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## **Negotiating custom : colonial lawmaking in the Galle Landraad**

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## Chapter 2 Negotiating Councillors

In mirror theories that link law to society, ‘law mirrors society or some aspect of it in a consistent, theoretically specifiable way’. Such theories have been challenged by Alan Watson, who claimed among other things that the processes of legal change ‘are largely controlled “internally” within legal systems by legal professional elites such as makers of codes or drafters of legislation, judges or jurists’.<sup>1</sup> Watson’s view suggests that the legal elites of eighteenth-century Dutch Sri Lanka, professional or not, had a potentially significant role. With little or no separation of powers between the legislature, executive and judiciary, this would be especially true for early modern times. Legal formalism, which emphasises the independence of law from externalities and the idea that judging was a mechanical process, was challenged by the realists in the 1920s and 1930s who emphasised the inadequacies of the law and the personal role of the judges.<sup>2</sup> Watson’s radical theories of the insulation of law from economics, sociology and politics have been challenged in the literature but I will not attempt to elaborate on that debate here.<sup>3</sup> At the least, his work shows the importance of studying the legal elites, as attempted in this chapter by focusing on identifying the councillors of the Landraad, their backgrounds, controlling power and worldview. Their capacity to decide over questions of law was more significant than what is projected in formalist ideas of the mechanical application of the law to any particular case.<sup>4</sup>

Who became members of the Landraad? What were their backgrounds? How influential were the indigenous headmen in the decision-making process, which was effectively also the rule-making process? This process occurred between representatives of the two social fields of the Dutch and Sinhalese—was it a mutual interaction among equals? The decision-making capacity of both parties would be nearly equal or prearranged to favour one social field. At the same time, both social fields would have been subject to influences from each other and other social fields. A reality of pluralities, in that case, would not be unprecedented.

A context of the personal in judicial decision making underlines the identity of the councillors and their outlook on local society. Members had the authority to decide on a case, so they were in powerful positions vis-a-vis society when they were appointed to serve in the Galle Landraad. We may not be able to determine to what degree a judge or group of judges had a direct effect on a case, but the presence of indigenous headmen in a colonial body that has been much appraised for including them is important. This chapter first describes the backgrounds and participation in the council of the all-male European and indigenous councillors who served from 1759 to 1796. Thereafter, I will examine the varying levels of influence of the two groups in a discussion of their authority in the council. Dutch representations of the locals, seen particularly through an introduction to the work of Pieter Sluijsken, one-time president of the Galle Landraad, shows the dynamics of the interaction of two social fields.

### 2.1 European Councillors and their Social Context

Most councillors were white, affluent, and worked closely with the Dutch government. At the beginning of their careers, those who had entered VOC service as a soldier or sailor had

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<sup>1</sup> See, for an overview of this debate, Roger Cotterrell, *Law, Culture and Society: Legal Ideas in the Mirror of Society Theory* (Hampshire: Ashgate, 2006), 109–110.

<sup>2</sup> See Brian Z Tamanaha, *Beyond the Formalist-Realist Divide: The Role of Politics in Judging* (Princeton, N.J.; Oxford: Princeton University Press, 2010), 1–7.

<sup>3</sup> See Cotterrell, *Law, Culture and Society*, 109–112.

<sup>4</sup> New studies evaluating approaches to judging have emerged in recent times. See part three of Tamanaha’s book on studies of judging in *Beyond the Formalist-Realist Divide*.

to serve an apprenticeship of five years.<sup>5</sup> A few moved into administration and trade as bookkeepers and merchants. Others were already prominent company officials who went on to reach high positions in the administration in Colombo and came from families that represented the old guard of VOC servants. European and local appointments were made by the Governor in Council in Colombo, with some evidence of recommendations from the Political Council of Galle.

The controlling power of the Landraad was in European hands. Presidents, vice presidents and secretaries were Europeans (see Table 2.1). As said in chapter one, the *opziender* (overseer) of Galle was also the president of the Landraad. Pieter Sluijsken, who had served the company since 1758, was president of the Landraad for one and a half years from 1766 to 1767. Sluijsken was a diligent president, attending twenty-seven of twenty-nine meetings held during his term of office, missing just two on the grounds of indisposition. He claimed to have learned much about the country, people and customs through experience (more on this below), and it is likely that his term in the Galle Landraad would have contributed towards that. The junior Abraham Samlant was president of the Landraad from December 1779 to June 1785 and at the time of capitulation by the British in 1796 Samlant was a merchant and *negotie boekhouder* (trade bookkeeper) in Colombo.<sup>6</sup> His father, the senior Abraham Samlant was commander of Galle and son of Barent Samlant and grandson of Barent Barentsz Samlant of Haarlem, a *vrijburger* in Colombo.<sup>7</sup> Adriaan Sebastiaan van de Graaff, who was appointed president of the Galle Landraad in May 1785 in his capacity as overseer of the Galle District, was the brother of Governor Willem Jacob van de Graaff.<sup>8</sup> Other Landraad top brass (presidents and vice presidents in particular) were also from influential families. Diederick Thomas Fretz was president for almost nine years from 1770 to 1779, the longest serving in the records. He was also present at most meetings (160 of 175). At times, the same people ran the council for many years. Petrus Jacobus Rosemale Cocq was a bookkeeper in 1778 when he was appointed secretary of the Landraad by the Dutch government.<sup>9</sup> He served till 1785 before being transferred as secretary of the Colombo Landraad, but returned as president of the Galle Landraad in December 1790. At times though it was difficult to find a secretary. Wilhelmus Gijsbert van Zitter took the oath as secretary on 8 July 1786 and functioned in that capacity at that meeting, but did not appear again. Some weeks later, in October 1786, Johan Pieter Simon Cadenski assumed duties as secretary at a special meeting held only for his appointment, but his seven-year-long term of office was highly unsatisfactory as seen in chapter one.

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<sup>5</sup> See, for careers of VOC personnel, Albert van den Belt, *Het VOC-Bedrijf Op Ceylon: Een Voorname Vestiging van de Oost-Indische Compagnie in de 18de Eeuw* (Zutphen: Walburg Pers, 2008), 236–239.

<sup>6</sup> Anthonisz, *Report on the Dutch Records*, 63; Wagenaar, *Galle, VOC-Vestiging in Ceylon*, 30.

<sup>7</sup> *Ibid.*, 30. He had his first appointment in 1731 as a soldier and was made junior merchant in 1742. He was appointed commander in 1758 and served in that post till 1766.

<sup>8</sup> See for his first day in the Landraad, SLNA 1/6525, ‘Draft Minutes, GL’, fol. 100v, 14 May 1785. For an account of the family see ‘Willem Jacob Van De Graaff’, *Journal of the Dutch Burger Union of Ceylon* 2, no. 3 (1909): 142.

<sup>9</sup> SLNA 7/2353, ‘Inward Letters, Galle Landraad’ 1778 to 1801, Letter dated 7 May 1778 from Commander Anoldus de Lij to the Galle Landraad.

Table 2.1 Some Presidents, Vice Presidents and Secretaries 1759-1795

Function and Name	Record in Minutes	
	First	Last
<i>Presidents</i>		
Toussaint, Johannes	29 Sept 1759	6 Dec 1760
Marci, Adolph Fredrik	17 Sept 1762	6 Aug 1764
Balthazar Hendrik Stroebbe	14 Jul 1764	15 Jan 1766
Sluijsken, Peter	15 Jan 1766	27 Jun 1767
Cock, Cornelis de	5 Sept 1767	30 Dec 1769
Fretz, Diederick Thomas	24 Feb 1770	24 Dec 1779
Samlant, Abraham	24 Dec 1779	11 Jun 1785
Graaff, Adriaan Sebastian van den	14 May 1785	24 Mar 1787
Johannes Franciscus Gratiaan	14 Apr 1787	5 Apr 1788
Pieter William Ferdinand Adriaan van Schuler	12 Nov 1788	23 Oct 1790
Roosmale Cocq, Petrus Jacobus	11 Dec 1790	12 Dec 1795
<i>Vice Presidents</i>		
Velde, Egbert van de	29 Sept 1759	6 Dec 1760
Cramer, Hendrik	20 Jul 1763	16 Aug 1766
Velzen, Adriaan van	21 Feb 1767	26 Nov 1768
Bergh, Adrianus van den	15 Jul 1769	7 Jan 1775
Martheze, Nicolaas Bernardus	7 Jan 1775	21 Sept 1776
Conradie, Johan Fredrik	16 May 1778	9 May 1779
Lij, M Andreas Everhardus de	31 Mar 1781	12 Oct 1782
Vos, Pieter de	8 Jun 1765	21 Mar 1772
	16 Nov 1782	2 Feb 1793
Hendrik Anthon Johnson	10 May 1793	12 Dec 1795
<i>Secretaries</i>		
Johannes Stein	26 Apr 1760	15 Jul 1775
Roosmale Cocq, Petrus Jacobus	16 May 1778	19 Aug 1785
Cadenski, Johan Pieter Simon	25 Oct 1786	28 Jun 1793
Pieter Arend de Moor	19 Jul 1793	12 Dec 1795

Sources: SLNA 1/6497 to 6525, Minutes of the Galle Landraad.

At its helm, the Landraad had European officials who served in high-level judicial, executive and legislative capacities. While in Galle, Cornelis de Cock was a junior merchant and overseer of the district.<sup>10</sup> He served in the Galle Landraad from September 1767 to December 1769, and was later *dessave* of Colombo. In his later capacity, he was also chairman of the Colombo Landraad. He was born in Emden, northern Germany and as he had spent much of his thirty years in Asia in Sri Lanka, may have had some understanding of the vernaculars.<sup>11</sup> He served in various capacities such as private secretary to the governor at the time of his marriage and chief warehouse keeper during the embassy from Kandy in 1772,

<sup>10</sup> SLNA 1/6503, 'Galle Landraad Minutes' 1768, fol. 53r, 16 Jul 1768.

<sup>11</sup> Remco Raben and Max De Bruijn, eds., *The World of Jan Brandes, 1743-1808: Drawings of a Dutch Traveller in Batavia, Ceylon and Southern Africa* (Zwolle, Amsterdam: Waanders Publishers, Rijkmuseum, 2004), 258, 260. See, for extensive details of his career, Frits van Dulm, 'Zonder eigen gewinne en glorie': *Mr. Iman Wilhelm Falck (1736-1785), gouverneur en directeur van Ceylon en onderhorigheden* (Hilversum: Verloren, 2012), 73-74, 21n.

and is depicted in an illustration of that audience by Carel Frederik Reimer.<sup>12</sup> He is also featured in an illustration by the minister Jan Brandes, a Lutheran like him who appears to have struck up a friendship with him soon after his arrival in 1785. De Cock is shown conversing with his Sinhalese officers in a relaxed fashion in the verandah of his office in Hulftsdorp, Colombo, just two months before his departure from Sri Lanka.<sup>13</sup> The German Diederick Thomas Fretz also became *dessave* in Colombo later on.<sup>14</sup> He was captain of the Mahabadde or the Cinnamon Department, *dessave* of Matara in 1785, and then *dessave* in Colombo in 1787, but returned to Galle as commander in 1792.<sup>15</sup> Fretz was one of the first VOC servants to pledge alliance to the British in 1799 and serve in the civil court of Galle. At the same time he had hopes that the Dutch would regain control of Sri Lanka and wished to be installed as governor.<sup>16</sup> Fretz died in 1815, shortly after the takeover of the Kandyan Kingdom. Sluijsken, who was *hoofd administrateur* (chief administrator) towards the end of his career, may have also had ambitions of being appointed governor in the event of the British returning Sri Lanka to the Dutch,<sup>17</sup> and he did not encourage alliance to the British administration.<sup>18</sup>

European councillors were Christian (Dutch Reformed or Lutheran) and are likely to have been privileged inhabitants of the Galle Fort with close political, economic and social ties to each other. The company frequently depended on foreigners to satisfy the requirements of VOC personnel.<sup>19</sup> More than sixty per cent of civil servants in Galle were of mixed parentage, so it is not surprising that some councillors were Eurasians (Abraham Samlant, Egbert van de Velde, Johannes Toussaint, Johannes de Leeuw, Nicolaas Lasge, Hendrik Brakel, Harnanus Engelbregt and Pieter de Vos to name a few).<sup>20</sup> For convenience I have used the term

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<sup>12</sup> R G Anthonisz, 'Governor Falck's Audience with the Kandyan Ambassadors', *Journal of the Dutch Burger Union of Ceylon* 2 (1909); Carel Frederik Reimer, *Ontvangst van de Gezanten van de Koning van Kandy Door Gouverneur Imam Falck, 1772*, Rijksmuseum, Amsterdam, <https://www.rijksmuseum.nl/nl/collectie/RP-T-1904-18>.

<sup>13</sup> Although the Rijksmuseum website identifies the image as a scene from the Landraad, probably following Wilhelmus Hermanus Vroom's analysis, Remco Raben and Jan Veenendaal have pointed out that if it was a gathering of that council there would have been other European officers present. Nevertheless, the *dessave*'s residency in Colombo was also the seat of the Landraad. Jan Brandes, *Cornelis de Cock with Sinhalese Officers in Hulftsdorp, Colombo, Seated in His Verandah to Settle the Affairs and Disputes of the Natives*, Watercolour over sketch in pencil, 29 November 1785, Rijksmuseum, Amsterdam, <https://www.rijksmuseum.nl/en/collection/NG-1985-7-1-9>; Wilhelmus Hermanus Vroom, 'Jan Brandes, de Landraad Te Colombo in 1785', *Bulletin van Het Rijksmuseum* 37 (1989): 253–55; Raben and De Bruijn, *The World of Jan Brandes*, 259.

<sup>14</sup> Raben and De Bruijn, *The World of Jan Brandes*, 309.

<sup>15</sup> van den Belt, *Het VOC-Bedrijf Op Ceylon*, 199; J P Lewis, 'Dutch Extracts and the Dutch Company in the Matara District', *Journal of the Dutch Burger Union of Ceylon* 1, no. 4 (1908): 197.

<sup>16</sup> Schrikker, *Dutch and British Colonial Intervention*, 144, 243n.

<sup>17</sup> Personal communication from Alicia Schrikker.

<sup>18</sup> Schrikker, *Dutch and British Colonial Intervention*, 144–145.

<sup>19</sup> Femme Gaastra says that around 1770, 80 per cent of soldiers and 50 per cent of all seamen in company service were born outside The Netherlands. The total number of VOC personnel in Sri Lanka was 4652 in 1753 and 3784 in 1780, the second highest in Asia after Batavia. He further says: 'Around 1786, no less than a quarter of the European Personnel on Ceylon, where there was a considerable European community, had been born in Asia.' *The Dutch East India Company: Expansion and Decline* (Zutphen: Walburg Pers, 2003), 81–82, 87. For 1760, Wagenaar gives a figure of three-quarters of the administrative personnel. *Galle, VOC-Vestiging in Ceylon*, 134. Jan van Goor says that under Governor Falck (1765–1785) who was himself born in Ceylon, 'more than two-thirds of the civil servants had come from the East Indies and Ceylon.' *Jan Kompenie as Schoolmaster*, 17.

<sup>20</sup> Raben and De Bruijn, *The World of Jan Brandes*, 342; Wagenaar, *Galle, VOC-Vestiging in Ceylon*, 48–49, 133, 137.

‘European’ to include persons of European birth and mixed descent.<sup>21</sup> Many VOC officials were born in the towns of Ceylon or other VOC settlements in South India. Figure 2.1 shows a ‘wordle’ of the various birthplaces of a majority (70 out of 75) of the European councillors. The Landraad had many company servants of second and later generations of Europeans. Abraham Samlant and his father, also Abraham Samlant (1713-1766), were born in Colombo and the senior Samlant was described in the records as mixed. They were well established in the company and community.<sup>22</sup> Some councillors appeared for long periods in the Landraad, a few died on the job.<sup>23</sup>



Figure 2.1 Birthplaces of European Councillors

A majority of the councillors were thus rooted in Sri Lanka and had served in the island for many years before appointment to the Landraad. Movement between Colombo and Gal-Galle and other areas in Sri Lanka can be seen, with some movement from south India as well. Robert Ross and Alicia Schrikker have shown that the VOC families in the Cape for instance displayed similar mobility and rootedness.<sup>24</sup> Some started as soldiers and sailors; Hendrik Brakel was a ship’s boy when he took up service with the company. At the time of their appointment to the Landraad many had the rank of bookkeeper; among them were Steven Anthonisz, Bernhard Hendrik van Bergheim, Roelof Frits, Dirk François van Gijzel, Hendrik Johannes Hingert, Nicolaas Lasge, Petrus Jacobus Roosmale Cocq, and Lourens Jolles. The Landraad councillor Coenraad Otto for instance was born in the Fort of Mannar and began service in the company as a soldier in 1751. In 1785 he was employed at the *nego-*

<sup>21</sup> The class of ‘Europeans’ in the general muster-rolls included considerable numbers of company servants born in Asia and people of Eurasian descent in the eighteenth century. Gaastra, *The Dutch East India Company*, 87.

<sup>22</sup> The senior Samlant was described as ‘poesties’, the offspring of casties (half-European) parents. Wage-naar, *Galle, VOC-Vestiging in Ceylon*, 48, 137.

<sup>23</sup> For example, Floris van Swieten’s last participation in the Landraad was by *rondvraag* dated 15 Oct 1762, and his employment with the VOC ended shortly afterwards on 25 Nov 1762 with his death. SLNA 1/6499, ‘Galle Landraad Minutes’ 1760 to 1763, fol. 63r, 15 Oct 1762; Nationaal Archief at The Hague, ‘VOC Opvarenden (VOC Sea-Voyagers)’, accessed 5 December 2014, <http://vocopvarenden.nationaalarchief.nl>.

<sup>24</sup> Alicia Schrikker and Robert Ross, ‘The VOC Official Elite’, in *Cape Town between East and West*, edited by Nigel Worden (Johannesburg: Jacana, 2012), 26–44.

*tielkantoor* (trade office) as a bookkeeper and earned 30 guilders per month.<sup>25</sup> We know from a painting by Jan Brandes that his residence was in Galle Fort.<sup>26</sup> Undoubtedly, not many of them had much experience in the law.

The councillors were propertied people who would have lived in houses suitable to their status with access to the best of goods and services made available through proximity to the centre of government. Lodewijk Wagenaar has described life in the Galle Fort as one that was mixed with European and Asian features.<sup>27</sup> Pomp and circumstance displayed through the carriage, slaves and servants were important aspects of life in fortified towns such as Batavia and the settlement of Cape Town.<sup>28</sup> Galle was probably no exception in the development of this colonial society. Despite the distance, the top brass among the company servants also kept in touch with developments in Europe. An inventory of books at the secretariat at Galle lists a number of legal texts.<sup>29</sup> Intellectually, Europe and The Netherlands were not so far from Asia.<sup>30</sup>

Councillors were not remunerated for serving in the Landraad beyond a small *mantel geld* or 'cloak fee'.<sup>31</sup> Their salaries as bookkeepers and merchants were low, but private trading and corruption allowed company servants to amass wealth.<sup>32</sup> They were also compensated for their costs when inquiries were held at a distance from where the council usually sat.<sup>33</sup> Councillors were commissioned to go to the villages to investigate matters of ownership or to examine whether lands that were to be sold had cinnamon trees. At times European members of the Landraad complained that they were not receiving enough remuneration.<sup>34</sup> The acceptance of presents by the Dutch officials and headmen in the Landraad was forbidden from persons who have or are likely to have a case before the council, 'upon the penalty of loss of office and arbitrary disciplinary action'. Members had to take the oath of office where they swore to abstain from any corruption.<sup>35</sup> The Landraad was not the only body they served in: the secretary served in other bodies in that capacity,<sup>36</sup> the president as we know served primarily as the overseer of the Galle District and some councillors also

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<sup>25</sup> Raben and De Bruijn, *The World of Jan Brandes*, 342.

<sup>26</sup> *Ibid.*, 340–343.

<sup>27</sup> Wagenaar, *Galle, VOC-Vestiging in Ceylon*, 67–105. See also Lodewijk Wagenaar, 'The Cultural Dimension of the Dutch East India Company', in *Mediating Netherlandish Art and Material Culture in Asia*, ed. Thomas Da Costa Kaufmann and Michael North (Amsterdam: Amsterdam University Press, 2014).

<sup>28</sup> Gaastra, *The Dutch East India Company*, 104; Nigel Worden, 'Introduction', in *Cape Town: Between East and West, Social Identities in a Dutch Colonial Town*, ed. Nigel Worden (Auckland Park & Hilversum: Jacana Media, 2012).

<sup>29</sup> Wagenaar, *Galle, VOC-Vestiging in Ceylon*, 139, 214n.

<sup>30</sup> Schrikker, *Dutch and British Colonial Intervention*, 100.

<sup>31</sup> Nadaraja quotes Jacob Burnand, a VOC official who stayed on till British times, who believed that it was 30 or 40 rixdollars a year. *The Legal System of Ceylon*, 33n.

<sup>32</sup> Much has been written on this topic. See for an overview Gaastra, *The Dutch East India Company*, 95–101. For a more detailed study, see Chris Nierstrasz, *In the Shadow of the Company: The Dutch East India Company and Its Servants in the Period of Its Decline (1740–1796)* (Leiden, Boston: Brill, 2010).

<sup>33</sup> This appears to have been one or two rixdollars per half a day. See also for the costs of various documents drawn up by the secretary, SLNA 1/6502, 'Galle Landraad Minutes' 1767, fol. 50r, 1 Jun 1767. An earlier listing of this is given in SLNA 1/94, 'Governor in Council Minutes', fol. 111r, 11 Feb 1745.

<sup>34</sup> Johan Casper German, Steven Anthonisz and Laurens Jolles said that when two officials from Galle had served on the Matara Landraad, they had been paid a fee of a quarter rixdollar for each sitting, either for *recoleren* (reading out aloud) of a declaration or for hearing an interrogation. SLNA 1/6526, 'Annexes', fols 197r–198r, Letter (n.d.) to the Landraad President from German, Anthonisz & Jolles.

<sup>35</sup> Mottau, 'Instructions for Landraden', 5. See the formula of this oath in SLNA 1/5666, 'Documents, GL', fol. 22v, n.d.

<sup>36</sup> SLNA 1/6525, 'Draft Minutes, GL', fol. 191r, 8 July 1786. He was also the secretary of the Scholarchale Vergadering.



served in the Galle Political Council, the Raad van Justitie or the Inlandse Boedelkamer to name a few.

The Europeans in the Landraad had close economic connections with the headmen. Sluijsken invested in a project started by the high-ranking local headman Nicolaas Dias Abeysinghe Amarasekera and his son Balthasar to develop a large fertile land northwest of the Galle District called Diviture<sup>37</sup> and his business in Galle was headed by a *mohandiram* (native headman below the rank of *mudaliyār*) of the name Simon de Silva.<sup>38</sup> Sluijsken was also involved in revenue farming and signed as guarantor to the renter of the chank fishery in 1786.<sup>39</sup> When he became *dessave* of Colombo Fretz was among those company officials who attempted to amass some wealth through plantations, justifying it as necessary due to the income of a *dessave* being small and because he was provided with cheap labour, supposedly by native headmen with whom he probably collaborated.<sup>40</sup> There were private patronage relationships between company servants and native headmen, but at times, VOC officials felt their power was being threatened by the native headmen, as illustrated by Schrikker.<sup>41</sup>

Councillors in close family relationships were not allowed to serve together in the Landraden.<sup>42</sup> But marriages between influential families in Galle and Colombo made the community of VOC servants closely knit. The councillor August Christian Anthon Graaf van Ranzow<sup>43</sup> was married to Petronella Anthonica, who was a daughter of Jacobus de Bordes, a trade commissioner also featured in Reimer's illustration of the Kandyan embassy of 1772. Another figure featured in Reimer's illustration, Political Secretary Martinus Mekern, had a daughter who married Johan Frederik Conradi, another councillor of the Galle Landraad.<sup>44</sup> The councillor Abraham Samlant's sister, Agnita Clara, married Willem Jacob van de Graaff, the later governor.<sup>45</sup> The list of such connections would be endless.<sup>46</sup> Many wives of company servants were of mixed origins<sup>47</sup> including *mestiças* who spoke Portuguese instead of Dutch. We see that their male offspring also took up service with the company; some were sent to The Netherlands to be educated.<sup>48</sup> Some couples adopted Sinhalese children: Councillor Johannes Stein and his wife Assertia Christoffels adopted Johanna Sophia, a Sinhalese.<sup>49</sup> In this and other ways such as religious practice and lifestyle, distinctions between so-called Europeans and native headmen were potentially eroded.

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<sup>37</sup> Schrikker, *Dutch and British Colonial Intervention*, 44.

<sup>38</sup> *Ibid.*, 72, 229n.

<sup>39</sup> Rupesinghe, 'Strange Cooperation'.

<sup>40</sup> Schrikker, *Dutch and British Colonial Intervention*, 71–73.

<sup>41</sup> *Ibid.*, 68–69.

<sup>42</sup> No judicial body could have a father and son, brothers, or a father-in-law and son-in-law serving together. Mottau, 'Instructions for Landraden', 4.

<sup>43</sup> He was from the elite Ranzow family, which included Daniel Ditloff Count van Ranzow who was a junior merchant and member of the Landraad in Colombo in 1785. Daniel's manor was drawn by Jan Brandes. Raben and De Bruijn, *The World of Jan Brandes*, 239–241.

<sup>44</sup> Anthonisz, 'Governor Falck's Audience with the Kandyan Ambassadors', 150–151. These cannot be found in Mottau's index.

<sup>45</sup> Anthonisz, *Report on the Dutch Records*, 63; Wagenaar, *Galle, VOC-Vestiging in Ceylon*, 30.

<sup>46</sup> For family networks and social mobility in the VOC world at large see Ulbe Bosma and Remco Raben, *Being 'Dutch' in the Indies: A History of Creolisation and Empire, 1500-1920*, trans. Wendie Shaffer (Singapore: NUS Press, 2008); Jean Gelman Taylor, *The Social World of Batavia: European and Eurasian in Dutch Asia* (Wisconsin & London: Univ of Wisconsin Press, 1983).

<sup>47</sup> Wagenaar, *Galle, VOC-Vestiging in Ceylon*, 142–145.

<sup>48</sup> van den Belt, *Het VOC-Bedrijf Op Ceylon*, 260, 266; Gaastra, *The Dutch East India Company*, 104.

<sup>49</sup> Wagenaar, *Galle, VOC-Vestiging in Ceylon*, 93.

## 2.2 Native Councillors and their Social Context

The local members of the Landraad were assigned the role of intermediaries between the peasant population and European company servants. They were all high officials in the native department of the colonial government (see Table 2.2). Members of a multicultural elite, they had autonomous power over the majority Sinhalese peasants. Their elite status was dependant on office-holding and the highest of them were members of the Landraad.<sup>50</sup> The headmen were part of a system of patron-client relations with the peasants, a part of which was debt bondage.<sup>51</sup> Such relations meant that the company was dependent on the headmen. Access to labour was a key factor in this relationship. The indigenous councillors were also large landowners and belonged to families that continued to be influential in British times. The vast estates that they possessed, some of which extended to thirty land holdings, can be seen in their last wills.<sup>52</sup> Kotelawe and Schrikker agree that their power increased considerably over the eighteenth century.<sup>53</sup> For the purpose of office-bearing they adopted the Dutch Reformed religion at least nominally; some may have been practising Calvinists.

Table 2.2 Local members at the Landraad 1759-1796

Name	Title	Record in Minutes	
		First	Last
Adriaan de Silva Jayatilleke Seresinghe	<i>Kōralē mudaliyār</i>	8 Apr 1775	28 May 1785
Augustinus Ferdinandus Wiresinghe	Titular <i>mudaliyār</i>	29 Jan 1774	2 Dec 1786
Don Balthasar Dias Abeysinghe Siriwardene	<i>Mahamudaliyār</i> & Native <i>Sabandar</i>	27 May 1786	12 Dec 1795
Don Bastiaan Wijenaikē	<i>Mobandiram</i>	29 Sept 1759	6 Dec 1760
Don Bastiaan Jayatilleke Gooneratne	<i>Atapattu mudaliyār</i>	18 Jun 1791	12 Dec 1795
Don Constantine de Saram Wijesinghe	<i>Mobandiram</i>	29 Jan 1774	11 Mar 1780
Don Johan Anthony Alwis Abeyesiriwickreme Jayawardene	<i>Kōralē mudaliyār</i>	27 May 1786	12 Dec 1795
Don Johan de Silva Wanigasekere	<i>Mobandiram</i>	29 Sept 1759	11 Dec 1779
Don Louis Livere Wickremenaikē Samarasinge	<i>Mobandiram</i>	29 Sept 1759	25 Mar 1775
Don Matthijs de Silva Abeyewardene Wijeyesekere	<i>Kōralē Mobandiram</i>	1 Apr 1780	4 Jun 1791
Don Philip de Silva Wickremesinge Dahanayake	<i>Mobandiram</i>	14 Jul 1764	26 Jul 1788
Nicolaas Dias Abeysinghe Amarasekera	<i>Mahamudaliyār</i>	14 Jul 1764	12 Nov 1788

Sources: SLNA 1/6497-6525, Minutes of the Galle Landraad.

Nicolaas Dias Abeysinghe Amarasekera, who served in the Galle Landraad for more than twenty years from 1764 to 1785, rose high in the native department of government. He was born on 8 May 1719 and it was in his forties, during the war with Kandy (1760-1765), that he began his rise to eminence. At the time, other Sinhalese officials were defecting to the king of Kandy and those who remained were rewarded for their loyalty to the company. Abeysinghe was apparently an educated man as he was keeper of the school thombos when he was promoted to the high rank of *mahamudaliyār* to the commander of Galle. Hereditary appointments to the native department were otherwise the norm (Abeysinghe's father was a *mobandiram*, a rank below that of *mudaliyār*). His allegiance to the VOC was rewarded with two gold medals that he received from governors Schreuder and Van de Graaff in 1762 and 1785. In 1764, he began to appear in the Galle Landraad minutes. His involvement with the

<sup>50</sup> D A Kotelawe, 'Nineteenth-Century Elites and Their Antecedents', *Ceylon Historical Journal* 25, no. 1-4 (1978): 211.

<sup>51</sup> Schrikker, *Dutch and British Colonial Intervention*, 68.

<sup>52</sup> Kotelawe, 'Agrarian Policies', 16. For numerous references to large estates see P E Pieris, *Notes on Some Sinhalese Families: Ilangakon*, vol. 4 (Colombo: Times of Ceylon, n.d.).

<sup>53</sup> D A Kotelawe, 'Some Aspects of Social Change in the South West of Sri Lanka C. 1700-1833', *Social Science Review* 4 (1988): 96-97; Schrikker, *Dutch and British Colonial Intervention*, 67.

council stopped in 1785 when Governor Van de Graaff appointed him *mahamudaliyār* of the governor's gate in which capacity he served for more than nine years till his death. As was apparently the practice for a *mahamudaliyār* and other headmen, Abeysinghe may not have been allowed to wear shoes or sit in the presence of the governor,<sup>54</sup> but that did not deter a belief that he was Van de Graaff's confidante.<sup>55</sup>

Abeysinghe's power has been analysed most recently by Schrikker in an in-depth account of his influence over the governor.<sup>56</sup> Van de Graaff undermined the Galle commander by extending his own authority over the native department through Abeysinghe. One commander who was affected by this was Pieter Sluijsken. In earlier work, Sluijsken's staunch criticism of Abeysinghe's growing power in Colombo went unquestioned by the historian Kanapathipillai.<sup>57</sup> Sluijsken went so far as to suggest treason by Van de Graaff and Abeysinghe. The *mahamudaliyār* was in charge of correspondence between Kandy and the governor, and Sluijsken said that there was a great deal of secrecy in the process. He said Abeysinghe and his accomplices in Kandy had maintained a façade of cordiality between the VOC and the Kandyans and that he had instigated war and unrest in the country for fear of being exposed. Anthony Bertolacci, a civil servant under the first British governor Frederick North, also gives a disparaging account of the *mahamudaliyār*. He says Abeysinghe was fabricating letters addressed to the governor from the *adigār* and that he retained the governor's expensive presents to the *adigār*.<sup>58</sup> Schrikker points out that Sluijsken's accusations must be seen in the context of his troubled relationship with Van de Graaff. She suggests that Sluijsken's status was adversely affected by the governor's policy of side-lining his authority as commander of Galle, that Sluijsken failed to assign credible motives for treason on the part of the governor and his trusted *mahamudaliyār*, and that he was badly informed. Van de Graaff appears to have been aware that Abeysinghe was corresponding secretly with the first *adigār* of Kandy. We may never know the truth, but speculation over Nicolaas's power shows that high-ranking headmen and company servants struggled for power.

Caste headmen such as Augustinus Ferdinandus Wiresinghe<sup>59</sup> were also prominent figures in Galle society. Wiresinghe was a titular *mudaliyār* of the *karāva* caste and the Tamil interpreter at the Political and Judicial Secretariat. He obtained his promotion from *mohandiram* to *mudaliyār* on the strength of his loyalty to Governor Lubbert Jan Baron van Eck (1762–1765) in the war with Kandy.<sup>60</sup> He was from Negombo, and a widower when in January 1774 he gave notice of marriage to Elizabeth Maria van Houten of Galle, a *burger* going by her name.<sup>61</sup> He appears in the Landraad records from 1774 till his death in 1786.<sup>62</sup>

<sup>54</sup> The first British Governor of Ceylon, Frederick North refers to this practice. Quoted in Rajpal Kumar de Silva and Willemina G M Beumer, *Illustrations and Views of Dutch Ceylon 1602-1796: A Comprehensive Work of Pictorial Reference With Selected Eye-Witness Accounts* (Brill Archive, 1988), 477, n. 6. Depictions of embassies from Kandy by C F Reimer and Jan Brandes show the headmen going barefoot. Raben and De Bruijn, *The World of Jan Brandes*, 308; Reimer, *Ontvangst van de Gezanten*.

<sup>55</sup> Biographical details for this account were taken from P E Pieris, *Notes on Some Sinhalese Families: Being the Diary of Adirian de Alwis Goonetilleke Samaranaike*, vol. 3 (Colombo: The Colombo Apothecaries Co., 1911); Raben and De Bruijn, *The World of Jan Brandes*, 311.

<sup>56</sup> Schrikker, *Dutch and British Colonial Intervention*, 68–71, 118–121.

<sup>57</sup> Kanapathipillai, Valli, 'Dutch Rule in Maritime Ceylon 1766-1796', 161–162.

<sup>58</sup> Bertolacci, *A View of the Agricultural, Commercial, and Financial Interests of Ceylon*, 53.

<sup>59</sup> His name is given as Augustinus Ferdinandus Kurukula Surawiresinghe in another source. SLNA 1/193, 'Governor in Council Minutes' 1786, 18 Feb 1786.

<sup>60</sup> SLNA 1/5713, 'Register of Acts of Appointment of Native Officials' 1767 to 1775, fol. 66r–v, 1 Feb 1772.

<sup>61</sup> New No. 5/2, 'Marriage Register, Dutch Reformed Church, Galle' 1774 to 1789, Christian Reformed Church.

<sup>62</sup> The secretary of the Inlandse Boedelkamer came before the Landraad in connection with Wiresinghe's estate in 1793. SLNA 1/6516, 'Minutes, GL', f. 4v–5r, 28 Jun 1793.



Figure 2.2: Mahamudaliyār Nicolaas Dias Abeysinghe Amarasekera. Water-colour over sketch in pencil, 41.4 × 32.6 cm. Rijksmuseum Amsterdam, inv.nr. NG-1985-7-3-124 (detail). Jan Brandes, the artist, appears to have written the following: 'Mudaliyār or interpreter of the governor of Ceylon wearing a green velvet coat and golden bandoleer with a golden sword, and a golden chain.' Translation from Remco Raben and Max de Bruijn, *The World of Jan Brandes* (Amsterdam: Waanders Publishers), 309.

A few months before he died, Wiresinghe was in trouble. He was accused of instigating a riot among the *karāva* and *durāva* castes against the company, and was convicted in December 1785 by the Raad van Justitie in Galle along with three others while nine other accused were released. Wiresinghe's punishment was demotion from his post of Tamil interpreter. Yet Colombo softened its stance on all four who were sentenced, stating that the case involved 'more carelessness than bad intention'. Wiresinghe was only to be suspended

for six months. He was absent from Landraad meetings during the crisis and suspension, but does reappear towards the end of 1786 for five meetings from September to November till his death. It is possible that his services were necessary to the company which led to the changed sentence. Wiresinghe's influence over his caste is seen in the riot case. The issue arose over instructions to the native headmen of Galle and Matara. Galle Commander Kraijenhoff informed Colombo that the *karāva* and *durāva* castes in the Galle District were troubled that they were assigned among the lower castes in those instructions.<sup>63</sup> Kraijenhoff and Fretz, *dessave* of Colombo, were appointed to examine the instruction and recommend the necessary changes; their proposal to remove some phrases from the instruction was approved.<sup>64</sup> Wiresinghe worked for his caste, but at least some caste divisions did not seem to have been so acute that he could not preside over sessions that heard evidence by members of the *goygama* farmer caste who had a higher ritual status.<sup>65</sup>

The headmen networked closely with different groups on the island. Abeysinghe himself was willing to associate closely with *karāvas* and Europeans alike. As executors of his will, he appointed among others a free merchant called Philip Solomon de Waas, *mahamudaliyār* Johannes de Saram, *mohandiram* of the guard Louis de Saram, and the *mudaliyār* of the *karāvas* named Renaldus de Andrado.<sup>66</sup> Matara *mahamudaliyār* Don Johan Abeysiriwardena Ilangakoon was also known to collaborate closely with Chettiars and Moors, appointing them as executors to his will.<sup>67</sup> His will with his second wife was attested by Pieter Arend de Moor, most probably the councillor of the Landraad by that name who was said to be close to the family.<sup>68</sup> Economic cooperation between diverse groups of office holders was not unknown, but it did not extend to marriage alliances and sharing of places of worship beyond those who had adopted Calvinism.<sup>69</sup> High-ranking *goygamas*, Europeans, Chettiars, Moors and a few non-*goygama* caste headmen were closely connected on various fronts. This elite group shared many lifestyle features.

It is not surprising that the *mudaliyārs* were closely linked through marriage. Nicolaas Dias Abeysinghe Amarasekera's second marriage was to Ilangakoon's daughter by his first wife, Dona Adriana Gertruyda. Nicolaas was also an executor to Ilangakoon's will with his first wife.<sup>70</sup> In a cross-cousin union, Abeysinghe's daughter Anne Gertruyda married Don Bastiaan Jayatilleke Gooneratne (1758-1812), another Landraad councillor and member of a prominent southern family, whose mother was Abeysinghe's sister.<sup>71</sup> Abeysinghe's first wife was Gooneratne's aunt. Such closely knit family connections<sup>72</sup> among Sinhalese headmen

<sup>63</sup> SLNA 1/191, 'Governor in Council Minutes' 1785, 1 Aug 1785.

<sup>64</sup> Ibid., 9 Aug 1785; SLNA 1/192, 'Governor in Council Minutes' 1785, 13 Sept 1785.

<sup>65</sup> See, for just one example, SLNA 1/6525, 'Draft Minutes, GL', f. 50v, 16 Aug 1784; 58v, 23 Sept 1784.

<sup>66</sup> Nicolaas also named his sons Don Balthazar Dias and Johannes Wilhelmus Dias, his son-in-law the *atapattu mudaliyār* Don Bastiaan Gooneratne, and *mudaliyār* of the Belligam *Kōralē* Johannes Wijeywardene as executors. Pieris, *Notes on Some Sinhalese Families*, 3:24. Sluijsken also mentioned Nicolaas's executors. See Schrikker, *Dutch and British Colonial Intervention*, 73, 229n.

<sup>67</sup> See Pieris, *Notes on Some Sinhalese Families: Ilangakon*, 4:90–91. Recently published private correspondence also shows close connections between Chettiars and some Sinhalese. Herman Tieken, *Between Colombo and the Cape: Letters in Tamil, Dutch and Sinhala Sent to Nicolaas Ondaatje from Ceylon*, vol. 6, Dutch Sources of South Asia (Manohar, 2015).

<sup>68</sup> Pieris, *Notes on Some Sinhalese Families: Ilangakon*, 4:110.

<sup>69</sup> Rupesinghe, 'Strange Cooperation'.

<sup>70</sup> Pieris, *Notes on Some Sinhalese Families: Ilangakon*, 4:91, 114.

<sup>71</sup> More details about the family can be found in a coffee-table book about the house they lived in half a mile from the Galle Fort. Janaka Goonetilleke, ed., *Atapattu Walawwa: Residence of the Gooneratne & Dias Abeysinghe Families of Galle* (Galle: Atapattu Walawwa, 2012). Don Bastiaan Jayatilleke Gooneratne is said to have had the house constructed towards the end of the eighteenth century and which is for the most part in tact.

<sup>72</sup> These involved cross-cousin marriages and siblings marrying other sibling pairs.



were referred to by a British official in the early nineteenth century as ‘an imperium in imperio’ and the *durava* caste objected to the formation of a subordinate government of *goygamas* consisting of the likes of the Abeysinghes and Ilangakoons.<sup>73</sup>

The high-level Sinhalese headmen were wealthy and their lifestyle resembled the European Europeans. It is uncertain if this increased their prestige among eighteenth-century peasants, whose understanding of foreign material culture has not been researched. The tendency of the local elites to emulate the Europeans is seen in a statement made by an early nineteenth-century observer. Jacob Burnand, a Swiss official of the VOC who served in the 1780s and 1790s and who remained on the island in British times remarked that the higher ranks of the Sinhalese headmen ‘fit up their houses in the European style and burn wax candles in silver candlesticks, instead of the lamp which served them before’.<sup>74</sup> A 1797 inventory of the property of Nicolaas Dias Abeysinghe lists among other items more than nine thousand rixdollars worth of jewellery, and eleven slaves valued at more than a thousand rixdollars.<sup>75</sup> Lists of movable property belonging to high-ranking headmen show that silver spoons, Japanese crockery, teapots, cups and saucers, other porcelain items, wine glasses and the like were common possessions among them.<sup>76</sup> Dutch-style architecture and furniture were also widespread among them. In further imitation of company servants, the higher ranks of the native department also had slaves. They apparently had considerable sums of money at their disposal. In one list a single set of gold ornaments with Sri Lankan rubies was valued at over four thousand rixdollars but the cash allowance of the *mahamudaliyār* was just eight rixdollars.<sup>77</sup> A cash surplus appears to have been within their reach as the company paid in cash for plantation produce.<sup>78</sup> Dutch rule brought in new wealth and the new institutional space of the Landraad within which to exert their power over the rural population and potentially consolidate their influence over company officials.

### 2.3 Divided Authority

The intermediaries in this story who could provide access to the laws and customs of local society were the headmen described above. The Landraad purportedly provided a space where the peasants, through the intermediary, could be heard by the dominant European power. The intermediary, in turn, was supposedly checked by the peasant farmers. Yet it was the Europeans who exercised control over the council. As said before, the majority of councillors and the president, vice president and secretary of the Landraad were always European. From 1759 to 1796, 86 per cent (75 in total) of the members were European. Thus, the intermediary’s influence in the case of the Landraad was likely to be limited.

The company attached great value to the indigenous councillors in theory, but whose word was recognised most? It has been repeated in the existing literature on the Landraad that a sitting had to include native members if it were to decide on land matters.<sup>79</sup> Despite lofty principles of engaging indigenous headmen espoused in the early days of its inception, in 1747 the Landraad of Colombo asked for permission from the governor to pronounce judgements in the absence of native members in order to expedite the resolution of cases. This was expressly forbidden as the local chiefs were ‘well versed in the language and often

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<sup>73</sup> Kotelawe, ‘Nineteenth-Century Elites’, 207–208.

<sup>74</sup> Jacob Burnand, ‘Fragments on Ceylon’, *Asiatic Journal* 12 (June 1821): 560.

<sup>75</sup> ‘Inventory of Nicolaas Dias Abeysinghe’ 1797, Private collection of Siran Deraniyagala at Ekneligoda Walauwa.

<sup>76</sup> Pieris, *Notes on Some Sinhalese Families: Ilangakon*, 4:67–69, 92–107. For a mid nineteenth-century list of movable and immovable property see *Ibid.*, 4:150–175.

<sup>77</sup> Pieris, *Notes on Some Sinhalese Families: Ilangakon*, 4:91.

<sup>78</sup> Schrikker, *Dutch and British Colonial Intervention*, 67; Kotelawe, ‘Agrarian Policies’, 15–16.

<sup>79</sup> Jurriaanse, *Catalogue*, 245.

gave explanations of the cases and usually knew the litigating parties'.<sup>80</sup> Van Imhoff also intended the headmen to be present in the Landraden, recommending that they be partly, if not half, composed of natives.<sup>81</sup> It was Nadaraja who first asked the question: 'Did the Asian members of the *Landraad* have the same powers as the European?' Nadaraja quotes Jacob Burnand, who said that the native members in the Landraad of Colombo could advise but not take part in the decision.<sup>82</sup> The Landraad records confirm that they worked in an advisory capacity, but did not have the power of the vote.

The company favoured the presence of more European members in the council. Emphasis was not laid exclusively on 'Europeanness' but included 'whiteness'. For example, 'whites' were contrasted with 'blacks' in a letter from Colombo to Galle in 1745. All too often, it was written, there were only a few 'white' members at the thombo registration due to all kinds of excuses, which had made their numbers weaker than that of the 'blacks'. The letter said that at least three Europeans ought to be present with two natives and because they absolutely did not desire it to happen again, the permanent members of the registration had to be replaced by other assigned members in case of absence.<sup>83</sup> The land registration, the Dutch believed, had to be supervised closely by their own kind given the opposition of the headmen to the process. The same preference is seen in the Landraad meetings. President Fretz, Secretary Roosmale Cocq and Kersse and the locals Abeysinghe, Wiresinghe, Wanigasekere and Dahanayake attended a meeting held on 30 May 1778. The indigenous councillors outnumbered the European members present that day. After the customary prayer was said, the first matter to be decided on the president's proposal was to urge the commander of Galle to

equip the body with some European or white members because many members generally excuse themselves as sick, by which the gathering becomes so weak, that there is a danger that sometimes matters must stay unfinished, and thus the natives are unnecessarily held back, as it happened in this meeting when only the hon. president and two European members were present, so that there was just the correct number to be able to give a judgement. But it is very necessary and advantageous that the disputes be settled by more members.<sup>84</sup>

It thus appears that the headmen did not have the power of the vote in the Landraad, and that a quorum of three European or white members was sufficient to give a judgement.<sup>85</sup> The presence of more European members was considered so important that a decision on a case was delayed till the next meeting due to the scarcity (*geringeheijd*) of members.<sup>86</sup> A vote was taken over the case at the next meeting, which was attended by five European members and

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<sup>80</sup> '[D]ie inlandse hoofden als taalkundig zijnde dikwils veel tot ophelderinge der zaaken doen en partijen ook doorgaans bij hun bekend zijn.' SLNA 1/273, 'Governor in Council Draft Ordinary Minutes' 1747, fol. 236r-v, 31 Oct 1747.

<sup>81</sup> Imhoff, *Memoir Left by Van Imhoff*, 21.

<sup>82</sup> Nadaraja, *The Legal System of Ceylon*, 33.

<sup>83</sup> SLNA 1/5660, 'Extracts of Orders, GL', fol. 9v, Extract of letter dated 24 Dec 1745 from Colombo to Galle.

<sup>84</sup> '[O]m dit collegie met eenige Europese of blanke leeden te voorsien wyl verscheijde leeden, zig meest door ziekte doorgaens laten excuseeren waardoor de bijeenkomste zo zwak word, dat het te dugten is dat somwijlen de zaaken onafgedaen zouden moeten blijven, en dus den inlander nodeloos worden opgehouden, gelijk in deese laatste vergadering is gebleeken als wanneer eenlijk den E. president nevens twee Europese leeden zijn present geweest, zodat er maar net het juijste getal was om uijtspraake te konnen doen, behalven dat het zeer noodzakelijk en dienstig is dat de questien door meerdere leeden worden beslist.' SLNA 1/6511, 'Minutes, GL', fol. 5r-v, 30 May 1778.

<sup>85</sup> When the vote was equally divided between members, the 1789 instructions said the dispute should be decided in favour of the defendant. Mottau, 'Instructions for Landraden', 4.

<sup>86</sup> SLNA 1/6511, 'Minutes, GL', fol. 7v, 30 May 1778.

three headmen.<sup>87</sup> The issue of a shortage of European members was taken up again the following year in July 1779 when reference was made again to the shortage of members. Four European members—President Fretz, Huijberts, Engelbregt and Kersse along with the headmen Seresinghe, Wanigasekera and Dahanayake were present. Two cases were not decided upon due to the shortage and a hope that the members would attend was expressed.<sup>88</sup> But the next meeting also saw just four European members and three headmen, again referred to as a minority of members. It was decided that the members should hand in their votes in writing and in case of absence send in their vote.<sup>89</sup> Some admonitions for absence must have been made because at the next meeting the Europeans attending were double the number of locals.<sup>90</sup> Much earlier in 1760, a meeting was cancelled because all European members would be absent. No mention was made of the local members.<sup>91</sup>

The Europeans were thus crucial in the operation of the Landraad. The headmen, we may assume, played a significant role in advising them. But for that purpose, their presence would have been necessary. From 1759 to 1795, the full bench of the Landraad or sessions with two commissioners (less often) met at erratic intervals with longer gaps during periods of conflict as in the 1760s during the war with Kandy.<sup>92</sup> The council had thirteen to seventeen members at times including the president and vice president. Three to six members were headmen. On some occasions there were as little as six members present, very often those were also meetings at which the headmen were absent. From 1759 to 1795, no headmen were present at 37 (5 per cent) of 737 consultations, seven of which were by *rondvraag* or circulation of documents. In 1792 and 1793, as many as six and five meetings respectively were not attended by indigenous councillors. A common reason for their absence was engagement elsewhere, referred to as being in service, in the company's service, or in his 'actual' service. Indisposition was also an oft-cited excuse. Incidentally, European councillors made the same excuses for their absence, so much so that the council decided they should not entertain such frivolous explanations.<sup>93</sup> Hendrik Koene once told the council's messenger that he had no time to attend.<sup>94</sup> Hendrik Aldons was fined ten rixdollars for staying away without excusing himself from the council.<sup>95</sup> Apart from full sittings of the council, the Landraad also had sessions led usually by two councillors as seen in chapter one. Only ten such meetings included an indigenous councillor from 1781 to 1788, while none were appointed to such meetings in other years.<sup>96</sup> The influence of the headmen as decision makers in the judicial body is therefore questionable.

The judicial powers of the headmen were questionable to at least one local Landraad councillor. Don Adriaan Goonewardene Ponnamparuma, a *mudaliyar* in Galle and member of

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<sup>87</sup> Ibid., fol. 12v, 6 Jun 1778.

<sup>88</sup> SLNA 1/6512, 'Minutes, GL', fols 52r, 56v, 24 Jul 1779.

<sup>89</sup> Ibid., fol. 63r, 21 Aug 1779. Other matters were decided on at such meetings where the shortage was referred to, but on certain matters that required a final decision they were reluctant to take one without more members. In the 1779 examples the Landraad refused to decide on two cases against the same person without more members being present.

<sup>90</sup> Ibid., fol. 64r, 11 Sept 1779.

<sup>91</sup> SLNA 1/6498, 'Galle Landraad Minutes' 1760, fol. 45r, 9 Aug 1760.

<sup>92</sup> See Table 1.1 in chapter one.

<sup>93</sup> In February 1780, it was noted in the Galle Landraad minutes that local and European members often gave frivolous excuses which they decided not to tolerate anymore. The commander could be asked to stop such activities as they claimed to be occupied in on Saturdays. A resolution in this regard had been passed on 2 Jun 1758. SLNA 1/6513, 'Minutes, GL', fol. 15r, 19 Feb 1780.

<sup>94</sup> SLNA 1/6507, 'Galle Landraad Minutes' 1772, fol. 107v, 26 Sept 1772.

<sup>95</sup> SLNA 1/6524, 'Draft Minutes, GL', fol. 45v, 12 Jul 1783.

<sup>96</sup> Don Matthijs de Silva Abeywardene Wijesekere, Don Johan Anthony Alvis and Augustinus Ferdinandus Wiresinghe were assigned to such sessions.



the Landraad,<sup>97</sup> clashed critically with the president at the time, Robbert Cornelis Bagilet. On taking the vote on a case in September 1744, the president did not agree with the councillors and attempted to influence them to allow the litigants to reach an agreement. Ponnampere-Ponnampereuma reacted angrily to this by speaking out of turn in a raised voice and slamming his hand on the table. A long drawn out argument followed. The Governor in Council believed that Bagilet should not have delayed the case on realising that it would not be settled to his liking, and warned him to exercise caution. Ponnampereuma's complaint following the incident, which included among other things a condemnation of the inefficiency of the thombo registration, was to be investigated.<sup>98</sup> Around the beginning of the year 1745, Ponnampereuma made another complaint to Governor Van Gollennesse against the overseer of the Galle District Robbert Cornelis Bagilet. He said the thombo registration could have easily been completed in two or three years if not for self-interest preventing it. He adds a searing attack on the native members of the Landraad:

The white members of the Galle Landraad, seeing that the native headmen who have seats in that body are foolish, inexperienced and ignorant in the cases that are heard in that body, take little notice of the latter's opinions, which are also not recorded. But they use their names in the written decisions, just as if they had also voted. A Sinhalese who has knowledge of the gospel is not seen as a good person by the aforementioned Landraad.

When the sun comes up in the morning it overpowers by the power of her glow all that had given some light during the night, but the aforementioned body, without knowing this, has excluded me from it, saying afterwards whatever pleases them. And despite the infinite laws and ordinances that the god the lord has given the people in order to maintain law and order, that gathering commits much injustice.<sup>99</sup>

Ponnampereuma had an axe to grind with Bagilet, who was the president of the Landraad in his capacity as overseer of Galle, and appeared to have believed that he would provide much illumination to the council.<sup>100</sup> His complaint of twenty-four points is replete with self-promotion. He is right in saying that the headmen's names were misleadingly inserted in the list of those who pronounced judgement as if they had also voted (see an image of a sentence

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<sup>97</sup> A list of members of various Galle institutions gives Ponnampereuma as a replacement for the deceased *mudaliyār* Denijs Alvis. SLNA 1/5046, 'Galle Political Council Minutes' 1743 to 1746, fol. 24r, 3 Mar 1744.

<sup>98</sup> SLNA 1/93, 'Governor in Council Minutes' 1744, fol. 73r–78v, 3 Nov 1744; SLNA 1/5658, 'Extracts of Orders, GL', fol. 16v, Extract resolution of 3 Nov 1744. No Landraad meetings for this period are available, but extracts from the relevant minutes are included in the Governor in Council minutes.

<sup>99</sup> 'De blanke lieden van den Gaalsen Landraad, ziende de onnoselheijd onbedreventheijd en onkunde der inlandse hoofden die zitting in dat collegie hebben in de zaken die daarin getraceert worden, stooren zig aan dezer laatste gevoelens weijnig, worden ook niet aangetekend, maar gebruiken egter derzelver namen in de appointementen, eveneens of se mede gevoteert hadden; een Singalees die kennisse van het Evangelium heeft word bij gedagte Landraad niet voor goed g'oordeelt.

'Wanneer des morgens de zon opgaat verdrijfe dezelve door de kragt van haren glans al het geene des nagts eenig ligt heeft gegeven, dog meermelte collegie, zonder zulk te weeten, heeft mij daar uijt verstoten, zeggende naderhand wat haar behaagt, en niettegenstaande de oneijndige wetten en inzettingen die god de heere de menschen gegeven heeft om regt en geregtigheijd te handhaven, pleegt die vergadering veele ongeregtigheijd.' SLNA 1/94, 'Governor in Council Minutes', fol. 95r–v, 5 Feb 1745.

<sup>100</sup> In Dec 1744, a list of ten native headmen were drawn up with the comments that three of them, including Ponnampereuma, were often out in the countryside and that six of them had a blood relationship to at least one other headman on the list. Ponnampereuma's 'full' brother, Salomon Ponnampereuma was also a *mohandiram* on the list. As a solution, one *mahamudaliyār* on the list (Jan Alwis Wickremesinghe) was appointed a permanent member of the Landraad while the others were rotated on a monthly basis between the Landraad and thombo registration in a way that would not bring blood relations together. SLNA 1/5046, 'Galle Political Council Minutes', fol. 60r–61r, 4 Dec 1744. This may have been a stopgap measure to limit Adriaan Ponnampereuma's presence in the Landraad.

in Figure 1.1). His statement, which may have some truth to it, is damning of the headmen's influence in the Landraad.

On the other hand, if the indigenous councillors had any power at all, however limited, the evidence supports it. In some cases, reference is made to local custom in the final judgement as an explanation for the sentence. At one point a direct reference to their advice was made: 'the fellow native members of this body being the *mudaliyār* of the gate Nicolaas Dias Abeysinghe Amarasekera, the *korale mudaliyār* Seresinge, the titular *mudaliyār* Augustinus Ferdinandus and the *mohandiram* Wanigasekere affirmed that it is an old practice and a custom of the country, that when there are no *mayorāls* in the villages, *naindes* are allowed to perform that service.'<sup>101</sup> Questions on local customs posed to witnesses also point to the importance of local influence on the judgement. Moving into the village, *mayorāls* were important in investigating cases and could be called to the council. And we know that at least on a few occasions, the indigenous councillors were also appointed to such weekly duty. The power of the headmen is a question about the degree to which local customs were used in the council, an issue that is central to this study.

A seemingly minor incident over protocol in the Landraad shows the tensions between the European and indigenous councillors. No indigenous councillors were present at the meeting held on 27 May 1786. Two new local members had been chosen and appeared in the antechamber to the council hall. Don Balthasar Dias Abeysinghe Siriwardene and Don Johan Anthony Alvis Abeyesiriwickreme Jayawardene should have been led in as new members. The president being absent, vice president Pieter de Vos led a decision to call them in on the basis that the session had no native members who could lead them in and as it was believed that European members were not authorised to accompany them into the hall. Balthasar, whose father was the *mahamudaliyār* Nicolaas Dias Abeysinghe Amarasekera, questioned the manner in which they were introduced. After the two new members took the oath and were shown their seats by the vice president, Balthasar asked why they had not being introduced by two members 'as it is always customary on the election of new members here'. The vice president's recorded answer is a perfunctory 'it happened thus because it was determined and decided by the gathering'. Balthasar would have been displeased.<sup>102</sup>

Balthasar and Alvis did not appear at the next full sitting on 10 June 1786; it is possible that they were affronted and boycotted the meeting.<sup>103</sup> The manner of their introduction was the first matter that President Adriaan Sebastian van de Graaff took up. He asked the members why they had not introduced the new members at the previous meeting with two of the younger members accompanying them inside as was the custom. He asked if they were ready to address that omission at the next meeting in order to prevent all unpleasantness and to introduce the two new members, who had been 'scorned so badly' ('zoo seer versmaade'), by being denied 'the honour that they are entitled to' ('met het hooner dat hun toekomt'). The members said that they had meant no contempt at all to the new members, but that they had presumed that native members must be introduced by their kind and that there had been no native members present that day. They said they would be very pleased to rectify the 'unwittingly committed mistake' ('onbedagt begaane abuijs') by

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<sup>101</sup> '[D]e meede inlandse leeden van dit collegie zijnde den modliaar der guarde Nicolaas Dias Abesinge Ammerezegere, den Korle modliaar Seresinge, den titulair dito Augustinus Ferdinandus en den Mohandiram Wannigesegere betuijgden, dat het een oud gebruik en 'slands kostume is, dat wanneer er in de dorpen geen maijoraals zijn, dat als dan naijndes daartoe worden aangenoomen om dien dienste te verrigten.' SLNA 1/6511, 'Minutes, GL', fol. 37r, 11 Jul 1778.

<sup>102</sup> '[G]elijk zulx altijd bij verkiesing van nieuwe leden alhier gebruikelijk is... dat zulks geschied was omdat bij de vergadering zulks goed geoordeeld en beslooten was.' SLNA 1/6525, 'Draft Minutes, GL', fol. 172r-v, 27 May 1786.

<sup>103</sup> No excuses were recorded at the meeting.

following the president's proposal.<sup>104</sup> At the following meeting Balthasar appeared in the antechamber for the second time. The other headmen were absent (as was Alvis) and he was led inside by the two European members Pieter Simons de Silva and Dirk Francois van Gijzel, congratulated by the president in the name of the gathering and shown his seat. The president announced that the new introduction was to pay Balthasar the honour that was denied him previously.<sup>105</sup> No mention was made of formally introducing Alvis when he finally attended a meeting on 25 October 1786 after the first ignominious day on 27 May 1786.<sup>106</sup> It was possibly only Balthasar who had wished to rake up the issue for the most part.

Balthasar's personal influence over the president must be factored in as well. Adriaan Sebastiaan van de Graaff was the brother of Governor Van de Graaff, who in turn held Balthasar's father Nicolaas Dias Abeysinghe Amarasekera in great trust. Abeysinghe had just been appointed to Colombo as *mahamudaliyār* the year before the incident in the Galle Landraad. The European members were quick to realise the significance of the president's insistence on rectifying a perceived dishonour. Yet, their assumption that two native members would usually introduce a new native was not without precedent.<sup>107</sup> Later on, Balthasar and Alvis also introduced another headman.<sup>108</sup> In Balthasar's assertiveness, we see the familiarity between one European family and a high ranking headman that was very likely at play.

There were teething problems, and more serious issues of the value attached to local opinion. The story that emerges is that the headmen were not inconsequential to the operation of the Landraad and yet easily dispensable. From time to time the company realised the political value of their presence, but would ignore their absence as well. Yet headmen could also assert themselves and be heard on legal matters. In this way, the cross-cultural space of the Landraad saw subtle struggles for power among its councillors.

## 2.4 Dutch Representations of Inhabitants

Company servants and clergy engaged in ethnographic descriptions of the natives of VOC territory. Femme Gaastra writes of a 'cultural awakening' among company servants in the late seventeenth century.<sup>109</sup> Some early descriptions of the natives in Sri Lanka were made by the Dutch Reverend Phillipus Baldeaus, the English Captain Robert Knox, Portuguese Captain Joao Ribeiro, the Dutch clergyman Francois Valentijn and the German Johann Wolfgang Heydt who served in the VOC. Governors in their memoirs to the succeeding governor also engaged in such knowledge production. Pieter Sluijsken, one time president of the Galle Landraad and a top-level VOC official attempted this as well. Some of these texts played a significant role in forming an impression of local society among company servants. It was necessary that they understood the intricate social formations within local society in order to exploit the services they offered and to govern them well.

VOC servants generally had a low opinion of the natives who were perceived as unreliable, indolent, unenterprising and irreligious. The Galle Landraad in 1745, commenting on those who came forward for the thombo registration, said the inhabitants were secretive and very

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<sup>104</sup> SLNA 1/6525, 'Draft Minutes, GL', fol. 182r, 10 Jun 1786.

<sup>105</sup> Ibid., fol. 191v, 8 Jul 1786.

<sup>106</sup> Ibid., fol. 205r, 25 Oct 1786.

<sup>107</sup> Don Matthijs de Silva Abeyewardene Wijeyesekere who was appointed to replace the late *mohandiram* Wanigasekera, was introduced by two 'native' members. SLNA 1/6513, 'Minutes, GL', fol. 19r, 1 Apr 1780. The native members' names were not mentioned. But the members present at Balthasar and Anthony's first meeting on 27 May 1786 were not part of that meeting in 1780. There were so few local members, their appointments were few and far between and Matthijs's introduction was the last before Balthasar and Alvis were appointed.

<sup>108</sup> SLNA 1/6515, 'Minutes, GL', fol. 313r, 18 Jun 1791.

<sup>109</sup> Gaastra, *The Dutch East India Company*, 106.

lazy and that 'old, foolish, infirm and decrepit people' came forward many a time.<sup>110</sup> Governor Van Imhoff referred to the 'capricious nature and deceitful character' of the natives.<sup>111</sup> Sluijsken was not the first to say that the Sinhalese have a 'lazy character'.<sup>112</sup> As his work is little known, the following is an account of his description of the Dutch encounter with the various social fields of eighteenth-century Sri Lanka.

Sluijsken argued that to govern the subjects well and profitably, it was necessary to rule them according to their own laws. His work was an attempt to sensitise European officials to cultural norms, for which he knew that ethnographic description was necessary. Ethnography is simply defined here as an interest in other cultures. It was seen as a useful tool for colonialism in other parts of the world as well.<sup>113</sup> Sluijsken saw his descriptions of the land services as being important for judges operating on the island. Without using the term pluralism, he also recognised pluralities in the legal sphere as a central organising concept when dealing with indigenous difference. In his two-volume description of the customs of the people under VOC control in Sri Lanka, he says '[i]t is well known that every country has special privileges, laws and customs and is inhabited by special kinds of people who are divided into classes by which one can differentiate the lower from the higher' and that '[t]here is no greater advantage for the landowner than peace and order among his subjects but what is peace and order after all than that the lower judges are very well-versed in the prerogatives and customs of the subjects'.<sup>114</sup> The VOC's experience in Sri Lanka in connection with Sinhalese law relied on their local informants to define practice. In Sluijsken's case, it is possible that he spoke and understood Sinhala and/or Tamil. He had learned what he knew, he wrote, as much from experience as from (unspecified) old documents handed over to the land regents as law. He had a wide knowledge of the island at the time he wrote his account in 1784. When he was president of the Landraad from 1766-1767, he had been in the country for around eight years already and his diligence suggests that his quest for knowledge could not have escaped him in that period. Litigation, through the access it provided to a discussion of local customs, was an effective forum for investigating indigenous practices.

The bulk of Sluijsken's 1784 account of the land services is of the customs of the various caste groups among the Sinhalese and a detailed description of the native administrative system. It is followed by an account of the customs of the inhabitants of Chilaw, Puttalam, and Jaffna (including the codification of laws known as the Thesavalamai), special laws concerning the Moors and other non-Christians including the 'jentiven' and Indonesians, and the Muslim code. The Thesavalamai or laws of the Jaffna Tamils was commissioned in 1706 and approved by Governor C J Simons and the Governor in Council in 1707 while the Muslim code is from the New Statutes of Batavia of 1766, which Governor I W Falck is said to have received from Batavia in 1770 as Muslims in Sri Lanka at the time were ignorant of their laws according to Falck.<sup>115</sup> The section on 'jentiven', by which Sluijsken very likely re-

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<sup>110</sup> '[O]ude, onnosele, gebreckige en afgeleefde menschen.' SLNA 1/2805, 'Minutes (20 Dec 1745), GL', 40r-41v.

<sup>111</sup> Imhoff, *Memoir Left by Van Imhoff*, 12.

<sup>112</sup> Sluijsken, 'A Description of the Land Services', vol. 1: 20.

<sup>113</sup> See comments on this by Jeremy Ravi Mumford, "Litigation as Ethnography in Sixteenth-Century Peru: Polo De Ondegardo and the Mitimaes," *The Hispanic American Historical Review* 88, no. 1 (2008).

<sup>114</sup> 'Het is al te wel bekend dat ijder de land besondere voorregten, wetten en costumes heeft ook door veele besondere soorten van volkeren word bewoond die in classes zijn afgedeelt waar door men de minder van de meerdere kan onderscheiden.' ... 'Geen grooter voordeel voor den landheer als vrede en Rust onder zijne ondersaten (maar wat gehoord hiertoe) immers zijn het minderen regters die van de prerogatieve en costumes der onderhoorige ten eenemale onderlegt zijn.' Sluijsken, 'A Description of the Land Services', vol. 1: 3-5.

<sup>115</sup> Nadaraja, *The Legal System of Ceylon*, 13-14.

ferred to Hindus,<sup>116</sup> is a manual cut and paste from the Batavian plakATEN.<sup>117</sup> This appears to be sloppy work but on the other hand, he may have seen similarities in the customs of the Hindus in Sri Lanka, which is not impossible to imagine. Sluijsken gives the most comprehensive account of the coastal inhabitants in Dutch times and the only compilation of what he believed to be the laws of certain groups on the coast. His aim was to facilitate governance as effectively as possible for the VOC. Thus, practical reasons drove the administrative description that he attempted. We do not know if the VOC used his work, but it is significant as an attempt (if only that) to (mis)understand 'other' cultures. Sluijsken embodies the colonial enterprise of identifying cultural difference, a task that was seen to be necessary for its economic advantages and one he performed in practice in the Landraad.

## 2.5 Conclusion

It is no easy task to determine the importance of the role of councillors in the law-making and decision-making process for a period and place in history such as eighteenth-century Sri Lanka that lacks private accounts. Watson's emphasis on the role of the legal elites cannot be fully explored in that scenario. A brief introduction was attempted here, and a more comprehensive analysis may be possible if a wide range of decisions are studied. For, '[a]s judges and attorneys give life to the law, their backgrounds, training, and social location shape the way they impose meaning on the stream of litigants they encounter.'<sup>118</sup> This is applicable to both civil and criminal cases. Did the councillors show concern for careful evidentiary assessments? Justifying the refusal of an appeal from the Galle Landraad to the Raad van Justitie of Colombo, the Governor in Council said that the Landraden consisted of 'people instructed on the country's laws, practices and customs'.<sup>119</sup> Their role in creating the practices by which the Landraad functioned cannot be underestimated.

The relationship of law to the dominant classes is evident. A small, closely-knit group with cross-cultural connections controlled the Landraad. Marriage ties, affluence and race separated the majority of the members (as also the *procureurs*) from the majority of litigants and witnesses. The Europeans on the council who could determine judicial decision-making represented the old guard in the region. As Wagenaar has pointed out, politics and the judiciary were mixed up. Those who engaged in the exploitation of the countryside and attended Landraad sittings were the same. In fact, the balance between trade and government was difficult to achieve.<sup>120</sup> There was an overlap between those at the political level of the company and those holding the public duties of the Landraad. The lack of a division in law and politics was non-existent in both the indigenous system and The Netherlands. The indigenous headmen on the council worked in an advisory capacity, but did not have the power of the vote. Councillors carried out their tasks in the Landraad with a keen awareness of social categories of identity among themselves and those of the litigants and witnesses, the subject of the next chapter.

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<sup>116</sup> Jentiven is a variant spelling of the Portuguese adjective *gentio* or 'heathen'. The Portuguese in India used the word *gentio* or 'heathen' for the non-Muslim indigenous people, that is, the Hindus. The VOC generally referred to Hindu tradesmen and non-Christian Chettiars by the term, which they used in opposition to Moors in India. See also Hans Martin Kramer, Jenny Rahel Oesterle, and Ulrike Vordermark, *Labeling the Religious Self and Others: Reciprocal Perceptions of Christians, Muslims, Hindus, Buddhists, and Confucians in Medieval and Early Modern Times* (Leipzig: Leipziger Universitätsverlag, 2010).

<sup>117</sup> Jacobus Anne van der Chijs, *Nederlandsch-Indisch plakaatboek, 1602-1811*, vol. 6 (1750-54) (Batavia: Landsdrukkerij, 1885), 164, <http://archive.org/details/nederlandschind12chijgoog>.

<sup>118</sup> Merry, *Colonizing Hawai'i*, 118.

<sup>119</sup> '[M]ensen van s'lands wetten, zeeden en gewoonten onderrigt.' SLNA 1/165, 'Governor in Council Minutes' 1772, 24 Nov 1772. This case is discussed further in the next chapter.

<sup>120</sup> Wagenaar, *Galle, VOC-Vestiging in Ceylon*, 147.

If the Landraad was authorised to favour the Sinhalese normative order, a relationship marked by domination by the headmen is not observable. It is not the case as suggested in the early twentieth-century case *Karonchihami v Angohami*<sup>121</sup> that the Landraad was composed of mostly native officials. On the contrary, a majority of VOC officials and a smaller number of headmen presided. The presence of the headmen was secondary to that of the European members although subtle skirmishes for consolidating power were seen. These were articulations of indigenous difference played out in the council room. The *mudaliyār* Ponnampereuma, himself a Landraad member, vehemently condemned native participation as a farce and alluded to requirements for the headmen to rule by Christian laws. European members, he said, took no notice of the headmen even though they were well-versed in the gospel. Native participation was stressed in the early days of the Landraad's operation, but at a number of later meetings no headmen were present. This may indicate a dominance of the official Dutch laws espoused by European members of the council, but that is a question to be further explored in this thesis. In the following chapter, I will first explore who appeared before the motley collection of councillors described here.

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<sup>121</sup> *Karonchihami v Angohami*, 8 New Law Reports 1 (1904).