives of the harem and a similar number of servants assigned to him. He is prohibited from approaching the person of the new Paramount Chief. Some money allowance will be made for him ; he retains his private properties, and if they are in the town he had left, he has the right to dispose of them.

The reason for an ex-Chief being prevented from approaching the person of the Chief who succeeds him is held to be that the misfortune which had resulted in the former's destoolment might spread out to affect the new Chief and bring similar ill-luck on him. A destooled Chief, however high he may have been, can never hold a Court of his own, but may become a member of a national or sub-divisional Council.

## CHAPTER VI

### FESTIVALS (AFĀHYE)

EVERYONE of the Akan tribes or nations has one or two periodic festivals held for the purpose of celebrating first fruits of the harvest, or in commemoration of some historic event, or as is most commonly the case, it may be an occasion for public worship of the ancient ancestral Stools. The dates of these festivals vary with the variation of purpose for which they were instituted, and they differ also from tribe to tribe. The harvest festival, called *Ahuba* in Fanti-land, and *Ohum* or *Odwira* in Ashanti, Akim, and Akuapem, falls generally in July or August on the first harvest of Yam, a very rich and wholesome vegetable food.

In Akim Abuakwa three principal yearly festivals are observed, and these, in their order of importance, are the *Odwira*, connected mainly with Stool and ancestor worship, the *Ohum-Kan* (first Ohum) and *Ohum-Kyrie* (second Ohum), the two important harvest festivals. Besides these, there are two other festivals, the *Wukudae* and the *Kwasidae* held on every fortieth day Wednesday<sup>1</sup> (*Wukuda*), and fortieth day Sunday (*Kwasida*). Festivals falling on the fortieth day Monday (*Fodjuor*), the fortieth day Tuesday (*Kwabena*), and the fortieth day Friday (*Fofie*), are celebrated in different Akan States, the choice of day in each case depending on the particular day of the week held sacred to a tribe or nation. Generalizations with regard to the character of festivals are therefore not a safe guide since the only particular in which the festivals have a common feature is that a day might be held sacred to a tribe because of some propitious event that happened on that day to the ruling family in the tribe or clan. The particular performances held on the day will vary with the object for which it was created. In Akim Abuakwa, Wednesday is the most sacred day, and Sunday seems generally considered

<sup>1</sup> The phrase "fortieth day Wednesday" means the Wednesday after every forty days ("six" weeks), and there are nine such Wednesdays in the year.

a sacred day by most of the Akan tribes. These two days of the week are set apart in Akim for the fortieth day celebration, and every Wednesday is a day of worship and of rest. Tribunals do not sit on any Wednesday.

(1) *Ohum-Kan*

The Ohum-Kan or first Ohum falls due on the next Wednesday following the 5th Kwasidae (the 5th fortieth day Sunday, counting from Odwira). Eight days before this Wednesday, the Ohene of Tafo commences the initial celebrations in the River Birrim, the sacred river, at Bunso, and subsequently at Tafo. This ceremony at Bunso is connected with a tradition which shows that the ancestors of the Akims inhabiting the Birrim Valley came from, or emerged out of, the *Bun* (deep pool) at this part of the sacred river Birrim, but the festival of Ohum, besides marking the anniversary of the birth of the Akim nation is also utilized for celebrating the blessings of departed ancestors on the harvest of the year.

If on the occasion of the ceremony at Bunso a favourable sign<sup>1</sup> is received by the Ohene of Tafo, preparations for the Ohum festival will begin in earnest, and on the following Tuesday the celebrations commence. On the other hand if the augury received be unfavourable, the festival has to be postponed till the receipt of a favourable sign indicating the pleasure of the ancestral spirits that their people should safely enjoy the first fruits of the delicious Yam. For, be it noted, until the actual performance of the Ohum festival, no self-respecting person in the State could appease his hunger for the new Yam by breaking the customary law prohibiting the enjoyment of food unhallowed by the blessing of the spirits.

As soon as the order removing the taboo on the new Yam is received the initial performances of the festival are observed in the towns or villages lying on the banks of the sacred river. The customary usages observed on this occasion are such as to encourage the people to seek spiritual communion with their gods or ancestral spirits. In particular, on this notable Tuesday, no one is permitted to travel over a distance of three miles; no strenuous occupations are

<sup>1</sup> A "favourable sign" is obtained if the Ohumtufo succeeds in pulling the petiole of the young shoots or sheathing leaf (*mmrekesono*) from the top of the palm-tree. Otherwise, the time is not ripe for harvesting, and the ceremony will be postponed for forty days.

engaged in, but every good wife should go into her new farm and bring home with her the first harvest of the year. Tributary rivers to the Birrim are visited and religious rites performed on their banks. At Kibbi, the capital of Akim Abuakwa, early on Tuesday morning, the Omanhene and his Chiefs and Elders visit the sacred river, and, in anticipation of the procession to take place the next day, the roads to particular rivers are cleared of weeds and fallen trees. The Mausoleum and the Stool House are also visited for the necessary preliminary libations.

The ideal on this Tuesday is to maintain a quiet, humble and calm attitude with regard to oneself and toward one's neighbours. No noise of any kind should be made. No music of any sort, not even drumming, is permitted. "Fu-fu," the usual meal of pounded coco-yam, plaintain or yams, is not allowed to be prepared, chiefly because of the noise involved in its preparation and also because this is observed as the national day of fast. Nor is any drinking permitted, and he who makes any noise on the streets or even in his own house may become liable to prosecution after the festival, or the unfortunate breaker of silence may be left at the mercy of the gods. For on this day the spirits of the ancestral kings and chiefs are supposed to visit the people and the Stools, and it were sacrilege to welcome them with anything but submissive reverence, calmness and humility. All then is quiet on Tuesday, and a dead calm is maintained until sun-down. But just about 7 p.m. when day is no more, the dolorous boom of the Atumpan drums dispels the silent enchantment with their heart-stirring sonorous music. The town is astir for a short while, but the drummer presently reminds the people of their duty to the gods and spirits; drumming soon ceases and the town relapses into a dead calm for the night. Wednesday is a day of feast and the Queen-Mother prepares a quantity of food made of the new fruits of the harvest for the Omanhene to distribute the new food among high and low, rich and poor, young and old. Drumming which had commenced early that morning goes on for a considerable part of the day, and the festal orgies of Wednesday are enjoyed by all the community in the true carnival spirit.

At dusk, the Omanhene goes out in state to receive his Chiefs and other notables in his capital. Every person who comes to greet the Omanhene on this festive and ceremonious day brings with him a piece of firewood as a present to the Omanhene for maintenance of the national fire

kept in the Jase section of the palace. In recognition of this yearly offering of firewood, the Omanhene usually makes public money and other presents to every section of his assembled people, and valuable presents are usually given to individual visitors, strangers or foreigners, who must be there to greet the sovereign with the customary present of firewood.

Immediately after this ceremony, the Omanhene sits again to witness the annual dance of the "Ohum-tufo"—boys between the ages of 8 and 12, sons and grandsons of Chiefs and other notables who have gone to the sacred river that morning and received full initiation into the Ohum ceremonies. Directly on their return from the sacred river, and still attired in their initiation dresses and decorations, the Omanhene gives these youngsters a fitting audience to the accompaniment of the state drums, and, at the conclusion of the ceremony, presents of shea-butter, money, clothing, etc., are made to each individual young dancer.

Special Stool ceremonies are performed in the Stool House, a sacrifice of sheep is made, and those of the order of Stool Worship receive duesanctification in the blood of the sacrificial lamb, the forehead of each of them being sealed with three vertical strokes made with the central fingers of the right hand dipped in the blood of the sacrifice. It is the privilege of the *Ahennua* (Chief of Stool Carriers) to make these finger marks on the forehead of the Omanhene.

From the foregoing it may be noticed that the Ohum celebration is not merely a festival of the harvest, but also an occasion for worship of the ancestral Stools and the spirits of those who formerly occupied them. Ceremonies are performed at all likely places, the rivers, the sacred groves, the highways and byeways where some historic or traditional association with particular ancestral spirits can be traced or related.<sup>1</sup>

The first Ohum festival falls due in July or early August each year, and among the Gã-Adangwe people, the *Homowo* or "hooting of hunger" falls in July or August on the first harvest of corn, the principal food crop of the Gã people.

## (2) *Ohum-Kyire* \*

The Ohum-Kyire or second Ohum falls due on the 80th day (2nd Wukudae) after the Ohum-Kan. All the ceremonies

<sup>1</sup> It is also the occasion for replenishing the stock of fuel for the national fire which is kept aflame perpetually in the fire temple (*Jase*) under the *Jasefo* (board of flamens) with the Jasehene (chief of the place of fire) at their head.

and observances are as in the first Ohum, except that in the second there is no public presentation of firewood. On this occasion the silver stool is used instead of the Akim golden stool, the latter being reserved for use only on Ohumkan, Odwira, and other important occasions.

### (3) *Odwira* (Purification).

The second and most entertaining festival, noted for its magnificence and great display of finery is the *Odwira* or purification festival. It is held once a year and the ceremonies usually cover a period of one week or more.

It seems to be held by some writers<sup>1</sup> and other students of Gold Coast customs that the *Odwira* is a harvest festival, but a consideration of a few of its chief characteristics will show that although the *Odwira* might be correctly described as a thanksgiving festival, it is really an occasion for public annual worship of the great tutelary gods of the nation, the sanctification of the Stools and of their holders, and the purification (*καθαρμοί*) of the people from their transgressions of the passing year. The festival falls generally in December or January when the season for reaping the new harvest had passed, and when in fact it was time to commence fresh cultivation.

The word "*Odwira*" is defined by Christaller in his "*Two-English Dictionary*" as "the Yam Custom", and in this one may be over-hasty in ascribing inaccuracy to him. In many Akan States the "*Odwira*" festival is usually celebrated between July and September, during the season of harvest, and it would seem that the meaning given by Christaller may have been suggested by that fact. However, in Akim Abuakwa, as in Akuapem—a daughter nation of Akim Abuakwa—the real Yam Custom is the Ohum, and its celebration in July or August synchronises with the "*Homowo*" of Accra, the "*Aherekwasi*" of Akwamu, and the "*great*" and "*small*" (first and second) "*Ahuba*" of Fanti.

The verb "*dwira*", according to Christaller, means "to cleanse from guilt or moral and religious uncleanness; to sanctify, to consecrate", and the root of the word *guare*, or *dware* to wash oneself or to bathe is the same as *dwira*, to cause to wash. It is thus clear that the significance of

<sup>1</sup> With the significant exception of Captain R. S. Rattray; see his *Religion and Art in Ashanti*, the chapter on *Odwira*. This book (published early in 1927), reached me at a time when the MS. of *Akan Laws and Customs* was ready for the press, and I regret that I am not in a position to refer fully to Rattray's valuable work.

the Odwira festival is not to be sought for in a conception of thanksgiving or festal celebration, but in an idea of purification or consecration. It is a religious and not, strictly, a harvest festival, while the Ohum festival is characteristically carnival.

The Odwira, again, is the only festival religiously observed, generally and in common, by all the people in the state under the supreme direction of the national sovereign. There is undoubtedly a national "Fetish" or "God" in Akim Abuakwa, but the writer's investigations have not disclosed the existence and observance of a national or public general festival in honour of the Fetish or God. The festival of the "God" Anokye is practically regarded as the festival of the Fetish Priest, whereas the Odwira festival is national in spirit and intention. This may be due to the fact that among the Akan peoples, and unlike the Gã-Adangwes, supreme authority rests not with the Fetish or its Priest, but with the Ohene or King, as being the possessor and occupant of the Sacred Stool in which the soul of the people is enshrined. Hence the importance of the Odwira festival as the occasion for purifying and sanctifying the soul of the whole of the people. Those who have taken any trouble to study the religion of the Akan people are gradually coming to recognize this fact, that the real central and living religion of the Akans is not the worship of Fetishes or nature gods, but rather a religion which in all essential respects displays the genius of the people's spiritual interpretation of life in a highly developed system of ancestor-worship. It may be the privilege of the author in a future work to show that far from the Akans being idolators, the Fetish worship or idolatory found among them to-day is as foreign to their religious outlook as certain aspects of Christian dogma could have been to the ancient Egyptian.

In general, we may say that the Odwira festival is the occasion on which Chiefs and people sanctify themselves, the Stools of their ancestors and the abodes of the spirits of their greater gods. It is the occasion in which ancestor-worship is employed as a religious means of purifying the souls of the people and bringing them in closer communion with their ancestry, their history and tradition, and their spiritual connexion with beings higher than themselves.

The Odwira festival is "national" in the further sense that the whole people, all the tribes and clans in the state, have to take part in the celebrations. In this sense the Ohum festivals are not national. There are several towns

in the state, the inhabitants of which have nothing to do with the various ceremonials of the Ohum. They observe the days as notable in the national calendar, but they take no part in the performance of customary or formal Ohum celebrations. This is principally so with those towns and villages having no direct connexion with the sacred river Birrim, and through whose territories the river does not drain.

Being thus national, the Odwira festival must be attended by every Chief or sub-Chief, and even all able bodied men and women in the state are expected to attend the *Odwira-tuo* festival in the capital town of the division. All the people come with a common object in view, viz., to honour the great national and royal Stools and to witness and partake in the sanctification and purification of their king who is the living representative of that with which their soul, as a nation and a people, is eternally enshrined.

If the festival in any year happens to be the "Odwira-tuo", i.e., the grand triennial Odwira, the Chiefs and their people should be in Kibbi and suburbs on or before the Friday preceding the Odwira Sunday. If it is an ordinary yearly Odwira, the Chiefs and people usually arrive on the Saturday preceding it. Odwira falls on Sunday, Ohum on Wednesday.

The principal articles used in the Odwira sanctification ceremonies are (1) the special variety of Yam called "Ode", from which name the Stool heirs or members of reigning families derive their title "Ode-hye", meaning "Famous or illustrious as Ode"; (2) clear brook water as in all purification ceremonies; (3) sands from a brook; (4) a consecrated leaf called *somme*, and (5) the blood of the sacrificed sheep.

#### (4) *Odwira Celebration.*

This day falls due on the second Kwasidae following the celebration of the Ohumkyire. But as it is not a fixed festival it may be postponed to the following or even the second following Kwasidae.

On the Saturday preceding the Odwira Sunday, called Dapada, a formal Reception will take place on the small dais in the Public Square near the Palace. The Omanhene will receive all the provincial Chiefs, welcome them and entertain them with refreshments. This is also the day on which the Sanahene, *q.v.* (the State Treasurer) will commence the initial celebrations by parading the streets during the morning in full State dress, and with the State drums.

On the following morning, which is an Akwasidae and the

Odwira day itself, drumming, in its highest excellence and perfection, is the order of the day. The Queen-Mother will play the Adewa before the Omanhene, and the interesting part of the Adewa dance is that any notable present is required to go into the arena and dance to the Adewa drums as soon as his or her name or position is played on the drums with song accompaniment.

Next follow various specific dances, among which may be mentioned the Totusie and Abofosie (Hunters' and executioners' dances) and a few others of more or less complexity and significance.

During the course of the day the Amantoo-mmiensa Asafo (Council of three Counties) have been playing on their long shrill-toned drums, and as soon as the Omanhene is disengaged from the earlier dances and ceremonies, he goes out with a few followers to take his place in the Amantoo-mmiensa Asafo. Here a quaint old custom must be observed. The Omanhene sings with them and perambulates the streets of Kibbi with them, not in a palanquin, but on foot as one of the Asafo, and finally one of the three long Asafo drums, the "Asafo-pranpran", is handed over to him to play. After this, the Asafo companies follow the Omanhene to his Palace where they are served with refreshments.

This ceremony over, there follows a very pompous and magnificent spectacle. The Omanhene has now to appear in state, passing through the main streets of Kibbi. It will be noticed that in all the ceremonies the central figure is the Omanhene. Everything is done to his honour and glory. It is a feast to behold the great display of gold, gold cloths, gold-gilted insignia and paraphernalia, State umbrellas and quaint ancient drums. The Omanhene goes out in full State dress. He holds the Ohum gun on the left shoulder, and the Bosomtwe sceptre in the right hand. He rides in the velvet and silk-covered palanquin, and there is the golden flint in his mouth; on his head is the magnificent crown of gold with its fluttering gold feathers, and on his feet the golden sandals. The scene presents an effective contrast of gold, silver and silk, with a glorious background of tropical sunshine. All is blue and bright above—the sun is in full strength; the multitude is great; the boom of the drums is deafening; the spectacle is stupefying!

But this, as we have said, is only the outward manifestation of the spirit and life of the Festival. The real ceremonies take place in the Stool-House, where none but the select few are to enter. With regard to these ceremonies it will suffice

to say that the principal event in the Stool-House is to sanctify and consecrate the Omanhene. With due permission, we give the exact words pronounced upon the sacred person of the Omanhene when being sanctified and consecrated. The ceremony of sanctification is done by the Abontendomhene, who is grand-master of the order and Chief custodian of the Stools.

Dipping the sacred Somme<sup>1</sup> leaves three times in the consecrated brook water, and applying them on the person of the Omanhene in a striking ceremonious manner, he repeats the formula :—

*“ Me bɔ wo asuo,<sup>2</sup> me bɔ wo asuo !  
Efi bi aka woa mebɔ wo asu !  
Mesɛ nkwa ma wo ;  
Mesɛ siadeɔ ma wo ;  
Mesɛ abawoɔ ma wo ;  
Mesɛ amanno ma wo ;  
Nyin bɔ akora posoposo.  
Mebɔ woasuo ! meɔ woasuo !*

which in English would mean :—

*“ I sanctify thee, I sanctify thee !  
I sanctify thee of all stains !  
May you live long !  
May you have good fortune !  
May you have children ;  
May your reign be peaceful ;  
May you have a long, long life.  
I sanctify thee ; I sanctify thee.”*

After the Omanhene's sanctification or purification, follow the remaining Stool ceremonies. The next person to offer sheep after the Omanhene's sacrifice, is the Omanhene of Akuapem, whose representative must be present every year to offer sheep to the great Ofori Stool from which the former's Stool is descended.<sup>3</sup> Next comes the Adontenhene of Akim Abuakwa's sacrifice of sheep, and then follow all the Chiefs in due order of seniority.

It is interesting to note, that none—not even the Omanhene—should enter the Stool-House on his sandals. Prior to the opening of the Stool-House for the purpose of the ceremonies, the Amantoo-mmiensa Chiefs will block the

<sup>1</sup> Christaller defines “Asomme” in his Dictionary as “a plant, an emblem of purification and peace”.

<sup>2</sup> *Bɔ asu* means literally, to purify with water = to baptize.

<sup>3</sup> At the celebration of the Odwira of the Omanhene of Akuapem the Omanhene of Akim Abuakwa also sends a representative. Whether it be a State funeral or a State festival the two kings must always be represented at each other's court.

entrance and demand a sheep, and the Omanhene cannot enter the Stool-House until he has given them a sheep. This is, perhaps, to show that the Amantoo-mmienasa are *Ofori nsrafo* (Ofori's soldiers) i.e., the personal guards of Ofori's Stool. They are admittedly the *werempefo*, or "Stool Remembrancers".

On Monday follows another grand manifestation of the importance of this Festival. Monday is a festive day, and a great assembly, surpassing the Sunday celebration in splendour will be held on the square dais in the Public Square. Here, every Chief excels in dress and other finery, and a great display of wealth and magnificence is the order of the day. The ceremony on Monday is called "Sa-gua", Drink Durbar. The meeting is not, for that matter, Bacchanalian. It is a formal sort of thing, sober and strict in its orderliness.

The Omanhene sits on the Akim Golden Stool, placed on a lion-skin. The wealth of the country is displayed to the greatest advantage on this day; everybody is in his or her best. The Chiefs and people are now served with palm wine and other drinks from the Royal jugs and decanters. Meanwhile, the drums and horns are untiring in their melodious, deafening tones, and the deep boom of the Fontomfrom is heard miles and miles away. The meeting comes to an end after the Chiefs to whom drinks had been served make the customary obeisance before the Omanhene, thanking him for the banquet of wine.

The following four days, except Friday, are days of rest, but on each of these days libations are made in the Stool-House.

Friday is reserved for the celebration of Abam, the Akan deity of the twin-born. The Queen-Mother is mistress of this ceremony, and her principal dance, Adewa, will have to be played, the Omanhene having also to honour her quarter in the palace with his personal presence. The Nifahene of Asiakwa, who is the most honoured Progenitor of the Royal Twins,<sup>1</sup> is one of the chief actors in the Abam ceremonies. All parents of twins, and all children born as twins, will attend the celebration, and be dressed in white during the week of the Abam festival.

On this Friday the Shrine of Abam is carried on the Queen-Mother's sedan-chair to the Sacred River for its due sanctifica-

<sup>1</sup> A previous Nifahene of Asiakwa married into the Akim Royal house, gave birth to twin sons, both of whom ascended the Paramount Stool of Akim Abuakwa, hence the ceremonies and the significance of those who perform them.

tion. Some of the Omanhene's State insignia and drums accompany the procession till the end of the town, but they are not to be taken to the Sacred River. The Omanhene himself, being the sovereign of the Order of Abam, has to be present at the sanctification ceremonies.

The Stool ceremonies are brought to a finish on Sunday ; the Omanhene having now passed through the natural purification period of seven days, he is held fully sanctified and purified, and in testimony of this the Omanhene's forehead is sealed in the blood of the consecrated sheep sacrificed to the Stools. This solemn act concludes the celebration of Odwira in so far as the Omanhene is concerned.

During the following week, the Chiefs resident at Kibbi commence their festivals in turn, and the *Queen-Mother's Festival* falls due on the Sunday on which the Odwira is concluded.

The Omanhene is to be present at the Queen-Mother's celebration both in the house and in her Stool-House, and he has to accompany her in her parade on the streets of Kibbi. The State drums will also be placed at her disposal. The Omanhene of Akuapem's representative must, of course, attend the Queen-Mother's celebration as well, and he is the next to offer libation to the Queen-Mother's Stool, after the Omanhene.

The Festivals of the sub-Chiefs at Kibbi—the Jasehene's, the Ankobeahene's, the Abontendomhene's, and the Kyidomhene's—are celebrated on similar lines :—(1) Service in the sub-Chief's own Stool-House and (2) Parade on the streets of Kibbi. These are not attended by the Omanhene, but he sends a representative with drink for the libations.

(5) *Odwira-Tuo* (*Grand Odwira*).

As we have seen " Odwira " means sanctification. *Odwira-Tuo* would then be festive and ceremonial sanctification (*Odwira*) rendered grander by the *firing of guns* (*Tuo*). This is held triennially. The first *Odwiratuo*, called " ahoyie ", first manifestation or debut, is held at the end of the first three years of a new Omanhene's reign. That must be, and is, in fact, grander than the ordinary yearly or triennial celebrations.

On this occasion, as the Sannahene commences the preliminary celebrations on Friday, the provincial Chiefs, sub-Chiefs and their people are to be in Kibbi on Friday evening. The reception on Saturday is more orderly and impressive than the *Odwira Reception*, since all the Chiefs had been

in the town the previous evening and had had to prepare for it.

On Sunday, before proceeding with any of the initial ceremonies of the celebration, the new debutant must test the fidelity and loyalty of his Chiefs and people. This is the day to swear the great Oath of Allegiance and Fealty.

The ceremonies commence in the morning. The Adontenhene, the first Chief after the Omanhene, steps in to swear the oath. He comes in his Palanquin, with his hosts before and after him. The Omanhene is seated on the round dais at Manyinase. The Adontenhene descends from his palanquin about 100 yards off, and coming in all his glory, power and dignity, he bends low, he unsandals his feet, uncovers his shoulders, doffs his coronet, and then, in the greatest state of humility, he puts the handle of his sceptre under the feet of the Omanhene. Here is the greatest testimony of true Paramountcy. The Omanhene according to custom has to step three times on the forehead and on the sceptre of the kneeling Chief with his sandalled foot, and the Chief will then get up and pronounce the formula of allegiance. Imagine the elaborate ceremony, picture for yourself the scene and its setting. Here in swearing with the sword raised in the front of the Omanhene the Chief does not point the narrow end, but rather the hilt or handle, of his Royal sceptre, towards the Omanhene. That is to say the right to hold and own the sceptre originates from the Paramount Stool.

And this is how he swears. After declaring his unswerving loyalty, submission, and allegiance, in terms of the greatest respect, he concludes by repeating the formula :—

*“ Me ka Ntankeseḡ-mmiensa ḡ babiara a Okyenhene besoma me, ḡ manko a, metō. ḡ ofre me awia anasḡ anadwo na miyi mani mihinta a (misuae a miyi oyareḡ) Metō-,”*

meaning :—

“ I swear by the three great oaths, if I ever fail to go to any place the Okyenhene<sup>1</sup> shall send me, I violate the oaths. By day or by night, whenever I am summoned should I ever refuse to attend (literally, if I hide my face) I violate the oaths.”

(Of course, exception is made to sickness, and the Allegiant makes a point of that). At the conclusion, the Sovereign-lord thanks the Adontenhene, and then the next Chief in importance steps in the arena to swear. And so on with all the principal Chiefs. The sub-Chiefs (*Adikrofo*) need not

<sup>1</sup> Omanhene of *Akyem* Abuakwa (*Akyem-hene*).

take any oath ; their head Chiefs and Chiefs do it on behalf of themselves and for all of them. The Queen-Mother like any other Chief will swear the oath of Allegiance and Fealty.

After this the Ahenfo and all their people, all in their proper places with their respective retainers, file out, and by rapid succession of gun-fire and their clamorous excitement, display a living indication of their loyalty and attachment to their King and country.

Subsequently, there will be a short interval of rest ; the Omanhene withdraws from the heat, and dismisses the assembly, but the populace returns soon to witness the most impressive sight of all—the Omanhene taking his oath of office. First, every wing of the Army will be supplied with so many kegs of gunpowder to be fired when the Omanhene proceeds to and from the Sacred River.

A striking phenomenon precedes the taking of oath of office. All the Royal Stools wrapped in *Nsa* (Antique) cloths and carried under gorgeous State umbrellas, are, for the first occasion in a lifetime, taken to the Sacred River, for due consecration. The Omanhene appears in his palanquin and in full state. His dress is the same as on Odwira, except that on this occasion he wears the war accoutrement and the Awoso and Fodoo, hitherto borne in processions by the " Awoso Bearer ". (q.v.).

On the Omanhene's return from the Sacred River Birrim he resumes the stately procession, and the scene is now well set for the Sovereign to swear his oath of office. Firing of guns is revived in full force and drumming competes with the booming of gun-fire for mastery of the occasion. After parading the streets and passing up and down the assembly of his Chiefs, in his palanquin, the Omanhene at last descends from his *apakan* and the next thing is to swear the oath to his Chiefs. Here it is interesting to note, that he has first to approach each one of his principal Chiefs and swear personally to him, but whereas a principal Chief swears with the reverse end of the sceptre the Omanhene holds his sceptre by the handle and he speaks with his sandals fully on, and his shoulders duly covered. After going the round of his principal Chiefs the Omanhene may then address the whole assembly before he fires the long expected gun-shot which serves as a seal to the act of swearing. Then, and not till then, a person ignorant of what sovereignty or monarchy means in our State system needs no other testimony. The enthusiasm of the people, the unrestrained excitement at the thought of the Omanhene firing a gun to seal their connexion with his sovereignty, and their eagerness to catch a

glimpse of their hero, their king, their god—these are moments that fill the next space of time with a medley of rejoicing, commotion, and rapturous expressions of unsophisticated loyalty. The whole spectacle has its perfection in the super-grand style in which the Omanhene—the Paramount Chief—the King, if you wish, fires the gun of sovereignty. Standing on his Dais in the presence of the greatest assemblage of his Chiefs and people, he addresses all the thirteen Chiefs and the Queen-Mother by name, and then sceptre in hand, the golden hilt firmly grasped in his right hand, and the narrow end pointed towards them, he speaks to his Chiefs and people—all the multitude standing. How calm is the moment; how effective his earnest and gentle majestic voice holds the great assembly in a hundred seconds of suspense. But at last he repeats a special formula and then, “boom . . . !” he fires the long, long expected shot. This finale is met with plauditory drumming, *feu de joie*, and the greatest acclamation conceivable. He is acclaimed by all as their lord, and king, now and for ever!

The ceremonies of the day are concluded by service in the Stool-House.

Monday celebrations on the Odwiratuo are the same as on the ordinary Odwira, i.e., the Drink or Dress Durbar is held, the Omanhene sitting on the golden stool and on the square dais.

On Tuesday there will be another ceremony by the Omanhene and his Chiefs. This time they do not meet to drink, or to shoot guns, or to swear big oaths. They meet to receive presents from the Omanhene. The thirteen Chiefs and the Queen-Mother are each given a velvet, silk or other valuable cloth; and each of the remaining sub-Chiefs (Adikrofo)—over 106 in all—are given a valuable cloth, now generally Manchester prints. These presents of cloths are treasured not so much for their monetary worth as for the great sentimental value attached to a present from the Omanhene on the occasion he swore the oath of office. Every Chief will take great care to see that the cloth is carefully preserved, for, on his death, it is of paramount importance that his body be covered with the Omanhene's present. It has to be taken to, and shown to the people (Kings, Chiefs and people) in Asaman (Hades) as a mark or evidence to them of his importance on this earth.

On the Odwiratuo the Abam celebration will be held and there will be a gun-shot by the side of the Sacred River during its consecration.

On the following Sunday, the Queen-Mother's celebration is the same as her celebration on Odwira, to be accompanied this time with firing of guns.

During this season, every Chief or sub-Chief who celebrates his yearly Festival, makes it grander than usual, and there must be firing of guns with the additional display of finery and distribution of presents to his sub-Chiefs and people.

On the Sunday following the first Kwasiadae after the Odwiratuo, comes the *celebration of "Bosomtwe"*, and on this occasion all the Bosomtwe Nkrafo (see "Division of Functions") will be in seclusion for a week. The Sannahene, the Odikro, of Adadientam and the Nkrafo are masters and servants of this most sacred and dignified order of Soul Worship and the Omanhene is Sovereign of the Order.

The principal features of this sanctification are almost the same as the Stool-house celebration except that here the gold breast plates (*Ekyere*) worn by the members of the Order, and also the sceptre "*Bosomtwe*" are placed together for consecration in place of stools. Another principal feature is the Royal Bath in the Sacred River. None but members of the Order may attend the Omanhene, and all of these have to enter the water after the Omanhene's bath, to purify and consecrate themselves.

The *Bosomptra Celebration* follows on the Wednesday falling after the last Sunday, and on this day instead of white cloth, black cloth will be used by members of the Order of Bosomptra. The details of the ceremonies, consecration, sanctification, and bathing, are the same as the Bosomtwe Soul ceremonies.

The Odwiratuo is celebrated every three years unless there is something to prevent the country embarking on a custom involving gaiety and splendour, when it will be postponed to another year, but the ordinary Odwira must be performed every year. In subsequent Odwiratuo after the first public manifestation, the Omanhene has not to take any oath of office, but any new Chief who had not taken his Public Oath of Allegiance must do so on any subsequent Odwira or Odwiratuo.

(6) *Banmukoro (Celebration in the Mausoleum).*

When the Stool celebrations are over, there remains another important ceremony. This is the ceremony of *inferiæ* in the Royal Mausoleum. It is a fixed day which falls due on the Thursday following the first Awakudae after the Odwira Day. This ceremony on the vaults of departed

kings and members of the Royal Family is held on a Thursday because that particular day is considered propitious for things produced by or consecrated to the earth. As Captain Rattray has shown, the God or Goddess of the earth is called "Asase Ya", or Goddess Earth, born on a Thursday.

On the preceding Tuesday the Odikro and people of Nkronso who are the keepers of the Royal Mausoleum, arrive at Kibbi with necessary materials to repair the wall or fence around the Mausoleum and generally to clean the place for the approaching ceremony. They finish their work on Wednesday.

Drumming of condolence and sympathy goes on all Wednesday, and during that night the Ntumpun Drummer must keep his post until daybreak.

On Thursday, just after noon, the Royal procession sets forth towards the Mausoleum. On his approach to the fence of the sacred enclosure, the Omanhene, who is dressed in a stuff of red and white mixture, descends from the palanquin, and in a state of the greatest humility, passes through the gate with unsandalled feet, uncovered shoulders, and bare head. But before the Omanhene and his retinue gain entrance, the overseer of the royal sepulchres (Adadentam) and the keeper of the Mausoleum (Nkronso) will be present, the latter receiving Asia and 2 pieces of cloth. All the drums and other paraphernalia are left outside the fence and none but the very select gain admittance to this super-sacred grove—this holy of holies. This grove is not entered on sandals.

The sheep for the inferiæ at Mausoleum have to be taken there alive; they are slaughtered there, their blood sprinkled on the sepulchres by way of libation, and the cooking of the meat is also done in the Mausoleum.

Banmu custom terminates the celebrated Odwira Festival, which takes more than two months to go through all its stages.

(7) *Wukudae (Wednesday Celebration).*

We now come to consider the other five festive days, two of which—the Awukudae and Kwasidae—are of importance.

The third Monday following Kwasidae (Sunday celebration) is called Dwoada Fodjuor. This day is used to reckon days in Akim Abuakwa, and there are no celebrations observed. Fodjuor is held a sacred and festive day to some other Akan nations. The second Wednesday following Fodjuor is Awukudae or Wednesday celebration. It falls

nine times during the year, being held on every fortieth day being a Wednesday.

On the Tuesday preceding it, there will be drumming to announce the approach of the day, and the drumming has to be resumed on Wednesday morning. This drumming on Aday morning is what is called "*Wo tu adae*". (Announcing the day's celebration). The Fontomfrom drums are not used. The Atumpan Drummer and the Drummers of the Single-air drums, and the Horners are those who observe this initial ceremony. There are set pieces of music to be played on this occasion, and we reproduce one of these interesting pieces:—

*" Wufri Kotoko,<sup>1</sup>*  
*Wie Kotoko,*  
*Wufri Kyebi.*  
*Bakwante Brempon ba Brempon ;<sup>2</sup>*  
*Sekyere Bonti Brempon ba Brempon ;*  
*Kokuroko :*  
*Ma wo homere so ! "*

which may mean in English:—

*" Thou who cometh from Kotoko,*  
*Thou who art traced to Kotoko ;*  
*Thou lord of Kyebi.*  
*Kingly son of Bakwante the king ;*  
*Kingly son of Sekyere Bonti the king :*  
*Oh, mighty one,*  
*Up-lift thyself ! " <sup>3</sup>*

When the Atumpan sound the last words, all the drummers and horners reply in a chorus. This is done three times, after which, in the forenoon, ceremonies are carried on in the Stool-House.

<sup>1</sup> Kotoko is a general term applicable to all the Akan tribes, and it is just probable that it was the original name borne by the Akan-Fanti-tribes before the disintegration. Asante is unto this day called Asantii Kotoko.

<sup>2</sup> *Brempon* originally meant "great man": *Banin* ("man"), *pon* ("great"), hence prince, duke, king. In these days an "Obrempon" is a foppish sort of self-made Chief, holding no position in our constitution, but respected for his wealth and influence.

<sup>3</sup> Literally the quotation means:—

You come from Kotoko,  
(You) Finish at Kotoko,  
You come from Kyebi ;  
Bakwante the great King's  
Son great King ;  
Sekyere Bonti the great  
King's son great King ;  
Mighty  
Lift up your true self.

As already pointed out, besides the observance of the fortieth day Wednesday, all ordinary Wednesdays are held sacred to the nation; no one should work or travel. The great national oath names Wukuda (Wednesday) and Kwanyako (name of a town) trace the occasion of their origin to this day.

Fofie falls on the second Friday following Awukudae. There are no Stool celebrations, but the day is kept sacred and no regular occupation is followed.

The Tuesday following this Friday is Kwabena, and the customary obsequies on this day are the same as on Fofie.

(8) *Kwasidae (Sunday Celebration).*

The Sunday following this Tuesday is Kwasidae (Sunday celebration). Ceremonies on this day are more elaborate than the Wednesday ceremonies. There will be the usual Drumming announcement on Saturday evening at sun-down. This Saturday is called Dapaa. On Sunday there will be the same Drumming as on Wukudae morning. (*Tu adae*).

In addition to service in the Stool-House, which is to-day more elaborate and prolonged, there is held an assembly or reception at Ofori Panin Fie (the Palace) by the Omanhene and his Chiefs and people. It is one of finery and splendour, and the drums are kept playing continuously.

The assembly is for the purpose of making money and drink presents to the Chiefs and people there and then assembled. It is a ceremony loved by most people, for at the assembly every notable stranger in the town who had not as yet had an audience of the Omanhene, would be duly introduced and "presented at Court". Drumming and dancing form a principal feature of this celebration. The Omanhene's dance to the State drums concludes the days' ceremonies.

The Kwasidae is held on every fortieth day Sunday; there are nine all through the year, and the ninth is the Odwira. There are nine white ancient stones strung on a string in the Stool-House by which the 40th day festivals are reckoned to the year. This national calendar is kept by the Chief Stool Carrier who is also, *ex officio*, Chief Stool Historian.

PART II

INSTITUTIONS AND CUSTOMS  
CONCERNING INDIVIDUALS

## CHAPTER VII

### MARRIAGE

THE marriage question has been the cause of much controversy among foreign and African writers on West African customs. The central point of dispute is whether there is really an element of sale in the marriage custom of the Akan people.

Without wishing here to take part in the controversy, we shall state at the outset that prospective brides—girls just a day old, or already above their teens, are not offered for sale or made chattels of as some investigators would have us believe. A man may take his wedding to-day and have the marriage dissolved in a week or two, and be none the worse off. In the following pages we intend to set out the custom as actually practised in Akim Abuakwa, but such comments as we make should not be taken as *ex cathedra* pronouncements.

Owing to the existence of multiplicity of wives in our institutions, the wife has to retain her maiden name throughout and it does not need to be changed for her husband's. An *Ohene's* (Chief's) wife, be the husband great or small, is never to be referred to as Queen or *Ohemma*. This latter term is a substantive title, given to the senior member of the female branch of a Royal Family.

A full consideration of the laws pertaining to marriage must, for the purposes of this chapter, be classified into 7 sub-heads, viz. :—

1. (a) Love and Courtship ; (b) Asiwa.
2. The giving-in-marriage ; head-money and dowry.
3. The Wedding.
4. The Married Life.
5. The Divorce. The Expenses.
6. *Hiregno* or Ceremony of Divorce.
7. Death of Husband or Wife.

#### 1. (a) *Love and Courtship*

The most elementary idea that the European forms on his first acquaintance with the forms and processes of our African marriages, is that love—as understood in European

countries—is rarely displayed in certain African marriages. In fact, it has been said that there is no love in West African marriages. Some writers even make the preposterous attempt to assert that the Akan language has no word for the general conception of "love". To the reader who has not succumbed to the whirlpool of twentieth century psychologism, as for instance that primitive languages have no single terms for abstract conceptions such as Truth (*Nokware*), Goodness (*Yieye*), or Beauty (*Ahoofe*), it seems sufficient to say that the greatest of all Books has been translated into the Akan language, and that the translators saw no necessity for borrowing foreign words or using long phrases to translate abstract conceptions in the Bible. As to the assertion that we have no word for *love* this common proverb "*Qoq ye Owu*", which means literally and word for word "Love is death", is I think sufficient to convince the partial inquirer that it was time he started with a clean slate.

It has been my special experience to notice in forensic cases and elsewhere, the very affectionate qualities which young men and women display in their love affairs. A young man will make love to a girl, giving her presents in money or its kind as an assurance of his love, and the girl will sometimes give return presents as a sympathetic assurance of her affection. Usually he meets with his sweetheart at different places and at the dances, but not very often in public for fear of scandal. The part of the young man in proving his love is usually to do her service in odd moments—such as relieving her of a burden or assisting her in time of trouble. The girl's part is also well played. The best exhibition of her love—when it is old enough to be made public—is to form songs in his name and sing them with praises when in the moonlit nights she and her comrades assemble to dance and sing in the ring. Soon the fact of her courtship would get abroad, and it would be the young man's lot to announce it to the girl's parents or guardians.

Money presents of a value recently regulated by law according to the position of the husband, are given to the parents and other near relations of the girl's family. The intended husband should also, as far as his means allow him, make occasional money presents to the mother or grandmother of his betrothed, otherwise the absence of such presents may be a ground for cancelling the betrothal, for it is a test of the husband's benevolence. This, though not enforced by law, is a custom with which the ardent lover never fails to comply.

(b) *Asiwa* (*Infant Betrothal*)

Another form of courtship—if I may so call it—is “*Asiwa*” or *Infant betrothal*. This had almost become the principal form of getting married until it was abolished, in 1918, by the Okyeman Council. It was simply a form of marriage in which a girl might upon, or some days after, her birth—whilst she was still a minor—be lawfully given in marriage by her father to his nephew, i.e., his sister's son, or to such relative or any person who may have done some service to the father or mother of the infant girl. But such person cannot be a member of the girl's clan. In this case, besides the usual “*Aseda*” (“*Thanks-money*”), the husband of the infant girl had to pay certain extra fees and to perform certain peculiar customs, such as tying a small nugget of gold on the infant girl's hand. The young man was to care for the girl in many ways, and was at least once every year to give her a present until the infant girl reached the age of puberty. The manner of celebration of the day on which the girl attains puberty largely depends upon the means of the husband. Consequently, if such a wife was, prior to her being properly wedded, committed into adultery, the adulterer had to pay an extra half amount of the lawful *Ayefare* ordinarily due to the injured husband. This money is called “*Twebon*”.<sup>1</sup> This was a procedure which brought many innocent young men into the unpleasant experience of being arraigned on trivial grounds as adulterers, and the Okyeman Council thought it wise to abolish the system. In its working order it clashed with certain modern ideas of social life. It also led to very ill-matched unions, which in many cases resulted in unhappiness in the married life.

Another form of “*Asiwa*” is called “*Abaso Kyekyere*” usually followed by a Chief or a rich man by laying hand on an infant girl as his future wife. The same rules apply in both cases.

2. *The giving-in Marriage : Head-money and Dowry*

When the lover has completely gained the heart of his fiancée, it falls upon him to introduce himself to the parents of the girl. This may be done by appearing personally or sending messengers with drinks, to make the announcement. When the parents' consent is given, she automatically becomes betrothed to him. There is no need for engagement rings or other superficial intimations of the deed. In course of time the husband, having previously obtained certain domestic necessities, would inform his parent or guardian of his

<sup>1</sup> That is, for having made her cease to be *virgo intacta*.

intention, and it devolves upon the father, uncle or other guardian, with whom he has been living, to send to the parents of the intended wife, for the purpose of "begging" them to give their daughter in marriage to his son or nephew, as the case may be.

We may here state in parenthesis that in many cases it happens that a father may voluntarily give his daughter away in marriage, sometimes against the protest of the girl, to any man, young or old, whom such father might fancy as deserving of his daughter. This practice, though not definitely abolished, is to-day growing archaic and going out of use.

In any event, the necessity arises for the parent or other guardian of the young man to send, or go, to the girl's parent, whose consent, when given, makes the marriage a lawful one. The parent's or guardian's consent is given in these words: "I present my daughter to your son in marriage." It is never "I sell my daughter, etc." Any person professing the least knowledge of our custom should know that under the Akan system of social life it could not be otherwise. As was said above, the intending husband sends to the girl's parents to "beg" them for their daughter to be his wife. His words to the marriage-messengers (*aware gyefo*) are these: "*Mesoma mo amā moakɔsre Asomasi ba Obenten amā m'aware.*" I send you to beg *Asomasi's* daughter *Obenten* for me to marry." He gives his messengers no more than 12s. *Aseda* or sanction-money, and when the presentation of the girl is made by her parents that money is paid over to the *Bagua* or witnesses present, the husband's own messengers retaining for their own use half (6s.) of this amount in their capacity as witnesses or *Baguafo*. The girl's uncle, i.e., her mother's brother, has to be informed before any grant of marriage is made of his niece, but his consent is not always necessary.

On the other hand, should the father or guardian of the girl refuse to give her in marriage, and signify his dissent thereto, the connexion should henceforth cease. If the wooer has no hope of attaining his desires by fair means he would be well advised to stop his wooing. It will be impossible to "elope" with the girl or to contract marriage under any circumstance whatsoever. He may continue his love but he must be sure that should there be any scandal, the issue of the illegal connexion will be "illegitimate"—not that the child would be disinherited, or in any way inconvenienced in its general progress in life, for illegitimacy of children is unknown in our institutions. The putative father, can, therefore, in course of time apply to his child's

uncle or other maternal relation for the presentation of the child to him. In this case, he will be required to pay certain fees, generally comprising the amount the baby's mother (i.e., the lover) and her parents must have expended on account of the birth and care of the child. The baby's uncle or grandparents will also be pacified by payment to them of a sum of money. This rule also applies to the case when with no object to marriage at all, an accidental issue springs from the connexion of a young man and a girl. We propose to deal fully with this question in another chapter.

If, however, the girl's parents or other guardians give their consent to the marriage then "Thanks Money", varying from 12s. to £2 8s. (always limited by law according to the position<sup>1</sup> of the husband), will have to be paid to the father or uncle making the presentation, and one must always be careful how much is paid this time, for the *ayefare*, or satisfaction money for adultery is calculated on the basis of this amount. If the man pays more than he is entitled to, the extra amount paid is valueless. If he pays less than he should it would react on the amount of his satisfaction money.

It is to be noted, however, that payment made when one held a lower position would not affect a claim for a higher amount of satisfaction money if in the interval there had been a rise in one's rank or position.

This payment of 12s. has just as equal legal value as the marriage ceremony in a church or under other conditions. When once paid, it renders the man paying and the woman in respect of whom it is paid to be recognized as properly and legally married.

After this payment of *Aseda* the father names an amount as the head-money of the girl. This varies from *Doma* (8s.) to *Predwan* (£8), or even more. The value is determined by the circumstances of the girl's marriage, not by her beauty or other feminine attractions.

What has been called "dowry" has very little comparison with head-money, which is paid not by the bride's parents as in dowry, but by the intending husband or his people. Head-money is usually paid to the father or uncle, but it is the latter who has to return it to the husband in case of divorce.

This head-money, which may in some cases, especially in cases of divorced women, be as high as £40, must be paid in full, else although the marriage itself is valid for all purposes, *Ayefare* or satisfaction money cannot be claimed in case of adultery. There are exceptions to this hard rule. If the

<sup>1</sup> Most decidedly not according to the rank of the woman.

parents or uncles name an amount as head-money, the husband is at liberty to ask for time to pay, during which period he may take the woman to his home as his properly-married wife. A time may be given—any length of time from three days to three years or more—and the marriage will be regarded as legal; but if after the period specified the amount had not been paid, the legal force of the marriage in case of adultery or divorce will not stand a test in the Tribunals. We must here remind ourselves again, that the payment of "Head-money" does not in any way take the form of purchase money. A girl's head-money is invariably fixed. No negotiation or bargaining is necessary. One does not measure his love or attachment to his bride by the smallness or largeness of the head-money paid. There are no bids for a girl's hand, where the highest bidder may have her to wed. It is purely a simple affair based upon the customary demand for payment of head-money. The applicant for a girl's hand pays the "Aseda" or "thanks-offering", and he is then told what the girl's head-money is. If he is unable to pay forthwith, he may be given time in which to pay, but the thought of the wife not being fully recognized as such will alone urge upon the husband the importance of having the head-money paid as early as possible.

Another aspect of the question is when the man is not called upon at all to pay head-money. In such cases the wife will be fully recognized as such in law. The fact is, in this case, the 12s. Aseda is alone sufficient to legalize the union.

In practice, it may be argued with point, that the head-money is a mere means of making money from young men intending marriage. But this is a mistaken assumption. The amount we have seen is returnable in case of divorce. Now, if one is marrying a member of a family not very well-off, one may be asked to pay head-money ranging from £10 to £20 or more. This amount may be used in paying a family debt. When this is the case a good clanswoman would not make herself the cause of any trouble to her family by leaving them in their debt when by staying in marriage she could get them out of hardship. She would therefore endeavour to keep her temper under control to prevent a possible rupture in her married life. The psychological effect of this on the character of women is obvious. Instances are not at all wanting in which an unruly wife, if she felt unduly the heavy masculine hand on her, would take courage and literally "throw her head-money over to her husband". That is, she would challenge the husband to divorce her.

There is one point which might still be taken by the foreigner as an indication of the sale and purchase of marriagable women. This is the fact that head-money bears a fixed amount of interest payable to the husband in addition to the principal head-money in case of divorce. But, be it observed, that the interest charged in this case is not calculated on the basis of ordinary loans. In Akim Abuakwa the interest on an ordinary loan is calculated at rates varying from 20 per cent to 50 per cent. On head-money the interest is £2 on every £10 (i.e., 20 per cent), and this amount does not increase with the increase of years. In my view, the fact of interest being paid on head-money seems to deny rather than affirm the theory of sale. The custom with regard to head-money and its interest is a peculiar one, almost exclusive to the Akan races of the Gold Coast. It is therefore not surprising that it has given cause for so much misunderstanding of the real nature of the marriage custom.

### 3. *The Wedding*

I do not know whether I am trespassing on propriety in the use of words by employing such social terms as "Betrothal", "Courtship," "Marriage," and the more pompous one "Wedding", in my description of Akan marriages contracted under customs so strange and different to English-speaking people. True it is that some form of social function takes place in the form of "wedding" before a bride crosses the threshold of a bridegroom. Of course there are no bridesmaids and there are no best men. But attendants who do not fall far short of the terms so-called are not wanting.

The Bridegroom, having gone through the formalities of "introduction", "begging", and "thanking", and paying of head-money, a day is fixed on which the bride is to be brought to the bridegroom. There are no church bells, and for that matter no gong-gong or drum-beating. The bridegroom calls his friends together to assist in the reception, and they then remain with him waiting for the coming of the bride. The female relatives of the bridegroom are then asked to bring in the bride. She is usually dressed in gold and valuable beads in readiness for the bridegroom's people. This is possible only when bride and bridegroom live in the same town. If they do not, she will be sent for in the same way, with the difference that travelling necessarily makes. In any event, she must appear in bridal dress before the bridegroom. When the bride and bridegroom live in the

same town, there are some customary functions of giving and taking, and then the lucky lady will be handed to the bridegroom's relatives. The mother does the giving-away ceremony. She sends her other female relatives to accompany her daughter. While some of the bridesmaids carry the wedding goods in boxes and highly-polished brass pans or enamelled basins, the others follow her in train, but no ostentatious display is generally made.

Among the women chosen to accompany the bride is invariably an old woman whose chief qualification is that she must have been very successful as a wife in her own married life. This successful wife will perform the ceremony of handing the bride to the bridegroom. The bride enters the house with her train under the guidance of this leading and successful wife. The latter presents the bride three times to the bridegroom who is seated on a chair, with many wishes and words of blessing for a successful marriage to the new couple. The old lady will be given customary presents for her services, and the marriage ceremony is then complete.

There is no kissing in our love affairs. Kissing is known, but only babies are kissed. In fact, one would be considered immodest if not rude, to kiss his love or bride. The habit of kissing, it must be admitted, is gradually growing among the young in the new social life.

A feast is generally held on the next day, the bride or her maids preparing the meal with a sheep or a fowl supplied by the husband.

The feast consists principally of "*Fufu*", the principal meal of the Akans. It is generally made of yam, coco-yam or plaintain boiled and pounded in wooden mortars. The bride gives this food to the bridegroom for distribution among their friends, neighbours and relatives. This may, perhaps, be called the wedding breakfast.

The bride and bridegroom enjoy the first week or perhaps the first month, as heartily and as jovially as their social standing permits. There is no time limit. But soon they must direct their attention to business, to the preparation of their farms, and there is no prolonged honeymoon for them.

It must here be added that if the bridegroom was already a married person, he must "pacify" each of his old wives with money to an extent regulated by law. The new wives must also "pacify" the old wives through the husband, otherwise there will be no end to perpetual "Koratwe" or wife-brawls actuated by jealousy.

#### 4. *The Married Life*

I make no attempt here to describe the many peculiarities inherent in married lives based on polygamy and succession by the maternal line. I am mainly concerned with describing what the first duties of husband and wife towards one another, and towards both their and their children's welfare, should be. From the foregoing it is clear that there is much in their connubial life that stands to compare with the married life in other countries.

The following is only a brief indication of what seems to me to be peculiar in an Akan marriage as compared to the institution in other countries.

Such is the state of a married couple that in many instances a wife may well guard against receiving any large presents in the form of clothing, etc., from her husband, or she might one day regret her action. This is so because, should there be a rupture, ending in divorce, all that the husband had since the payment of "Aseda" and during the time of their married life, given to the wife by way of presents, etc., must be returned to the husband. Even in cases where the wife is seeking for divorce without good cause shown or with a view to marrying another man in the immediate future, she has to pay for all the clothing which had become useless by wear and tear. Consequently, while husband and wife are living together, there may be constant dread on the part of the wife to make use of things given to her by her husband, else she may one day be divorced a bankrupt. If she is rich in her own right, the wife will prefer to dress in clothing bought with her own money, and she would not wait for her husband to provide her clothing.

The married life would appear to be a close union or social pact between man and woman; and married people in truth, are not regarded as two persons in one. Two, and perhaps only two, things are expected of a wife by her husband, viz., to bear and care for their children and to do all domestic and some of the farm work, and she must of course, maintain her fidelity unimpaired. From the purely legal point of view it seems true to say the union of man and woman under Akan marriage law is a "physical" and not a "spiritual" union, a contract, not a sacrament. Upon this principle only is polygamy turned into a practical business transaction. The interests of the husband, apart from their conjugal life, is no part of the wife's business. She has her own rights to look after. We revert to this subject again under the heading of Divorce.

Let us consider A and B as happily married and settled in their new home. Then, A, the husband's first thought after the wedding days are over, is to take the wife to his various farms and start farming with her in due season. The clearing of the farm land and the heavier farm-work are done by the husband, while the female partner follows with cultivating the soil with foodstuffs, etc. And it need be noted that it is always the wife's duty to go to the farm almost every day for the purpose of bringing foodstuff, firewood, etc., for their daily consumption. She is considered a most lazy wife who fails to keep her larder filled with food all the year round. The husband has to provide meat and fish, and if he cannot hunt or fish himself he must give money to his wife to buy these from the market. The habit is also growing for husbands to buy not only meat but foodstuffs also for the household; this is usually the case when there is not sufficient crop in the plantation or in case of famine.

In these days of economic farming the wife has to give due assistance to her partner in attending his cocoa and kola farms, or making new ones. The proceeds of the principal economic and food crops reaped from the farms belong to the husband, who may give presents to the wife to any high value, but the wife has prescriptive right to the green-crops, pepper plants, garden eggs, etc.

If, however, the wife would do some work for her own benefit, such as make cocoa farms, etc., on her own ancestral land, the husband has a right to half the property on divorce. So also if she trades. Should the husband, whether native or stranger, farm with her on the ancestral land of his wife, she would be entitled to half share of such a cocoa farm in case of divorce.

Further, should the wife be the fortunate finder of a treasure trove, the husband would be lawfully entitled to half the value of such trove, the one-third share due to the State being duly taken from the whole value. It therefore follows that if a wife incurs debts arising from or in connexion with her marriage the husband is liable to pay half of such debt. This does not include debts incurred by her on behalf, or in the interest of her own family or clan.

In domestic and household duties the wife's part is of course heavier; and where there are no near relatives to assist the wife in her house-keeping, it falls upon the husband to give full assistance. Before domestic slavery was abolished, it was the husband's lot to procure servants to assist his wife in the farm and housework, but now the absence of this harmless service has greatly doubled the woman's work,

for the system of engaging regular servants is unknown in the country, and in the present state of Akan social life it cannot be regarded as practicable. The husband's lot becomes heavier in case of his wife's confinement, for should he have no other wives, it would devolve upon him to perform the necessary domestic and household work.

If husband and wife go on a journey, it is the wife's part to carry the bag or trunk containing their necessaries, the husband relieving her occasionally when the luggage is found heavy for her. We should here state emphatically that, although much liberty is not given to our women-folk by way of permitting them to influence their husbands, or controlling their interests, it is clear that wives are not subjected to extreme and abject submission as prevails in some parts of the continent of Africa.

Above all, the first care of the wife is, naturally, to safeguard her honour and to strengthen the husband's belief in her fidelity. For this reason, there is always the right for the husband to call upon the wife at any time to "take fetish" before her relatives as to her fidelity and past conduct. The wife is bound to confess as much as she knows on pain of being killed or adversely acted on by the National or other Tribal Fetish which had been invoked. The best opportunity for knowing the truth from one's wife is considered to be the time of illness or of confinement. The doctor or fetish man is most likely to ascribe her illness or indisposition to some sin she had committed, and she must now confess and get cured, or Death, once so near, will not leave empty-handed!

The family life, however close, is not exclusive. There are the members of the community who are ever ready to render themselves useful to the poor and helpless. The communistic system provides sufficient succour for every isolated family, and, in fact, there is scarcely any one family who may be said to be isolated from its neighbours.<sup>1</sup>

<sup>1</sup> It is not uncommon to read in English newspapers of two or three families living in one house without knowing anything about one another besides perhaps their surnames; quite recently it was reported that when a woman failed to disclose the death of her aged brother with whom she was living in a flat, the other occupants in the house knew nothing of the brother's death, although he had been dead in bed for a period of one month. Here the penalty of extreme individualism is fully paid, and the poor lady wept and watched over the corpse of her brother for four weeks, and perhaps it would have turned fatal for herself had not the landlord called upon her for the rent of the flat. The Akan system of communal life prevents any such grim inhuman tragedy overtaking any family, however poor they may be.

We may add, by way of giving a glimpse of the intimate social life of the people, that in the system which governs society in Akan land, woman is considered far too delicate a being to mingle with the opposite sex in his elevated society. Women have their own and separate social gatherings and the men have their own. There are always two sides to every dance, the male's dance, and the female's. One need not be asked to a party with the obligation of inviting one's wife also.

In Akan social life one can truly say, with Plato, that "woman is not undeveloped man, but diverse".

### 5. *The Divorce, The Expense*

It cannot be exaggerated how easily and rapidly marriages may be dissolved with little trouble. Should a husband feel that he had been offended by the wife's conduct, he would summon her before friends for the settlement of differences. When her conduct continues to the inconvenience of the husband, a "palaver" is generally held, either before both the sureties to their marriage or before other influential friends, notably the head of the wife's family. The saying is "*Awaree gu nkuro*", i.e., every divorce is preceded by "palaver". Therefore the aggrieved party will have to state his or her case before responsible men. The arbitrators deliver their finding after hearing each party, and then an attempt is made to reconcile the couple. At this juncture there is no law to bind either husband or wife to the other consort. He or she may or may not take the representations of the arbitrators. If it is the husband who is pressing for divorce because of his wife's misconduct, the odds are that he would rather divorce and get his money to marry a better girl, than retain an unserviceable wife. If it is the wife who has applied for divorce, because of ill-treatment, there is not the least probability of her submitting again to the wild habits of an imprudent husband. The argument on either side is strong and heated. The Arbitrators give in. The divorce is pronounced. They need not go to the Chief's Court, except for some special reason one of them wishes to do so. Any court of self-constituted arbitrators can witness a divorce. The fact is, it lies within nobody's power to declare married partners divorced. It rests with the will of the partners alone. A Chief's Court may, however, enforce a divorce when some special personal bodily harm is being done or had already been done by a husband who refuses to grant divorce to his wife. It is always easy for a husband to divorce

his wife. There are minor difficulties in the way of a wife who applies for divorce, for she must satisfy her husband or her family, or the arbitrators, with at least one reason for her application. But on the whole it lies with the will of husband or of wife to say whether he or she will continue in the present married life. The saying is, "*Nea oda ne gya no onim senea ehyehye no,*" i.e., "He who is lying by the fire knows how much (or how little) the heat torments him."

When divorce is once pronounced, its execution is left entirely in the hands of the husband. First he presents his Bill of Expenses. The wife may also present a bill stating any money due to her by her husband. These bills, or rather the husband's bills, will be subjected to the examination of the arbitration, and then all unlawful items are excluded from the bill. It shall not be lawful, for instance, for the husband to claim any amount to whatever value if it was presented to the wife prior to the payment of *Aseda*, i.e., during the period of courtship, but the cost of a cloth or kerchief presented to one's wife ten, fifteen or twenty years ago would be lawfully claimable if the divorce is on her application; if the divorce is being voluntarily given by the husband, then he shall only have payment for those cloths, etc., which are still new; he shall also have nothing more than the actual head-money paid; i.e., it need not be doubled, and no interest can be claimed. The Bill of Expenses, when properly settled, will then be added to the head-money plus the interest (if any), and together the surety to the wife's marriage will be called upon to pay. Laws passed recently make it lawful to double a wife's head-money when a divorce had been literally forced from the husband. The only exception to this rule is when the husband is known to be impotent. In such a case, the bare head-money, without interest, must be paid.

The surety may be given time for the repayment of the husband's bill; any length of time may be given, and when it is the wife who is applying for divorce the condition is that the customary "white clay" which declares a woman as fully divorced shall not be sprinkled on her as a testimony of her having been so divorced, and although there would be a practical end to their married life, the wife would not be at liberty to contract another marriage or make love with another person, or she stands the risk of putting her new lover in jeopardy. The fact is, until the repayment of the head-money and other expenses is completed, the husband would have a right to claim satisfaction for adultery

against the adulterer if the semi-divorced wife was so committed. This may properly be called a separation or suspensive divorce, not a final dissolution.

But as soon as the husband's bill is settled, the wife comes to him early in the morning before witnesses, ready to receive the chalking of white clay. It is a taboo to breakfast before going for the chalking, and the husband should not, when bedecking her with the white clay, sprinkle her feet with it, for that also is tabooed.

#### 6. *Hireguo or Ceremony of Divorce*

Before the white clay is given as directed above, the wife must have taken the national or a family fetish, swearing as to her past fidelity towards her husband; and for fear of being adversely acted on by the fetish she should now mention the name of every person who had had carnal knowledge of her during her married life. This custom is termed "*Wiakyere*", or "exposing" to the sun, i.e., bringing hidden facts to light. We may here state that it is in the interests of the husband giving divorce, to let his wife swear now, and it would also benefit the out-going wife to confess everything at this time. We are discussing the conclusions deducible from these statements under the heading "*Ayefare*".

The wife stands the further risk of losing any prospective lover she might privately have, for the husband, whether there is any known reason or no, is perfectly right to prohibit the out-going wife from getting married to any specific person, and she may even be prohibited to mention the name of, or have anything to do with, any particular person or persons. The wife is prohibited under pain of being adversely acted on by fetish and on penalty of the National Oath.

The expenses in connexion with the divorce, added to the original head-money, become another head-money which a new husband may be called upon to pay. This process is, however, adopted only in extreme circumstances, and however poor a family may be, care is always taken to see that a member of their family is left happy in her married life. So that in most cases the expenses are paid by the head of the divorced wife's family as ordinary debt, whilst the head-money remains the same. In several instances, it is not infrequent to see a family rallying to share for payment the expenses so incurred just to relieve them or their family from the consciousness of having among them a woman who is heavily loaded with head-money.

A careful reading of decided cases shows at once that

this question of head-money is no trivial one. But the chief point to remember is that whilst the payment of "Aseda" alone, in the absence of any named amount of head-money is sufficient to make a woman one's proper wife, the non-payment of the head-money, however small the amount, despite any larger sum one must have spent on one's wife at or before the wedding, disqualifies the marriage for full legal recognition.

With regard to expenses, it must be borne in mind that the wife is at liberty to deduct any debt owing to her by the husband from the husband's bill, and—but this is very rare—anything or its value which the wife may have given to the husband in the form of presents, etc., must also be claimed by the wife, for the saying is: "*Obi nnko obi abusua mu nnkobo dwetiri.*" "One does not go into another's family to accumulate wealth."

It is likewise a prevailing custom to claim from the wife as a part of the expense any amount that may have been spent by the husband at the funeral custom of any of the wife's relatives by way of condolence-money (Nsewabodee), etc. Sometimes there may be presents which had been given to the wife's relations on her behalf or by virtue of being married to a member of the family. These presents are often returnable to the husband.

We may add that not only does the law provide for deserted wives, but it explicitly limits the time for reasonable desertion. "If," says the Law Record, "a wife is deserted by her husband for a continued period of two years, she shall be at liberty to approach the relatives of her husband and demand a divorce." The head-money is in this case not doubled, nor is the interest thereon payable. If there are any financial matters to go through, they would be reserved to await the husband's arrival. The husband's family may give her fetish to swear as to her fidelity, and may prohibit her, in the ordinary way, of any persons they wish. Whether the wife was or was not married on her husband's arrival, he would not be prejudiced to go into accounts with her.

### 7. *Death of Husband or Wife*

Much has already been said about the married life of the husband and his wife, and it now remains to indicate as far as possible the relative position of husband or wife on the death of one of them.

From the relationship shown to exist between husband and wife it goes without saying that any expense incurred

by the husband towards the sickness of his wife, must be divided into two between him and the wife or her family, but if the wife actually dies of the illness the husband alone bears the cost of doctors' bills. Whenever the wife becomes ill as a result of infidelity, her relatives are bound to pay half the cost of sickness expenses incurred by the husband.

Whenever any serious illness befalls the wife, it is for the husband to keep her relatives informed of the occurrence, in order that in case of her death they might not have any reason to accuse him of having hastened the wife's death. The husband is fortunate if in such a case he escapes unsuspected of having caused her death.

The funeral expenses of the dead wife are, of course, payable by the family. The fact is, the husband performs a separate funeral custom apart from that of the dead wife's relatives. Whatever he might spend, he only has to name the value to the relatives on the day of reckoning the "*Ayiaseka*" or funeral expenses, but such amount is not to be claimed from them. And the family claims nothing from the husband. But he provides the coffin, for if he had provided shelter for his wife during her life-time, it is only fair for him to provide her another in after-life.

The head-money and other expenses which are claimable on divorce, are not, of course, repayable by the wife's family or by anyone else when the wife had died during her married life. Certain sub-divisions, until recently, retained a custom which was exactly the opposite to this, perhaps as the survival of an old usage, but since the Okyeman Council brought all the various marriage laws under one recognized system, such obsolete systems are not recognized as legal or proper.

The successor to the property of the deceased wife is not commonly one of her own female children. It may be one of her sisters or other female relatives. As a husband, you are not concerned as to who inherits your wife's property. If she owned anything now in your possession, if you are in debt to your wife, if there are any farms in which she had any share, mention of them should be made, and those due to her paid to the members of your wife's family, taking care, of course, not to prejudice your own interests. If the husband is a squatter and has been staying in his wife's house, he will probably have to quit for good; his children can, however, stay with him and remain in his service. See chapter IX for a detailed account of the customary usage concerning children.

The custom appertaining to the habit of husband or wife

at the death of one or the other, is dealt with under Funeral Customs, in Chapter XII. It only remains to show the relative position of the wife after the death of her husband.

The wife has no share in the payment of the funeral expenses of her husband. She had to act as a nurse only when her husband was sick, the party bearing the sickness expenses or other incidentals thereto being her husband's relatives; it is they who have to shoulder the responsibility for the proper burial of a dead husband. Of course, as a wife, your relatives have to condole with the bereaved family in their loss, but beyond that nobody cares. It is solely a matter for the husband's relatives to manage. The wife's only trouble may be found in the manner she is expected to keep up the funeral ceremony and observe multifarious obsequies in connexion with her late husband's funeral. It is the children's share to provide a good coffin for their deceased father, while their mother perpetuates his memory by wearing the perennial widow's weeds.

After the funeral the wife is not yet a free widow; as a matter of fact she is not strictly a wife-without-living husband. The successor to her late husband's title or property has a legal right to regard her as his, the successor's wife. There is a custom to be performed before the successor can take her in to wife. He has to present her with a cloth, a head-kerchief, an undergarment, money to the value of *Ntakuommiensa* (1s. 6d.); this to be done in the presence of witnesses, mainly members of her clan or family. The effect of this, when accepted, is to persuade the widow to abandon the *Kunadoso*, the customary relics of her late husband, which all widows are expected to wear during the period of the funeral rites.

It lies within the successor's power to take the widow to wife personally or to give her away in marriage to a member of her late husband's family. But if the widow chooses to apply for divorce, she is free to do so. The divorce procedure in this case is as if the original husband was alive.

There are a few cases in which a good wife, owing to the high respect she held her husband, would refuse either to become married to her husband's successor—who possibly was the husband's nephew known to her since his boyhood—or to accept the alternative of divorce. Her contention in this case is that she prefers to remain the widow of her "good old man". In such a case, the successor has to respect her as his uncle's wife, provide her with certain necessaries of life and give her access to her old foodstuff farms on the

husband's land, and there must also be given to the faithful old widow occasional money presents. This exception to the general rule of "divorce or marriage" for widows is only really practicable in the case of rich men, and especially Chiefs and *Abrempon* (notables). A widow who thus keeps faith to the memory of her husband, would on her death, receive exceptional burial honours.

## CHAPTER VIII

### AYEFARE (SATISFACTION FOR ADULTERY)

THE reader who may have come across the term *Ayefare* in the last preceding chapter perhaps for the first time, must have been struck with the importance attached to its signification, and not the less so by the suavity with which it was there approached. To satisfy the curiosity thus aroused as to why our institutions in many cases give precedence to cases of Ayefare, it is proposed in the following paragraphs to set out the pros and cons which go to make this particular custom (called *Byabbu* by the Fantis), an institution of no little importance.

Whatever we may have to say on this subject, it seems safe to say at the outset that we have no intention of challenging the propriety of retaining the Ayefare custom under our present system of marriage. Speaking personally, the writer's antagonism to the practice is only aroused when an attempt is made by some of our fortunate brethren who have availed themselves of the European system of marriage to under-rate the facilities given to them by that respectable form of marriage, when, in their less guided moments, they claim the right to enjoy benefits under our native form of compensating an injured or wronged husband. It would seem that husbands married in the European way and who resort to the African remedy, lay claim to this right in apparent ignorance of the provision in the Gold Coast Ordinance which quite clearly debars them from taking advantage of the aboriginal observances in respect of cases of adultery. The Supreme Court Ordinance, Chapter VII, says in its section 19:—

"No party shall be entitled to claim the benefit of any local law, or custom, if it shall appear either from express contract or from the nature of the transactions out of which any suit or question may have arisen, that such party agree that, his obligations in connexion with such transactions should be regulated exclusively by English law; and in cases where no express rule is applicable to any matter in controversy the Court shall be governed by the principles of justice, equity, and good conscience."

(1) *The Akan-Fanti Customs*

The procedure for claiming satisfaction for adultery committed with one's wife as obtaining in Akim Abuakwa, is a little different from that in Fanti-land, at least, this appears to be so from the treatment given to that branch of our institutions in the memorable work of the Honourable John Mensah Sarbah. Perhaps their long intimacy with European modes of enforcing satisfaction (if any) has rendered it necessary for the Fantis to compromise most of the customs appertaining to Ayefare. Let us instance in one or two cases only, to illustrate some unexpected differences between the Fanti and the Akim practice.

"Where a married woman is seduced," says Sarbah on page 48 of the "Fanti Customary Laws", "her seducer is bound to pay to the husband as damages a fine or penalty called Brabbu, which is for the pacification of the injured husband, and is not less than the value of *consawment* dowry<sup>1</sup> and all the marriage expenses." We take leave to say that such a claim would not succeed in any Akim Abuakwa Tribunal. It has no precedence in that State either before or after the passing of the Native Jurisdiction Ordinances of 1883 (as amended 1910), nor does any custom admit it. In our custom there is a fixed amount of money payable for seducing another man's wife, i.e. depriving a person of his wife to make her one's lawful wife. If, for instance, Kwaku, whose fixed ayefare fee is £4 16s., had his wife seduced by Kwadjo, the amount of damages that Kwaku has to claim is £8 16s., a double of the principal amount of ayefare. (The 16s. which is called Nteho or Nterakyire "sanction fee"—and which is an appendage to £4 as much as 1s. is an appendage to a guinea—is not doubled.) The fine payable to the Paramount Chief for seducing another man's wife—whether the case was taken to Tribunal or not—is £12, i.e. twice as much as for violation of an ordinary oath. It is patent, therefore, that the *consawment* dowry or head-money and the expenses, need not be paid by the seducer. These are repayable by the wife's parents to the husband now divorcing his wife on account of the seduction, but the parents may have to reclaim the head-money, but not the expenses, from the seducer before the validation of the marriage. We may add here by way of parenthesis that if the wife's family choose to let the new husband pay the expenses, they may do so by adding it to the old head-money, thus making the wife's

<sup>1</sup> We have called this "head-money" (*tira-sika*) in Chapter VII.

head-money heavier than before. But this practice is rarely followed.

"If the marriage is continued," adds Sarbah in the same page, "only a pacification fine can be claimed, the amount of which is fixed according to the social standing of the injured husband, guided by the general character of the seduced woman." As to the first part of the excerpt, we agree with Mr. Sarbah, except that we would substitute for the words *social* standing of the injured husband *civic* position in the municipal and judicial institutions of the country. E.g. there are two persons in Tribunal, Quarshie and Kwesie, each claiming satisfaction money for adultery committed on his wife. Quarshie is a prominent merchant, wealthy and prosperous; Kwesie is a young Ahenkwa (Court Officer) in a Chief's Tribunal and his occupation, which is not always very paying and which does not require him to attend the Tribunal on all days of the week had, on several occasions, obliged him to seek for odd jobs in Quarshie's establishment, where he had been rather liberally recompensed. Kwesie, the Court Officer, might be a permanent paid employee of Quarshie, yet this social distinction goes no farther. At the Tribunal Kwesie obtains judgment for £4 16s. with a sheep in addition; Quarshie, on the other hand, though on a higher social standing than Kwesie, yet because he holds no civic or judicial post in the country, is awarded a satisfaction-money of £3 12s., i.e. the lowest satisfaction payable to any native of the Division. Herein lies a basic distinction in our State system of government.

But the question for us is, how can the payment of compensation to a wronged husband be "guided by the general character of the seduced woman?" We acknowledge the force of the proposition, but we are not ashamed to own that Akim Abuakwa laws make no such liberal allowance; for, except it be proved that the woman had acted not as a wife, but as a whore by lewdly prostituting herself with a great number of persons of the other sex, in which case no application for compensation or satisfaction would be entertained by the Tribunals, the husband looks upon the fornicator to satisfy him in the fixed amount of Ayefare provided by law, no matter what the "general character" of his wife is.

### (2) *What is Ayefare?*

We believe we are doing justice to many of our readers by attempting to define this term, although we do not at all

pretend to present them with a definition in logic. We have already dealt with many aspects of this subject in some paragraphs above, and it seems sufficient now to say that Ayefare is an amount of money fixed by law and payable by a person taking another's wife to the husband so wronged.

There are about five grounds<sup>1</sup> on which Ayefare may be claimed, even if actual carnal connexion had not manifestly taken place between male and female.

### (3) "Wiakyere" (*Confession of Adultery*)

Before a husband could know that *Asiamasi* or *Obenten* (this or that person) has committed adultery with his wife he must first ascertain the fact from his wife. The most safe process is to hand her over to her relatives with an injunction that they ask her to swear in the name of the National Fetish as to her fidelity towards the husband. You will not be right to specify persons about whom she should swear. If after she had "taken fetish" and confessed, you had reason to suspect that she had suppressed any names or failed to tell you all the truth, it lies within your right to press for a full confession and perhaps you may then go to extremes and question her as to her conduct with specified persons. But you must be sure that you have grounds for your speculation. You must not at all use any unlawful inducements or employ obnoxious medicines or charms to procure confession.

After she had fully confessed and sworn as to her fidelity, your uncle or parent or other guardian should be informed, and he would then send to the adulterer's father or the person *in loco parentis*, for him to satisfy you the fixed compensation that is legally due for the adultery committed by his son on your wife. The parent has to consult his son before taking any action. If the son admits adultery the *Nteho* or *Ntarekyire* must be paid forthwith, and a time limit given for payment of the principal amount of satisfaction. The *Nteho* is shared by the *Bagua* or Arbitrators assembled for the affair by way of testimony, half going to those on your part and the other half to those on the part of the offender.

<sup>1</sup> (1) Actual connexion with penetration; (2) sleeping on the same bed with intentional contact of their respective persons; (3) exuding semen on any part of her body; (4) undue handling of her waistbeads; (5) Unfastening her shame-cloth from the waist-beads. Or, in the vernacular: (1) *Obarima no pe obea no pe pa*; (2) *One no da ketg koro so de ne barima si nano so*; (3) *Ne hō ba gu no so*; (4) *Ososo nasenem-deg mu basabasa*; (5) *Otu nano so*.

If the son denies having committed the offence, he must state on oath to the messengers of the aggrieved husband *all* that he knows sexually of the wife. Here we feel we must strike a warning note to the weak and cowardly young man who might be tempted to suppress nocturnal acts in broad daylight. Any of the five points suppressed this time, be it even accidentally committed during his intercourse with the wife, would be a sufficient ground for the Tribunal to find him fully liable in case the injured husband, knowing that the adulterer had suppressed facts, had replied to the oath and taken the accused to Tribunal. This unfortunate piece of denial is called "Nsankyee" or "rigid denial". If, on the other hand, in denying actual adultery with the woman the accused had confessed as much as the wife had done, and supposing that his knowledge of the wife did not amount to an offence making him liable to a full claim of satisfaction, there would be no necessity for the husband to reply to the oath, and the accused would accordingly obtain judgment and be made to pay the Nteho or testimony fee and nothing more. This is to show that he had been made free of the husband's accusation of having actually committed adultery with his wife. It is necessary to state that the husband was not in any way wrong, if, for instance, he had directly accused any one of actual adultery, whereas in reality his wife had confessed something less serious than that. It must be known also that in most cases the evidence of the wife would be considered sufficient proof of the accused having had wrongful intercourse with her, if, before a Tribunal, he is unable to adduce conclusive evidence to disprove her allegations. Remember the saying, "*Oba na oka nokware*" (Woman speaks the truth) and rely less on the opposite retort, "*Obarima na oka nokware*" (Man speaks the truth). You must be sure that at any rate without the slightest intercourse having previously taken place, a creditable woman would not take fetish to accuse a veritably innocent person. We have a wide experience on this point in our long connexion with the Tribunal.

It would have been thought that rather than allow her to give evidence as a witness on behalf of her husband the wife who accuses a person with an offence should be made a principal party in an action for or in a defence against a charge of adultery. The custom, however, is plain on the point and the husband being the real person wronged—for in fact, the fidelity of his wife is exclusively his own concern—it stands to reason that he and not the woman must seek

redress at law. Nevertheless, if the person charged succeeds in disproving the evidence (or *Kwadubo*) of the wife, he would be awarded damages against the wife (or her husband, if he had chosen to stand for her).

It sometimes happens that the wife may be asked to swear as to her fidelity without referring her to her relations ; in such a case no step towards the recovery of satisfaction must be taken until the relatives of the wife have been informed of her confession. This is necessary, because should it turn out that the wife had made a false " wiakyere ", her relatives who had been informed of the accusation would be held liable to the persons falsely accused for the costs involved. If, on the other hand, the husband hands the wife over to her relatives for the necessary confession, custom demands that he give the wife a present in money before the actual confession. It is unlawful to let a wife take fetish whilst in bed, and whenever possible, she must swear to her husband or to anyone on his behalf, always in daylight and before witnesses. If a wife refuses to swear as to her fidelity, some reasonable amount of force may be used, or she may be taken to Tribunal.

A word or two concerning the wife seems necessary. It not infrequently happens that a wife might, for reasons best known to herself, suppress the names of one or two persons, especially at time of divorce, when taking oath as to her fidelity, etc. In such a case, if ever the husband—even long after divorce—happens to learn that somebody had committed adultery with her during the period she was married to him, the offender would not be legally liable to the ayefare, and the ex-wife or her relatives would be liable to pay the ayefare money to the ex-husband.

But if a husband, for one reason or another, had omitted to give oath or fetish to his wife, and the wife had after divorce confessed of her own free-will or through the influence of a fetish, etc., that *Asiamasi* or *Obenten* had committed an offence with her whilst married, the offender would not be right to contend that as his name was not mentioned upon oath at time of divorce, he could claim immunity from payment of satisfaction. In a case like this, the husband is perfectly justified to claim satisfaction from the offender.

If in another case a wife would be so unfortunate as to have sexual intercourse with a stranger (i.e. a non-native of the State) and had failed to mention such person's name to her husband at a time he could easily have laid hands upon

him, the wife's family is liable to satisfy the husband in the full amount due to him. This course is usually taken when the wife could not say where her lover was, or when the present residence of the lover is beyond the jurisdiction of the Tribunal. So also if a wife failed to confess the adulterer's name to her husband and the former died, the relatives of the wife are liable. It is thus clear that the offence is purely personal, and has no effect on a person's estate or office of honour.

We have also to say that the case of a woman under pregnancy being committed into adultery is a serious affair. So also if one put a married woman under pregnancy. In each case the offender is liable to pay the ayefare plus 50 per cent of the value; this money is called "*adwantwadee*" (i.e. sheep money).

Again, if a young man still keeps sexual intercourse with a married woman, in respect of whom he had previously paid the usual satisfaction money for adultery, the husband would be entitled on this second occasion to claim satisfaction from the offender twice as much as he had claimed before.

In all these cases, any presents in money, clothing, etc., that a woman might have received from her lover, are all repayable to the husband, and in confessing the names of her lovers, she is bound in law to mention the money value of as much as they had given her.

Before we close this section we feel we must emphasize that the five points upon which ayefare is claimable apply to only cases of ordinary persons. When any person comes to have criminal conversation with the wife of a chief or aristocrat, he must remember his offence is a crime next to murder, and, in fact, in historical times, both the adulterer and the adulteress were put to death, besides subjecting their respective families to very heavy penalties, which in most cases sent the whole members thereof to perpetual slavery. Even now that our Chiefs have been thrown on a pittance of exhausted resources for penalties, there are still other forms of punishment which are, in the modern way of viewing things, as heavy as the offence sufficiently warrants. The offender may indeed congratulate himself as fortunate if, rather than being sent into exile for ever—and that perhaps with the members of his family, in addition to having his estates confiscated to the Stool, he is only made to pay fines and slaughter six or eight sheep. We readily admit that there are different degrees of punishment when a Chief's wife is committed, graded according to the relative position

of the injured husband. The punishment here stated is the most extreme form. We may say that the same measure of submissive reverence that is accorded to women in Moslem harems, is exactly a counterpart of the honour and venerable courtesies which must be and are held out to an Akan Maam.<sup>1</sup>

#### 4. *Asommo (Seduction)*

Beyond the fact that "Asommo" is the custom by means of which a person *seducing* another's wife, is made to pay double fees and fines, in respect of the wife taken away or divorced from the former husband, we do not see that there are any differences in the procedure in regard to Asommo and in that for claiming *ayefare* or satisfaction for simple adultery.

To Englishmen and other persons accustomed to view marriage as a sacrament rather than a social contract the fact of striking significance in the Akan conception of marriage relation is that which renders it tolerable for wife and husband to live together in apparent happiness even after the female consort had publicly confessed that she had committed an offence with two, three, or more men. This, however, is a fact in Akan social life, and the husband who claims and receives satisfaction money for the adultery of his wife does not as a rule cease to call his wife as wife or pretend to believe that his love for her should cease to be what it is. On the contrary, particular instances that have come to knowledge would seem to show that if the husband chose to share connubial life with her again he would accept from the wife the customary payment of a small amount of pacification money, and, having forgiven her, re-instate her in her former position as his affectionate wife.

If anyone with knowledge of our customs disputes this statement as representing the general and common usage, the onus rests upon him of finding an answer to the question whether even to-day in Akanland there are not many happy couples, the female partners of which had, on more than one occasion, confessed misconduct with other men.

The above statement should not be taken to warrant the usual inference that the sexual morality of many African tribes is most generally of a low standard. We have already mentioned that the habit of kissing a loved one either on

<sup>1</sup> *Maam* really means the portion of a Chief's house allotted to females, i.e. the Chief's wives and their female attendants (including in the olden times, castrated males).

the hand or on the lips is unknown among the Akan people. This fact, together with the fact that in addition to actual carnal knowledge there are four or five other grounds on which *ayefare* may be claimed, ought to afford psychological grounds for acquitting the common and communal Akan life of the charge of inordinate or promiscuous expression of the sexual instinct. And it is useless or unnecessary to speak of the sublimation of the sex attraction in a society where payment of a nominal and fixed fine is deemed sufficient atonement for a violation of the sacredness of married life.

It seems to follow also from the Akan social arrangement that professional prostitution among their womenfolk should be, and is, in fact, altogether unknown; not that it is tabooed, but, simply, the need for the evil does not arise. Prostitution is often a concomitant of monogamy, rarely of polygamy.

There are now only three grounds upon which a husband can claim the benefit of the *Asommo* custom. The hitherto clap-trap rules, whereby the slightest previous connexion with another's wife in whatever way or form made one liable to satisfy the claims of the husband if one at any time thereafter married the ex-wife in her unmarried divorced state, have been at last abolished to the satisfaction of all concerned. E.g., formerly, if you had been one of the *Baguafo* or *Arbitrators* when a husband was having a "palaver" with his wife, which "palaver" had ended in divorce, you had rendered yourself liable to the penalty of *Asommo* if you afterwards married the ex-wife.

We will here interpret the 3 rules as found in the Law Records:—

A. If a man is prohibited of another's wife during marriage or at time of divorce, and the prohibited person marry the woman any time thereafter, he shall have committed an act of seduction.

B. If a man had paid *ayefare* in respect of another's wife during marriage, but was not expressly prohibited during marriage or at time of divorce, and he marry the woman any time thereafter, he shall have committed an act of seduction.

C. If a man had been once questioned about his conduct with another's wife, and he denied any sexual knowledge of her or had admitted any sexual affinity so trivial (whether on oath or otherwise), and he subsequently marry the woman, whether he had been expressly prohibited or not, he shall have committed an act of seduction.

The process of prohibiting a person against a wife is rather

a peculiar one, which merits explanation. Here Kwaku suspects that *Asiamasi* or *Obenten* is in love with his wife, which has perhaps induced her to apply for divorce. In prohibiting the wife of her lover, the words usually used by Kwaku, the husband, are something to this effect:—"If from to-day you mention the name of, or speak with, or receive presents from, or have any intercourse with *Asiamasi* or *Obenten*, may the national fetish kill you and may you be arraigned for violating the National Oath." These words are addressed to the wife, and the same words are used in prohibition in married days or at time of divorce. The wife has no right to contend against anything in this sort of prohibition.

But if it should appear that some person the husband desires to prohibit from having anything to do with his wife had been once a husband of the woman, or had in any way lived with her before, possessing children by her, the prohibition must be simply to penalize wife and lover on getting married. They may speak to each other, receive presents from one another, and keep all and every intercourse other than sexual.

Further, should the person against whom a husband intends to prohibit his wife be a public servant such as a Fetish priest whereby it may be necessary for the one to consult the other in regard to matters of importance, the husband must content himself with prohibiting his wife on oath only without adding fetish, and the wife and the prohibited person may on account of their indispensability to one another, keep all and every intercourse, other than sexual.

Again, if a wife has some aristocratic connexions, owing to which she cannot be ordinarily put into fetish, the husband will only be justified in prohibiting her on oath.

It should be noted that the law does not permit a husband to prohibit his wife against more than two persons at time of divorce. If a prohibited person has good reason to believe that he had been prohibited out of sheer enmity, and that there was no ground for supposing that he had any sexual intentions towards the woman, he has a remedy in law. A husband having failed to obtain children with a present or a former wife—because of his impotence—cannot claim to exercise the prerogative of prohibiting a person from marrying his out-going wife. The law looking on marriage as a principal means of increasing population, such impotent persons are practically denied most of the privileges enjoyable by their more favoured brethren. An impotent cannot,

for instance, double his wife's head-money, or claim interest thereon, nor must he claim the value of any presents he had given to his wife except for such clothing which, at time of divorce, is still in good wearing condition.

"Questioning" a person with regard to one's wife is not new to our readers, but a fuller explanation seems to be required. If a man is asked to pay ayefare in respect of criminal intercourse with another's wife and he is acquitted of the claim, whether he admitted or denied the charge, he renders himself liable under rule C if he ever afterwards married the woman. The mere fact of his having sworn or not sworn oath on the occasion would be no excuse for the present obligation.

The following is an interesting case determined by the Omanhene's Tribunal about the time this chapter was being written. Kwaku Adae in June, 1918, had Kofi Tano arraigned at the Tribunal for having had criminal intercourse with his wife. The claim was for ayefare of £4 16s. Adae, unfortunately, had not paid the head-money of £1 named to him by the relatives of his wife at the time of marriage, and, although Tano admitted having slept on one bed with the wife, perhaps by accident, the Tribunal found that the complainant was not, in law, entitled to the claim. In September, 1921, Tano married the woman. Adae, who had failed to establish that the woman was his wife, now lodges a complaint with the Tribunal to the effect that at least the accused Tano by marrying the woman had rendered himself liable to an oath fine, if not to Asommo fees. *Held*, that the accused could in no way be mulcted in a penalty despite the fact that he had been previously questioned about the woman, and had admitted on oath that he had had criminal intercourse with her. The case at once decides two questions, viz. (1) the non-payment of head-money acts as a legal bar to a claim for satisfaction for adultery in respect of the wife; (2) the swearing of oath at time of questioning gives no immunity from subsequent liabilities. The second complaint in this case was decided by a Tribunal consisting of the Kibbi Council and the Okyeman Council, and there is no likelihood of its being reversed.

#### (5) *How the Penalties are Met*

Despite the fact that in prohibiting persons against marriage with a wife, the law permits only swearing of oath and invocation of fetish on the wife, the onus of having the

penalties met rests solely on the ex-wife's lover. If the husband has guessed correctly that his wife is in love with a particular person whom he had prohibited, such particular young man who now desires to marry the woman, must approach her relatives with a view to obtaining the usual formal consent to the marriage. If the wooer receives an affirmative reply, he must then approach the Chief of the town and acquaint him with his intention to "seduce" the woman. The ex-husband will then be informed, and the wooer will have to pay to him double of the ayefare fee ordinarily due, and he will also pay the penalty of *Tasuanu* £12 (this is an invariable amount fixed by law), in respect of the oath. A sheep will then be slaughtered to revert the curse of the Fetish sworn on the wife. This concludes the ceremony of *Asommo*, for when once the blood of the sheep falls on the ground to appease the fury of the fetish, the wife is free to mention the name of, or receive presents from the lover, as if no fetish curse had been called on her. After the ceremony the prospective husband has to approach his wife's family in the ordinary way to pay the "Aseda" and "Head-money" without which the high figures he had paid to the ex-husband and to the Chief could not alone make the woman his wife. If after paying say £8 16s. and £12 for *Asommo* fees, the seducer is asked to pay say £10 as head-money with 16s. as *Aseda*, he will find that—with a sheep at 20s. or 30s.—he had had to pay something in the neighbourhood of £33, besides other wedding presents that he might have to give to the wife.

If the family refuse to give their consent to the marriage, suppose the seducer had not consulted them before paying the fees and fines of seduction, the woman would not be regarded as a wife, and until a proper customary marriage is granted by the family, all the money paid would be as nought. If on the other hand, the intending husband keeps any sexual intercourse with the woman but makes no offer for legal marriage, he is liable to pay the simple ayefare only. The oath fine in this respect is also the ordinary, i.e. £6. But if the person prohibited had previously paid ayefare fee in respect of the same woman, and being now prohibited he failed to "seduce" the woman in the legal way, but continued intercourse with her, double ayefare fees would have to be paid, together with an oath fine of £6.

It is to be assumed that the woman's consent must have been previously obtained before her lover embarked upon payment of the high fees involved in seduction; consequently

if she hereafter sought to obtain divorce, she would be held liable to a refund to the husband of half the amount expended by him in respect of the seduction.

(6) *Rules for Claiming Ayefare*

If a woman in her travail should mention the name or names of certain people as having committed adultery with her, the husband, fearing that his wife may not live to prove her accusation, should take the earliest opportunity of conveying news of the charge to the offenders. They should even be informed when staying at remote places away from the scene of the untoward event. If any of these unfortunate offenders has any statement to make which would necessitate rebuttal by the woman, he must hasten to the approaching death-bed of the lover and state his denial on oath. The dying woman must then reply. If she could not do this before death, the accused is free. But if oath is sworn by both sides, an investigation may there and then be held, or the woman's statement taken in the presence of witnesses to submit to Tribunal during the subsequent hearing of the case. If in such a case the accused is found guilty, he will be liable to the ayefare plus half the sickness expenses incurred by the husband in respect of the sickness of his wife. If there is more than one adulterer, the sickness expenses must be shared equally between the husband and the adulterers.

So also if a married woman is infected with any venereal disease and her husband cures her, the adulterer would be liable to half such sickness expenses plus the ayefare.

There are various sub-rules upon which one may escape or render oneself liable to the payment of ayefare; but as these rules are more or less determined by commonsense as strengthened by the customary law and equity, we will state a few leading points only to indicate the principle. Thus, if Kwaku commits adultery with the wife of Kwadjo and the wife does not herself have either the opportunity of mentioning the fact to her husband, or intentionally conceals such fact from him, and Kwasi a third party, perhaps out of enmity to Kwaku or of love for Kwadjo, makes the offence known to Kwadjo, Kwaku would be right to refuse paying the ayefare, which is properly payable by Kwasi the informant.

Again, if Kwadjo Kotto's wife, suspecting that Kwabena Ogyam's wife is in love with her husband, makes a general quarrel with Kwabena Ogyam's wife, thereby arousing Kwabena Ogyam's suspicions, Kwadjo Kotto would be right

to disclaim responsibility to the ayefare involved, and his wife who revealed the secret is properly the responsible party.

Again—if a person in paying the head-money of his wife failed to pay the "Aseda" fees, the marriage would be invalid in law, and he would have no right to divorce, i.e. to give "white clay", to his wife—or concubine properly so-called—nor can she be given fetish to swear as to her fidelity. A wife in respect of whom "Aseda" was not paid, is looked upon in the husband's household as a house-mistress or house-keeper. This is so even if the man had paid head-money (tirisika) of say, £30, but had failed to pay the "Aseda" of 12s.

Provision is also made for a case in which a wife falsely charges an innocent person with adultery. The innocent person can claim damages for slander, and the wife and her family are responsible for all expenses relative to the original claim and to the counterclaim. The husband is not liable to the person charged by his wife and discharged by the Tribunal.

If, in the absence abroad of the husband, his wife commits adultery, the relatives of the wife are not entitled to claim the satisfaction on behalf of the husband, except a divorce is being effected in the husband's absence, and even in that case, it is the husband's relations who should act.

As to the meaning of terms used in this chapter, it seems necessary to explain that the actual amount of fixed ayefare paid to a husband by someone committing adultery with his wife is properly called in the Tribunals, "satisfaction money." There is, however, a custom which recognizes as essential the payment of pacification to a wronged husband apart from the actual satisfaction money already paid. The pacification in this case is never very high and the least is 2s.; in ordinary cases the highest would be 12s. If an adulterer after paying the legal ayefare fee deliberately refuses to pacify the wronged husband, he is stopped from keeping the least social acquaintance with wife or husband, or he renders himself liable to an action for any familiarity or liberty taken with wife or husband.

We may mention that where a higher Chief's wife commits adultery—in which case there is no fixed satisfaction in law—the amount that arbitrators would fix for the adulterer to pay is not properly "satisfaction money", the correct term is pacification, for the adulterer is taken to be incapable of satisfying a Chief whose wife has been

violated, but he may "pacify" or soothe him. Such pacification money to a Chief is usually higher than any fixed ayefare fee—but it may be lower.

The Basel (now Scottish) Mission Christians have their ayefare fee, *inter se*, fixed at £5, nothing higher or lower being permissible.

For the benefit of our Akan readers—and for the use of students of anthropology and of our state socialism, we append here under a table showing the fixed ayefare fees payable to husbands in cases of adultery. Here again it should be noted that the grade of valuation is not based upon the principle of *social* equality or inequality, but upon that of *civic* standing.

(7) Table of Ayefare Fees<sup>1</sup>

## (Ayefare Boo)

	£	s.	d.
1. Any native of Akim Abuakwa <sup>2</sup> ( <i>Osua ne suru ne nsano</i> )	3	12	0
2. Ohenenana (Omanhene's grandson): <i>Asuanu ne dwoa suru</i> . If he is a State servant in addition, two sheep are added: £2 8s. each	4	16	0
3. Ohenaba (Omanhene's son): <i>Predwan asia</i> with two sheep, <sup>3</sup> £2 8s. each	9	10	0
4. Okyenhene Kyeame (Omanhene's linguist): <i>Predwan Asia</i> with two sheep £2 8s. each	9	10	0
Okyenhene Akyeame-hene (Chief of the Omanhene's linguists): <i>Tasuanu</i> , with three sheep—two sheep at £2 8s. each, and the third at 15s. for the Linguist's own stool	12	0	0
5. Okyenhene Ahenkwa (Omanhene's state servant), <i>Asuanu-ne-dwoa suru</i> , with a sheep Akrafo (Gold Breast Plate Bearer) has two sheep at £2 8s. each in addition	4	16	0
6. Okyenhene Tweręfoo Panyin (Omanhene's Chief Clerk) <i>Predwan Asia</i> with a sheep (£2 8s.)	9	10	0
7. Okyenhene Atwerefō a aka (other clerks in the Omanhene's office) <i>Bena</i>	7	0	0
8. Okyenhene Atrafo a yente nkonwaso (Omanhene's non-stool holding councillors), <i>Bena</i> , with two sheep £2 8s. each.	7	0	0

<sup>1</sup> The word "ayefare" means in fact the actual amount of money payable. The roots of the word are Oyere-fa-de (a thing, i.e. money, given for taking one's wife.) The words in italics in the table are the Akan names for the English figures in the right-hand column.

<sup>2</sup> The inter-state ayefare—when a native of one state commits adultery with the wife of a person of another state—was agreed upon at the Conference of the Paramount Chiefs of the Eastern Province, held at Accra in 1918 at Domiabra Park. It was fixed at *Osua-ne-doma*, £2 8s.

<sup>3</sup> The value of sheep is not included in the figures column.

	£	s.	d.
The same for Banmuhene (Chief Keeper of the mausoleum—resident at Kibbi).			
9. Nkonwasoafohene (Chief of the stool carrier) <sup>1</sup> <i>Tasuanu</i> with two sheep at £2 8s. each . . . . .	12	0	0
10. Nkrafohene (Chief of the Gold Breast Plate-bearers) <i>Predwan Asia</i> with two sheep, £2 8s. each . . . . .	9	10	0
11. Ankokeabene; Jasehene; Kyidomhene <sup>2</sup> <i>Tasuanu</i> , with two sheep, one £2 8s. for the Omanhene, and the other £1 4s. for himself) . . . . .	12	0	0
12. Amantoo-mmiensa—Adikroto (the Chiefs of the Council of three counties): each <i>ntanu</i> , with three sheep, one for his own stool, 15s.; one for his Opakani, i.e. the Principal Chief under whom he serves), £1 4s.; another for the Omanhene, £2 8s. . . . .	16	0	0
13. Opakani ba (Principal Chief's son) <i>Asuanu ne dwa suru</i> . . . . .	4	16	0
14. Opakani Kese Kyeame (Linguist of a Head Chief— one of the five) <i>Bena</i> . . . . .	7	0	0
15. Opakani kuma Kyeame (Linguist of one of the other principal Chiefs) <i>Asuanu ne-dwoa-suru</i> . . . . .	4	16	0
16. Opakani Kese Dehyee (Stool Heir of one of the five Head Chiefs) <i>Predwan Asia</i> . . . . .	9	10	0
17. Opakani Kese Panin (Councillor on Stool of one of the five Head Chiefs) <i>Predwan Asia</i> . . . . .	9	10	0
18. Opakani kuma Dehye (Stool Heir of one of the seven principal Chiefs). <i>Bena</i> . . . . .	7	0	0
19. Opakani kuma Panin (Councillor on Stool of one of the eight Principal chiefs). <i>Bena</i> . . . . .	7	0	0
20. Opakani biara Hotrafo aonte Akonwuaso (a principal Chief's Councillor not holding Stool)— ( <i>Asuanu nedwoa suru</i> ) . . . . .	4	16	0
21. Odikro biara (An Odikro Chief of a town) <i>Predwan</i> , with three sheep, one at 15s., for his own Stool; the second at £1 4s., for his principal Chief's Stool; and the third at £2 8s. for the Omanhene's Stool . . . . .	8	0	0
22. Odikro biara Panin a oye Osomanyawa (an Adikro's Chief Councillor called Osomanyawa or Mankrado). <i>Asuanu ne dwa suru</i> with two sheep—one at 8s. for his own Stool and the other at 15s. for the Chief's Stool . . . . .	4	16	0
23. Odikro biara Hotrafo a onte akonwaso (Odikro's Councillor not holding a Stool) <i>Osua ne suru ne nsano</i> ; with a 15s. sheep for the Odikro . . . . .	3	12	0
24. Akomfo Akese (the principal Fetish Priests— <i>Predwanasia</i> with two sheep, one at 15s. for the Fetish; the other at £2 8s. for the Omanhene . . . . .	9	10	0

<sup>1</sup> This is a very high post in our institutions. It is not hereditary. it is held at the Omanhene's pleasure, but almost always for life. *Vide* Chapter II, A. 14.

<sup>2</sup> These are the principal stool-holding councillors of the Kibbi Council. *Vide* Chapter II, A. 5-8.

	£	s.	d.
25. Akomfo nkuma (the Ordinary Fetish Priests) <i>Asuanu ne dwoa suru</i> with a sheep, 9s. . . . .	4	16	0
26. Odikro bi ba (Son of an odikro) <i>osua ne suru ne nsano</i> with a sheep, 15s. . . . .	3	12	0
27. Osafohene Charles Amoako (the "Captain" appointed by the Okyeman Council to head the Volunteers subscribed by this Division towards the Gold Coast Regiment to East Africa) <i>Predwan</i> ; with a sheep . . . . .	8	0	0
28. Osafo a aka no (the other volunteers), <i>Bena</i> <sup>1</sup> . . . . .	7	0	0

A study of this table gives us some practical conclusions:—

1. A person's importance in the State may be judged by the value of ayefare he is entitled to.
2. Taking another's wife is not looked upon as an irremediable offence.
3. One's greatness is not judged by his own self-acquired opulence, but by the recognition given to the post he holds in our State system, either by birth or appointment.
4. Committing adultery with an important person's wife, amounts to a defilation of his Stool and those of his superiors and sheep are therefore to be slaughtered to sanctify the Stools or Fetishes.

It may be observed that the above list, though exhaustive of the fees fixed by law, does not include the ayefare payable to a Stool Heir (Odehwe) of the Omanhene or to an Opakani (Chief), or to the occupants of other high and exalted posts. The reason is that the law looks upon itself as incompetent to limit the amount of ayefare payable to such people whose persons are considered sacred and whose displeasure when aroused was, in the old days, only appeasable with human blood. It is a crime to trespass on the wife of any of these exalted men of State. They are the higher Chiefs of our State system, who are regarded by the law as immune from the operation of most ordinary laws—" *Obi nnfwe Opanin nntwa mmra,*" i.e., "Nobody makes law for a prince." What the law is in these days competent to do in case of violation of a Chief's wife is to give power to a temporary arbitrate council having a recognizable authority to decide on the spot what reasonable amount should, on the merits of each case,

<sup>1</sup> It is worthy of note that the Volunteers from this Division (over 300) are looked upon as having done a real service of value to the State. As a mark of appreciation for such valuable service, the Okyeman Council distinguished them from their other non-combatant brethren by raising their ayefare fee from £3 12s. to £7. Charles Amoako, who was appointed to supervise them, was on their return made a life member of the Kyebi Council with a distinguishing ayefare of *Predwan* (£8). (East African Campaign 1914-18.)

be paid as pacification to a Chief for the purpose of restoring the honour of his wife thus trespassed upon. Many are the sheep slaughtered on such occasions. In the same way, if any of the Chiefs should condescend to flirt with a commoner's wife, the amount of pacification payable to such commoner would be decided by an Arbitrative Council having a recognizable authority. The fixed amount ordinarily payable to a commoner is not to be taken into consideration in cases of this nature.

## CHAPTER IX

### SUCCESSION

THE theory of succession among the Akan people is so interwoven with many branches of their institutions—such as marriage, divorce, chieftaincy, land tenure—that no treatment of those institutions can be complete without an adequate treatment of the problem of inheritance to person and estate.

The first fundamental fact that meets us in our inquiry is that descent is traced through the female. The woman is the vehicle through whom the direct line of the first clan mother, the *materfamilias*, is kept unbroken throughout the ages. Under a system of polygamy with its attendant easy means of divorce, it is possible for the paternity of a child to remain doubtful, perhaps problematical, never so, its maternity. A child is easily identifiable with its mother, not so with the father. Hence, the Akan institution, following natural law with a slight superimposed social convention, adopts the female line of descent as that by which alone the clan system is to be determined, material family relations classified, property inherited or transferred, and positions of trust or honour conferred or inherited.

To insure adequate treatment we will divide the topic under some four heads:—

1. Succession to Stool.
2. Ordinary inheritance.
3. Paternity and Custody of Children.
4. Cutting of Kahire (Ekal): Disinherison.

#### 1. *Succession to Stool.*

A Stool, as we have explained elsewhere, is the symbol of authority of a king or chief. But it is something more. It is the shrine containing the soul or spirit of the family, tribe or nation to whose Head or Chief it is said to belong. This Head or Chief is chosen by the family, tribe or nation from one particular family, every member of which is potentially eligible to ascend the Stool. These members are traced through the female line, and the recognition of apparent right to inherit is usually acknowledged to belong

to the first male son of the last occupant's maternal sister, that is to say, to the maternal nephew of the last "purchaser" or occupier of the Stool. The gift of succession is not in the power of the person who last occupied the Stool, be such occupier male or female. If a Chief or present occupier of a Stool is on his deathbed and desires to nominate a successor to his Stool, he cannot choose an heir in such a way as to override the subsequent choice by the members of his family. He can as a fact recommend a member of the family or clan as his possible successor, but there is nothing in the Akan institutions to bind the members of the Stool to defer in every respect to the dying wish or testament. They may as a matter of sentiment strive to give effect to his wishes, but his "will" or testament stands very little chance of taking effect. The saying is "*Nea wawuo mmpra ne hō*", "a dead man does not or cannot look after his mundane affairs." The dead as it were have to bury their dead, and the quick will care for the living.

This then is the principle, that succession to a vacant Stool is determinable by the family or members of a tribe or nation over whom the Stool has authority. It is here sufficient to add that a person's actual right to ascend a Stool is not acquired by birth alone but by that fact plus the act of choice. And this applies equally in the case of succession to ordinary property, that is property not attached to a Stool or over which a Chief with a Stool has no direct connexion. In both cases, whether it be a Stool or non-Stool property, the right to choose a successor or inheritor usually rests with the surviving relations of the last purchaser. If there be any possible difference between succession to Stool and ordinary inheritance, it may conceivably be mere differences of degree and not of kind.

Succession to Stool in its entire procedure is treated fully in Chapter V, "Enstoolment and Destoolment."

## 2. *Ordinary Inheritance.*

We have said that there is only a difference of degree between succession to Stool and succession to ordinary property, but even in that we are apt to make a good deal of allowance. In point of fact, if there is any difference at all, it lies in the procedure. Although the saying goes, "*Nniwa mma nsaea wofase nni adee*", i.e., "Except there are no mother's sons (i.e. brothers), no nephew inherits," yet there is very good reason to show that the dictum does not always accord with practice and the dictates of prudence.

The most common form of succession, and the one subject, comparatively, to least quarrels and family disputes, is nephew succession. If a man's nephew is made to succeed him, it leaves little or no cause for rivalry among the brothers and other relatives of the deceased. On the other hand, if, despite the claim of a nephew, a brother does not hesitate to inherit his late brother's property, he may be sure that his peace is likely to be disturbed by other members of the family. The truth is, although the deceased may be C.'s (the claimant's) brother of the same womb, yet there may be a "brother", i.e. a cousin of C., who has a better right to inherit C.'s brother's property. Such a cousin is the son of C.'s mother's elder sister (aunt). He has a prior right by reason of seniority of succession to that of C., a brother of the same womb as the deceased, but the brother's legal right is often indefeasible.

Another, but stronger claim, is the mother's. There is none to supersede her claim to succeed her son. If the mother steps in, in case of any controversy, it is to be realized that she does so *de jure*, and her living son or any male eligible appointed by her would consequently be the successor *de facto*.<sup>1</sup>

We may state the line of succession in the following form: The first claims precedence and the others follow in regular order:—

1. Mother of deceased male.
2. Cousin, i.e. eldest aunt's son.
3. Brother, who is commonly waived in favour of
4. Nephew.
5. Sister,
6. Nieces,
7. Aunt, i.e. Mother's younger sister.
8. Issue of Mother's younger sister, etc.

This tree of succession is fully treated in Sarbah's *Fanti Customary Laws*, to which we refer the searching reader.

We have here stated the only system on which succession is legal. The case of domestics becoming "extraordinary" successors cannot be denied. The practice is, however,

<sup>1</sup> According to a law passed recently by the Akim Abuakwa State Council, the mother cannot come in if the deceased's brother or a first cousin (maternal) is alive. Sarbah's tree of succession is therefore varied by substituting for No. 1, the brother; No. 2, the cousin remains; and No. 3, becomes the mother, then No. 4 the nephew, etc.

rapidly dying out. Its shadow is clearly reflected in innumerable instances where a "blue-blood" having been made to inherit the property of an erstwhile wealthy domestic, that domestic's nephew or "proper" successor, who must have been a minor at the time of his uncle's death, now claims right of succession to the property of the blue-blood. Here, it is apparent that the domestic succeeds not to the *bona fide* property of a blue-blood, but of his own kith and kin.

The procedure to be followed before entering into possession of an inheritance is very simple. It consists first in the person chosen paying an "Aseda" or thanks money to the members of the family. When this is paid and some drink in testimony of the transaction has been offered to and drunk by the members of the family, the succession becomes a completed transaction. The inheritor enters automatically into possession of all the property owned by the deceased, and if there are any debts owing by the deceased they would be paid by this successor. If the debt is greater than the gross value of the property, the successor would be justified in calling on the other members of the family to assist in paying debts which have become veritable family debts. If, on the other hand, there are no debts, or rather if the deceased was a rich man, it would be unlawful for any member of the family to lay hands on any portion of the deceased's property—personal or otherwise—without the expressed consent of the inheritor. That is to say, the whole estate must remain in the hands of the inheritor to manage it in such a way as to assist every individual member of the family to get out of his difficulties. If there are many wives more than the present inheritor chooses to retain, he may distribute such wives among the senior members of the family.

It must be noted that the successor to a female relative's property is usually a woman. There are hardly any instances in the writer's experience where a male relation has been made to succeed a female; except in the rare instance of a female occupant of a family or town Stool dying, in which case it would, of course, be proper for a male relation to ascend the Stool. If there is no daughter living, a son may succeed his mother. There is nothing like the "salic law" in our institution.

### 3. *Influence of Christian Missions.*

It is needless for us to state that the presence of European Christian Missions and western education in general is gradually effecting modifications in what our mission friends

consider to be extreme primitive customs. In Akim Abuakwa the erstwhile Basel Mission Society—the only mission society which has successfully operated in the Akim dominions—has evolved a form of succession for the benefit of its Christian communities. This form of succession, which seems to have obtained favour among the Christians, is shortly, as follows :—When a member of the Basel (now Scottish) Mission Denomination dies, his property would be divided into three—one third goes to the wife, the second third to the children, the remaining third to the relatives of the deceased. The house belongs to the deceased's wife and children, but if the widow re-marries, the children alone retain the house.<sup>1</sup>

This rule, which has taken a strong hold on the minds of the Christian converts—a rapidly increasing community—has also effected other distinct changes among the general mass of the people. A rich man, for instance, would in these days of economic agriculture, provide well for his children by apportioning to them in his life-time substantial parts of his property. The act is done in the presence of the family, but their assent is not required by law. The transfer would then be for ever. When drink is given in testimony and an "Aseda" taken, the gift bears legal examination in the Tribunals. It is not denied that there must have been some indigenous basis for this practice which led to the establishment of the missionary procedure in the country, but when we remember that there was very little of the individualistic ownership of property before the missionary and the trader went to Africa, it can easily be seen that modern tendencies have much to do with the changes brought about by the contact of Europe and West Africa.

#### 4. *Paternity and Custody of Children.*

We turn now to another reason why our present form of succession by the maternal line hardly admits of any aggressive attack on its fundamental principles. The paternity of children is a contributory cause, and it depends mainly on the form of union subsisting between husband and wife. We have already alluded to the status of a child born to parents who were not properly married (*vide* Chapter VIII), and in doing so, touched slightly upon the maternity of the issue. The law, as it stands at present, recognizes as legitimate

<sup>1</sup> I have found it necessary to state the modifications made in the aboriginal mode of inheritance by the Mission Societies, because of the fact that a large percentage of the aborigines are now living under that system of succession.

a child born to a man who had cared for an unmarried girl for whose baby he stands as putative father. Marriage is necessary to make a child legitimate, but it would seem that among the Akans a bastard child is not particularly one whose mother and father are unmarried, but one whose paternity is indeterminable, his father (or fathers) not being known. Hence the name *Aguaman-ba* (a child of harlotry).

But in a case where, for instance, Kwaku had kept Ya, a married woman, in a state of concubinage for a period of four or five years, having two or three children as issue of the connexion, Kofie the real husband of Ya, would be quite in his right to lay claim to the children, besides claiming from Kwaku satisfaction money for adultery. In this case, too, Kwaku has no right to claim any amount he must have spent on the children or on the wife from Kofie or anyone else, except, perhaps, there was any member of Ya's family who had given countenance to the illicit connexion. That person may be held responsible for Kwaku's expenses if he lived with the girl believing that she was unmarried. We have already shown in Chapter VIII that Kofie, the husband, is entitled to claim from his wife Ya, any amount of presents, etc., that Kwaku must have given her during their concubinage.

Kofie is also entitled to prohibit Kwaku from having anything to do with his (Kofie's) children, nor would any names that Kwaku had given them be perpetuated, for such names would be abolished by Kofie and new ones substituted therefor. In fact, Kwaku has no right in law to call the issue as his children.

Further, where Kwadjo and Kwame are known to have had connexion with Akosua, a spinster, as a result of which she expected a child, and where none of them could in law be compelled to provide for her during the nine months of pregnancy, the issue is properly the property of Akosua's family, and they have the right to give it a name.

If, on the other hand, Kwaku had kept Adjoa in concubinage for any length of time, she being unmarried, and he subsequently applied to the parents of Adjoa for a grant of lawful marriage, the previous issue of their connexion automatically become legitimate as soon as the marriage is lawfully solemnized.<sup>1</sup> It therefore follows that if the family refuse

<sup>1</sup> We have carefully refrained from making comparisons or drawing conclusions from any facts stated by us, but here we cannot help expressing the striking similarity between our custom and the well-known rule which, in the law of Rome as in the law of Scotland, recognized the *legitimatio per subsequens matrimonium*.

to grant the application for marriage, the issue of Kwaku and Adjoa's connexion would be "illegitimate", and Adjoa's family would be the proper persons to give names to them. The saying is, "*Okromfo nni ba*" (a "thief" has no child), and, consequently, until the issue of an illegal connexion is in one way or another legalized, there is no hope for the putative father possessing his own natural children. The worst case is when one obtains a child with a married woman, for then every avenue for gaining possession of the child is closed to the unfortunate "thief".

Now, as regards the custody of children in general, the law is clear on the point. A child belongs to his father—or rather to his father's household, and so long as the child remains with his parents his custody is in the hands of the father. A mother cannot take a child away from the father. If the child is young the father may be ordered by Tribunal to leave it in the nursing hands of its mother. After the first two or three years of infancy a father can always claim possession of his lawful child. But there are times when a child ceases to be the "property" of his father, and becomes a "part or appendage" only of him.<sup>1</sup> A child goes along with, or pertains to, his father until the parent has, on his son reaching the age of puberty, obtained for him a gun and a wife. Then the son is launched on to the sea of life to steer his own course, and the father would no more be ordinarily responsible for debts contracted by his son, although there is no doubt that all cases of misconduct would be brought before the father for adjustment. The father, in fact, becomes the nominal debtor when, for instance, a grown-up child becomes involved in an *Ayefare* case, but in reality the son pays the debt in the end.<sup>2</sup>

The duty of a child towards a father would seem to wane in proportion to the diminution of the parental support. The children may rally round the father in time of a catastrophe or distress, and they may even go to the extent of giving him substantial financial assistance, which may not be repayable, but the father must, of course, remember that this is more an act of courtesy and of filial affection than of legal obligation. Their only unshirkable duty is that on their father's death they should provide a decent coffin for his burial.

<sup>1</sup> There are even times when a father loses complete control over his child; but this may be better treated under another section (*Tamboba*).

<sup>2</sup> This should not be taken to mean that a father at any time ceases to be regarded in law as the natural guardian of his child.



5. *Tamboba*.<sup>1</sup>

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[In view of some interest recently aroused in West African laws and customs it seems to me desirable to give to readers of *West Africa* the advantage of closer acquaintance with those of our customs and institutions which have up till now received but very little attention from writers on this subject. One of these much neglected institutions is what I select for the topic of this article. The custom of "Tamboba" is prevalent among practically all the Akan tribes of the Gold Coast. "Akan" as a general term covers all the Tshi speaking tribes of Ashanti and the Gold Coast, and it includes, I think, all the Fanti tribes. The present writer's experience of Akan customs and usages was gained mainly in Akyem (Akim) Abuakwa, where he was for many years actively connected with the Native State administration of law and justice. Although Akyem Abuakwa is admittedly one of the largest and most conservative of the numerous Akan States, the writer has no desire to dogmatize on the basis of the experience gained in that country, and the views expressed in this article are not offered as final solutions of the problems involved. It may perhaps be added that the subject of this article is culled from a general work on Akan customs and institutions at present under preparation.]

As is generally known the system of inheritance among the Akan peoples is that of maternal succession or "mutterecht". Whatever may be the disadvantages attached to this form of succession there is no doubt that, to quote Miss Mary Kingsley, "when once you have mastered the simple fundamental rules that underlie the Native African idea of property, they must strike you as just, elaborately just"; for "all forms of property are subject to the same law—land, women, china, basins, canoes, slaves, it matters not what, there is the law".

Ignoring for the present any implied sarcasm in the above quotation we desire to show that although children are not legal inheritors of their father's property, according to Akan customary laws, the upkeep of a child is the father's duty.

<sup>1</sup> Reprinted from *West Africa*, with the kind permission of the Editor. The reader who has gone through the preceding paragraphs of this chapter need not read pages 188-9 of the topic Tamboba, and he may continue from page 190.

From childhood until the age of puberty a father is held responsible for the care and welfare of his child. This personal responsibility for a child is held to be terminated when a son is given a gun and a wife or a daughter is given in marriage. But this act in itself does not wholly extinguish the interest of the father in his child. Even when a child has passed the age of puberty the father is recognized by the customary law as natural guardian. He may cease to be actively responsible for his child, especially if such child was not staying in his household, but nominally, as happens, for instance, in a case of "Ayefare" (money payable for taking another's wife), the father would have to act publicly as the person responsible for commitments of a like nature incurred by his child.

Running directly counter to this principle is the cognatic relationship of children by which they are regarded as belonging to their maternal family and clan. Children are, it is true, recognized as members of their father's household, but in reality they belong to their mother's clan. A father has right of use over his children, but the true ownership is vested in their maternal family. The tie between mother and child can scarcely be broken; but the relationship between father and child can be destroyed by a customary process. This is the process involved in "Tamboba". It not infrequently happens that a father has to part with his "right of use" over his children in favour of their maternal relations. This demand is generally made by the wife's family when, for instance, the children are required for service as priests of the family fetish, or to take some inheritance in their maternal family. For the father to part with his life interest in the children our customary law provides that a sum of money fixed by law and called Tamboba<sup>1</sup> should be paid to him in respect of each child so taken away by its maternal relations.

The amount payable was formerly "Osua" (£2) for a boy, or "Asia" (30s.) for a girl, but owing to modern economic conditions these figures have been raised by the Okyeman Council in Akyem Abuakwa to Mpredwan mmiensa (3 Predwans, equal to £24 or 25£) in respect of each son so taken away, and Ntanu (2 Predwans equal to £16) in respect of each daughter.

On account of certain monetary payments connected with

<sup>1</sup> *Tam-boba*: "Tam"—uterus, "bo-ba"—small stone. Hence, a small weight of money payable when emancipating an offspring of marriage.

the transfer of persons in this and the marriage system, it seems necessary to distinguish clearly between Tamboba and "Tiri-sika" (Head-money). The latter term is properly used in connexion with a customary payment made in respect to a girl's marriage. A girl eligible for marriage has head-money, but no head-money is claimable on behalf of a boy. On the other hand, every girl or every boy has Tamboba. We have here a partial but strong disproof of the view that our girls are married on a system of purchase. If it were so we should naturally expect to find (as was the law in Rome) that a reciprocal head-money (*dos*, in exchange for the boys' *dotalis*) should be demanded of girls intending marriage.

The fact is if there is any system of purchase in respect to transfer of persons such system is found not in marriage but in Tamboba. In a transaction of marriage a husband does not purchase the freedom of his wife. He marries her for the purposes of procreation and mutual assistance in domestic life. Whatever may be the value of head-money paid by a husband in respect of his wife she never becomes a member of his family. (It may be well to state that in these discussions we exclude persons of slave status. It is well known that in the days when slavery was legal a man could have a slave wife called *tò-yere* or bought-wife. This slave woman, having lost connexion with her clan, had no cognatic family, and therefore her marriage was not an Akan marriage. It was a peculiar form of union with its own special customary rules.) In the case of marriage between free persons the husband has no clan or family relations with his wife. She remains throughout a member of her own clan or cognatic family, and in most cases of her agnatic family. Even in ancient times a husband could never sell his wife. On the other hand, a child whose Tamboba has not been paid, though held free in the wide civic sense, its family-freedom is limited by the fact of its being subject to the rule of two masters or heads-of-families. On the one hand the child is in the service of its father and on the other of its maternal uncle. It has not, as such, complete individual freedom. To obtain this the child's uncle has to reclaim from the father that part of its individuality still under the control of its agnatic family. Hence the institution of Tamboba. (Those interested in the theoretical side of our customs may here find what resemblance there is between the Tamboba system and the Roman institution of *Emancipatio*. Apart from details of procedure the only essential difference between the two institutions seems to be that while a Roman father

or pater familias can emancipate his son or filius familias to any other Roman citizen, an Akan father cannot accept a settlement of Tamboba from any but the uncle or other person representing the maternal uncle of his child.)

To complete the contrast between Tamboba and Head-money it should be noted that the former may safely be described as a customary mode of absolute sale; on the other hand, head-money paid for a girl in marriage involves transfer of possession but not of ownership. By our custom, in giving a girl away in marriage head-money may or may not be claimed from the intending husband. This money is not claimable by or payable to the father. It is paid to the uncle of the prospective wife. Tamboba is, on the contrary, paid by the uncle to the father. Interest is chargeable on head-money. No interest is charged on Tamboba. Head-money is returnable in case of divorce. Tamboba once paid is never returned. These constitute the chief differences between head-money (*tiri-sika*) and Tamboba. The latter is a fixed and determinate sum. The former depends upon the circumstances of the marriage and especially of the relationship between the parties to the marriage.

A word more about Tamboba. Children, as we have said, are regarded as being in the service of their father; they are not, however, in his absolute power. In ancient times a father could not sell his child except its uncle or other maternal guardian refused to pay the Tamboba or to take his due share in the payment of some extraordinary debts incurred by the child in consequence of its crimes or misdeeds. In modern times, however, the law has been strengthened in favour of children, so that except a child's maternal relations voluntarily undertake to pay Tamboba and take away their *dehye* (*dihi-Fanti*), i.e. freeborn, the father cannot in any circumstance relieve himself of the burden of having to support his child. In the great majority of cases fathers are most happy to retain their children in their own households, but in other cases this is not so. Not that a father would easily forsake his child were it not for the consciousness that he might be deprived of the pleasure and satisfaction obtainable from his child if he were to assist him or her in attaining any state of affluence.

The principle seems to be that the active progress in life of a child is the father's own concern; the maternal relations of a child are quite apathetic with regard to the condition of a useless member of the clan, who is, after all, "another man's child." Consequently at the present day there is a

strong tendency towards active improvement in the condition of children and in getting them to become members of their father's family, and not only of his household. This tendency no doubt is due to the influence that Western education is likely to bring; it is also due largely to the fact that children are more easily accessible to the father than his own maternal nephews and nieces. The tie between father and child seems to be closer and more affectionate than that between uncle and nephew, i.e. a sister's child. This filial attachment naturally could not have made much difference in the olden days when conditions of living were practically the same in every household. To-day things have changed, or perhaps I should say *are* changing—which is worse. Paternal responsibility is no more a simple question of the upkeep of a child. It also involves an active improvement in a child's condition—the care and proper training of the child on lines required by modern social and economic exigencies.

This is one of the ways in which change in the conditions of living may vitally affect the established order of laws and customs, and where unbending conservatism for its own sake becomes a mere matter of sentiment. There is no doubt that contact with European civilization and conditions of living is bound to react on our customs and institutions, and, unless our statesmen, with their usual foresight, revise our laws in anticipation of the contingency, most of our usages and practices now held in respect and observed by all classes are sure to fall to a minimum level in public recognition. All things considered, there is little doubt that our system of succession, long ago recognized by ancient civilizations as the most natural form of inheritance, is at present the most suitable, for "every country deserves the government it has". But it is also apparent that there is bound to come concomitant with the present developments in several aspects of life a growing demand for a new order of usages and customs to fit in with the altered conditions of living. The change is, fortunately for us, a gradual one, and no serious danger is as yet imminent. Of one thing, however, we are sure, and that is that if, amongst the small private families of limited means as distinguished from the great Stool families, the system of maternal succession ever breaks down, it will be due largely to the increasing difficulties and responsibilities involved in the care and training of children.

### 6. *Paternal Responsibility.*

The question of responsibility of fathers mainly arises in cases where a child has contracted a debt or acquired an immense property. A specific case may perhaps help us here. Kwaku Kuma, who is barely out of his teens, is the son of Kwadjo Kotto, who is anything but a rich man. Kwaku Kuma is unmarried. Kwadjo Kotto has been called upon on more than one occasion to pay debts incurred by his son Kwaku Kuma in connexion with his conduct with people's wives. Kwadjo Kotto has on all the specific occasions met the debts of his son. One day, Kwaku Kuma discovers a treasure-trove out of which, after the State has taken its one-third share, a considerable amount of money is left to bring Kwaku Kuma and his maternal family a long lease of monetary happiness. This amount is, we may suppose, greater than the amount Kwadjo Kotto has paid for his son's unfortunate love affairs. But we pause to ask: in this case where does the father come in? Is he legally entitled to appropriate the whole amount? The law says "No; he is entitled to only one-half the amount, and the boy and his family to the other half".

The law then is this: the father is always alone responsible for the charges connected with his son's immoral conduct; for all other charges the maternal relations are equally responsible. In a like manner all other property acquired by the child in any proper way as in the instance cited above is shared between the father and the child's maternal relations.

The principle seems to be that the father having brought his son into existence, is naturally liable to check him from getting loose on others' wives, for the child's image is the stamp of the father; the father must provide him with a wife and clear the path of all obstacles against his success in life. But when a child's immoral acts are other than sexual the law of the land has the personality of motherhood in view, and then the maternal family is called upon. We should state at once, however, that when, for instance, a son has relations with a Chief's wife, the wrong is more than a mere offence; it is a "statutory" crime, and the maternal relations are therefore equally responsible with the paternal family.

### 7. *Kahire or Ekal (Family Tie).*

We have spoken of the tie binding parents and their immediate issue. We now have to say a few words on the

tie binding the members of a family to their head, and to individual members of the family. If you would know what an Akan regards as most sacred and inviolable, attempt to make distinctions between him and members of his clan, or worse still, of his family. The family being more or less the unit personality in society, an individual tends to regard himself as out of touch with all existence when divorced from his family. Hence the absolute sacredness of the family tie. In a sense, and a very real sense, whatever appears natural is considered sacred, and therefore to undermine its existence is sacrilege. A custom, however, exists which, on very grave provocation, enables the principal members of an *Abusuapon* (great family) to cut off a member thereof from the tie connecting him to the family. This act of cutting "*Kahire*", or disinheriting a member of his family, is, as already stated, a singular and unusual act, scarcely countenanced by our institutions.

In the happy years spent by the writer at the highest native Tribunal in Akim Abuakwa, there never was adduced at the Omanhene's Tribunal or elsewhere a single instance wherein a head-of-family was shown to have succeeded in disinheriting a member of his family. A head-of-family on his death-bed, for instance, cannot make a testament providing that any particular member of the family shall cease to be regarded as such. It is out of the keeping of a dying person to say who should inherit his property, and the question as to the status of any *obusuani* (family relation) is solely a matter for surviving members of the family to determine. They, the living members, are the people held responsible for the conduct of any single member of the family.

We read in Sarbah's *Fanti Customary Laws* that a solemn act of publicly "turning" a member of one's family away from the family house in the presence of witnesses amounts in law to disinheriting. However much this may be true as a theoretical statement of law, it is doubtful whether such an act would be supported by an Akan Tribunal whose primary duty is not to dispense abstract principles of law but to exercise its prerogatives in a way that would best maintain tribal and family hegemony intact. Disinherison means in our legal phraseology "cutting of *Kahire*". To avoid all possibility of doubt, let us analyse the meaning of the word "*Kahire*" or "*ekal*"—the roots are the same no matter what the Akim or Fanti calls it. The primary meaning of the word *Kahire* indicates that soft substance used when carrying articles on the skull of the head—and made with

either cloth or leaves—which rests between the head and its load, giving the skull a minimum amount of pressure from the weight of the load—hence, figuratively, the “tie which binds or connects the members of a family to bear each other’s sorrows and share their burdens”. This is the real meaning of “Kahire” or “ekal”, and the mention of it brings vividly to one’s memory the traditions to which clans and families are traced. Examine it to see whether with the substance of our institutions and usages already before you, it would be easy to break this apparently flimsy fabric of family link.

We should say that in Akim Abuakwa the law looks upon any attempt to “cut the family tie” as a crime, and there is scarcely one person in a hundred who would venture to acknowledge that he had actually done the deed. Should a member of the family be disinherited by the supreme head of his family or by a minor head of his immediate relations there is invariably the possibility of the one or other of these two heads siding with the disinherited clansman to secure his reinstatement. Thus the process, as those acquainted with our Stool disputes are well aware, is sure to end in the destoolment of the head of the family if he fails to defend and justify his action. For his own personal safety, a head of family would therefore look twice before he jumps to the conclusion of disinheriting a member of his family or clan.

In high quarters, that is to say in the case of succession to a Stool, there is in vogue a system which, when solemnly adopted, places a ban or a “bar-sinister” on the right of a particular member of a family, and his or her issue, ascending the Stool. This, it is essential to note, is different from the cutting of “kahire” in some notable respects. That rule of law simply provides that the people so banned never do ascend the Stool. They may, however, succeed to other property in the family, for they remain members of the Stool family even though they cannot ascend the Stool itself. And here again it is not the Head of the Family or the present occupant of the Stool alone who acts; the consent and concurrence of a major portion of the family must be obtained. The process is called “Wiem-Tuo”. *Wiem* means “In the air”, *Tuo* “gun” or “gun-shot”. Kahire cutting has fatal consequences, although it is not employed with regard to stool questions. When a man is successfully dismissed from a family by means of the cutting of “kahire”, he ceases to enjoy the privileges enjoyable by the clan or family to which he once belonged. “Wiem-Tuo,” on the other hand, only places the “bar-sinister” on the man’s future progress

in the family; nevertheless, it is looked upon as more abominable than the cutting of kahire. And the process is simple. A gun would be "fired into the air" (*Wiem-tuo*) and proclamation made, recounting the crimes of the delinquent so solemnly punished. This form of punishment is usually employed for serious political offences, but the act of firing a gun into the air is not itself the concrete punishment as if the offender's name were being declared or exposed to the gods above. Rather it is to be regarded as a public testimony of the judicial punishment of banishment from the family already pronounced. When for instance an *Odehye* (Blood Royal) becomes hostile in a civil or military sense not only to the person of the reigning king but also to the fundamental position of his ancestral Stool, such *Odehye* would be declared incapacitated from ever ascending the Stool, and the gun fired in the air is a testimony of the declaration. As already shown, "firing a gun into the air" is the customary procedure of setting seal to the solemn declaration of sacred language concerning sacred persons, kings, chiefs, men of the blood royal, etc. The Paramount Chief, we have seen, fires a gun into the air when he takes his oath of office, and it is significant that the distinctive part of a royal funeral custom or an *Odwira* festival is the great concourse of people who assemble to fire guns.

## CHAPTER X

### PROPERTY

#### (1) *On Property in General*

WE have already dealt with the question of succession as it obtains in Akan land. The main principles to be kept in view are that descent is traced through the female; that the head of a family (*abusua*) is generally the uncle or grand-uncle of various members of the family, and, if they are not his maternal nephews or nieces, they must be cognatically related to him to entitle them to claim membership of the family. Every member of an Akan family must, in short, be of the same clan as the head, and further, to entitle him or her to inherit property in that family, he or she must be related by blood to the head-of-family in a direct maternal line. Before proceeding to deal *seriatim* with the various departments of ownership in property it will be well to have a general view of the Akan law of property.

Under the ancient regime private ownership of movable or immovable property was not the basis of Akan political and social life. Land, the most valuable of earthly possessions, was held in common by the people, and where a head of family, chief of a tribe, or king of a nation was said to own land, all that was meant was that he held that land for the direct benefit of the members of the family, sections of the tribe or subjects of the national Stool. Even to-day in several Akan States this is still the law. The pursuit of wealth was followed for the sake of the family, for on the death of a wealthy member of an *Abusuapon* (great family) all his wealth—lands, slaves, wives, houses, and all personal property—became subject to family control and disposition. The very idea of individuals acquiring wealth for absolute individual control *and disposition* was not as well developed as it is to-day.

Slaves, for instance, passed on to the successor of the deceased owner, and they could be apportioned to the senior members of the family, the actual successor taking the largest share. So also were widows disposed of. Even in a man's lifetime he could not always regard his own acquired property—property not inherited—as under his absolute disposition, for if he wished to make valid any conveyance of his land,

or gift or transfer of any particle of his wealth he could only do so with the knowledge of members of his family so that on his death the recipients could enjoy the property conveyed to them without any question from the surviving members of his family. This strict rule of law seems to be well justified under the Akan social system. For under that system it was scarcely possible for an ambitious or aspiring member of a family to amass great wealth without enlisting active financial and other support from individual members of the family. Under the old system there was no paid labour, and even to-day under a practice called *Nnoboadi* (mutual assistance in cultivation), individual members of a family making farms or plantations enjoy the benefit of their neighbours' services in connexion with the work on the plantation, and such exchange of services being free of financial charges, the communal system of social arrangement can still be said to predominate. Further, plantations or farms are usually made at a place where an ancestor has farmed before; houses are usually built on ancestral sites, and the people usually remain within the tribe or nation in which they were born. Thus, then, the farm or house on ancestral land becomes automatically ancestral property on the owner's death. Individuals, in short, would seem to have a title of use for life to their self-acquired property, although such title of use is wide enough to cover all dealings with the property in any possible way so long as alienation or transfer takes place with the knowledge of the members of the family. Testamentary disposition (unwritten) is in fact known, but the will of a deceased member is subject to the approval of the senior surviving members; consequently, if it is desired, for instance, to make someone beneficiary of an estate, the donee must be given an opportunity of possessing and owning that estate during the donor's lifetime. The owner of a piece of "private" property can sell it, mortgage it, or dispose of it in any known form. But his death ends his interest in property not so disposed of. That interest reverts to the family.

### (2) *Stool Property*

Property, in the sense shown above, may be divided after Sarbah, into three main forms:—

- (1) Stool or tribal property.
- (2) Family or patriarchal property.
- (3) Private or individual property.

In a small book by the late Mr. O. K. Quardie, entitled *Akuapem: Past and Present*, a similar classification is given, and so far as is known, no writer on Akan customary laws has shown why this classification should not be accepted as universal among the different Akan nations.<sup>1</sup> Accepting then Sarbah's formulation of the form of Akan tenure, we proceed to deal with the first of these, "Stool property," under the present section. Miss Mary Kingsley, who seems to be in agreement with the above classification, defines the first as being "ancestral property connected with the office of headmanship, the Stool, as this office is called in the true Negro state, the cap, as it is called down in Bas Congo".<sup>2</sup>

The Stool itself is, in legal interpretation, a primary and unique portion of Stool property, and after the Stool the various insignia and paraphernalia follow in due order. The principal property of the Stool is the land attached to it, and the slaves and domestics and wives are also considered Stool property; but in minor stools wives may be separate adjuncts, not altogether attached to the stool.

Stool property, with particular reference to land, is acquired in one of many ways. A war-like tribe invades a country under a supreme commander or war-lord with commanders and captains and their respective people and retainers. The country is overrun; the invaded tribes are enslaved, massacred, or driven away from their own country by force of arms. The invaders occupy the devastated and evacuated towns, and after setting up defences against attacks by the conquered tribes or any others, they portion out the conquered territories among themselves and destroy the institutions which they find in the country to substitute their own. The supreme commander, almost always the highest prince of the tribe, becomes *ex officio* supreme lord of the whole lands. Every commander, captain, or head of tribe retains such land as falls to his lot in the general apportionment and the land thus retained is held by him in virtue of his allegiance to the supreme lord of the tribe and of his headship of his own tribal or family section. This was one way of acquiring stool land in historic times. The Chiefs and Captains, princes

<sup>1</sup> Captain Rattray, in his *Ashanti*, offers to show that the Akan system of land ownership is of the nature of feudal tenure. We have no desire to enter into polemics with an experienced writer like Captain Rattray, and we prefer to leave our readers to form their own conclusions after reading the facts presented in the following sections of this chapter.

<sup>2</sup> *West African Studies*, p. 428.

in their respective families, would render homage to the overlord, recognize him as both their civil and military lord, and admit his supremacy over all in and above the conquered territory.

Another form of acquiring stool property in land is by confiscation to the stool. Long and uninterrupted occupation would also make a stool the permanent owner of land. Long and undisputed acknowledgment of a superior stool's ultimate ownership of a stool land is also another form. A comparatively modern form of stool ownership is by purchase. A piece of land may become stool property by means of gift.

In all of these cases, the present occupant of the Stool acts like a "trustee" for the members of the clan or tribe or family who are subject to the stool. The stool occupier is in common parlance, or by courtesy, referred to as the *owner* of the land; but he is only so in so far as he occupies the stool and represents the sovereignty of the people, giving due respect to the sacredness of the stool. If we were pressed for an answer to the fundamental question as to the ultimate owner of stool property, we should readily say the thing called "stool", whose supremacy is acknowledged by members of the family, sections of the tribe, or subjects of the State, and to which they are bound by their own traditions and laws to serve and respect, is the ultimate and absolute owner. By Stool we here mean the ancestral consecrated Stool which represents the source of authority of a head-of-family, chief of a tribe, or king of a nation. The legal occupant of such Stool is the conservator of all rights belonging to the Stool, and in exercising his authority over those subjects to the Stool he is revered as endowed with the overflowing sanctity and sacredness inherent in an Akan Stool, a venerable object of ancestor worship. He represents in his person the sacred trust of the *Asamanfo*, the great departed ancestors who once were rulers in the family, tribe or nation. No one can deny the reality of Stool ownership, for to deny that is to deny the Stool, and for an Akan to do so is to forfeit membership of the tribe or nation which gave him birth and being and to which he claims to belong.

In short, Akan chiefs hold the lands and other stool property in trust for the *Asamanfo* and to the benefit of subjects of the Stools. If then a Chief or occupant of a Stool, instead of developing a Stool property, disabuses his trust or mismanages the property in a manner which, in the view of members of the ancestral family or tribe or of the subjects

of the stool, might lead to loss of that property without compensating return, he would be immediately displaced by them and a better person appointed in his place.

A Stool in official parlance is not usually referred to as a thing possessed by or belonging to the present occupant. If you would refer to a Stool now occupied by Kwasi Bodua and founded by Kwabena Ogyam, it is proper to call it Kwabena Ogyam's Stool, e.g. the Paramount Stool of Akim Abuakwa (barring the ancient stools founded in Adanse by the Oduro and Boakye dynasties), is always referred to and called "Ofori's Stool" after the name of Ofori Panin, (i.e. Ofori the Elder or the First, the present Omanhene being Ofori Atta or Ofori II), who laid the foundations of the existing Asona dynasty reigning over the Akim Abuakwa kingdom. It is evident, therefore, that in all Akan and Fanti nations, a person occupies a Stool not, as former European monarchs, in his own right whereby he could be a despot and act independent of advice, but purely as an elected King, which word King has its true analogy in a President of a European or American Republic, with only this difference, that whilst a President is subject to re-election at the end of a period or term of years, and holds the position for a limited time only, a King or chief in our State system is elected by right of birth qualified by merit, once only, and holds his trust for life, so long as he keeps within constitutional bounds.

Both the occupant of a Stool and the subjects thereof have equal right to cultivate the family or Stool land and they are at liberty to use the crops either for domestic or trade purposes. There is no claim on the farmer with regard to the fruits of his individual efforts on the land. Strictly speaking, such property cannot be alienated without the knowledge of the head of the family or of the occupant of the ancestral stool. In Akim Abuakwa the right to make farms or plantations on ancestral, family, or tribal land is very liberal, so much so that a person born in a town at the most easterly end of the country, as at Begoro, is at liberty to farm free of all rent or toll charges on a land situate at the most westerly part, as at Otwereso.<sup>1</sup> So long as a person is a native of the

<sup>1</sup> This is not to say that the Stool has no right to levy tax or toll from natives of the soil. As a matter of fact, in case of any family, tribal, or national emergency, taxes called "Etoq" or collections are always levied, but the right to levy tax is not only because the person paying the tax occupies a particular piece of Stool land, but principally because he is a subject of the Stool and an inhabitant in the State.

soil, he has a right to make farms on land in any part of the State where he is domiciled provided that that land has not been cultivated by some other native or alienated as private property. If the right of the stool to a particular piece of land remains unimpaired, there is nothing to prevent a native from cultivating an unoccupied or unreserved area within the locality of his residence.

A house or farm made on Stool or ancestral land by a person occupying the ancestral stool, automatically becomes part and parcel of stool family property. But a house or farm made by a person at a time he had not ascended that stool, remains his private property and is disposable by him to any member of the family, and the clansmen by making him Chief and trustee of their stool property, do not thereby deprive his immediate descendants of the right to enjoy that property as a distinct family property. This distinction is most noticeable in large and populous families having a stool occupier as head or patriarch.

During the week in which this section was being written at Kibbi a case in point was decided by the Okyeman Council, to which we may profitably refer.

Kofi Djamera was a private and wealthy person belonging to the Aduana reigning house at Osiem, and being content with the fortune he made in the memorable years of the boom of "Accra biscuits", he did not aspire to the Family Stool, although he had as much right to it as any other member. Either because of his wealth or of his sagacity and intelligence, or of his general fitness, he was selected from among a host of other eager claimants to succeed to the deceased Chief. It was not his intention to refuse the appointment, and he did, in fact, accept the offer, considering the fact that there was the lure of large tracts of forest land supposed to belong to the Osiem stool awaiting development. In 1921, after he had reigned for seventeen years and improved the general condition of his town, followed by the amelioration of living conditions of his people, and after he had built a two-storied house on the old site of the Chief's house, he was suddenly pressed by the logic of events to resign the stool. An investigation was held into his resignation, and the Chief, thinking better of the matter, and after obtaining judgment against his sub-Chiefs and Elders at the Adontenhene's Tribunal, expressed a desire to be reinstated. But it was too late. His sub-Chiefs and people were now bent upon destooling him in favour of a young aspirant with modern ideas. Destooled he was, and his destoolment was duly confirmed.

Now the ex-Chief lays claim to the two-storied building and other outhouses he has built on the ancestral site, besides a feeble claim for damages for the loss of the wealth of his youth spent in the general welfare of the town. The Okyeman Council, however, held that he could have had his claim to the building sustained if (1) he had resigned the stool himself without being declared destooled, and (2) if he had not built his house on the ancestral site. But it was adjudged that the ex-Chief should have all his personal property, as also his farm, etc., which were not acquired or made with the assistance of the *Oman* or people of Osiem.

This Osiem case further taught one interesting fact. The personal or movable property of a Chief which cannot be called Stool property, such as the clothing, fineries, and other luxuries, except gold rings and gold chains and other ornaments made for the purposes of State, are retainable by an ex-Chief, or a deceased Chief's relatives, without an adverse claim by the stool elders.

All documents in the form of deeds of transfer or alienation, and other important papers for the purposes of government, are, of course, stool property. In fact, it not infrequently happens that a deceased Chief's personal inheritor would, not because of his fitness, but because all the valuable property suitable for state use had gone into his possession, be asked to ascend the stool, although such candidate's other qualities were far from meritorious. It is in cases like this that a slave or domestic is made to ascend a stool, perhaps for the town or the family to reap the benefit of his wealth or rather of his master's wealth which had unfortunately fallen into the vassal's hands by means fair or foul.

Before closing this section we must dwell for a moment on the question of the wives of a destooled Chief. In many cases, wives are made to remain as property attached to the stool, and in the case of a provincial or subdivisional stool, the ex-Chief may be permitted to retain one or two of his five or six wives. The claim of an ex-Chief to his wives is not always disputed, perhaps out of consideration for the natural affection between husband and wife. A deceased Chief's wives are, however, stool property, and the new Chief has to undergo the usual procedure for remarrying the widows of a predecessor to establish his right of consortium over them. In olden times, the most beloved wives of a deceased Chief—as also the favoured slaves and servants—were sacrificed and buried with the dead Chief's body. These wives and slaves were destined to serve or attend their master in *Asaman* (Hades).

(3) *Family or Patriarchal Property*

The term "patriarchal" has so many foreign associations in its meaning that a natural prejudice is aroused against its use in connexion with the Akan system of family arrangement, in which descent is traced not through the *pater* or patriarch but through the *mater* or matriarch. The use of the term patriarch is, however, convenient for this reason: we have seen that descent is traced through the female, and that the grand old dame or materfamilias is the most important member in the family, yet the actual ruling or governing head is male and not female. This ruler or head of the family is most often the eldest son of the old dame (who is called *Ohemma* or queen-mother in the higher Stoolocracy), or he might be some male member of the family who by reason of his personal fitness had been chosen to rule them, govern their affairs, and be their mouthpiece in the Chief's Council or the nation's assembly. The term patriarch is used therefore for this male head of the family not because he stands to any single member of it as a natural or legal father, but because of the special meaning of the word as indicating the ruling head of a community of related families. In Akan land such head most often has a stool which is the source and symbol of his authority. Even where a patriarch has not a stool the property in the family is regarded as common family property, and the head who is in charge of it holds it in the interests of his family.

This being understood, there is no difference in the general application of the custom pertaining to the property of a national, tribal or patriarchal community, the main principle of which is that such property should be held in the interests of and at the disposition of the family or people.

Here we cannot help differing from the principle stated by Mr. Sarbah in the following words: "In the patriarchal family all the lands are under the control of the patriarch, who alone directs how they are to be cultivated. He is entitled to all the produce of the land, and nothing can be done with anything belonging to the family without his approval or confirmation." This statement may be true of the patriarch defined by Mr. Sarbah (following Sir Henry Maine) as the "head of a group of natural or adoptive descendants held together by subjection to that head", but the point I am here urging is that such a patriarch who is "always practically despotic"<sup>1</sup> cannot be found in the Akan family economy.

<sup>1</sup> *Fanti Customary Laws*, p. 62.

There is no single occupant of a Stool, or any non-stool owning head of a family, who can rightly advance a claim to possess "all the produce" of a stool or family land. An Akan patriarch, as I understand the term, is a person called *Abusuapanin* ("elder of the family") and addressed "Wofa" (uncle) or "Nana" (grand-uncle), who is elected by reason of birth and merit to rule and govern his fellow-members of the family, most of whom indeed are his maternal descendants, but a good many of whom might also be his seniors or maternal ascendants. The highest English term which best describes the office of an Akan patriarch is "Trustee", a trustee, however, who is himself one of the *cestius que trust*, and who on the whole is more than a *primus inter pares*, in that besides sharing the rights and duties connected with the trust property with all members of the family, he is entitled to exercise the power of ruler over them and act as governor or final arbiter in their internal family affairs. He is responsible to the town or tribal stool for the conduct of any member of the family of which he is head, but just as he would not personally suffer for any misdeed of any member of the family where that member could sufficiently atone for the offence, so he would not be entitled to the produce of the labour of any member of the family if that member requires the produce to sustain himself and the members of his personal family or household during his lifetime. It should be borne in mind that a patriarch of the kind we are discussing may be the head of a family several members of which are staying in separate and distinct houses with their respective wives and children, and it is even possible for some members of the *Abusuapon* (great family) to stay in several distinct towns away from the seat of their patriarch. A patriarch is the head of the family, but his headship does not destroy the unity of the family, that is to say, the recognition of "unity" implies the existence of pluralities who are unified in the "head", but that is not to say that the adult members of the family have no personal independence of their own. As a matter of fact it is their independence that enhances the richness of the union centralized in the *Obusuapanin* who represents the unity of their family or clan.

#### (4) *Private or Individual Property*

##### (a) *What Constitutes Private Property and How Acquired*

No person can have absolute control over property except he owns it *sui juris*. Property may be held in a man's own right in one of several ways. It may be held by a son as a

gift from his father. It may be held by one member against all others as a gift received from another member of the family or from a member of a strange family. Lastly, it may be acquired by outright purchase, or by other business means out of income earned through one's own individual efforts. A building made by a member of a family is regarded as private property in his lifetime, but on his death the privacy of the ownership dies with him, and it becomes part and parcel of family property. This is the same with a farm. Previous cultivation of, and in some cases, occupation with a definite intention to cultivate, a forest-land, entitle the cultivator and occupier to a privilege of private ownership over the particular land in so far as agricultural rights are concerned. The law is very clear on the point. "If any person, being a native of the State, first cultivate a forest-land, he shall become owner of the tract so cultivated, and the extent of the forest immediately adjoining the cleared land must be conserved by and for him for the purposes of future cultivation." No person can enter upon such land without the knowledge (except for hunting and snailing purposes) of the first occupier. Not even the Chief or Head of the Family could lay an adverse claim. If the stool wishes to grant a concession over the lands, the first occupier has a right to expect compensation from the intending concessionaires for any actual loss sustained. If he abandons the farm for any number of years as an uncared-for "orchard" or, as it is usually termed, a "farmstead" or "farmlet" (*mfuwa*), only members of his family, and, with formal permission, his children, can cultivate it; and whilst his relatives and children are cultivating it, the right to the palm and kola-trees in the farm are always reserved for him.

But his title stops here. He can make use of his *farm* in any way or form. But he cannot alienate the *land*. That privilege or right is only inherent in the stool. Should he desire to alienate such farm, the stool's right to a third share of the proceeds of such sale must be strictly guarded. A disrespect of this patent and well-established rule has, on many occasions, led to the confiscation of the property to the loss of both vendor and vendee.

There are still other forms of ownership of private property which deserve consideration. All that a trader has, all that he has bought with his own money, and all the riches amassed therefrom, are considered private property. The golden and other ornaments of an individual, the furniture and other things usually classed under the term personal property,

come within the category of private property. A thing is either family property if inherited or acquired in the name or by right of family relationship, or otherwise it is deemed private property. Things given away to children or other dependents cease to be accountable as the donor's family or private property. The death of a person owning private property automatically brings his property, both real and personal, within the ambit of stool, tribal, or family property. This is so because the successor to the estate of a deceased can only be appointed by the members of the deceased's family; when so appointed he holds the property apparently as his own, but he cannot alienate any part of it without the knowledge of the family or a major part thereof. He is not restrained in any use he may make of it either for his personal advancement or even in the interests of his own children. He can use the property as if it were his own, only he cannot alienate it permanently without their knowledge.

Arguments have from time to time been brought to bear against this form of succession. Thus Miss Mary Kingsley says on page 437 of *West African Studies*:—"The bad point is, of course, that the system is cumbersome, and, moreover, it tends with the operation of the general African law of *mutterecht*, the tracing of descent through females, to prevent the building of great families. For example," continues Miss Kingsley, "you have a great man, wise, learned, just, and so on; he is esteemed in his generation, but at his death his property does not go to the sons born to him by one of his wives, who is a great woman of princely line, but to the eldest son of the sister by the same mother as his own. This sister's mother and his own mother was<sup>1</sup> a slave-wife of his father's; this, you see, keeps good blood in a continual state of dilution with slave blood." A remarkable passage, and true. Note particularly the point about "the building of great families", and the keeping of "good blood in a continual state of dilution with slave blood". A sociologist or biologist would probably read into this form of succession the cause of the alleged lack of continuous or progressive achievement on the part of the African. The effect of the system on individual families and on the race as a whole might be to produce isolated instances of great men or of brilliant but short flashes of racial advance, but never a long line of great heads-of-families or a progressive historical development of the race or tribe.

Miss Mary Kingsley does not, however, carry her argument to such lengths, and she hastens to correct whatever unfavour-

<sup>1</sup> Not always so

able impression her words might create. Thus she says :—  
 “ I do not say the system is unjust or anything like that, mind ; I merely say that it does not tend to the production of great men in one family. Nevertheless,” she continues, “ when once you have mastered the simple fundamental rules that underlie the native African idea of property, they must strike you as just, elaborately just ; and there is another element of simplicity in the thing, and that is, that all forms of property are subject to the same law, land, women, china, basins, canoes, slaves, it matters not what, there is the law.”

(b) *Private Property of Husband or Father in relation to Wife or Children*

We have already dealt with some aspects of this head, and the governing principle must now seem clear. We will here give a statement of what the relations of husband and wife, father and children, are, in respect to things owned by them.

A wife is entitled to none of her husband's property, real or personal, except those of the following description :—

- (i) Real or personal property presented to a wife by the husband during his lifetime ;
- (ii) Free use of the husband's foodstuff farms ;
- (iii) Free use of the husband's implements for agricultural and other purposes as well as utensils, etc., for housekeeping ;
- (iv) Free cultivation in conjunction with the husband of his ancestral lands.

Children have a legitimate use of—

- (i) The father's ancestral farmed lands (i.e. “ farmsteads ” or “ farmlets ”) for purposes of agriculture ; this remains inherent in them even after the father's death ; this right would seem to include use of the land to raise economic crops such as cocoa, but not palm-trees and perhaps wild rubber ;
- (ii) Property—real or personal—presented to one or other of them, during the father's lifetime ;
- (iii) The ancestral building site, with knowledge of the father ;
- (iv) The father's house, that is, part of it, for residential purposes, even after the father's death ;
- (v) Free meals at the father's table for life.

It is to be noted that the successor to a deceased relative must extend the same privileges to the children he meets in his predecessor's service, as well as to those of his ancestor's children who might choose to live with him.

(c) *Private Property of Wife*

In the sense that a widow is inherited as wife in much the same way as any part of the inheritance it seems to follow that a wife is as much the property of her husband as any other kind of property, but our system of succession bars the husband from the enjoyment of his widow's self-acquired property. We have already seen, however, that a husband is entitled to one-half portion of his wife's property, which assumes the following forms:—

(i) Property in agriculture acquired by the wife during her married life ;

(ii) Income obtained by the wife in any trade or profession, also the income realized in selling foodstuffs of a farm made in conjunction with the husband or made by her alone ;

(iii) Any treasure-troves, gold nugget, or sudden fortune obtained by the wife.

It is worthy of note that the debts of a wife, caused by her own behaviour, not involving the husband's participation, are payable by her without any assistance from her husband. Also, if a wife or a husband should, in consequence of a family—we here mean the English word *family*—quarrel, commit suicide, the surviving partner is not in law responsible for his or her death.

A wife's personal property is, as a whole, her own family property, and when she dies her family would take all of it from her husband's control.

(d) *Private Property of Children*

A father has no right to his child's private property, except in so far as his half-share in a treasure-trove or gold nugget discovered by the child, is concerned. Whatever a son acquires, whether in the service of the father or out of it, belongs to him and his family. A father, if in need, may, however, look to his children to provide well for him and save him from starvation. A father cannot inherit the property of his child, nor a son his father's, but a mother may succeed her child, and the child the mother.

(e) *Private Property of a Head of Family*

A Head of Family may be on the safe side to assume at succession that all he has is family property. Otherwise if, assuming that certain things were his private property—which they may legally be—he “wasted” the property in a way not approved of by the members of the family, he must be sure his act would receive their censure, and, perhaps, lead to his downfall. So long as a head of a family behaves himself, he is the most fortunate person in the family. The members under him are always ready to serve him free of cost, not only in emergencies, but at all times and places. He will be honoured and respected as their patriarch, and his word would be as their law. The Head must, therefore, hold the trust in the highest respect, and be courteous to all members of his family.

We have already indicated what is and what is not private property of a stool occupant, and with very few modifications as regards authority and rule the same customs apply in the case of a head of family (*vide* p. 200 and pp. 204-5).

(f) *Private Property of a Slave or a Domestic or Dependent*

There are no slaves in the country at the time of writing. Freed-slaves there are who, however, acknowledge their relationship to the heads of families in which they were previously serving. This is necessary and indispensable on the part of the slaves, for it is the only means to cover up the links of slavery in a past generation. By belonging to a known family a freed-man acquires clan membership, and only free men can belong to an Akan clan. Such slave may voluntarily relinquish to the head of the family or to a member of it his personal and real property. This is a practice not enforced by law, and when property is so relinquished by way of gift, it becomes family property on the death of the slave. Otherwise a slave or better a freed-man is the absolute and entire owner of both his real and personal property, and he is at liberty to dispose of it in any way he likes. Domestic, such as pawn-slaves and others, do not come under the category of slaves or *Nnonkofo*, and there are always the relative of a pawn-slave or other domestic to lay claim to half of any large fortune made by him. If he owed a debt or was pawned for a debt, the living relatives may pay those debts before his death and by doing so they

acquire the right to retain possession of his property. His funeral ceremony will be performed by the relatives with due honours. The master of a pawn-slave or domestic retaining him in his service as a pledge for debt due and owing by his relatives, has no more claim on him than half of any nugget of gold or other treasure-trove that might be discovered by the pawn-slave or domestic.

*Dependents* who are not members of any family are, generally speaking, rarely met with. There is not, and cannot be, a real native of the soil who has not some relative or family, or who cannot trace his descent through either the male or the female line to a living relative. So that if a person had given himself up to the head of a family by commendation, the mere fact that he had been dependent on the head of a strange family would not deprive him of an honourable burial as *Odehye* or freeborn (*ingenuus*): nor has anyone a right to his property other than those who are affiliated to him by blood or other relationship. The one who can truly claim that he is the proper person to perform the dependent's funeral custom, and who does perform it is the legal successor to such dependent. Dependents then are those who, while staying in the service of a Chief or a wealthy man, perhaps for the purpose of being trained up for future careers, have a home and a family of their own. As such, their property cannot fall into their master's hands.

(g) *Private Property of a Squatter or Peregrine*

If a total stranger to the tribe settles on stool land as a squatter not paying anything therefor, his successor would be that person with whom he had been staying and on whose land he had been working. Such a squatter, if he had married the daughter or other female relative of the landlord, would do well to make provision for his wife and children before his death. There have been cases in which the Okyeman Council has ruled that a squatter's property owned in his own right could not be inherited by a blood relation of his who had not been staying in the same town with him for at least three years before his death; i.e. a peregrine in Akim Abuakwa cannot make his property heritable by a person not staying in Akim Abuakwa to assist in developing the property. But a squatter's property may be inherited by any relation he has named as his successor provided that person was previously staying in the same town or district.

(5) *Alienation of Property*

- (i) Theory of Alienation.
- (ii) Different forms of Alienation.

- (a) Purchase.
- (b) Gift.
- (c) Mortgage.
- (d) " Abusa " System.
- (e) Rent, Tax, Toll.
- (f) Loan of Property and Suretyship.

(i) *The Theory of Alienation.*

Tradition has it that absolute alienation of land was until recent times not generally practised by the Akan people. Alienation or transfer of land as between family and family, tribe and tribe, or even between State and State, was certainly common, but sale of land for private or non-communal purposes was foreign to the people. At any rate the short-sighted and reckless manner in which lands are disposed of to-day, as if they were so many pieces of common cowries to be had for the asking, cannot pretend to have any historical evidence in support of the practice. In those ancient days land was held in very high respect and esteem, and this for the simple reason that tribal or stool lands were judged to be as sacred as the stool itself. Every piece of land was under a stool and therefore regarded as falling under the guardianship of ancestral spirits (*Asamanfo*). On the whole, it seems safe to say that the conception of land ownership was part of the general religious scheme, for the many ramifications of ancestral worship could scarcely have left land—the most valuable of all material possessions—free and unprotected within the category of things sanctified in religion. An absolute sale of land by an Akan was therefore not simply a question of alienating realty; notoriously, it was a case of selling a spiritual heritage for a mess of pottage, a veritable betrayal of ancestral trust, an undoing of the hope of posterity.

To-day, however, all this is changed. Money is cheap, but not cheaper than land, for although a piece of land which would have sold for one *predwan* (£8) fifty years ago would to-day be cheerfully bought for 12 *predwans*, the esteem for land as land, the sentiment for the sacred trust of ancestry, and the necessity for tribal hegemony in the reality of a common *heritage of land*—all these have been sacrificed for

the glaring prize of modern gold. Undoubtedly modern gold is something, but it has not that characteristic something which makes brave men brave enough to span the seas to the Antipodes. To sell one's heritable land with no prospect of investing the money in other real estate is like killing the goose for its golden eggs.

Mr. Sarbah tells us in his *Fanti Customary Laws* that "land was about the last thing which became the subject of an out-and-out sale. Owners of land were as reluctant and unwilling to part with their land and inheritance as was Ephron, the Hittite, to sell a burying-place to Abraham, as recorded in Holy Writ. Rather than sell his land, the Fanti prefers to grant leave to another, a friend or alien, to cultivate or dwell upon it for an indefinite time, thus reserving unto himself the reversion and the right to resume possession whenever he pleases".

Things have changed since Sarbah wrote these words, and the Akans are not less anxious to sell lands than to lease them.

The principal reason usually given as an indispensable ground for alienating stool, family, or town land, is to relieve a family from crushing debts. We sympathize with this view. Although we cannot recommend the alternative adopted by our ancestors in meeting crushing debts as stated by Mr. Sarbah on page 86 of his book, and which we quote below, there is no doubt that with the exercise of some prudence, "crushing debts," whether in a family or clan, could be met in some less precarious manner than is practised at the present time.

Let not my sense of responsibility forsake me. But there are overwhelming instances in which stools owning large tracts of good virgin forest lands have sold all away, so that even at this early date some towns are hard pressed for small lots of lands on which the inhabitants are to cultivate their annual foodstuff plantations. It used to be said that lands about three miles away from a town might be safely sold without danger of the inhabitants starving for land. This can hardly be a safe policy. If in this generation when the population of the country is comparatively small the town farmers are pressed for lands on which to cultivate, what would happen, what would be the position of the farmers, and what would our children's lot be, when the population (after two or three generations) had grown ten times greater than it is to-day? The danger is real; if we cannot indirectly prevent it, we should do so directly and courageously.

Mr. Sarbah himself recognizes the situation, but fails to find an adequate remedy :—

“ Before the prohibition of slavery and pawning on the Gold Coast, rather than part with the family inheritance, members of a family have cheerfully volunteered to be sold to raise money for the payment of a pressing family liability. But, in process of time, and especially since the emancipation of slaves and the prohibition of slavery, the sale of land has been of more frequent occurrence in the coast towns.” Thus says Sarbah. Nobody can or would advocate a return to such pernicious practice as the pawning of persons, and even though we fail to suggest an alternative method of meeting heavy family debts, we still plead that alienation of stool lands is a dangerous and unprecedented way of (to parody Shakespeare) “ taking our life and all ; you take our right when you do take the prop that doth sustain the right ; you take our life when you do take the land whereby we live ”.

Before dealing *seriatim* with the various sub-sections under this head, it seems appropriate to say a few words in regard to Stool-ownership of land in Akan land. It is universally acknowledged that in West Africa “ there is not one acre of land that does not belong to someone ”. Equally, it is generally true to say that there is not an acre of tribal or stool land in Akan land over which a Paramount Stool has not inherent right of ultimate ownership. First the Paramount Stool has jurisdiction over every foot of land whether alienated or not, and then it has an inherent right of ultimate ownership in lands which have not been self-acquired by private persons. This is specially so in countries like Warsaw, Akim Abuakwa, Kwahu, etc.

Therefore, to obtain an unimpeachable title to stool land in Akim Abuakwa, it is necessary first to acquire an option over the land from the Chief of the town or village owning the stool by which such land is mediately held, and then obtain the sanction and approval of the Paramount Chief. It is rightly becoming the custom now to approach the Paramount Chief in the first instance who will then introduce the sub-stool owner of land to the applicant.

In stating this aspect of land tenure as it obtains in Akim Abuakwa, we are not unconscious of the fact that the principle stands in conflict with those obtaining in some Akan States. This perhaps was not originally the case. In Akuapem, for instance, although the Paramount Stool was established by virtue of the prowess and valour of the Akim reigning house, it is apparent that besides certain stool lands appropriated

by the new Akim king at Amamprobi and other places, there is no recognition of the Paramount Stool of Akuapem's inherent right of ultimate ownership in all the Akuapem lands, although his absolute and indisputable jurisdiction over all the lands of Akuapem and the inhabitants thereof, has never been denied.

In Fanti proper (Borebori Fanti) there are but very few Paramount stools which can claim absolute right of ultimate ownership in all the lands in their state divisions. But, in places like Kwahu, Warsaw, and Akim Kotoku, the fact of the Paramount Stool's ultimate ownership in all the lands in those States is fully acknowledged.

It remains to be shown, however, that our constitution as it stands at present recognizes the Paramount Stool's acquiescence as indispensable in so far as its right of paramountcy is concerned. It is sometimes vaguely inferred that such paramountcy includes all that the term can possibly connote. Herein we should be wrong to support the contention. Sarbah puts the interpretation of that title with its full signification in law in the following words:—

“The holder of such property is called a tenant in fee-simple; strictly speaking the term ‘fee-simple’, as used in English law, cannot be correctly applied or used when speaking of the highest kind of the tenure obtaining on the Gold Coast. Even in those parts, such as Warsaw Amenfi, where the king is the owner of all the lands in his district, the use of the term ‘fee-simple’ is misleading. *At the most, the king or head chief is but a trustee who is as much controlled in his enjoyment of the public lands by his subordinate chiefs and councillors as the head of a family by the senior members thereof.*” (Vide p. 65.) And Mr. Sarbah quotes Sir D. P. Chalmers' decision in *Barnes v. Attah*, 17th July, 1871, in support: “I apprehend,” decided the learned Judicial Assessor, “that not even the regular occupant” (of an Egua) “could alienate property without some concurrence by the people of the stool (agua) who have an interest in it, and are usually consulted on such a matter.”

The point we wish to emphasize here is that among certain tribes or states Paramount Stools are held really paramount over the land or over the Chiefs and people, but the sense of paramountcy over land would seem to be covered by the meaning implied in a trust. Thus says Mr. Casely Hayford in *Gold Coast Native Institutions*, page 45, “To him (the Paramount Chief or King), “indeed, belongs the power of

ratifying and confirming what the subject grants, though he may not himself grant that which is given. Such ratification is not even absolutely essential to make the transaction valid,<sup>1</sup> though as being evidence of good faith, such ratification or confirmation is resorted to, and is, indeed, becoming quite common in modern grants." Again, on page 48, he says, "Where a paramount Chief happens to receive *abusa*, that is one-third share of the proceeds of land, then it is by reason of the fact that the right to possess is ultimately traceable to his stool." Why ownership of Stool land is "ultimately traceable" to the Stool may be explained by the fact of military conquest, but we should be putting a severe strain on this solitary fact were we to interpret it to imply that lands in the Akan system were held under a usage similar to the English feudal or military tenure.

(ii) We now proceed to discuss the different forms of alienating land in Akan land.

(a) *Purchase*.—To acquire land or tenements by outright purchase the first and most essential thing is to ascertain the true owner or owners of the land and the next step is for the intending purchaser to inspect it. The vendor may go on the property with the vendee, or he may appoint somebody to represent him. After the vendee has satisfied himself as to the nature and value of the property, comes the bargaining or barter for the purchase price.

In land the sale is based on the number of fathoms one intends to buy. If the market price of land is cheap, it is possible to obtain a land of 12 fathoms by 6 fathoms—a good virgin forest-land of the very best West African quality—for £2. The price of land in Akim Abuakwa varies a great deal. The lowest in recent times has been 20s. and the highest £7 per 12 fathoms. It all depends upon the situation of the land and the ruling market price at time of barter. Price per fathom being agreed upon the boundaries of the land will be cut, and boundary marks in the nature of "Ntome" trees, bottles, and stones fixed on all the corners of the land. It is always safe to have the land bounded by such natural features as may be met with: rivers, notable trees, caves; or preferably *Ntome* trees may be planted on specific points on the boundary.

The boundary cutters are to be remunerated by the vendee, and their fee is usually 5 per cent of the purchase money.

<sup>1</sup> This view would not of course hold water in Akim Abuakwa; Mr. Casely Hayford was constrained to insert a negative saving or mitigating clause because of his experience in Fanti land.

The cutting and measuring of the land is completed by the slaughter of sheep, which act is considered customarily essential. If a sheep is not provided by the vendee to be sacrificed to the spirits or gods of the land to appease their anger in cutting the bush and entering upon the land, it is believed that the purchaser will not thrive on the land, nor will the vendor be profited by the purchase money now paid to him. So a sheep is usually slaughtered after the boundaries have been cut.<sup>1</sup> After the slaughter of a sheep, not, of course, unaccompanied with libation, the vendee will be called upon to make payment for the land. If part payment is made, time may be given for settlement of the balance purchase money. But the mere fact that the total cost, or part of it, has not been paid on the spot, is no ground to rescind the sale. The important thing is the cutting of "Guaha", or paying of *trama* in case of a chattel for "guaha cutting" is the customary way of giving "livery of seisin". Quite a small sum must have been used for the purpose of cutting "guaha" in the olden times, and judging from the name of the money, "Trama" (cowries interpreted to mean "earnest-money" by Sarbah), it is evident that cowries must have been used for the purpose when gold was the principal currency. It is notable that in Roman law earnest-money (*arra*) was not given as evidence that a contract had been concluded; it was given to show that there were negotiations pending for a sale. This is just the contrary in Akan land sale, and earnest-money or *guaha* is evidence that the sale is both complete and valid.

The custom is for both vendor and vendee to pay a small amount of money, usually *doma-fa* (4s.), to two witnesses, one from each side, who will be asked to force a piece of string to break whilst a declaration is being made by the vendor to the effect that the land has been sold to the vendee for agricultural or mining or timber purposes, and that the only law to apply to the sale was the customary law of the country. To prove any legitimate purchase of land, the British Law Courts in the colony have constantly, and rightly, sought to satisfy themselves as to whether this custom has been observed. It is in fact a *sine qua non* in the system, and where it is not observed the sale is considered null and void.

<sup>1</sup> There was once a case in the Omanhene's Tribunal in which it was alleged that a wound received by one of the servants of the purchaser who had "not sacrificed sheep on the day he purchased the land" was due to that unfortunate omission. The wound was received on the very first day they entered upon the land to work.

If after a sale of this nature the purchase money is not paid, it can be demanded as an ordinary debt, but the land may be seized by Court processes to satisfy the claim of the vendor if after a considerable lapse of time the amount still remains unpaid.

If there is an adverse claim by another stool, the onus of proof of the vendee's right and title to the property rests with the vendor's stool. He is the principal witness of the vendee. If he could not establish his right against the adverse claimant, the purchaser would call on him to make good his loss by way of repaying the purchase money already paid, or to be replaced with another land by the vendor. But no compensation is payable by the vendor to the vendee for any work done on the land, the customary law providing that it was for the vendee to explore all avenues of information ascertaining the valid title of the vendor to the particular property before making his purchase.<sup>1</sup>

On the other hand, if the adverse claim is made by a person subject to the vendor's stool, the purchaser has nothing to lose—not indeed his title to the land. Such family disputes usually end in getting the aggrieved member who has not been consulted prior to the sale to express his concurrence in the transaction after some amount of pacification money has been paid him by the vendor.

When a sub-stool or subject-stool sells land without the knowledge and consent of the Paramount Stool, and where the purchaser has occupied the property for a number of years, or improved considerably upon the ordinary value of the land, it has not been the usual practice for the Paramount Stool to exercise its right of rescinding the sale. Every sale made with the knowledge and consent of the Paramount Stool must be made in the presence of its representative. It follows, therefore, and it is, in fact, the custom, that where a sub-stool sells land without the knowledge and consent of the Paramount Stool, it lies within the power of the latter to annul the sale, and the purchaser will have his money returned to him in full, exclusive, of course, of the cutting fees and the value of sheep slaughtered on the land.

In the case of the sale of personal property it is not the custom to cut "guaha". Payment and delivery complete

<sup>1</sup> If on investigation it was disclosed that not only was the vendor not entitled to sell or dispose of the land absolutely, but also that he had no appearance of title to sell the land, no interest in the value of the land, then of course a different question arises, and the vendee may obtain damages for his labour on the land.

the transaction. Private property may be sold in one of two ways: (1) by the Akan custom as expounded above; or (2) by the English mode of sale and conveyance recently introduced.

(b) *Gift* is a modified form of sale. Whenever a gift is made, and especially when the thing given is in the form of landed property, it is always customary to give drink or money thank-offering to the person making the gift in the presence of witnesses. When this is done the transaction is complete. To withdraw or recall a gift is always a matter of controversy. It can hardly be done, but if a father grants his son or daughter a piece of cocoa farm in anticipation of filial services, and the child deliberately fails to do any service for the father, the gift may be taken back.

(c) Giving one's immovable property as security for debt due to another person, known in English law as *mortgage*, and giving one's movable property in security for debt, known in English law as *pledge*, are both the most common and the most ancient forms of alienation.

At the present day the practice in this respect follows the English system in many particular details, and we state here a few essentials which should be observed in connexion with both mortgage and pledge in the Akan form:—

(1) Property given on mortgage or pledge is taken on the understanding that the mortgagee may use it. If it was a cloth or other wearing article, it may be returned to the debtor on repayment of the debt without the pledgee incurring responsibility for the wear and tear.

(2) If payment is not made within an appointed period, the creditor may, after due notice to the debtor, sell the property. If, after paying all expenses, there is any balance over and above the amount due, it must be repaid to the mortgagor or pledger. If the sale is made with the mortgagor's knowledge and the realized value of the property sold falls short of the amount due, the debtor will be called upon to make good such balance.

(3) The mortgagee may, upon previous arrangement, use the proceeds of a farm so mortgaged in lieu of interest on the amount; or interest may be taken on the amount, and the proceeds of the farm left with the debtor to use same in reduction of the debt. Generally farms are taken by way of security for the debt.

(4) Whilst a farm or other property remains in the hands of the mortgagee he may improve upon it with a view to realizing the interest therefrom, but the cost of such improve-

ment is not repayable by the mortgagor, except when the mortgagor has settled the amount due and owing on an earlier date than would make it possible for his creditor to realize full interest on the amount. In that event the debtor must reimburse the creditor of all expenses and compensate him for the loss of interest sustained.

(5) In having property mortgaged, it is essential to satisfy oneself as to the mortgagor's title, and when the property is found to be family property, it is necessary to ascertain whether the debt is family debt or whether the family have assented to the transaction.

(d) *Abusa System*.—This is a system by which an owner of land arranges with a tenant for payment to him of one-third share of the proceeds of crops realizable from the tenanted property. If forest-land is given for the cultivation of cocoa, etc., on the *Abusa* system, the food-stuffs in the farm belong to the tenant, who pays all expenses in connexion with the working of the property. If it is a food-stuff farm, the landowner's share must be paid from the proceeds. The landowner never pays any part of the cost of working or keeping the property.

In this case also the tenant must satisfy himself that his landlord's right to the property is secure and unquestionable. The *Abusa* system is widely used in Akim Abuakwa and it is supposed to be the best and safest means of securing good return from an unoccupied piece of land: *Abusa* means sharing into three.

An arrangement on the *Abusa* system, where the crops cultivated are of a permanent nature, is always made on the understanding that the tenant's successors-in-ordinary are entitled to enjoy the interests of their predecessor.

A landowner who has levied a tax on a free user of his land can, whenever he chooses to do so, call on his tenant for payment of an *abusa* share of the proceeds henceforth to be obtained by the tenant; but of proceeds already obtained the landlord would be well advised not to disturb his tenant's title with respect thereto.

Long and undisturbed possession of Stool property by a person not a native of the State, does not entitle such stranger to absolute ownership of the land itself, although his right and title to the farm thereon, except when he refuses to pay the third share, may not be disturbed.

A tenant on the *Abusa* system has no right to alienate the property held, but he may transfer his own share to a third person, with due notice to the landlord.

If the landlord gives the mining right in the land to a third person whereby the tenant's produce is destroyed, the latter is entitled to compensation for such of the crops destroyed in so far as his two-thirds share is concerned.

Palm-trees and kola-trees in an old farm now given under the Abusa system are excluded—except provided for to the contrary—from the operation of the tenancy, and the landlord alone has a right to the fruits thereof, even if the tenant has had to do the work for the improvement of these and the other crops.

Timber and mining rights in a forest-land given to a tenant on the Abusa system are also reserved for the landlord.

In any transaction in land it is best to define and fix the boundaries of the property involved.

(e) *Rent, Tax, and Toll*.—Rent or tax is a modified form of the Abusa system: both tenant and landlord derive mutual benefit from the property involved and similar laws apply to both a taxed or rented farm and a farm on the Abusa system.

A native of the State has an inherent right to cultivate or build on any stool land free of any and all charges and he is never taxed for the farm in any way or form. Strangers not belonging to the Akim tribe and who are not excluded by law are taxed for cultivating stool lands for farming purposes. On this principle, Juabens in Akim Abuakwa used to be taxed at the rate of one pound *per annum per capita* on every cocoa, rubber, and kola farm<sup>1</sup>; and ten shillings *per annum per capita* on any farm exclusively containing food-stuffs. Natives of Kumase, i.e. Ashanti proper, Kotoku, Kwahu, Adanse, etc., were not taxed under this system. Fantis and other tribes were also not taxed. The Juaben Tax was a purely differential one. There has been much controversy about this of late. The principle received the sanction of the British Government, but we are made to understand that the tax has now been placed under a more general basis.

*Toll* is levied on both strangers and natives. If for instance people in one town go away to the stool land of another town to collect snails, they are made to pay toll to the Chief owning that stool land. Of every head-load of snails (*nwakyem*) the Chief on whose stool lands snails are collected, takes one

<sup>1</sup> Since writing the above, the Juaben tax had been reduced to £1 *per annum per capita* with no regard to the extent of property owned. (This rule is also now repealed, and the tax in 1927 for all non-Abuakwa farmers is one penny per cocoa-tree.)

“Kyem” or portion of snails. Part of these collected tolls are sent to the Paramount Stool as an acknowledgment of its ultimate ownership of the land on which snails are collected.

A person killing big game on a stool land, whether on the stool land of his own town or on another Chief's stool land, has to hand over, by way of toll, the leg of the game so killed, to the owner of the stool land, and the Chief has to send a share to the Paramount Stool in acknowledgment of its ultimate ownership. That is to say, any stool receiving tax or toll on a land has a *prima facie* right to such land. This is widely believed to be strong evidence of title because it is inconceivable that hunters and other strangers coming to a land in another part of the State should regularly yield the stool's portion to a chief who was not generally reputed to be the owner of the land.

When a native of the State discovers a treasure-trove or gold nugget, the stool-owner of the land is entitled to one-third share of it or its value, which third share must be surrendered to the Paramount Stool to apportion a part to the sub-stool. A stranger on a tenanted piece of land has no share, other than a present, in the gold nugget or treasure-trove so discovered by him.

There is yet one point in regard to sale of land as practised in Akim Abuakwa that deserves notice. Nobody sells land in Akim Abuakwa for two or three purposes at one and the same sale. Either it is sold for mining purposes or for agricultural or for timber purposes. If for mining purposes the purchaser has no right to the timber on the land, nor has he agricultural rights over it, and where there are no stipulations to the contrary in the deed of conveyance, the holder may be sure that none but only his mining or timber or agricultural right is secure. When a purchaser comes in to acquire land for agricultural purposes he naturally limits his right to agriculture only and has no claim to the mining rights in the land. Hence the cheapness of land sold for agricultural purposes.

So far as I know the point here involved has not been judicially decided, but the same principle seems to apply to rivers and streams in a land sold, for the general practice is that the right over waters is not transferable on a sale of the land.

(f) *Loan of Property and Suretyship*.—The principle involved in borrowing a person's property, or in taking a loan from another, only varies from the English system in so far as some details of procedure are concerned.

Suretyship has nothing peculiar or distinctive about it. It seems necessary to state, however, that to stand surety for a loan of money means in our custom that the surety has made himself directly responsible for the amount. If the money-lender could not lay his hands on the principal debtor, the surety would be called upon to pay. If it becomes necessary to take action for the recovery of the amount, both the principal and his surety must be sued.

If the principal debtor is at any time demanded payment of the debt without the knowledge of the surety then the surety would cease to be responsible for the amount, the money-lender having gone behind him to claim the amount.

A surety, except when he is interested in the money borrowed, should not be personally responsible for any part of the debt, and whatever he pays must be afterwards repaid to him by the principal debtor.

## CHAPTER XI

### SOCIAL INSTITUTIONS

IF one had to make a choice between a purely social as distinguished from a political institution in the Akan state system it would be difficult to point to a characteristic mark by which to differentiate between the two. "Society" at the stage in which we are studying it among the Akan peoples is not far removed from the idea of association of families, clans, or tribes. Invariably the head of the family is not only the patriarch but also the social leader of that family or clan. Matches between marriageable youths are contracted under his personal advice; free consent of girl or boy to a marriage is only conditional on the sanction of the head of family. Dances are usually held within the family compound and when the youth of two or more families meet for some social purpose they do so under the ægis of the central head of those families. Society is more or less clannish in structure, and in proportion as the family tie is close, the youth of the family or tribe are constrained to model their social intercourse on the structure of the political or tribal units. Thus then starting from the highest structure in the State with the Omanhene as its head, we meet a descending scale of social institutions having some head or other who partakes of the hierarchy inherent in the supreme head. The town with a Chief or Odikro as political head has also a corresponding head for the social activities of the town. This head is directly under the Odikro or Chief, but in so far as members of his association are concerned, he is supreme as supremacy goes in the Akan institutional regime. There are several such institutions in every Akan state, and almost every town in an Akan state has a social association of young men with their own leaders called captains (Asafohene or Asafoatse) and lieutenants (Sripi). These Asafo companies as they are called have very definite functions in the political and social community wherein they are found, and as the host (Asafo) of all the young men in a town or state, they were in historical times the only disciplined association

of able-bodied men who fought their country's battles in time of war and did yeoman service in time of peace.

Thus, then, these Asafo Companies of young men are established with very different and diverse purposes, and their activities in recent years have given cause to much controversy as to whether they should be regarded as indispensable parts of the Akan constitution, or whether they are mere associations of young men working for their own immediate benefit and enjoyment. At one time, the rivalry between the different companies, the so-called "company fights", became so serious that Government had to institute inquiries into the origin, constitution, and status of the Company System. The result of these inquiries did not make the contemplated abolition of the system necessary or practicable, and, for sociological purposes, the value of such associations admits of no cursory treatment.

Mr. Casely Hayford deals with the Company System in his *Native Institutions*, but apparently he has in mind the relation between an Asafo Company and the Chief of a town or division, or between the Government and the Company System. He does not, however, lose sight of the fact that the Asafo Companies are the backbone of the country. Such a company in a town consists really of the whole male inhabitants of a town or village, exclusive only of boys under sixteen or seventeen, and of the Councillors in a Chief's Tribunal. They form a strong body of commons who, besides other duties, have also a distinct voice in the enstoolment or destoolment of local Chiefs. Without them, the governments of the Akan nations would not have that glamour of liberal sanction which makes the government of any free people at once orderly and democratic.

The Asafo Companies have assumed different forms in successive ages. First there is the company which for services rendered to the town or country in time of war or of peace, has been raised to a status which entitles it to participate in the direct government of the town or country. This is effected by making the Company's captain or leader a Captain-on-Stool (*Okonnuasoni*). It should be observed that captains of Asafo companies have, as a fact, no stools, and until a Company captain is created as a stool-holding captain, the succession to the captaincy is always made by vote of the members. In the old days companies were usually formed not by the admixture of different members of various families, as is the case at present, but by a collection of the members of a single family, primarily for

defensive and offensive purposes. This class of Asafo Companies is now extinct. They have all of them obtained statutory right to partake in the direct government of the town or country to which they belong.

The form of the institution now in vogue consists of the young men of a town who have brought themselves together for social intercourse, and for the purpose of developing a unified national spirit.

It must be noted that the first form of company system attained its present state after passing through years of strenuous existence. This accounts for the incongruity in the names of the various companies. At Kibbi, for instance, we have the Ankobea; and the Apesemaka—true survivals of the ancient form of unions of families. They are, at the present time, the principal governing parties in the Executive Council at Kibbi. In other localities, it is commonly found that companies bearing these particular names belong to the second order of the system, that is to say, they have not yet been raised to a position entitling them to participate in the direct government of the town to which they belong. At Assen Apemanim, for instance, there is a very active and influential body of young men called Ankobea. It is, however, a type of the second class of companies, although it bears a name which in another Akan country belongs to a company of the first order.

Of the second class of Company system, the best example is the Fanti seven-companies system; but assuredly more united and systematic is the Amantoo-mmiensa, or the Council or Company of Three Counties, found in Akim Abuakwa. In Kwahu, another prosperous Akan country, all the companies in the towns of the State have recently joined together for the purpose of united action. The Amantoo-mmiensa Company in Akim Abuakwa is instituted on a very different basis. To give it its true place, it should be said at once the Amantoo-mmiensa is the third of the three principal councils governing the State of Akim Abuakwa. It is a system which has been widely nationalized and endowed with very unusual powers.

As we have said in another chapter, they form a true representative body of commons directly concerned in the affairs of the State, and they very jealously guard their right to investigate the proper or improper direction of affairs by the Executive. Bereft of its wild character, prompted by an inherent self-knowledge of its potentialities, this council is regarded by all true lovers of good government as an indispensable institution in the State.

When we speak of them as wild, we refer to their hardly controllable external manifestations. The coming of the Amantoo-mmiensa to Kibbi, the Omanhene's seat, is, and has ever been, dreaded as the coming of Hannibal was dreaded by the Romans. This is not conducive to secure government and good order, and it seems that if the policy of the present Executive at Kibbi continues to receive general support it would not take much trouble to make the Amantoo-mmiensa Council live a life worthy of its antecedents.

Now again in an Akan state we have, besides this national institution, others who might be referred to as local or municipal companies. These are more like social institutions which have received recognition to participate in the national affairs to a certain recognized but indefinite extent. A close study of their usual movements, committee meetings, interviews with the Chiefs' Councils, coupled with the nature of various obligations they are usually called upon to perform, is likely to lead one to believe that they form an integral part of the constitution of the country.

Invariably they figure prominently in enstoolment and destoolment questions; whatever might be said against the methods adopted by them in those movements, the truth remains that their existence as an important national factor can not be lightly thought of. They are not such as to permit of their being ignored with impunity in any matter of national or local importance.

The captains appointed by these companies every two or three years are, by the existing laws of the country, and as long as they remain captains of their companies, recognized members of the Councils of the Chiefs of the various towns. This, at least, is sufficient proof of their position as a national institution.

With regard to the multiplicity in the number of companies in any single town, it all depends upon the population rather than the ordinary importance of the town. In Kibbi, for instance, there is only one company called the "Chirem". Begoro, a very large town, has two companies; Asamankese, another large town, about the same number; and Akyease heads the list with three or four companies.

It cannot be shown with any degree of accuracy what exactly are the limits of the powers of these companies. The absence of written records gives great scope to the opportunist to interpret or misinterpret anything in a way that would best help the cause in hand. Had there been written records, many ordinary matters which sometimes endangered

the downfall of Chiefs would have been readily and peaceably decided.

We are, however, able to sum up in a few words what can be gathered from various experiences. Asafo company, or companies, in a town, is or are acknowledged to possess:—

(i) A definite and popular voice in the Chieftaincy of the town;

(ii) A right to advise on the prices of commodities brought to the local markets;

(iii) Recognition as the only organized body for local emergencies; for road work, town work, and civil and military services. In time of war they appear on the battle-field with guns purchased by themselves, either individually or collectively, and they are supplied with other war munitions by their Chiefs. In some cases, however, the Chief would be obliged to provide guns, gunpowder, etc., when the Company has exhausted its own resources.

A town without an Asafo Company is theoretically as good as dead. Practically, it could be besieged and destroyed by a neighbouring town without any serious attempt at resistance. But the truth is also prominent that a town without an Asafo of this kind is perhaps the more fortunate in that it has no history.

The *third* order of the Company system is what may perhaps be put down as a purely social institution. Associations of this nature are generally formed by members of both sexes—by the children so to speak. They form associations for the amusement of themselves and for the general enjoyment of the townspeople. In forming a society of this nature, the sanction of the Chief is not required, although it lies within the latter's power to dissolve the "club", if in the opinion of his Council it is found to threaten the well-being of the town.

Youths and lasses form these social gatherings and meet on the streets on moonlit nights to dance and sing and play. Occasionally, during the great festivals and important funeral customs, they would appear in full dress suitable for the occasion and celebrate the festivities. If there are two or more in a town, it usually happens that they vie with each other in general accomplishments. They sing satirical songs against each other, make demonstrations of superiority in one cause or the other, amusing themselves and the spectators with the success or failure of their activities. It is a pleasure to hear them sing songs composed by the artful and clever among them. Some of their songs are fragments of real

poems concerning love, nature, kings, and the gods. It is a different form of poetry, much lighter than the higher form played on the State drums.

These social companies or bands assume different names at different times. There have been within the last twenty years or so, the Asiko, Ankedam, Franapo (Fernando Po), Ahima, Siti, and the more modern craze of brass bands. Dances and bands like these go to make the life pleasure of an Akan boy or girl.

They are not at all limited in their means of enjoyment. They have games of all sorts: the boys have organized swimming and shooting parties, and the girls have parties for collecting firewood and picking snails. At the riverside they have sports of peculiar kinds, chief among which is what is called in the Akan language *Avensin*, or *Aguma*. Two opponents meet to wrestle arm to arm, leg to leg, and body against body, in a rather violent but artful manner. Until one of them succeeds in conquering the other by sending him down or getting his opponent exhausted, the contest is a draw. This game is somewhat similar to the Japanese "Ju-jitsu", at least in principle.

Our regret, however, is that with the growth of English schools, this healthy and muscle-developing pastime is being gradually given up for the more attractive games of cricket and football. Cricket and football are good games; nobody doubts that. The fear is not that we are discarding the good for the bad, but that we are dispensing with the essential for the convenient. Our national character as a race of people having endurance and capable of prolonged exertion involving determination to see a thing through to its end, stands the risk of being modified, and in time altogether lost, if we give up our national games, pastimes, and customary practices. Cricket and football games help to make good sportsmen, good soldiers, good administrators, as well as good conservatives. But if the Akans have to acquire or enrich these qualities, should they do so at the risk of losing their national character?

The elderly people, including the Chiefs, are also very active partisans of social organizations of various kinds. They are even of a more sociable disposition than the young since the many demands of custom and usage, prohibitions and taboos, come to them like second nature, and free and easy social life is possible for them. For their enjoyment, Adowa, Densem, and many dances are established and managed by the elderly men, or by young people appointed for the purpose.

## CHAPTER XII

### FUNERAL CUSTOMS

#### (1) *The Akan Belief in a Hereafter*

" Human power failing, super-human power is called in ; the mysterious and the invisible are believed to be present ; and there grow up among the people those feelings of awe, and of helplessness, on which all superstition is based, and without which no superstition can exist."—Buckle, *History of Civilization*, Chapter 2.

Of all the customs that we have had occasion to give our spare hours to study, funeral customs are the least desirable. We believe they are the only existing customs which, all shades of opinion are agreed, should receive thorough revision under the standards set by modern conditions.

Death, according to the belief of the Akan people, is a painful process of transition from an unhappy material world to a spiritual or ghostly world called *Asaman* (Hades), equally unhappy, but where the unhappiness is rendered tolerable by the enhanced freedom of thought and power. In *Asaman* there is the self-same monarchy that a man was subject to when clad in his mortal self, and a person dies only to find his immortal self in the clutches of those judges and magistrates whose successors had judged and ruled him when clothed in the outer garment of the soul. It is easy according to Akan belief for the spirit of a dead person to demand the presence of a living person in *Asaman* for the settlement of an outstanding controversy between them ; it is easy, in due season, for spirits to materialize and communicate with their living relations in either a bodily form or in an invisible but audible spiritual phenomenon.

Death is a punishment for the wicked. But death is also a relief to the unhappy in this mortal world. Death beyond is impossible ; and in *Asaman* there is the end of mortality. The *Asamanfo* (the inhabitants of Hades) live in perpetual happiness or unhappiness according as their earthly lives were justified or unjustified in the eyes of the law. The *Asamanfo* have greater powers over the will and thoughts of the living (*Ateasefo*), and they can either direct a living

person to mischief, prevent a living person from doing mischief, or guard the footsteps of a living relation from falling into impending danger.

An *Osaman* (an inhabitant of Hades) never quits his grave ; or rather the belief is that he makes periodical visits to the resting-place of his mortal ego. Within every forty days or within every year, an *Osaman* would once or twice hover over his grave, perhaps in disport, perhaps in despondency. He would on other occasions visit the most frequented places while living. This, in a way, accounts for the perpetual inferiæ to the manes of the dead. Food placed on the grave of an *Osaman* is necessary and useful because the essence of it is in one way or the other consumed by the *Osaman*, and besides that, the offering is a great mark of respect to the memory of one's deceased relative.

A dead person has his ghost about his body until it is buried; and the spirit of a dead person has greater insight to discern the bad and good in men. Death, in this world of evil, is either caused by the machination of witches, by poisoning through the means of unseen agencies, or by a fetish as punishment for sin. The spirit of a dead person could tell who had caused his death, and immediately after death one would see a young girl or boy of a prophetic turn seized in a frenzy and jibbering a half-articulate language, which would be interpreted as words of confession or revelation coming from the spirit of the dead person. These are the media employed to receive messages from beyond. Natural death is not unknown to exist ; but that a person in apparent good health should suddenly die is certainly an event that deserves supernatural explanation. In fact, in this age of hustle and bustle no person dies a natural death. That sickness is a sure means to curtailment of one's life is a fact, but there would be hardly any sickness if a witch or wizard, a poisoner or a fetish, were not involved.

There is also a strong belief in reincarnation. The belief is that persons in *Asaman* can by some supernatural process return into this old world to be reborn. This process takes place three times over in the life of every single soul. It is all a continual process of change, of birth and rebirth. What has happened to-day, happened but yesterday, and it will happen again to-morrow.

These are but the theoretical elements of our people's belief in life and the hereafter. They believe, of course, in the existence of a supreme Being, an *only* Supreme Being, a *Nyankopon*. But their belief in God ends just where

Christianity begins. Nyankopon is for both the quick and the dead, the heathen and the Christian. He does not like bad things, nor bad people. "*Nyame mpe bone.*" But when you attempt to go farther, when you mention the last and final end of the world—the last judgment—then their belief is hazy and conjectural. Perhaps, after all, their belief is in conformity with advanced knowledge in modern science, of nature and the creation.

## (2) *The Truth about the Funeral Customs*<sup>1</sup>

To begin with, when an *obusuaponi* (member of a great family) dies, the first public announcement is made by two gun-shots. Then the chief mourner appoints some sober person to supervise the funeral rites. This person called "*Nea ote ayi pa so*" distributes rum to all deserving persons by way of inviting their sympathy, and he also receives money, cloth, or liquor donations "*Nsewabode*" from those sympathizing friends who would care to give something to the bereaved family. Rum or gin or palm wine is given to any person who has gone there to express his sympathy.

Or if the sympathizing friend be a near relative of some means, or other person of importance, and he choose to appear in a grandiloquent sort of way, then there must be redoubled firing of guns and a freer hand with the "grog". Everybody must have his booze.

<sup>1</sup> I particularly request the reader to note this. The following description of a funeral custom, especially of the widow's (*Kunafu's*) share in it, was written by me about six years ago when in the Gold Coast.

There is no concealing the fact that the account of the custom as here presented would seem repulsive, perhaps objectionable, to the sympathetic student of Akan customs, whereas to the more sophisticated, civilized man, it may seem possibly entertaining. Reading this chapter in 1927, I feel strongly inclined to omit it from this book; on the other hand, I have reluctantly decided to publish it with slight modifications in the original script, for, although my whole mental attitude to the problem of funeral customs is to-day totally different from what it was in 1921, there is not one fact in the chapter which was either not in accordance with actual practice or is unduly exaggerated. The reader will note also that my attitude to the funeral rights was not that of an African participating in them, but of an external spectator, a hybrid Afro-European product of Western Christian education who had been taught to believe that all that was opposed to the religion of Europe was ethically bad. To-day, after having had a smattering of the higher western knowledge, I have reason to know otherwise concerning the nature of European ideas of life, and the implied psychological attitude betrayed by my account of the funeral custom should not be credited to my mature judgment.

Simultaneously, the young are steeped halfway into the whirl of the funeral. They have the street all to themselves, and whilst their fathers are dancing "akrodo" and the mothers are singing the funeral dirges, here they are playing their dance in apparent sympathy with the bereaved family. Even they are not spared. "*Moma gofomma no nsa*" ("give drink to the young dancers") is the order that goes round. Just a sip in the glass at a funeral festival does no harm to the young. And thus rum, what has been aptly called "Ruin-Useful-Men", has its own imperious and destructive sway. The seed of barrenness is sown in the girls, and the source of many countless evils is here openly administered to the boys. But this is only a stage in the process.

The funeral proceeds. Every member of the family may give drink, i.e. rum or gin—the proof—to anybody, but this expense is on his own accord.

As we have said somewhere else the cost of the coffin is borne by the children of the deceased. To the wife of the deceased belongs the worst lot. She must enter into the deepest mourning. She must follow certain prescribed customs to indicate her true feeling of the affliction she had suffered in the loss of her husband. She must exchange the state of woman for that of non-woman. The first thing to do is to uncover her head, and she must subsequently have her hair shorn. She must also strip herself of all ordinary beads and trinkets, and use those prescribed by custom. Next she must, as soon as it is day, begin to wail and lament, not in the house, or in the precincts of the house, but in the very centre of the town, the very heart of it. She must lament, all interested women following her and singing dirges after her, from one end of the town to another, from one street to the other. Next she comes home to sit in her dejected, disgraceful state before the dressed body of the dead husband. This is the first scene in act one of the wife's part.

Let us see the second scene. Sitting before her husband, apart from her own unwillingness and inability to take food whilst the dead body of her husband is still unburied, she is painfully reminded by custom that she should neither take any meal, nor eat kola, nor even drink water. She must fast as a Spartan would. And so she sits down flat on the ground to lament her own life and the death of her husband! The heads of her children should be shorn of all hair, and the hair is heaped together in front of the dead body. So much for scene two.

We will now see what others, besides the widow, have to

do. The daughters-in-law of the deceased must, with salt and brass pans, enter into certain customary rites called *Bredwane* and *Asimeremen*, wherein some women will have to dance and be liberally served with the all-masterful rum.

While everybody is forbidden to break his fast, there has been the finest repast—the best dishes that the deceased loved while alive—cooked and set before the dead body. Here are his toilettes, and there is the mutton or fowl soup ready for consumption by the spirit or ghost of the dead person. These remain in the presence of the dead body even until burial, and they must be taken to the burial ground to be placed on the tomb. But even then there is no end to the unqualified pouring of rum and gin which has already set the surrounding atmosphere into a blaze of liquors.

The dead body is properly dressed as befits his position. Half his personal effects are gone with his body. His gold rings, chains, his best sandals, and his best valuable cloths in addition to such cloths that friends may have presented to him after his death, are all on the body. All must be taken away to Asaman, or otherwise where was his greatness? If he took nothing with him to Asaman, those there might minimize him and call him a "nobody". Even the belief goes further. One might just as well send by the body of the dead man any clothing or other article he would wish to present to a relative who had died two, five, ten, or twenty years ago, whose clothing in use in Asaman must have become worn-out. That is the belief. "Human power failing, super-human power is called in; the mysterious and the invisible are believed to be present. . ."

Now it is sun-down. They prepare for the burial ground. The grave already dug is about three feet deep. Here we have the third scene of the widow's first act. She carries an earthen jug of palm wine. She leads the procession. Her left arm must be placed round her neck, the right holding the jug. As she reaches the *Nsaman-pom* (Grove of the Dead) she breaks the earthen jug, and runs home from the grove of the dead to lament while continuing the fast.

Meanwhile the coffin is being placed in the tomb and there is no end to the firing of guns and the downpour of rum and gin by way of libation. The dancers are already about and nobody sings for a half-hour without drink. Both at home and at the burial grove drink is being liberally served. It would otherwise be derogatory to the chief mourners.

"Drink, drink, bring more drink" (" *nsa, nsa, womfa nsa mera* ") is the cry all about.

After the burial the funeral obsequies are only about half done. Now is the time to keep Wake for the person dead and buried. All members of the deceased's family must somehow doze about in the house of death and liquor in their half inane state, and the widow must pass the night on the husband's bed, for fear that he might not find her when he comes into his bedroom for the night.

Early the next morning they start the wailings and lamentations, preceded by general thanksgiving by the family singing round about the town, and at the doors of the sympathizing friends; the sympathizers come to the house of mourning to return their thanks, and the funeral revives with full vigour. This goes on for five or six days until the chief mourners fix another day for the second part—the real customary observances—of the funeral. It may be 40 days, or 80 days, or 6 months, fixed for this customary funeral. It matters not when. The widow's lot is that from the day of her husband's death till the day when these customary obsequies will come and go, she must keep fast for, perhaps, 40 days, or 100 days. She takes nothing more than a light broth or something more light. Nothing in the way of the usual meals. She had not truly kept the memory of her husband in perpetuity if she did otherwise.

But before the date of the customary funeral obsequies the family of the dead must meet a week after the death to go into accounts. It is no exaggeration to say that a person who had left property not much over £60 in gross value (excluding lands) may have the expenses of his funeral bordering over £40 or £50. That is formal and usual. It only shows how the members of the deceased's family respected him. "*Abusuafoo no aye ade*" ("the family have done well") would be said to their praise. Presents in money, etc., received as donations from friends, perhaps a much smaller sum, would be struck off this figure, and the balance is a debt. The deceased's children will also mention the total value of their expenses, but that must, owing to the fact of non-paternal succession, be paid by them without any assistance from the family.

At this time also, a week after the demise, food must be cooked and placed on the grave. That is the end of the first part of the custom. It is just the truth about the funeral custom.

The second stage of the obsequies is *Yida*, or Funeral

Day. Preparation—elaborate in itself—must be made for the day. The relatives of the deceased directly concerned with the death must now look about for a loan if they themselves have not money to carry out the funeral obsequies. Rum and gin, meat and other necessaries must all be provided for. The widow must obtain new earthenware, hearth-pots, dishes, and a sheep for the purpose of the inferiæ.

On the preceding day a small shed must be built on the street with certain customary plant-stems and leaves, where the relatives must pass the night. They must all sleep in the open air, under the sheds. When these arrangements are complete, there must be a gun report to announce the intentions of the bereaved family to the town.

Early on the morning of the appointed day the funeral commences in all earnest. All is as if the deceased were just dead. The wailing and lamentations know no bounds. The firing of guns is started afresh, and there is every indication but the bier to show that somebody or other is dead. The great boom of gun-fire in most cases resemble the *feu-de-joie* at an Odwira festival. The deputy of the chief mourner is there again to receive donations, and to distribute rum and gin to all and sundry. The cooking is commenced. Here are the relatives on one part cooking the best mutton soup for the offering, and the poor widow is busily engaged in the same line.

But she appears on the scene rather apathetic to the debasing ceremonies awaiting her. To-morrow she regains her liberty, so she must muster enough courage to face the ordeal. The first scene in the second act of the widow discloses her cooking in her forlorn macerated condition. Scene two shows the widow holding in her hand the stalk of a wild sugarcane especially decorated with leaves for her, upon which she heaves her last breath to lament and wail for her dear dead husband. Towards dusk she must have her head shorn of all hair, and prepare for the third horrible scene. Here is the woman in the hands of her tormentors being flogged with another cane-plant called "*sensam*". Here you may picture the poor forlorn widow, with her hair shorn to the skull, her glory all gone, standing before her "benefactors", who pretend to be flogging "*musu*" (calamity) away from her. Here, if you are sympathetic, this is the time to express your feelings for her. Presents are given to the widow to sympathize with her in her loss and suffering.

Now they are in the procession to the burial grove. On the grave of the deceased will be placed every kind of dish

that the deceased liked best ; besides there is his toilet basin, his bath jug, his dining table, with food freshly prepared set on it, drinking jug, and all that he may have need of in Asaman. All are set in their proper places under a shed built over the tomb. As I gaze at this heap of sumptuous dishes and toilet and table ware all exposed to sun and rain and to public view on a side of the public road, I feel to weep within my soul. ". . . and there grow up among the people those feelings of awe and of helplessness on which all superstition is based, and without which no superstition can exist."

To the credit of the mourners we must mention a miniature statuette made of wood or of some strong metallic clay, standing boldly in the offering. It is made after the form of the dead person. The sculptor seems, however, uninstructed in his work, for he does it as a hobby rather than a profession or occupation. One might discern the hand of art in it, but the conspicuous absence of any attempt to ensure excellence may be due not to lack of aesthetic interest, but of economic motive. At this juncture we may be permitted to express our regret at the havoc that the sudden economic welfare of our people has wrought in the arts and crafts of the nation. Formerly, even a little more than a couple of decades ago, one could scarcely visit a house in Akim without coming across an architectural or mural decoration of some form or other, and in it one could find that the artists exhibited great interest in their work. In Ramseyer's *Dark and Stormy Days in Ashanti* we are shown in one of the interesting pictures a design on the walls of the Palace at Kumasi displayed in an elegant *alto-rilievo*. In these days, it is considered the clearest mark of poverty for one to live in a house built on the old lines and retaining any artistic decoration. In fact, art in the people is dying. Now, it is all a question of how to own the largest cocoa farm and reap the greatest harvest.

But we digress. The statue on the grave may have some religious or spiritual significance. A complete set of these statues is called "*Abusua kuruwa*", or family cup. Before they are placed on the grave of a high personage they will be carried through the streets ; and it is not uncommon to see the bearers of these statues suddenly obsessed with the spirit of the dead person and ready to make themselves mediums of communication between the living and the dead.

The widow is last seen on this day sweeping the place where the licentious revelry had taken place, and the rubbish, together with her hair, will be taken by her and placed at the outskirts of the town.

The day's ceremonies are concluded by the pouring of palm wine libations to the spirit of the dead, to invoke his blessing on the house and to wish prosperity to the family.

On the following morning the widow appears in her last act. She is now well dressed, and with a pan of sand on her head she goes about to thank the people. It must be observed that since the husband's death, the woman had been considered an unclean person, and in saluting people she had not to shake them by the hand; nor had she the right to cross the threshold of any but those nearest to her in affinity. But to-day she is relieved of all her burdens, for she enters into a happy widowhood.

A week later the members of the deceased's family must meet and render their bills of expense. They find in the last moment that their liquor bill is rather a heavy one. However, good-natured as they are, they share the debt among themselves, and finally appoint a successor to the deceased. This ends the greatest ceremony to the memory of the dead, whose spirit is parted from the land of the living (*Ateasefo*) to the land of the Dead (*Asamanfo*).

It must be mentioned that the present form of funeral customs is but a dim and ghostly semblance of the rites performed by our fathers twenty to thirty years ago. "*Afunsoa*" (the custom of carrying the coffin through the streets with a view of its striking down the person who had caused the deceased's death) and such other customs, have been suppressed by the British Government.<sup>1</sup>

<sup>1</sup> The funeral custom described in this chapter may be that of an ordinary member of a well-to-do clan. The funeral of Chiefs and other great men is generally on the grand scale, but being a public ceremony there is little personal suffering except that when, for instance, a queen-mother dies, all the women of the tribe must cut their hair in her honour, and also in the ancient days human sacrifice was an inseparable part of the funeral ceremonies of kings. Slaves, servants, wives, and even court officials were killed to accompany the departed king and form part of his household or court in *Asaman* (Hades).

Since this chapter was written the writer understands that the Omanhene of Akim Abuakwa, who saw this work in manuscript, has caused certain of the harsh aspects of funeral obsequies to be abolished, and to-day the widow's lot is not half so bad as it was five years ago, perhaps it is decidedly better. Funeral expenditure has also been standardized under penalty, and the people are being made to reduce the excessive conviviality of the festival to within reasonable limits. As, however, Akim Abuakwa is not the only Akan State in which these customs prevail, the chapter is published in its original form in the hope that it may still be of use in leading to the abolition of all undesirable aspects of an Akan funeral.

## CHAPTER XIII

### APPENDICES

#### A

#### A TABLE SHOWING THE CONSTITUTION OF AKIM ABUAKWA COUNCILS

##### *Councils*

There are three permanent Councils (A, B, C) in Akim Abuakwa, with one Extra-ordinary Council (A 1) called for special purposes. These Councils are:—

##### *(A) The Executive*

1. *Nana Otumfo* Omanhene of Akim Abuakwa, Paramount Chief.
2. The Jasehene of Akim Abuakwa (Kwabeng) Regent; *ex officio*.
3. The Abontendomhene of Kibbi, Apesemakahene; First Councillor.
4. The Ankobeahene, Chief of the Home or House Guard.
5. The Jasehene, Chief of the Personal Body Guard.
6. The two Kyidom Chiefs, and the Chiefs of Wirekyiren, Tete, and Pano (Chiefs of the Rear Guard); and
7. The Queen-Mother.

##### *(A 1) The Extra-ordinary Executive*

1. The members of the Executive Council; and
2. The Chiefs of the Amantoo-mmiensa Council (the Council of Three Counties).

##### *B) The Okyeman (State) Council. (The National Legislative, Judicial, and Army Council.)*

1. *Nana Otumfo* Omanhene of Akim Abuakwa; Sovereign-President.
2. The Adontenhene of Akim Abuakwa (Kukurantumi); Chairman of Committes and General Chief of the Advance Guard.
3. The Nifahene of Akim Abuakwa (Asiakwa); Chief of the Right Wing.

4. The Benkumhene of Akim Abuakwa (Begoro); Chief of the Left Wing.
5. The Oseawuhene of Akim Abuakwa (Wankyi); Chief of the Stool Guard.
6. The Jasehene of Akim Abuakwa (Kwabeng); Chief of the Body Guard.
7. The Ohene of Tafo (Adonten); Advance Guard.
8. The Ohene of Asuom (Adonten); Advance Guard.
9. The Takwahene of Akyease (Nifa); Right Wing.
10. The Odauhene of Osenase and Otwereso (Benkum); Left Wing.
11. The Ohene of Apinaman (Benkum); Left Wing.
12. The Ohene of Asamankese (Oseawu); Stool Guard.
13. The Pomasehene of Abomosu (Oseawu); Stool Guard.
14. The Abontendomhene of Kibbi (Executive, Jase Wing); supported by all the members of the Executive Council; and
15. All the Sub-Chiefs of the State, including the Amantoommiensa Chiefs.

(C) *The Amantoommiensa Council. (The Council of Three Counties.)*

1. The Chiefs and the People of Apapam, Afiesa, Afwenease, and Adadentam (Asafo Pranpran). The Chief of Apapam is President of this Council.
2. The Chief and the People of Apedwa. (Asafo Pranpran).
3. The Chiefs and the People of Tete, Pano, and Wirekyiren (Asafo Pranpran).

B

AKAN ORDER OF PRECEDENCE

Showing places of Chiefs and people in Processions.

The figures indicate the various positions occupied by Sections of the *Oman* or Nation. Thus:—

1. Omanhene (Paramount Chief).
2. Kyidom (Rear Guard).
3. Ankobea and Jaseman (Body-Guard).
4. Oseawuman (Stool-Guard).
5. The Stool. (*Note.*—It is still immediately guarded by 3).
6. Adontenhene (Chief of Advance Guard).
6. Adonten-man (Advance Guard).
7. Nifa-man (Right Wing).
8. Benkumman (Left Wing).

## C

## GUARDIAN SPIRITS AND GENII

(1) *Natal. (After Christaller)*

Like the ancient Egyptians, Indians, Babylonians, and Germans, the Akan people named the seven days of the week after certain spirits or genii. If one is born on a Monday, he is always greeted with the name of his genius as a mark of reverence. Every person has a natal name (*Krada-din*), literally soul's day's name, and it forms the first of his two names.<sup>1</sup>

Day of Week.		Natal Name of		Name of Genius.	Title of Genius.
		Male.	Female.		
Sunday	Kwasida	Kwasi	Akosua (Asi)	Ayisi (Awusi)	Bodua (Tail of the Beast).
Monday	Dwowda	Kwadjo	Adjoa	A(d)wo	Okotto (Suppli- cant, Mediator).
Tuesday	Benada	Kwabena	Abena	Bena	Ogyam (The Sym- pathiser).
Wednesday	Wukuda	Kwaku	Akua	Wuku (Aku)	Ntoni (Voluntary Adjudicator).
Thursday	Yaoda	Yao	Yaa (Aba)	Awo (Aberaw)	Preko (The Bellicose).
Friday	Fida	Kofi	Afua	Afi	Okyin (The Wanderer). <sup>2</sup>
Saturday	Memenda	Kwame	Ama	Amen	Atoapoma (The ever-ready). Or Oteananka- nnuro (The healer of snake- bites).

(2) *Patronymic*<sup>3</sup>

The table below gives a list of the different ancient Ancestors or deities of Mythology honoured by particular families, through the male, but not, as usual, the female line. Strictly, a person may be

<sup>1</sup> E.g., the author of this book, who was born on a Saturday, is known among his intimate relations as Kwame Atoapoma Okyeretwie, the last name which means "the catcher of Live Leopard", being his *menane* or strong name. Kwame is the natal name and Atoapoma is title of his genius or guardian spirit.

<sup>2</sup> Thus a man born on say Friday is born *with* two complete names, "Kofi Okyin" and when such person greets another with a "good morning" (*m'akye*) the reply is "Ya Afi", as a mark of honour and recognition of his good birth under the protection of Afi, the genius of Friday.

<sup>3</sup> This is referred to by Capt. R. S. Rattray in *Ashanti* as *Ntoro*.

said to "wash" in the Soul of this or that *Ntoro*, not that he serves, or "worships" it. Being a masculine God, *Ntoro* concerns itself mainly with the ceremonies of Birth, Marriage, and Death and all other ceremonies affecting the metamorphoses of the soul.

1. Bosomtwe = Lake Bosomtwe in Ashanti—*bosomi*—God—*Twe*—Antelope.
2. Bosomptra = River Pra, River God Pra.
3. Bosom-muru = *Obo*-stone, rock plural *mmo*, the God stone.
4. Poakwa = *Epo*—The Sea, God of the Sea.
5. Atwere = *twere* to lean upon as a support. This *Ntoro* is composed mainly of the children and grand-children of the Asona Kings.
6. Konsi = a tenacious and strong-willed *Ntoro*.

## D

## (C) KINGS OF AKIM ABUAKWA. (ASONA CLAN)

- |   |   |
|---|---|
| <ol style="list-style-type: none"> <li>1. Apeanin Kwaframoa Woyiawonyi</li> <li>2. Kuntunkrunku</li> <li>3. Damran</li> <li>4. Pobi Asomaning</li> <li>5. Oduro</li> <li>6. Boakye I</li> <li>7. Boakye II</li> <li>8. Agyekum Adu Owaree I</li> <li>9. Boakye (Mensa) III</li> <li>10. Agyekum Adu Owaree II</li> <li>11. Agyekum Adu Owaree III</li> <li>12. Animkwatia</li> <li>13. Ofori Panin<sup>1</sup> (about 1733; sudden growth of Ashanti Kingdom, headed by Tutu).</li> <li>14. Bakwante (d. 1742).</li> <li>15. Pobi (1743).</li> <li>16. Owusu Akem, "Ohenkoko" (the Red King).</li> <li>17. Twum Ampoforo "Okasu" (deposed and executed about the middle of the century).</li> <li>18. Obirikorane (died about 1770).</li> <li>19. Apraku (1770).</li> <li>20. Atta Wusu Yiakosan (d. 1811).</li> <li>21. Asare Bediako (suicide, 1811).</li> <li>22. Kofi Asante, "Baninyiye" (the Good Man), 1811.</li> <li>23. Twum II.</li> <li>24. Dokua<sup>2</sup> (about 1817); first and greatest queen; and</li> </ol> | } Circa 1500 A.D.<br>Reigned in Adanse. |
|---|---|

<sup>1</sup> Ofori Panin reigned in Adanse and in Akim Abuakwa.

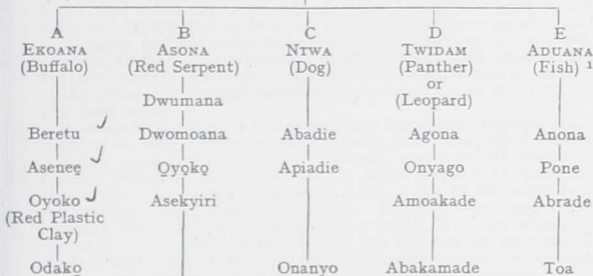
<sup>2</sup> Note.—Akim Abuakwa became a British Protectorate (1851) during the Dokua Dynasty.

- 25 & 27. Acting for her twin-sons (26) Atta Panin, 1826 (Atta the Elder), and (27) Atta Biwom, d. 1866 (Atta the Younger).  
 28. Amoako Atta I, 1866-88.  
 29. Amoako Atta II, 1888-1911.  
 30. Amoako Atta III, 1911-12 (deposed), d. 1918.  
 31. The Hon. Nana Sir Ofori Atta, K.B.E., K.M.A.C. (Ofori II), 1912-

## E

## A PHYLOGENY OF THE AKAN CLANS

AKAN  
 (The pure, or first Race)

Notes on the Clans <sup>2</sup>

Upon this principle of division into clans any Akan person considers himself quite safe and secure as soon as he enters a town whose king or chief belongs to his clan. Even from a private family miles and miles away from his own home and unknown to him, an Akan traveller is sure to receive shelter and food free of charge if only the occupants of the house are of his own clan. The communistic system of social life is rendered practicable by the ordering of Society upon

<sup>1</sup> Goat or perhaps the Chimpanzee—also called *Adu-ana*. The *na* at ends of the clan names stands for *Nana*, literally descendants.

<sup>2</sup> "The first three kings of Asante were of the Ekoona family, but those from Osei Tutu downwards are of the Oyoko family group. The Asona family group is the most numerous and is found in several states, viz., Akim Abuakwa, Akuapem, Wasa, Fanti, Agona, Ofeso, etc. If they could be united, they would form the most wonderful body on the Gold Coast. This family group appears to have been once most powerful, but at what period we are not certain." (Reindorf.) On the coat of arms of the Akim Abuakwa royal house (Asona clan) the emblem of the clan—Red Serpent—occupies a prominent position.

the clan basis. Kingdoms are not politically divided upon this principle ; but a state in which a particular clan is paramount is sure to contain more people belonging to that clan than of any other. For example, there are many Asona people in Akim Abuakwa, the Royal House itself belonging to the Asona clan ; so also in Ashanti because the Royal House is of the Oyoko clan, most Ashanti reigning houses and families are Oyoko.

The clans are divided into five main orders or phyla. (1) Ekoana, (2) Asona, (3) Ntwa, (4) Twidam, and (5) Aduana. These five are referred to as the ("*Mmusua-ban anum a woye gna mma biako*") five great families who are children of one mother, the mother being "Akan".

At the present day the clans are so variously divided that it is difficult to distinguish one from the other without a close study of their affinities. The important thing to note is that however widely separated in blood relationship these clans may be, the members are not expected to inter-marry. If clan members inter-marry, the act is looked upon as an offence against the fundamental constitution of the Akan Nations. Clan inter-marriage is not to be confused with incest, for, unless the incestuous offenders, besides belonging to the same clan, belong also to the same family, the offence is purely social in character and not religious as well. It is much to be regretted, however, that the non-observance of the practice that clans should not inter-marry is now very common and some cases are even sanctioned by the Tribunals. The Clan classificatory system is not as strong to-day as it used to be.

It seems to the present writer that any ambitious anthropological study of the Akan people can but have a shadowy prospect of success if owing to failure on our part to make researches all traces of the one great link which connects the Akan people with the great Bantu tribes of Central and South Africa were to be suffered to weaken with complacent indifference. Happily, now that West Africans like Mr. W. Esuman-Gwira Sekyi, M.A., are adding to the work of the pioneer writers Sarbah and Hayford, we have reason to hope that much of the story told of the genesis and development of the Akan race will be preserved for the incoming generations.

## F

## GOLD WEIGHTS IN USE IN THE AKAN STATES WITH THEIR ENGLISH EQUIVALENTS

Name of Weight.	Peswa. Ntaku. Achies.			Old Usage.		Present Usage.	
	£	s.	d.	£	s.	£	s.
powa . . . . .	$\frac{1}{2}$	-	-	$\frac{1}{2}$	-	-	-
pesewa . . . . .	1	-	-	1 $\frac{1}{2}$	-	-	1 $\frac{1}{2}$
damma . . . . .	2	-	-	2 $\frac{1}{2}$	-	-	2
takufa . . . . .	3	-	-	3 $\frac{3}{4}$	-	-	3
kokoa . . . . .	4	-	-	4 $\frac{1}{2}$	-	-	4
taku . . . . .	6	1	$\frac{1}{2}$	6 $\frac{3}{4}$	-	-	6
sowafa . . . . .	36	6	$\frac{1}{2}$	3 4 $\frac{1}{2}$	-	3	4
Asante dommafa . . . . .	42	7	$\frac{1}{2}$	3 11 $\frac{1}{2}$	-	4	0
Akim agyiratwefa . . . . .	48	8	1	4 6	-	4	6
Akim dommafa . . . . .	-	9	-	5 3	-	5	3

Name of Weight.	Peswa.	Ntaku.	Ackies.	Old Usage.			Present Usage.		
				£	s.	d.	£	s.	d.
Akim bodommofa . . . . .	-	10	-	5	7½	-	5	8	
Asante bodommofa . . . . .	-	11	-	5	9	-	5	9	
Sowa . . . . .	-	12	1½	6	9	-	6	9	
fiaso . . . . .	-	13	-	7	3	-	7	3	
Asante domma . . . . .	-	14	-	7	10½	-	8	0	
Akim agyiratwe . . . . .	96	16	2	9	0	-	9	0	
Asante agyiratwe . . . . .	99	-	-	9	6	-	9	6	
Akim domma . . . . .	-	18	-	10	1	2	10	0	
Akim bodommo . . . . .	-	22	2½	11	3	-	11	3	
Asante bodommo . . . . .	-	22	-	11	6	-	11	6	
Asante nsano . . . . .	-	24	3	13	6	-	13	0	
Akim nsano . . . . .	-	30	-	16	10½	-	16	10	
Akim dwoasuru . . . . .	-	32	4	18	0	-	18	0	
Suru . . . . .	-	36	4½	1	0	3	1	0	
peresuru . . . . .	-	40	5	1	2	6	1	2	
takimansua . . . . .	-	44	5½	1	4	9	1	5	
Asante Asia . . . . .	-	48	6	1	7	0	1	6	
Akim Asia . . . . .	-	54	-	1	10	4½	1	10	
Asante dwoa . . . . .	-	56	7	1	11	6	1	12	
Namfi . . . . .	-	60	-	1	12	6	1	12	
Akim dwoa . . . . .	-	64	8	1	16	0	1	16	
osua . . . . .	-	72	9	2	0	0	2	0	
Nnwoa mmienu . . . . .	-	-	16	3	12	0	3	12	
Nnwoa 2 ne dwoa suru . . . . .	-	-	20	4	10	0	(16 ackies) 4	10	
asuanu . . . . .	-	-	18	4	1	0	4	0	
asuasa . . . . .	-	-	27	6	1	6	6	0	
benna . . . . .	-	-	32	7	4	0	7	0	
predwan . . . . .	-	-	36	8	2	0	8	0	
tasuanu . . . . .	-	-	54	12	3	0	12	0	
ntanu . . . . .	-	-	72	16	4	0	16	0	
ntansa . . . . .	-	-	108	24	6	0	24	0	

£8 2s. still use  
in Fantiland

*Note.*—The denominations most commonly used are the pesewa (1½d.), taku (6d.), domafa (4s.), doma (8s.), suru (£1), osua (£2), predwan (£8), and one can easily obtain a combination in the following way, e.g. £96 would be "Mpredwan dumienue" (nominally £100); £224 9s. 6d. would be "Mpredwan aduonu-nnwotwe, doma ne nntakuo-mmiensa" (28 pr. 1d. 3t.).

It should also be noted that although the second column of English equivalents is the nominal value in English currency, yet there are certain extra fees called *Nterakyire* (appendage) and *ntho* (grace or sanction money), which are charged by the Tribunals in addition to fees and fines. E.g. Suru-ne-domafa is on that principle not £1 4s., but £1 5s. 6d., Predwan is £9 10s. instead of £8; Asuasa is £7 instead of £6, the extra 1s. 6d., £1 10s., and £1 being in each case *nterakyire* and *ntho*. These extra amounts are collected by linguists and other Tribunal officers on fees and fines paid to the Tribunal and it is from this fund that they draw their remuneration.

## G

## A LIST SHOWING THE AKAN DIVISION OF THE MONTHS

<i>Usual.</i>	<i>European Calendar.</i>	<i>Alternative.</i>
1. Openima . . .	January.	1. —
2. Opepon . . .	February.	2. —
3. Ogyefuo . . .	March.	3. Onyamewia.
4. Obenem . . .	April.	4. Ogyenko.
5. Oforisuo-gyenko	May.	5. Otwanyokon, Opraworam.
6. Kitawonsa . . .	June.	6. Ayewoho mumo (Huhuhuhu).
7. Kotonnima . . .	July.	7. Nyanya.
8. Osanna . . .	August.	8. Osiapansam.
9. Odwenwane . . .	September.	9. Kokosukwakwawia.
10. Ebo . . .	October.	10. Ahinime.
11. Opese . . .	November.	11. —
12. Obubuo . . .	December.	12. —

N.B.—Four of the above 12 months are said to contain 28 days each, three 30 days each, and five 32 days each, but, owing to contact with the European calendar, it is difficult for us to distinguish one from the other. The Elders themselves seem to have forgotten all about the months, since they in common with the educated people have fallen into the habit of using the European calendar. The alternate names of the months may be taken as mere surnames or descriptive names showing the peculiar attribute of the months, e.g. Ogyefuo (March) is also called Onyamewia, meaning God's own sun; Kitawonsa (restrain your hands)—June—is also called Ayewoho mumo, "you have made a fool of yourself" (by having no provision in stock) because in June as the corn and yam harvests are a month or two ahead, it may be difficult for one to obtain foodstuff if no provision has been made for the future.

## H

## SELECTIONS FROM THE SONGS OF THE MINSTRELS

## " AMEMA "

## 1. THE SONG OF ATTA'S MIGHT

Wohū Odum aban a  
 Wose Odan aban a;  
 Ne nhina kōkā bom a  
 Na yefre no Kankanfrefe.  
 Tra' Kumi, tra' Kumi!  
 Amoako Atta nye dua?  
 Dua Fetefre,  
 Fetefre ebu akuma?  
 Okrakrape!  
 Oduawuro a edi aba  
 Nkontompa!  
 Atta na ote atuo mu  
 Awisi.

When you see the Odum branch  
 You say it is the Odan branch ;  
 When the two are joined  
 It is called Kankanfre.

It is so, O Kumi, it is so.

Is not Amoako Atta a tree ?

The Fetefre tree,

The Fetefre tree that breaks the axe ?

O hard and tough stuff !

A mighty tree that requires a big (axe-) handle

Which can never bend !

Forsooth ! Atta breaks the ranks of riflemen.

## 2. THE SONG OF ATTA'S MIGHT

(Another Version)

*Wotu nnua aban a, tu nnua aban a, tu nnua aban a*

*Ne nhina kōkā bom a,*

*Na yefre no Kankanfre.*

*Tra' Kumi, tra' Kumi !*

*Amoako Atta nye dua ?*

*Odua Nyankoma,*

*Okrakrape !*

*Oduawuro a edi aba*

*Nkontompa !*

*Atta na ote atuo mu*

*Awisi.*

You uproot a tree, uproot a tree, uproot a tree ;

When all are joined

It is called Kankanfre.

It is so, O Kumi, it is so.

Is not Amoako Atta a tree ?

The Nyankoma tree ?

O hard and tough stuff !

A mighty tree that requires a big (axe-) handle

Which will never bend.

Forsooth : Atta breaks the ranks of riflemen.

## 3. THE SONG OF ATTA'S ADVERSITY

*Woye sa, yee sa, kum Beyeden ;*

*Woakum Mansomew,*

*Woakum opanin a ode mmofra bae,*

*Woakum Gyetia Gugu.*

*Ona ode ne Nkrawiri tuu asuosu,*

*Ode ne Twenesin asi nsoa.*

*Atta na oyee sa, yee sa*

*De Asansatuo tee brofre,*

*Awisi.*

You kept on doing so, and killed Beyeden ;

You have killed Mansomew,

You have killed the elder who came with the children,

You have killed Gyetia Gugu.

He it was who walked down stream with his war-drum :

He it was who made a fishing basket of his common drum.

Forsooth ! It was Atta who kept on doing so,

And had to pluck a pawpaw fruit with his fowling-gun.

## 4. HIS INDIFFERENCE TO ALL TABOOS

*Okwawuo a odi awuo suman Sakyi Amoakwa !  
 Wona wukyiri doa nso woda adqsoa mu. /  
 Wabofra yi, woye frekyere,  
 Woye jefee,  
 Woye brabrafo.  
 Se ade a yekyire na woreye yi ?*

The fetish Sakyi Amoakwa of Okwawuo the murderer.  
 You are the man who taboos *doa* fibre,  
 And yet you sleep in a *doa* netting.  
 You this boy, you are disobedient ;  
 You are too inquisitive ;  
 You are dissimulating.  
 Is not what you are doing  
 The very thing that is tabooed ?

## 5. THE OMNIPRESENCE OF ATTA

*Atta woaye kwanten fokye :  
 Wo twam' a mmrakuma ;  
 Wo kwati a woreyera ;  
 Wo fa ase a gbo wo so.  
 Woama osifog afa twen so.  
 Woakum Tete ato Tete kam'.  
 Atta, wona tuni wowo  
 Awisi.*

Atta, you are like a tree  
 Fallen across the public road.  
 To cut it, you need many axes ;  
 If you try to avoid it in the road  
 You lose your way ;  
 If you pass under the fallen tree,  
 It will crush you.  
 Atta, you have made the lame person  
 Walk on a bridge.  
 You have killed Tete and placed him  
 In his own bathroom drain.  
 Forsooth : Atta, you are capable of power !

## 6. A SEARCH-PARTY FOR ATTA

*Tin koko, tin koko, frikyi, frikyi !  
 Akuti Mireku Amoa Duodu !  
 Atta wokq akenka duro ase a  
 Wusi nneyeg.  
 Atta na oda ahenkewa duro ase  
 Remunimuni ne ho no.  
 .  
 Atta wona woayi wo kyenee ato abotan so,  
 Ama obomofog ne n'atweaa  
 Adi ha munsuo,  
 Awisi.*

Tin koko, tin koko (sound of the gonggong)  
 Frikyi, frikyi (music of the drum)  
 Akuti Mireku Amoa Duodu! (Words of the drum—Atta's strong  
 names)

Atta when you are going under a lemon tree,  
 You have got to go carefully.  
 There is Atta lying under the lemon tree,  
 Tumbling about.

(another conclusion)  
 Atta you have made your trail over the rocks  
 (So that you cannot be tracked),  
 And the hunter and his dog being lost,  
 Forsooth! they have got to live on wild food.

## 7. ATTA'S NOBILITY

*Edom ē, sọ wo tuom'!*  
*Atta na oreba no.*  
*(Atta na oyere họ no).*  
*Ofori nana, Bribiako nana.*  
*Woanfuni a anka wudi nheka boam'.*  
*Osre beree bonkhye a woanto awia*  
*Na gtafre abog sọ :*  
*Ofori nana Bribiako nana,*  
*Atta, deẹ wo nana ayọ,*  
*Na woreye bi,*  
*Awisi.*

To arms, to arms, all the army!  
 It is Atta who is coming.  
 (Atta has taken his seat).  
 Ofori's grand-nephew, Bribiako's grand-nephew.  
 If you had not ploughed  
 You would have been a carnivorous,  
 A wild she-bear that did not bask in the sun,  
 But licked the surface of the rocks.  
 The grand-nephew of Ofori, Bribiako's grand-nephew.  
 Forsooth, Atta, you are following  
 The foot-steps of your ancestors.

## 8. ATTA IS INTERFERING

*Qse "Agyei"!* *Qse "Enae"!*  
*Qse "Anwam aba dua so o!"*  
*Abrigyira, abrigyira,*  
*Suman Kwasi Bosomtwe.*  
*Woakote bribi ama bribi reka wo so.*  
*Atta na woakote bribi*  
*Ama bribi aka no so*  
*Awisi.*

"O father," quoth he; "O mother," quoth he.  
 "Wood-peckers have come on top of the tree."  
 Abrigyira, abrigyira (music of the drum)  
 Fetish Bosomtwe whose day is Sunday. (Words of the drum)  
 You have meddled with something  
 And something is stuck on you.  
 Atta has plucked something,  
 And something is stuck on him.  
 Forsooth!

## 9. HIS SUPERIOR POWER OVER THE FETISH

*Opampame ēē . . . ēi !*  
*Wonnyē ntimu ankama ;*  
*Wonnyē nante ankama ;*  
*Wonnyē mprenpren yiadom ;*  
*Wonnyē okomfoō yonko.*  
*Wona wo né akomfoō hyia a*  
*Wogyē yēn nsam adawuro,*  
*Yentiamoa oso Pobi.*  
*Kwasi Bosomtwe a oñe*  
*Ne nkramo di asie.*

Opampame . . . (general opening address—probably a strong name of Atta).

You are not an unforgiving lord ;  
 You are not an officious lord ;  
 You are not one whose assistance is temporary ;  
 You are not a friend of the priest.  
 When you meet with the priests  
 You can force their gongongs from them,  
 Even Yentiamoa who is Pobi's priest.  
 You are the fetish Bosomtwe of a Sunday  
 Who is capable of defying his own medicine-men.

## 10. ATTA'S CONNEXION WITH THE CREATOR

(This piece is also produced on the Speaking-horns)

*Hena kōse, hena kōse, hena kōse ?*  
*Hena na oḱōsee 'Te,*  
*Maa 'Te kōsee Ananse,*  
*Maa Ananse kōsee Odomankoma,*  
*Maa Odomankoma bōo adēg ?*  
*Atokoafre Kwasi Bremḱon ;*  
*Obremḱon nante brēbrē.*

Who said, who said, who said ?  
 Who said to Hearing<sup>1</sup> (te—to hear)  
 That Hearing told Ananse,<sup>2</sup>  
 That Ananse told the Creator,  
 That the Creator made the world ?  
 Atokoafre Kwasi the King,  
 A king should walk nobly.

## 11. THE WHITEMAN'S SUPREMACY OVER ATTA

*Odum tutu ma hama twetwe,*  
*Ama Brofo akyinsa abo no pō.*  
*Atta 'Fori woayē bi a gyae,*  
*Na Brofo de bi aba.*

<sup>1</sup> Compare the idea behind this sentence with " In the beginning there was the Word, and the word (λόγος) was God ".

<sup>2</sup> *Ananse*—the principal hero in all Akan folklore. Probably the name means " the father of grandfathers ". *Se* = *ose*, father ; *Anan* = *Anana*, plural of *Nana*, grandfathers or granduncles—Ananse written in full may thus be *Nananomse*, i.e. our grandfathers' father.

In the fall of the Odum tree,  
 The creeper gets pulled about ;  
 And the whitemen have twisted it  
 And made a knot of it.  
 Atta 'Fori you have done enough in your day,  
 Now you may stop,  
 For the whitemen have brought something (new).

## 12. ATTA THE INDOMITABLE

*Yema yenkoto mmutu,*  
*Yenkoto denkyenjo,*  
*Enkotoa ko na.*  
*Huru tra epo!*  
*Otwea bogom!*  
*Asua kete krakrape*  
*A osa ne men mu.*  
*Enunu no ;*  
*Wo nunu no a obekye wo ;*  
*Wo nunu no a obego ntoa.*

Let us bend and lie low,  
 Let us lie low like the crocodile,  
 That we may attack the hard fighter.  
 Jumps over the Sea? <sup>1</sup>  
 The damned cur!  
 It is only a small and dry stream,  
 There it hangs between its horns.  
 Do not tease him!  
 If you vex him he will catch you ;  
 If you irritate him he will take to arms.

## 13. ATTA IS INTERMEDDLING

(A version of No. 8)

*Opampame ee . . . ei!*  
*Wona woakum Kwaku Toto atu*  
*Agye ne safoa aka wo dee ho.*  
*Abrigyira, abrigyira,*  
*Suman Kwasi Bosomtwe,*  
*Akote bribi ama bribi aka no so.*  
*Dokua nana akote bribi ama bribi aka no so.*  
*Yema kenkofwe se Atta 'Fori akote bribi*  
*Ama bribi aka no so,*  
*Awisi.*

Opampame . . . (general opening address to Atta)  
 You have killed Kwaku the Snap-shot,  
 And you have taken his key in addition to yours.  
 Abrigyira, abrigyira (the music of the drum)  
 The fetish Bosomtwe of a Sunday (Words of the drum)  
 He has touched something  
 And something has stained him.

<sup>1</sup> To understand the following four lines the reader must remember the Akan proverb: "Abofra huru tra opanin a osa ne men mu," that is "If a little boy (the small river) attempts to jump over an elderly man (the sea), he gets entangled between the elder's horns."

Dokua's grand-nephew has plucked something  
 And something is stuck on him.  
 Forsooth, just imagine Atta 'Fori touching something  
 And something is left on him.

## 14. ATTA IS CAUSE OF THE FAMINE

*Kuro nnua kwa ē,  
 Atta ammā yeannua aburo ō!  
 Atta ama yede siyē afa twene so;  
 Wama akōkoa ketewa anom fodoō;  
 Wama Nsuta Agyeifi-ba Ntitirikuo  
 Adua aburo nkorenkore,  
 Awisi.*

Ye town of barren fruit-trees!  
 Atta did not let us plant corn.  
 Atta has made us cross the bridge  
 With a lame leg;  
 He has made an infant child live on corn-cakes.  
 Forsooth! He has made Ntitirikuo MacAgyeifi of Nsuta  
 Plant his corn seed by seed.

## 15. ON LOVE

*Ogyina nkwanta epae gyēne;  
 Ote nkwanta kēseē so pae gyēne.  
 Wo kō a, me ma n'akye;  
 Ne ne kunu a odi asia.*

She is standing at the cross-roads hawking onion;  
 She sitting at the great cross-roads hawking onions.  
 When you go in the morning  
 Give her my greetings,  
 And her husband whose adultery fee is thirty shillings.

THE END

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