

REPORT
OF THE
MALABAR TENANCY COMMITTEE.

1927-28

VOLUME I—REPORT

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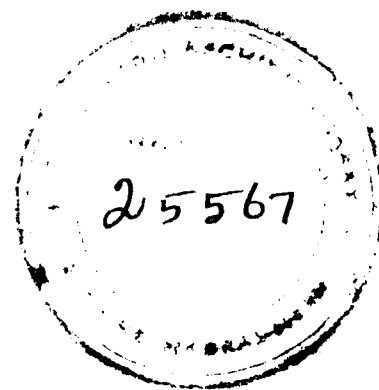
1928

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REPORT OF THE MALABAR TENANCY COMMITTEE, 1928

INTRODUCTION

The circumstances which led to the appointment of the Malabar Tenancy Committee and the terms of reference thereto will be found in the following extracts from G.O. No. 2346, Law (General), dated 29th July 1927 :—

“The demands of cultivating tenants and kanamdars for securing fixity of tenure have long been the subject of anxious consideration by the Government. Several special inquiries have been directed and held with a view to ascertain how far the claims put forward by and on behalf of those tenants were reasonable and what legislation was necessary to remedy the disabilities which they suffered from. And attempts were made from time to time to deal with those demands when Diwan Bahadur M. Krishnan Nayar came forward with a Bill which focussed the several claims made on behalf of the tenants. The main remedy suggested by that Bill was the grant of permanent occupancy rights to nearly all tenants in Malabar subject to certain reservations. As might be expected, this aroused considerable opposition on the part of the janmis. The Government, in pursuance of their settled policy in this matter, afforded every facility to Diwan Bahadur M. Krishnan Nayar to put forward the case of the tenants before the Legislative Council, and they further tried to improve those portions of the Bill which were opposed to what the Government thought was just and equitable, by moving certain amendments. This attempt of the Government met with little success. The Bill as finally passed could not be accepted as a just and proper solution of the problem and His Excellency the Governor felt bound to withhold his assent under section 81 (1) of the Government of India Act. While doing so, His Excellency stated that he intended ‘to ask his Government to re-examine the whole question and to take such steps as in their opinion were most likely to result in further legislative proposals being framed with due regard to the considerations which induced His Excellency to withhold his assent.’ It is now proposed to give effect to that intention.

“In the course of the discussions on Diwan Bahadur M. Krishnan Nayar’s Bill, two schools of opinion emerged. On behalf of the tenants, it was claimed that the janmi was never the sole proprietor of the holding, that the kanamdars and the actual cultivators were co-owners with him, that, about 70 years ago, British courts made a mistake and declared the janmi to be an absolute owner and that since then the janmi has used his newly acquired right to oppress the kanamdars and other tenants by means of unnecessary evictions and by means of the social degradation which fear of such evictions generated. It was said that the only remedy for such a state of affairs was the conferring of permanent occupancy rights on all who were in possession of the land and had no janmam rights in it. On the other side, the janmi was asserted to have been always full owner of the land entitled to evict tenants at any time, that the kanamdar was only a mortgagee like any other mortgagee, that he did not deserve any special consideration, that whatever might be the case of verumpattamdars and those who were in possession of homesteads, permanent occupancy rights should not be given to mere kanamdars, that in any case the grant of permanent occupancy rights should be confined to those who actually cultivated the soil and that even in their case they should be made to pay adequate compensation to the janmi. All attempts made till now to reconcile these two points of view in order to effect a reasonable compromise between them have ended in failure.

“The Government’s position on this question, as clearly indicated during the course of the discussion on Mr. Krishnan Nayar’s Bill, has been that it is not profitable or just to go behind the decisions of courts ranging over three-quarters of a century, which have recognized the full proprietary rights of the janmi. The Government are, therefore, of opinion that any future attempt at legislation should take that right as a settled fact and proceed on the basis thereof. As a corollary to that proposition, they think that any attempt to take away the rights of the janmis,

in any substantial way, whether it be by the grant of permanent occupancy rights or otherwise, should be accompanied by adequate provision for reasonable compensation being paid to the janmi. While this has to be conceded to the janmi, the Government are also of opinion that in the case of homesteads at least there is urgent necessity for creating security of tenure, that the claim of the actual cultivator of the soil for fixity of tenure and security from arbitrary evictions must be viewed with considerable sympathy and that every possible attempt should be made to secure this to him in so far as it can be reasonably done without injustice to the janmis.

"The Government are definitely of opinion that any attempt at legislation, to be successful at all, must be based on the considerations stated above. The Government have considered as to how the next step is to be taken, whether the Government itself should draft and introduce a Bill based on the materials now available on the views expressed during the course of the debate on Diwan Bahadur M. Krishnan Nayar's Bill, or whether a Committee should be appointed to investigate the matter afresh and submit a report for the consideration of the Government. The Government have decided that the latter is the better course and have therefore resolved to constitute a Committee to inquire and report—

(1) what disabilities, if any, are pressing hard on the tenants of Malabar in general; on the extent of unjustifiable evictions by the janmis in particular and how far the kanamdar as such is in need of any protection;

(2) on the best means of remedying such disabilities as the Committee find to really exist and which they think should be remedied. The Committee will, in this connexion, consider—

(a) whether the disabilities cannot be removed without the grant of permanent occupancy rights and how far fixity of tenure can be secured for the actual cultivator of the soil;

(b) on whom and under what conditions permanent occupancy rights should be conferred if the grant of such rights is found to be necessary;

(c) the nature and extent of compensation that should be paid by those on whom such rights are conferred; and

(d) the effective methods which should be made available to the janmis to collect rents and other dues from those on whom such rights are conferred.

(3) to suggest such other means as the Committee deem necessary and feasible to secure to the tenants fixity of tenure and security from arbitrary evictions and bring about such cordial relationship between the janmis and the kanamdars and other tenants in Malabar as would make for their social and economic efficiency.

"The Committee are requested to prepare and submit the draft of a Bill or Bills which may be necessary to give effect to their recommendations."

2. By the Government Order referred to above, as amended by G.O. No. 2708, Law (General), dated 1st September 1927, the Committee was constituted as follows:—

- (1) *President*—M.R.Ry. Diwan Bahadur T. Raghaviah Pantulu Garu, C.S.I.
- (2) Mr. H. R. Pate, I.C.S., Collector of Malabar.
- (3) Raja Sir Venganad Vasudeva Raja Avargal, Valiya Nambidi of Kollengode, C.I.E.
- (4) M.R.Ry. Diwan Bahadur T. C. Narayana Kurup Avargal.
- (5) Diwan Bahadur Sir T. Desikachariyar, Kt.
- (6) M.R.Ry. Kotieth Krishnan Avargal, M.L.C.
- (7) Khan Bahadur Haji Abdul Haji Kasim Sahib Bahadur, M.L.A.
M.R.Ry. Rao Sahib C. V. Krishnaswami Ayyar Avargal, Secretary.

3. The President and the Secretary took charge at Ootacamund and Madras, respectively, on the 1st of August 1927, and after a few days spent in acquainting themselves with the previous history of the several highly controversial points referred to the Committee they proceeded on tour to Calicut on the 15th August 1927. A meeting of the Committee was held there on the 17th, 18th and 20th August 1927

and the Questionnaire (printed as appendix on page 4) was settled. On the 18th August the Committee also met two leading advocates of the tenants' cause and had an informal talk with them with reference to some of the general aspects of the problem.

4. Objections were taken in certain quarters to the personnel of the Committee on the ground that the interests of the tenants were not sufficiently represented. In view of these objections M.R.Ry. Rao Sahib V. Krishna Menon Avargal was added as a member of the Committee by G.O. No. 3248, Law (General), dated 19th October 1927. He joined the Committee on the 9th October 1927 at Tellicherry.

5. Answers to the Questionnaire have been received from 232 persons. The following table shows the different places visited by the Committee for the purpose of oral examination of witnesses, the dates on which they sat there, and the number of witnesses examined in each place. Fifty witnesses have been examined in all, and among them are ardent advocates of the tenants' cause and of the landlords' interests.

Name of place.	Date of sittings.	Number of witnesses examined.
Palghat	From 26th October to 29th October 1927 ..	7 witnesses.
Tellicherry	From 9th November to 17th November 1927.	25 ..
Calicut	From 24th November to 3rd December 1927.	18 ..

6. The President accompanied by the Secretary and some of the members of the Committee made several surprise visits to villages in different taluks of the district to ascertain the economic condition of the tenants and had informal talks with about 31 persons, most, if not all, of whom, were tenants. The following table shows the places visited, the dates of the visits and the number of persons with whom informal talks were held in each place:—

Places visited.	Taluk.	Date of visit.	Number of persons with whom informal talks were held.
1927.			
(1) Kongad	Palghat ..	12th October ..	1
(2) Mattannoor	Kottayam ..	14th do. ..	3
(3) Edakkat	Chirakkal ..	15th do. ..	1
(4) Tamarasseri	Calicut ..	18th do. ..	4
(5) Karampulli	Do. ..	19th do. ..	2
(6) Kalladicode	Walluvanad ..	30th do. ..	3
(7) Karimba	Do. ..	30th do. ..	2
(8) Kanjikode	Palghat ..	31st do. ..	1
(9) Peralapara	Do. ..	31st do. ..	1
(10) Iswaramangalam	Ponnani ..	6th November ..	3
(11) Tirunavai	Do. ..	7th do. ..	2
(12) Tirur	Do. ..	7th do. ..	1
(13) Manjeri	Ernad ..	4th December ..	2
(14) Kottakkal	Do. ..	4th do. ..	1
(15) Poomulli	Do. ..	5th do. ..	1
(16) Punnathoor	Ponnani ..	5th do. ..	1
(17) Kollengode	Palghat ..	6th do. ..	2
			31

Notes of the talks referred to above will be found in Annexure (i) page 139.

7. The Committee met for the purpose of considering the evidence recorded and also the previous literature on the subject at Madras on the 16th, 17th and 19th to 22nd December 1927 and also on the 11th, 12th and 13th January 1928.

8. During the course of the Committee's labours, it received the most cordial co-operation from the Collector of Malabar, the members of his establishment, his Divisional Officers and Tahsildars and other subordinates of the Revenue Department, from the Deputy and Assistant Directors of Agriculture, West Coast, from the Chairman of the Palghat municipality and from many other non-official gentlemen. The Committee also inspected documents in some of the Sub-Registry offices and registers in some courts of District Munsifs. The Committee wishes to record its special indebtedness to them all for such help.

APPENDIX.

THE MALABAR TENANCY COMMITTEE, 1927.

QUESTIONNAIRE.

Disabilities.

I. (a) What disabilities are, in your opinion, pressing hard on the following classes of tenants in Malabar:—

- | | |
|---|--------------------------------------|
| (1) Kanamdars | } holding directly under the janmis. |
| (2) Kuzhikanamdars | |
| (3) Verumpattamdars | |
| (4) Sub-kanamdars | } under kanamdars or kuzhikanamdars |
| (5) Verumpattamdars | |
| (6) Sub-lessees under verumpattamdars. | |
| (7) Tenants other than those specified above. | |

(b) Are the disabilities to which you have referred peculiar to the tenants in Malabar; or are they common to the relationship of landlord and tenant in all parts of India? If you consider that they are peculiar to Malabar, what are the reasons which make you think so?

(c) Do you think that the disabilities which the tenants suffer from are the same in North Malabar as in South Malabar? If not, what are the main differences?

(d) Do you think that there is any difference in this matter between the several parts of South Malabar?

Evictions.

II. (1) (a) Are evictions made on unjustifiable grounds? If so, please specify as many cases as you can of unjustifiable evictions with reasons for your considering them to be so. Are such evictions, in your experience, on the increase?

(b) Are melcharths granted on unjustifiable grounds? If so, please specify as many cases as you can of unjustifiable melcharths with reasons for your considering them to be so.

(2) Is the janmi using his position as landlord to oppress his tenants socially? Please specify as many instances as you can, within the last 15 years, of such social oppression, stating the year and the nature of such oppression in each case.

Remedies.

III. (a) What, in your opinion, are effective remedies for such disabilities as you think do exist?

(b) Do you think that for the removal of these disabilities the grant of permanent occupancy rights is essential? If you think so, would you grant such rights to all the classes of tenants specified in question I? If not, to which class or classes would you confine the grant?

(c) If there are more tenure holders than one in respect of any holding, to which of them would you grant such rights? If you limit the grant to any one of them, will such grant put an end to the present disabilities of the tenants as a whole in a substantial measure?

(d) It has been suggested in certain quarters that the grant of permanent occupancy rights should be confined to kuzhikanamdars, to verumpattamdars who have been continuously on the holding for a long time, and to kanam holders who came into the holding before 1852 and have been continuously in possession thereof since then. What do you think of this suggestion?

(e) If permanent occupancy rights are to be granted to any class or classes of tenants, what effective methods would you suggest for enabling those under whom they hold to collect rents and other dues from them?

(f) Are there any special circumstances in which you will not grant permanent occupancy rights? If so, what are they?

IV. (a) (1) What are your views as regards the proposal to give permanent occupancy rights to occupants of kudiyruppus?

(2) Would you make any distinction for this purpose between urban and rural kudiyruppus?

(b) What is the minimum extent that should be granted on permanent tenure for a kudiyruppu in (i) urban areas, (ii) rural areas?

(c) What suggestions would you make to meet the case

(1) of a tenant who enters on the land as a kanamdar or a verumpattamdar and builds a house thereon, but is unable either to take a renewal of the kanam or to continue the verumpattam:

(2) of a kanamdar who has built a house larger than is necessary for the proper enjoyment of the holding demised to him; and

(3) where the kudiyruppu, by reason of its situation or for other reasons, should be transferred with the holding, for the convenient and profitable enjoyment of the holding?

(d) (1) What do you think of a system of compulsory purchase of janmis' rights in the kudiyruppu by the tenant in actual occupation by means of bonds issued either by the Government or by the Co-operative societies, the amount due thereon being payable by instalments?

(2) Is such a system of compulsory purchase suited to the genius of the people of Malabar and to their customs?

V. What do you consider to be the effect of the Malabar Compensation for Tenants' Improvements Act (I of 1900), on the relations between janmis and tenants? In your opinion, is any amendment of the Act or change in the method of its working desirable in order to improve those relations?

Compensation.

VI. (a) If permanent occupancy right is to be granted, what is the nature and extent of compensation you would award to persons adversely affected thereby?

(b) In cases of holdings in regard to which there are more tenure holders than one besides the person who has to pay compensation how would you apportion the compensation?

(c) Do you consider that any special facilities should be offered to the tenants to enable them to pay such compensation? If so what facilities do you suggest?

Rent.

VII. (a) What proportion of produce do you think is the reasonable share that should be allotted to the tenant and to the janmi or other superior tenure holder respectively? On what principles would you fix this proportion?

(b) Are the rents which tenants now pay unjustifiably high having regard to your answer to question VII (a)? Please specify instances.

Renewal fees.

VIII. (a) On what principles would you regulate the extent of renewal fees?

(b) What is the rate of renewal fee prevailing in your taluk?

General.

IX. If neither permanent occupancy right nor compulsory purchase is, in your opinion, desirable what other remedy would you suggest for securing fixity of tenure for the actual cultivator of the soil?

X (a) What do you think of a system by which tenants would be granted the right of pre-emption as against melcharthdars? What practical difficulties would there be in working such a system?

(b) What do you think of the suggestion that before a melcharth is given, the grantor should give an offer to the tenant to take a renewal of the existing grant on the same terms as are *bona fide* agreed to between the proposed melcharthdar and the grantor?

(c) What proposals would you make to prevent any collusion between the grantor and the grantee of the melcharth for the purpose of fixing the renewal fee at such a figure as to defeat the right of pre-emption?

CHAPTER I

THE SEVERAL FORMS OF MALABAR LAND TENURES AND THEIR LEGAL INCIDENTS—A BRIEF ACCOUNT.

9. The use of technical terms cannot easily be avoided in the discussion of any matter whose ultimate foundations are set on legal conceptions, and when the subject is one like the jural relationship of landlord and tenant which has generally a local colour, vernacular terms commonly used in the locality cannot but be employed unless one is to be unduly prolix. If any system of land tenure has special local peculiarities it is pre-eminently the Malabar land system, and so one finds in the discussion of the Bills relating to it, in the reports of Commissions that have dealt with it, and in the other literature that has grown round this Malabar Tenancy problem, constant use is made of technical vernacular terms unfamiliar even to lawyers outside Malabar. The Committee thinks that not only to understand what has been written and spoken on the subject but also to indicate in what respects its proposals effect changes in the existing condition of affairs, it would be useful to set down briefly the meaning of the vernacular terms employed and also the legal incidents, as they are under the present law, of the different varieties of tenures which those terms connote.

10. As observed by the late Mr. Justice Sundara Ayyar in his treatise on "Malabar and Aliyasantana Law" (revised by Mr. B. Sitarama Rao) to which the Committee is indebted for much that appears in this chapter, by far the most clear account of the incidents of the various forms of land tenure in Malabar is to be found (1) in the Glossary prepared by Mr. Graeme, one of the Judges in the Southern Court of Circuit who was deputed to Malabar with a special commission to introduce the new system of police and magistracy and to consider what improvements might be introduced into the Revenue Administration of the district, and (2) in the Proceedings of the Sudder Court, dated 1856, which embodied the result of the inquiry instituted by it at the instance of the Board of Revenue. The first thing observed by the investigators into the Malabar tenures was the extent to which private right of property was recognized in Malabar. In Walker's report, after noting that the janmi possessed the entire right in the soil, it is stated "this much is certain that in no country of the world is the nature of this species of property better understood than in Malabar nor its rights more tenaciously maintained." And again in the Fifth Report it is observed "the lands in general appear to have constituted a clear private property more ancient and probably more perfect than that of England." This interest is known in Malabar as 'janmi.' The word means 'origin' and it signifies the hereditary proprietary interest in the land. It may be added that it has been asserted, though it is not conceded by the Government, that in Malabar and in tracts administered as part of it, there is no presumption that immemorial waste or forest lands are the property of the Government. All land is private property, escheated and forfeited estates being excepted. Secretary of State v. Kadirikutti (I.L.R. 13 M. 309) adds beds of tidal and navigable streams to the excepted lands. Whether the exception extends to beds of natural but non-navigable streams which flow through several janmis' lands is an open question. Where the stream flows through the lands of the same janmi, it seems to have been conceded in one of the cases relating to the matter that it would belong to the janmi. It has also been decided that there is no law or usage recognizing the Crown's right in such lands in the Palghat taluk in respect of which alone there has been contest.

11. *Verumpattam* is the name for ordinary lease for a year. If the tenant holds over and pays the rent, he is entitled to reasonable notice ending with the agricultural season, but not necessarily six months' notice. The presumption, in the absence of evidence to the contrary, is that every tenant is a tenant from year to year. In the case of leases of kovilagam property where renewal fee is paid, even a *verumpattam* lessee is entitled to hold the land for twelve years. His right to the

value of improvements on eviction is recognized by the Malabar Compensation for Tenants' Improvements Act. In the absence of an express prohibition, the tenant has the right to sell in whole or in part or to subdivide his holding, and he is liable to eviction for denial of the landlord's title. *Verumpattam* is also sometimes known as *verumkari* or *verumkozhu*.

12. *Munpattam*, *talapattam* or *kattakanam* is a simple lease enuring generally for a year, where the tenant advances a sum equal to the rent of the year as security. The amount is refunded at the end of the term without interest.

13. *Kanam* which is a more favourable tenure with rent fixed at a rate lower than *verumpattam*, is described in the Sudder Court Proceedings as mortgage with possession, the mortgagee recovering interest on the money called *kanartham* he has advanced from the produce of the land and paying a portion of the net profits as rent (*michavaram*) to the landlord. It thus partakes of the character of both a lease and a mortgage. Sometimes, the one character predominates; sometimes the other. In a *kanam* lease the lease is the substantial thing, the security being a minor matter. In the case of a *kanam* mortgage, the amount advanced is substantial, the *michavaram* being but a trifle. In Ref. cases 1 and 13 of 1903, it has been held that, for the purpose of the Stamp Act, where an amount has been advanced as security, the document is to be treated as a mortgage. In *Kanna Kurup v. Sankaravarma Raja* (I.L.R. 44 M. 344), a *kanam* document was held invalid for want of attestation under section 59 of the Transfer of Property Act, though the amount advanced was only three rupees. In fact, the courts have regarded *kanam* transactions as anomalous mortgages except when no amount is advanced in which case the transaction is regarded as a lease. Tenures resembling *kanam* are to be met with elsewhere also, but the special feature in Malabar is that the *kanam* tenure appears in the case of the big janmis at least to be the ordinary mode of enjoying land.

14. The incidents of the *kanam* tenure under the decisions as they stand are as follows. In the absence of a contract to the contrary it enures for a period of twelve years. Non-payment of the *michavaram* does not work forfeiture in the absence of a stipulation to that effect. It is open to the parties to provide for forfeiture, but the court will relieve against the penalty on payment of the arrears. *Kanam*, whether a lease or a mortgage, is liable to forfeiture for denial of title and for wilful waste. Where the transaction is a mortgage for a fixed period, the effect of section 98 of the Transfer of Property Act which applies to anomalous mortgages (which a *kanam* is), is to make the contract prevail, and there will be no forfeiture. From the language of the Sudder Court Proceedings also it looks as if forfeiture is incurred only when the period is not fixed. This principle has been accepted in a later case where the question was whether a perpetual *kanam* is forfeited by denial of title. Their Lordships held that it was not so forfeited on the ground that the perpetual term was a fixed period within the meaning of the above decisions. In A.S. 157 of 1855, Mr. Holloway, as Sub-Judge, held that the destruction of a bund necessary for irrigation entailed forfeiture. In all these cases forfeiture only accelerates redemption; it does not involve the loss of the amount paid or of compensation for improvements. Where renewal fees have been paid, proportionate refund will be ordered unlike in the case of leases. The mortgagee has no right to insist upon the mortgagor making application for further advances to him alone. It is not open to the tenant to surrender the land and demand the return of his advance. A *kanam* does not imply a covenant to pay, and therefore the mortgagee cannot sue for sale unless there is an express covenant. At the time of redemption, the mortgagor is entitled to have an account taken of the arrears of rent, though time-barred, with interest, and set off the same against the amount due to the mortgagee. The mortgagor's right to proceed against the improvements is not affected by any alienation by the mortgagee of his right because the right of the tenant is subject to the right of the landlord to set off. Under the Customary Law the mortgagor has the right to proceed even against the sub-mortgagee's improvements. There is nothing to prevent the mortgagor from suing for the arrears of rent as they fall due and he may sell the tenant's interest in the land. The mortgagor has the right to have account taken of the value of the trees improperly cut and the mortgagee is entitled

to any damages for breach of mortgagor's covenant to put him in possession, apart from any question of limitation. If the balance is in favour of the mortgagor he may recover it apart from any question of limitation. A kanam whenever there is an advance, is distinctly a mortgage and is indivisible, and neither side can insist on partial redemption. Even where it is a lease it is not open to the owner of the reversion to sue for a part except where either the reversion or the lease-hold interest has gone into different hands.

15. On principle it must be open to a kanamdar to pledge his improvements though he may not be entitled to pledge his right to compensation therefor to the prejudice of his landlord. The tenant is not bound to keep up the improvements for the benefit of the landlord. He is entitled to remove them, if so inclined, and this right must include also the right to pledge. So far as the right to compensation is concerned, it is subject to the landlord's right to set off. The right of the pledgee to cut and carry away the trees may not be subject to this equity of the landlord. What is here said as to improvements and the right of the landlord to set off is illustrative of the whole class of lessees and mortgagees in possession. The janmi is under no obligation to renew the kanam in favour of the tenant in the absence of an express agreement. The right to renewal is forfeited by denial of title. Non-payment of manusham or soujanya, two of the numerous names for the renewal fee, does not invalidate an otherwise valid renewal, as it is not of the essence of a valid contract of renewal. The renewal fee, if paid, will belong to the family and not to the karnavan individually. There is no invariable rule that at the time of each renewal the value of improvements should be settled. The fact that the purappad (rent) or michavaram is enhanced may be some evidence that it has been so settled. A right to perpetual renewal will not be lightly inferred, but if clearly granted, may be valid.

16. Under the Customary Law of Malabar, improvements were classed under three heads, (1) kuzhikkur, including fruit trees, timber trees, pepper vines, etc., (2) chamayams, i.e., buildings, tanks, wells, etc., (3) vettuchamayam or kilchamayam, i.e., works calculated to improve the soil of the land such as clearing of waste, conversion of parambas (uncultivated dry lands) into paddy lands, providing irrigation facilities, etc. The rates of compensation varied very largely with reference to the difference in cost of labour and materials in the different parts of the country, and in some parts of Malabar, there was the custom of deducting half or a third of the compensation as the landlord's share. The compensation paid was consequently very inadequate and by reason of the rise in prices and of competition, there were frequent evictions. There was, as a result, considerable unrest, and the Government endeavoured to meet the situation by passing the Malabar Compensation for Tenants' Improvements Act of 1887 (since repealed by Act I of 1900) which is based on the principle of securing to the tenant the full market value of his improvements. The basis on which compensation was customarily assessed was the outlay. The Act substituted for this the market value of the improvements. The Act applies not only to the kanamdar, but also to all classes of lessees, sub-lessees, mortgagees in possession and also to persons who are *bona fide* in possession with the intention of paying rent to the person entitled to let the waste land but without the permission of that person. This last is the case of a pure squatter. Under the Customary Law, according to Mr. Logan, only agricultural tenants are entitled to improvements. It is doubtful if this is correct. The Act does not refer to the right of the tenant to cut down trees on the holding. Under the Customary Law he has the right to cut down all trees planted by himself. Except in so far as it is necessary for the purpose of clearing the land or is necessitated by the course of good husbandry, he cannot cut down trees planted on the land before the commencement of the tenancy. Even when he is entitled to cut down, the cuttings should belong to the landlord.

17. *Kuzhikanam* is described in the Sudder Court Proceedings as the mortgage of waste land with a view to its being planted. It is stated therein that in the event of the tenant failing to reclaim the land, plant trees, and otherwise fulfil the conditions of the deed, he may be dispossessed by the landlord before the expiration of the period specified. Otherwise there is no difference between this tenure and

the kanam tenure. It is similarly stated that in the case of *kuzhikanam pattam* tenure under which the tenant binds himself to pay a stipulated rent as well as to bring new land under culture, failure in either respect will render the tenant liable to ejectment. Kanam *kuzhikanam*, another variety of this tenure referred to in the Proceedings of the Sudder Court, is a mortgage of waste land for improvement, the landlord receiving some pecuniary consideration. Neglect to improve is not a ground in this tenure for forfeiture.

18. *Kuttikkanam* is a mortgage of forest land, the mortgagee felling the timber and paying a fee on each stump or tree to the landlord. The non-payment of stipulated rent does not render the mortgagee liable to dispossession unless there be a special clause to that effect.

19. *Melkanam* is kanam given by the janmi to a third party with power to redeem an outstanding kanam. It is created by a document known as 'melcharth' and is treated as a mortgage. It operates for twelve years from the date of execution of the melcharth and not for twelve years from the date of redemption of the earlier kanam. The melcharthdar is entitled to add the actual costs of the action for redemption to the amount of the mortgage unless an amount is specified as being the amount payable in respect of the same.

20. The term '*panayam*', if used alone or in connection with *choondi* or *thodu*, means a simple mortgage. If usufructuary, it is called *kari panayam* or *kaiyasa panayam* or *kozhu eraka panayam*. If no period is fixed it is redeemable at any time.

21. *Kettiyadakkam* is described by Major Walker as usufructuary mortgage, the mortgagor remaining in possession till he makes default in payment of interest, in which event the mortgagee may enter; the profits after satisfying interest will bear the same interest as the mortgage and may be set off against the principal. *Undaruthi panayam* is usufructuary mortgage where both principal and interest is paid out of the usufruct.

22. *Otti* is described in the marginal note to the Sudder Court Proceedings as a usufructuary mortgage, the full value of the land being advanced. This tenure gives the mortgagee the entire produce of the land, the landlord merely retaining the proprietary title and the right to redeem. According to these Proceedings, where no period has been stipulated, the landlord may pay off the mortgage at any time, but it has since been decided that it cannot be redeemed before twelve years. In *Kumini Amma v. Parkam Koluseri* (1 M.H.C.R. 261), it is stated that an *otti* differs from a kanam only in two respects: "First, in the right of pre-emption which the *ottidar* possesses in case the janmi wishes to sell the premises and secondly in the amount secured which is generally so large as practically to absorb the whole rent." The right of pre-emption includes the right to make further advance and the right is not confined to the twelve-year period. *Ali Hussain v. Nilakantan Nambudiri* (1 M.H.C.R. 356) leaves one in doubt if the mortgagor has the right to apply for further advance till after the expiry of twelve years' period. The right of pre-emption may be waived. Limitation would commence to run from the date of the knowledge of the sale to another. In *Mammali v. Kunhipakki Haji* (I.L.R. 38 M. 67) the point is left open whether the right of the *ottidar* is to purchase at the same price as is offered by a stranger or at a reasonable price, the inclination of their Lordships' opinion being in favour of the latter view. It was so laid down by Mr. Holloway, as Sub-Judge, in A.S. No. 64 of 1859 (Tellicherry). In *Cheriyia Krishnan v. Vishnu* (I.L.R. 5 M. 198), it is stated that the mortgagee should pay what is *bona fide* offered to the janmi for his equity of redemption, but that he is entitled to be fully informed of the circumstances and the amount of the offer before electing to buy. An arrangement between members of the family by which the property is set apart for some is not a transfer which would entitle the mortgagee to exercise the right of pre-emption. A re-sale to the vendor does not affect the right of pre-emption brought into existence by the sale. By denial of the janmi's title the right to retain possession for twelve years is forfeited. It is not forfeited by setting up unfounded charges. There is no right of pre-emption against an auction purchaser. A kanam free from payment of rent is not on that account alone an *otti*. *Otti* goes under different names. It is called *veppu* in Palghat and *palisa madakku* in Nedunganad and Walluvanad. Other names are *vanimadaka* and *nir oshikka otti*.

23. *Peruartham* approximates closely to *otti*. It is found in Palghat and Taliparamba. It is defined as a mortgage under which when the mortgagor redeems the mortgage, the mortgagee is entitled to be paid the market value of the property redeemed at the time of redemption. It is also known as *alukiya attipper*. In the Sudder Court Proceedings it is stated that in other respects its incidents are the same as those of *otti*. Mr. Moore, in his 'Malabar Law' however, says that it does not carry necessarily the right of pre-emption. Deeds of this kind are in use at Palghat and Tenmalapuram.

24. The chief incident of *keividuga otti* is that it is redeemable on payment of the amount originally advanced. It has been held that what is given up by the mortgagee in this transaction is the power of transferring the property to a third party.

25. *Ottikkumpuram* is a charge for further advances made by the *ottidar* which the mortgagor undertakes to pay along with the *otti* amount. It bears the same relation to *otti* as *puramkadan* (or the further advance made by a *kanamdar*) to *kanam*.

26. *Attipper* is the transfer of the entire proprietary right of a *janmi*.

27. *Janma panayam* is the transaction by which the landlord relinquishes the power to redeem his land and nothing is left to him but a nominal proprietorship. He cannot sell the proprietary right to any but the *janma panayam* holder. In S.A. 417 of 1897 it is stated that according to the latest authorities it is irredeemable, but it would seem that the answer to the question whether it is so would depend on the terms of the document and not on the name.

28. The Customary Law of Malabar recognizes irredeemable tenures partaking of the character of mortgages as, for instance, irredeemable *kanams* or *saswathams*. The doctrine of clog on the equity of redemption does not seem to be recognized by Malabar Law. It has been held, however, that the principle does not apply even to such mortgages executed after the Transfer of Property Act. This view must, however, be rejected in view of the recent judgment of the Privy Council—*Sherkan v. Shetswami*—where it has been held that section 98 of that Act does not protect clauses that operate as a clog on redemption, unless those transactions are looked upon as distinct from mortgages and having justification in the customary law of the country.

29. There are other tenures partaking of the character of leases which are also permanent. *Anubhavam* or *saswatham* seem to be generic names for such leases. They mostly involve an element of service. They are either grants for past service or they are for future service or for both. *Janmakozhu* is said in Graeme's Glossary to be analogous to *mulgeni* in Kanara, but as stated in the Sudder Court Proceedings even that may involve some idea of service. If the grant is to a Brahman it is called *santhathi brahmaswam*; if to a high class non-Brahman it is called *anubhavam*; if to a low class individual *adima* or *kudima* or *adimayavana* or *kudima janm* or *kudimanir*. Where the grant is for the life of the grantee it is called *anubhavam*. Where the tenure is one for service in connection with temples, it is called *karamkari* or *karaima*. Where, in addition to doing service, the tenant is to produce a certain quantity of rice for *nivedyam* or offering to the Deity, it is called *arijanmam*. The inferior temple servants are said to hold land on *kazhagom* tenure. *Vagola* is also a kind of irredeemable tenure. It is stated in Graeme's Glossary that the holder of an *anubhavam* cannot be dispossessed and that the right is hereditary but that on default of heirs it reverts to the *janm* and that on each succession the *janmi* is entitled to *purushantaram* or renewal fee. The last, however, was found against in *Manavikrama v. Rama Pattar* (20 Madras 275). In the Sudder Court Proceedings it is stated that this tenure is sometimes granted for the performance of future services and that the grantee cannot be ejected except where there are conditions imposed and he fails to fulfil them. The grantee's right is said to be only the right of enjoyment and he cannot alienate his title. It has been held in one case that *anubhavam* comes to an end on alienation. This must be taken to be incorrect having regard to the decision in *Ayyakutti v. Krishna Pattar* (I.L.R., 45 Mad., 394 F.B.) in which it was held that analogous tenures such as *adimayavana* and *santhathi brahmaswam* were not resumable on alienation. Similarly in S.A. 986 of 1913, the permanent tenure known as *anundiravakasam* was held not forfeited by denial of title.

CHAPTER II

HISTORY OF TENANCY LEGISLATION IN MALABAR

30. The history of Tenancy Legislation in Malabar commences definitely with 1880. In September of that year a Mappilla murdered a Cheruma. Mr. McWatters, the then acting Collector of Malabar, was of opinion that this murder was primarily due to agrarian discontent, and this view was accepted by the then Government of Madras. In the next month the Government received an anonymous petition purporting to come from certain Mussalmans, Nayars, Tiyyas and men of other castes in Malabar in which it was predicted that a terrible outbreak would occur on account of the strained relations between landlords and tenants in Malabar. This petition was referred by Government to Mr. Wigram, the then District and Sessions Judge, South Malabar, to Mr. Logan, the then Collector of Malabar, and to Mr. McGregor, a former Collector of the district, for report; and these officers agreed that there existed in many parts of the district much agrarian discontent. The Government thereupon decided in January 1881 to appoint Mr. Logan as Special Commissioner, with a view to a thorough investigation of the grievances of the tenants of Malabar. He was specially asked to inquire into—

(1) the general question of the tenure of land and of tenant right in Malabar and the alleged insufficiency of compensation offered by the landlords and awarded for land improvements made by tenants, and

(2) to submit suggestions for the remedy of any grievances which he considered well founded.

31. Mr. Logan submitted his report in June 1882. Upon the first question he came to the conclusion that, prior to the commencement of the British rule, no private property in the European sense of the term existed in Malabar, that *janm* right did not import absolute property in the soil, that the three classes connected with the land—the *janmi*, the *kanakkar* and the actual cultivator—had been co-proprietors, entitled each to one-third share of the net produce, that the early English inquirers and the English courts had mistaken the *janmi* for a landlord of the European type and had endowed him with the full European rights of ownership, especially with the power of ouster, and that they had misunderstood and misconstrued *kanam* and other tenures. He was of opinion that the *kanam* tenure was practically a permanent one, that actual cultivators were entitled to one-third of the net produce and that toddy drawers, carpenters, blacksmiths and other low-class people possessed with *janmis* co-ordinate interests in the soil termed '*cheru-janm*' or small birth-rights, that the old customary relationship between the three classes had been upset, the *janmi* having thriven at the expense of the *kanakkar* and the cultivator, that the cultivators, particularly of grain lands, were grievously rack-rented, that they were in debt and in arrears with rent, that tenures had become precarious and insecure, that evictions were increasing and that the safeguard of compensation for improvements against arbitrary and capricious evictions was illusory, as the customary rates allowed by the courts were inadequate and were swallowed up in the costs of the inevitable suits. According to him, excessive renewal fees and social tyranny of the *janmi* added to the discontent. He described the cultivating classes 'as rapidly degenerating into a state of insolvent cottierism' and observed that crime was consequently on the increase.

32. The conclusions arrived at by him are thus summed up in paragraph 353 of his report—

(1) that the only person interested in the soil to whom the Government should look was the actual cultivator;

(2) that the landlord's power of *ouster* must, in public interests, be curtailed;

(3) that the landlord was perfectly entitled to take a competition rent provided he was dealing with capitalists; and

(4) that the tenants must have the full benefits of the ancient customary law entitling them to sell the improvements on their holdings.

33. To attain these ends, he considered that legislation was necessary. He did not, however, think it expedient to restore the kanakkaran to his old privileges, because such a measure, however just, would have the effect of reversing the policy followed until then and would operate prejudicially on the purchasers of escheated janm lands. It was also stated that the recognition of the kanam intermediary would pave the way for the claims of other classes of intermediaries and that this was not desirable as these intermediaries were mere investors of money and did not contribute to the wealth of the land. The measures taken in the neighbouring State of Travancore to restore some sort of permanency to kanakkars, had not worked satisfactorily, and the ancient kanakkars who alone required protection had disappeared, with the exception of a few, on account of the action of the courts. He suggested legislative measures for the protection of the 'actual cultivators' of small holdings not exceeding 25 acres of wet or dry grain crop land, or of 5 acres of garden land (whom he regarded as non-capitalists). His proposal was to make such holdings permanent subject to certain limitations and conditions, which were briefly that the actual cultivator should possess the following rights:—

- (1) a right to permanency of tenure with remainder to his heirs, representatives, or assigns;
- (2) a right to utilize the soil of his holding to the best advantage for agricultural purposes;
- (3) a right to sell, give or transfer his interest in the whole of his holding, and with the landlord's consent, to sell his interest in a portion of his holding for the best price he can get for it, but not to mortgage his interest in his holding or any part of it nor to sublet or sub-divide the holding or any portion of it except to prevent its lying waste, and as a temporary measure;
- (4) a right to one-third of the average annual net produce of his holding estimated in kind and not in money at the time of his entry on possession; and
- (5) a right, if the Government assessment on the land is paid by him, to recover it in money at the commutation rate fixed by the Government.

As a corollary to these he suggested that the landlord of such a holding was to have the subjoined rights—

- (1) a right [subject to the cultivator's rights Nos. (4) and (5)] to reserve as rent payable periodically, either in kind or money, a share not exceeding two-thirds of the average annual net produce of the holding, estimated in kind and not in money, at the time of entry on possession by the actual cultivator;
- (2) a right to sell to the actual cultivator on entry into possession, at the best price he can obtain for them, the actual cultivator's rights to raise improvements on the holding and to one-third share of the net produce;
- (3) a right of pre-emption at sales, whether public or private, of the actual cultivator's interest in his holding;
- (4) a reasonable right of veto against the person to whom the actual cultivator might wish to transfer his interest in his holding;
- (5) a right of veto on the sale of a portion of his holding by the actual cultivator and a right of ouster if the actual cultivator mortgaged or subdivided or sublet his holding contrary to his right No. (3);
- (6) a right to recover the land from the actual cultivator for reasonable schemes for utilizing the land for other purposes than agriculture or for improving generally the cultivation of his property;
- (7) a right to recover arrears of rent (not being less than one year's arrears) by the sale of the actual cultivator's interest in his holding and a right to recover any arrears as a first charge on the proceeds of any sale, public or private of the actual cultivator's interest in his holding;
- (8) a right to let his land for temporary purposes to prevent the land from lying waste; and
- (9) a right to eject the actual cultivator if he made any change in the holding with a view to cause wilful damage to the landlord.

34. Mr. Logan's proposal was substantially for the establishment of a statutory tenure conferring occupancy right on small holdings. The principal features thereof were three, namely,—

- (1) the occupancy right was to be sold to the highest bidder whenever the existing tenancy was determined and was thenceforward to be permanent so long as the tenant paid his rent and did not commit waste;
- (2) the occupancy right was to be alienable by sale but not by mortgage or lease; and
- (3) the rent was not to exceed two-thirds of the net produce estimated at the time of the entry.

As the effect of the proposed legislation, he anticipated that nearly all the kanakkars would continue as tenants under the statutory tenure to be created and that the sub-tenants under them would become day-labourers.

35. Mr. Logan's report was circulated to several officials and non-officials. Among them, Mr. Wigram did not support Mr. Logan's proposals and indicated that reform should proceed on the following lines:—

- (a) Making the position of the kanakkar and those who held direct from the janmi more secure;
- (b) Placing restrictions on them to prevent them in their turn from rack-renting;
- (c) Janmi to be answerable for Government assessment;
- (d) Statutory lease to every house-holder for his kudiyruppu and the ground round it; and
- (e) Perfect freedom of sale, and fixed scale of rates for valuing improvements.

As regards (a) to (c) he was in favour of allowing all those who held for twelve years to acquire a permanent right of occupancy at a fair rent.

36. Mr. Huddleston wanted to go further than Mr. Logan and suggested that the existing occupiers (kudiyans and kanakkars of all classes), without reference to the extent of their holdings, should be recognized, and that the proposed purchase of the occupancy right should be discarded.

Mr. Ballard did not approve of the grant of occupancy rights as suggested by Mr. Logan. He was for regulating the lease of small holdings subject to certain conditions as to the length of the leases, fair rents, etc., which the parties could not contract out of.

Mr. Kunhi Raman Nayar condemned Mr. Logan's proposals on the ground that they would tend to the poverty and ruin of the non-capitalist tenant whom he wanted to protect. He was for giving certain tenants holding small extents of garden lands directly under the janmis on otti, kanam and kuzhikanam tenure the right to purchase janm right when a suit for ejectment was brought against them, and for protecting ancient kanakkars and pattamkars of Devaswoms in Malabar from eviction so long as they paid rent and other dues regularly.

Mr. (now Sir) Sankaran Nayar was for restoring the old kanakkars and verumpattamdars to the position which they occupied originally and for protecting them against eviction.

37. In view of the intricacy of the subject, and the interests involved, the Government appointed a special Commission with Raja Sir T. Madhava Rao as President, for considering the whole question and advising them as to the lines on which legislative action should proceed.

On 18th March 1884, this Commission forwarded the draft of a Bill which had for its object the temporary suspension of eviction of tenants by janmis in Malabar. On 17th July 1884, it submitted with its main report a draft Malabar Tenancy Act.

The Commissioners held that there was justification for interference with the janmi's rights "in the grave discontent prevailing among the agricultural classes regarding the growing insecurity of their tenures, in the fact that among one class of the community agrarian discontent fanned by fanaticism is ready to develop

at any moment into agrarian outrage and in the existence of a system of tyranny practised by some janmis and apprehended from others." They agreed with Mr. Logan that according to ancient custom the janmi had only a limited interest in land, namely, the right to a share in the produce, that there was no material difference between the tenures of a *kanamdar* and a *verumpattamdar* except that the former was regarded as of greater permanency, and that the tenant should be evicted only for certain definite reasons.

The legislation proposed by the Commission was framed with a view to restore to these classes of tenants some of the rights and privileges of which they thought they had been deprived since the commencement of the British rule. The Commission proposed to confer occupancy rights on—

- (a) any tenant who had held the same land for thirty years ;
- (b) any tenant who had reclaimed land and held it for fifteen years ;
- (c) any tenant of land which had been held on *kanam* or a higher tenure for thirty years ; and
- (d) any tenant who purchased the occupancy right from the janmi.

'Tenant' as defined in the Bill was a person who *directly* contracted with the janmi and hence sub-tenants were excluded by the Commission from the benefit of the occupancy right. The effect of the proposed changes are summed up in paragraphs 57 to 61 of their report. Although the report was signed by all the Commissioners, the President stated that he did not concur with the historical theories set forth but only with the conclusions arrived at. Mr. Logan submitted alternative proposals having for their object the protection of the actual cultivator.

The main principles of his scheme were that occupancy rights should be conferred not only on those on whom the other Commissioners conferred them but also on all occupants of land permanently brought under cultivation, irrespective of the length of their occupation, and that such rights should be attached to and pass with such lands. The settled cultivator was to be secured in his holding, whilst the temporary cultivator was to be governed by the terms of his contract.

38. Every other member reviewed Mr. Logan's alternative scheme. The President and Mr. Wigram considered that the alternative scheme was open to several objections, while the other two members were prepared to accept only that portion of Mr. Logan's proposals which purported to confer the settled cultivator's rights on tenants holding the revenue patta.

39. The draft Bill relating to Malabar land tenures prepared by Sir T. Madhava Rao's Commission was referred by the Government to the High Court for opinion. The report was severely criticized by Sir Charles Turner, the Chief Justice of Madras, in an elaborate minute in which he defended the view already taken by the courts. He agreed with Mr. Logan that the actual cultivator of the soil stood in need of legislative protection. He held that *kanamdars* whose title had originated after 1792 were not entitled to protection and that as regards those whose title arose prior to 1792 there was some ground for interference as they had enjoyed fixity of tenure under the 'native rule' but he thought that such cases would be extremely few. He considered that there were sufficient grounds for interference to protect actual cultivators who held on *kanam* or inferior tenure. His scheme was to divide the actual cultivators into 'tenure holders holding more than a certain area and cultivators holding less than a certain area' and to confer occupancy rights on the latter on the lines of the Bengal Tenancy Act.

40. The views of the High Court were so divergent from those of the Commission that the Government deemed it inexpedient to proceed with the Malabar Stay of Execution Bill and the Malabar Tenancy Bill drafted by the Commission without further consideration of the many important questions raised by the High Court. The Government accordingly appointed a Committee presided over by the Hon'ble Mr. Master to review the whole matter in the light of the remarks of the Judges of the High Court, some of whom were of opinion that the janmis had not their interests or views fully considered.

This latter Committee submitted their report on 16th March 1886 and were unanimous in considering that a resort to legislation was necessary in order to secure to tenants on eviction the full value of their improvements. A Bill was drafted to that effect and submitted to Government on 9th February 1886. Under this Bill every tenant of whatever class was given a right to compensation for value of improvements, and the right to contract out of the provisions of the Bill was disallowed. A year later this Bill was passed into law as Act I of 1887. The question of legislating with a view to restraining eviction formed the subject of difference of opinion among the members of the Committee. Some members considered that the Bill for compensation for improvements was sufficient, while others recommended the adoption of stronger measures including the creation of occupancy right. A Bill which conferred occupancy right on tenants who had held the land for sixty years, was put to the vote of the Committee and the members were equally divided, but the President did not vote. Another Bill vesting discretion in courts to refuse eviction-decrees in proper cases was framed but that also was rejected. Finally a Bill containing provisions regarding notices, payment of rent into courts for avoidance of forfeiture, etc., intended to restrain indiscriminate exercise of eviction and to make land available for small tenancies was drafted and forwarded to Government. The Committee observed that beyond this Bill and the Bill for compensation for tenants' improvements no case had been made out for further legislation. Individual members recorded minutes of dissent; some to the effect that the former Bill did not go far enough, while others held that it was altogether unnecessary.

41. The Government did not accept the Bill to restrain eviction, but as already stated the Bill for compensation for tenants' improvements was passed into law as Act I of 1887.

42. In 1893, the Government called for a report from the Collector of Malabar on the working of Act I of 1887.

Mr. Bradley, the then Collector, stated in his report that although the Act had worked in favour of the tenants, its effects would not be permanent, that it did not tend to give additional security to the tenants, and that it had not checked evictions (which were on the increase) or the practice of giving *melcharths*. He suggested legislation prohibiting *melcharths* and amending certain provisions of the Act. The Government was of opinion that the partial failure of the Act was due to the inadequate compensation awarded for improvements by courts and to the ease with which the Act was evaded, that the rulings of the courts, many of them inconsistent with each other, had resulted in a misapprehension of the original intention of the Act as being that compensation should be awarded solely on the basis of outlay and that it was necessary to clearly explain the meaning of the legislature and to re-enact the provisions of Act I of 1887 in language less susceptible of misconstruction. The Government came to the conclusion that legislation should be undertaken, (1) to amend certain provisions of the Act, (2) to fix maximum rates of fees at renewals, and (3) to prevent landlords from throwing the whole of the new assessment on the tenants. They observed that the last two points should be dealt with in a new Tenancy Bill.

43. While matters stood thus, the Government of India also desired that this Government should take into early and serious consideration the question of a Tenancy Bill for Malabar. The Government accordingly placed Mr. (afterwards Sir Ralph) Benson on special duty for drawing up a Tenancy Bill. He prepared the draft of a Bill repealing and re-enacting Act I of 1887. He was then appointed a Judge of the High Court and was succeeded by Mr. Ross who was placed on special duty to prepare a Tenancy Bill for Malabar. Mr. Ross prepared a draft. The Government thought it best to have a consolidated Tenancy Bill embodying the provisions of the Compensation for Improvements Act also and, therefore, transferred to Mr. Ross the Bill prepared by Mr. Benson for repealing and re-enacting Act I of 1887, and requested him to incorporate it in his Tenancy Bill. Mr. Ross died soon afterwards.

44. In letter No. 1042/170-2, dated 30th May 1898, the Government of India stated that unless there was a practical certainty of the Tenancy Bill being passed within the year, the Compensation Bill in question should be taken up separately and proceeded with at once. Thereupon, the Compensation Bill of Mr. Benson was taken

up and was passed into law as Act I of 1900. That Act is now in force. No further action was, however, taken in respect of the Tenancy Bill prepared by Mr. Ross. It may be mentioned here that in 1899 Mr. Dance, the then Collector of Malabar, drafted a 'Malabar Melcharth Bill', but this was not accepted by the Government. The position was again reviewed and the necessity for tenancy legislation was examined in 1905 when a final reply was sent to the Government of India in regard to their suggestion for such legislation. So far as the tenants were concerned, it was considered that Act I of 1900 gave them ample protection against eviction and loss of improvements and secured stability of tenure, although the landlords had thrown on them at the renewals, etc., the increased assessment resulting from the new settlement. So far as the landlords were concerned, they wanted the extension of the Rent Act, VIII of 1865, to Malabar to enable them to exercise the power of distraint, and a draft Bill giving them a modified power of distraint was prepared. It was, however, considered best not to proceed further with any legislation for Malabar until the Estates Land Bill had been passed.

45. In 1911, the Government called for a report on the working of the Compensation for Tenants' Improvements Act of 1900. This led to the reopening the much larger question of enacting a comprehensive tenancy law for Malabar. The High Court's view was that the Compensation Act I of 1900 had worked satisfactorily and that there was no necessity for fresh legislation in regard to compensation. Sir Sankaran Nayar observed that, as to conferring occupancy rights, things had altered considerably since 1880 and that the only legislation that he was prepared to recommend was that no person should be turned out of his homestead by his landlord except where that was absolutely necessary for the landlord for the cultivation or enjoyment of his other land. Mr. Justice Sundara Ayyar was in favour of legislation in respect of lands held by ancient janmis and temples holding lands. Mr. (now Sir William) Philipps thought it would be invidious to draw a distinction between the rights of old janmis and temples and the rights of other landlords. Mr. (now Sir Charles) Innes, the then Collector of Malabar, thought that Act I of 1900 was only a qualified success. He stated that paddy lands were still as rack-rented as ever and that the Act could do nothing to improve the condition of the tenants of such lands. According to him, the Act was, no doubt, beneficial in respect of garden lands, but there was considerable difficulty in valuing improvements and there were complaints against valuation; the number of eviction suits was large; and the Act was not also altogether fair to the janmi and the poorer janmis were sometimes compelled to have recourse to melcharths. He was of the opinion that what they really wanted was a comprehensive Tenancy Bill. In forwarding the Collector's opinion to the Government, the Board of Revenue remarked that although Mr. Innes had put the case for tenancy legislation very ably, his opinion was that of an individual officer and represented only one side of the question and that it was not prepared to recommend legislation on such a thorny question without further inquiry.

The Government thereupon resolved to take up the question of legislation again and requested Mr. Innes to report whether he considered legislation was practicable or desirable, and if so, to indicate the classes of tenants who required protection and the lines on which legislation should proceed.

46. Mr. Innes submitted his note in 1915. He found that there were ample grounds for legislation, namely, (1) prevalence of rack-renting, (2) arbitrary and capricious evictions, (3) inadequate compensation for improvements, (4) insecurity of tenure, (5) the levy of exorbitant renewal fees, and (6) the social tyranny of the janmis. He stated that Act I of 1900 had failed to achieve the principal object for which it was passed, namely, the prevention of capricious and arbitrary evictions. According to him, tenants were entirely at the mercy of the janmis. As regards the intermediaries or kanamdars, he was of opinion that the cultivators were not better off under them either and that the actual cultivator of the soil had to be protected both against the janmi and the kanamdars. He recognized, however, that the Compensation for Tenants' Improvements Act had rendered the position of the janmis difficult as regards garden lands and *kudiyiruppus* or house-sites. His central idea was conferring occupancy rights on ryots who cultivated their land continuously

for a period of 15 years. On the analogy of the acquisition of occupancy rights under the Madras Estates Land Act and the various Tenancy Acts in other Provinces he considered that such rights should be conferred on ryots who had cultivated for a stated period of years. He observed that the effect of fixing a shorter period would be to invest practically all *verumpattam* cultivators in Malabar with occupancy right and that the *verumpattam* tenant had too long been little more than a tenant-at-will and it would be an extreme step to confer occupancy rights on mere tenants-at-will. He, accordingly, considered that the proposal to create a class of settled ryots corresponding to those in Bengal would be too revolutionary. He was in favour of occupancy rights being recognized in favour of ryots who had held the land continuously for a period of fifteen years. Though he was not in favour of legislation in favour of middlemen, he was for including in any tenancy legislation that might be undertaken for Malabar certain classes of permanent leases and kanams which had been continuously held for forty years. He considered that, if a comprehensive tenancy legislation was contemplated in Malabar, they (the middlemen) should be included in it for the sake of completeness. He suggested various degrees of protection for the cultivating and non-cultivating tenants and concluded his note with the observation that the lot of the cultivating tenant in Malabar was deplorable and that the disabilities he laboured under would retard the progress of the district.

47. In submitting Mr. Innes' note, the Board of Revenue, in its Reference, dated 31st January 1916, recommended either the appointment of a strong Commission to make a public inquiry into the subjects of evictions, melcharths and rack-renting or the deputation of a special officer for private inquiry. Meanwhile, Mr. Evans became the Collector of Malabar and Mr. Innes' note was referred to him. He examined the various arguments adduced by Mr. Innes in favour of legislation on behalf of the tenants, and practically upon the same facts and figures arrived at fundamentally different conclusions. He stated that there were neither political nor economic reasons for legislation. According to him, the suggested legislation would "impose artificial and alien restrictions on a system evolved out of an accepted custom and would involve a reversion from a long established freedom of contract 'to the tyranny of the law courts'."

48. In the light of Mr. Evans's remarks the Board of Revenue reconsidered the whole question and entirely concurred in his views. The Board pointed out two difficulties, namely, (1) the difficulty of finding funds to buy up the occupancy rights of the janmis as an equitable method of giving occupancy rights to tenants and (2) the impossibility of preventing the occupancy ryot from selling or mortgaging his newly acquired rights and reverting again to the former status of a tenant-at-will. The Board also stated that tenancy legislation of the kind suggested by Mr. Innes would be a grave political mistake as it would alienate the janmis from the Government. The Government, thereupon, held that there was no case for legislation and decided to drop the proposal.

CHAPTER III

HISTORY OF TENANCY LEGISLATION CONTINUED—DIWAN BAHADUR
M. KRISHNAN NAYAR'S BILLS

49. After the formation of the Reformed Legislative Council, Diwan Bahadur M. Krishnan Nayar brought forward a resolution recommending to Government that a Bill providing for the grant of permanent occupancy rights to kanam tenants in Malabar be introduced. He did not, however, move the resolution.

50. In June 1922 Mr. Krishnan Nayar submitted a copy of his first Tenancy Bill. The essential features of this Bill were—

(1) that it conferred permanent occupancy right on a 'kanam tenant' (as defined in the Bill), who was in possession for 25 years or more (clause 4). Provision was, however, made for resumption in cases where the land was required for *bona fide* residential purposes of the landlord or for agricultural improvements or where the kanam tenant refused or neglected to pay renewal fee or rent, etc., as specified in clause 11 of the Bill;

(2) provision was made for variation of rent and fixation of the rate of renewal fee by agreement or through the intervention of courts at the time of renewals (clauses 11 to 15 of the Bill);

(3) arrears of rent and renewal fee were declared to be the first charge on the land subject to the claim of Government for arrears of revenue (clause 18); and

(4) provision was made for surrender of the holding by a kanam tenant at the end of the period, but this was to be on loss of the kanam amount and compensation for improvements (clause 5). From the definition of kanam tenant in the Bill it was clear that occupancy right was intended to be conferred only on kanam and kuzhikanam tenants and others holding under similar conditions. The Bill totally excluded the verumpattandar or the simple tenant from year to year, holding under the janmi or the kanamdar, from the benefit of the occupancy right. In fact, the Bill did not afford any manner of protection to such tenants. The provisions for variation of rent, for fixing renewal fee and for entitling the landlord to evict in certain cases, no doubt, afforded some measure of protection to the landlord, but the unqualified transfer of occupancy right to kanam tenants undoubtedly operated to his prejudice. The Bill did not contemplate giving anything by way of compensation to the janmis in lieu of the occupancy right to be conferred on the kanam tenants. The charge for rent and renewal fee mentioned above could not be considered to be a sufficient *quid pro quo* to the janmi for the loss of the substantial right of occupancy. The provision for surrender at the end of the lease period did not give any material advantage to the kanam tenant, as the surrender could be effected only on loss of the amount due to him as kanartham and compensation. The Bill merely protected a certain class of kanam tenants and none else, apparently on the lines of the legislation in the Indian States of Travancore and Cochin. This Bill was, however, not introduced in the Council.

51. In December 1922, Mr. Krishnan Nayar gave notice of his intention to introduce a revised Bill which conferred occupancy rights on the kanamdar as well as on the cultivating tenant. The motion was allowed to lapse. He, however, again gave fresh notice of a motion for leave to introduce the same Bill in 1924 and obtained leave to do so.

52. This Bill differed from his previous Bill in the following particulars:—

(1) 'Tenant' included a lessee or sub-lessee in possession, and 'landlord' meant a person under whom immediately a tenant or a kanam tenant held [clause 2, sub-clauses (a) and (b)].

(2) The Bill conferred occupancy right on *all* kanam tenants irrespective of the period of their possession and, in addition, on all actual cultivators of the soil, whether they be simple tenants or otherwise under a janmi or a kanamdar (including

lessee, sub-lessee, etc.) who had been in possession for six years or more (clauses 5 and 19). Landlords' rights in forest lands were saved (clause 3) and occupancy rights were denied in respect of buildings, shops, etc. (clauses 16 and 31).

(3) The Bill prohibited the grant of melcharths altogether in any form (clause 15). It gave to the tenants all that they could desire to have and to that extent it made extensive inroads into the existing rights of janmis. It, no doubt, contained provisions for eviction in cases of denial of title, etc., for varying the rent and michavaram, for fixing the renewal fee, for declaring the arrears of rent and renewal fee to be a first charge on the holding, etc., similar to those contained in the first Bill. But as already remarked with reference to similar provisions in Mr. Krishnan Nayar's previous Bill, these provisions did not materially add to the rights of the janmis or advance their interests. Nor did this Bill contemplate the payment of any compensation for the occupancy right created by it. Provision was made in this Bill also for surrender of kanams, etc. at the end of the lease period, but the kanamdar or other tenant had to forfeit the kanam amount and the compensation for improvements as in the previous Bill (clauses 6 and 20) and the provision was consequently of little practical utility to him.

53. The following statement shows that Mr. Krishnan Nayar's second Bill went farther in regard to the grant of occupancy rights than any other measure proposed before:—

Proposal or legislation.	Class of holdings proposed to be invested with occupancy rights.	
	Kanams.	Verumpattams.
Mr. Logan's scheme, 1882.	No.	Actual cultivators of small holdings—25 acres of wet or dry and 5 acres of garden land, non-capitalists.
Raja Sir T. Madhava Rao's Commission, 1883.	30 years old kanams.	(i) any tenant who has held for 30 years; (ii) any tenant who has reclaimed land and held it for 15 years.
Sir Charles Turner, 1883-4.	No.	Actual cultivator for a holding of certain size.
Hon'ble Mr. Master's Committee, 1885.	60 years old kanams.	Tenants who have held for 60 years (proposal made and lost by vote of the President).
Mr. Innes, 1915 ..	40 years old kanams.	Actual ryots of 15 years standing.
Cochin State Regulation, 1914.	30 years old kanams.	No.
Travancore State Proclamation, 1867.	(i) Kanams under Nam-budiri Brahman janmis, (ii) 25 years old kanams under others.	No.
Diwan Bahadur M. Krishnan Nayar's Bill, 1922.	25 years old kanams ..	No.
Diwan Bahadur M. Krishnan Nayar's Second Bill, 1923-4.	All kanams ..	.. 6 years old verumpattams under janmis, kanamdars, etc.

No previous proposals for the grant of occupancy rights were made applicable to all kanams. Only long-standing kanam holdings were included in their scope. The Cochin and Travancore Regulations apply (except in one special class of cases) to kanams dating from before 1884 and 1841, respectively, and Mr. Krishnan Nayar's first Bill applied to those dating from before 1897.

54. The Bill was altered considerably by the Select Committee and was finally passed by the Legislative Council on 2nd September 1926. Assent of His Excellency the Governor under section 81 (1) of the Government of India Act, was, however, withheld. To explain the reasons for such a refusal the following Press Communiqué was issued:—

"With reference to the Malabar Tenancy Bill recently passed by the Legislative Council, His Excellency the Governor has declared that he withholds his assent and this decision will in due course be communicated to the Legislative Council. In the meantime His Excellency the Governor considers it desirable to indicate briefly the main considerations by which he has been guided in discharging the responsibilities placed upon him by section 81 (1) of the Government of India Act. The Bill

as passed by the Legislative Council contains inconsistencies, ambiguities and other grave defects of form which would seriously increase litigation and indeed render the Bill unworkable in practice if it became an Act. Moreover, the Bill proposes, in respect of members of one section of the community, to take away or seriously diminish the value of rights over property in which they have been confirmed by legal decisions extending over a period of three quarters of a century and it proposes to do this without any adequate compensation. The Bill would thus not only interfere with private rights to an extent for which in His Excellency the Governor's judgment no clear justification has been shown but would do so in a manner repugnant to equity and to the principles generally observed in cases where such rights have necessarily to be subordinated to the public welfare. Furthermore, the Bill does not in His Excellency the Governor's opinion afford a clearly defined or satisfactory remedy for those defects and disabilities recognized by his Government as constituting a problem the solution of which in regard to the Malabar district they had hoped to find by suitable amendment of this Bill. But it must be remembered with regard to that problem that in some of its aspects at least it is not restricted to one district in the Presidency nor can legislation safely proceed on the assumption that it is thus circumscribed. It is His Excellency the Governor's intention therefore to ask his Government to re-examine the whole question and to take such steps as in their opinion are most likely to result in further legislative proposals being framed with due regard to the important considerations which His Excellency the Governor has endeavoured to indicate."

55. It is essentially for the re-examination of the whole question promised in the last paragraph of the Press Communiqué that the present Committee has been constituted.

CHAPTER IV

A GENERAL SURVEY OF THE PROBLEM AND THE MAIN ARGUMENTS *pro* AND *con*

56. In the course of the examination it had to make, as directed in the order constituting it and in the Press Communiqué referred to in the concluding portion of the foregoing Chapter, the Committee has had to take a general survey of the problem of land tenure in Malabar and to consider the nature of the arguments and contentions which the advocates of the tenants' cause and the exponents of the janmis' views had put forward in the past and have urged before it. It would seem desirable to set down in some detail those arguments and contentions, before the Committee proceeds to adumbrate its own proposals. In this Chapter, an attempt is made to present, as far as possible in the language of those advocates and exponents, what they have stated. The Committee has not thought it necessary at this stage to express any opinion as to how far it agrees with either side. That, the Committee has reserved for the succeeding Chapters of this report.

I.—Historical argument.

57. Among the main arguments in support of the proposal to give tenants fixity of tenure there is one which may be called the historical argument. It may be stated as follows adapting the language of Mr. Krishnan Nayar :—

"Mr. Logan who was the Collector of Malabar for a long time, traced the history of the land tenures in Malabar by the light of authentic documents and other papers collected from various sources. Some of these ancient documents were as old as the 8th and the 9th centuries A.D. The conclusions to which he came after an examination of these deeds and papers were that, prior to British rule, there were three classes connected with the land, namely, the janmi, the kanakkar and the actual cultivator, that the janmi did not own the land but held only an office or sathanam, that the kanakkars were the Nayers or the hereditary 'protectors' of the nad or country, and that according to the customary law which prevailed at the time, the produce of the land was divided equally among these three classes, each taking one-third share. Thus the proprietary right to the land which the janmis now own did not then exist. The janmis in those days had no higher claim to the land than the kanakkars or the actual cultivators. The documents that were collected by Mr. Logan, were also examined by Sir William Robinson who too was in Malabar for a long time. In the note that Sir William Robinson recorded after this examination, he differed in some respects from Mr. Logan and even strongly criticized him. But with reference to the nature of the kanam right, his views are clear and emphatic. Sir William Robinson asserts and repeats the assertion in several parts of his note that the kanakkar was an ordinary landholder and that kanam like kaniachi, mirasi or muli of other districts denoted ownership, the ancient ryotwari proprietorship in land, of South India. Kanam right, according to him, was an ancient, immemorial, indefeasible and complete hereditary right of property which was recognized and affirmed alike by the common law of the land and popular consensus of ages, had stood severe tests and had been defended no less earnestly than the best titles to land in England. The kanakkars, in his opinion were a body of influential and peaceful inhabitants, the proprietors and landholders of the country, persons interested in having the common law of the land, the agrarian law of property, the *Kana-janma Maryadu* maintained and enforced. They often exercised great strength and independence. A mere fugitive right of possession with menace of forfeiture and eviction at will was never a characteristic of the tenure known as kanam. The kanakkars did not belong to the category of 'Intermediaries' and 'Speculators' to which it has now become the fashion in some quarters to relegate them. They were neither mortgagees nor tenants who tolerated change or ouster. The conclusions of Sir William Robinson regarding the ancient land tenures of Malabar are corroborated by the statements of Sir Thomas Munro, Mr. Ellis and other earlier authorities as to the ryotwari character of all landed property throughout the West Coast, and more especially in Malabar. The period for kanam renewal

which was the period of average succession before, was reduced to a hard and fast period of twelve years. At each renewal, the janmi got some special payments and presents which were very welcome to him. It was thus to the interest of the janmi to grant a renewal and it was never refused. The practice was one of repeated renewal of the deed. The janmi neither claimed nor exercised the right to evict a kanam tenant on the expiry of any definite period. The expectation of the tenant, which was sanctioned by long usage, to be continued in possession was so strong that he built his plan of life thereon. The practice that still exists in old and honourable janmi families of allowing their kanam tenants to continue, also supports this view. In 1852 the Sudder Court, instead of declaring that kanam was a tenure renewable at the end of every twelve years, wrongly declared that it was terminable. This was a mistake and it caused an enormous change. The rigidity of British Courts began to operate after this ruling. The courts, following this decision, commenced to define rights and obligations sharply and to give effect to them strictly. A continued process of sharply defining rights and obligations, of repeated recognition of the ascertained or defined rights and obligations and of constant enforcement of them, with all the power of the State, has necessarily deprived the tenants of their former rights. But for the ruling of the Sudder Court, the janmis would have gone on renewing the kanam deed as had been their practice before. In the forcible language of Sir T. Madhava Rao, the Sudder Court's ruling

'Shook the foundations of kanam properties which had been held from generation to generation, which had been greatly improved, which had been built upon and on which thousands of poor and industrious families had formed their plans of life. The earth, which had for ages been deemed firm, was subjected to a periodical earthquake! the period being twelve years.'

"The following circumstances show that it was not the practice formerly to evict kanam tenants. Ancient families in Malabar have often built their tarward or family houses on kanam lands and given the names of these lands to the tarwards themselves. The family deities are also located and worshipped in these houses. It is not always possible to remove these family deities. A tarward would be represented by its name in all legal and other transactions. A tarward cannot shift its residence in a day. If these families ever expected to be turned out of their houses within a few years after they were built, surely, they would not have given the names of the kanam lands to their tarwards. Again, old kanam deeds specified no time for redemption and contained no provision for surrender. As regards the fashion in some quarters to speak of kanam as a mortgage and of kanamdars as mortgagees, investors of money or middlemen, most of the kanamdars are now as a matter of fact actual cultivators and are not middlemen in any sense of the term. Even the few kanamdars who are not themselves cultivating the land, are no more middlemen than the janmis themselves who, standing in the middle between the Government and the kanamdars, get the land revenue from the kanamdar and pay it to the Government. In one sense, all the officers of Government are middlemen, for they stand between the people and Government. Kanam is not a mortgage in the sense in which this term is used and understood by English text book writers and courts of law. A janmi who grants a kanam demise is not regarded as a debtor of the kanam tenant by any body nor is the kanam tenant regarded as a creditor of the janmi. A janmi would consider it a disgrace to mortgage his land and if he does so, he immediately loses his credit and falls in the estimation of other janmis and the people in general. No janmi would think of mortgaging his land, unless compelled to do so by necessity. On the other hand, it is considered a great honour for a janmi to have a large number of kanam tenants. The larger the number of kanam tenants a janmi has, the greater is his status and prestige. In a large majority of cases, kanam amounts are small, ranging, say, between rupees ten and one hundred or so. In many of such cases, janmis are persons owning extensive properties in several taluks and paying many thousands and, in a few cases, even lakhs of rupees as land assessment to Government. The old verumpattakaran or simple lessee also had occupancy right in his holding. Reference has already been made to the investigation of Mr. Logan, which led him to the conclusion that the actual cultivator had a right to one-third share of the produce of the land. Sir William Robinson was of opinion that verumpattakaran

was a hereditary occupant. Sir T. Madhava Rao's Committee was also of opinion that, so far as the security of tenure was concerned, there was not much difference between the old verumpattakaran and the kanamdar. Even Sir Charles Turner who was probably the strongest advocate of the janmi stated:

'I have no doubt that there existed many garden cultivators who were allowed to remain for years in possession of the gardens which they or their fathers had created and that similarly the kanakkars who cultivated land themselves or with their slaves, occupied for generations the same piece of land or at least remained in dependence on the same janmis. Although then a right of occupancy was generally unknown to the law of Malabar it practically to some extent existed, and we should be doing no violence to the popular sentiment if in the case of the actual cultivator we accorded to it a legal recognition'.

"Sir Sankaran Nayar also stated that in the case of old verumpattakars the janmi had no power of eviction. In many cases, the right of a verumpattam tenant to hold for twelve years even now, is distinctly recognized by the courts. The verumpattam leases under the kovilagams or Rajas are of this class. In some cases, courts have gone so far as to hold that a verumpattam tenant is entitled to hold for ever even at present."

58. On behalf of the janmis it is asserted that the absolute rights of the janmi have been uniformly recognized by all authorities, ancient and modern. The following are the main arguments: "Jacob Canter-visseher, a Dutch traveller, who visited Kerala in 1743 refers to the absolute right of janmis in the land and to kanams being redeemable. That was fifty years before the district came into the hands of the British Government.

"In Major Walker's Report of 1801 it is stated:

The janmakaran possesses the entire right to the soil and no earthly authority can with justice deprive him of it. But his right is confined to the property, and he possesses neither judicial nor political authority' and he proceeds to say that 'this much is certain that in no country in the world is the nature of the species of property better understood than in Malabar, nor its rights more tenaciously maintained. It is probable that the possession of janmam land was originally unalienable and confined to one or two castes. At present, however, any person possessed of money may become a purchaser of janmam.' The Fifth Report of 1803 treats janmam as 'resembling the freehold tenure under other feudal systems; and kanam as usufructuary property acquired by mortgage which may be compared to copyhold.

'Thackeray in 1807 speaks of the general rights of the janmis 'who consider them just as valid and sacred as the country gentleman in England. The janmam right conveys full absolute property in the land, and is not liable to become extinct by laches or desertion. The janmakar or proprietor can dispose of his land as he pleases; by executing deeds of transfer, he transfers it to an individual; by treason, he forfeits to the sovereign. If he dies intestate without heirs, it escheats to the State.' That the authorities in England and the Board of Revenue were acting upon this view could be seen from the Minute of the Board of Revenue, dated 5th January 1818. That Minute states 'in the province of Malabar the exclusive right of the ryot to the hereditary possession and usufruct of the soil is known by the term janmam or birthright and originally belonged exclusively to the natives of that province. The janmakars were the independent owners of the land. They held by right of birth, not of the prince, but in common with him and therefore may be considered as having possessed a property in the soil more absolute than even that of the landlord in Europe.'

"In Chapter II of his Minute on the draft Tenancy Bill in 1885, Sir Charles Turner, the Chief Justice of the High Court, said: 'it appears to me impossible to resist the conclusion that whatever the origin of the title, the janmis were, and for centuries before British rule had been, the owners of the soil in full proprietary right.' The British Government expressly disclaimed at the time of annexation of Malabar any desire to act as proprietors, though, it must be confessed, endeavours are being made, of late, to encroach upon their rights. (See Secretary of State v. Veerarayan, 9 Mad., 195, and Secretary of State v. Ashtamurthy, 13 Mad., 89.)

"The Sudder Adalat Court in its Proceedings in 1854 laid down for guidance of the subordinate courts that the janmi's right of absolute ownership was paramount and since then all judicial authorities have recognized it.

"In a recent case in the High Court the question of Government ownership in river-beds and porambokes came up for decision and it was held 'that the right claimed by the Crown was opposed to what had been laid down in decided cases regarding janmi's rights in Malabar and that it had been recognized that Malabar janmis were undoubtedly proprietors of the soil and that Malabar was a land of private proprietors.' (12 Law Weekly, page 371.)

"Kanam is described in the Sudder Court Proceedings as mortgage with possession, the mortgagee recovers interest on the money he has advanced from the produce of the land and the balance is paid over to the janmi as net rent or *michavaram*. In most cases provision is made also for the Government assessment and the *michavaram* is only nominal. The amount advanced as kanam is a security for rent and that is why the kanam partakes of the nature of both a lease and a mortgage. The peculiarity of the kanam is that it is never foreclosed and is redeemable after the lapse of twelve years on payment of the amount advanced and the value of improvements, if any. The gross rent fixed for the land, the interest allowed for the kanam amount and the provision for land revenue are all such as to allow the kanamdar a very large profit in the holding. Originally all the kanams were given to one's own dependants by way of advancement. As time went on their relations changed, and money-lenders took advantage of the existence of such an institution and adapted it to suit their own purposes. Whatever may be the origin of this form of tenure, kanam to-day in its operation discloses an unfair advantage reserved for the kanamdar to the prejudice of the janmi. The only chance for the janmi to come into his own is by the exercise of his right to redeem.

"The Dutch Traveller Jacob Cantervisscher said in 1743:—'Kanam is a mode of loan which is very common and can only be explained by example. Thus, supposing a man has a garden worth 10,000 panams; he demises it for 8,000 or 9,000 panams retaining for the remainder of the value the right to the proprietorship of the estate. For these 1,000 panams or 2,000 panams the purchaser must pay an interest. If the seller wishes at the end of some years to buy back his estate he must restore the 8,000 or 9,000 panams and pay in addition the sum of money that shall have been fixed by men commissioned to value the improvements made upon the property in the interim by fresh plantations of cocoa palms or other fruit trees.' (Major Druray's translation, page 72.) It is significant that even so early as the eighteenth century the janmi claimed for himself the fullest possible benefit of his land and was generous to allow the tenant the value of the improvements effected by him.

"In the very next year after the British came into possession of the district (28th October 1793) there was a proclamation in which we find 'If the kanakkars do not consent to pay this (i.e., the rent) they (the janmis) may then sue in the Adalat Cutcherry and obtain possession of their realms, when the time they leased them for expires, or, taking from the kanakkars the pattam agreed for and settle with the Sirkar for the Nikuthi.'

"Dr. Buchanan in 1800 said: 'When a man agreed to advance money on a mortgage, the proprietor and he determined upon what was to be considered as the net produce (*viru pattam*) of the land to be mortgaged. The person who advanced the money and who is called kanamkar took upon himself the management of the estate and gave a sum of money the interest of which was deducted from the net produce; the balance, if any remained, was paid to the proprietor. The proprietor always reserved a right of reassuming the estate whenever he pleased by paying up the sum originally advanced and no allowance was made for improvements.'

"Reporting on the condition of Palghat and other divisions of the district of Malabar on 19th March 1801 Mr. Warden said: 'The common tenure upon which the ryot holds the ground of the janmakar is upon what is called kanam; this is a species of tenure greatly resembling a mortgage, but the land is always redeemable upon the janmakar repaying the money which he originally received from the kanamkar. This redemption has been seldom known to occur, unless it is when

another person offers to the janmakar a larger sum for the ground in pledge than what the ryot in possession gave for it.'

"In the general report of the Board of Revenue dated 13th January 1803, the kanam is treated as a tenure by mortgage and it was declared that 'at the expiration of the lease the janmakar has the right of resumption on paying the renter for buildings and wells according to appraisement and for the plantation at fixed rates.'

"Mr. Warden, Collector of Malabar, reporting to the Board of Revenue on 12th September 1815 said: 'As regards the renewals of kanams it was a prerogative (and is still claimed) inherent in the janmam right that the kanakkar should renew his kanam deed after the lapse of a certain number of years. The renewal entitled the janmakar to a remission of a fixed percentage on his original debt. By such periodical renewals and concomitant deductions the land in process of time became disencumbered of its kanam and the lease naturally fell in, unless the heirs in succession may have been satisfied (that has become the custom now with levying a fee in money instead of granting a renewed lease with a reduced kanam). It seemed to be sufficiently well understood as the established custom of the country and formed the great prerogative of janmakar which gave to him and heirs a never ceasing interest in the janmam.'

"The Board of Revenue in its Minute, dated 8th January 1818, wrote thus of kanam: 'This peculiar kind of perpetually redeemable mortgage, though not unknown in Tamil country, is still prevalent chiefly in the Western Coast; but in Malabar it possesses the peculiarity already noticed, which elsewhere is not attached to it, namely, an inherent principle of self-redemption. It was formerly considered and is still claimed and partially exercised as the prerogative of the Malabar janmakar, that all kanam or mortgage deeds shall be renewed after the lapse of a certain number of years'. It is from Greame's report on the district of Malabar published in Mr. Wigram's Commentary of Malabar Law and Customs (pages 106-108) that we find how renewal fees were levied. 'The Polichelettu (renewal fee) payable under this deed seems intended as an equivalent for the tenant's profit named *chirlabham* which he has derived from the land. On the demise of the tenant, it is a fine of entry to his successor; the amount of it and the frequency of its renewal seem to depend upon the quality of the soil and the *chirlabham* which has been enjoyed by the tenant. The latter is generally ascertained by the competition of neighbours who offer better terms to the proprietor.'

"This is exactly what is happening to-day with this exception, namely, that the renewal which was standardized after the promulgation of the proceedings of the Court of Sudder Adalat in February 1854 takes place only once in twelve years. It is obvious therefore that the custom before and after the British advent was that kanams endured only for a certain fixed time, after which they were either redeemed or renewed on receipt of a fee or premium.

"Moreover, Malabar was not unaccustomed to the system of giving occupancy rights to tenants. Even in pre-British times, big families used to give lands on a permanent basis. There are thousands of instances of *saswatham*, *adima*, *anubhavam*, *karayma* and such other demises all of which are of a permanent character. If such leases alone were permanent in character, it naturally leads us to the conclusion that the ordinary kanams were not so, and there is nothing in the argument that the ouster was introduced by the British Law Courts. From the earliest times all District Munsifs and Sub-Judges were recruited from the tenant class in Malabar and though there have been many distinguished judges among them no one seems to have hesitated to administer the law as promulgated in 1854. If the custom of the land was otherwise, they would have protested and got the law amended."

II.—Monopoly in land.

59. Another of the contentions of the tenants relates to monopoly in land. The argument runs as follows:—"Almost all the lands in the district, whether forest or waste, agricultural or residential, are claimed by the janmis as their absolute property; even the smallest parcels of land for cultivation or for putting up houses have therefore to be obtained from the janmis and held under them on terms

of their own; the janmis form only a small proportion of the total population of the district; small in number and homogeneous in respect of ideas and traditions, they are, as a class, close monopolists of land; the natural and economic processes that tend to disintegrate or relax a land monopoly and to bring about a distribution or diffusion of landed property among the people in general are inoperative in the district of Malabar; sale of land is one of the natural and economic processes which make it available to others, but the janmis are rich and have no need to sell their lands; they have, besides, a strong traditional aversion to sell land and it is with them a point of honour not to sell land, not even a waste or a jungle land." It is further said that partition of landed property among the members of a family which is another process by which lands are distributed or diffused among the people is also inoperative in Malabar owing to the existence of the law of impartibility, that the marumakkattayam system of law, which governs the Rajas and the Nayar janmis, recognizes no individual share in family properties, and impartibility is an integral and essential part of the system, and that though the marumakkattayam system does not govern the Nambudiri janmis, the law of impartibility is equally applicable to them.

60. It is however said on the other side that according to the latest administration report there were 220,680 janmi pattadars in the district, while their number in 1818 was only 44,378 and that in respect of the number of patta-holders, Malabar ranks as high as the tenth in the Presidency and does not compare unfavourably with other districts in that respect, that in 1923 there were in the district of Malabar 191,590 registrations, affecting immovable property including gifts, sales and mortgages in the three registration divisions together, which is more than double the 99,014 transactions relating to land in Tinnevely, the district in the Presidency of Madras which comes next in order, Coimbatore having only 76,843 transactions and Tanjore only 70,169; that the aggregate value of land dealt with in that year was Rs. 429 lakhs in Malabar, Rs. 430 lakhs in Tinnevely and Rs. 504 lakhs in Coimbatore, Malabar thus ranking as the third in the Presidency; that the following table shows that janm and other rights are freely sold, that as most of these are voluntary transactions, these figures prove beyond doubt that the Malabar tenant does not cling to his holding, as is alleged, with a fondness and tenacity perhaps unknown in other parts of the Presidency. Further it is urged that though land is centred in a comparatively few hands in South Malabar, such is not the case in North Malabar. There, land is distributed more or less evenly; small janmis and peasant proprietors are numerous; and ownership of land is widely diffused. The existence of large landholders is not special to Malabar. Large landholders exist also in other districts such as Tanjore and Trichinopoly and by itself the existence of a few large landholders is not an unmixed evil and is no justification for a universal scheme of occupancy tenancy which is what the tenants' advocates want:—

Year.	Number of sale-deeds executed dealing with		
	Janm right.	Kanam right.	Verumpattam right.
1916	4,832	9,064	9,150
1917	4,944	9,385	8,853
1918	4,698	9,738	8,791
1919	5,626	10,795	10,129
1920	5,527	11,876	9,609
1921	4,487	10,174	8,703
1922	5,009	10,120	9,080
1923	6,940	12,154	9,163
1924	6,322	12,239	10,144
1925	6,987	13,213	10,615
1926	7,021	13,128	10,511

This statement does not include the figures for the years 1916 to 1921 for the Sub-Registrars' offices at Arikode, Kalpakancheri, Kondotti, Tirur, Tiruranadi, and Vandur as the records of these offices were destroyed during the Mappilla rebellion.

III.—Janmis not cultivators.

61. A further contention on behalf of the tenants is that the janmis themselves are not cultivators. It is said "they get their lands cultivated by others who are either kanam demisees or verumpattam holders (simple lessees). Nor are the janmis capitalists benefiting the land. They simply collect rent which they spend in their own ways which seldom benefit the land or the cultivator. While the janmi monopolists of land are only a few in number, a large portion of the population of the district consists of agriculturists who depend entirely on land for their subsistence and who include the hardy, industrious, thrifty and, sometimes, fanatical Mappillas. These agriculturists who are tied down to Malabar by residence therein from time immemorial do not generally emigrate to and find employment in foreign countries. They are also unable to engage themselves in other occupations, for in common with the rest of the Presidency, there are no industries except agriculture that provide employment for large sections of the population in Malabar. But, unlike in other districts, it is practically impossible for the cultivating classes to obtain land with any security against arbitrary eviction or against arbitrary increase of rent which ultimately leads to eviction."

62. The landlords' reply is as follows:—"The impression that the janmis are rolling in wealth is wrong. Of course, as in every other district, there are a handful of big land-holders in Malabar. But the vast majority of them are poor and are janmis only in name. Looking at the electoral roll it will be found that there are only 223 voters for the landholders' constituency in the district. Not more than 8 per cent of the janmis can be said to be rich and above want; 20 per cent alone may be said to be able to keep the wolf from the door. The rest are practically poor. Their women are working in the fields and breaking metal on the roadside. Their properties are all given on kanams and though there is still considerable scope for increasing their resources by redeeming the kanams, the karnavan does not care and the law of the land does not compel him to do it. Further if a janmi who was at one time well-to-do and who had demised his lands on favourable terms of kanam to a tenant, is now in reduced circumstances and by necessity is compelled to cultivate the land himself or to convert the kanam into verumpattam in order to utilize the full income from the land for the maintenance of his family, what justification is there for saying that he should not do so? There is many a poor janmi who is even now actually cultivating his own land; for, statistics show that nearly a sixth of the entire cultivated area of the district is directly cultivated by the janmis and under economic pressure there is every likelihood of their resorting to cultivation more and more. As for the kanamdars it is not every kanamdar that cultivates. A good deal of kanam land is leased to and is cultivated by verumpattam tenants. The instance of the kanam 'tenant' who had never seen a holding of his lying within six miles from his home is not an isolated case. On an examination by Mr. Thorne of 1,678 kanam holdings, it was found that in only 47 per cent was the land cultivated by the kanamdar himself. The percentage of acres of paddy land cultivated by the Zamorin's demisees themselves was 30. Nearly 70 per cent of the extent was sub-let. In the Zamorin's lands in the Palghat taluk—paddy lands in respect of which complaints of eviction are most frequent—more than 60 per cent of the estate's demisees do not cultivate the lands themselves. The picture of the janmi as a parasite and of the tenant as an actual cultivator improving the land is a myth. In most cases, the janmi at least lives on his own land surrounded by his tenants; while the kanam tenant is often a professional lawyer or a Government official living in a distant station. No economic argument can justify legislation in favour of such a class."

IV.—Social influence.

63. The tenants complain that in consequence of their extraordinary power, the janmis, particularly Nambudiri Brahman janmis, are able to wield enormous social

influence over the tenants, especially the Hindu tenants. This power they say is generally exercised to oppress the tenants. "The Nambudiri janmis usually employ their religious sanctity also as a weapon to subdue their tenants and exact gifts and presents from them. Mr. Logan says that, while he was doing duty as Special Commissioner, the Hindu tenants waylaid him when he was riding, walking or driving, and gave him long tales of oppressions and wrongs, but comparatively very few of them accepted his invitation to go to his office and put the various facts on record. They had before their eyes the fear of caste censure, fines and excommunication, and were slow to avail themselves of their opportunities. The tenants who incur the displeasure of their Nambudiri janmis are subjected to what is called *desa virodham*, i.e., the enmity of all residents of the *desam* or hamlet and *swajana virodham*, i.e., the enmity of their own caste people. This excommunication entails many serious, unjust and unpleasant consequences. The excommunicated are not able to get the services of barbers, and their women are deprived of the help required for purification after confinement. Their presence in the temples is prohibited and they are not allowed to touch the water of bathing tanks. They are prevented from taking water from drinking wells, and others are prohibited from giving it to them. People dare not help them in their domestic ceremonies. All who do them service or give them aid or are even seen speaking to them are either themselves excommunicated or fined. The smallest show of independence is resented as a personal affront. It is only those that are subjected to this kind of treatment that can fully realize its evils. Life in these circumstances becomes a burden. In parts of the district, tenants have even now to get permission from their Nambudiri janmis for erecting gate-houses, for tiling buildings, and for white-washing houses."

64. It is pointed out on the other side that the evil is one that no tenancy legislation can cure. "There is no intrinsic connection between the Nambudiri's social position and his ownership of land. His social position is the outcome of the rigid caste system of Malabar. The janmi—especially the high caste one—still clings to the old ideas of his class and the ancient customs. There is no social barrier in Malabar between the Brahman or Samanthal janmi and the Nayar tenant. For example, the younger members of the janmi's family, prohibited from marrying in their own caste, contract alliances with the families of influential Nayar tenants. In the early times, this was looked upon by the tenants' families as conferring a distinction on them. Now, ideas have changed. The members of these families who have received English education and imbibed new ideas, resent this notion of social superiority. And the fact that among the classes that have not come into contact with such ideals, the janmi's social position is still unassailable only serves to increase the resentment felt by the educated Nayars. The readjustment of ideals required to solve this question will take time; there are signs of it already. The solution of the question proposed by the advocates of the tenants is to bring down the janmi socially by taking away his property rights. The ethics of the proposal is questionable. The Nayar or high caste Hindu is no less intolerant where the Tiyya and the Cheruma are concerned, and if you endow all kanams with occupancy rights, you will be perpetuating the social degradation of these latter classes."

V.—Evictions.

65. It is further contended for the tenants: "The hope that was entertained at the time of passing the Improvements Acts of 1887 and 1900, that they would impose a check on the arbitrary exercise of the power of eviction, has not been realized. On the other hand, the number of eviction suits is steadily on the increase. A very large percentage of the suits instituted in the Civil Courts of Malabar consists of eviction suits. The abnormally large number of Munsifs' courts that exist in Malabar would not be necessary but for these eviction suits. Almost any ground is made a pretext for instituting eviction suits. Refusal to contribute to the expenses of weddings and other ceremonies in the janmi's family, the smallness of the nazzar presented for asking permission to celebrate a wedding and even building a

comfortable house are causes for eviction. At the time of renewal, kanam tenants are compelled to insert in the renewal deeds a provision to the effect that they will surrender their holdings on demand by the janmis. The object of this provision is to get rid of the period of twelve years, which forms an incident of the kanam tenure. If the kanam tenants own any janm property, they are required to include it in the kanam document and thus give up their janm right. They are also asked to convert their kanam holdings to *karipanyams*, or ordinary mortgages with possession, so that they may, without regard to any term, be redeemed at any time. If the holdings contain, in addition to paddy lands, dwelling houses or other buildings or groves or plantations of trees, the tenants are asked to separate the paddy lands from the other properties and execute separate documents for them, so that the paddy lands, for which there is always a demand, may be recovered easily without compensation having to be paid for buildings and trees. These are all modern devices adopted by the janmis to draw the rope tightly round the necks of tenants. On refusal to comply with any of these demands, eviction follows as a matter of course. At the time of renewal, the amounts demanded as renewal fee are, in many cases, outrageous. To pay these amounts, the tenants have to borrow money at exorbitant rates of interest by mortgaging their holdings and other properties if they have any. Very often they are not able to repay these debts by the time the next renewal comes round, for which they have to borrow again. The result is that the load of debt gradually becomes heavier and heavier till at length they sink under its intolerable weight. Even after payment of renewal fees, tenants are often not able to get renewal documents executed. To get the documents they have to bribe the hungry and unscrupulous *karyasthan*s or agents of janmis who generally have considerable influence over their masters. The tenants do not always get receipts for payment of renewal fees or *michavaram* or rent. To ask for receipt is to incur the ire of the janmi or, what is more serious, the ire of his *karyasthan*. The consequences of not getting receipts are serious. When suits for eviction are instituted, tenants, for want of receipts, are not able to prove payment of rent. Alleged arrears of rent are therefore set off against the value of improvements and thus they lose even the value of improvements which they would otherwise get."

66. The landlord's reply is this: "The Improvements Acts of 1887 and 1900 have not only restricted evictions but have also tended to expropriate many a janmi. There have been several instances of holdings in which the tenant has put up big dwelling houses and other improvements which it would not be worth while for the janmi to pay for, to resume his land. The Tenants' Improvements Act is more than sufficient to meet the legitimate demands of the tenants. Inasmuch as the Act awards compensation not on the basis of the amount expended by the tenant on the improvement, but on its present and prospective value, it is certainly a sufficient incentive to the tenant to effect improvements of all kinds. In fact, it pays the tenant to be evicted. There are cases in which the compensation fixed was so heavy that the janmi could not evict the tenants but had to come to terms with the existing tenants after obtaining decrees against them. In many of these cases, the janmis were rich and influential men, and even they found it impossible to carry out the eviction. There are instances where the compensation fixed is so heavy that for three years the janmis have been unable to deposit the amount. To evict a tenant costs so much that the janmi cannot effect a fresh demise on remunerative terms. In some cases the return to the janmi on the amount he had to pay as compensation has been only $5\frac{1}{2}$, $3\frac{1}{2}$ or $3\frac{1}{3}$ per cent, while in others after spending Rs. 3,000 and Rs. 2,500, respectively, the janmi got a return of Re. 1 and Rs. 15 a year. It is no doubt true, that in regard to wet lands, eviction under the Act is not difficult. This is because the tenant does not make any improvement worth the name in these lands. But in many cases these 'tenants' are only middlemen; and 'eviction' only means that the sub-tenant continues on the holding under the janmi. Economically, there is nothing in this to object to. It must be admitted for all these reasons that, as a result of this Act, the tenant who really effects improvements on garden lands, gets full and adequate compensation for them if he is evicted and that in many such cases eviction is impossible owing to the heavy compensation that will have to be paid. The figures got from some big and middle class janmis of Malabar regarding

the number of kanams under them and the number of eviction suits filed by them during the three years, 1920, 1921 and 1922 are as follows:—

Name of janmi.	Total kanam holding.	Eviction suit.		
		1920.	1921.	1922.
1. Desamangalam	1,203	..	1	1
2. Vamanjeri	380	..	..	1
3. Olappamanna	943	1	1	..
4. Varikemanjeri	1,496	..	..	..
5. Molapilapalli	426	..	1	1
6. Kizhakekovilagam	4,804	26	10	6
7. Kavalappara	1,831	8	..	2
8. Kannambra	150	..	..	..
9. Kuthiravattam	2,290	5	6	5
Total ..	13,522	35	19	16

"It will be seen that for a total of 13,522 kanam holdings there were 35 suits for eviction in the year 1920, 19 in 1921, and 16 in 1922, which when worked out shows that the percentage of eviction suits to kanam holdings in 1920 was 26, in 1921, 14, and in 1922, 12. During the three years together there were 52 evictions only for every hundred holdings.

67. "Then again, the number of janmi pattadars in the district is roughly 222,700. The bigger janmis among these have thousands of tenants under them. The total number of tenants' holdings is therefore necessarily much larger than two and odd lakhs."

The statistics relating to eviction suits brought by janmis, melcharthdars and others collected for a series of years are tabulated below:—

Statement showing particulars of eviction suits filed and disposed of in the several courts in the district of Malabar.

Year.	Number of eviction suits disposed of										Number of decrees actually executed.																
	Ex-parte.			Withdrawn or compromised.			Decided for plaintiff.								Decided for defendant.												
	By janmis.		By melcharthdars under	By others.	Total.	Percentage.	By janmis.	By melcharthdars	By others.	Total.	Percentage.	By janmis.	By melcharthdars	By others.	Total.	Percentage.											
	(3)	(2)	(7)														(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)
1916	2,431	711	138	4,079	227	..	431	72	181	684	..	1,639	551	573	2,763	..	243	63	103	409	..	1,186	408	457	2,061	..	
1917	2,365	623	171	3,834	289	..	456	89	95	740	..	1,456	467	460	2,412	..	210	31	83	324	..	1,155	346	343	1,884	..	
1918	2,566	612	22	3,834	360	..	390	71	115	576	..	1,446	431	334	2,211	..	203	55	104	362	..	1,141	313	261	1,705	..	
1919	3,359	872	215	5,074	324	..	557	126	148	831	..	1,914	539	493	2,946	..	321	73	91	491	..	1,406	362	368	2,128	..	
1920	3,046	1,019	274	5,143	457	..	513	117	288	838	..	2,437	713	589	3,709	..	227	94	126	447	..	1,563	369	277	1,999	..	
1921	2,637	1,058	300	4,490	422	..	493	141	182	816	..	1,497	730	397	2,624	..	204	66	83	365	..	1,121	470	349	2,235	..	
1922	3,112	963	38	4,955	524	..	488	133	163	784	..	1,766	568	479	2,803	..	190	70	82	312	..	1,46	470	349	2,480	..	
1923	3,048	1,012	185	4,995	494	..	510	105	156	771	..	1,963	753	529	3,280	..	202	53	96	350	..	1,467	564	444	2,480	..	
1924	3,137	870	371	5,044	532	..	475	100	146	721	..	1,932	507	604	3,133	..	168	89	102	359	..	1,387	399	409	2,115	..	
1925	3,339	844	329	5,223	472	..	550	180	193	873	..	2,140	571	670	3,381	..	217	63	65	335	..	1,528	414	436	2,378	..	
1926	3,174	789	350	5,111	518	..	487	77	201	765	..	1,757	454	630	2,841	..	96	49	49	194	..	978	195	314	1,437	..	
Average.	3,174	789	350	5,111	4,620	..	..	..	..	8,429	..	..	..	..	32,103	..	..	..	..	3,968	..	..	..	..	..	22,458	..
	4,763	8.9	420	766	16.2	..	..	..	..	2,913	62	..	..	..	2,913	62	..	..	..	360	7.6	..	..	..	..	2,041	4.8

Records for 1916 to 1921 in the District Munsifs' Courts of Manjeri, Tirur, Walluvanad and Parappanangadi destroyed by Marpilla rebels.

It is said that these figures show that the average number of eviction suits of all kinds filed in a year in the whole of Malabar is under 5,000 and that the number cannot be said to be large when one compares it with the two lakhs and odd of janmis and the many more holdings held under them by tenants. The table also shows that 8.9 per cent of these suits are allowed by the tenants to be decreed *ex-parte*, that 16.2 per cent of them are either compromised or withdrawn, that 62 per cent of them are decided for the plaintiff and that only 7.6 per cent of them are decided in favour of the defendant. It is contended that it is fair, therefore, to infer that, in the vast majority of eviction suits, the suit is not unjustified. It is also pointed out that in only 43 per cent of the suits are the decrees actually executed.

The argument is that these figures are not formidable relatively to the number of holdings in Malabar and that not all of them represent real cases of eviction by janmis. The suits arise from many causes. In some, the right of the janmi is contested. Some are suits by kanamdars against their sub-tenants; while a fairly large number are brought by janmis against kanamdars and other intermediate tenants and in these the intermediary alone disappears, but there is no eviction of the cultivating tenant. Even where suits are filed, the decrees are not executed in a number of cases. The janmis therefore contend that, before saying that the statistics of suits for eviction indicate a serious economic evil, each case will have to be investigated separately and that in many of them an independent inquiry on the spot would be needed to get at the real causes of eviction. An idea of the result of such an intensive inquiry is, it is pointed out, got from Mr. Thorne's report of 1914. He analysed 77 cases of evictions and melcharths in the Zamorin's estate (the late Zamorin's evictions and melcharths were frequently complained about) and found that only six were unjustifiable (page 13 of his report of 1914 and Appendix IX). The Zamorin's Estate Collector, Mr. Srinivasa Rao's classification, it is asserted, leads to the same conclusion. And attention is drawn to the results of the scrutiny into specific cases summed up by Mr. Thorne in the following sentences:—

"If I were asked to state my opinion as to the causes of eviction suits in the Zamorin's estate, I should give them as follows, in order of potency:—

- (1) Misconduct of tenants—false claims to janmam, refusal to pay rent, fraudulent transactions;
- (2) ambiguity of old documents;
- (3) constant traffic in tenancy rights, leading to default (usually intentional, sometimes unwitting) on the part of the tenants;
- (4) Zamorin's desire to benefit relations and dependants; and
- (5) family quarrels among tenants."

Class (4) among these are the really objectionable cases of eviction, but curiously enough, even the most ardent advocates of tenants would allow eviction in cases similar to these to a limited extent.

No inference can be drawn from the mere figures of suits. Elaborate inquiries in many cases in the villages will have to be made before the real grounds of eviction can be elicited. In the cases in which such an inquiry has been made, it is seen that only a small percentage of evictions has been found to be 'unjust'. The others are due to causes recognized by even the tenant's advocates as reasonably justifying eviction.

VI—Agricultural improvement.

68. Another argument urged in support of the tenant's demands is that under the present conditions there is no inducement for improvement in agricultural methods and no scope for agricultural expansion.

Says the tenant's advocate: "A great deal is said nowadays about agricultural improvement by the introduction of improved methods of cultivation and the use of superior ploughs and artificial manure. But a cultivator who knows that his tenure is precarious and that he may be turned out of his holding at any

moment is not likely to spend his money and labour in improving the soil. Unless he has a reasonable certainty that he will be able to reap the fruits of his own labour, a tenant will have no inducement to introduce improved methods of cultivation. Mr. H. C. Sampson of the Agricultural Department refers to this aspect of the question in one of his notes and attributes the poor yield of coconuts in many parts of Malabar to what he calls the twelve-year lease of coconut gardens. There is hardly any limit to the amount of capital which can be profitably sunk in the soil by an agriculturist. But when high cultivation is resorted to, the time of waiting for the profits to arrive becomes more and more extended, and hence an agriculturist holding land for a limited time is precluded from doing many things which, if his tenure were more secure, he would certainly do. The loss of produce due to the lack of security of the Malabar tenures is thus very great to the tenant, the landlord and the State. 'Give a man the secure possession of a bleak rock and he will turn it into a garden; give him a nine years' lease of a garden and he will convert it into a desert'. So goes the saying. The magic of property is potent enough to turn sand into gold."

69. The janmi's answer is: "The contention that because of the fear of eviction large tracts of land which would have been brought under cultivation have remained waste is not well founded. The area under cultivation in the district is steadily on the increase. The area under cultivation according to the Land Revenue Administration Report for fasli 1326 was 1,288,141 acres in Malabar. In fasli 1336 it was 1,548,470 acres, showing an increase in ten years of 260,329 acres, while in the adjoining district of Coimbatore it was 2,274,660 acres in fasli 1326 and 2,308,727 acres in 1336, the increase being 34,067 acres only. When worked out, the percentage of increase in the decade in Malabar was 20.2, while in Coimbatore it was only 1½. It is also noticeable that this increase in cultivation is not confined to dry lands but extends also to garden lands. Malabar compares very favourably in this respect with other districts where irrigation projects have been introduced. It may be argued that Malabar is more densely populated than such districts and the rate at which population increases in that district is also greater and that consequently in the absence of other avenues of employment people have to extend cultivation if they are to live. The fact however remains that such extension has taken place both under garden and non-garden lands and the extension under the former head at any rate would not have been possible if the fear of eviction had wholly undermined the tenant's sense of security."

VII—Rack-renting

70. Complaints are often made that the tenants are very much rack-rented. But the janmi says that in none of the papers does one find unimpeachable statistics to establish the position. He says: "On the other hand, the ascertained statistics in the Zamorin's estate do not show that rack-renting prevails to the extent complained of. This indeed is clear from the fact that sub-letting is so common."

71. The tenant however replies that it cannot of course be presumed that the rents in other estates are as moderate as those in the Zamorin's, and that even if no definite proof of rack-renting in the shape of facts and figures has been forthcoming, the existing system offers a premium to rack-renting and is in itself an evil.

VIII—Mappilla outbreaks

72. An oft-repeated argument in favour of tenancy legislation is that the Mappilla outrages were the result of agrarian discontent caused by the treatment accorded by janmis to their Mappilla tenants. It is stated that several officers agreed in ascribing the occurrence of such outbreaks to agrarian discontent which, they considered, undoubtedly existed. It is said that Mr. Strange who held the contrary opinion 'had given too little weight to agrarian discontent as the cause of these outbreaks', that Mr. Macgregor, who was British Resident in Travancore and Cochin, and who had been for a long time the Collector of Malabar reported as follows: "As to the essential nature of the Malabar Mappilla outrages, I am perfectly satisfied

that they are agrarian. Fanaticism is merely the instrument through which the terrorism of the landed classes is aimed at', and that Messrs. Innes and Evans have also expressed, the opinion, in the District Gazetteer, that poverty and agrarian discontent are some of the causes of the Mappilla outbreaks.

73. On the other side it is stated that there has been no Mappilla outbreak hitherto which has been shown to be due directly to agrarian causes and that as regards the rebellion of 1921, Viscount Willingdon's Government wrote on the 3rd May 1922—

"And let me add that we cannot agree that this rebellion had its origin in—or even that 'a predisposing factor' was—any agrarian trouble. The *Khilāfat* movement fomented and worked by Muhammadan and Hindu non-co-operators was entirely responsible for this disastrous occurrence."

IX—Conditions in Malabar peculiar

74. The janmis contend that the position of the tenants in Malabar is no better or worse than that of the tenants in the ryotwari tracts of the rest of the Presidency and so no special legislation is necessary. The tenant's answer is—

"The condition of the tenants in other parts of the Presidency is not like the condition of the tenants in Malabar. The fact that there has been no demand for legislation in the interests of the tenants in other districts and that there has been no necessity for the Government to appoint Committees and Commissions to inquire into their conditions, affords ample proof of this statement. There is, again, no land monopoly in other districts as there is in Malabar. In the other districts, lands are not tied up in the hands of a few as they are in Malabar. The Laws of Marumakkathayam and Impartibility which prevent the disruption and distribution of property, do not operate in other districts. In the ryotwari tracts of the other districts, the ryots hold lands on pattas and are not liable to be evicted by any body. In the zamindari tracts, ryots enjoy occupancy rights. But in Malabar, lands are held under the janmis, but the holders of these lands do not enjoy occupancy rights and are liable to be evicted. Then again, kanam is a tenure peculiar to the Malabar district. There is nothing like it in any other part of the Presidency. All these indicate the difference between the tenants in Malabar and the tenants in other districts."

X.—Analogies.

75. *Estates Land Act, Cochin, Travancore, Bengal, etc.*—The tenants say that statutes containing provisions similar to those which they have been asking for have been passed in other parts of India.

Says their advocate: "The Indian States of Travancore and Cochin, where conditions are similar to those in Malabar, have solved the tenancy problem, so far as it relates to kanamdars. The language, the system of inheritance, the land tenures and the social habits of the people in Travancore, Cochin and Malabar are the same. Many janmis possess lands in all these three States. Janmis residing in these places are also related to one another by marriage. The Travancore Government by a Proclamation, dated 1042 M.E. (1867), conferred occupancy rights on kanam tenants. The provisions of this Proclamation were amended and amplified by the Janmi and Kudiyan Regulation, Regulation V of 1071 (1896). By the Cochin Tenancy Regulation, Regulation II of 1090 (1914), the Cochin Government also granted occupancy rights to the kanam tenants of the State. Many British Indian Provinces have also enacted laws providing for occupancy right to tenants. The Punjab Tenancy Act, XVI of 1887, granted occupancy rights to tenants. Under the North-West Provinces Tenancy Act, II of 1901, the tenants of that Province obtained occupancy rights. Under the Central Provinces Tenancy Act, I of 1920, occupancy right was conferred on the tenants of that Province. The zamindari tenants of the Madras Presidency got occupancy rights under the Madras Estates Land Act, Act I of 1908. The Bengal Tenancy Act, No. VIII of 1885, granted occupancy right to the tenants of Bengal. The conditions of the tenants of Bengal and Malabar are in many respects analogous. 'The Bengalis, like the Irish,' says Mr. Justice Field of the Calcutta High Court, 'are a peculiarly home-keeping race, unwilling to leave their native villages and

submitting to any exaction rather than do so.' So are the Malayalis. Both in Bengal and Malabar, tenants had substantial rights formerly. At the time of the permanent settlement in Bengal in 1793, the Government made the zamindars 'proprietors', using a term which seemed to convey the absolute disposing power of an English landlord. The system of land-law which grew up in England under the peculiar circumstances of that country was introduced in Bengal and maintained by the power of the rulers. So also in Malabar, at first the Bombay and afterwards the Madras Government made the janmi a landlord in the English sense of the term and the kudiyan his lessee or mortgagee. At the time of the permanent settlement in Bengal the Government looked only to their revenue and did not pay heed to the rights of the ryots. Similarly, the early English officers in Malabar who made inquiries for purpose of revenue, recognized the janmis as absolute proprietors of the soil and did not pay attention to the rights of the kudiyan. The result has been confusion and misery in both countries. The Bengal Rent Commission of 1879 after referring to the state of affairs which existed in that country before it came under British sway, made the following statements in their report: 'Such was the condition of affairs to which the East India Company succeeded; and one of the first problems presented to the New English Government for solution was the settlement and definition of the rights of this middle class. How this question was debated; how it was determined by declaring the zamindars who composed this class to be proprietors; and how the wisdom of this determination has ever since been questioned—are now portions of the constitutional history of the Anglo-Indian Empire. . . . The terms of the settlement and the influence of the English ideas worked, however, some important changes. . . . The zamindars being declared to be 'proprietors of the soil,' 'landholders,' 'landowners,' it followed as a natural consequence from this and from the introduction of the English ideas that the ryots have come to be looked upon as their tenants; the payments made to them by the ryots in kind or in money came to be regarded as rent; and the payments made by the zamindars to the Government were termed revenue. When the governing race, with whom rested the executive power and the administration of justice, approached the subject of the relation of the zamindars and ryots with those ideas of the English law of landlord and tenant formulated in the regulations and present to their minds, the result almost inevitable was that the former state of things underwent considerable change.' This looks almost like the language of Mr. Logan in his report on Malabar land tenures. The confusion and misery that were created in Bengal by recognizing the zamindars as proprietors of the soil in 1793, were removed to some extent by Act X of 1859 and materially by the Tenancy Act, VIII of 1885. The confusion and misery which were created in Malabar by the mistaken notions of early English officers and courts of justice should be removed by similar measures."

76. In answer it is said: "In the Indian States of Travancore and Cochin conditions are altogether different from what they are in Malabar. These States are administered more by personal law than by any system of constitutional Government and whatever the ruler does cannot be questioned by any one, and the British Government does not interfere with their internal administration. The Tenancy Regulation of 1867 in Travancore only codified what was more or less the custom that was prevailing in the country and did not attempt to subvert *stare decisis*. That was Sir T. Madhava Rao's view of it. Both in Travancore and Cochin the States are the largest janmis and the States did not lose anything by giving occupancy rights to the tenants under them, as at the time of every settlement, they could raise the rent in the shape of land revenue. In neither State has occupancy right been conferred on the verumpattamdar. The Cochin janmis have not that kind of absolute and sovereign right in the soil as those in British India have. They have no private forests and all teak, jack and blackwood trees on private janmi's lands belong to the Sirkar. Many of the rulers in Kerala such as the Zamorin, the Rajas of Chirakkal, Palghat and Walluvanad and many Naduvazhis or chieftains were formerly politically of the same status with the Raja of Cochin, and there is no point in comparing the janmis of Cochin with those in Malabar. Moreover, the Cochin Regulation conferred permanent occupancy right only in regard to kanams of thirty years' standing, while the tenants' advocates in British India want to confer it on all kanam and verumpattam tenants."

"The Cochin solution—occupancy to thirty years' old kanams—was a compromise which was accepted by the Government of the State because it affected a small area and benefited mostly cultivating tenants.

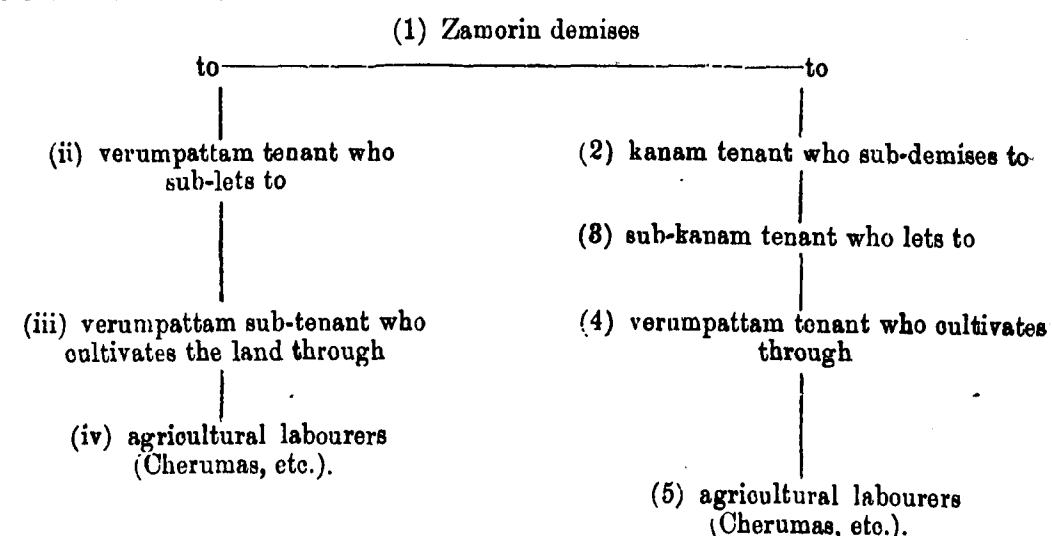
"As for the zamindari tenants in the Madras Presidency, their case is entirely different: (a) zamindaris are held under a permanent settlement and the Government demand on them is fixed for ever. Malabar janmis hold under the ryotwari system and their assessments are revised once in thirty years; (b) in zamindaris, occupancy rights always existed in the tenant and the various Tenancy Acts merely *recognized* existing rights. This indeed was made clear by a special regulation passed as early as 1822 (Regulation V of 1822). In Malabar, kanam and verumpattam have always been regarded by the early British administrators, by the courts, and by the Government as redeemable tenures. The proposed grant of occupancy rights is a *gift* to them for the first time. A closer parallel would be the relations between ryotwari landholders in the other districts of the Presidency and their under-tenants."

CHAPTER V

VERUMPATTAMDARS

77. In the last Chapter, we set out the main aspects of the Malabar tenancy problem, the chief grievances put forward by the advocates of the tenants' cause and the answers thereto of those who stood for the janmis. We now propose to consider in greater detail the claims and the grievances of the several classes of tenants and see how far they need be remedied.

78. In the agricultural hierarchy of Malabar of which the janmi is the head, the verumpattamdar or the labouring cultivator occupies the lowest but not the least important place. Generally there is one intermediary, but oftentimes, there are more than one between him and the janmi, and the general impression a reading of the literature on the subject and the evidence of witnesses examined by us leave on our mind is that when the tenant holds directly under the janmi he is comparatively more happy than he is when there are one or more intermediaries between him and the absolute owner of the soil. Mr. Thorne, in his interesting report on the Zamorin's estate gives the following table showing the not uncommon state of affairs as regards these intermediaries:—



It will be seen from what he states that the term 'verumpattamdar' does not necessarily connote that he is the actual cultivator of the soil. It includes also a person who has sub-leased the land to the actual cultivator. It may also be noted that, not infrequently, there is only a thin partition dividing the verumpattamdar from the agricultural labourer. But, for the purpose that we have immediately in view, we take into consideration only those verumpattamdars who are actual cultivators and who by virtue of that position are something better than mere agricultural labourers, whatever and however little that something may be.

79. As has been stated already, the verumpattamdar is in most cases merely a tenant-at-will at present. Sometimes he is a tenant from year to year. In a few cases, according to the custom of the locality, he holds the land for a definite term of years. In North Malabar sometimes it is four years and sometimes it is five. In South Malabar under certain Rajas or kovilagams it is twelve years. These tenants holding for a definite term longer than a year pay according to custom a renewal fee also when they get renewal for another term of four, five or twelve years, as the case may be. We shall consider this latter class of persons who are known as kozhu tenants in North Malabar and kovilagam lessees in South Malabar later on. They stand on a somewhat different footing from the vast majority of the verumpattamdars who neither pay renewal fee nor have anything more than a tenancy from year to year and so are liable to be evicted at the end of the year. For the present, we shall deal only with the latter.

80. This class of tenants has been the object of special consideration by all tenancy law reformers in the past, though, strangely, they are men who legally have

the least permanent interest in the land. Their title to special consideration lies in the circumstance that they are numerically the largest single agrarian class in Malabar and are responsible for the cultivation of the bulk of the five and odd lakhs of acres of wet lands scattered over the district. Mr. Logan was in favour of making them practically peasant proprietors. And Sir Charles Turner who criticized the report of the Madhava Rao Committee in strong terms, was willing to grant some sort of fixity to them. They were the chief favourites of Mr. (now Sir Charles) Innes' scheme. And during the debate on Mr. Krishnan Nayar's Bill in the Madras Legislative Council, the protagonist of the janmis' interest, while fighting strenuously against any concession in favour of the kanamdar, was willing to grant even permanent occupancy to the cultivating verumpattamdar subject to certain restrictions. It will thus be seen that the verumpattamdar's claim for fixity of tenure has had strong supporters in the past.

81. There are many reasons why his claim deserves consideration. To quote the words used by His Excellency Lord Irwin in his speech at Rajkote on a recent occasion, "the prosperity of the cultivating classes is another important factor making for contentment and I am told that in many States this is hampered and improvement is stayed because the cultivator is a mere tenant-at-will liable to ejectment at a moment's notice. A right of tenancy has been found elsewhere an indispensable incentive for better agriculture. I know there are difficulties and that measures are required to prevent the ryot falling into the hands of money-lenders. But when dangers can be foreseen they can be avoided, and I would strongly direct your attention to the far-reaching benefits inherent in security of tenure to the cultivator, to the countryside, and ultimately to the ruler of the State or the taluk itself." Though it is not necessary to go so far as some advocates of peasant proprietorship would go and talk of the 'magic of property', converting arid land into a smiling garden, it cannot be gainsaid that a feeling of security as regards tenure is a powerful incentive to proper husbandry and the absence thereof is detrimental to agricultural efficiency and the economic welfare of the cultivating classes. But this insecurity of tenure, it is sometimes argued, is not peculiar to Malabar and may, with equal justice, be urged on behalf of the tenants in many other parts of the world, especially in the ryotwari tracts of the Madras Presidency itself, and that a problem like this cannot be solved on this one ground in the case of the tenants in Malabar only. While this must be conceded to be, in the main, true, the Committee believes that the position in Malabar is such that the problem calls for more urgent solution there than in the rest of the Presidency. In Malabar, although the number of persons registered as janmis may appear large, the ownership of land is not so much in the hands of the cultivators as it is on the East Coast. The percentage of persons who are owners of the land which they cultivate is, in Malabar, much less than in the rest of the Presidency, and if a beginning is to be made in the grant of some sort of fixity to the actual cultivator, Malabar is the place where the process must commence. The second reason why Malabar requires special treatment is the number of intermediaries that exist between the actual cultivator and the ultimate owner of the soil. The kanam tenure is a peculiar and prominent feature of Malabar; the bulk of the cultivated land in the district, at any rate in the southern half of it, is held by the kanamdar; and it is well-known that a large majority of the kanamdars are not actual cultivators. The bulk of the verumpattamdars, therefore, hold not directly under the janmi but indirectly under the kanamdar or the sub-kanamdar. The danger of the situation will be realized if it is remembered that, as there are more mouths to be fed above the verumpattamdar, he is likely to be rack-rented, more than in any other place. The Committee has not had the opportunity or time to investigate and obtain accurate figures as to the degree and the extent of this rack-renting. That would have involved an economic inquiry which would have taken a long time and cost much money. The Committee, at one time, thought, that, without such an investigation, its conclusions may lack a substantial basis. But it has come to the conclusion that even apart from such accurate data, the existence of circumstances favouring rack-renting such as the impracticability of increasing the extent of cultivable lands at the same pace as that at which the tenant population has been increasing or is likely to increase and the fact that there are numerous intermediaries, is itself enough to justify special treatment being

accorded to Malabar. There can hardly be a doubt that the poorer verumpattam tenant is being rack-rented as indeed he must always be where the tenant class is very large as in Malabar and the extent of land available for tenant cultivators is below their requirements. A third reason is to be found in what we would call the atmosphere of long-term leases which prevails in Malabar. Save in the case of verumpattam, every other person interested in land in Malabar, has, even under the present system, a not inconsiderable period during which he has the right to enjoy the benefits of his tenure. The kanamdar has twelve years; so also the kovilagam lessee and so the kuzhikanamdar. The evidence of witnesses examined by the Committee also shows that even in the case of the verumpattamdar, though technically he is a tenant-at-will, he is ordinarily not disturbed. These circumstances are, the Committee believe, peculiar to Malabar, and in recommending the award of some fixity to the verumpattamdar, the Committee think that it is not doing anything violently repugnant to the genius of the agricultural system or to the popular sentiment in that district.

82. Having said this much in favour of the grant of some sort of fixity to the verumpattamdar, the Committee would proceed to consider the main objections to the proposal. Firstly, and this objection was specially put forward by the witnesses examined at Palghat, it is stated that the verumpattamdar has no substantial interest in the land and consequently none in its proper cultivation, that he is often little better than an agricultural labourer, and that, therefore, no substantial right should be given to him. It seems to the Committee that this is an argument that runs in a vicious circle and constitutes perhaps the strongest reason why some sort of fixity should be given to him. It is because, at present, he has no permanent interest in the land, he has no inducement to improve it, properly manure it and make it yield more. It is again urged that the verumpattamdar is in most cases so poor that even if he gets some fixity in the land he cultivates, he is not likely to find the necessary funds to invest in the proper cultivation of it. The Committee, is, in the first place, not satisfied that every verumpattamdar is at present a pauper. There are, no doubt, a large number, who are little better than agricultural labourers, but there are, the Committee is convinced, a fairly large number who, though they may not be particularly rich, have the wherewithal and the energy to improve the land, cultivate it better and increase its output if they can be sure that the investment and the consequent increase in the output would not be allowed to influence the landlord to take the land away from them and lease it to others who offer him a higher rental. Moreover, even in the case of those who are at present too poor to invest on the better cultivation of the land, the security of tenure which they would obtain, if the Committee's proposals are accepted, would, besides giving them the necessary incentive, give them also the necessary credit in the money market and consequently the necessary wherewithal to cultivate the land better; and the Committee has little doubt that this newly found credit would be put to proper use by the bulk of such verumpattamdars. A third objection is that if fixity of any sort is given the fear of eviction would disappear and the verumpattamdar, especially the one with no means, would freely default in the payment of rent. Landlords, who even now are not getting their verumpattam rents promptly or fully, would be in a worse position, for they could not evict and change their tenants in case of default. The answer to this is that this is a danger which can be easily met and that refusal to grant fixity is not the only possible solution of this difficulty. Security may be taken from the tenant for payment of rent, and this combined with power to evict for default in payment of a year's rent would be enough to meet this difficulty. Moreover, provision could be made for more expeditious methods of recovering rent than obtain at present. The next objection worth considering is that fixity granted to impecunious persons like the ordinary verumpattamdar will easily place him in the hands of the money-lender, who is likely to buy him up and thus defeat the very object of the fixity. This, as will be seen from His Excellency Lord Irwin's speech already quoted, is, no doubt, a difficulty. But, as His Excellency put it, "when dangers can be foreseen, they can be avoided", and one of the ways in which this danger has been met in previous attempts at agrarian legislation in other parts of India is to make the alienation voidable at the instance of the landlord, if the alienee is not himself or will not convert himself into a cultivator within a reasonable time.

There is again the objection that the verumpattamdar may not cultivate the land properly, and thus defeat the object of giving him fixity. Even this difficulty has been anticipated by other legislatures. A provision like that contained in the Punjab Tenancy Act making wilful waste a valid ground for eviction may, with advantage, be adopted to prevent a similar danger here.

83. Thus far we have dealt with the main objections to the grant of any fixity to the verumpattamdar. We will now proceed to set forth the proposals we desire to make as regards this class of tenants; for, we believe that a careful consideration of them would not merely meet these objections but will also obviate certain other difficulties which might be raised. In the first place we think that any grant of fixity to a verumpattamdar should be confined to wet lands and those dry or garden lands which are necessary for the convenient enjoyment of those wet lands. We suggest this restriction, as we are not satisfied that there has been any real demand for fixity as regards dry lands, or that there is any need for such fixity in their case. For one thing, separate leases of cultivable dry lands are not numerous. For another, such lands are soon converted into wet or garden lands, and the considerations which we will set forth as regards the latter classes of land in this and the succeeding Chapters of this Report will show that when once dry lands are converted into wet or garden lands they will get such fixity as is desirable and necessary for them. Objections may be anticipated as to the determination of the extent of dry or garden lands or both necessary for the convenient enjoyment of wet lands and are consequently to be incorporated in wet holdings. This, however, is a matter as regards which it is impossible to draft a formula which will cover all cases, and a certain amount of discretion must always be given to the parties and the court. We are, however, satisfied that in practice little difficulty would be felt in determining what is necessary and proper in regard to any given holding. The only restriction that we would place on this discretion is that the extent of the dry and garden lands to be allotted should not exceed in any case one-tenth of the total extent of the wet lands for the convenient enjoyment of which they are claimed to be necessary.

84. As regards wet holdings, our proposal is that all tenants who desire to have fixity may apply for and obtain it. This raises an important question of principle which is worth some detailed consideration. Two alternatives are open in a matter of this sort. One is to give fixity to a certain class like the cultivating tenants within a specified area whether they desire it or not. The second is to allow individual members of that class to claim fixity if and when they desire it. The former is the form which legislation has mainly taken in the past; the latter is the one that we would advocate, and this, for the reason that we are not satisfied that the economic situation of Malabar demands the universal conferment of fixity on all verumpattamdars whether they desire it or not. It seems to us that in a matter of this sort, it is necessary and advisable to proceed cautiously and to see how the grant of fixity would affect the economic and social condition of the people to whom this new legislation is to apply and what the repercussions of this change would be. For, as we have stated above, the position of a verumpattamdar, though in some respects peculiar in Malabar, is also similar to that of a large class of tenants east of the Ghats. Apart from that, the position is also complicated by the circumstance, that, in Malabar, whatever might have been the state of affairs a century and a quarter ago, the verumpattamdar has not for several decades had fixity in the eye of the law. In the case of persons benefited by legislation elsewhere, such as those to whom for example the Estates Land Act or the Bengal Tenancy Act applies, Courts had held for a long time previously that they had a permanent right in the soil, with the result that the right had crystallised into actual practice and what the legislature did was only to recognize by statute the existing state of things. The economic unsettlement caused by such legislation could not therefore be considerable. But when new rights are being conferred on persons who, for a century at least, had no such rights, the scheme may give way in some unexpected manner under the sheer weight of its universal application, and it is the part of discretion and wisdom to confine its operation to a small compass at first, so that its working may be effectively watched and difficulties, if any, removed before its application is extended. It is for this reason mainly that the Committee has decided that the new proposals should not be made

applicable to all. There is a subsidiary reason also. As has been said above, the Committee proposes to impose certain conditions on this grant of fixity, and one of them would be the payment or deposit of a certain amount of money as security for rent or furnishing some other form of security. If such a proposal is to be thrust all of a sudden on impecunious verumpattamdars, it will perhaps be driving them into the hands of the money-lender and would defeat the object in view. An optional legislation would, on the other hand, give the tenant-at-will plenty of time and inducement to save little by little until he is in a position to attain, without resort to the money-lender, the better status of a tenant with fixity. To meet the objection that the proposal to enable all verumpattamdars to apply for fixity would be granting rights to persons who have no claim for such consideration, the Committee, at one stage of its deliberations, thought, that the option should be given only to persons who had been on the land for at least five or six years. When, however, it resolved ultimately that the landlord shall have the right to take back the land from the tenant when he wanted it for his own cultivation or use or for that of any member of his family, the Committee felt that there was no longer any necessity to prescribe any qualifications as regards the length of occupation.

85. This power of the landlord to take the land back for his own use or cultivation raises important considerations. It is obvious that such a power can be used by a vindictive janmi or landlord to evict a tenant whom he may not like, though the latter may make no default. The fixity given with the reservation of such a power may make the right somewhat illusory. But it must be said *per contra* that, except in the last Bill which Mr. Krishnan Nayar has sought leave to introduce, no representative of the tenants' interests has ever objected to such a power being reserved. In fact it was in both the earlier Bills of Mr. Krishnan Nayar; it is in the Bill as passed by the legislature at his instance, and it is in Mr. Kotieth Krishnan's new Bill. The tenants' representatives in the Committee were not only not against it, but were keen on its retention. In short, as a member of the Committee has put it, all Malabar wants it, and no one has ever seriously objected to it. This power will further obviate the necessity for any provision, like the one in the Cochin Legislation, making the consent of the janmi necessary for validating any alienation by the tenant which was introduced to prevent the tenant selling the land to a person who may do things obnoxious from a religious or social point of view to the landlord. It will also permit the landlord taking the land for constructing temples, irrigation works, roads and other works of public utility and for making improvements beneficial to the landlord's other lands. It seems, therefore, to the Committee that, though theoretically it may seem an unreal thing to give fixity with such a power retained in the hands of the landlord, it solves many another difficulty which would arise, if such a power is denied. For example, it would be a check on the passing of the land from the hands of the genuine cultivator into the hands of the money-lender whom it is not anybody's wish to enrich. It will be a means of encouraging cultivation of the land by the junior members of the growing landlord families in Malabar. This is not an altogether pious hope, nor a consideration to be lightly disregarded, in view of the problem of unemployment among the middle classes which is becoming more pressing day by day. To minimise the possibility of abuse of the power thus given to the janmi, the Committee would impose a restriction to the effect that if the land taken by the janmi is given over to any tenant on any kind of lease within six years of the eviction, the old tenant would be entitled to claim to get back to the land on terms even more advantageous than those under which he held it before eviction. Similar restrictions the Committee proposes should be imposed in the case of kanams and kuzhikanams.

86. In addition to the power given to the landlord to take the land back for his own cultivation or use, the Committee thinks, that certain restrictions also should be placed on the power of the verumpattamdar to transfer possession of the land in which he has acquired new rights. Such restrictions may take one or the other of two forms. The common form found in other pieces of similar legislation is to make the alienation invalid unless made with the consent of the landlord. The other, and what the Committee thinks, the better form of restriction is to make the alienation invalid if it is not made to the particular class of persons for whose benefit the legislation is intended. To the former class belong the provisions in the Cochin Tenancy

Legislation and in the North-Western Provinces Tenancy Act, 1901. To the latter class belong the provisions in the Punjab Alienation of Land Act, 1900. It seems to the Committee that to place the power of veto on alienation in the hands of the landlord would in practice lead to much difficulty and abuse. If the discretion to consent or not to consent is to be an absolute discretion, it will practically be taking away the power of alienation. If, on the other hand, it is to be a qualified discretion, it will lead to an elaborate inquiry as to whether the discretion has been properly exercised or not. That means, many clogs on the actual exercise of the right. In both cases, the value of the fixity will be greatly reduced, and the verumpattamdar will be hardly able to raise money on the security of his rights for even the necessities of agriculture. The other alternative of restricting alienation to the class intended to be benefited, namely, the cultivating agriculturists, is no doubt, also open to some objection; for, restricted alienation necessarily means a limited market for the land which is the subject of alienation and consequent diminution in the value of the right. But as it is not the object of the Committee to secure for the verumpattamdar credit which is too facile but only as much of it as is needed for his becoming a better cultivator, it is of opinion that the latter of the two alternatives should be adopted, and that, if the alienee is not, at the time of the alienation, a cultivating agriculturist or does not take the land into direct cultivation at the next agricultural season after the alienation, the alienation shall be deemed to be invalid.

87. All these provisions would be of little avail to the tenant if he is to be allowed to be rack-rented, and therefore, an integral part of the scheme should be a provision for the determination of fair rents giving a guarantee to the tenant that he shall have a fair return for his toil and interest in the land. The Committee, therefore, has determined that fair rents should be defined. Many suggestions as to the proportion in which the produce should be divided have been made. Discussions there have been also as to whether the proportion should relate to the *gross produce* or to the *net produce*. While on the one hand, the gross produce test gives a fairly certain and fairly easily ascertainable basis to work upon, if based on the average yield, the net produce test has, on its side, the advantage of relating the share to what actually has to be divided after deducting the charges common to both the tenant and the landlord. There is, however, the difficulty of ascertaining what the cost of cultivation and other common charges are, and as these are likely to differ with each land, no satisfactory formula, applicable even to a large number of cases, can be worked out. Having regard to these considerations, the Committee has thought that it would be useful to devise a formula which has in it an element of certainty and also takes account of the dissimilarity in the cost of cultivation and similar charges, and it has arrived at the conclusion that the best workable scheme would be to give a definite formula for cost of cultivation and leave the inequalities over and above that to be met by the grant of a generous proportion of the balance to the cultivating tenant. The Committee has, therefore, decided that in the case of wet holdings a fair formula would be to make twice the seed required for the cultivation of a particular area the constant cost of cultivation and deduct the same from the gross average produce and give a third of the balance to the tenant and two-thirds to the landlord. Save as provided below, this average produce shall be one-third of the total paddy produced on the lands for the three previous years. In the case of lands registered in the Settlement Register as a single crop land, the tenant may raise, in addition to the paddy crop, a catchcrop like gingelly, cucumber, etc. This catchcrop is not to be taken into account. If no crop at all is raised or only a dry crop is raised on such land in any particular year, the produce shall be deemed to be the estimated produce of a single paddy crop. In the case of lands registered as double crop lands, account shall be taken as though two paddy crops have been harvested, irrespective of the number and kind of the crops raised and irrespective also of the fact that no crop whatever was raised in any particular year on such lands. It may be, in certain cases, that twice the seed would not cover all costs of cultivation and incidental charges, and it may be that certain years are lean years, even though in Malabar the vicissitudes of the season are never so pronounced as on the East Coast. But a third of the net is a fairly generous allowance to the cultivator, and he would not find it hard to pay out of it what little extra money may be required over and above twice the seed as the cost of cultivation and

meet the deficit he has to face in lean years. This would seem to be so, especially as the tenant is to have the entire benefit of the catchcrops, the tubers and the trees he may manage to raise on the wet land in between the main paddy crops and on the dry and garden lands appurtenant thereto, and as he is further allowed to take two-thirds of the entire straw. These, it may be added, are not in considerable factors when their aggregate money value is taken into consideration.

88. Being thus equipped with what, to all practical purposes, is permanent occupancy in the accepted sense of the term, the Committee thinks that the verumpattamdar will be able to face the problem of improved agriculture with hope and strength, that he could produce, though not two sheaves of corn where only one was raised before, very much more, at any rate, than he is at present able to do, that with this increased produce he will be able to have better homes and a better standard of living, to educate his children better and to add to the economic efficiency of the land. In this endeavour of his, he may perhaps succeed better, if, at the initial stages at least, he could avoid going to the money-lender and has the help of cheap credit. A system of credit banks where short-term loans on easy rates of interest will be available would greatly facilitate his rehabilitation. At present, it would appear that when the kanamdar or the janmi does not give him an advance for cultivation expenses, he cannot borrow money at less than 30 to 36 per cent per annum. Co-operative banks may do much to help him in this direction. But a specially devised system of banks dealing solely with agriculturists would seem to be even better. The Committee would recommend to the earnest attention of the Government the consideration and evolving of such a scheme.

89. A necessary corollary to every scheme for fixing fair rents is a provision for the alteration thereof and for the existing rents being, as far as possible, brought up or down to the level of the fair rents. Otherwise, either the tenant will continue to suffer rack-renting for all time, or will not be paying to the landlord what is his just share—a share which he could realize by a change of tenants and by making his own terms with them at the time they enter on the land. The Committee has, therefore, resolved that the landlord shall have the right to ask for a revision of rent bringing it up to the fair rent standard and the tenant shall have the right to ask for its being lowered to the same standard. If this process is to take place immediately, there might perhaps be a sudden disturbance of the economic condition of several families which might have framed their family budgets on the basis of the existing rents. To avoid any sudden disturbance of the financial equilibrium, the Committee has resolved that the present rents shall be deemed to be fair rents for the next twelve years. Subsequent to that period, the right of the landlord to raise the rent and that of the tenant to lower it will be allowed to be exercised.

90. In a previous paragraph 82 the Committee adverted to the necessity of providing for the better and speedier realization of rents by the landlords, as a safeguard against any untoward result which might flow by the grant of fixity to the tenant. One such safeguard which, the Committee recommends, is the insistence on the person who is to get fixity, depositing in cash, or giving security for one year's rent. This should not be allowed to be adjusted at any time towards the rent, but would be standing there all the time to provide for the case of the landlord not being able to realize his arrears by any other means. A provision for a year's advance rent is conceded in a proviso to section 6 of the new Bill of Mr. Krishnan Nayar. The Committee thinks, however, that the purpose in view would not be served by an advance payment which will prevent the landlord from suing for arrears even in respect of the first year's rent, for, that may, in a sense, make the tenant careless, even at the start, to pay up his dues. Another safeguard would be to make the rent a charge on the tenant's rights, which it is not at present, except perhaps as regards the value of his improvements, so that the tenant may not alienate to the detriment of the landlord the right which he may newly acquire under the Committee's proposals. This again is a provision found in all measures put forward on behalf of the tenants. The Committee further thinks that some special means should be found to accelerate the realization of rents by the landlord. A familiar proposal in matters of this sort is to give the landlord the right to distrain the crops and the movable properties of the tenant. The Committee is not satisfied that it would be desirable that such a proposal should be adopted as regards Malabar, having regard to the

peculiar excitability of some portion of the tenantry in that district, and it would not be wise to make it applicable to some tenants and not applicable to others in the same district. The Committee is at the same time not satisfied that it would be well to leave untouched the present system by which the landlord has to file a regular suit and obtain a decree and go through all the long and tedious processes of executing it, for the realization of his rent. It seems to the Committee that a more expeditious and cheaper method of recovery of rent is necessary, and would suggest that the landlord should be entitled to make an *application*, for which less court-fees have to be paid, instead of instituting a regular suit, to the court having jurisdiction in that behalf and obtain expeditious attachment of the properties of the tenant, pending decision of any objections which the tenant may raise, either as to the reality of the claim or as to the *quantum* thereof. A provision of this sort and also the taking of security, as stated above, would, in the opinion of the Committee, be sufficient compensation for any loss of rights which the janmi may sustain by reason of the Committee's proposals.

91. Reference has already been made to a class of verumpattamdars who are more than tenants at-will or tenants from year to year, and who, by local custom, are entitled to remain on the land for a definite period and pay a renewal fee for getting a renewal at the option of the landlord, though it is open to the parties to contract themselves out of this custom and provide for a shorter or longer term. Such tenants are fairly numerous in North Malabar, and such leases are not infrequent in South Malabar also. In the former they are usually called *kozhu tenants*. The period of the lease is in North Malabar and the Calicut taluk of South Malabar generally four or five years. In a few cases they hold for a period of twelve years. In the latter class the ultimate landlords or janmis are Rajas, and so these tenants have come to be known as *kovilagam lessees*. They all pay renewal fees. The *kozhu tenants* pay usually a year's net produce. The fee paid by *kovilagam lessees* varies according to the estate in which their lands lie. Such lessees are very numerous in the estate belonging to the Zamorin of Calicut, and the appendix to this Chapter shows the usual renewal fee which they pay.

92. The Committee considers that this special class of verumpattamdars deserves to be treated with consideration, not only because their tenure is not quite so precarious as that of the ordinary verumpattamdar, but also because they are among those classes of tenants who have, in practice, continued for generations on the same land, and must have had a considerable share in their improvements being in a better financial position than the ordinary verumpattamdars. The large majority of them are actual cultivators of the soil. To these actual cultivators, the reasons already mentioned as regards the ordinary verumpattamdar apply with even greater force, and the Committee thinks the option to claim fixity should be given to them so long as they are willing to pay adequate compensation for the exercise of that option.

93. The question is what shall be the proper compensation. So far as the *kozhu tenants* are concerned, there is no real difficulty. The landlord is now getting from most, if not all of them, very nearly the rent which he would get if he let the land to a tenant from year to year or a tenant-at-will. Therefore, he would be losing very little except in sentiment by being made to accede to the claim of the same tenant to continue on the land, and for any such loss in sentiment, the usual renewal fee of a year's net produce may be held to be fairly adequate compensation. But to provide for those cases where the present rents are not what the landlord would get if he had a free hand in the selection of the tenant, the Committee thinks that it would be desirable to make the tenant share with the landlord the difference between what would be the fair rent, which is what the landlord is reasonably entitled to, and the rent which the tenant is now paying. The Committee is of opinion that it is desirable that subject to such payment, these tenants should have fixity not merely for a period of four or five years which they are having at present, but for a period of twelve years which is the customary period of enjoyment in the case of most, if not all, other persons who, not being owners, have some interest in the soil in Malabar. Four or five years is, in the opinion of the Committee, much too short a time, both from the economic and the social point of view. The Committee, therefore, proposes that, on the tenant offering to pay, by way of renewal fee, a definite multiple of the difference between the fair rent and the rent which he has been paying in the past, he should

have the right to claim renewal for twelve years. To illustrate, if the fair rent for a year is Rs. 100 and the tenant has been paying in the past Rs. 80 only, the Committee proposes that he should have, at the end of the current demise, a right to claim renewal on offering to the landlord $3 \times (100-80) = \text{Rs. } 60$ as renewal fee. It will be seen that the Committee's proposal involves only the payment of three times the annual difference where it exists. The multiple might be more or less. Much may be said for increasing it from the point of view of the janmi, and much for decreasing it, from the point of view of the tenant. The decision fixing it at three has been essentially a matter of compromise, and the Committee thinks that it is not unduly hard either on the janmi or on the tenant. It may, however, be stated here that the janmis' representatives on the Committee agreed to take only three times the annual difference, because the tenants' representatives agreed to the landlord having the right to eject the tenant if the landlord required the land for his own cultivation or use or for that of any member of his family, subject to the condition that if the landlord lets the land again to another tenant within six years after such eviction, the old tenant shall be entitled to recover possession and continue on the land on the same terms as those on which he held the land before such eviction, that is, for a period of twelve years, with the right to claim renewal at the end of it, on payment of three times the annual difference as stated above. If this power is not to be given to the landlord, the compensation to be paid for the right to claim renewal would be very much more than three times the difference.

94. The verumpattamdars whose customary period already is twelve years will be allowed the option to get a renewal on the same terms.

95. It may be added that, if, in any case, any tenant belonging to any one of these classes feels that these terms would be unduly onerous for the purchase of what is after all a twelve years' lease, it is open to him to claim to be placed in the position of an ordinary verumpattamdar, and seek fixity on the terms already indicated in the previous paragraphs of this Chapter.

96. Any person who has obtained fixity under the scheme set forth above, cannot equitably be compelled to continue on the land if and when he finds it does not pay him to do so. His right to give up his tenancy seems to be implied in the general law, but to obviate any possible doubt, the Committee thinks that express provision should be made permitting such a tenant to surrender the holding provided he gives sufficient notice to the landlord. As such surrender is without the consent of the landlord and might inconvenience him, it is equitable that in such cases the landlord shall not be liable to pay compensation for improvements made by the tenant or his predecessor in title. The justice of this has been recognised by tenancy reformers, as will be seen from Clause 29 of Mr. Krishnan Nayar's Bill as passed by the Legislative Council and Clause 24 of his new Bill. The same principle should apply to surrenders of *kanams* and *kuzhikanams*, and the Committee recommends in case of such surrenders also legislation on the lines of the clauses specified above.

97. As regards those who are not actual cultivators but have sub-leased their lands, the position is, no doubt, not the same. The Committee, however, is of opinion that they also should have the same option as is granted to those in actual possession. The question may be raised as to why a non-cultivating tenant of these classes who is only an intermediary, should be shown any consideration at all. But this question is similar to the one which can be raised in regard to all intermediaries in Malabar, and the reasons are nearly the same as those which will be stated hereafter with reference to the Committee's recommendation to give a similar option to the non-cultivating *kanamdar*. As has been stated by more than one who has spoken or written on the subject, the *kovilagam lease* is really a *kanam* without the '*kapartham*.' The arguments in favour of the Committee's view will be set out in greater detail when it proceeds to deal with the *kanamdar*. Suffice it to say at present, that by reason of the long and uninterrupted interest in the land held by most of these persons, it is desirable to give them some sort of fixity.

APPENDIX.

Statement showing the rate of renewal fee in the Zamorin's estate.

(1) Annam (renewal fee).	(2) Adyathu (share going to the Abandara varas).	(3) Tirunakayil.	(4) Muktyar fee.	(5) Copying fee.	(6) Stamp fees.	(7) Registration fee.	Other fees.				
							(8) Tirumukashola	(9) Thrikkanam.	(10) Purandilavu.	(11) Sthachilavu.	(12) Asthachilavu.
In the taluks of Kumbhrand, Calicut, Ernad, Ponnani and Waduvand, for one para of paddy of one kanam of jannappattam, annas 8. In Palghat taluk it depends upon the classification of the land but does not exceed Rs. 4 per para seed area. If the above rate is less than 20 per cent of the kanam amount, 20 per cent of the kanam is realized.	20 per cent of the renewal fee	..	..	..	..	..	..	..	..	..	..
	Jannappattam of one para of one kanam	..	..	..	..	..	..	..	..	..	..
	Jannappattam of one para of one kanam	..	..	..	..	..	..	..	..	..	..
	Rupees 2 for each title deed.	..	..	..	..	..	..	..	..	..	..
	In accordance with the Stamp Act.	..	..	..	..	..	..	..	..	..	..
	In accordance with the Registration Act.	..	..	..	..	..	..	..	..	..	..
	Up to a jannappattam of	25	25	25	25	25	25	25	25	25	25
	Do.	50	50	50	50	50	50	50	50	50	50
	Do.	75	75	75	75	75	75	75	75	75	75
	Do.	100	100	100	100	100	100	100	100	100	100
	Do.	200	200	200	200	200	200	200	200	200	200
	Do.	300	300	300	300	300	300	300	300	300	300
	Do.	400	400	400	400	400	400	400	400	400	400
	Do.	500	500	500	500	500	500	500	500	500	500
	For rent over ..	500	500	500	500	500	500	500	500	500	500

J. A. THORNE,
Estate Collector.

CHAPTER VI

KANAMDARS

98. Among the tenants of Malabar who have claimed fixity of tenure, none has claimed it longer or with more persistence than the kanamdar. And none's claim has been repelled by those speaking on behalf of the janmis with greater insistence or strength. It is, however, a matter of some significance that in the legislation as regards land tenure which the neighbouring States of Cochin and Travancore have sanctioned, it is the kanamdar, and he alone, of all tenants, that has been favoured. Mr. Krishnan Nayar started his proposals for tenancy legislation with a claim only in favour of the kanamdar. The verumpattamdar came into his scheme only at a later stage.

99. The argument against the kanamdar can be summed up easily and in a few words. Most of his class have never paid to the janmi anything like what may be termed 'fair rent'. It is conceded that, in most cases, if not all, he has retained in his hands from what he derived from the land in case he was himself the cultivator, or from what he got from the actual cultivator in case he had sub-leased his rights, a large slice beyond what represented the interest on his kanam amount. The argument on behalf of the janmi is, that Courts have held that a kanamdar is merely a mortgagee, and that, therefore, there is little justification for allowing him to continue to retain that slice perpetually against the will of the janmi, the real owner. The advocate for the kanamdar has from the outset perceived this weak spot in his armour, and, therefore, throughout the agitation that has been going on in Malabar in his favour, for over forty years, the attempt has been to rest his claim mainly on the historical theory that he was practically a co-owner with the janmi, and that, therefore, he was entitled to share with the janmi what is due to the owner of the soil as distinguished from the cultivator. Much has been written and spoken on both sides on this theory of co-ownership. But the matter is really not *res integra* so far as this Committee is concerned. As stated in the Order constituting this Committee, we are bound to recognize that Courts have decided for nearly three quarters of a century that the janmi is the absolute owner of the soil, that none else has even a part in that ownership; and so, any attempt to justify the grant of any sort of fixity to the kanamdar on the ground of his co-ownership or on the ground of irredeemability of the kanam would be to violate the principles on which we have been asked to construct our scheme. If, therefore, the Committee proposes to give some sort of fixity to these persons, it is on grounds other than what may be termed 'the historical ground.'

100. The Committee has given its anxious consideration to this question. So far as the kanamdars are also the actual cultivators, the Committee's task has not been difficult. For, there are economic grounds similar to and stronger than those stated with reference to verumpattamdars in support of any proposal to grant this class of kanamdars some sort of fixity. It seems to the Committee that there would not be any undue hardship if this class of kanamdars is given a right to claim renewal subject to payment of adequate compensation. The Committee, therefore, proposes that they should have such a right, except where all the lands covered by the kanam are dry lands and none of them is a wet land or a garden land. The reasons for the exclusion of such kanams are similar to those stated in paragraph 83 above.

101. The problem has not been so easy of solution as regards the non-cultivating kanamdar. But the Committee has come to the conclusion that, in this matter, no distinction need be made between him and the cultivating kanamdar. In the first place, a non-cultivating kanamdar has, in spite of the fact that the Courts have held for over seventy years that the kanam is redeemable, in practice been redeemed in very few cases. There are numerous families which have been allowed to hold on kanam the same lands for a century and over, and if evictions have attracted special attention it is partly because, in spite of the Courts' decrees, the kanamdars have been

believing, wrongly it may be, that they would be allowed to continue on the land, if only they paid the renewal fee and rent regularly. In the second place, kanamdars form a very large section of the middle classes of Malabar, drawn chiefly from the professional classes, Government servants and people of like status, and it seems to be desirable to give them some sort of fixity in the interests of general social well-being. Apart from this, the impression left on us by the evidence is that, in many cases, these kanamdars must have materially contributed during long course of years towards the cost of improving the lands which they hold and often for conversion of waste lands into cultivable ones, and are materially assisting in the proper cultivation of the lands by advancing to the actual cultivator funds necessary for carrying on cultivation. Such services would, in the opinion of the Committee, be necessary, at any rate, for a fairly long time to come. The verumpattamdar to whom the Committee is recommending the grant of a qualified fixity, is not, in the majority of cases, likely to find funds from his own pocket for the improvement of agriculture in the near future. He will have to go to somebody else for such funds. It would be an ideal state of things if the owner of the soil, the janmi, could advance the necessary funds to him on easy terms. It will not be very wrong, however, to say that in the case of most of the janmis, especially those who have a large number of tenants under them, they would find it difficult to do so. As we have suggested elsewhere, if the grant of fixity to the ordinary verumpattamdar is to result in any real benefit, it would be no good to drive him into the hands of the village sowcar. The kanamdar, with some permanent interest in the land, would seem to be one at least of the fairly reliable sources from which cheap credit may be legitimately expected. Moreover, the kanamdar occupies in the social economy of Malabar a place of some distinction. As has been said by more than one, the extent of the kanam interest is often the measure of the dignity of the janmi, and the status of the janmi is heightened, according to feeling in Malabar, by the number of persons holding kanams under him. In fact, as one witness put it, it is not the ownership of the soil that makes a man a janmi; it is the fact that he has kanamdars under him. He who has none such may be a *landlord* or *landowner*, but, in popular estimation, he is not a *janmi*. It may be that this is an exaggeration, but it indicates the view that giving out lands on kanam is the most dignified way in which the bigger landlords in Malabar have been enjoying their lands. It seems to the Committee, in view of the several considerations adverted to above, that any legislation which does not take note of the kanamdar would be truncated and would not bring about that cordial relationship between the landlord and the tenant which it is the object of the Government to bring about. A further reason is to be found in the fact already adverted to, namely, that in the neighbouring States of Cochin and Travancore, it is the kanamdar that has obtained fixity. Opinion is not unanimous on the question whether conditions in those States and in British Malabar are similar. But, be that as it may, the fact that there exists in those States a measure in favour of the kanamdar is a factor to be taken into consideration in deciding this matter.

102. The compensation that the kanamdar is to pay for the grant of this option to renew should, in the Committee's opinion, be similar to that which has been proposed by the Committee with reference to the kovilagam lessee, i.e., that the kanamdar should pay, as renewal fee, one-fourth of the difference between the fair rent of the lands comprised in the kanam and the michavaram paid by him during the preceding 12 years, after deducting the Government revenue and the interest on the kanartham for those 12 years. In calculating the fair rent, the rules specified already as regards cultivating verumpattamdars in respect of wet lands and what will be set forth hereafter as regards cultivating kuzhikanamdars for garden lands should be followed. As to dry lands, having regard to the extreme difficulty of ascertaining their produce for any period sufficiently long to produce a satisfactory average by reason of the fact that not all of them are usually cultivated and even on those cultivated crops are not raised continuously or regularly, the Committee proposes that fair rent shall mean five times the revenue of the lands for which such revenue was levied by Government during the period of 12 years preceding the claim for renewal. The option referred to above should also be subject to a condition that the landlord shall be entitled to redeem the kanam if he requires the land for his own cultivation or use or for that of any member of his family, provided that if

he lets the land again to another tenant, either on kanam or on verumpattam, within six years after such eviction, the old tenant shall be entitled to recover possession and hold the land on the same terms as those on which he held it before such eviction. There is, however, one additional factor to be borne in mind, in the case of kanams, namely, that provision should be made for the deduction of the interest on the kanam amount and of the assessment payable to the Government, from out of the joint funds, so to say, of the janmi and the kanamdar. To illustrate, suppose the fair rent in the case of any land is Rs. 100; from out of that, the amount of assessment, say, Rs. 10 is deducted; then a further deduction should be made of the amount due for interest on the kanam. Assuming that to be Rs. 20, the balance would be Rs. 70. This is now shared by the kanamdar and the janmi. A portion of this Rs. 70 is now paid as michavaram to the janmi. Taking it to be Rs. 10, the balance which goes into the pocket of the kanamdar is Rs. 60. In addition to paying this Rs. 10 every year as michavaram, the kanamdar pays, at present, at every renewal, a renewal fee the amount of which varies according to the custom or 'the cupidity of the janmi.' The complaint is that the renewal fee is arbitrarily fixed, but, in most cases, it seems to be about a year's net produce. The Committee's proposal is that out of the Rs. 60 now taken every year by the kanamdar, he should pay, if he is to claim renewal as a matter of right, $\frac{12 \times 60}{4}$ or Rs. 180 in the place of the present renewal fee and as compensation for the right to claim renewal. On the payment thereof, the kanamdar will be entitled to claim renewal through the appointed agency. Here again, it can be easily said from the point of view of the janmi that the compensation is too small, and from the tenant's view-point that is too much. This has also been essentially a matter of compromise; and the compensation would have been greater if the tenants' representatives had not agreed to the landlord having the power, referred to above, of taking the land back for his own cultivation or use. The Committee is of opinion that the compromise is, on the whole fair, taking all circumstances into account, and hopes that it would be accepted by all concerned.

103. A subsidiary point to be considered in this connection is the rate that should be allowed in making the deduction for kanam interest. In some cases, the rate of interest is expressly provided for in the deed creating the kanam or renewing it, and then the calculation is easy. In others, it is merely the total amount of interest to be deducted that is specified. Such specification sometimes gives the interest separately, and sometimes the amount of the interest is clubbed with the assessment on the land. In both these cases, the Committee proposes that the contract should be enforced. In the absence of such a contract, the Committee thinks that interest shall be allowed at 12 per cent per annum when the kanam amount does not exceed Rs. 1,000, 9 per cent if it exceeds Rs. 1,000 but does not exceed Rs. 3,000 and 6 per cent if it exceeds Rs. 3,000. This graduated scale has been decided upon in order that the rate may be similar to the rate of interest usually paid in the money market. It has, however, been represented that this proposal would often give to the kanamdar much more than what he now gets ordinarily, and that, in certain cases, especially in North Malabar, the rate according to the usage governing such transactions is not more than 5 or $5\frac{1}{2}$ per cent. The Committee thinks that, if that were so, and if the parties had entered into the transaction with that usage in view, the fact that the Committee proposes 12 and 9 and 6 per cent should not prejudice the janmi. It would, therefore, make such local custom an implied term of the contract.

104. A suggestion has been made that the janmi should be given the power to pay off the kanam in whole or in part, at any time he chooses, if he felt that the rate of interest was too high in any particular case, allowing the tenant to enjoy all the other privileges appertaining to his position as kanamdar. It has been however, pointed out on behalf of the kanamdars, that this will be practically reducing their status. The Committee has, therefore, not been able to accept the suggestion.

105. Difficulties have been anticipated and will continue to be raised as to how the system could be worked and should be worked in case both the actual cultivator and the non-cultivating kanamdar apply for fixity and that at different times. These

difficulties will also arise with regard to the intermediaries in the case of kuzhikanams whose claim the Committee will next proceed to consider. It would, therefore, seem desirable to defer dealing with this matter, till that is disposed of. We shall, therefore, discuss it in a later Chapter of this Report.

106. It is only necessary to add that these proposals as regards the kanamdars should apply, in the opinion of the Committee, only to cases of real kanams. It has been represented that in North Malabar there are few kanams of the sort contemplated in the opening paragraphs of this Chapter and that recent kanams in South Malabar are mostly of the same description, namely, real mortgages in which mortgage money is so large that the interest thereon is ordinarily equal to the income from the land. Mr. Krishnan Nayar has recognized this in his second Bill and also in his new Bill and has provided that the tenancy legislation that he has sought for should not cover kanams in North Malabar. This, the Committee thinks, is not the correct way of dealing with the situation. For, as stated above, there are similar kanams in South Malabar also. It seems to the Committee that the logical method is to exclude altogether from the scope of its proposals all kanams which are really mortgages, and with that view, it proposes to exclude all kanams both in North and South Malabar, where the kanam amount is more than 60 per cent of the janm value of the land at the time these proposals come into effect, or, as regards future kanams, at the time such kanams are created. The proportion indicating a real security or mortgage, as fixed in the explanation to section 66 of the Transfer of Property Act, is $66\frac{2}{3}$ per cent and over of the value of the mortgaged property. The Committee thinks that 60 per cent would be high enough for the present purpose. The Committee is also of opinion that it would be well that a definite rule should be made as regards the janm value, and recommends that twenty times the fair rent of the land should be deemed to be the janm value for the purpose of this provision. This rough and ready method, would, in the opinion of the Committee, prevent unnecessary litigation.

CHAPTER VII

KUZHIKANAMDARS

107. In making Malabar pre-eminently the land of the coconut the part played by the kuzhikanam tenant has not been inconsiderable, and with the growing increase in the trade in copra and the consequent extension of garden cultivation, his services are likely to be required in an increasing measure by the owners of land, especially in North Malabar. In many cases, the present tenants or their sires are or were the persons who converted barren land into smiling gardens; in other cases they have come in after paying considerable sums of money to those who did so; and in not a few instances it is the owner of the garden that has inducted them into it, not being able to take care of it himself. Anything which would make such a useful class of tenants economically more stable and efficient, requires careful consideration.

108. It has been represented to us by more than one witness that if there is one class of tenants in Malabar who do not need any legislation to safeguard their interests, it is the kuzhikanamdars. It is said that the Malabar Compensation for Tenants' Improvements Act (Act I of 1900) has practically stopped all evictions in the case of garden lands and given the kuzhikanamdar the necessary security of tenure and that if anybody is at a disadvantage now it is the janmi. It is asserted that the rates of compensation allowed for the trees planted by the tenant, according to the rules framed under that Act, are so high that even a rich janmi is unable to find funds to execute any decree for eviction that he may obtain, and the case of the Chirakkal Raja who has not been able to execute one such decree for years, is often cited as a typical example. It is further stated that, taking advantage of the provisions of this Act, the tenants overplant the land and swell the cost of improvements to such an extent that it is hardly worth the while of the janmi to redeem; for, what he gets after paying a considerable amount as the value of improvements does not in many cases fetch him an adequate return when it is leased out to others. There is some truth in these statements. But it is equally true that these circumstances have not, in practice, reduced the number of cases in which tenants have been evicted. The statement which is an appendix to this Chapter, shows that during the ten years ending with 1st July 1927 there has been no substantial decrease in the number of eviction suits, and taken by themselves, the number of such suits during that period in North Malabar and Calicut and Ponnani taluk of South Malabar, the land of coconut gardens, is not inconsiderable. The secret of this apparent paradox lies in the existence of what is known as the melcharthdar of whom we shall have to say more later on. Men usually drawn from classes that go abroad and amass wealth are willing to take a very small return for investing on land in their ancestral country; and there are others who in certain professions amass wealth in Malabar itself. These tempt the janmi to oust the man in possession by offering him fancy prices. So, though it must be said that the fear of eviction is not as strong in the case of the kuzhikanamdar as in the case of the tenants of wet lands, the present position is such that his tenure cannot be said to be so secure as to need no protection.

109. So far as those who are in actual possession of the gardens are concerned, namely, those who have raised or are raising trees, their position is analogous to that of the cultivating kanamdar from the economic standpoint, and for reasons similar to those stated in the case of the latter, the Committee proposes to give them a like right of claiming a renewal. This right shall be subject to the power of the landlord to take the property for his own cultivation or use with a proviso that, if he re-lets it, the old tenant can come back on the old terms.

110. The conditions on which the kuzhikanamdar actually in possession is to get a right to claim a renewal is that he should pay a fair rent and a reasonable renewal fee. The Committee thinks that fair rent in the case of coconut and areca trees planted by the landlord should be two-thirds of the average gross produce and in the case such of trees planted by the tenant one-third of similar produce. In

regard to the share in the minor products of the coconut tree, such as leaves, fibre, etc., the tenant shall pay three pies per tree per annum in addition to the prescribed share in the nuts, whether the tree belongs to the tenant or the landlord. Nothing need be paid for the minor products of the arecanut tree. As to all other classes of fruit bearing trees, such as jack, mango, tamarind, palmyra and cashewnut and also as regards pepper, the landlord's share shall be one-sixth of the gross produce. The average produce from which these shares are to be taken shall be calculated by dividing by three the total produce of the trees or the pepper vines or both for the three years prior to the claim for renewal. This makes reasonable allowances for the tenant's interest in the trees and the expense he has to incur in their upkeep. The Committee would fix the renewal fee at $1\frac{1}{2}$ years' gross produce of all the trees. It has been stated that this is a high rate. But it must be remembered that the renewal fee, at present, is very often at least a year's net produce, and it is only the difference between the old renewal fee and $1\frac{1}{2}$ years' gross produce that the tenant is made to give as compensation for the right which he acquires to demand renewal. This difference is not, having regard to the fact that in some cases the present renewal fee is even two years' net produce, so high as to be regarded as unduly hard on the tenant.

111. The Committee further considers that the conferment of this right to demand renewal should be accompanied by the grant to the janmi of a right to sue for the renewal fee according to the above rate, if the tenant does not get other terms settled with the janmi within six months after the expiry of the kuzhikanam or surrender his interest in the land. As the law stands at present, the janmi has no right to sue for the renewal fee. All that he can do if the tenant defaults is to sue for arrears of rent according to the old rate for the period during which he is holding over. He can, of course, sue for eviction. But the excessive amount which he almost invariably will have to pay as value of improvements, acts as a deterrent on many a janmi choosing to exercise the right to evict. The result is that many tenants get the benefit of the renewal without paying the renewal fee. The Committee thinks that this is an unsatisfactory state of affairs and is hard on the janmi, and would add that, if the tenant wishes to take advantage of the proposal to give him fixity, some provision should be made to enable the landlord to sue for the renewal fee in addition to his present right to sue for the rent.

112. The Committee also wishes to secure to the landlord the right to ask for the sale of the entire holding, namely, the land and the improvements thereon in execution of a decree for eviction. Oftentimes, after getting a decree for eviction, the landlord finds that he is unable to raise the necessary money to pay the value of improvements decreed, within the time specified. The result is that the decree becomes unexecutable after that, and when that happens no further suit for redemption could be brought under the present law. The janmi thus loses his right to redeem, i.e., practically his janmi right in the land. This results in ruin to many a poor janmi who may be willing to obtain at least the money value of the equity of redemption. It would be some relief to him if he could, when he finds that he is unable to pay the value of improvements, ask for the sale of the entire holding, so that, out of the proceeds thereof, the value of improvements could be paid to the tenant and the balance paid to him as the value of his right to redeem. His right to ask for sale is not quite clear under the present law if the amount to be paid to the tenant is the value of improvements alone, and the Committee considers it desirable that it should be expressly declared that the janmi shall have this right. It is pointed out that in such a sale it is possible that the price realized might be less than the amount decreed by the Court for the value of improvements with the result that the tenant would not only lose the holding but also get less than the amount so decreed. The Committee thinks that this should be obviated by providing that the tenant shall be entitled to bid at such a sale and set off the amount so decreed against the price. It will then be open to him to bid and buy the property for at least the full amount of the compensation due to him without having to deposit any portion of the price.

113. As in the case of the verumpattamdar, so in this case also, any change in the quantum of rent to be paid by reason of the fixation of fair rents should be gradual, if family budgets are not to be rudely dislocated. The Committee, therefore,

recommends, firstly, that for the next twelve years from the date on which the present proposals come into force, there shall be no change in the existing rents payable by the person in actual possession. They should be deemed to be fair rents as regards trees which were yielding at the time of the last renewal before these proposals come into operation, as one can reasonably presume that present rents have been fixed mainly with reference to such trees. Secondly, even after those twelve years, the rents should not, as regards such trees, be raised by more than $12\frac{1}{2}$ per cent at the next renewal.

114. As to the intermediaries between the owner of the garden and the tenant in occupation, their position is nearly the same as that of the non-cultivating kanamdar, and for similar reasons, the Committee proposes that they should also have the right to claim renewal on similar terms, and that they should pay as compensation not only a portion of the difference between what they receive from those below and what they pay to those above, but also a portion of the renewal fee which they would get from those below. To illustrate, if *A* is the janmi, *B* an intermediary and *C* the man in actual possession, and if *C* pays now a rent of Rs. 75 to *B*, and *B* pays a rent of Rs. 50 to *A*, and if a renewal fee of Rs. 200 is paid by *C* to *B*, the Committee's proposal is that *B* should pay to *A* for the right to get renewal from him $\frac{12(75-50)+200}{4} = \frac{300+200}{4} = \text{Rs. } 125$. If, however, one and a half years' gross produce is more than this, that will have to be paid. It is necessary to add in this case, as in the case of the kanamdar and the kovilagam lessee, that this limit has been put on the compensation only because the landlord is to have power to resume the land, subject of course to payment of compensation for improvements under the Compensation for Improvements Act, in case he wants the land back for his own cultivation or use or for that of any member of his family, and subject to the proviso that if he re-lets the land within six years the old tenant may claim to come in on the old terms. The compensation would be greater if no such power had been given. In this class of properties also, the difficulty adverted to already as to what should be done when both the man in possession and the intermediary ask for renewal at different times, will arise. This and connected problems will be considered in the next Chapter.

Statement showing the particulars of eviction suits filed and disposed of by the District Munsif's, Subordinate and District Courts in the district of North Malabar from 1916—1926—cont.

Year.	Number of eviction suits filed.			Number of eviction suits disposed of.												Number of decrees actually executed.		
	By jannis.	By meloharthdars under jannis.	By others.	Ex-parte.			Withdrawn or compromised.			Decided for plaintiff.			Decided for defendant.			In suits by jannis.	In suits by meloharthdars under jannis.	In suits by others.
				Suits by jannis.	Suits by meloharthdars under jannis.	Suits by others.	Suits by jannis.	Suits by meloharthdars under jannis.	Suits by others.	Suits by jannis.	Suits by meloharthdars under jannis.	Suits by others.	Suits by jannis.	Suits by meloharthdars under jannis.	Suits by others.			
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)

District Munsif's Court, Kuttuparamba.

1916	149	37	24	1	..	..	39	3	1	94	31	18	15	3	5	73
1917	183	14	5	..	..	..	48	2	..	119	10	3	16	2	2	105
1918	110	32	29	22	..	2	31	7	6	48	14	18	9	9	5	57
1919	146	36	14	..	..	..	35	6	..	88	23	10	23	7	4	64
1920	117	29	11	..	..	..	28	5	..	71	19	8	18	5	3	51
1921	107	34	16	7	..	2	41	11	7	49	18	5	10	3	4	33
1922	120	10	9	..	..	..	20	1	..	83	8	8	11	1	1	79
1923	93	36	51	1	..	1	20	3	10	64	28	26	8	5	14	37
1924	118	59	9	16	1	..	18	7	1	76	43	6	8	8	2	40
1925	90	24	1	25	7	..	23	1	..	36	16	..	6	..	1	43
1926	135	28	7	35	6	..	20	..	..	79	22	8	1	..	1	63

District Munsif's Court, Cannanore.

1916	158	54	32	5	1	..	50	10	13	94	38	12	10	3	8	49
1917	170	60	11	26	2	2	87	13	2	100	45	9	6	1	1	68
1918	234	43	2	8	2	..	64	..	..	140	35	..	11	3	2	45
1919	229	54	35	24	..	1	58	17	12	117	33	14	5	1	6	65
1920	220	63	35	27	1	..	64	16	9	115	43	15	10	3	10	64
1921	180	81	36	16	1	..	65	20	15	93	59	13	14	2	6	53
1922	177	66	40	17	3	1	48	16	16	104	46	14	6	..	7	67
1923	234	71	6	16	2	1	78	16	1	123	50	1	18	3	8	85
1924	181	44	14	15	..	..	57	11	5	96	29	2	20	2	4	64
1925	154	44	12	16	..	..	43	9	1	66	25	3	7	..	4	49
1926	200	37	12	25	..	..	47	10	2	88	21	1	12	2	17	46

Sub-Court and District Court, Tellicherry.

1916	..	2	1	..	..	..	..	..	..	2	1	..	..	..	..	2
1917	2	..	..	..	..	..	..	..	..	2	..	..	..	..	2	..
1918	1	..	3	..	..	..	..	..	..	1	..	..	..	..	..	..
1919	1	2	3	..	..	..	..	..	1	1	2	..	..	..	2	..
1920	..	..	2	..	..	..	..	..	..	..	..	..	..	2	..	..
1921	1	1	3	..	..	..	..	..	..	1	..	1	..	1	..	1
1922	..	..	3	..	..	..	..	..	..	..	3	..	..	..	..	3
1923	1	..	..	..	..	..	..	..	..	1	..	..	..	..	1	..
1924	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	..
1925	7	..	1	..	..	..	1	..	..	6	..	1	..	..	5	..
1926	1	..	..	..	..	..	..	..	..	1	..	..	..	..	..	..

Abstract of eviction suits filed and disposed of by the several civil courts in the district of North Malabar.

Year.	Number of eviction suits filed.				Number of eviction suits disposed of.										Number of decrees actually executed.									
					Ex-parte.		Withdrawn or compromised.				Decided for plaintiff.		Decided for defendant.											
	By jannis.		By meloharthdars under jannis.		By others.		Total.		Suits by jannis.		Suits by meloharthdars under jannis.		Suits by others.		Total.		Suits by jannis.		Suits by meloharthdars under jannis.		Suits by others.		Total.	
	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)	(23)	(24)	(25)
1916	1,457	474	391	2,322	95	4	26	125	251	41	56	370	957	368	247	1,572	177	46	53	276	703	269	186	1,158
1917	1,373	393	260	2,026	88	2	9	99	265	56	49	370	860	305	151	1,316	140	16	39	195	673	236	124	1,033
1918	1,620	395	222	2,187	155	12	26	223	240	43	35	318	877	277	88	1,242	134	42	29	205	647	204	75	986
1919	2,019	633	222	2,874	131	24	17	172	380	98	41	519	1,082	384	107	1,573	190	56	33	279	795	246	77	1,118
1920	1,651	634	261	2,546	143	22	16	181	362	76	62	600	919	341	109	1,472	125	51	33	269	643	269	72	984
1921	1,641	743	286	2,686	158	35	12	205	342	105	67	524	869	521	167	1,547	157	46	33	236	576	373	108	984
1922	1,418	524	286	2,228	122	21	7	156	262	72	59	393	873	360	170	1,403	165	43	38	186	699	276	122	1,097
1923	1,415	530	192	2,137	121	9	6	136	320	68	33	421	873	403	127	1,406	90	20	29	139	681	286	93	1,060
1924	1,488	544	185	2,217	142	16	14	172	287	78	42	407	903	377	76	1,356	82	44	19	145	627	250	61	938
1925	1,424	502	293	2,219	144	17	17	186	278	78	56	412	887	348	224	1,459	98	34	31	163	711	263	157	1,181
1926	1,597	520	224	2,339	181	26	9	216	304	54	40	398	890	318	104	1,312	60	34	28	122	468	141	60	669

CHAPTER VIII

INTERMEDIARIES

115. 'Intermediaries' who are often called by the sinister name, 'middlemen', have been the favourites of few in any department of life, and the name is anathema specially to those who swear by full economic justice. The picture of those who toil not nor spin and yet claim and take a portion of the profits of any industry or enterprise is easily and often drawn, and the ideal is held out that those who merely invest money and wait for the annual return, while others labour with the sweat of their brow, should have no part or lot in the agricultural economy of a country. As an ideal to be worked up to gradually, there is perhaps little to be said against this view. But no reformer, least of all, one in the domain of agriculture, has a clean slate to write upon. That fact has to be recognized. It is said that middlemen do exist in every department of human affairs, and are not, therefore, to be regarded as altogether undesirable persons in the matter of the division of agricultural profits. Be that as it may, in Malabar this system of intermediaries has had a long vogue. Thousands of families have been living on what they make as intermediaries, and have nothing else to rely on. And, if a census is taken, one would not be surprised (if our impression of the evidence is not altogether wrong) to find that there are nearly as many families of intermediaries in Malabar as there are of cultivators, and certainly more than those of janmis. Any proposal to do away with these intermediaries altogether will, therefore, cause much economic unsettlement, and the Committee has consequently resolved that nothing should be done which will wipe them out of the picture suddenly. It is in this view and also because they have not been mere investors of money always but have often assisted the cause of sound agriculture by timely advances to the actual cultivators either for the improvement or the cultivation of the land, that the Committee has proposed in the previous Chapters to give the right to demand renewal, on payment of compensation, to non-cultivating kovilagam lessees, non-cultivating kanamdars, and to the intermediaries between the actual men in possession of garden lands and their janmis.

116. The Committee is conscious that the effect of some of their proposals would perhaps be the gradual elimination of some at least of these intermediaries. For example, in the case of wet lands, the fixing of the fair rent which, it believes, would give to the actual cultivator something more than what he is getting at present on the one side, and the raising of the renewal fee to three times the difference between that fair rent and the present michavaram in the case of the kanamdar on the other, would gradually squeeze out one or more intermediaries between the two. To illustrate, let *A* be the janmi, *B* the kanamdar, *C* the sub-kanamdar, *D* the non-cultivating verumpattamdar and *E* the actual cultivating verumpattamdar. If the net profits of the land are Rs. 100 after deducting twice the seed for the cost of cultivation, *E* will be paying to *D* something less than Rs. 100. Let it be taken to be Rs. 90; *D* will be paying to *C* something less than Rs. 90, and let that be Rs. 80; *C* will be paying to *B* something less than Rs. 80 and let it be Rs. 50; *B* will, in most cases, be paying to *A* very much less than Rs. 50, after deducting the interest on the kanartham which may be taken to be Rs. 10 and let it be Rs. 30; out of this *A* is now paying the assessment, say Rs. 7. According to the Committee's formula of fair rents, *E* the actual cultivator would get not merely the difference between 100 and 90, i.e., Rs. 10, but one-third of the Rs. 100, i.e., Rs. 33 $\frac{1}{3}$. That is to say the fair rent would be Rs. 66 $\frac{2}{3}$. Therefore, there will only be Rs. 66 $\frac{2}{3}$ to be divided among *A*, *B*, *C* and *D* and for the payment of the assessment. At the other end, there is the formula that not merely should *A* continue to get Rs. 30 that he is now getting from *B*, but that he should also get in addition three times the difference between Rs. 66 $\frac{2}{3}$ and Rs. 30 after deducting the interest on the kanartham and assessment, i.e., three times [Rs. 66 $\frac{2}{3}$ - (10 + 7) - 30 = 19 $\frac{2}{3}$] or Rs. 59 every twelve years or roughly Rs. 5 every year extra. Roughly, therefore, he will get about Rs. 35 a year from *B* and after making an allowance for the annual value of the present renewal fee which will be, say, Rs. 1 $\frac{2}{3}$, there will remain only Rs. 33 to be divided between *B*, *C* and *D* as against Rs. (90 - 31 $\frac{2}{3}$) = Rs. 58 $\frac{1}{3}$ which they

Abstract of eviction suits filed and disposed of by the several civil courts in South Malabar.

Years.	Number of eviction suits filed.					Number of eviction suits disposed of.													Number of decrees actually executed.						
						Ex-parte.			Withdrawn or compromised.				Decided for plaintiff.				Decided for defendant.								
	(2) By jammis.	(3) By meloharthdars under jammis.	(4) By others.	(5) Total.	(6) By jammis.	(7) By meloharthdars under jammis.	(8) By others.	(9) Total.	(10) By jammis.	(11) By meloharthdars under jammis.	(12) By others.	(13) Total.	(14) By jammis.	(15) By meloharthdars under jammis.	(16) By others.	(17) Total.	(18) By jammis.	(19) By meloharthdars under jammis.	(20) By others.	(21) Total.	(22) By jammis.	(23) By meloharthdars under jammis.	(24) By others.	(25) Total.	
1916	834	237	546	1,757	43	9	50	102	180	31	125	336	682	183	326	1,191	66	17	50	133	483	139	271	893	
1917	992	230	579	1,801	83	9	89	191	191	33	146	370	625	162	309	1,096	70	15	44	139	532	110	219	851	
1918	988	216	433	1,637	94	10	33	139	150	28	80	258	569	164	246	1,069	69	13	75	167	494	109	176	779	
1919	1,320	239	641	2,200	84	1	67	152	177	28	107	312	832	155	386	1,373	131	23	58	212	611	106	291	1,008	
1920	1,356	385	816	2,556	131	20	125	276	151	41	176	368	1,518	269	450	2,237	102	43	93	238	710	100	205	1,015	
1921	1,016	295	493	1,804	142	7	68	317	141	36	115	292	638	209	230	1,077	47	22	50	119	545	147	219	911	
1922	1,694	384	610	2,688	266	28	90	384	226	61	104	391	893	198	309	1,400	85	27	44	166	717	154	227	1,188	
1923	1,633	482	743	2,858	200	29	129	358	190	37	123	350	1,095	377	402	1,874	112	33	66	211	786	278	356	1,420	
1924	1,649	326	852	2,827	229	14	117	360	188	22	106	316	1,029	220	528	1,777	86	45	83	214	760	149	348	1,357	
1925	1,965	342	702	3,009	185	28	73	286	272	62	137	461	1,263	223	446	1,922	109	29	34	172	817	151	279	1,247	
1926	1,577	269	936	2,772	169	11	122	302	183	23	161	367	867	136	526	1,529	36	15	21	72	510	54	254	818	

Note.—The records for 1916-1921 in the District Munsifs' Courts of Manjeri, Tirur, Walluvanad and Parappanangadi were destroyed by Mappilla rebels.

were dividing among themselves. *B* who was getting Rs. 20 a year will in most cases get less if he keeps on *C* and *D*. Therefore, it would not be economically a sound proposition for *B* to create new sub-kanams or to continue the old sub-kanam to *C* or the verumpattam to *D*, and the latter would perhaps disappear at the time of the next renewal. The question may be asked whether it is desirable to benefit *B* at the expense of *C* and *D*. As regards *D*, there is nothing to be said in his favour. He embodies all the evils of middlemanship, if anybody does. But, as regards *C*, he might, in some cases, have been holding the land as long as the kanamdar *B* himself, and if anything is done to his detriment, it is because in these readjustments somebody has to go, and he belongs to the least numerous of the classes affected, and, therefore, anything which affects him would confine the resultant injury within a narrow compass.

117. As regards garden lands, we have, in a manner, indicated in Chapter VII (paragraph 114) the way in which the intermediary would share his profit with the janmi, the owner of the soil.

On principle, there may be no difference between a sub-kanamdar of a wet holding and the intermediaries in the case of garden lands, but a difference has been made by the Committee between them, because the latter class is far more numerous, especially in North Malabar, than the former class. Apart from that, in the case of garden lands, these intermediaries are, in most cases, not mere intermediaries. They have in several instances added considerably to the value of the property. Several of them have planted trees and otherwise improved the gardens during the time they were in actual possession before passing on the possession to the next in order, and therefore they deserve more consideration.

118. As to how the intermediaries in the case of garden lands should share the profit among themselves and with the janmi in case there are more than one intermediary, the formula which the Committee proposes is that each should pay, for the right to demand renewal, to the one immediately above him, three times the difference between the rent which he gets from the one next below him and what he pays to the one next above him, plus a fourth of the renewal fee that he himself gets. But if the amount so calculated is less than $1\frac{1}{2}$ times the annual gross yield, the latter is the amount that should be paid as renewal fee. To give an illustration, let us take *A* to be the janmi, *B*, *C*, *D*, *E*, and *F* to be the intermediaries, and *G* the actual tenant in possession. Let us take the number of yielding coconut trees in a garden to be 100 of which only 80 belong to *G*, the average yield of each tree to be twenty coconuts a year and the price of each coconut to be an anna. The total gross yield will be Rs. 125 per year. The rent which *G* should pay to *F* under the Committee's formula would be roughly $(20 \times 20) \times \frac{2}{3} \times 1$ annas = 266 $\frac{2}{3}$ annas plus $80 \times 20 \times \frac{1}{3}$ annas = 533 $\frac{1}{3}$ annas or a total of 800 annas or Rs. 50. *F* will be paying to *E* as rent something like Rs. 45, *E* will be paying something like Rs. 40 to *D*, *D* will be paying something like Rs. 35 to *C*, and *C* something like Rs. 25 to *B*, and *B* about Rs. 10 to *A*. It is generally found that as one goes higher up in this hierarchy the difference between what a man gets and what he pays is getting greater. If *G* wants to claim a renewal he will have to pay to *F* a renewal fee of $1\frac{1}{2} \times 125 =$ Rs. 187 $\frac{1}{2}$. If *F* wants to claim a renewal from *E*, he must pay three times the difference between 50 and 45, plus $\frac{1}{4}$ of 187 $\frac{1}{2}$ (roughly 47) or Rs. 62 in all. If *E* wants to claim a renewal from *D* he must pay him three times the difference between 45 and 40, plus $\frac{1}{4}$ of 47 = Rs. 27; if *D* wants to claim a renewal from *C* he will pay three times the difference between 40 and 35, plus $\frac{1}{4}$ of 27 and that will come to Rs. 22; if *C* wants to claim a renewal from *B*, he shall have to pay three times the difference between 35 and 25, plus $\frac{1}{4} \times 22 =$ Rs. 36 roughly, and if *B* wants to claim a renewal from *A* he shall have to pay $3 \times (25 - 10)$ plus $\frac{1}{4} \times 36$, that is, roughly Rs. 54. In all these cases the amount is less than $1\frac{1}{2}$ times the gross yield, namely, Rs. 187 $\frac{1}{2}$. So, *E*, *D*, *C*, and *B* must each pay to *D*, *C*, *B*, and *A* Rs. 187 $\frac{1}{2}$ as renewal fee. Suppose, however, not even one of all the 100 trees belongs to *G*, the rent that he will have to pay to *F* would then be $\frac{100 \times 20 \times 2}{3}$ annas or Rs. 83 $\frac{1}{3}$. If the rent that *F* has to pay *E* is Rs. 35, the renewal fee that *F* shall pay will be $3 \times (83\frac{1}{3} - 35)$ or

Rs. 145, + $\frac{1}{4}$ (187 $\frac{1}{2}$) or 46 $\frac{7}{8} =$ 194 $\frac{1}{8}$ which is higher than Rs. 187 $\frac{1}{2}$. It is no doubt possible, that, in some of these cases, it will not be economically sound for the janmi or an intermediary higher up to allow many intermediaries below him to continue, and the present formulæ may diminish his income. The obvious remedy is in his own hands, namely, to take the land directly under his own cultivation and thus readjust the economic position. He would certainly do so, unless the present formula gives him a clear margin of profit.

119. Another problem is as to what should happen if all the intermediaries and the person in actual occupation want renewal, but apply at different times. The Committee thinks that in that case, in calculating what each should pay, it is only the actual profit made till the time of the application for renewal that should be taken into consideration. For example, suppose *A* had leased a land to *B* in 1926 and *B* sub-leases it to *C* in 1930. *B* will have to claim renewal at the end of 1938, while only eight years would have run of the lease in favour of *C*. What *B* would have to pay as renewal fee is one-fourth of the difference between the rent that he has got from *C* for the eight years and what he has paid for these eight years plus the difference between what he should have paid as fair rent as cultivating tenant for the previous four years and what he actually paid to *A* for those years. Suppose the actual fair rent is Rs. 50 and *B* has been paying only a rent of Rs. 10. He will have to pay a renewal fee of at least Rs. 120. It might be even more for he might have got from *C* during those eight years more than the fair rent. If that be so, he shall have to share it with *A*. It might be said that this is letting *B* off cheaply, as he may get a renewal fee from *C* of Rs. 180 soon after, that is, in 1942. But at the next renewal in 1950 he will have to pay much more to *A* than what he paid in 1938; for, at that time he will have to pay the difference between what he had got and paid as rent during the whole of the twelve years from 1938 to 1950 and also a portion of the renewal fee of Rs. 180 which he had got by giving a renewal to *C* in 1942, and so, in the course of time, their accounts will adjust themselves properly.

120. Another problem to be solved in this connection is as to what should happen if the intermediary does not want a renewal, but has already granted a renewal to the man below him. The solution proposed by the Committee is that when an intermediary disappears, the man below him should be deemed to have contracted with the man above the disappearing intermediary on the terms on which the person going away had contracted with the person above him or on the terms on which he himself had contracted with such person, at the choice of the person immediately above the person disappearing, and for all purposes there should be deemed to be privity of contract between them. It should also be provided that all above shall have the right to proceed against the actual cultivator for the share of the rent, which, according to the contract, they are entitled to, and that they shall be entitled to sue the actual cultivator for the amounts so due, in case he does not prove the payment thereof to the person to whom he is immediately bound to pay. For example, if *A* is the janmi, *B*, the kanamdar, *C*, the sub-kanamdar, *D*, the non-cultivating verumpattamdar, and *E*, the actual cultivator, and if the rent that *E* is to pay to *D* is Rs. 50, *D* is to pay to *C* Rs. 40, *C* is to pay to *B* Rs. 30, and *B* is to pay to *A* Rs. 20, *A* shall be entitled to sue *E* for Rs. 20, *B* shall be entitled to sue *E* for Rs. 30 and *C* shall be entitled to sue *E* for Rs. 40. *D* of course has the right to sue *E* for Rs. 50 under the lease by him to *E* apart from any special provision. But *E* will not be liable to pay to any of them more than what remains in his hands out of the Rs. 50, and any payment made by him to any of them shall be given credit for, provided the payment had been made before the receipt of any notice from the plaintiff in the suit claiming the amount. Thus if *A* sues him for the Rs. 20 due to him, he shall be liable to pay Rs. 20, but if he had paid the entire verumpattam rent of Rs. 50 to *D* or any portion of it to *B* or *C* before notice from *A*, he shall not be liable to pay anything more than what remains in his hands. No such suit at the instance of *A*, *B*, *C* or *D* shall fail merely on the ground that there is no privity of contract between any of them and *E*.

CHAPTER IX

KUDIYIRUPPU

121. Evictions of any sort have had a bad odour in all countries and at all times; and when it is the case of a tenant and his family being 'forced from their home—a melancholy train, it easily attracts popular sympathy, even when the tenant has not been blameless and has failed to abide by his terms. When a claim is made that that home is an 'ancestral home' where the tenant's fore-fathers have lived, died and been buried, public attention is easily focussed on it and it becomes at once the talk of the neighbourhood. Even one such case affects the general relations between the landlords and tenants and assumes more importance than very numerous evictions from other kinds of property do. Among the grievances prominently mentioned by advocates of tenancy-law reform in Malabar is the frequency of evictions from homesteads. The statistics at the disposal of the Committee do not warrant the conclusion that such evictions are common or even numerous. But, as stated above, even the few that do actually take place affect the situation and become a constant source of irritation. The present system of land tenure in Malabar does afford opportunities for an angry janmi to turn out of the homestead even a satisfactory tenant, and the situation is complicated by the fact that in Malabar there is ordinarily no Government property on which an evicted tenant can go and live without fear of disturbance, and if he is evicted by one landlord he has perforce to go to another for a site for his home. The Committee, therefore, thinks that something should be done to render such a contingency impossible.

122. At the outset, the Committee wishes to make it clear that its proposals as regards this matter are not to affect any homesteads or buildings constructed thereon by the janmi at his own cost and into which the tenant was inducted by the janmi, and so, it would adopt the principle of the following provision in Mr. Krishnan Nayar's Bill of 1924 which the Legislative Council has accepted, viz.: "In the absence of any contract to the contrary, the tenant of a house, shop, warehouse, or any other building constructed by or at the expense of the landlord, together with the garden and compound appurtenant thereto, shall not have therein a right of permanent occupancy." It would again emphasise what it has stated already that any proposals made to benefit the tenant should be quite optional and that, therefore, no one should be compelled to take any homestead if he does not choose to do so. A third preliminary observation would be that the Committee is not satisfied that any squatter who got into the land within very recent times should be given relief. The cry has always been against evictions from 'ancestral homes' and the Committee thinks that at least fifteen years' occupation of the same place should be necessary to justify any such claim.

123. Sites of homesteads are sometimes the only property comprised in a holding. More often they go with the lands, wet, dry or garden. In North Malabar, especially, these homesteads are, commonly, right in the middle of gardens. As regards those which form the only property in a holding, the Committee proposes that if the landlord sues to evict him, the tenant should have the option, by way of defence, to purchase the landlord's right in the land at its market value at the time of his offer to purchase. This would seem to be the best solution of the matter; for, any system of permanent occupancy would only keep the sore running. The Courts should fix the price that should be paid, and on the payment thereof, the suit in eviction would be dismissed and a conveyance executed to the tenant. The landlords are likely to lose little, for in most cases the rent reserved is not more than a few annas or rupees, and they find it hard to collect even that in most cases, or to evict the tenants for non-payment. The problem is more difficult where the site of a homestead is part of a bigger holding. In such cases, the homestead may be necessary for the convenient enjoyment of the other lands included in the holding, as they have been hitherto enjoyed. The Committee thinks it would lead to unnecessary and inconvenient cutting up of holdings if, in such cases, the tenant is to be allowed to force the hand of the landlord, and make him sell his right. It would, therefore, leave such homesteads to go with those other

lands. It may be, the tenants may suffer, in some cases, by reason of this rule. The Committee, however, thinks that the proposals that it has made in the previous Chapters would give most of the tenants such fixity as they want and need, and when they get it, the question of homesteads would not separately arise and need separate solution. Then there is a third class of homesteads which, though they form part of the holding, are separable from the rest of the lands included in it in the sense that they are not necessary for the convenient enjoyment of other lands as before and can, without much disadvantage, be separated and given to the tenant. To such, it would apply the formula as regards homesteads which form the sole property in the holding. The Committee is conscious that it would not be an easy matter in all cases to determine what is necessary for the convenient enjoyment of the other lands. But a similar provision in section 13 of the Indian Easements Act has stood the test of time, and Courts have not found it difficult to apply the principles embodied therein. Those principles may well form a guide in this matter also.

124. As to the question what the extent of the kudiyruppu is to which these rules should apply, it has not been easy to find a definite answer. So far as lands which are already occupied are concerned, it is hoped that, in most cases, what has already been occupied can be treated as necessary. The Committee can only give a general rule that all sites of residential buildings and so much of adjoining land as is necessary for the convenient enjoyment of those buildings as heretofore, with the necessary easements, should be governed by this rule. As to future grants, it must be left to the parties to settle the terms relating thereto by definite contract.

125. The option to purchase given in paragraphs 122 and 123 should, in the opinion of the Committee, be subject to two qualifications. Firstly, in determining whether a tenant should be allowed to purchase the landlord's right, the Court shall take into consideration, the janmi's offer, if any, to provide for the tenant a homestead equal in convenience to the one from which he is sought to be evicted. The object of this is to respect the sentiment of the janmi which deserves as much consideration as that of the tenant. It may be that the Court may not always find it possible to accept such an offer, taking all the circumstances of the case into consideration. But, if an equally good homestead can be found for the tenant, there does not seem to be any justice or necessity in compelling the landlord to part with his rights in any specific property merely on the ground of the tenant's sentiment. A wide discretion being given to an impartial tribunal, it would seem that much unnecessary bickerings between the parties may be avoided. A second restriction would be that any sale by the tenant of the site which he has purchased under the provisions of this new rule and of the buildings thereon shall be subject to a right of pre-emption in favour of the janmi. This seems to be equitable, having regard to the object of the rule which, as stated above, is that a person should not be driven out of a home in which he was born and brought up. But if he or his family is not to have it and he is willing or is compelled to part with it, there is no reason why the janmi should lose what will be most often his ancestral property, in favour of one who has no special claim to have possession of it. Such a man deserves no consideration in a matter of this sort, and so whether the sale be *inter partis*, or *ad invitum* as in the case of a sale in execution of a decree or by a receiver in insolvency, the janmi should be allowed to buy the tenant's interests in the sites and the buildings thereon at the then market price.

CHAPTER X

MELCHARTHS

126. No incident of the present system of land tenures in Malabar has been the subject of more opprobrium than the melcharth, and yet, it is, in essentials, what ownership of property entails all the world over, namely, the right to pass to another what belongs to the owner himself. Whether you treat a kanam as a mortgage or as a lease, the janmi is the owner either of the equity of redemption or of the reversion, and the owners of such rights have, in most systems of jurisprudence, the right to transfer them to others for consideration or otherwise and to clothe the transferee with the rights the transferor possesses, among them being the right to obtain possession of the land in the same circumstances and subject to the same conditions as those in which the transferor himself could obtain it. That is just what a melcharth is, and those are all the rights which the melcharth creates in Malabar. The janmi can either sell his equity of redemption or the reversion absolutely, or he may create a sub-mortgage or a second lease, giving the right to the transferee to evict the mortgagee or tenant in possession at the end of the term or before if he makes default. Prima facie, therefore, there does not seem to be anything obnoxious in the system.

127. The cry has, however, been long and loud against it, and the justification for all this cry is found in the abuse that is sometimes made of this power of transfer. In most cases, where the relations between the tenants and the janmi have been cordial, there has grown up in Malabar a tradition that it is something undignified for the janmi to create a melcharth. But it is also true that the janmi's avarice or

Year.	Number of melcharths executed.	Number of "karars to lease"—a form of melcharth—executed.
1916	3,248	38
1917	3,366	53
1918	3,405	41
1919	3,789	45
1920	3,520	23
1921	3,419	13
1922	3,424	99
1923	3,496	184
1924	3,634	269
1925	3,731	285
1926	3,653	280

poverty is often exploited by the tenant's rival. The table in the margin shows that melcharths average 3,500 a year—a not inconsiderable figure. Cases often occur where when the janmi himself would not have thought of evicting a tenant, he has not been unwilling to give a melcharth allowing another to evict the tenant, allured by the tempting terms offered by the tenant's adversary. Cases have also occurred where professional men and friends of the janmi have induced them to break this rule. Yet, strange to say, in the chorus of condemnation of the melcharth system the voices

of some of these and of the tenants' rivals are not the lowest. There have also been instances where the underlings and karyasthans of janmis have wreaked their vengeance on tenants who would not propitiate them in all the ways they require, using this power to injure them even though the janmi left to himself would not have gone to court. Sometimes, these melcharths are given long before the term of the expiry of the previous lease or long before the tenant in possession has committed any default or done anything to justify a change in the tenancy. Oftentimes, this is done without even a notice to him that this change is contemplated. The peculiar conditions of marumakkathayam families tend to make these abuses somewhat common. Karnavanship of marumakkathayam families is, in most cases, of very short duration, and the premium that a man gets for granting a melcharth is often not inconsiderable. The result is that where the karnavan thinks he is not likely to live up to the time when a renewal of a kanam or a kuzhikanam will take place and thus get the usual renewal fee, he often wishes to make money by granting melcharths in advance of that time. It occurs not infrequently that, at the time when the reversion falls in, he is not there, and some one else who is agreeable to the old tenant continuing, finds himself helpless to assist him. It has, no doubt, been held that a melcharth before the old lease expires is not always valid, but should be justified by family necessity. But this 'family necessity' is an inconveniently vague expression, and no one could

be certain what a court would decide, years hence, as to whether there was family necessity or not. There is thus great uncertainty as to title. It is these abuses that have helped to swell the cry against the system of melcharth.

128. As early as 1899, Mr. Dance, the then Collector of Malabar, thought that the evil was of sufficient importance to deserve immediate relief by legislation. His proposals were as follows :—

"Melcharths granted under the following circumstances shall be held to be valid :—

- when a tenant is in arrear with his rent for two years or more and has not paid it after notice in writing,
- when a tenant who is liable by custom to pay a fee on renewal of his tenure, does not pay a reasonable fee for a period of one year after the time for the renewal and after notice in writing.

Explanation.—A renewal fee shall be deemed to be reasonable for the purpose of this Act if it does not exceed 20 per cent of the kanam, or, in any case other than kanam, if it does not exceed two years' janma-pattam; provided that in no case shall a melcharth be considered to be valid if it was granted because the tenant refused to pay a higher renewal fee than had been previously paid by himself or his predecessor in interest.

- When a tenant disputes the title of the landlord, or does any act injurious to the property rented to him, or to the title of the landlord in respect of the said property, or acknowledges another as his landlord.

"Melcharths granted under any other circumstances shall be held to be invalid.

"If the tenant in a suit brought by the landlord establishes that the object of the suit is to give possession of the land to a person who has obtained a melcharth, which, under the provisions of this Act is invalid, no relief shall be given in that suit to the landlord."

It will, however, be found that clause 2 of Mr. Dance's draft Bill which defined melcharths as excluding "pure mortgages, karipanyams, kaivasampanayams and leases in respect of which no renewal fee has been paid or is payable" practically nullified the effect of his proposals; for, that clause can be used by an ill-disposed janmi to work the mischief which his other proposals tried to prevent. Be that as it may, the then Government of Madras did not accept his proposals. Later reformers went further and proposed the total abolition of all melcharths. One of the amendments proposed to Mr. Krishnan Nayar's Bill on behalf of the Government which was practically accepted by him and was incorporated in the Bill as it left the Council, is as follows :—

"No melkanam shall be enforced except upon proof that the grantor prior to the grant had offered to the tenant in writing an option of a demise or lease on the terms of the melkanam and that the terms offered were reasonable and were not accepted by the tenant."

129. But serious difficulties will arise if any of the above proposals is accepted. To begin with, they will place the poor janmi at the mercy of a recalcitrant tenant. In most cases of evictions, there is a considerable amount of money to be paid into court for the value of improvements, and even rich janmis sometimes find it difficult to raise so much money. In such cases, the only way open to the janmi to remove an unsatisfactory tenant is to give a melcharth. Moreover, these proposals will restrict the power of the janmi to raise money for even legitimate purposes, in case the tenant is unwilling or unable to advance further loans. It may be that the janmi can in some cases raise money without clothing the creditor with the power of ousting the existing tenant. But, in the generality of cases, it would not be easy for him to find a man to advance money merely on a simple mortgage. Again, there is no reason why so long as the tenant in possession is not evicted, the melcharthdar should not step into the shoes of the janmi. For example, there can be no reasonable ground why a tenant in possession should not pay to the melcharthdar

the rent that he has been paying to the janmi. There is also no sufficient reason to prevent a melcharth being granted, if the tenant, on notice being given to him, would not claim a renewal on payment of such renewal fee and rent as is fixed for such a purpose under the law. To deny such power to the janmi in such circumstances would be practically putting a premium on the contumacy of the tenant. It is not necessary to abolish the melcharth altogether to prevent abuses of it. The Committee, therefore, thinks that all that need be done in this matter is that the melcharthdar should not be allowed to *evict* a tenant in possession unless—

- (i) the melcharth is granted after the expiry of the term of the existing kanam, kuzhikanam or lease;
- (ii) the tenant has been given a notice in writing to renew;
- (iii) the tenant has failed to do so within the time fixed in the notice;
- (iv) the tenant has also failed to pay up (1) the prescribed renewal fee, or
- (2) all arrears of rent including interest, if any, up to the date of the notice; or
- (v) the tenant does not agree to pay the rent lawfully due from him.

CHAPTER XI

MISCELLANEOUS.

I

130. There remain a few miscellaneous points to consider. The first of them relates to the subject of fair rents. In the previous Chapters the Committee has stated what would be the proportion in which the net or gross produce of the property should be divided between the landlord and the tenant and have suggested a formula for the determination of fair rents. In the case of wet lands, it is one-third of the net to the tenant and two-thirds to the janmi. In the case of garden lands, it is two-thirds of the gross to the landlord and one-third to the tenant in the case of janmi's trees and *vice versa* in the case of tenant's trees. This rule will apply to the bulk of the lands in Malabar which are situated outside the limits of any municipality. The Committee, however, thinks that in the case of lands within municipal limits this formula would not work equitably and that the landlord should have the benefit of a share in additional rental values which lands may acquire by reason of the fact that they are situated within such limits. It, therefore, proposes that, in respect of vacant lands within such areas, i.e., lands which have not been built upon or on which nothing has been grown, fair rent shall mean rent paid for similar lands in the neighbourhood. This rule is intended to provide for the increase in rents within municipal limits in response to the naturally more rapid increase in land values in such areas. It is also proposed that in respect of other lands in municipal areas, such as wet lands or lands planted up with gardens or lands partly planted up and partly built upon or vacant, fair rent shall mean the fair rent for such lands outside such areas or the fair rent of vacant lands within such areas, calculated as stated above, whichever is higher. To illustrate, suppose there is a wet land within a municipal area. Ordinarily, the rent for such land will be two-thirds of the net produce in a normal year. If it is a garden land it will be two-thirds of the gross produce for the janmi's trees thereon and one-third as regards the tenant's trees thereon. It may, however, be that the land may be used not for an agricultural purpose but for some other purpose such as the location of a rice or other mill or the putting up of a ware house or a theatre. In such a case, if the old rate of rent is to continue, the landlord may be put to loss. It seems, therefore, fair that he should get as his rent what the land will yield if it is leased as a mere vacant land, if that rent happens to be higher than what it would be if the land is treated as mere wet land or garden land.

II

131. The next question is as to the liability for the payment of assessments and similar charges, such as water-rate and local cesses. The present law, that it is the janmi that should be responsible for all such charges on the land should continue so far as the right of the Government to proceed against him is concerned. The question now considered is as to how it should be apportioned as between the tenant and the janmi. The main principle which should govern this matter, is that it should come primarily from the share allotted to the janmi, whichever be the hand that pays to the Government according to the arrangements between them. So, in the case of wet lands, the assessments should come from the two-thirds of the net produce reserved for the janmi. In the case of kovilagam leases also it will come from the rent paid to the janmi. In the case of kanam, provision has been made for the deduction of the assessment in settling the renewal fee. In the case of kuzhikanam leases, the janmi will pay from out of the renewal fee or what he gets as rent. There is, however, one point to be noted as regards wet holdings. It will be seen from our proposals that, in claiming fixity as regards wet lands, the tenant can include in his claim certain dry or garden lands or both which are necessary for the convenient enjoyment of those wet lands. In fixing the rent to be paid by him, the Committee has not taken into consideration the produce of the lands other than the wet lands. It seems, therefore, to be equitable that, as between the tenant and the janmi, the tenant should bear the assessment of those lands out of which the janmi gets nothing. So also in respect of what may be levied for crops on the wet lands

which are not taken into consideration in fixing the rent. In the case of lands situated within the limits of Municipalities, a further question arises as to who should bear the burden of the Municipal land tax. The Committee thinks that in all those cases where the landlord gets the higher rent as provided in section I of this Chapter, the said tax should come out of the extra rent. In those cases where no such extra rent is obtained or where the extra rent is not as much as the said tax, the tax or so much of it as exceeds the extra rent should be borne in equal shares by the landlord and the tenant.

III

132. In dealing with the subject of kuzhikanams, the Committee referred to the complaint often made that the kuzhikanamdar overplants the land with a view to swell the amount that will have to be paid by the janmi at the time of eviction and that this has the effect of practically depriving the poor janmis of their right to get back possession of their gardens. This overplantation is also an economic danger in that it leads and will lead to the deterioration of the trees. Agricultural experts think that it is not sound policy to have more than sixty bearing coconut trees on an acre. Section 18 of the Malabar Compensation for Tenants' Improvements Act, however, permits the plantation of 120 coconut trees on an acre and permits courts to award compensation for them. The Committee is of opinion that it is desirable, from all points of view, that this should be altered as regards coconut trees. It, however, considers that the sudden reduction from 120 to 60 trees may be a drastic step, and, therefore, suggests that eighty should be made the maximum. Section 18 of the Malabar Compensation for Tenants' Improvements Act needs, therefore, to be amended accordingly. This change will not have retrospective effect and will not apply to trees planted before the amendment comes into force as law.

IV

133. In the previous Chapters, provision has been made for the payment of renewal fees by those who claim renewals as a matter of right. The Committee believes that in most cases, if not in all, such renewal fees which, as has been observed already, represent not only the renewal fees strictly so called but also compensation payable to the landlords for their being compelled to renew, would be higher than the renewal fees now being paid by such tenants. It has been represented that it would be hard on them to be made to pay the whole in a lump sum. To obviate any possible hardship, the Committee recommends that all such tenants, except the kuzhikanamdar actually cultivating garden lands, should be allowed to pay two-thirds of the renewal fee at the time of the claim and the balance in the next year. It thinks, however, that the cultivating kuzhikanamdar should have a longer period, and in his case it recommends that he should pay one-third of the renewal fee at the time of the claim and the balance in five consecutive equal instalments commencing with the next year.

V

134. Provision has been made in the scheme set forth above for the landlord taking the holding for his own use or cultivation or for that of any member of his family or tarwad. To prevent abuse of this right by the landlord, it has also been provided that if he inducts any tenant into the holding within six years after he so takes possession, the tenant evicted shall have the right to claim restoration of possession to him as against the new tenant and the landlord. Where there is no intermediary between the landlord exercising such power and the tenant evicted, there will be no difficulty as to who should be restored to possession. It has been pointed out, however, that, where between the two there are intermediaries there would be difficulty, and that some rule should be made as to who should be entitled to claim restoration of such possession.

In such a case, the persons evicted would be not only the tenant who is next below the landlord exercising such power, but all claiming under such tenant right down to the person in actual possession, and the question is as to who should be given this right to claim restoration. It has been suggested that in this matter it is the person who is in actual possession at the time of eviction that should have preference. On the other side, it is urged that the person legally entitled to possession is

the tenant who dealt with the landlord exercising the power. It seems to the Committee that the most logical and equitable position would be the restoration of the *status quo ante*. Our proposal is that the person entitled to claim possession should be the one with whom the landlord dealt directly; but when he gets possession, those who are holding under him at the time of the eviction should have the right to claim as against him restoration to their old position. If, however, any one in the chain does not want to be restored, the one next below him would be entitled to claim such restoration on the terms on which the person just above him who does not secure restoration, held the land.

To illustrate, if *A* is the janmi, *B* and *C* are kanamdar and sub-kanamdar, and *D* the person in actual possession, if *A*, the janmi exercises the power to take the land for his own use and then inducts some other tenant into it within six years, *B* shall be entitled to claim as against him to be restored to possession. But on his getting into possession, *C* shall be entitled to claim as against him to step in as sub-kanamdar and *D* shall be entitled to claim the verumpattamdar's rights as against *C*. If, however, *B* does not want to claim restoration, *C* shall be entitled to claim, as against *A*, to be put in the position of the kanamdar and *D* shall be entitled to claim from *C* the position of the verumpattamdar. In case, however, both *B* and *C* do not want restoration, *D* shall be entitled to claim as against *A* to be treated as his verumpattamdar on the terms on which he held the land under *C*.

A necessary corollary to all this is that, if *A* had paid any value of improvements to *B*, *C*, or *D* on eviction, the person claiming restoration shall be bound to return to *A* the value so paid before he is restored to possession.

VI

135. Another almost universal complaint against the working of that Act is the way in which the commissioners who are to value improvements, are selected. It is obvious that the task of finding out the age or the productivity of trees or other improvements for the purpose of ascertaining the extent of compensation to be paid on eviction is a difficult one. It is a task which requires experience and special skill and training, and does not merely depend upon mother wit or general or legal education. It is a recognition of this fact that accounts for the provision in section 8 of the Madras Compensation for Tenants' Improvements Act which runs as follows:—

"The Local Government may, from time to time, by notification in the Fort St. George and Malabar District Gazettes, make rules requiring the Court to associate with itself, for the purpose of estimating the compensation to be awarded under section 6 for an improvement, such number of assessors as the Local Government thinks fit, determining the qualifications of those assessors, the mode of selecting them, the fee payable to them, and the procedure to be followed in case of a difference of opinion between the Judge and one or more of such assessors."

But for reasons which are not clear, this section has not been put into use at all. Some rules (see appendix to this Chapter) have been framed under the corresponding section in the previous Act I of 1887. Under section 18 of the Madras General Clauses Act those rules must be deemed to be in force even under the present Act I of 1900. Rule 2 of those rules says "As soon as practicable after the publication of these rules each District Munsif in communication with the Tahsildar shall draw up a list of persons eligible to serve in his court as assessors. The list . . . shall be annually revised in or as near as may be to the second week of January." The Committee understands that such lists have neither been prepared nor revised. The Committee also understands that this section is 'never resorted to'; instead, the more favourite method of appointing commissioners is adopted. It will be observed that, according to rule 5, the Court can associate assessors with it only on the application of either party. Why the parties do not take advantage of it is not quite clear. The present practice is to choose as commissioners junior vakils or retired Government servants who in most cases have no particular experience of such matters, with the result that most, if not all, their reports are attacked by both sides, and much valuable time and money is wasted in courts in finding out how far they

can be relied on. This evil grew to such dimensions that in few cases the first commissioners' report was accepted and subsequent commissions were being issued almost as a matter of course to save the trouble of dealing with objections to it; and the High Court thought it necessary in a recent case, to protest against this practice and to lay down that, unless the first commissioners' report was clearly found to be in error, no second commission should issue. (1921 M.W.N., 843.) One proposal put before the Committee for remedying this evil was that this work of estimating the value of improvements should be entrusted to a specially trained agency of well-paid gazetted officers. It was, however, felt that that would be a costly system and might lead to more delay than is usual at present, and that the best remedy would be to invoke the aid of section 8 of the Madras Tenants' Improvements Act. The Committee thinks that the time has arrived for doing so and that it will be desirable that special attention should be drawn to the rules under that section. It would seem that making the association of the assessors compulsory would be the most effective remedy.

VII

136. A further question considered by the Committee related to the agency which should determine the disputes arising as regards fair rents and other matters connected with the proposals they have made. Law's delays in civil courts, as at present constituted, are well recognized. It is also recognized that Judges of civil courts have not the special qualifications necessary to decide questions as to *quantum* of yield or the fairness of rents. One suggestion made to remedy these evils was to appoint one or two specially trained revenue officers of the gazetted rank for the whole district and make them tour round the district to deal with the disputes on the spot. It was urged that this would minimise delay and would ensure these disputes being disposed of by a tribunal really qualified to deal with the subject matter. It was, however, pointed out that this would involve the disputants going a long way from their places if they wanted any matter to be dealt with urgently, or waiting for long intervals for the courts to come to them, and that therefore ultimately there would be no saving of time. It was also pointed out that, if the disputants have to go to a central place in a district, they will have to go longer distances than they would have to if they went to the nearest civil court, and that if the Courts came to their villages, they would have to engage and take pleaders from the places where they usually practise and thus incur extra expenditure which would mount up the cost of litigation. Attention was also drawn to the impression that, in the case of the Estates Land Act, these special Courts have not been a success and that the tendency was to revert to the old system of civil courts dealing with such matters. The Committee has, therefore, decided that the jurisdiction over the litigation arising out of its proposals may, for the present, be left in the hands of the ordinary civil courts, and that, after some experience has been gained as to how far they are able to cope with the litigation efficiently and speedily, the question of special courts may be taken up.

VIII

137. In the Bills of both Mr. Krishnan Nayar and Mr. Krishnan (See pages 162 *et seq.*) there are several clauses dealing with the forms and contents of demises, the forms and contents of receipts for payments made, the duty of the landlords to give such receipts, the penalty for failure to do so, and similar matters. In view of the fact that the Committee's proposals as to fixity provide only for optional applications, it is expected that in numerous cases the parties would continue to be governed by the law as it stands. If one can rely on what has been stated constantly by numerous tenants and their advocates that if all janmis were like janmi A or janmi B, there would be no need for any new legislation at all, it is not improbable that the tenants of at least some janmis would prefer to continue under the old law relying upon the good-will of the janmi for such fixity and fairness in rents as they desire. In such cases the main provisions of these clauses of the Bills may still be very necessary. It seems, therefore, desirable to incorporate them in any measure which will give effect to the Committee's proposals. They are, therefore, embodied in clauses 40 and 41 of the annexed Bill.

APPENDIX

The following rules have been framed by the Local Government under section 5 (2) of Act I of 1887 :—

Rule 1.—In suits tried under this Act, the following persons between the ages of 21 and 60 shall be liable to serve as assessors for the purpose of estimating the compensation to be awarded provided they reside within the limits of the jurisdiction of the Court in which the suit is tried, and not more than 20 miles by land or water or 50 miles by rail plus 10 miles by land or water from the Court house :—

(a) Retired public servants in receipt of pension of not less than Rs. 20 per mensem.

(b) All other persons paying annually to Government not less than Rs. 50 as land revenue or Rs. 20 as income-tax or believed to have an annual income of Rs. 1,000 or upwards. Provided that vakils, village officials and persons in the service of Government or of a Railway Company shall be ineligible to serve as assessors.

Rule 2.—As soon as practicable after the publication of these rules, each District Munsif, in communication with the Tahsildar shall draw up a list of persons eligible to serve in his Court as assessors. The list shall contain the names, places of abode and business, if any, of such persons, and shall be annually revised in, or as near as may be to the second week of January.

Rule 3.—Copies of such list or revised list as the case may be shall forthwith be annexed in some conspicuous place in the Courts of the District Judge and District Munsif and in the office of the Tahsildar with a notice attached to each stating that objections to the list shall be heard and determined by the District Munsif at a time to be mentioned in the notice. The decision of the District Munsif as to the retention or removal of the name of any person from the list shall be final.

Rule 4.—When the District Munsif's lists have been finally settled each District Judge shall cause a similar list to be compiled therefrom for his own court and that of every Subordinate Judge sitting at the same station and every outlying Subordinate Judge shall compile one for his own Court.

Rule 5.—Assessors shall only be appointed in cases in which the amount of compensation tendered or claimed exceeds Rs. 250 and upon the application made by some parties to the suit at or before the first hearing, or by special leave of the Court at some later stage of the suit.

Rule 6.—In such cases, the Court shall select by lot from the list two assessors for the purpose of aiding the Court in determining the amount of compensation, and notice of such selection shall be served by the Court on the parties to the suit or their agents or their vakils three clear days before the day of hearing.

Rule 7.—Either party may object to the assessors so chosen or to either of them. The decision of the Judge upon the objections shall be recorded by him and shall be final.

Rule 8.—Every summons to an assessor shall be in writing and shall require his attendance at the time and place to be therein specified.

Rule 9.—On the day fixed for the attendance of the assessors, the Judge and the assessors shall proceed to hear the parties or their pleaders and the evidence tendered and to determine the amount of compensation.

Rule 10.—The opinion of each assessor shall be given orally and shall be recorded in writing by the Judge.

Rule 11.—In case of a difference of opinion between the Judge and the assessors or either of them, the decision of the majority shall prevail.

Rule 12.—Every assessor appointed under these rules shall receive a fee of Rs. 5 for each day that he may be away from his house in the discharge of his duties as assessor.

Rule 13.—Whenever the Judge thinks that the assessors should view the improvements for which compensation is claimed, he shall make an order to that effect and such order may provide that the assessors shall be conducted to the site of the improvements by an Officer of the Court.

Rule 14.—If, before the amount of compensation is determined any assessor dies or becomes incapable to act, the Judge shall proceed to select another assessor from the list by lot. The inquiry shall be then recommenced, unless the parties agree that the course is unnecessary, in which case, the agreement shall be recorded by the Judge, the evidence already recorded shall be read to the new assessor or assessors and the trial shall proceed if such assessor or assessors had been originally appointed.

CONCLUSION

I

138. It only remains to sum up broadly, with reference to the terms of reference to us, what our conclusions are. The main disability pressing hard upon the tenants in Malabar is insecurity of tenure. As to the extent of unjustifiable evictions, the materials at the disposal of the Committee do not prove that evictions are either so numerous or so unjustifiable as has been represented to us by the advocates of the tenants' interest. The Committee, however, thinks that there have been some cases of unjustifiable evictions in the sense of evictions within the letter of the law, but made for reasons other than the default of the tenant to act up to the terms of his bond. The Committee also thinks that, owing to the changed social and economic conditions and the feeling of estrangement that is growing between the landlord and the tenant, such evictions are likely to increase in future and that something should be done to avoid such a contingency. To achieve this object, the Committee does not consider that the grant of 'permanent occupancy' right in the sense in which that term is used elsewhere, for example, in the Estates Land Act and the Bengal Tenancy Act, is necessary, and that qualified and optional fixity in the form and subject to such conditions as have been set forth in the previous Chapters of this Report, is enough for the present. The nature and extent of compensation to be paid by those to whom such qualified fixity is to be given have been set forth as regards each class of tenants to be benefited. The effective methods which should be made available to the janmis to collect rents and other dues, have also been described in some detail in their respective places and will be found in clauses 7(A)(3), 8, 9 and 35 of the Bill annexed. The other measures the adoption of which the Committee deems necessary for the purpose of promoting cordial relationship between the janmis, the kanamdars, and other tenants in Malabar, and for increasing their economic efficiency have also been set forth in the previous Chapters of this Report and in the summary of recommendations appended hereto.

II

139. Such are the main elements of a problem which has been found by us, as it was found by those who had previously to deal with it, a by-no-means easy one to solve. The minor aspects of our scheme and the procedure to be followed in working it would be found in the several clauses of the Bill which we append to this Report, and in the notes on those clauses.

140. The Committee has not thought it necessary to cite or discuss in detail the opinions previously expressed by other Committees and individuals. It is of opinion that such a course, while it would unduly burden and lengthen their Report, would not be of any material assistance. For one thing, much water has flowed under the bridge since those opinions were written or uttered. Malabar, with the rest of India, has changed, and changed rapidly, socially and economically, and even politically; and the situation that has to be met now is, in the Committee's opinion, materially different from what it was when the last of the Committees, namely, the Master's Committee, reported in 1886, and even from what it was in 1917, when, on the reports of Messrs. Innes and Evans, the Government agreed with the Board of Revenue in thinking that no legislation was necessary. The Committee, however, wishes to add that it has given its anxious consideration to everything of importance that has been said before on the subject, and to the evidence, written and oral, of the witnesses it has consulted and examined, and that it has had one advantage over those who had dealt with the problem in the past, namely, that derived by the cross-examination of witnesses who appeared before it and

urged the views of the various schools of thought. Till this Committee started its work, it had been only a case of the janmis' or the tenants' advocates expressing opinions strongly, and, no doubt, in all sincerity. The inquiries made were of an one-sided character in the sense that the statements made by the advocates of particular schools of thought were not tested by cross-examination. For the first time in the history of this question, this Committee was able to pass the evidence that was put before it through the fire of cross-examination and separate the dross from the metal. Enthusiastic advocates of the tenants' cause like Mr. Chathu who represented the North Malabar Tenants' Association, Mr. Anandan, a pleader of the Koothuparamba Bar who has had much intimate knowledge of the grievances of tenants, Mr. Gayatri Vallabha Ayyar whose written memorandum shows extensive and intimate knowledge of the tenants' view, Messrs. L. A. Subbarama Ayyar and P. V. Aghoram Ayyar who espoused the tenants' cause with great learning and much legal subtlety, and influential and capable advocates of the janmis' interests like Mr. T. A. Kalyana Krishna Ayyar, the acknowledged leader, till recently, of the Calicut Bar, Mr. Sriveerarayan Raja of Kottakkal, the Senior Tirumulpad of Nilambur, Mr. Sankara Varma Raja of Kadathanad and others, have been elaborately cross-examined on their respective statements. The result has been that many assertions made with great confidence have had to be considerably modified; many views expressed with much vehemence had to be given up or altered; and many faiths were shaken very rudely. The Committee is, therefore, content with stating in broad outlines what it considers to be the situation as it finds it to-day, and what it believes to be necessary to ease it.

141. None can be more conscious than the members of the Committee that the proposals that they have put forward do not constitute the last word on the subject. They would even confess that some parts of their proposals may, at first sight, appear illusory and that some could be worked in practice only with difficulty. But, the proposals are, in their opinion, the best that they can offer in the circumstances, embodying as they do, the spirit of give and take, so necessary for the peaceful settlement of a problem so full of difficulties and conflicting interests. They desire, however, to strongly emphasize that if their proposals are to lead to any beneficent results to the general agricultural population of Malabar, they should be taken as a whole, and worked as a whole. It is difficult to estimate or envisage the consequences that would follow if any part thereof is omitted or altered. The structure erected by the Committee might give way altogether, if any nut or screw in it is loosened or removed.

142. We are also conscious that our proposals may not satisfy the die-hards on either side. Nor can we conceive of any proposals that would satisfy every one. It is too late in the day to permit the system to remain what it has been. The march of events in Malabar, as elsewhere, has rendered this well-nigh impracticable. It is also equally true that the goal cannot be reached at one bound. Our proposals we consider to be the second step in the right path of agrarian reform in Malabar, the first step being the Malabar Compensation for Tenants' Improvements Act. Many more steps may perhaps have to be taken before the ultimate goal is reached.

There is not only high philosophy but also profound practical wisdom in the poet's prayer—

"The night is dark; and I am far from home,

"Lead Thou me on,

".....I do not ask to see

"The distant scene; one step enough for me."

143. We desire to express our high appreciation of the strenuous and valuable work done by the Secretary, M.R.Ry. Rao Sahib C. V. Krishnaswami Ayyar Avargal, who has brought to bear on it learning, legal acumen and capacity

of a high order and has thus facilitated the work of the Committee in no small degree.

T. RAGHAVIAH.

H. R. PATE

(subject to a minute of dissent).

VASUDEVA RAJA OF KOLLENGODE

(subject to my separate explanatory note).

T. C. NARAYANA KURUP

(subject to my separate explanatory note).

T. DESIKACHARI.

K. KRISHNAN

(subject to explanatory note).

V. KRISHNA MENON

(Appending an explanatory note to the Report).

H. ABDULLAH H. KASIM.

C. V. KRISHNASWAMI AYYAR,
Secretary.

Summary of Recommendations

I

Nature of legislation required

(a) Any legislation undertaken to remedy the grievances of the tenants in Malabar should be optional, that is, it should not force all tenants to accept fixity of tenure whether they like it or not (paragraph 84).

(b) Such legislation should only enable such as are willing to obtain qualified fixity of tenure subject to prescribed conditions and payment of prescribed compensation, to apply for and get the same (paragraph 84).

(c) Permanent occupancy in the sense in which that term is used in other tenancy laws should, in no case, be given (paragraph 84).

II

Verumpattamdars (cultivating)

(a) A cultivating verumpattamdar who is a tenant-at-will or a tenant from year to year or for a definite period, shall be entitled on application to get fixity, that is, freedom from eviction at the will of the landlord or on the termination of such period (paragraph 84).

(b) Such fixity shall avail not only against the landlord who inducted him into the land but against all interested in the land who may have superior rights over such landlord.

(c) On getting such fixity he shall be free from eviction except on one or other of the following grounds:—

- (1) denial of title ;
- (2) wilful waste ;
- (3) non-payment of rent in due time ;
- (4) alienation to non-cultivating verumpattamdar.

(d) As compensation for such grant of fixity the landlord should be given special facilities for the collection of rent and guarantee against loss of arrear rents such as,

- (i) Security for one year's rent ;
- (ii) making rent a charge on the holding subject only to priority of Government revenue ;
- (iii) right to evict for non-payment of rent ;
- (iv) special procedure for the realization of arrears of rent from the crops on the land and the movable properties of the defaulter by applications instead of suits, and by elimination of unnecessary contest of such applications by the provision in regard to them of procedure similar to that in Order XXXVII of the Code of Civil Procedure (paragraph 90 of the Report and clause 9 of the Bill) ;

(v) making the cultivating verumpattamdar responsible not only to his immediate landlord but to all interested in the land to the extent of the fair rent not already paid by him to any other landlord (paragraph 120 of the Report and clause 8 of the Bill).

(e) These provisions as to cultivating verumpattamdars are to apply only to wet lands and such dry or garden lands as are necessary for the convenient enjoyment of the wet lands ; these latter should not exceed in extent one-tenth of the extent of the wet lands to which they are attached ; no necessity has been shown for applying these provisions to other dry lands (paragraph 83).

(f) (i) Such a verumpattamdar will not be bound to pay more than the fair rent, that is, (a) nothing exceeding two-thirds of the net produce of the wet lands

comprised in his holding, the net produce being, for this purpose, ascertained by deducting from one-third of the gross produce of the previous three years, twice the seed necessary for the cultivation of the said lands, and (b) nothing in the shape of straw exceeding one-third of the total yield thereof from the said wet lands (paragraph 87 and clause 27 of the Bill);

(ii) this fair rent shall be subject to revision every twelve years (paragraph 89);

(iii) to prevent unsettlement of family budgets, there shall be no enhancement or diminution of rent for the next twelve years (paragraph 89).

(g) The janmi shall pay the revenue on the wet lands comprised in the holding, while the tenant should pay the revenue on the dry and garden lands attached thereto (paragraph 131).

(h) To help the poorer among such verumpattamdars with sufficient funds for furnishing security and paying rents properly, and to prevent them from falling into the hands of the money lender, a system of credit banks giving loans at easy rates of interest should be organized (paragraph 88).

III

Non-cultivating verumpattamdars

No change in the present law is needed as regards non-cultivating verumpattamdars, when they are mere tenants-at-will or tenants from year to year.

IV

Kozhu tenants and Kovilagam lessees. (Customary verumpattamdars—both cultivating and non-cultivating)

(a) The special class of verumpattamdars who, under the custom of the district, are not mere tenants-at-will but have definite periods exceeding one year such as four, five or twelve years and who pay renewal fees when they get renewal (known in some parts of the district as kozhu tenants, and in some as kovilagam lessees but described in the Report as customary verumpattamdars), shall be entitled to apply for renewal and obtain the same as a matter of right, provided they pay as renewal fee three times the difference between what would be the fair annual rent and what they have been actually paying as rent every year (paragraphs 91 to 94).

(b) In the case of those whose leases are now customary only for four or five years, the renewal will be for twelve years (paragraph 93).

V

Kanamdars—both cultivating and non-cultivating

(a) They shall be entitled, except where the holding consists of dry lands only, to claim renewal as a matter of right on payment, as renewal fee, of three times the difference between what would be the fair rent for the lands comprised in the kanam, and the michavaram, after deducting from the fair rent, the revenue and the interest on the kanartham (paragraph 102).

(b) For the purpose of calculating the fair rent in such cases, the principles applicable to wet lands in the case of cultivating verumpattamdars, and to garden lands in the case of kuzhikanams, shall apply. As regards dry lands, the fair rent shall be five times the resultant of the Government revenue on the said lands in the years in which Government revenue was levied during the previous twelve years divided by the number of years in which such levy was made (paragraph 102).

(c) In the matter of deducting interest on the kanartham, in the absence of an express contract as to the rate or the amount of interest or of any usage governing such transactions, interest shall be allowed at 12 per cent when the

kanartham does not exceed Rs. 1,000, at 9 per cent if it exceeds Rs. 1,000 but does not exceed Rs. 3,000, and at 6 per cent if it exceeds Rs. 3,000. By reason of the usage referred to, these rates cannot be exceeded (paragraph 103).

(d) The renewal fee here fixed will be generally higher than the renewal fee paid now; to the extent it is higher, it will be compensation for the loss of the present right of the landlord to evict without assigning any reason.

(e) These provisions as to kanamdars shall not apply to what are really mortgages, that is, to cases where the kanartham exceeds 60 per cent of the janm value of the land, janm value being calculated for this purpose at twenty times the annual fair rent (paragraph 106).

VI

Kuzhikanamdars.

(a) A cultivating kuzhikanamdar shall be entitled to claim and obtain renewal, as a matter of right, provided he pays one and a half times the gross produce of his lands as renewal fee (paragraphs 109 and 110).

(b) He shall also be bound to pay fair rent calculated as follows:—

As regards trees belonging to the landlord, two-thirds of the total yield of nuts in the case of coconut and areca trees, and as regards trees belonging to the tenant, one-third of such nuts: in addition, as regards coconut trees, whether they belong to the landlord or to the tenant, three pies per tree per year for all miscellaneous produce, such as leaves, fibre, etc. As regards other classes of fruit trees and pepper, where pepper is not the main crop, one-sixth of the gross produce; the gross produce to be ascertained by taking the total produce for the previous three years and dividing it by three (paragraph 110).

(c) The revenue shall be paid by the janmi in all cases.

(d) No legislation is needed as regards pure pepper gardens.

(e) With a view to overcome the difficulty consequent on tenants refusing to taking renewal because the landlords are unable to pay the heavy value of improvements in case of eviction, the landlords should be given the right to sue for the renewal fee as fixed by these proposals if the kuzhikanam tenant would not apply and take renewal within six months after the termination of the expiring kuzhikanam (paragraph 111).

(f) The rent payable by cultivating kuzhikanamdars shall be revisable at the time of every renewal so as to make it a fair rent according to the formula stated above; but to prevent sudden disturbance of family budgets, there shall be no change in the rates of rent for the next twelve years as regards the fruit-bearing trees in existence at the time of the renewal next before the date when these proposals come into force, and in any renewal that may take place next after the expiry of those twelve years, the increase in those rates shall not exceed 12½ per cent (paragraph 113).

(g) If a landlord who has obtained a decree for redemption of a kuzhikanam is unable to pay the value of improvements decreed, he shall be entitled to ask for the sale of the land and the improvements thereon, and to be paid, as the value of his right to redeem, the balance remaining after the value of improvements decreed has been paid to the tenant. The tenant shall be entitled to bid at the sale and set off against the price the value of improvements decreed to him (paragraph 112).

(h) Intermediaries in kuzhikanam, i.e., those between the janmi and the cultivating kuzhikanamdar, shall be entitled to claim and obtain renewal of their rights on payment to those immediately above them, three times the difference between the rent which they have been getting from those below them and the rent which they have been paying to those above them plus one-fourth of the renewal fee which they have obtained from those below them; but in case the resultant figure is less than one and a half years' gross produce of the holding, they shall be bound to pay, to those above them, the said one and a half years' gross produce as renewal fee (paragraphs 114 and 118).

(i) The right to ask for sale referred to in clause (f), the right to sue for the renewal fees provided in clause (e), and the renewal fees referred to in clauses (a) and (b) so far as they exceed the present renewal fees constitute the compensation for allowing renewal as a matter of right.

VII

Landlord's right of ouster

(a) All the rights conferred on the cultivating verumpattamdar, the customary verumpattamdar, the kanamdar, the kuzhikanamdar and the intermediaries are subject to the landlord's right to take the lands back for his own cultivation or use or for that of any member of his family, tarwad or taval, who has a proprietary and beneficial interest therein (paragraphs 84, 85, 102 and 109).

(b) The abuse of such a power should be prevented by conferring the right on the evicted tenant or tenants to claim restoration if within six years after such eviction, the landlord inducts any other tenant into the land (paragraphs 84, 85, 102 and 109).

VIII

Kudiyiruppu

(a) When a tenant is sued to be evicted from a kudiyiruppu, he shall be entitled to purchase the landlord's rights in it at the then market price, provided the kudiyiruppu is the only property included in the holding or the kudiyiruppu can be separated from the rest of the holding as being not necessary for the convenient enjoyment thereof. If, however, it cannot be so separated from the rest of the holding or is not a separate holding in itself, it shall go with the rest of the holding; that is, if a person obtains renewal or fixity for that holding under any of the other proposals of the Committee, he will get fixity for the kudiyiruppu also; if not, he will have to give it up (paragraph 123).

(b) If the tenant later on wishes to sell the kudiyiruppu which he has purchased outright, the janmi shall have the right of pre-emption (paragraph 125).

(c) These provisions to apply only to kudiyiruppus in continuous occupation for at least 15 years on the date of the suit for eviction (paragraph 122).

IX

Melcharths

A melcharth shall not *per se* be invalid, but a person claiming under a melcharth shall not be entitled to evict a tenant unless

(1) the melcharth was granted after the expiry of the term of the existing kanam, kuzhikanam or lease;

(2) the tenant in possession

(i) has been given notice in writing to renew; and

(ii) has failed

(a) to renew within the time fixed in the notice; or

(b) to pay up the prescribed renewal fee and all arrears of rent including interest, if any, up to the date of the notice; or

(c) to agree to pay the rent lawfully due from him (paragraph 129).

X

Act I of 1900

(a) With a view to prevent overplantation in order to increase the value of improvements payable on eviction, the Malabar Compensation for Tenants' Improvements Act to be modified by not providing for compensation for any tree in excess of 80 per acre in the case of coconut trees.

This change is not, however, to have retrospective effect (paragraph 132).

(b) Rules made under section 8 of that Act for the purpose of associating assessors in deciding questions as to compensation, etc., have not been so far availed of; it is desirable to make the observance of such rules compulsory (paragraph 135).

XI

Miscellaneous

(a) All tenants obtaining fixity under these proposals shall have the right to surrender their holdings on proper notice, but on such surrender, the landlord shall not be bound to reimburse them in the value of improvements or return the karartham (paragraph 96).

(b) Customary verumpattamdars and kanamdars shall be entitled to give up their rights as such and to claim fixity as cultivating verumpattamdars (paragraph 95 and clause 39 of the Bill).

(c) All rights conferred by these proposals and those existing in the tenants apart from such proposals shall be heritable and alienable (clause 33 of the Bill).

(d) In the case of lands situated within the limits of any municipality and not built or planted upon or on which no crop is grown, fair rent means the rent paid or agreed to be paid in respect of similar lands in the neighbourhood, and in the case of other lands situated within the said limits it means whichever is higher as between the rent payable therefor if they were outside such limits and the rent which would be payable if the former part of this recommendation is applied (paragraph 130).

MINUTE OF DISSENT OF MR. H. R. PATE

I

I regret that I had to disappoint my colleagues by informing them at a late stage of our deliberations that on mature reflection I found it impossible to subscribe to the proposals which had been jointly elaborated by us and are now embodied in the Report and draft Bill. For reasons which I shall shortly give, I have formed the conclusion that no legislation on the subject should be undertaken, but I am not sure whether in expressing this view, I have correctly interpreted the terms of reference to this Committee and the Government Order with which they were communicated. That document may be read as requiring from the Committee some proposals for legislation, and in case that is a correct view of it, I enumerate here the proposals which, though I do not advocate them, are in my opinion the least open to objection. They are (1) the proposals made in the Report (and embodied in the draft Bill) regarding cultivating one-year verumpattamdars and regarding kudiyruppus, (2) certain proposals of my own in regard to cultivating 'customary' verumpattamdars, cultivating kanamdars and cultivating kuzhikanamdars.

A partial exception to what I have just stated is that I agree unreservedly to the proposals made in paragraphs 132 and 135 of the Report in regard to the Malabar Compensation for Tenants' Improvements Act.

II

2. *Cultivating tenants—Verumpattamdars (one-year).*—The proposals designed to protect the cultivating verumpattamdar are framed in the belief that this tenant, as a class, is rack-rented and is subject to arbitrary eviction, or at any rate, that he exists in circumstances which are specially conducive to both these evils. Evidence that this tenant often pays excessive rent is not wanting, and in fact some of the tables with which we have been furnished show that the tenant sometimes makes no profit at all out of his tenancy or even that he loses over it. On the other hand we have figures which show that a tenant of this class can make a comfortable income, and we have examined verumpattamdar witnesses whose appearance and financial status are even suggestive of prosperity. The fact is, of course, that the class includes persons ranging from the well-to-do farmer down to the humblest cottager. Again, we are told, though rents may be pitched high they are not collected in full; some landlords in fact constantly forego, or fail to collect, as much as 30 or 40 per cent of their rents. Statistics, and the statements of parties, necessarily interested, cannot indeed be relied on as evidence of the fairness or unfairness of rents. Nor can they furnish any evidence as to the frequency of unjust evictions. On this question the truth appears to be, as many witnesses have told us, that so long as a tenant pays his rent with reasonable regularity he is not evicted. Remissions, if not formally sanctioned by the contract, are in fact granted when the season is bad, and allowance is also made for any exceptional calamity in the tenant's domestic affairs.

3. If it were true that the large body of verumpattam tenants were rack-rented as a class, I should expect to find a low and declining state of cultivation, agrarian disputes over the payment of rents, developing here and there into violence, crimes committed against the person and property of landlords as such, unusual migrations, and a general sense of restlessness and discontent, voicing itself in appeals, however impotent, to the district officers, if not to Government. So far as my observation as a district officer goes, none of these signs is present in Malabar. Compared with even some other parts of the Presidency, the skill and enterprise displayed by the Malabar cultivator are often, no doubt, deficient, but the deficiency is due, in my opinion, less to the incidents of his tenure than to two other causes, namely, the fatal easiness in a country of bounteous rainfall of raising a crop of some kind and (in a great part of the district) the generally small size of individual holdings. Against the view that cultivation is declining

either in quantity or quality, it may be mentioned that a recent examination conducted by the Settlement officer in a few typical villages has shown that coconut cultivation is expanding at the cost of paddy—obviously for the reason that the new cultivation is more profitable,—wet cultivation is taking the place of dry, and waste lands are being brought under cultivation. The last-named process is obvious to the most casual observer and is illustrated by the figures quoted in paragraph 69 of the Committee's Report. In all this progress the verumpattamdar plays his part and reaps his benefit.

4. The other signs of a generally rack-rented peasantry are equally hard to discern. The old theory—revived once more in recent years—that the occasional Mappilla outbreaks have been due to agrarian discontent has, I trust, been decently buried. Crimes indicating revolt against the oppression of landlords are almost unknown; on the other hand, struggles between rival claimants to obtain possession of land form a large proportion of the cases that come into the criminal courts. Nor, I am prepared to assert, can any general sense of restlessness or discontent be discerned among the tenants of the class now in question.

5. When all this has been said, the fact remains that a large and gradually increasing number of these tenants lives very near the border-line of bare subsistence. Their existence is from hand to mouth; they are at the mercy of the season and the money-lender. By ordinary standards their existence may be fairly described as miserable. If by any means it is possible to improve the lot of these people, the attempt should be made. But then comes the vital question: can these evils, whether they be attributed to rack-renting or not, be remedied by legislation? and if so, is the legislation now proposed likely to effect this remedy?

6. The legislation proposed is permissive. It must be so, I think, since a deposit is necessary as security and it is obviously not practicable to compel all tenants to make a deposit of even one year's rent. As regards its effect, it may be argued that, since no man voluntarily alters his position for the worse, no tenant will suffer by reason of the legislation and some will benefit. I am by no means sure that this is a just conclusion. In the first place, if some tenants are to benefit, this benefit will be won at the cost of other tenants. The poorest tenant will often not be able to afford the deposit of one year's rent and the cost (however slight) of the application; even if he overcomes these difficulties he still runs the risk of being unable to pay his rent and being after all evicted. And this risk, it must be remembered, is greater and more far-reaching than it was before. The payment of rent in full (even though it is a 'fair' rent) is now one essential condition of his new contract, and it is obvious that no remission will be allowed; an further, having once 'tried it on' with his landlord and failed, a tenant is not likely to be viewed with favour either by his landlord or his landlord's neighbours when he next applies for a lease. Secondly, a holding on fixed tenure will be a negotiable asset. The poorer tenant who has managed to secure fixity, always on the look-out, as he is, for a means of raising money, will soon pass on his recently acquired tenure, by mortgage and ultimate sale, to the more substantial tenant, a process which even the restrictions proposed by the Committee (paragraph 86) will do nothing to avert. The next step (in a country which provides little outlet for labour besides the land) will be that he has to find a sub-tenancy. He will still be entitled no doubt to obtain fixity but actually will not be able to pay for it, and will have to take his lease on the best terms obtainable by contract.

Thus, in two ways, the grant of fixity of tenure will tend to the degradation of the small cultivator in favour of the larger. The actual cultivators of the soil will be the same persons as before and no improvement in the standard of cultivation can be expected.

7. Further, it is in the power of a landlord to render the provisions of the Bill nugatory. To an application for the grant of fixity he may rejoin with a declaration that he wishes to retake the land for his own cultivation. The tenant is then formally dispossessed, but he may be re-admitted, ostensibly as a labourer,

on terms which secure to the landlord an income not less than the full competitive rent. And unless compensation on a quite impracticable scale is provided for, the landlord must retain power to retake the land.

8. Fair rents are of course an essential feature of any scheme by which fixity of tenure is to be given, and for the determination of the fair rent some formula of general application is necessary. I think the Committee's formula is as fair and as nearly workable as any formula can be, but I have the gravest misgivings as to how it will operate in practice. There is no tradition in Malabar, as there is, I believe, in some districts of the East Coast, in favour of a division of the produce between landlord and tenant. On the East Coast the division is, or was, made at the public threshing-floor; in Malabar there are no such threshing-floors. The practical difficulties of ascertaining the gross produce of a holding are obvious; the litigation on this point is likely to be tedious, vexatious and expensive, and behind all this is the uncertainty whether the fair rent as finally deduced will be in fact fair.

9. Briefly summarised, the objections to the scheme seem to me to be:

(i) It will lead to an increased number of evictions. A landlord who retains the power of eviction for default in payment of rent will find a way of enforcing eviction if he is provided with a sufficient motive. The motive for evicting a tenant who has obtained fixity is clear. Fair rents will not avail the tenant in the face of the weapon ready to the landlord's hand—the exaction of the last pie of rent in all seasons.

(ii) It will tend to favour the richer tenant at the expense of the poorer, and will do nothing to ameliorate the lot of the poorest.

(iii) The land will be cultivated by the same persons as before, with the difference that some of the poorest tenants will go one step further down the ladder of tenancy.

(iv) In view of (iii) there will be no improvement of cultivation.

10. If I thought that it were possible by means of this or any similar legislation to improve in any way the general stability, comfort and usefulness of verumpattam tenants as a class, I would urge that legislation should at least be tried, but I do not believe that there is any prospect of such a result. On the contrary I fear that any legislation of the kind proposed is calculated to aggravate the evils which it seeks to cure, and I cannot therefore advocate it.

11. Since I am concerned only with Malabar I need only just allude to the wider implications of any legislation designed to give fixity of tenure to verumpattam tenants. There is no essential difference, so far as I can see, between the Malabar verumpattamdar and the pattadar's tenant of the East Coast, except that in favour of the Malabar tenant there is the protection afforded by the Malabar Compensation for Tenants' Improvements Act.

12. *Kanamdars, kuzhikanamdars and 'customary' verumpattamdars.*—The grant of fixity of tenure to cultivating kanamdars is justified in the Report on the same grounds as those which apply to cultivating verumpattamdars (paragraphs 92 and 100). The kanamdar is of course in a much stronger position than the verumpattamdar, but I agree that it follows almost inevitably from the main principle underlying the proposals in regard to the verumpattamdar that if the cultivating verumpattamdar is to receive protection the cultivating kanamdar should also be protected. As to the method by which this protection should be given I differ from my colleagues. My proposal (which I make subject to the understanding mentioned in paragraph 1 above) is that if a landlord gives a cultivating kanamdar notice of eviction, the kanamdar shall be entitled to reply with a claim to be allowed to have his tenure altered to verumpattam and to hold on a certificate of fixity of tenure. The landlord will have to return the kanam amount. This he would have had to do if he had evicted the tenant. The same privilege may be extended to cultivating kuzhikanamdars and to verumpattam tenants who hold for more than one year. For the kuzhikanamdar who thus obtains fixity fair rent will be as provided in paragraph 110 of the Report.

III

13. *Non-cultivating tenants—Kanamdars.*—The arguments advanced in paragraph 101 of the report in favour of granting security of tenure on certain conditions to non-cultivating kanamdars are: (i) that kanams are in fact seldom redeemed; (ii) that kanamdars form the backbone of the professional or middle-classes; and (iii) that the kanamdar is of a value as one who provides capital for the improvement of the soil. The first argument, which is supported by such evidence as is available to us, appears to me less to justify the grant to this class of tenant of improved terms than to indicate that they are not in need of any special protection. The second argument imports considerations which, however important they may be, are definitely not agrarian and should not therefore be allowed to enter into the present discussion. Moreover, *ex hypothesi* the existing system has served and continues to serve the classes in question very well. The third argument implies that constant changes of the intermediary between the proprietor and the cultivator militate against the improvement of the land, but in the light of the first argument this argument obviously possesses little value.

14. The kanamdar's grievances are popularly attributed to the janmi. This notion runs through most of the tenants' pleadings and is expressed as follows in the evidence of a witness whom we examined at Palghat:—

"In former days tenants were very dutiful to their janmis and the latter very sympathetic towards the former. In fact people then wished to be tenants under big janmis. People who had janmam right over wet and other lands had then made over their right to janmis without receiving any compensation and subsequently held the same lands under the janmis on kanam right. A big janmi was considered to be excellent weapon in their hands by tenants under him. On account of Western education and association with Western people the above cordiality has now ceased to exist. If it had continued, no remedy would have been necessary but this is not possible as the people now care more for freedom and independence. Grant of permanent occupancy right is, in my opinion, the only remedy."

What this somewhat confused statement really means to say is (I gather): (1) that tenants (i.e., kanamdars) have changed in character; (2) that janmis have changed in that they have become less sympathetic; (3) that relations between janmi and tenant, once feudal, have changed for the worse; (4) that for this deterioration the janmi must pay the price; and (5) that the grant of permanent occupancy right to the tenant is the proper and only remedy.

15. In the first place the janmi here described is clearly the owner of wide acres, a territorial magnate. The picture takes no account of the smaller folk, including countless janmis whose only claim to the title consists in the heavily encumbered ownership of one or two acres. Then again, a very large proportion of the persons generically described as kanamdars are in reality sub-kanamdars holding under kanamdars (or even under sub-kanamdars) and deriving their rights and disabilities from the kanamdar (or sub-kanamdar) alone. If, therefore, as the kanamdar's advocates urge, their superior landlords are generally unsympathetic and even oppressive, there is a very large body of kanamdars that must be included in this indictment. And finally many janmis are also kanamdars.

16. Primarily, however, and in the main, the issue is, in South Malabar at least, as between janmis as a class and tenants as a class. In origin the issue is this. The janmi of our witness's picture is the custodian of the old ways, social, educational and religious; the kanamdar has educated himself on modern lines and is impatient of the almost feudal restraint which the more conservative janmi seeks to impose on him. And to a great extent, perhaps unwittingly, the janmi has himself contributed to the outcry against himself. By granting melcharths in response to the blandishments of those who have rendered him service he has added the loudest voices to the chorus of kanamdars which is for ever descanting on the tyranny of the janmi and the wickedness of melcharths.

But can the janmi be blamed if, in the face of the scramble of the present day for kanam tenures, he seeks to realize for himself a share in this increased competitive value by demanding economic renewal fees, by evicting his worst tenants, by, if necessary, giving to others the right to evict—in fact by becoming ‘unympathetic’?

17. The problem of Malabar tenancy, however, is not solved—though in effect the attempt is often made—by a comparison of the moral qualities of the two main parties to the issue; what we have to discover is whether the system is productive of economic evils and if so whether those evils are so grave that legislation, if remedial legislation can be devised, should be invoked.

18. The arguments usually advanced in favour of the grant of some improved rights to the kanamdar are based on

- (1) the so-called history of the kanam tenure;
- (2) the frequency and harshness of eviction including those obtained by melcharth; and
- (3) the exorbitant demands made by way of renewal fees.

Fortunately, by the terms of reference to it the Committee is precluded from any consideration of the first argument. To the second I have already alluded and I propose now to look at it a little more in detail. The argument is usually supported by (1) assertion and (2) the figures of civil courts. The value to be attached to the Court's figures is discussed in paragraph 67 of the Report. It is on record that the Committee sat with open doors for 24 days and examined witnesses selected from all classes of persons connected with the land. Opinions on the subject of evictions were freely invited and all witnesses who were in a position to quote facts from their experience were pressed to do so.

Many vague statements that ‘unjustifiable’ evictions, including melcharths, were common and, further, were on the increase, were made. One witness declared that ‘all evictions are made on unjustifiable grounds’. Some said that in view of the impending legislation, janmis were now evicting ‘for all they were worth’; others on the contrary stated that for the same reason there had recently been a lull. Actually, in all the evidence recorded we were given particulars—and these were not fully verified—of only some 14 evictions, 13 of which related to North Malabar. Some of the South Malabar witnesses mentioned a name or two but, though pressed to do so at their leisure, never gave the Committee any details. I cannot but regard this want of positive evidence as a significant fact. The kanamdar's advocates included among their number many persons of education and means who were well able to conduct the research and inquiry necessary to establish this primary contention; from their failure to do so I can only make an inference unfavourable to their cause. I conclude, and such positive evidence as the Committee has obtained (see paragraphs 66 and 67 of the Report) supports me, that unjust evictions are rare.

19. To say that renewal fees are exorbitant is another way of saying that rents are too high, or in other words that kanam investments do not pay. In support of this latter thesis we have received no evidence whatever, nor has any assertion to that effect been made. It is in fact well known that kanams in general yield a handsome return. These periodical exactions are no doubt a pernicious and vexatious incident: the custom, however, is ingrained in the system and no witness, so far as I remember, has even hinted that it should be abolished. In spite of all the drawbacks of the system kanams are eagerly sought after. In this competition, as in all competition, individual hardships must occur but there is no evidence, nor do I believe, that they amount in any sense to a grave and widespread economic evil. The objections raised against the renewal fee are first that it is uncertain and second that often it is too high. Some tenants when asked at what rate they pay say that it depends on the ‘sweet will and pleasure of the janmi’. (The fee levied by the kanamdar is not referred to). The suggestion here conveyed that there are as many rates as there are holdings, or, at least, janmis, is quite contrary to the general trend of the

evidence. From the evidence it seems clear that although the methods of calculation and consequently the actual rates vary infinitely, yet many janmis, and most large janmis, follow each a principle of his own. Deviations from these principles, designed to balance specially favourable rates of rent are made, and these, no less than the regular rates, are known beforehand to the tenant. Irregularities occur and the addition of small items, said to be on the increase, are vexatious, but rents are seldom raised and the renewal fee is the landlord's only opportunity of obtaining from the tenant a part of the increment in the value of the holding.

20. It is to the regulation of the renewal fee that the Committee's proposals are primarily directed. Briefly stated these proposals are to secure to all kanamdars, whether cultivators or not, the right to claim and obtain a renewal of their kanams on the payment of renewal fees according to a prescribed scale. The janmi retains the right, subject to certain conditions to re-take the land if he wants to cultivate it himself. He may not, however, otherwise redeem the kanam, nor may he reduce it. The renewal fee has been pitched at a figure which purports to include an element of compensation to the janmi for the restriction of his rights.

21. The first and obvious criticism of this scheme is that, in view of the widely differing rents, compounded of michavaram and renewal fees, at which janmis let their lands, a formula cannot apply with equal fairness to all holdings. Against this it may be pointed out that, even though the proposed renewal fee may in individual cases mean a reduction or an enhancement of the total sum now payable in twelve years, it at any rate introduces a fair and intelligible principle into the renewal fee, viz., that of establishing a definite ratio between the renewal fee and the net profits of the kanamdar. At present, though a low rate of rent is often compensated by a high renewal fee and vice versa, still the scale of the one bears no intelligible ratio to the other. Under the proposed system the irregularities of rents are redressed, on renewal, by a division between landlord and tenant of the net profit earned by the latter in the course of a ‘12 years’ tenancy.

22. So far the scheme is an attractive one. But the first criticism of it remains unanswered. The formula is based on a custom which, we were told, prevails in some parts of the Palghat taluk; I do not think we found that it existed elsewhere. Under the custom referred to the kanamdar, we were told (though the statement was contested by a subsequent witness), paid as renewal fee not one-fourth but one-half of his ‘net profit’. It is thus clear that janmis who follow this custom will not only lose a considerable amount of rent but will receive nothing to compensate them for the curtailment of a valuable right. The remedy might be to double the proposed renewal fee, but this figure again would be no more than a guess.

23. It seems probable, however, that the prescribed renewal fee will generally work out to a higher figure than the contractual renewal fee. In future if a tenant is willing to pay his landlord the prescribed fee he can obtain a renewal which he would otherwise have had to obtain at the landlord's own figure. The tenant will first ascertain that figure. If it is higher than the prescribed fee, either the landlord will reduce his figure to the amount of the prescribed fee and grant the renewal or, if the landlord is unwilling to do this, the tenant will claim a renewal from the court on payment of the prescribed renewal fee. The landlord has to suffer a loss, but it may be perfectly right that he should do so. He of course gets no compensation for the loss of his power to redeem or reduce his kanam and for the decreased selling value of his janmam right. If on the other hand, the prescribed renewal fee is higher than the fee which the landlord would ordinarily demand (and *ex-hypothesi* since it contains an element of compensation it normally should be) one of three things may happen when a renewal is sought. Either (1) the landlord will renew on his ordinary terms, or (2) he will renew at a figure slightly less than the renewal fee, or (3) he will renew (with or without the intervention of the court) at the prescribed renewal fee. The natural course for a prudent landlord (janmi or kanamdar) to follow will be course (3), especially

if he happens to have a certain number of holdings for which the prescribed fee is less than his ordinary fee. That is to say, there will be a general increase of renewal fees or, in the alternative, of evictions. And the tenant, if he is able to avoid eviction, will only get what, nine times out of ten, he would have got for a smaller sum.

24. It is convenient here to refer briefly to the legislation recommended in the matter of melcharths (paragraph 129), since it is open to similar criticism. If the threatened tenant pays up the statutory fee he can save his holding, and not otherwise. That is to say, eviction on a melcharth is legalized on exactly the same conditions as direct eviction by a janmi. The result in my opinion will be the encouragement rather than the repression of evictions by means of melcharths.

25. If the general results of fixing a renewal fee are as I have anticipated, out of whom is the increased payment to come? Ultimately from the cultivating tenant, whose rents are being artificially restricted. This loss of rent—for we may assume that there will generally be a loss—reduces the total amount divisible between janmi and kanamdar. If the mutual relations of landlord and of tenants above the cultivating tenant continued to be contractual, the deficiency would be adjusted between these parties; and it is a question whether it is fair or expedient so to regulate the relations of janmi and kanamdar that either the janmi will be in a position to pass on the whole loss to the kanamdar or the kanamdar to the janmi, as the case may be.

26. There is one practical difficulty to which it is worth referring, namely, that of ascertaining the amount that should be deducted on account of interest on kanam. The kanam advance is usually made in cash and the interest is calculated in paddy. The custom is to commute at terms very favourable to the tenant, with the result that the tenant in fact receives interest at a considerably higher rate than that mentioned—if the rate is mentioned at all—in the document. The adoption (in the absence of a stated rate or evidence of customary rate) of fixed scales of interest is no doubt unavoidable, but it has the effect of introducing into the calculation figures which have no relation to existing facts.

27. When we come to the intermediaries fresh difficulties appear. An illustration of a situation that may arise is given in paragraph 116 of the Report. It will be seen that *A* is to receive from *B* the 'prescribed' renewal fee (presumably larger than the customary fee), based on the profits made by *D*, who receives a 'fair' (and presumably reduced) rent. The result is likely to be, as the Report shows, the ultimate elimination of one party, and this, in my opinion, is as likely to be *E*, the cultivating tenant, as either *C* or *D*. As I have already suggested, when discussing the cultivating verumpattamdar, fixity will not save the cultivator when his immediate landlord has a strong incentive to remove him. Further, I can find no justification for the view that *C* and *D* (who in the Committee's view are the persons likely to be displaced) are in any way less desirable as intermediaries than *B*. *B* for instance may be a vakil in Madras or a trader in Rangoon, while *C* or *D* or both may have improved the land and may have been looking after its cultivation.

28. *Kuzhikanamdars*.—The essential difference between the kanamdar and the kuzhikanamdar is that the latter has always the protection of the Malabar Compensation for Tenants' Improvements Act. It is asserted by tenants that this protection is not adequate. The burden of their complaint is less that the Act is a bad Act than that it is not properly worked. The commissioners are either incompetent or unscrupulous and the scales are weighted in favour of the janmi. In so far as this statement suggests that the janmi himself weights the scale, the suggestion, to any one who knows North Malabar, is absurd; and further it must be remembered that if the average commissioner has any bias at all it is in the direction of the tenant. I think it has always been recognized by all who have any pretensions to a knowledge of Malabar that if there is one class of tenant that under the present law is reasonably secure against the caprice of his janmi it is the kuzhikanamdar. It has constantly been asserted by persons who, though interested, cannot be reasonably disbelieved that, under the protection of the Tenants' Improvements Act, tenants are frequently able to defy and even oppress

their janmis and that in the ordinary run an eviction can very rarely pay a landlord. The large janmi is the exception in North Malabar. Many who seem to be large are in reality in an impoverished state, and there are thousands of impecunious janmis who own but an acre or two, many of whom are only too glad to allow their lands to come to sale for arrears of revenue. The wealth of the country is with those who have worked for it, that is the kuzhikanamdars.

29. Turning to the statistics of the civil courts of North Malabar (table (i), Appendix to Chapter VII), the number of suits for eviction filed in a year is by no means large in proportion to the ascertained number of kuzhikanam holdings (104,690), and, what is more significant, considerably less than half the number filed actually come to execution. And execution, it must be remembered, does not by any means necessarily involve eviction, and even eviction may mean only the displacement of an intermediary. If a tenant is unwilling to renew and prefers to receive compensation and quit, or if he wishes to make a settlement of account with his landlord and execute a fresh agreement, or if his landlord wishes him to do so, then a suit for eviction, ending in a decree for execution, is the only course satisfactory to both parties. Of the total number of suits for eviction the number filed by melcharthdars is relatively small and shows no tendency to increase. In the circumstances which I have described a melcharth or the threat of a melcharth forms the only remedy available to any but a well-to-do landlord (janmi or tenant) against a recalcitrant tenant. Under the proposals set out in the Report melcharths are to be indirectly prevented by the prescription of a renewal fee. I have referred to the effect of these proposals in paragraph 23 above.

I propose to glance at some of the difficulties involved in the scheme for the protection of kuzhikanamdars. There are not of course always intermediaries between the kuzhikanamdar in possession and the janmi but their existence is so usual that it may be as well first to take a typical example.

30. Where there is a chain of sub-tenants each tenant is to pay as the price of a renewal either a sum, which I will call *X*, based on the profits which he has made during twelve years, or $1\frac{1}{2}$ times the gross yield of the land, whichever is greater. It seems probable that the amount payable under this rule will in fact generally be $1\frac{1}{2}$ times the gross produce, and for the purpose of what follows I make the assumption that the rule will so operate. (It may be noted, in passing, that while the tenant in possession is permitted to pay in instalments the other tenants have to pay in lump.) This sum is passed up, at intervals, through the chain of intermediaries to the janmi; thus no intermediary actually retains any renewal fee at all. In view of the benefit obtained by the payment of the renewal fee, this position might be justified if the interests of all the intermediaries in the land were equal. But it may well happen that *C*, for instance (in the chain of *G*, the cultivating tenant, to *A*, the janmi), has planted a considerably larger number of trees in the land than *D* and yet has not received from *D* that amount of rent and renewal which would result in *X* exceeding $1\frac{1}{2}$ times the gross produce. He is reasonably entitled to receive from *D* a higher renewal fee than that which *D* receives from *E*; yet in fact he receives the same. It may be said, of course, that *C*'s compensation is in the rent he receives, but this may very well not be so. It is well known that low rents are often conceded in the expectation of a relatively heavy renewal fee. Of this *C* is now deprived by the fact that *D* has claimed a renewal on payment of the prescribed fee.

Again, it seems to be generally agreed that the renewal fee now received by a janmi *A* from the tenant next below him *B* rarely amounts to, or even approaches, the equivalent of $1\frac{1}{2}$ times the gross produce. It will now be clearly the inclination of the janmi to demand from *B* a fee not less than that now prescribed. He can, with the sanction of the law and with the prospect of an adequate return, evict him if he does not pay; he can even give a melcharth to evict him. *B* may have received from *C* a negligible renewal fee and may not have for nearly twelve years an opportunity of exacting from *C* a 'prescribed' renewal fee; he is therefore unable to pay *A*'s demand and cannot resist eviction. The janmi has a clear and undeserved advantage.

31. The whole scheme (although under the recommendations contained in paragraph 113 of the Report it is not to come into full operation for 24 years) seems to me to be so artificial, so complex and so unrelated to existing commitments that, even if in the end it is found that it can be worked at all, it must result in a complete disturbance of the rural economy of North Malabar.

32. 'Customary' verumpattamdars.—The legislation proposed for non-cultivating 'customary' verumpattamdars is, in my opinion, no more, and perhaps less, justifiable than that recommended for kanamdars and kuzhikanamdars. It is open to the same practical objections.

33. Verumpattamdars (year-to-year).—It will be observed that no legislation is proposed for one large and important class of non-cultivating tenant, namely, the year-to-year verumpattamdar.

IV

34. Kudiyiruppus.—The demand for security of tenure in respect of *kudiyiruppus* appears to me—if with deference to the order of Government I may say so—to be the most unsubstantial of all the demands that the tenants' advocates have put forward. Houses in the country may be broadly classified as (1) the substantial houses of the well-to-do kanam tenants, covering with their out-houses, guest-house, granary, and compound any area up to 2 acres, (2) the middle class house, tiled or not, occupying say a quarter to half an acre; (3) the thatched cottage of the poor, a few cents. The classification is obviously not exhaustive. Under present conditions the tenant of class (1) is for all practical purposes perfectly safe. I have been told *ad nauseam* of the case of a well-to-do tenant in South Malabar who was evicted not long ago from a house of this class, and from the very frequency with which this story is repeated I can only infer that the incident is generally regarded as exceptional. If the version which I have received is correct—and I have no reason to doubt its substantial accuracy the eviction was justifiable. The janmi would have been less than human if he had acted otherwise. The position of kudiyiruppus of classes (2) and (3) will vary according as they form part of an agricultural holding or not. If they do, they will normally have to be vacated when the holding changes hands. The tenant of course gets compensation. The rent of house-sites of class (3) which do not form part of an agricultural holding is usually nominal, in the country at any rate; it will almost never pay a landlord to evict and pay compensation. In towns kudiyiruppus are 'safer' in proportion as the value of houses is higher. A census which I have just had made in three amsams of the Walluvanad taluk taken at random has yielded the following results.

(The classification of houses adopted in the table follows that given above.)

Class of house.	Number.	Number of kudiyiruppus, kanam and verumpattam, occupied by present tenant or his family for					
		Less than five years.	Five to nine years.	Ten to 19 years.	20 to 49 years.	50 to 99 years.	100 and over.
Amsam No. I—							
1	2	..	..	..	..	..	2
2	17	..	1	1	2	8	5
3	75	5	6	14	21	23	6
Total ..	94	5	7	15	23	31	13
Amsam No. II—							
1	4	1	1	2	..	..	..
2	38	1	3	8	16	10	5
3	43	4	4	8	34	22	13
Total ..	85	6	8	18	50	32	18
Amsam No. III—							
1	7	..	..	..	3	1	3
2	21	..	..	1	4	11	4
3	72	..	1	15	20	27	2
Total ..	100	..	1	16	27	39	9

35. It is true that the field of this inquiry was extremely limited, but I have no reason to believe that the condition of general stability which it has revealed is in any way exceptional. Nor is there any lack of land on which a tenant who wants to build a house may do so. In almost all villages except those along the coast—in which there is often foreshore—there are limitless acres of janmis' waste land on which a man may build a cottage with or without permission, and the janmi is lucky if he receives a token rent.

36. Obvious objections to the legislation proposed are that landlords (i) will be inclined to evict all kudiyiruppu holders as soon as they reach the fourteenth year of their tenure, and (ii) will hereafter refuse to grant their tenants house-sites and will require them to live in houses provided by the landlords themselves on their own land. The janmi's waste land will no longer be available for occupation by any chance person who wants a house-site. There is in my opinion no real demand for legislation in this matter and no need for it.

V

37. Melcharths.—The melcharth is reprobated by all tenants and, in principle, by most janmis. It is the pride of many janmis that they have never granted a melcharth. The general dislike of the melcharth arises, no doubt, from a feeling that it is unfair for a janmi or a kanamdar (the weapon is of course available to a kanamdar also as against his sub-kanamdar) to invoke the aid of a third party instead of fighting his own battle. On the other hand the melcharth is often the only straightforward way in which an impecunious landlord can possibly bring a contumacious tenant to terms; less directly he may secure his object by undertaking the eviction himself and contracting beforehand with a third party that he shall pay the expenses and be put into possession when the decree has been obtained. This latter course affords an easy method of defeating any legislation which does not provide for a fixed renewal fee and I have already referred—paragraph 24 above—to the effect which the fixing of a renewal fee is likely to have on the grant of melcharths.

38. Abuses of the power of granting melcharths occur, though, as in the matter of evictions, almost no concrete examples have been given to us. The figures of suits for eviction brought by melcharth-holders in all the courts of the district show a yearly average, for eleven years, of 309 for South Malabar and 536 for North Malabar. There is a distinct decline in South Malabar and no tendency to increase in North Malabar. The number in relation to the total number of kanam and kuzhikanam holdings in the district is remarkably small, and even if half of them were found to be 'unjustifiable' it could not by any stretch of language be said that the granting of melcharths is a widespread evil. It is not known how many of the suits ended in decree and execution or how many among the executions involved actual eviction.

I have already referred (paragraph 24 above) to the legislation proposed for the suppression of melcharths and have expressed the opinion that it will not serve its purpose. An essential feature of the proposals is the fixing of a renewal fee.

VI

39. Conclusion.—If it were decided that legislation should be undertaken, that legislation must, I submit, take one of two forms, either it must be on lines similar to those recommended in the Report or it must provide a scheme by which tenants in the various grades are allowed compulsorily to buy out the right of their immediate landlords at their full value. Personally I doubt whether it is possible to regulate satisfactorily by an Act the relations of tenants to the sixth degree with one another and with the landlord, and I venture to think that if the Report of this Committee had merely served to reveal the full implications of any such attempt, it should be held to have fulfilled a very valuable purpose. Among recent efforts in the matter of legislation for Malabar the Report and draft Bill represent the first attempt fearlessly to face and solve the many intricacies of a problem which is commonly spoken of as if it consisted merely in regulating the relations of (at most) janmi, kanamdar (kuzhikanamdar) and cultivating tenant.

A scheme of compulsory purchase would at least have this advantage that its working would be visible, and checks and remedies could be devised as need arose. I do not for a moment, however, recommend any such scheme, since I do not think either that the existing situation calls for any legislation and, in particular, I am opposed to any legislative action that would have the effect of casting intermediate tenants adrift. There is certainly no demand from any quarter for a scheme of compulsory purchase; should such a demand be voiced, then there might be grounds for thinking that the time for interference had come.

40. If it be objected that I have adopted the easy role of critic and have made no constructive suggestions, my reply is that I believe the proposals embodied in the Report to be harmful and that, frankly, I am not able to conceive a scheme of legislation which will alter for the better the relations of landlord (in the broad sense) and tenant in Malabar. The Malabar land system is so singular and so complex an organism that a disturbance of any part must inevitably react to the disturbance of the whole. The characteristic feature—indeed some may say the beauty—of the system is the multiplicity and complexity of its sub-tenures. Although the Report as a whole reads as if it sought to preserve and stabilise the intermediaries, I observe that the opinion, even the hope, is more than once expressed that the ultimate effect of certain of the measures which are recommended will be the elimination of middlemen. I agree with the opinion but do not share the hope.

The Malabar land system cannot be regarded as merely a piece of machinery which happens to exist in Malabar; it is in itself the whole life and being of the people of the district and cannot, except at very grave risk, be taken to pieces and re-designed. Persons who are eliminated from their place in the scale of land-holding have to look elsewhere for subsistence, and in Malabar, as elsewhere, there is little outlet besides the land. If this elimination is thought to be in itself desirable and if it does not follow, however slowly, from the ordinary operation of competition and free contract, then legislate in such a way that the object may be achieved directly and visibly, and not by an obscure, a possibly painful and a certainly dangerous process.

41. I have already discussed the grievances urged on behalf of certain classes of tenants—insecurity of tenure and (another aspect of the same complaint), exorbitant renewal fees. It is my belief that all the evils which may exist under these heads do not constitute any justification for embarking on legislation which, though its precise effects must be uncertain, will inevitably give rise to a great and far-reaching disturbance of values, to an immense volume of demoralizing litigation, to the embitterment of the relations between classes and individuals, and possibly to the pauperization of not a few. The real basis of the present movement for 'tenancy reform' is, in my opinion, to be found in social relations: in South Malabar, the anxiety of the middle classes to free themselves from the janmi's insistence on his prestige, and in North Malabar, the laudable desire of the large and progressive community of Tiyyas to improve its position, social and economic. Whether agrarian legislation can achieve either of these objects I have grave doubts; that neither object justifies such legislation seems to me to be quite certain.

CALICUT,
11th March 1928.

H. R. PATE.

EXPLANATORY NOTE BY RAJA SIR VASUDEVA RAJA OF KOLLENGODE, C.I.E.

My views on the necessity for tenancy legislation in Malabar are well known, and I have signed this Report not because those views have undergone any material change, nor because the present inquiry has in any way led me to change my former views. In view, however, of the situation created by the circumstances referred to in the Government Order constituting this Committee, I have agreed to the proposals made in the Report, in a spirit of compromise and expediency. I wish, however, to make it perfectly clear that those proposals are the utmost that I can agree to; and whatever I say is my personal view as a member of the Committee and not as a representative of my brother janmis in Malabar, whose authority or consent I have in no manner obtained to express. In view, however, of the desirability of ending this unhealthy agitation, which, if allowed to grow, may lead to more estrangement between the landlords and the tenants, I have thought it fit to agree to the proposals made in the Bill, though I do not admit the existence or sufficiency of all the circumstances mentioned in the Report to justify the conclusions arrived at. I hope, however, that my brother janmis would be generous enough to support those proposals.

I wish to draw special attention to the observations made in the Report, that the scheme set forth therein should be tried as a whole. If any part thereof is to be omitted or altered or any new step taken now or hereafter to encroach upon the janmis' undoubted vested rights, I shall feel myself at liberty not only to withdraw my consent to the Bill now proposed by the Committee, but to oppose any attempt to legislate on the subject of landlords' and tenants' rights in Malabar. I attach very special importance to the clauses in the Bill which enable the landlord to retake the land for his own cultivation or use, and also to the rate of renewal fee fixed therein for restricting the free right which he now enjoys to change tenants at his will. The rate fixed is too low and though I have very serious objections to it I have consented to it merely for the sake of agreement. I also consider that the fair rent to be fixed will seriously injure the landlords and will reduce the present rents considerably. Such of the landlords as cannot afford this reduction in their rents, have at all events the remedy reserved to them of cultivating their lands themselves, and it is for this reason that I have persuaded myself to consent to it for the sake of arriving at a unanimous conclusion. It would have been very much better to have left things as they are, but in any event the change should not go beyond the recommendations that the Committee has made.

KOLLENGODE,
25th March 1928.

VASUDEVA RAJA.

EXPLANATORY NOTE BY DIWAN BAHADUR T. C. NARAYANA KURUP.

I had occasions to express my views on matters relating to tenancy questions in Malabar when the Government of Madras invited opinions on 'The Malabar Tenancy Bill, 1924' of Diwan Bahadur M. Krishnan Nayar. I had then said that no tenancy legislation was necessary, that the Malabar Tenants' Compensation Act was a sufficient check against arbitrary and capricious evictions, and that the janmi should not be prevented from redeeming kanams. I was, therefore, first inclined to the view—shared by Mr. Pate—that no recommendation for legislation should be made. But, I thought, it would be better not to ignore certain happenings after 1924. The Select Committee on the Malabar Tenancy Bill, 1924, had stiffened even the provisions proposed by Diwan Bahadur M. Krishnan Nayar, and the last Legislative Council, adopting those provisions, had, rightly or wrongly, passed the Bill with a strong majority. Again, the terms of reference to this Committee and the Government Order with which they were communicated inclined to the view

that some kind of legislation should, if possible, be undertaken; and the janmi representative in the last Legislative Council seems to have said that legislative protection might be granted under conditions to actual cultivators and kudiyruppu holders. I was also much impressed by the evidence given before this Committee by some gentlemen, who may be said to represent the janmi view point, that it would be expedient to submit to a reasonable legislation to avert a second Bill on the lines of Mr. Krishnan Nayar's Bill or of the one proposed by the Select Committee. Under these circumstances, I thought, it would be safer to indicate the lines on which legislation, if at all undertaken, might, without serious danger, be attempted. The Bill that this Committee has proposed is the result of a series of compromises, and I have signed the Report on that basis. If changes are introduced in the Bill submitted by this Committee, I reserve to myself the liberty of adhering to my original views.

TELLICHERRY,
22nd March 1928.

T. C. NARAYANA KURUP.

EXPLANATORY NOTE BY MR. K. KRISHNAN, M.L.C.

I cannot say that I am quite satisfied with all the provisions contained in the draft Bill. I consider that the Bill is only a first instalment of reform by which the claim of the tenant for fixity of tenure is recognized. The price to be paid for the grant of fixity of tenure, however, is pitched very high, and I am afraid that not many tenants will be able to avail themselves of the provisions of the Bill.

The traditional share of the landlord out of the land is one-third of the net produce in the case of wet land, and one-fifth of the net produce in the case of garden lands. The Bill, however, provides for much higher rates, and the difference, in my opinion, is very high compensation for the alleged confiscation.

Even in the old days when the cost of cultivation was comparatively low, twice the seed was said to be a proper estimate for cultivation expenses. This proportion has been considerably exceeded in recent times. The Bill, however, allows practically the same amount as the seed for cultivation expenses, as the seed required is also taken into account in fixing twice the seed for cultivation expenses. In addition to that, a portion of the straw is to be given to the landlord. The usual rate claimable by a landlord inclusive of renewal fee is one-fifth of the gross yield in the case of garden lands, while one-third of the gross yield is now fixed as rent exclusive of the renewal fee which itself is high. The renewal fee payable by a cultivating kuzhikanam tenant is at least twice the existing rate. By fixing such high rates of rent and renewal fee as standards under legislative sanction, all janmis will hereafter claim the maximum fixed under the Act; the fact that a larger share is allowed as compensation for the alleged confiscation will be ignored. The intermediary kuzhikanam tenant appears to have got off best in the transaction. He is allowed to take a very large share from the cultivating kuzhikanam tenant and is made to pay only a very small portion of it to the janmi.

The one redeeming feature of the Bill which has induced me to sign it without dissenting from my colleagues is that these high rents will not be brought into operation within the next 12 to 24 years.

I have one word to say about the procedure proposed when a tenant wishes to acquire fixity of tenure for his holding. Instead of compelling a tenant to apply to a Court for the grant of fixity of tenure, the parties should be left to adjust their relationships out of Court, as far as possible, the law interfering only to prevent arbitrary evictions by placing limitations on the powers of eviction now exercised by landlords. This alternative procedure may be considered.

TELLICHERRY,
19th March 1928.

K. KRISHNAN.

EXPLANATORY NOTE BY RAO SAHIB V. KRISHNA MENON.

In the interests of tenants (including verumpattamdars, cultivating kanamdars and non-cultivating kanamdars) I think, it is necessary to amplify Chapter IV of the Report with a view to analyse the relationship between janmis and tenants in Malabar and to clearly understand their respective rights—the rights the janmis have for collecting rents and the obligations of the tenants for paying them—and the manner in which the Government have been protecting those rights from the early days of the East India Company up to the present day. The circumstances which led to the appointment of the Malabar Tenancy Committee and the terms of reference thereto are intimately connected with the consideration of these details. G.O. No. 2346, Law (General), dated 29th July 1927 states that “any legislative proposal for taking away the rights of the janmis in any substantial way either by grant of permanent occupancy right or otherwise should be accompanied by adequate provision for reasonable compensation being paid to them. On the other hand the Government are of opinion that in the case of homesteads at least there is urgent necessity for creating security of tenure. They view with considerable sympathy the claim of the actual cultivator of the soil for fixity of tenure and freedom from arbitrary evictions and they wish that every possible attempt should be made to secure to him these advantages in so far as they can be reasonably done without injustice to the janmi.”

Before I consented to sit on the Committee I tried to understand clearly what was meant by the attitude of the Government described above. I thought that the Government would be pleased to consider proposals for removing the reasonable grievances of the tenants and of homestead owners when such proposals do not affect the rights of the janmis in any substantial way. On perusal of the dissenting minutes of the Advocate-General and Sir C. P. Ramaswami Ayyar on Diwan Bahadur M. Krishnan Nayar's Bill, I find that I have not made a mistake in understanding the view the Government have on the subject.

The Advocate-General says that “creation of occupancy rights in those who held terminable terms or interests is *pro tanto* the subtraction of something valuable from the present owners' full and plenary rights. If, however, the subtraction is of something remote and problematical, of something which might become valuable at some future time, but involves no tangible loss in the immediate present, the deprivation is so imperceptible that the owner might be inclined or easily persuaded to submit to it. This is the reason why the representatives of the janmi in the Select Committee readily expressed their willingness to give occupancy rights to the cultivating tenants subject to a just settlement of their claim to rents. If the janmi evicted one tenant he will have to let the land to another from whom he can recover no more rent. The right to evict one tenant and induct another is not in itself a right of great value and the janmi therefore readily agrees to the same tenant continuing in occupation so long as his claim to what he considers a proper rent is recognized and secured. In the case of verumpattamdars the present rent has been secured to the janmi and that must be acceptable to him. The janmis were willing that the cultivating kanamdars should have occupancy right on the same terms as the verumpattam tenants. This proposal does not seem to me unjust or unreasonable.”

Sir C. P. Ramaswami Ayyar in his dissenting minute after adversely criticizing the provisions contained in Diwan Bahadur Krishnan Nayar's Bill after it emerged from the Select Committee concludes as follows:—

“The amelioration of the position of the cultivating tenant, the prevention of arbitrary evictions, the elimination of any oppressive incidents that may attach to the system of ‘melcharth’ the limitation of the enhancement of rent and the grant of permanency of tenure to the occupiers of homesteads or kudiyruppus by conferring on them a right to acquire the homesteads when threatened with evictions are therefore questions which Government recognize must be promptly examined with a view to legislation.”

It will be clear from the above quotations that the ideas conveyed by the Advocate-General and the Law Member to the Government are almost identical and

if these ideas can be realized without depriving the janmis of their rights in any substantial way I suppose the Government would be pleased and the question of compensation would not arise.

Before proceeding further it is necessary to clearly analyse janmis' rights and to see how far they are absolute or unlimited. Their rights may be summarized under the following heads:—

- (1) Power of eviction.
- (2) Right of giving melcharths.
- (3) Enhancement of rent and renewal fee.

Janmis contend that the power of exercising these rights is absolute and unlimited on the plea that they have right of private property and right of contract. Right of private property is of course very sacred and no State can wantonly interfere with it; but when we realize that these rights owe their existence to the protection afforded by the State, the State has an equally important duty of protecting other rights such as those of labour especially when janmis' rights happened to come into collision with the rights of the cultivating tenants. It will be perceived that from considerations of State policy the janmis must be prepared to a slight curtailment of their rights of private property and right of contract without expecting compensation. This was the view taken, as I propose to show later on, by the early Rulers of the East India Company when they undertook the task of settling the district after it was ceded to them by Tippu Sultan in 1792. The doctrine I have enunciated has been applied to other parts of India and adopted by all civilized Governments. The factory laws, Workmen's Compensation Act, some municipal Laws, some laws regulating payment of interest, the Land Alienation Act of the Punjab, some of the provisions of the Malabar Tenants' Improvements Act are instances to prove that in the interests of the State individual rights and rights of private property have to some extent been limited or curtailed without paying compensation for such limitation or curtailment. Janmis cannot claim that they can do anything with their lands. Occasions may arise, as it has arisen in Malabar, when the exercise of unlimited powers by janmis may retard the progress of the country. Moreover it is clear that any Land Law based on contract between two parties who do not meet on equal terms will result in injury to the weaker party.

Let me now proceed to the consideration of the exact nature of janmis' rights as recognized by the East India Company under the various documents which are available for reference. Various commissions and investigations in the past connected with the land tenure in Malabar have touched upon these documents and attempts have been made to clearly understand the exact nature of the rights of janmis and kudiyan of Malabar. Sir Charles Innes, in his Report, has summarized his conclusion drawn from the perusal of evidence recorded by Mr. Logan, Dr. Buchanan, Mr. Thackeray and Mr. Rickards, everyone of whom had intimate knowledge of the condition of the district. Janmis argue that the opinion expressed by Sir Charles Innes is not correct and that the reports of Mr. Warden and other early British Administrators show that in Malabar tenancies were sold and rents fixed by competition long before the first-half of the 19th century. We have therefore to examine carefully what the relation between the janmi and the tenant was during the reign of Hyder Ali and Tippu Sultan and during the early period of administration of the district by the Honourable East India Company. The relationship that had existed between the janmi and the kudiyan prior to this period need not be investigated as such inquiry does not serve much useful purpose. On the 29th of June 1803 Mr. Rickards, the first Judge and Principal Collector of Malabar appointed by the Honourable East India Company, issued in Calicut a proclamation, a translation of which I reproduce below from 354, Volume III of Logan's Manual of Malabar:—

Translation of the paper signed and delivered to the Rajas, Nambudiris, Mookistans and principal landholders by the first Judge and Principal Collector of Malabar on the 29th June 1803.

"1. For the purpose of a new paimash the following principles are ordered to be adopted subject to the approbation of the Revenue Board.

"2. On rice grounds after deducting from the gross produce the seed, and exactly the same quantity for expenses of cultivation and then allotting one-third of what remains as koroo labour to the kudiyan the residue or patom is to be divided in the proportion of six-tenths to the Company and four-tenths to the janmkar.

"3. On perum lands, one-third of coconut and supari tree produce being deemed sufficient for the kudiyan; the remainder or patom is to be divided equally between the Company and the janmkar. Of jack trees, the Company to receive half the patom where ascertainable or in other places one-third of the gross produce according to local custom or value of the tree. Of pepper vine one-third of the gross produce to be ascertainable by annual survey is to be the Company's share.

"4 The principles and rates above specified being favourable to all parties, if the Revenue Board approve, *they shall be permanently fixed* on all lands now in a state of produce and applied according to the usage of the country to terese or waste lands which may hereafter be brought into cultivation.

"5. The money rates of assessment shall be fixed by the Sub-Collectors under a consideration to local value of the several articles in the different districts.

"CALICUT,
"29th June 1803.

R. RICKARDS,
First Judge and Principal Collector."

On the same date the Rajas, Nambudiris, Mookistans and principal landholders of Malabar assembled at Calicut, signed an agreement and handed it over to the Principal Collector. I reproduce below a translation of the full agreement with the names of the janmi signatories:—

Translation of the paper signed by the Rajas, Nambudiris, Mookistans and principal landholders on the 29th June 1803.

Paragraphs 1 and 2 are identical with paragraphs 1 and 2 of No. CCXLII. Paragraph 3 is identical with paragraph 3 of No. CCXLII except that lines 6 and 7 to the end of the sentence run thus:—Other places one-third of the gross produce to be ascertained by annual survey is to be the Company's share.

We the undersigned Rajas, Nambudris, Mookistans and principal landholders do hereby declare our acquiescence in the above principles and rates and will exert ourselves in our respective districts to make the same generally understood. The principles and rates being favourable to all, we pray that it may be permanently fixed on all lands now in a state of produce and applied according to the usage of the country to terese or waste lands which may hereafter be brought into cultivation. The honour and credit of the Company's Government will then be great and our lives will be passed in comfort and peace.

We also pray that the money rates of assessment be fixed by the Sub-Collectors under a consideration to the local value of the several articles in the different districts.

CALICUT,
29th June 1803.

N.B.—A separate paper in Malabar to the effect of the preceding was signed by the Samoory Raja singly:—

Mana Vikrama Samoory Raja of Calicut.

Another paper of the same tenor was signed by the following Rajas:—

Kizhake Kolota Raja

Patinhare Kolota Raja, Calicut.

Beypoor Valia Raja.

Parappanad Raja.

Beypore Moonar (3rd) Raja.

Beypore Nalam (1th) Raja.

Kowlapara Nayar.

Another paper of the same tenor was signed by the following Nambudiris :—

Kanhoora Nambudripad of Nerunganad.
Narrery Nambudripad of Nerunganad.
Kowally Nambudripad of Chowghat.
Padakkarre Nambudripad of Angarrypar.
Narikkacherry Nambudripad of Kowlappara, etc.

Another paper of the same tenor was signed by the following Mookistans or principal land holders :—

Manniladathil Nayar of Poolwye.
Allil Nayar of Poolwye.
Tacharakawil Tirumalpad of Ernad.
Karamballi Kurupa of Wadakumpram.
Kollikotta Nayar of Calicut, etc.

These two records show that so long back as 1803 the first Judge and Principal Collector of Malabar defined the relations between janmis and kudiyan. Various inquiries and commissions referred to above have touched upon the record ; but I find that the full significance of the proclamation has not up to this time been clearly noticed. The proclamation has not only defined the share due to the kudiyan but has fixed permanently the share of the produce due to the Government and the share due to the janmi. The apportionment of produce as per this proclamation is as follows :—

From the gross produce of paddy lands a quantity of paddy representing the quantity of seed required for the land and an equal quantity of grain for cost of labour is deducted and out of the balance of produce one-third is reserved for the kudiyan and out of the remainder six-tenth is reserved for the Government and four-tenth to janmi. These shares, it will be apparent, vary with the yield of the land and its fertility. For applying this formula I assume a plot of paddy land requires one para of paddy for seed and the gross yield is eight times the seed which is the normal rate of produce in Malabar. Out of the total gross yield of 8 paras of paddy, 2 paras represent the seed and cost of cultivation and out of the remaining 6 paras, one-third or 2 paras is to be reserved to the kudiyan making total share due to kudiyan 4 paras which is equal to half the gross produce. Out of the remaining 4 paras which is half of the gross six-tenth is Government share and four-tenth the janmi's share.

$$\frac{1}{2} \times \frac{6}{10} = \frac{3}{10}.$$

$$\frac{1}{2} \times \frac{4}{10} = \frac{1}{5}.$$

The respective shares of gross produce of kudiyan, Government and janmi are therefore as follow :—

Kudiyan	...	...	...	...	$\frac{1}{2}$ the gross produce.
Janmi	...	...	...	...	$\frac{1}{5}$ of the gross produce
Government	...	...	...	...	$\frac{3}{10}$ do.
Total	...	...	...	...	1

Applying this formula to lands of varying fertility assuming the maximum yield is twenty times the seed and the minimum five times the seed, the janmi's share and the kudiyan's share of the gross produce vary between the following rates, kudiyan getting maximum share from land of minimum fertility and minimum share from land of maximum fertility :—

	Kudiyan's share of gross produce.	Janmi's share of gross produce.
From land of minimum fertility yielding five fold.	$\frac{2+1}{5} = \frac{3}{5}.$	$\frac{2}{5} \times \frac{4}{10} = \frac{4}{25}$
From land of maximum fertility yielding twenty fold.	$\frac{2+6}{20} = \frac{2}{5}.$	$\frac{3}{5} \times \frac{4}{10} = \frac{6}{25}.$

Janmi's share, therefore, of the gross produce of paddy lands has to vary between $\frac{4}{25}$ and $\frac{6}{25}$ of the gross produce. Likewise the kudiyan has to get $\frac{3}{5}$ and never less than $\frac{2}{5}$ of the gross produce.

These proportions were fixed by the Government with due considerations of the customs and manners prevalent in Malabar when the Honourable East India Company took up the management of the administration of the district and the agreement signed by the janmis clearly states that the rates fixed were permanent. Before Mr. Rickards and his predecessor Mr. Medood were appointed Collectors of Malabar the administration of the district was in the hands of three Commissioners, W. G. Farmer, W. Page and Mr. Alexander Dow who were entrusted with the duty of settling Malabar soon after it was ceded to the Honourable East India Company by Tippu Sultan. The Commissioners arrived in Malabar in 1792 and in that year and the year after they entered into agreements with the various Rajas, janmis and mookistans the terms of which were almost identical. These clearly show that in the time of Tippu Sultan 50 per cent of the gross produce was collected as Government's share and the kudiyan and the janmi took their shares out of the remaining 50 per cent and it is clear that the janmi's share after deducting the cost of cultivation and the kudiyan's share was a small fraction of the gross produce. The Mussalman Rulers right of 50 per cent of the gross produce was in virtue of the treaty of Sreerangapatam transferred to the Honourable East India Company.

The Commissioners addressed a letter on the 9th of January 1793 to the Zamorin of Calicut and this letter is reproduced below :—

To

The Zamorine,

By the ancient customs of the Malabar country we learn that the Nairs, Brahmins and other landholders paid no tribute to the Rajas for the land they held, being only obliged to attend them in war, but on the feasts of onam and bishoo and other occasions, the Rajas took presents from their subjects according to their circumstances ; these ancient customs Tippu Sultan destroyed and in lieu of it, he taxed the lands framing from these a revenue, which revenue he delivered over to the Company and the Company has delivered it to be collected by you according to the written agreements. We have, however, of late heard that besides the revenue framed by Tippu in many places, the Rajas and their families have exacted, under the claim of the ancient customs, presents from the subjects of the Company on their several feasts and family ceremonies and that they even claimed a proportion of the effects of dead people ; this we consider a great oppression on the inhabitants ; they cannot afford to pay the revenue as settled by Tippu Sultan, and comply also with the customs of ancient times. We therefore notice this to you and direct that in future you only collect the revenue from the land as settled by Tippu and according to your agreements with the Company strictly forbidding all protikars and kariakars and others from exacting presents from the people under any pretence whatever and any instances we hear of after this notice given to you, we shall cause to be severely punished.

(Signed) W. G. FARMER.
(") JONATHAN DUNCAN.
(") ALEX. DOW.
CALICUT,
9th January 1793.

This letter clearly shows that the Honourable East India Company did not recognize unlimited rights of janmis and Rajas in the collection of dues from the ryots. It may be argued, however, on the contrary, that the contract between janmis and kudiyan was not interfered with, that the share of the Government alone was fixed. In refutation of this argument I give below a copy of the agreement entered into by Nambiyars of Iruvanadu and the Honourable East India Company in 1793.

We, the underwritten Nambiyars of Iruvanadu in addition to the engagements already entered into and signed before the Commissioners under date 14th May 1793, do hereby agree, in the presence of and with the concurrence of Edward

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Galley, Esq., Superintendent of the Northern District of Malabar, to contribute every assistance required of us both in men and money for the purpose of laying a new and correct valuation on the lands of the district of Iruvanadu, and in consequence of permission granted to us to receive from the renters and independent land proprietors, the Honourable Company's portion of revenue of 50 per cent on the actual products, which we will separately receive from such renters and land proprietors as shall be pointed out to us and in such proportions or shares as shall be hereafter fixed and ordained and which we promise not to exceed, agreeable to the restrictions stipulated in our abovementioned engagements with the Commissioners. We do hereby bind ourselves each and every one to defray all expenses whatever attending the collection of the said revenue and to be answerable for the same each in his respective share jointly and separately to the Honourable Company on pain of forfeiting all right and pretensions to his or their possession in Iruvanadu in case of failure in the stipulated payment on condition however we shall be allowed to retain on the Government's revenue of 50 per cent a deduction of 10 per cent for our own private expenditure, and for the responsibility, trouble and expense which we must unavoidably support and incur in execution of this duty, for example, supposing the Company's moiety or revenue to be Rs. 20,000 the full amount of our respective shares to be deducted from this sum will be Rs. 2,000 and so in proportion and for this act of reinstatement and cession of 10 per cent on the revenue, we do unanimously and individually renounce all further claim and demand of every denomination on the Honourable Company or their lands and bind ourselves, our heirs and successors in perpetual allegiance to the said Company's Government.

2. When a correct valuation of the lands shall have been made and the distinct portion of the revenue ascertained which we are to receive from each renter and landed proprietor, and the whole regularly authorized and approved by the Superintendent, we do further engage to enter into separate agreements for the collection and responsibility of the different portions of the Company's moiety which shall be allotted to each of us and to bind ourselves respectively in case of our exactions or failure in the payment as above stated. *And further of the remaining moiety of the valuation as far as it respects our own lands and estates we do likewise promise and agree to cede an equitable and just proportion to our own renters and cultivators such as is generally allowed by all other land proprietors to persons of the same class and occupation employed under them in Tellicherry and the neighbouring district, and such as shall be satisfactory to the said renters, etc., or deemed an equivalent by the Superintendent, who in all cases of difference or complaint must be considered the final Judge.* The particulars of this stipulation will be hereafter specified in our separate engagements.

3. This agreement being hereafter submitted to the Commissioners through the Supervisor and receiving their sanction will remain in full force and virtue and for whatever term or period of time they shall determine, otherwise to be null and void.

(A true copy)

(Signed) JAMES LAW,
Assistant.

The italicized portion of the agreement establishes beyond doubt that the Commissioners of the East India Company not only fixed the share due to the Government but also decided that the janmis had to allow to renters and cultivators of private lands owned by the Nambiyars an adequate and just proportion of the proceeds determined by the then existing custom and approved by the Superintendent who in all cases of difference or complaint was considered the final Judge.

All these incidents took place about ten years before the proclamation issued by Mr. Rickards. The question then arises what was the necessity for issuing a Proclamation in 1803 when there were definite rulings by the early British Rulers. Mr. Medood was the officer appointed by the East India Company in Malabar after the termination of period of administration by the three Commissioners.

During his administration disturbance arose in Malabar owing to exactions by the Rajas and janmis and from other causes. It was found necessary to supersede Mr. Medood and appoint Mr. Rickards with special instructions to define the relationship between kudiya and janmis and the Proclamation of 1803 is the outcome of it. These facts afford overwhelming proof that the janmis were prevented by the early Rulers of the East India Company from exacting anything more than their legitimate share of the produce of the land. The East India Company did not recognize that the janmis had unlimited rights and clearly established that the rights they enjoyed could not be anything more than what were recognized by them. I cannot do better for elucidating my point, than quoting the well-known Malayalam couplets explaining the system of dividing produce of paddy lands between the janmi and kudiya.

“ കണ്ടത്തിൽ കളവെന്നിയെ വിളയുടയാഗ്രാസമാരൊപ്പം
കണ്ടത്തിൽ പടിവുള്ള വിത്തിനുസമാ വല്ലിനു നീക്കിപ്പുറം.
മഞ്ചാകുന്നതിൽ മൂന്നുകൂറ വിഭജിച്ചുകൊ കൃഷിക്കാരനും
രണ്ടിൽ പത്തിന്നൊഴെ നീതി വിഹിതാജ്ഞിക നാലായതും.”

The idea expressed in this verse is identical to that contained in the Proclamation of 1803 and no one can question the antiquity of this metrical composition.

I believe no more proof is required to show that there is well defined tradition in Malabar about the sharing of produce and that janmi's right for sharing the produce with the tenant was well defined under the East India Company's Proclamation and the agreement they entered into with the Company in 1803. As far as I am aware no other proclamation or order has revised the proportions fixed in 1803. Power of eviction of a tenant is the only right of a janmi which is not governed by these limitations. There is evidence to prove that the janmi possessed the right of evicting a kanamdar under him so long back as 1792 when the Adalat Court was instituted in Calicut. Tenant cannot defy this right of a janmi and say that he possessed from time immemorial the permanent occupancy of right. Tenants in Malabar, as far as I can see from the records, have been attempting ever since the tenancy agitation began in Malabar to establish that they had occupancy right and it is no wonder that they could not do so as evidences against them are overwhelming. The decision of the High Court of Madras in 1852 clearly stating that kanam tenures are terminable and the decision by the Government that this right cannot be questioned seem to be just and equitable. If the tenants, instead of attempting the impossible, had tried to claim their due share of the produce of land permanently and irrevocably allowed to them they would have met with better success. They ought to have pointed out long ago that the janmi cannot claim more than $\frac{4}{25}$ th to $\frac{6}{25}$ th of the gross produce of paddy land and the Government ought to have protected the tenants' rights from being encroached upon by the janmis. History of the land question in Malabar during the last one hundred and twenty years is marked by a series of persistent and never ending encroachments of tenants' rights by the janmis.

Under the settlement operations conducted in Malabar after the year 1803 the Government's share of the gross produce was moderated by fixing the value of paddy at As. 4-6 per para. This was a great concession granted by the Government to the cultivating tenants to enable them to withstand the evil effects of vicissitudes of season and other various difficulties which cultivators have to contend with. Unfortunately the full significance of this concession was never realized by the cultivating tenants and they did not know how to claim the advantages of it. Some of the janmis on the other hand were not slow to profit themselves by this arrangement and they gradually began to appropriate without the knowledge of the Government more than their legitimate share of the gross produce. They gradually raised their share to half or even more of the verumpattam which is the balance of the gross produce after deducting the cost of cultivation and cultivating tenant's share. Moreover, the share of the produce released by the Government by favourable commutation of the price of paddy and simultaneous increase of price of produce was claimed and appropriated by the landlords.

To a certain extent the Government helped the landlords to improve their position at the expense of the cultivating tenant by making janmis responsible under Janmam Registration Act to pay the Government assessment. Meantime the country became settled, the people were disarmed, law courts were fully established, weaker litigants ceased to have less chance against the more resourceful opponents, general administration became weaker, all available lands were brought under cultivation and competition for land became very great. The High Court decided that kanam tenures are terminable and janmis became more and more powerful. All knowledge of the declaration of 1803 escaped the notice of the tenants and the Government failed to protect the tenants from the slow encroachments some of the janmis were carrying on.

I should be guilty of exaggeration if I omit to mention that there are many good janmis in Malabar who in spite of the temptation afforded by the altered circumstances in this district have been unwilling to depart from the well recognized customs and rights. In the eighteenth century and in the first half of the nineteenth century there existed well recognized conventions regulating the relationship between janmi and tenant. Evidently the Proclamation of 1803 was in confirmation of these customs. Evidence collected by this Committee shows that while there are many janmis and kanamdars who exercise their rights in an unjust manner, there are many others who do not oppress their tenants in any way. M.R.Ry. Kalyanakrishna Ayyar Avargal, B.A., B.L., a well-known vakil in Malabar has referred to in his evidence of the existence of a convention known in Malayalam as 'Kana Janma Maryada.' This convention is recognized by all just janmis in Malabar. M.R.Ry. K. T. Kamaran Nambiyar Avargal, M.L.A., a big janmi in North Malabar has stated in his written evidence that arbitrary evictions by janmis are unjust and he corroborated it in his oral evidence by a statement that if any janmi resorted to such evictions he would characterize the act as unjust and deprivation of such powers would not necessitate compensation. M.R.Ry. A. K. Sankaravarma Raja of Ayincheri Kovilagam of Kadathauad, one of the biggest janmis in North Malabar states in his oral evidence before the Committee that there are just and unjust evictions by janmis and that he can easily understand whether an eviction is just or unjust. He even goes so far as to state that when disputes arise regarding the nature of eviction—whether it is just or not—he would prefer to have the question settled by a third party. I know of several janmis who consider that unjust evictions by janmis and kanamdars must be stopped and the old convention of 'Kana Janma Maryada' must be restored. Confusion created during the last thirty years has to a great extent reduced the force of this convention and many of the small janmis of Malabar and non-cultivating kanamdars have begun to act in utter disregard of this moral unwritten law. I cannot do better for illustrating my point than quoting a passage from Mr. Thorne's report on the condition of tenants in the Zamorin's Estate. Mr. Thorne says "There is a Malayalam word 'Maryada' which expresses all the sentimental obligations that bind the janmi and the tenant in their relations to one another. My experience of the Zamorin's Estate convinces me that maryada is dying and its successor is a litigious disposition to employ every device that would give an advantage in the devious process of civil law. If the Estate while strictly enforcing its rights against the persistent defaulters, can conquer the suspicion of its other tenants and prove that its policy is inspired by the spirit of old traditions rather than the letter of the law, something will have been done for the revival of maryada and towards the solution of tenancy problem in a large part of South Malabar."

The latter portion of the extract is to my mind full of meaning and as far as I can see all those who have close acquaintance with the customs and manners of Malabar will endorse the view that for bringing about harmonious relationship between the janmi and the kudiyan of Malabar no surer method can be thought of than the restoration of the unwritten law referred to above as far as it can be done at present and the enforcement of the rule regulating division of produce specified in the Proclamation of 1803.

It is a matter of great surprise to me how the Government always anxious to protect the cultivating tenants from the unjust exactions of the landlord, failed to prevent janmis and kanamdars occupying position similar to janmi, from collecting

a larger share of the produce than they are entitled to, and exercising their rights in an unjust manner. Early Rulers of the East India Company fully realized that it was their duty to protect the cultivating tenants and they acted always promptly and decisively when janmis showed a tendency to oppress the tenants—Vide letter to Iruvanadu Nambiyar by the Hon'ble East India Company quoted above. Subsequent administrators, however, gradually ceased to exercise corrective influences on the janmis; and they claim absolute and unlimited rights without any fear of being controlled either by the District officers or Government. They claim now in utter disregard of the Proclamation of 1803 that their right of enhancing rent and renewal fee is unlimited. It is very interesting to review the change of attitude evinced by the Government during the last one century in the matter of tenants' and janmis' rights. The Government had and has even now every right to see that the janmis do not appropriate more than the share allotted to them and the tenants get the full share of what they are entitled to.

The omission on the part of the Government is not confined to Malabar only. In zamindari tracts and even in ryotwari areas the same omission is in evidence. The problem of rural indebtedness which the Government finds it very difficult to solve now is to a large extent due to the reluctance on the part of the Government to interfere with the division of the produce of the land between the landlord and the tenant. Many sympathetic officers have noticed this growing defect in the British administration of late years and I think it will be too late before our Government fully realises what harm has already resulted from this administrative omission.

Confining my remarks to Malabar I think, I am right in saying that unjust evictions, arbitrary renewal fees, rack-renting and other evil effects of the existing system of land tenure are the direct result of allowing the janmi to secure for himself a larger share of gross produce than $\frac{4}{25}$ to $\frac{6}{25}$ permanently fixed by the East India Company.

All that is required is to see that the cultivating tenants get their share and the janmis their own as per the settlement already made. The janmi has no right for more than his legitimate share of gross produce and he cannot claim compensation for preventing him from exercising the right of arbitrary enhancement of rent or renewal fee. When we consider the right of eviction the janmi stands as I stated already, entirely on a different footing. Kanam tenure is terminable and the janmi has the right to evict his tenant. We know that generally he exercises this right for getting a larger share of the produce of land. But his right in this direction is limited already and no janmi will care to exercise his right if he cannot get more than his share of produce. Evictions from spite or other evil motives are always unjust and no compensation is required for depriving the janmi of these rights. The necessity of fixity of tenure will not arise if the recognized rule regarding the division of produce of the land is enforced and I think the question of absolute fixity of tenure to the tenant may be left out of consideration and along with it the question of compensation also. Perhaps it may not be possible to reverse or alter the various contracts already entered into between the tenants and the landlords in contravention to the formula contained in the Proclamation of 1803. But it is very easy to put a stop to further exactions whenever they are noticed in future.

It is true that land tenure in Malabar has greatly changed since the British took up the administration of the district. We have now below the janmi various intermediaries such as non-cultivating kanamdars, cultivating kanamdars, non-cultivating verumpattamdars and cultivating verumpattamdars. Formerly there was only the cultivating kanamdar holding land under the janmi. Under the present circumstances it is difficult to fix the share of produce due to each of these existing tenure holders. Non-cultivating verumpattamdars and non-cultivating kanamdars, who habitually let out lands to cultivators under them at a profit are often more exacting than the janmis themselves. In fact the loud complaint now heard about rack-renting is due to the unfair exactions carried on by non-cultivating kanamdars. Among this class, however, there are some who do not cultivate owing to age, sex, profession or forced absence. This class exists in all countries and it will not be possible to distinguish between holders of this class from those who make it a

profession to obtain lease of land from janmis for subletting it at a profit. By fixing the share of what the cultivating tenants (including verumpattamdars and cultivating kanamdars) should get on the one side and the janmi on the other the possibilities of doing harm by the intermediaries can be minimised and the adjustments of the share of produce by these intermediaries among themselves can be left to mutual agreement as they do not require any protection by State.

The conclusion I draw can be summarized under the following heads:—

- (1) Kanam tenure is terminable and kanamdars cannot claim fixity of tenure as a matter of right.
- (2) Although janmis are proprietors of lands they do not possess at least after the declaration of 1803 the right to demand more than $\frac{1}{5}$ to $\frac{3}{5}$ th of the gross produce of the land, the share being variable according to the fertility of the land.
- (3) Enhancement of renewal fee and rent cannot be made beyond the limit prescribed in clause (2).
- (4) Eviction of a tenant out of spite or unjust causes is immoral and it cannot be tolerated by the State.
- (5) Evictions which are justifiable are the following:—
 - (a) When a tenant is in arrear even after notice demanding payment.
 - (b) When the tenant refuses to pay customary rent and reasonable renewal fee.
 - (c) When a tenant disputes the title of the landlord and commits waste in the holding.

Depriving of these rights must be accompanied by compensation.

- (6) The question of giving permanent occupancy right to tenants need not be considered as most of the abuses prevalent now can be removed by enforcing the Proclamation of 1803 for fixing fair rent and janmis' share of produce.

There are some who hold the view that the existing conditions of Malabar do not warrant introduction of tenancy legislation; that the usual signs of rack-renting are not visible in Malabar and that attempt at fixing fair rent payable by cultivating tenant will involve the necessity of introducing artificial formulae which may stand in the way of natural adjustment of economic conditions. The arguments brought forward in support of this opinion are varied and it is necessary to examine them at some length with a view to find out how far they are sound. It is said that declining state of cultivation is generally an indication of rack-renting and in Malabar cultivation has extended and consequently rack-renting does not exist. This argument is not altogether correct. Planting section of agriculture has developed to a great extent in Malabar after 1900—the date of the passing of the Tenants' Improvements Act. But side by side with this development it is noticed that paddy cultivation has deteriorated. Rack-renting exists in Malabar in the worst form in the cultivation of paddy lands. Tenants' Improvements Act has conferred upon plantation-owners some benefits which the cultivators of paddy lands do not enjoy. These benefits are reflected in the increased material prosperity of kuzhikanam tenants. That the cultivating verumpattamdars and cultivating kanamdars require legislative protection, is proved by the case of kuzhikanam tenants.

It is contended that agrarian disputes resulting in breach of peace and crime against person and property of landlords which are indications of rack-renting, are not common in Malabar. To my mind there can be no statement more erroneous than this as from the first year of occupation of Malabar by the East India Company in 1792, down to the present day, these disputes have been common.

Migration of rural agricultural population which is generally the result of rack-renting, is said to be not in evidence in Malabar to any great extent. I request those who make this statement to collect data showing the number of males and females that migrate from Malabar every year to the Strait Settlements, Kolar, Colombo, Wynad and coffee shops on the East Coast.

Want of appeals to the District officers is said to be another reason for assuming that rack-renting does not exist in Malabar. Cultivating tenants invariably appeal to the District officers when they find that the latter are inclined to be sympathetic towards them.

In fact that rack-renting exists in Malabar in the worst form has been established in the reports made by Mr. Logan and Sir Charles Innes, two of the Collectors of Malabar, who had intimate knowledge of the people of the district. Appeals against rack-renting do not reach District officers when those that make the appeals have reason to fear that such appeals would do them no good.

In the absence of apparent signs of restlessness among the cultivating verumpattamdars, one cannot believe that they suffer from the evil effects of rack-renting, is another fallacious argument brought forward by the supporters of janmis' cause. According to this theory the necessity for elevating depressed classes, improving the present condition of women, particularly Nambudiri ladies and for removing the illiteracy and poverty of the masses of India will not arise until these classes of persons show restlessness. Further comment upon this matter is superfluous.

That by introducing legislation, material prosperity cannot be bettered is another pet argument for allowing the existing uncertainties of land tenure in Malabar to continue. I suppose those who support this view will place agrarian disputes beyond the scope of legislation. No civilized country, however, accepts this view and fortunately Government of India holds that suitable tenancy legislation would be necessary for improving the material condition of cultivating classes.

I must admit that there are some janmis and others who honestly believe that the changes proposed to be introduced for the good of verumpattam tenants may benefit the richer class of this people at the expense of their poorer brethren. This argument is based on the assumption that the landlords as a class are generous and are always willing to be considerate when the question of remission of rent arises. Barring some honourable exceptions I cannot but say that generosity is not the rule with a janmi when he is sure of being able to collect the rent by the sale of tenants' property. Remission is often allowed by a janmi when he has no other alternative, viz., when the tenant has reached the lowest stage of poverty.

Another plausible excuse made by landlords for denying the poor class of cultivating tenants the right of uninterrupted possession of lands for cultivating purposes is that such tenants are always needy and may take advantage of such a right for encumbering or assigning away the newly acquired tenure and become subordinate to more substantial sub-tenants. This is entirely a rich man's view when he does not want to help those below him. In politics, in trade, in agriculture and in all other activities of life we are familiar with this doctrine preached apparently with the best of intentions but really with a desire to keep down the helpless classes. People soon find out what is best for themselves and do not long remain satisfied with their position of inferiority.

In making final recommendations, however, I have deviated to a certain extent under a spirit of compromise from the principles enunciated above. There was a desire in the earlier stages of the discussions of the Committee to arrive at a unanimous report and the representatives of janmis and tenants tried to meet each other half way. Towards the close of the discussions, however, it was found that this unanimity could not be secured but neither the representatives of janmis nor those of tenants thought it desirable to withdraw, in any substantial manner, the compromise already effected. This fact accounts for some inconsistency that exists between the recommendations made by the majority of the Committee with whom I have agreed and the principles I have enunciated above. For example the Committee do not recommend granting of permanent occupancy right to tenants. They suggest that qualified fixity be conferred upon tenants. Nevertheless, the renewal fee they propose is higher than the prevailing rates. This inconsistency is the result of the spirit of compromise referred to above.

Fair rents and renewal fee proposed to be payable by garden owners when they have obtained certificate is very much in excess of what they pay now. This hardship, however, may not be always real as the necessity for demanding a certificate may not often arise and the time allowed for making the increase of rent operative is sufficiently long. The majority of the Committee have thought it necessary to fix the scale of payments to be paid by the non-cultivating intermediary tenants. I agreed with the majority for reasons already stated.

CALICUT,
21st March 1928.

V. K. MENON.

A
BILL

*To define, declare, alter and amend the law
relating to landlord and tenant in the
district of Malabar.*

Preamble. WHEREAS it is necessary and expedient to define, declare, alter and amend, to the extent, in the manner, and for the purposes hereinafter appearing, the law relating to landlord and tenant in the district of Malabar; And whereas the previous sanction of the Governor-General has been obtained to the passing of this Act; It is hereby enacted as follows:—

PRELIMINARY.

Short title. 1. (1) This Act may be called the Malabar Tenancy Act, 1928.

Local extent. (2) It extends to the whole of the district of Malabar.

Commencement. (3) It shall come into force on such date as the Local Government shall, by notification in the *Fort St. George Gazette*, appoint for that purpose.

Exemptions. 2. Nothing in this Act shall affect

(1) lands transferred by a landlord for felling timber or for fugitive cultivation or for planting tea, coffee or rubber, or

(2) any building owned by a landlord including a house, shop or warehouse, the site thereof, together with the garden or land appurtenant thereto.

CHAPTER I.—DEFINITIONS.

3. In this Act, unless there is something repugnant in the subject or context,

(a) 'Agricultural year' means the year commencing with the 15th March in any calendar year and ending with the 14th March of the following calendar year, or the period between such other dates as the Collector may specify in that behalf, by notification in the District Gazette, for the whole or any part of the District of Malabar.

(b) 'Court' means the Civil Court having jurisdiction under the Code of Civil Procedure, 1908, to decide a suit for the possession of the holding to which any legal proceeding under this Act relates.

(c) 'Cultivate', with its grammatical variations, means cultivate either solely by one's own labour or with the help of

the labour of the members of one's tarwad or family, or of hired labourers or both, or directing or supervising cultivation by such members or hired labourers, jointly or separately, provided that such members or hired labourers have not agreed to pay or take any fixed proportion of the produce of the land they cultivate as compensation for being allowed to cultivate it or as remuneration for cultivating it.

(d) 'Dry land' means a land which is neither a "wet land" nor a "garden land."

(e) 'Eviction' means the recovery of possession of land from a tenant and includes redemption of a kanam.

(f) 'Fair rent' means

(1) in the case of wet lands,

(a) two-thirds of the difference between one-third of the gross paddy produce of the land for the three years immediately previous to the date on which fair rent is to be ascertained and twice the seed required for the said land for an agricultural year, provided that

(i) if in any particular year, no crop at all is raised, or only a dry crop is raised on a land registered in the registers of the Government as a single crop land, the produce shall be deemed to be the estimated produce of a single paddy crop, and

(ii) in the case of lands registered as double crop lands in the said registers, account shall be taken as though two paddy crops have been harvested, irrespective of the number and the kind of the crops raised and of the fact that no crop whatever is raised in any particular year, on such lands,

(b) together with one-third of the straw realized or which ought to have been realized in respect of the said one-third of the gross paddy produce.

(2) in the case of garden lands, a share of one-third of the gross produce for the three years immediately previous to the date on which fair rent is to be ascertained, calculated as follows:—

(a) as regards coconut and areca trees in respect of which the landlord is bound to pay compensation under

the Improvements Act in case of eviction, one-third of the said one-third of only the nuts included in such produce and as regards trees for which he is not so bound to pay, two-thirds of the said one-third,

together with, in the case of coconut trees, three pies per tree per annum, for the minor produce of such trees, such as leaves, fibre, etc., whether such compensation is to be paid or not in respect of the said trees,

(b) as regards other classes of fruit-bearing trees, such as jack, mango, tamarind, palmyra and cashewnut, and also as regards pepper where it is not the principal crop on the land, one-sixth of the said one-third of the gross produce thereof.

(3) in the case of dry lands, five times the assessment payable in respect thereof per year.

(4) (a) in the case of lands situated within the limits of any municipality and not built or planted upon, or on which no crop is grown, the rent paid or agreed to be paid in respect of similar lands, for the same extent, in the neighbourhood;

(b) in the case of other lands situated within the said limits, whichever is higher as between the rent payable therefor under clauses (1) to (3) and the rent which would be payable under sub-clause (a) of this clause.

'Garden land'.

(g) 'Garden land' means any land used principally for growing fruit-bearing trees and does not include any land used principally for growing pepper.

'Holding'.

(h) 'Holding' means a parcel or parcels of land held under a single engagement by a tenant from a landlord provided that if the landlord and the tenant so agree in writing, any portion of a holding as above defined shall be treated as a separate holding.

'Improvement'.

(i) (1) The word 'improvement' shall have, for the purpose of this Act, the same meaning as it has in the Improvements Act.

'Improvements Act'.

(2) 'Improvements Act' means the Malabar Compensation for Tenants' Improvements Act, 1899, for the time being in force.

'Intermediary'.

(j) 'Intermediary' means any person who, not being a janmi, has interest in a land, and is entitled, by reason of

such interest, to possession thereof, but has transferred such possession to others.

(k) 'Janmi' means a person entitled to the absolute proprietorship of land and includes a bare trustee in respect thereof.

(l) 'Kanam' means the transfer by a landlord of interest in a specific immoveable property to another (called the 'kanamdar') for the latter's enjoyment, the incidents of which transfer include

(1) a right in the transferee to hold the said property liable for money paid by him or due to him which money is called 'kanartham'.

(2) the liability of the transferor to pay to the transferee interest on the kanartham;

(3) the periodical payment of a portion (called 'michavaram') of the profits of the said property by the transferee to the transferor;

(4) the right of the transferee to enjoy the said property for twelve years;

(5) the liability of the transferee to pay a renewal fee to the transferor, if the transferee desires to enjoy the said property for another period of twelve years after the termination of the original period.

(m) (1) 'Kudiyiruppu' means and includes the site of any residential building, the site or sites of other buildings appurtenant thereto, other lands as are necessary for the convenient enjoyment of such residential building, and the easements attached thereto;

(2) 'Separate kudiyiruppu' means a kudiyiruppu which is the sole property included in a holding;

(3) 'Separable kudiyiruppu' means a kudiyiruppu which is included with other property in a holding and which is not necessary for the convenient enjoyment, as usual, of any other part of the holding.

(n) 'Kuzhikanam' means and includes a transfer by a landlord to another (called the kuzhikanamdar) of garden lands or of other lands or of both, with the fruit-bearing trees, if any, standing thereon at the time of the transfer or the enjoyment of those trees and for the purpose of planting such fruit-bearing trees thereon, the incidents of which transfer include the right of the transferee to enjoy the lands for twelve years.

'Janmi'.

'Kanam'.

'Michavaram'.

'Kudiyiruppu'.

'Separate kudiyiruppu'.

'Separable kudiyiruppu'.

'Kuzhikanam'.

(o) 'Landlord' means a person under whom a tenant holds and to whom he is liable to pay rent or michavaram, and includes a janmi.

(p) 'Malcharth' means the transfer of his interest by the landlord in any land in the possession of his tenant by which the landlord does not divest himself of all the rights which he has therein at the time of the transfer.

(q) 'Pay', with its grammatical variations, includes deliver.

(r) 'Renewal fee' means fee or fees payable by a tenant to his landlord for the renewal of the legal relationship under which the tenant has been holding any land.

(s) 'Rent' means whatever is lawfully payable in money or in kind or in both to a person entitled to the use or occupation of a land, by another permitted, by the person so entitled, to have the use or occupation of the said land, for any purpose, on the understanding, express or implied, that the person so permitted would pay consideration for such use or occupation.

(t) 'Revenue' includes all public dues payable to Government and charged on land.

(u) 'Tenant' means any person who has paid or has agreed to pay consideration for his being allowed by another to enjoy the land of the latter, and includes an intermediary, a kanamdar, a kuzhikanamdar, and verumpattamdars of every description.

(v) (1) 'Verumpattamdar' means a transferee, for agricultural purposes, of lands other than garden lands, but does not include a kanamdar or kuzhikanamdar.

(2) 'Cultivating verumpattamdar' means any verumpattamdar who, not being a janmi, intermediary or customary verumpattamdar, has, expressly or impliedly, contracted to cultivate lands either as a tenant-at-will or during a fixed term, and actually cultivates the same.

(3) 'Customary verumpattamdar' means any verumpattamdar who holds land for the purpose of cultivation and is entitled by custom of the locality in which the land is situate to possession of the said land for a definite period of years and for whose continuance thereon after the termination of that

period, for another similar period, a renewal fee has to be paid to the landlord as an incident of the tenure.

(w) 'Wet land' means land which has been levelled, bunded, and adapted for the cultivation of paddy and registered as wet land in the registers of the Government.

CHAPTER II—CULTIVATING VERUMPATTAMDAR. PATTAMDARS.

4. (1) Any cultivating verumpattamdar may apply to the Court for a certificate of fixity of tenure.

Cultivating verumpattamdar's right to apply for fixity of tenure.

(2) Any contract, whether made before or after the commencement of this Act, by which a cultivating verumpattamdar is, for any reason, precluded from applying under sub-section (1), shall, to that extent, be void and unenforceable.

Contract depriving him of such right invalid.

5. An application under sub-section (1) of section 4 shall contain the particulars specified in Form A in the Schedule.

Form of application under section 4 (1).

6. (1) On the receipt of an application under sub-section (1) of section 4, the Court shall fix a date for the hearing thereof, and shall issue notice to the janmi and the intermediaries specified therein (hereinafter called the respondents) to appear and submit their written answers.

Procedure after receipt of application.

(2) On the date fixed under sub-section (1) the Court shall

(a) call upon the respondents to state in writing whether any of them intends to take the holding for his own use or cultivation or for that of any member of his family, tarwad or tavali who has a proprietary and beneficial interest therein, and if any respondent expresses his intention to do so or if there are any legal grounds for eviction other than (1) the termination of the period of the lease to the applicant or (2) that the applicant is only a tenant-at-will, the application shall be dismissed. If, subsequent to the dismissal of the application under this clause, any of the respondents sues to evict the applicant, on the ground that the said period had expired or that the tenant is only a tenant-at-will, the applicant shall be entitled to make a fresh application

under sub-section (1) of section 4, and such suit shall abide and follow the result of such application,

(b) if none of the respondents expresses his intention to take the land when called upon under clause (a) or if the application is made by reason of a suit for eviction as provided therein, the court shall

(A) determine

(i) the fair rent that is payable by the applicant for the lands to which the application relates (hereinafter referred to in this Chapter as 'the said lands'), and the date or dates on which the said rent is payable; and

(ii) whether all rent due up to the date of the application in respect of the said lands from the applicant or those under whom he claims has been paid to the person entitled thereto; and

(B) call on the respondents to state in writing whether any of them requires security for the regular payment of rent, and if so

(C) order the applicant to furnish security in such form as the Court considers reasonable for one year's fair rent on or before a date to be fixed by a written order; and

(c) if the security ordered under clause (b) is not furnished within the time fixed, the application shall be dismissed.

(3) On the security called for under clause (b) of sub-section (2) being furnished and on the deposit into Court of the arrears, if any, referred to in sub-clause (A) (ii) of that clause if the party entitled thereto so requires it, the Court shall

(a) determine what lands other than the wet lands referred to in the application are necessary for the convenient enjoyment of those wet lands;

(b) issue to the applicant a certificate of fixity of tenure, in Form B in the Schedule, for the wet lands and the lands, if any, determined under sub-clause (i) as necessary for their enjoyment.

(c) Nothing in clauses (a) and (b) of this sub-section shall in any case authorize the inclusion in any certificate

Order for security for one year's rent.

Consequence of not furnishing security.

Determination of lands necessary for the enjoyment of wet lands.

Form of certificate to be issued.

of dry or garden lands or both exceeding, in extent, one-tenth of the wet lands specified therein.

(4) If the security under clause (b) of sub-section (2) is furnished in ready money, the Court shall, while issuing the certificate, or as soon as may be after its issue, give, on the motion of the person on whose request the security was taken, or of the applicant, such directions as may be necessary for the proper investment of the said money, and in all cases provide by a written order that the applicant shall be entitled only to draw interest payable in respect of the money so invested, but not to deal in any manner with the said money except on the order of the Court to be passed after notice to the person at whose request the security was taken.

7. (A) No legal proceeding for eviction from the lands covered by the certificate issued under section 6 shall lie at the instance of any person who had notice under sub-section (1) of that section or by his heirs, executors or assigns against the grantee of the certificate or his heirs, executors or assigns (hereinafter called the certificate-holder) except on the following grounds:—

(1) A denial of the title of the person who commences such proceeding, in any document written or signed by the certificate-holder before the date of such legal proceeding.

(2) 'Wilful waste' of any part of any land specified in the certificate rendering it unfit for the purpose for which it was given on verumpattam.

Wilful waste shall, for the purpose of this sub-clause, include the following:—

(i) That the certificate-holder erected or allowed others to erect any building on any wet land specified in the certificate or planted or allowed others to plant thereon trees other than plantains;

(ii) That, where rent is payable in kind, the certificate-holder failed, without sufficient cause, to cultivate the lands in the manner and to the extent customary in the locality in which the lands are situate.

(3) Non-payment, within three months after the due date specified in the certificate, of the whole or any portion of the rent due in respect of the said lands, for any period subsequent to the date of the application under sub-section (1) of section 4.

Directions when security is in ready money.

Effect of grant of certificate.

Grounds of eviction.

Denial of title.

'Wilful waste'.

Non-payment of rent.

Security furnished under sub-section (2) of section 6 shall not be deemed to be payment of rent due for the purpose of this sub-section.

Alienation to non-cultivating tenant.

(4) That if the certificate-holder alienates his interest, the alienee did not, in the agricultural season next after the alienation, cultivate the wet lands specified in the certificate in such manner and by such means as would make him a cultivating verumpattamdar in respect of them,

Landlord's right to take land for his own cultivation or use.

(5) that the landlord requires the holding for his own cultivation or use or for that of any member of his family or tarwad or tavalu who has a proprietary and beneficial interest therein.

(B) (1) In any case in which eviction is obtained on the ground specified in clause (5) of sub-section (A),

Effect of releasing land taken by landlord for his own use.

(i) the security, if any, furnished by the tenant under sub-section (2) of section 6 shall be returned to the tenant, and

(ii) subject to the provisions of section 37, if the landlord who obtains such eviction transfers any of the lands in the holding to any person on any kind of lease or on kanam, kuzhikanam or verumpattam within six years of such eviction, the certificate-holder shall be entitled to sue for the restoration to him of the possession of all the lands specified in the certificate and to hold them with all the rights and subject to all the liabilities of a cultivating verumpattamdar except the liability to furnish security for the regular payment of rent.

Relief against forfeiture.

(2) In any suit in which eviction is claimed on the ground specified in clause (3) of sub-section (A), if the tenant deposits in Court, for payment to the plaintiff in the suit, (i) the amount of rent due, (ii) interest thereon at twelve per cent per annum from the date on which it became due up to the date of deposit and (iii) the costs incurred by the plaintiff up to that date, the Court shall dismiss the suit.

Definition of 'costs'.

For the purpose of this sub-section 'costs' shall include—

(1) all expenses incurred by the plaintiff or his agent in travelling from and to his usual place of residence and the headquarters of the Court when the suit was first filed, and on all the occasions on which it was posted for any purpose except when the posting was due to the plaintiff's default or request,

(2) the expenses incurred for the stay at the said headquarters for two days on the occasion of the filing of the suit and on all the days on which the suit was so posted,

the amount payable under each head being calculated as though the plaintiff or his agent, as the case may be, was summoned as witness in the suit.

8. (1) If there be intermediaries between the certificate-holder and the janmi, the certificate-holder shall be deemed to have contracted to pay as rent to the janmi and the intermediaries the amount or the proportionate amount due as rent or michavaram from each intermediary to the intermediaries above him or to the janmi in respect of the land specified in the certificate, and no claim against the certificate-holder for such rent or michavaram by the person entitled thereto shall be deemed to be invalid by reason only of the absence of privity of contract between such person and the certificate-holder.

Privity of contract between intermediaries and certificate-holder.

(2) Nothing in sub-section (1) shall render the certificate-holder liable to pay to any person entitled to claim rent or michavaram more than what remains in the hands of such certificate-holder at the time of the receipt of any written notice of demand from any such person.

Extent of liability under section 8 (1).

Illustration.—If *A* is the janmi, *B*, the kanamdar, *C*, the sub-kanamdar, *D*, the non-cultivating verumpattamdar, and *E*, the cultivating verumpattamdar, and supposing *E* has to pay Rs. 50 as rent to *D*, and *D* Rs. 40 to *C*, and *C* Rs. 30 as michavaram to *B*, and *B* Rs. 20 as michavaram to *A*, *E* shall be deemed to have contracted to pay out of the Rs. 50, Rs. 20 to *A*, Rs. 30 to *B* and Rs. 40 to *C*. So, if *A* sues *E* for Rs. 20 due to him from *B*, *E* shall be liable to pay him Rs. 20, but if he had paid any portion of the Rs. 50 to *B* or *C* or *D* before the receipt of notice from *A*, he shall not be liable to pay more than what remains in his hands, and if he had paid the whole to *D* before such notice, he shall not be liable to pay anything to *A*.

9. (1) If rent is not paid within three months after the due date specified in the certificate the person entitled thereto shall, notwithstanding any security furnished under sub-section (2) of section 6, and in addition to (i) the right to evict provided in section 7

Summary procedure for realization of arrears.

and (ii) the right to sue for such rent, be entitled to apply to the Court for the realization of the amount due (hereinafter called the 'arrears') by the attachment and sale of (1) the crops standing on the holding in respect of which the arrears are due if the said crops belong to the tenant who is bound to pay the said arrears and (2) also such movable properties belonging to the said tenant as are attachable for a debt under the Code of Civil Procedure, 1908, and are specified in the application.

(2) (a) Save as otherwise provided in this Act, the tenant (hereinafter called the 'defendant') on whom notice of such application is served, shall not appear or answer such application unless he obtains leave from the Court as hereinafter provided so to appear and answer; and in default of his obtaining such leave or of his appearance and defence in pursuance thereof, the allegations in the application shall be deemed to be admitted and the applicant shall be entitled to an order for the realization of any sum not exceeding the amount mentioned in the said notice together with interest at six per cent per annum up to the date of the order and such sum for costs as the Court may fix, and such order may be executed forthwith.

(b) (i) The Court shall, upon application by the defendant give leave to appear and to answer the application upon affidavits which disclose such facts as would make it incumbent on the applicant to prove the facts on which his claim is based.

(ii) Leave to answer may be given unconditionally or subject to such terms as to payment into Court, giving security or otherwise as the Court thinks fit.

(c) (i) After an order is made under clause (a), the Court may, under special circumstances, set aside the said order and, if necessary, stay or set aside execution and may give leave to the defendant to appear and answer, if it seems reasonable to the Court so to do, and on such terms as the Court thinks fit;

(ii) if any order is set aside after the defendant is permitted to answer under clause (c) (i) and the Court finds that there was no reasonable or probable ground for making the application or for claiming the amount that the applicant claimed and got the order for, the defendant may apply to the Court

and the Court may, upon such application, award against the applicant, by its order, such amount not exceeding one thousand rupees as it deems reasonable compensation to the defendant for the expense and injury caused to him. An order determining any such application for compensation shall bar any suit for compensation for obtaining such an order under clause (a).

(3) An application under sub-section (1) of this section shall be made within fifteen months after the due date specified in the certificate.

Limitation for application under section 8.

10. A certificate granted under section 6 shall be deemed to revoke any certificate previously granted under it, provided that the earlier certificate-holder had notice of the proceedings in which the later certificate was issued.

Revocation of certificate.

CHAPTER III—RENEWALS.

11. A customary verumpattamdar shall be entitled to claim and his immediate landlord shall be bound to grant a renewal, ensuring for a period of twelve years, of the verumpattam lease under which the claimant holds, on payment to him, as renewal fee, of three times the difference between the annual fair rent and the annual rent which has been paid under the expiring lease.

Customary verumpattamdar's right to get renewal and renewal fee to be paid by him.

12. (1) A kanamdar shall be entitled to claim and his immediate landlord shall be bound to grant a renewal of the kanam under which the claimant holds, on payment, as renewal fee, of three times the balance of the total of (1) the annual fair rent of the wet and garden lands covered by the kanam and (2) the total fair rent of the dry lands so covered for the years in which Government assessment was levied therefor during the immediately preceding twelve years divided by the number of years in which it was levied, after deducting (1) the annual revenue on all the lands, (2) the annual interest on the kanartham, and (3) the annual michavaram paid under the expiring kanam.

Kanamdar's right to get renewal and the renewal fee to be paid by him.

Illustration.—A is the janmi, B, the kanamdar under him pays michavaram of Rs. 20; C, the sub-kanamdar under B pays him michavaram of Rs. 30; D, the verumpattamdar under C pays as rent Rs. 50 to him, and D gets from E, the cultivating verumpattamdar, Rs. 100 as fair rent. If B wants a renewal from A, he should pay, as renewal fee, three times Rs. 100 minus, say, Rs. 7 for assessment, minus, say, Rs. 15 for interest on the

kanartham, minus Rs. 20 michavaram, i.e., $(100-42) \times 3$ or (58×3) or Rs. 174.

Rate of interest to be paid to the kanamdar.

(2) For the purpose of sub-section (1), interest shall be calculated at the rate or as the amount specified (either separately or clubbed with the revenue of the kanam property) in the deed evidencing the kanam, and in the absence of any such express specification, at twelve per cent per annum if the kanartham does not exceed one thousand rupees, at nine per cent per annum if it exceeds one thousand rupees but does not exceed three thousand rupees, and at six per cent per annum if it exceeds three thousand rupees;

provided that, where, owing to the fact that the kanartham exceeds one thousand rupees or three thousand rupees, the amount of interest calculated at the rates specified above falls below the amount which would have been payable if the kanartham had not so exceeded, the interest payable shall be at least the latter amount; and

provided further that, if there is any usage governing such transactions fixing the rate of such interest, such usage shall be deemed to be an incident of the kanam, but nothing in this proviso shall entitle the kanamdar to claim, by reason of such usage, a rate higher than the rate specified in this sub-section.

Exception of heavy kanams.

(3) Nothing in this section shall apply to a kanam (1) wherein the kanartham exceeds sixty per cent of the value of the janmi's rights in the holding, on the date of the commencement of this Act, or in the case of future kanams on the date on which the kanam is created, such value being deemed for this purpose to be twenty times the fair rent of the holding; (2) where all the lands covered by the kanam are dry lands.

Cultivating kuzhikanamdar's right to get renewal and the renewal fee to be paid by him.

13. (1) A cultivating kuzhikanamdar shall be entitled to claim and his immediate landlord shall be bound to grant a renewal, enuring for a period of twelve years, of the kuzhikanam under which the claimant holds, on payment, as renewal fee, of one and a half years' gross produce of the fruit-bearing trees in the holding.

Intermediaries' right to get renewal of kuzhikanam and the renewal fee to be paid by them.

(2) Any intermediary of a kuzhikanam shall be entitled to claim and his immediate landlord shall be bound to grant a renewal, enuring for twelve years, of the kuzhikanam, on payment, as renewal fee, whichever is higher of (a) one and half years' gross produce

or (b) (i) three times the difference between one-twelfth of the total rent received by him, during the immediately preceding twelve years, from the tenant next below him and one-twelfth of the total rent that he has paid for the said twelve years to the said immediate landlord, and (ii) one-fourth of the renewal fee, if any, paid or payable by such tenant within the said twelve years.

Explanation I.—For the purpose of this section, one and a half years' gross produce shall be deemed to be equivalent to a half of the total nuts and fruits produced during the immediately preceding three years.

Explanation II.—"Rent received" shall, for the purpose of sub-section (2), mean

(a) in case the tenant next below is a cultivating kuzhikanamdar and has obtained a renewal under the provisions of this Act, the fair rent fixed by this Act;

(b) in case such tenant has not obtained such renewal or is only an intermediary, the rent which he has agreed to pay whether such rent has or has not been actually received by the intermediary claiming the renewal.

Illustration No. 1.—A is the janmi, B, C, D, E and F are the intermediaries, and G, the actual tenant in possession. If the number of yielding coconut trees in a holding be 100 and the average yield of each tree be 20 coconuts a year, and the price of each coconut be one anna, the total gross yield will be Rs. 125 per year. If, of the 100 trees, 80 belong to G and 20 to the landlord, the rent which G should pay to F (under section 26) would be $20 \times 20 \times \frac{1}{4} \times 1$ anna or 266 $\frac{2}{3}$ annas, plus $(80 \times 20 \times \frac{1}{4} \times 1$ anna or 533 $\frac{1}{3}$ annas or a total of 800 annas or Rs. 80. If F is paying to E Rs. 45, E Rs. 40 to D, D Rs. 35 to C, and C, Rs. 25 to B, and B Rs. 10 to A, and if G wants to claim a renewal, he will have to pay F a renewal fee of $1\frac{1}{2} \times 125$ or Rs. 187 $\frac{1}{2}$; if F wants to claim a renewal from E, he must pay three times the difference between 50 and 45 or Rs. 15 plus $\frac{1}{4} \times 187\frac{1}{2}$ = roughly Rs. 47 or Rs. 62 in all; if E wants to claim a renewal from D he must pay him three times the difference between 45 and 40 plus $\frac{1}{4} \times 47$ or roughly Rs. 27 in all; if D wants to claim a renewal from C, he must pay three times the difference between 40 and 35 plus $\frac{1}{4} \times 27$ and that will come to roughly Rs. 22; if C wants to claim a

renewal from *B*, he shall have to pay three times the difference between 35 and 25 plus $\frac{1}{4} \times 22$ or roughly Rs. 36 and if *B* wants to claim a renewal from *A*, he shall have to pay $3 \times (25 - 10)$ plus $\frac{1}{4} \times 36$, that is Rs. 54. As in all these cases the resultant renewal fee is less than Rs. 187 $\frac{1}{2}$, each should pay Rs. 187 $\frac{1}{2}$ for the renewal claimed by him.

Illustration No. 2.—If, in the above illustration, all the 100 trees belong to the janmi, the rent payable will be $\frac{2}{3}$ (100 $\times$ 20 $\times$ 1) annas or 1,333 $\frac{1}{3}$ annas or Rs. 83 $\frac{1}{3}$; and if *F* is paying to *E* Rs. 30, and *E* is paying to *D* Rs. 25 and *D* is paying to *C* Rs. 20 and *C* is paying to *B* Rs. 15 and *B* is paying Rs. 10 to *A*, and if *F* wants to claim a renewal from *E* he must pay three times the difference between 83 $\frac{1}{3}$ and 30 or $3 \times 53\frac{1}{3}$ plus $\frac{1}{4} \times 187\frac{1}{2}$ or roughly Rs. 208. In this case, as that amount is over Rs. 187 $\frac{1}{2}$ it is Rs. 208 that should be paid.

Illustration No. 3.—If *A* had leased a land to *B* in 1926 and *B* sub-leases it to *C* in 1930, *B* will have to claim renewal at the end of 1938 while only eight years would have run of the lease in favour of *C*. What *B* will have to pay as renewal fee is one-fourth of the difference between what he actually paid to *A* for the twelve years ending with 1938 and the rent that he got from *C* for the eight years (1930—1938) plus what he (*B*) should have paid as fair rent for the previous four years (1926—1930). Suppose the actual fair rent is Rs. 50 and *B* has been paying only a rent of Rs. 10 to *A*. *B* will have to pay a renewal fee of at least Rs. 120 to *A* in 1938. It might be even more for he might have got from *C* during the last eight years more than the fair rent. If that be so, he will have to give a fourth of that additional amount also to *A*. At the next renewal in 1950 *B* will have to pay much more to *A* than what he paid in 1938. At that time he will have to pay the difference between what he had got and paid as rent during the whole of the twelve years from 1938 to 1950 and also a fourth of the renewal fee which he would have got by giving a renewal to *C* in 1942.

14. Subject to the provisions hereinafter contained, the renewal fee fixed under sections 11 to 13 shall be payable as follows:—

(a) in case the tenant is not a cultivating kushikanamdar, two-thirds thereof in the year next after the termination

of the expiring transaction and one-third in the next following year;

(b) in case he is a cultivating kushikanamdar, one-third in the year next after the termination of the expiring kuzhikanam and the rest in five equal consecutive annual instalments in the years following the said year.

15. (1) Notwithstanding any contract to the contrary (whether made before or after the commencement of this Act), a landlord shall, on the application of a person entitled to claim renewal under sections 11, 12 or 13 and on the tender by him of (1) the renewal fee specified therein, (2) a draft of the renewal deed, (3) the necessary stamp paper, (4) one rupee as writing charges and (5) the cost of registering the said deed, be bound to execute it and present it for registration within one month after the date of such tender.

Application to landlord to renew and his obligation to do so.

(2) Where a holding consists of wet lands as well as other kinds of lands, the tenant shall have the option of applying under section 4 as regards the wet lands only, or under this section and section 17 as regards all kinds of lands.

16. An application and tender to the landlord under sub-section (1) of section 15 shall be made in writing not earlier than six and not later than two months before the expiry of the lease or kanam or kuzhikanam to be renewed.

Time within which application under section 15 should be made.

17. (1) If a landlord to whom an application and tender have been made under sub-section (1) of section 15 fails for a period of one month from the date of the receipt of such application and tender to execute a renewal deed as per draft tendered or as agreed to between the parties and present it for registration, the tenant shall be entitled to apply to the Court for the execution thereof.

Tenant's right to apply to Court for renewal in case the landlord does not execute a renewal deed.

(2) An application to the Court under sub-section (1) shall be in Form C in the Schedule, and shall be accompanied by the said draft or, in case the landlord has not returned it, a copy thereof.

Form of application under section 17 (1).

(3) On the receipt of an application under sub-section (1) notice thereof shall be sent to the landlord from whom such renewal is claimed, fixing a date for the trial of the application.

Notice to be sent on application under section 17 (1).

Landlord's right to take land for his own cultivation or use.

18. (1) (a) On the date fixed under sub-section (5) of section 17, the Court shall call upon the said landlord to state in writing whether he desires to take the holding for his own use or cultivation or for that of any member of his family, tarwad or tavali, who has a proprietary and beneficial interest therein, and if the landlord expresses his intention to do so or if there are any legal grounds for eviction other than the termination of the period of the expiring transaction, the application shall be dismissed.

(b) If, subsequent to the dismissal of the application under clause (a), the landlord sues to evict the applicant on the ground that the said period has expired, the applicant shall be entitled to make a fresh application under sub-section (1) of section 17, and the suit shall abide and follow the result of such application.

(2) If any of the lands taken by the landlord under clause (a) of sub-section (1) is transferred on kanam or kuzhikanam or on any kind of lease to any person within six years after being so taken, the applicant or his heir or executor shall be entitled, subject to the provisions of section 37, to sue for the restoration to him of his interest in all the lands in the holding and hold them as a customary verumpattamdar, kanamdar or kushikanamdar, as the case may be, with all the rights and liabilities that existed as between him and the said landlord on the date of his eviction, for a period of twelve years from the date of his restoration to possession.

Procedure on application under section 17.

19. If the application is not dismissed under sub-section (1) of section 18 the Court shall

(i) determine the amount to be paid as renewal fee under sections 11, 12 and 13; and

(ii) make an order for the deposit within a time to be fixed in the said order, of (1) two-thirds of the renewal fee so determined in case the applicant is not a cultivating kushikanamdar and one-third if he is such kushikanamdar, and (2) all arrears of rent found due up to the date of the order, if the landlord claims that any arrears of rent are due.

20. (1) If the deposit ordered under clause (ii) of section 19 is not made within the time fixed thereunder, the Court shall dismiss the application, and such dismissal shall bar any subsequent

application under sections 15 and 17 by the applicant or those claiming under him.

(2) If the said deposit is made within the time fixed, the Court shall

Execution of renewal deed by Court.

(i) execute a renewal deed containing such terms as it determines to be the terms of the expiring transaction and as are in accordance with law, and

(ii) make such order as to costs of the proceedings before it as it may deem fit.

(3) A renewal deed executed by the Court under sub-section (2) shall have the same effect as if it was executed by the landlord himself, and shall entitle the tenant to enjoy the holding for twelve years from the date of the termination of the previous lease, kanam or kushikanam.

Legal effect of renewal deed executed by Court.

21. (1) In case there are one or more intermediaries between the janmi and the tenant in possession of the holding and a renewal has been granted by an intermediary (hereinafter referred to in this section as the grantor) under sub-section (1) of section 15 or by the Court on his behalf under sub-section (2) of section 20, if the grantor on his own part does not obtain renewal for any reason, the person to whom such renewal has been granted (hereinafter referred to as the grantee) shall be deemed to have contracted with the intermediary or the janmi who is the landlord next above the grantor, for the period of the renewal given to the grantee, on the terms on which the grantee had contracted with the grantor or on the terms on which the grantor had contracted with such next landlord, at such landlord's choice, and there shall be deemed to be privity of contract between the grantee and such landlord.

Effect of renewal on the rights of landlord's landlord.

(2) The intermediary or the janmi who is the landlord next above the grantor, shall be entitled to sue the grantor for the proportionate share of any renewal fee which he might have obtained from the grantee for the period between the termination of such grantee's interest in the land and that of the period for which he had given renewal.

Illustration.—A, a janmi, grants a kushikanam to B in 1925. B grants a sub-kushikanam to C in 1932. In 1940 B gets a renewal from A and in 1944 he

grants a renewal to C. In 1952 B does not take a renewal. C shall be deemed to have contracted with A on the terms of his own renewal of 1944 or on the terms of B's renewal of 1940 at A's option, and A will not be entitled to evict C till 1956.

If, in the above illustration, B had taken a renewal fee of Rs. 120 from C when granting the renewal in 1944, B shall be liable to pay A, one-third of Rs. 120 for the period between 1952, when his interest ends and 1956 up to which C is entitled to stay on the land.

22. Where in respect of any kuzhikanam for which a renewal deed has been executed under the provisions of this Chapter, if (a) no application is filed under sub-section (1) of section 15 or sub-section (1) of section 17 or (b) within six months after the termination of the period for which the said renewal deed endures and of every period of twelve years succeeding such period, the tenant does not secure a renewal on such terms as may be agreed to between him and the landlord, he may be deemed at the option of such landlord to have agreed to a renewal on the terms of the said deed for twelve years from the date of the termination of each of the said periods, and the said landlord shall be entitled to sue the said tenant for the renewal fee specified in section 13.

CHAPTER IV—RENTS.

23. Every holder of a certificate issued under section 6 shall be bound to pay to his immediate landlord, within two months after the date or dates specified in the certificate, fair rent as specified therein.

Nothing in this section shall entitle or compel any landlord to claim or accept or compel or entitle any tenant to pay, for a period of twelve years from the commencement of this Act, any rent different from what was being paid as such at the time of the application for such certificate.

24. (1) Nothing in this Act shall make any person to whom a certificate has been issued under section 6, liable for any rent in respect of any lands other than the wet lands specified in the certificate.

(2) As between any landlord against whom a certificate has been issued under section 6 and the certificate holder, the latter shall be liable for (a) the revenue

of all lands included therein except the wet lands, and (b) any special charges leviable by the Government for special or additional crops raised on the wet lands.

(3) In the case of lands (within the limits of a municipality) in respect of which the landlord has obtained fair rent as defined by clause (f) (4) of section 3, he shall bear the tax levied by the municipality for such land to the extent such rent is higher than what is payable therefor under clauses (f) (1) to (3) of that section; but otherwise the landlord and the tenant shall bear such tax in equal shares.

25. (1) At any time after the expiry of twelve years from the date on which the certificate was issued under section 6, the holder thereof or his immediate landlord shall be entitled to apply to the Court for a declaration that the rent specified in the certificate is above or below the fair rent respectively.

(2) An application under sub-section (1) shall contain the particulars specified in Form D in the Schedule.

(3) On the receipt of such an application, the Court shall, after notice to the landlord or the cultivating verumpattamdar as the case may be, determine whether the rent specified in the certificate is "fair rent", and if not, make an order declaring the total fair rent payable by the cultivating verumpattamdar for all the lands specified in the certificate, and the certificate shall be amended accordingly.

(4) From the beginning of the agricultural year next after the date of the said declaration, the cultivating verumpattamdar shall be bound to pay rent according to the said declaration.

(5) No application for a revision of such declaration shall be entertained till the expiry of twelve years from the date thereof.

26. (1) A cultivating kuzhikanamdar shall, when making an application under section 17, or the landlord may, when answering such an application, apply to the Court dealing with the application to determine the fair rent payable in respect of the holding to which the application relates, and the Court shall make an order determining the same before disposing of the said application, and for the period for which the

renewal deed executed on the said application enures, the parties thereto shall be bound to pay and receive rent so determined by the Court.

(2) Nothing in this section shall, in respect of the trees which had begun to bear fruits at or before the time of the execution of the deed referred to in clause (i) hereunder,

(i) entitle the landlord to claim or compel the tenant to pay, for a period of twelve years from the commencement of this Act, more than the rent specified in the latest kuzhikanam deed, original or renewed, executed before the commencement of this Act, or

(ii) authorize any claim for an enhancement, by more than twelve and a half per cent of such rent, at the time of any renewal effected during a period of twelve years immediately after the twelve years referred to in clause (i).

27. Save as otherwise provided in this Act, no certificate holder and no person in whose favour a renewal deed has been executed under the provisions of Chapter III, shall be liable to pay to his landlord anything except the fair rent and the renewal fee as fixed by this Act, and any stipulation, express or implied, of whatever date, to pay anything else shall be void.

CHAPTER V.—KUDIYIRUPPU.

28. In any suit for eviction relating wholly or in part to a kudiyruppu, the tenant sought to be evicted (hereinafter called the 'defendant'), if he has been continuously in occupation thereof for fifteen years on the date of the commencement of the said suit, shall be entitled to purchase the rights of the person who seeks to evict him (hereinafter called the 'plaintiff') in the kudiyruppu, at the market price on the said date.

29. (1) An offer to purchase under section 28 shall be made in a written statement which shall contain the particulars specified in Form E in the Schedule;

(2) Notice of such offer, with a copy of the written statement, shall be served on the plaintiff at the expense of the defendant, fixing a date for the plaintiff to accept or decline the offer;

(3) After such notice has been served on the plaintiff,

(a) if the plaintiff unconditionally accepts the offer, the Court shall record

such acceptance and order the defendant to deposit in Court the price specified in his written statement, and on such deposit, the suit, in so far as it relates to the eviction from the kudiyruppu, shall be dismissed and the plaintiff be paid the amount deposited; and

(b) if the plaintiff, for any reason, does not unconditionally accept the offer, the Court shall decide whether the kudiyruppu is a separate or separable kudiyruppu.

(4) If the decision under clause (b) of sub-section (3) is that the kudiyruppu is separate or separable, the Court shall proceed further and determine the market price of the plaintiff's rights as it stood on the date fixed for acceptance of the offer by the plaintiff, and shall call upon the defendant to deposit the market price so settled on or before a date fixed by it in writing.

(5) Notwithstanding anything contained in sub-section (4), the Court, if it be satisfied that the tenant is too poor to pay the market price in a lump sum, may dispense with the deposit of the market price and order that the said price be paid to the plaintiff with interest at six per cent per annum, in as many annual instalments not exceeding twelve as the Court may fix having regard to the means of the tenant, on condition that sufficient security is furnished by the tenant for the regular payment of such instalments.

30. If the decision under sub-section (3) of section 29 is that the kudiyruppu is neither separate nor separable, or if the deposit called for under sub-section (4) of the said section is not made on or before the date so fixed, the Court shall dispose of the suit for eviction as though no such offer had been made.

31. Upon the defendant making such deposit or on security being given under sub-section (5) of section 29, the suit, in so far as it relates to the kudiyruppu, shall be dismissed, provided that, before making such an order, if the Court finds that the offer, if any, made by the plaintiff to provide another kudiyruppu (hereinafter called, the substituted kudiyruppu), as convenient to the defendant as the one from which he is sought to be evicted, is reasonable and may be accepted by the defendant without substantial injury, it may, instead of

Invalidity of claim for more than fair rent and renewal fee fixed by the Act.

Tenant's right to offer to purchase landlord's right in kudiyruppu.

Procedure to make offer under section 29.

Points to be determined by Court on offer under section 29.

Order to deposit market price.

Payment of market price by instalments.

Effect of non-deposit of market price.

dismissing the suit, (a) decree eviction subject to (1) the defendant being put in possession of the substituted kudi-yiruppu, and (2) the deposit by the plaintiff in Court of the amount determined by the Court as necessary for the defendant removing into and erecting on the substituted kudi-yiruppu buildings similar to those from which he is evicted; and (b) order that the amount so deposited or for which security is given by the defendant be paid to the plaintiff.

Effect of order under sections 29 (2) (a) and 31.

32. An order under clause (a) of sub-section (3) of section 29 or under section 31 shall operate as a sale to the defendant of the plaintiff's rights in the kudi-yiruppu in dispute or the substituted kudi-yiruppu, as the case may be, subject to the condition that in respect of any sale of either kudi-yiruppu, subsequent to the said order, by the defendant, his heirs, executors or assigns, or in execution of a decree against them, or by a receiver in insolvency, the person who, but for the provisions of this section, would be entitled to the janmi's rights in the said property at the time of such subsequent sale, shall be entitled to claim pre-emption.

CHAPTER VI.—MISCELLANEOUS.

Tenant's rights heritable and alienable.

33. Subject to the provisions of this Act, all rights which a tenant has under the present law or obtains under the provisions of this Act shall be heritable and alienable.

Melcharth how far invalid.

34. No person claiming under a melcharth shall be entitled to evict a tenant or any person claiming under him unless

(1) the melcharth is granted after the expiry of the term of the kanam, kuzhikanam or customary verumpattam lease under which the said tenant entered into or was continued in possession;

(2) the said tenant has had thirty clear days' notice in writing from the grantor of the melcharth calling upon him (a) to pay the renewal fee fixed by sections 11 to 14, or such smaller amount as may be agreed to between the parties, as the case may be, (b) to take a renewal within the time fixed in the notice, (c) to agree to pay the rent lawfully due from him, and (d) to pay up all arrears of rent, including interest, if any, due up to the date of the notice; and

(3) the said tenant has failed (i) to pay up the said renewal fee and arrears; or (ii) to agree to pay the rent lawfully due from him.

35. Renewal fees and arrears of nichavaram or rent due to the landlord shall be a charge on the interest of the person from whom they are due in the holding in respect of which they are due as at the time of the creation of such interest, and such charge shall have priority over all other charges on the same except the charge for the revenue due thereon.

Renewal fees, nichavaram and rent, first charge on holding after revenue.

36. (1) A landlord who has obtained a decree for eviction in respect of a kuzhikanam, shall, in execution of such decree, be entitled to apply for the sale of the holding specified therein and of the improvements in respect of which compensation is awarded under the said decree, and for the payment to him of the balance of the sale price after deducting the amount of the said compensation.

Right of decree-holder in eviction of kuzhikanam tenant to ask for sale of holding.

(2) In case such an application is made by a landlord and a sale is held in pursuance of such application, the person to whom the said compensation has to be paid, shall be entitled to bid at the sale and set off the said compensation towards the sale price, and no deposit need be made by him at the sale except in so far as the price offered by him exceeds the said compensation.

Right of tenant to bid at such sale.

37. (1) A suit for restoration under sub-clause (ii) of clause (1) of sub-section (B) of section 7 or under sub-section (2) of section 18 shall be instituted within one year from the date of the transfer by the landlord;

Limitation for applications under sections 7 (B) (i), (ii) and 18 (2).

(2) If there are intermediaries between the landlord who has obtained the eviction and the person who cultivates the land, all persons whose interests in the holding are terminated by the eviction, shall be entitled to be restored to the respective interests they had at the time of the eviction as if there had been no eviction, and in case any one of them does not claim restoration the tenant next below him shall be entitled to claim such restoration and hold the land,

Who shall get restoration under sections 7 (B) (i), (ii) and 18 (2).

(a) on the terms on which the person not claiming the land held it, if he and the claimant belonged to the same class, or

(b) on the terms on which the claimant held it if he and the person who did not claim the land belonged to different classes ;

Provided always that, if the landlord obtaining eviction had paid any value for improvements to any one whose interests were so terminated, the person claiming restoration shall be bound to return to the landlord the value so paid in respect of the improvements existing at the time of the restoration, before such restoration is effected.

Explanation.—For the purpose of this section, a kanamdar, an intermediary in respect of a kuzhikanam, a cultivating kuzhikanamdar, a verumpattamdar and a customary verumpattamdar belong each to a different class. A cultivating kanamdar, a non-cultivating kanamdar and a kanamdar under a kanamdar belong to the same class; and a cultivating verumpattamdar and a non-cultivating verumpattamdar belong to the same class.

Illustration.—If A is the janmi, B and C are kanamdar and sub-kanamdar and D, verumpattamdar cultivating the land, if A, the janmi exercises his power to take the land for his own use and then inducts some other tenant into it within six years, B shall be entitled to claim as against A to be restored to his previous rights. But on B getting such restoration, C shall be entitled to claim as against B to step in as sub-kanamdar, and D shall be entitled to claim the verumpattamdar's rights as against C. If, however, B does not want to claim restoration, C shall be entitled to claim as against A to be put in the position of B the kanamdar, and D shall be entitled to claim as against C to be treated as his cultivating verumpattamdar. If both B and C do not claim restoration, D shall be entitled to claim as against A to be a verumpattamdar on the terms on which he held the land under C.

Surrender of holdings.

38. A kanamdar or kuzhikanamdar or verumpattamdar who has obtained a renewal or a certificate of fixity under this Act may, at the end of any agricultural year, surrender his holding to his immediate landlord, by a registered document.

Such a landlord shall not be bound to accept the surrender unless notice has been given in writing to him by the

tenant of his intention to do so three months prior to the date of the expiry of the agricultural year, and unless it be in respect of the entire holding, and the whole of the arrears of the michavaram or rent is also tendered at the time of the surrender. Nor shall the landlord be bound to refund the kanartham or to pay the value of the improvements which he would have been otherwise bound to pay under the Improvements Act.

39. The provisions of Chapter II shall apply to (1) a kanamdar who consents to be redeemed, and (2) any customary verumpattamdar who gives up his rights as such,

Applicability of Chapter II to redeemed kanamdars.

if either desires to continue on the holding as a cultivating verumpattamdar.

40. (1) Every deed by which a lease, kanam or kuzhikanam is created or renewed and its counterpart shall contain

Contents of kanam or kuzhikanam deeds.

(a) the name, if any, and description and extent of the holding ;

(b) the Government assessment and local cesses, if any, payable in respect of the holding ;

(c) the amount of rent or michavaram agreed upon ;

(d) the relation that any *para* or other measure according to which the rent or michavaram has to be paid, bears to the capacity of the Macleod seer ;

(e) if it is a kanam deed, (i) the kanartham ;

(ii) the rate or the amount of interest payable in respect of the said kanartham ; and

(f) the renewal fee, if any, levied, and in case no such fee was levied, a statement to that effect ;

(2) Any deed not containing any of the particulars specified in sub-section (1) of this section shall not be received for registration under the Indian Registration Act, 1908, and shall not be receivable in evidence for any purpose.

Effect of non-compliance with section 40 (1).

41. (1) Every tenant paying any rent or michavaram shall be entitled to receive and the landlord shall be bound to grant a receipt specifying

Landlord's liability to give receipts and forms of such receipts.

(a) a description of the holding in respect of which it was paid ;

(b) the date of payment ;

- (c) the amount paid ;
- (d) the period to which the amount paid relates ; and
- (e) the arrears, if any, remaining due from the tenant after the said payment.

A reference to the date and registration number of the document under which the holding is held and also the name of the sub-registration district in which the said holding is situate, shall be deemed to be a sufficient description of the holding for the purpose of this sub-section.

Effect of non-compliance with section 37 (1).

(2) In the absence of the particulars specified in clause (e) of sub-section (1), the burden of proving that the tenant is bound to pay any arrears of rent or michavaram which had accrued previous to the date of the receipt, shall be on the person claiming such arrears.

(3) If any landlord fails to grant a receipt as provided under sub-section (1), the tenant shall be entitled to send by money order, after deducting the charges for doing so,

(i) the money, if the rent or michavaram is payable in money ; and

(ii) the money value of the rent or michavaram, if it is payable in kind.

Stamp and registration fees to be paid by the tenant.

42. The stamp and registration charges for any lease or kanam or kuzhikanam deed or its counterpart shall be borne by the tenant.

Amendment of the Improvements Act.

43. (1) In section 18 of the Improvements Act, for the figures '120' the figures '80' shall be substituted.

Improvements Act to apply to evictions under this Act.

(2) The provisions of the Improvements Act, as amended by sub-section (1), shall apply in all cases of eviction to which this Act applies.

Civil Procedure Code to apply to proceedings under this Act.

44. (1) The procedure provided as regards suits in the Code of Civil Procedure, 1908, including Orders XXXVIII, XXXIX and XL, shall be followed as far as it can be made applicable in all proceedings relating to applications under this Act.

Appeals.

(2) Appeals shall lie from orders made under sections 6 (2) (a) and (c), 6 (3) (b), 9, 18 (1), 20, 25, 26, 29, 30 and 31, as if they were decrees in suits.

Collector to publish list of prices.

45. The collector of the district shall in the month of April of every year publish in the *Malabar District Gazette*

the average market price of paddy, coconut and arecanut, for the twelve complete months preceding the date of publication.

46. (1) The Local Government may make rules to carry out all or any of the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, they may make rules regulating all or any of the following matters:—

(a) the investing of courts of original jurisdiction with powers to try summarily suits for the recovery of rent or michavaram and the procedure to be followed in such suits ;

(b) the appointment of assessors to be associated with the court for determining questions relating to the quantum, enhancement or reduction of rent or the determination of the yield of any class of lands or trees, the qualification of such assessors and the mode of selecting them for each case and the procedure to be followed in case of difference of opinion between the Judge of the court and one or more of the assessors.

(c) the period of limitation for applications under this Act for which no period is specifically fixed therein.

SCHEDULE.

FORM A (See section 5.)

1. Name of the applicant.
2. Extent and description of the lands in respect of which the application is made. (Particulars to be given separately of (a) wet lands, distinguishing single and double crop lands, (b) of other kinds of lands, (c) as to how the other lands are necessary for the enjoyment of the wet lands, (d) how the other lands are being used on the date of the application, and (e) the amount of assessment due on each class of land.)
3. Name of the jami and of all the intermediaries who have interest in the said land on the date of the application. (Omission to mention any name will result in the certificate being inoperative against the person whose name has been omitted.)
4. The amount of annual fair rent (see paragraph 2 of section 23) which according to the applicant is payable in respect of the wet lands.
5. The nature of the security that the applicant offers to give for one year's fair rent.
6. The amount of arrears, if any, due from the applicant or his predecessors in title on the date of the application and the person to whom it is due.

FORM B.

CERTIFICATE OF FIXITY OF TENURE ISSUED UNDER SECTION 7 OF THE MALABAR TENANCY ACT, 1928.

Whereas (here enter the name of the applicant) a cultivating verampattamdar, has applied under section 4 of the said Act for fixity of tenure, and whereas notice of the said application was served on (here enter the persons to whom notice was sent of the application) and whereas

the Court has fixed (here enter *paras* or *acres* or *Rs.* according as the rent is payable in kind or is agreed between the parties to be paid in money) as the amount of fair rent payable on (here specify the dates fixed for payment), and whereas the lands specified in Schedule B hereto are found necessary for the convenient enjoyment of the wet lands specified in Schedule A hereto annexed, as they were enjoyed on the date of the application, this certificate of fixity of tenure is issued under section 7 of the said Act in respect of the lands included in the Schedules A and B.

FORM C [See section 17 (2).]

1. Name of the applicant.
2. Extent and description of the lands in respect of which the application is made. (Separate particulars to be given of the several classes of land, wet, dry and garden.)
3. The name of the jaumi and the intermediaries interested therein and the name of the person from whom he claims renewal.
4. **A—**(a) In case the applicant is a customary verumpattamdar the customary period for which he is entitled to have possession of the land and the date on which such period expired or will expire;
 - (b) the annual rent that the applicant has been paying under the expiring verumpattam;
 - (c) If he is not a cultivating verumpattamdar
 - (i) the amount that he received annually from the cultivating tenant during the previous twelve years, and
 - (ii) the fair annual rent due for the land.
- B—**In the case of kanams
 - (a) the date on which the previous kanam expired or will expire;
 - (b) the fair rent of the land;
 - (c) the amount of assessment;
 - (d) the interest on the kanartham; and
 - (e) the melchavaram he has been paying under the expiring kanam.
- C—**In the case of cultivating kuzhikanamdar
 - (a) the date on which the previous kuzhikanam expired or will expire;
 - (b) the average gross yield for the past three years; and
 - (c) the rent under the expiring kuzhikanam;
- D—**In the case of intermediary kuzhikanam
 - (a) the date on which the transaction sought to be renewed ceased or will cease;
 - (b) the amount of profits, rent and renewal fee received by the applicant, by direct cultivation or from the tenant below during the period of that transaction; and
 - (c) the amount of rent paid to the intermediary or janmi above.

4. The amount of renewal fee payable under section with details as to how the figure was arrived at.

5. Whether he applied to the landlord for the renewal, and if so, on what date, and what reply he got thereto.

FORM D.

APPLICATION UNDER SECTION 25 (1) OF THE MALABAR TENANCY ACT.

1. Name of the applicant.
2. Is he the certificate-holder or the landlord.
3. The amount of rent that is being paid on the date of the application.
4. The total gross yield for each of the three years preceding the application.
5. The number of crops raised in each year.
6. The quantity of seed required for each crop.
7. What, according to the applicant is the fair rent, with details showing how he calculates the same.

FORM E—[See section 29 (1)]

1. Number of the suit
2. Description of the kudiiruppu—
(Particulars to be given as to the width and length of the sites built upon, the number and description of the buildings thereon, and the length and width of the entire land. Easements should be specified separately. In case of dispute, the Court may call for a plan.)
3. Nature and estimate of the market value of the plaintiff's rights therein.
4. Whether the applicant is willing to deposit the market price or wishes to pay it in instalments.
5. An offer that the applicant is willing to purchase the plaintiff's right at the price so specified or at the price to be fixed by the Court.

NOTES ON CLAUSES.

Preamble.—Both the words 'alter' and 'amend' are used, as 'amend' is sometimes held to apply only to cases of alterations of *statutory law*.

The words 'to the extent', 'in the manner', and 'for the purposes hereinafter appearing' are used in order to show the restricted scope of the Act. It is not intended by this Bill to consolidate or declare the whole of the law of landlord and tenant. Even as regards the incidents of the tenures referred to therein it is only some parts that are being altered by this Bill.

Sub-clause (2) to clause 1.—The Committee considered that there was no sufficient reason to exclude Wynad as has been done in some previous attempts at legislation on this subject. Owing to climatic conditions the lot of the tenant is, if anything, not so good in Wynad, as in the rest of the district. It is considered necessary to offer special inducements to him such as the grant of fixity under clauses 4 and 11 to 13, to induce him to stay in Wynad and improve the agricultural conditions of that part of the district.

Clause 2 (1).—This corresponds in substance to clause 3 of Mr. Krishnan Nayar's Bill as passed by the Legislative Council.

Clause 2 (2).—This corresponds in substance to clause 9 of the said Bill as passed.

Clause 3 (a).—The latter part of this clause has been put in with a view to provide for local variations in different parts of the district.

(c).—This is substantially the same as clause 2 (b) of Mr. Krishnan Nayar's Bill as passed. The latter part has been added to provide against a real tenant being treated as a labourer.

(d).—This corresponds to clause 2 (c) of the said Bill as passed.

(e) (1).—See paragraph 87 of the Report.

(e) (2).—See paragraph 110 of the Report.

(e) (3).—See paragraph 102 of the Report.

(e) (4).—See paragraph 130 of the Report.

(k).—It has been found somewhat difficult to define the term 'kanam'. It sometimes partakes of the nature of a lease and sometimes of a mortgage, and oftentimes it is an anomalous mortgage. It has been thought desirable to indicate the general incidents of the tenure as any short and cryptic definition may exclude transactions which have customary incidents of kanam attached to them.

(l).—See paragraph 123 of the Report.

(o).—See page 5 of Woodfall's "Landlord and Tenant" (21st Edition).

(p).—Melcharth as defined in the sub-clause has somewhat wider meaning than the meaning popularly attached to the term in Malabar. It is, however, made purposely wide with a view to prevent the evasion of the rule against melcharth referred to in paragraph 129 of the Report.

(r).—This definition is an adaptation of the Settlement Department's definition of the term.

Clause 4—See paragraph 84 of the Report.

Clause 5.—This is merely a formal clause.

Clause 6 (1).—This is a formal clause.

Sub-clause (2) (a).—See paragraph 85 of the Report.

Sub-clause (2) (b).—See paragraph 90.

Sub-clause (3) (a) and (c).—See paragraph 83 of the Report.

Clause 7 (A).—This describes the effect of a certificate granted under section 6.

Sub-clause (1).—Specifies one of the grounds on which the tenant can be legally evicted under all systems of land tenures.

Sub-clause (2) (ii).—This corresponds to section 39 (b) of the Punjab Tenancy Act, XVI of 1887.

Sub-clause (4).—See paragraph 86 of the Report.

Sub-clause (5).—See paragraph 85 of the Report.

Clause 7 (B) (i) (ii).—See paragraph 85 of the Report.

Clause 8.—No remarks.

Clause 9.—See paragraph 90 of the Report, wherein the Committee recommends special provision for speedier collection of rents. This clause proceeds on the lines of Order 37 of the First Schedule of the Code of Civil Procedure.

Clause 10.—This clause provides for an alienee from a cultivating tenant who is himself a cultivator applying for a certificate as against him. In that case, the previous certificate must be deemed to be cancelled.

Clause 11.—See paragraph 93 of the Report.

Clause 12.—See paragraphs 100 to 103 and 106.

Clause 13 (1).—See paragraphs 109, 110, 113 and 114 of the Report.

Do. (2) See paragraphs 118 and 119.

Clause 14.—See paragraph 133.

Clauses 15 and 16.—These adapt the procedure prescribed in section 46 of the Estates Land Act.

Clause 17.—This refers only to procedure and calls for no special remarks.

Clause 18.—See paragraph 102 of the Report.

Clauses 19 and 20.—These clauses deal with questions of procedure only.

Clause 21.—See paragraph 120 of the Report.

Clause 22.—See paragraph 111 of the Report.

Clause 23.—See paragraph 89 of the Report.

Clause 24.—See paragraph 131.

Clause 25.—See paragraph 89 of the Report.

Clause 26.—See paragraph 110 of the Report.

Clause 27.—This corresponds to section 74 of the Bengal Tenancy Act.

Clauses 28 and 29.—See paragraphs 123 and 125 of the Report.

Clauses 30 and 31.—See paragraph 125.

Clause 34.—See paragraphs 126 to 129 of the Report.

Clause 35.—See paragraph 90 of the Report.

Clause 36.—See paragraph 112.

Clause 37.—See paragraph 134 of the Report.

Clause 38.—See paragraph 96.

Clause 39.—See paragraph 95 of the Report.

Clause 40.—This corresponds to clauses 22 and 24 of Mr. Krishnan Nayar's Bill as passed by the Legislative Council.

Clause 41.—This corresponds to clauses 23 and 25 of Mr. Krishnan Nayar's Bill as passed by the Council.

Clauses 40 and 41 refer to the forms of deeds and receipts, and it has been considered by the Committee desirable to make rules on the lines indicated in those clauses.

Clause 42.—This corresponds to section 26 of Mr. Krishnan Nayar's Bill as passed.

Clause 43.—See paragraph 132 of the Report.

Clause 44.—This provides for the application of the Civil Procedure Code to the proceedings under this Act. As these proceedings are to be conducted in Civil Courts, the Civil Procedure Code would apply to such proceedings under the general principles of law. But to obviate any doubts on the matter, specific provision has been made in this clause.

Clause 45.—This corresponds to clause 35 of Mr. Krishnan Nayar's Bill as passed and deals with the Collector's duty of publishing a list of prices.

Clause 46.—This corresponds to clause 36 of the said Bill. It deals with the power to make rules.

ANNEXURES.

(i)

(1)

NOTES OF A VISIT TO THE KONGAD VILLAGE MADE BY THE PRESIDENT ON WEDNESDAY, THE 12TH OCTOBER 1927.

I

Examined the figures in the statement forwarded by the Revenue Inspector of Parli firs in answer to circular issued by the Collector on the requisition of the Malabar Tenancy Committee. Found the figures given for cultivated area related only to wet lands and that occupied dry lands and garden lands had not been taken into consideration.

II

A. The following figures show the extent of cultivation in Kongad desam for fasli 1296 :—

	ACS.
(a) Wet lands	843
(b) Garden lands	315
(c) Occupied dry	996

Note.—In fasli 1234 (c) was 953 acres. (d) Unoccupied dry, 1,253 acres.
Note.—In fasli 1296 (d) was 963 acres. (e) Fugitive cultivation, 326 acres.

B. There are 96 janmis in the amsam. Of these fifty live in the amsam itself. Of these fifty, ten own lands in other amsams. The biggest of them had 780 acres of occupied lands and 620 acres of unoccupied dry lands.

III.—Instances of economic condition of kanamdars.

(1) The kanamdar is the menon of Edakkad desam, Kongad amsam. He stated that the kanam under which he held is 200 years old. The extent covered is—

	ACS.
Nanja	3½
Punja	18

The lands were till last year under direct cultivation. Nanja lands yielded him 400 paras. This year he has given them nanja and punja on verumpattam for 300 paras and Rs. 40, respectively. Kanartham Rs. 140. Michavaram is 75 paras plus Rs. 7 cash. The kanamdar also pays Rs. 17½ as assessment to the Government on the nanja (wet land), the verumpattamdar paying the assessment on the punja. Last renewal fee was Rs. 75 as stated in the document, but he had to pay as sowjanvam Rs. 50 to karyastan, etc. According to him verumpattamdars will get fifty paras and Rs. 20 worth of straw and Rs. 50 on dry lands as profit. The wet lands were double crop land.

(2) The same man has another kanam. This is also about two hundred years old. Extent—one acre and twenty cents of single crop wet land. Michavaram 100 paras. Kanam amount Rs. 200. Last renewal fee Rs. 41 on paper and Rs. 16 extra fee. He has to pay Rs. 9 a year as assessment. Till last year under direct cultivation. Net yield last year—150 paras. Verumpattam—this year—one hundred paras. As a menon this man gets a salary which supplements his income from land. His kudiyruppu is about 75 cents in extent and contains some jacka, mangoes and coconuts which he has himself planted. He has a small tiled house—not in affluent circumstances, but is above want.

(3) *Instances of kanams.*—The kanamdar is the agent of the Valia Nayar of Kongad. The chauth is over fifty years old. Kanartham Rs. 600 and odd. Michavaram—160 paras. Renewal fee Rs. 10 per para. Last renewal six years ago. Extent—70 paras of wet land plus 5 acres of paramba including six kudiyruppus. Assessment Rs. 50. The kanamdar had to pay it out of the verumpattam. Verumpattam 700 paras. He admitted that he gave nothing to the verumpattamdar for manure and he has not spent any money at any time on the improvement of the wet lands. The income from the paramba according to him is Rs. 25 per year. Verumpattamdars were changed by him once in four or five years owing to default in paying pattam. Most of them are very poor.

Note.—He stated (1) that during the last ten years janmis have been splitting up kanams and insisting on giving the wet lands separately on kanam with a view to avoid paying value of improvements on non-wet lands included in the original kanams and (2) that of late kudiyruppes are given only on tharakuthiavakam, and not as part of paramba kanams, the object being the securing of a detachability of the kudiyruppu from the cultivable lands without causing inconvenience to the cultivation of holdings or in other words the securing of greater facility for employing verumpattamdars living elsewhere than on the land itself and (3) keeping the figure of compensation payable for eviction within practicable limits. People that build houses under tharakuthiavakam are either verumpattamdars or labourers and they cannot afford to build costly houses or make other costly improvements on the small extent of land, generally varying from 25 cents to one acre, which they obtain on this tenure. They are, however, seldom evicted from these holdings even though they may not or may cease to cultivate the janmi land on verumpattam and take other people's lands on verumpattam. Frequently, the verumpattamdar does not cultivate land contiguous to his kudiyruppu but leases out and cultivates lands separated from his kudiyruppu by a few fields.

The economic condition of the verumpattamdar in this part of the district is far from satisfactory. He lives generally in a thatched house and has no assets worth mentioning except a pair or two of miserable plough cattle and a cow or two and a few agricultural implements. He seldom buys any manure. The green leaves collected by him and his family, the dung of his few cattle and the ashes of his hearth are the only manure he puts on the land he cultivates. He lives from hand to mouth. It is next to impossible to ascertain the gross yield of the land he cultivates and the details of his family budget. He evidently commands very little credit.

IV.—Instances of tharikuthiavakam.

(a) The avakam was acquired 16 years ago. Extent—fifty cents. Rent—Rs. 2-4-7 a year. The lessee has also to pay an assessment of nine annas per year. The lessee is a woman who is an agricultural labourer by profession and has a young son aged 12. She gets 2½ edangalis every day when she gets work. The boy gets eight annas as wages a month for grazing cattle. The trees planted by her are just beginning to yield. No definite income from them yet. The palmyra trees belong to the kanamdar but the tenant can take the leaves.

During non-agricultural seasons she borrows or works on fibre. She took the avakam from the kanamdar who is the owner of the kanam Nos. 1 and 2 referred to above. She lives from hand to mouth.

(b) In this case the tharikuthiavakam is a Nayar. Extent—75 cents. Rent—Rs. 2-8-0 per year. He has been on the land on this right for twenty years. At the time of the grant he was not cultivating any of the lands belonging to the grantor. Now he cultivates a portion of them. Has a wife and mother and a small child. All that he has besides homestead is one pair of ploughing cattle and two cows. He is now cultivating lands at some distance from his homestead on verumpattam. Lives from hand to mouth and has a small debt (exact amount not ascertainable owing to his absence).

V.—Instances of verumpattam.

Lessor—the Kariakur of Palghat. Verumpattam directly under the janmi. Verumpattam 480 paras. Extent—40 paras, seed-land (wet). Lessee has paid the janmi Rs. 300 as advance for one year's rent. The janmi pays the assessment. To the wet land is attached a small paramba and a hut. The paramba is used as a kalam. According to him he got 400 paras in the first crop and 5 or 6 rupees worth of straw. This is a double crop land. He says the usual yield for the second crop is half of the first crop. The expenses of cultivation for both crops—150 paras.

2. *Janmis—Padakkur Manakal and Kanyat Nayar.*—This verumpattamdar had had the same lands for thirty years. Has no other profession excepting drumming in the local temple for which he gets annually 100 paras of paddy. Extent of demise—fifty paras. Of wet land and two or three acres of paramba. Verumpattam to be paid to janmi—620 paras. According to this man the total gross yield of the land is 800 paras and the cultivation expenses—200 paras. The mens of these lands varies from 4 to 16. All the members of his family including women work on the land. His family wants one para every day for expenses. And he says that he gets that out of the lands demised to him. He has no debts. He gets 100 paras from temple service as extra income.

3. The janmi is Kizhake kovilagam. Extent—fifty-five paras of land. He has been on the land from 15 to 25 years. The gross yield—950 paras. Pattam—780 paras. Cultivation expenses—150 paras. His family expenses amount to 220 paras. He has advanced Rs. 2,000 to the janmi for which he gets 200 paras as interest. He has no debts. Trades in cattle occasionally. He admits he gets a profit out of this verumpattam and has built a fairly substantial house. If his figures are true, this cannot be correct. Has made about Rs. 5,000 out of this verumpattam.

(2)

NOTES OF A VISIT MADE BY THE PRESIDENT AND MESSRS. NARAYANA KURUP AND KOTIATH KRISHNAN, MEMBERS OF THE COMMITTEE TO MATTANOOR DESAM, 16 MILES EAST OF TELlichERRY ON 14TH OCTOBER 1927.

I

It was ascertained from a general talk with many tenants present that for pepper cultivation the period of kuzhikanam is between 40 to 96 years and that for coconut it is twelve years. Though the period of the first kuzhikanam is twelve years, in practice there will be no eviction at the end of twelve years, and the lease is ordinarily renewed for a renewal fee of one year's produce.

II

A. Instance of a verumpattam tenant. Name of the verumpattamdar—*Valiathan Kandiambi of Mattanoor.* He holds lands under three janmis.

- (1) Perinjeri devaswam.
- (2) Mattanoor devaswam
- (3) Karayil illom.

Under the first he holds 100 paras seed wet land. He gets 1,000 paras as yield. Verumpattam is 260 paras. He says that verumpattam leases are generally for four years and that he has to pay Rs. 75 every fourth year as renewal fee.

Under the Mattanoor devaswam he holds five acres of land taken on kuzhikanam for pepper cultivation. The first period of the lease was for sixteen years and during the sixteen years he paid four fanams as rent every year. It roughly comes to Rs. 1-8-0. At the end of the 16th year kuzhikanam was renewed without any renewal fee and since then he has been paying half the produce as rent to the landlord.

B. *Another instance of another kuzhikanam and verumpattam.*—In this case the lessee is a Nayar. The janmi is the Mattanoor Thangal. This man's family had had the wet lands on lease for thirty years. The extent of the lands which are double crop lands is 140 edangali seed. The total rent that he pays to the janmi and to the kanamdar to whom some of the lands have been given on kanam by the janmi is 1,048 edangalis. He would put it as 1,200 to make up the difference between his measure and the janmi's measure. He also pays Rs. 10 in addition to the above in the shape of assessment every year. He is unable to state the gross produce of the land. On enquiry from other people present it was found that the best men in this part of the country is 12, i.e., the gross produce will be twelve times the amount of seed. If that be so, for the first crop this lessee must get 12 × 140 or 1,680 edangalis. The second crop yield about half as much. The lease is for four years and it is usually renewed at the end of four years without any renewal fee. But the lessee has had to pay about Rs. 10 at the time of every renewal as extra fees "seela kasu". There has been no enhancement of rent for the last thirty years. But during the last three or four years he has been made to pay the assessment of Rs. 10 a year which was formerly paid by the janmi himself out of the pattam. The janmi has, however, given up his claim to "seela kasu."

He also holds 1½ acres of paramba under another janmi on kuzhikanam. The income from that paramba is about Rs. 100 a year. The rent is twelve annas per year. He has in janmam right a paramba of about one acre on which he has two stone-walled houses with thatched roof. He pays an assessment of Rs. 2 for this land. He has not planted fruit trees yet on this land except bananas.

There are about twelve individuals in this family of whom four are adults. Both male and female adult members of the family work in the fields. They have now three bulls worth about thirty to forty rupees each. They also hire other bulls during the cultivation season. They buy no manure for the lands but use green leaves collected by themselves and the refuse of their cattle as manure. The family has got a debt of 500 edangalis of paddy which bears interest at 20 per cent. They spend twelve edangalis a day for food, etc. The family has no assets in the shape of movables except a few bell-metal vessels. It lives from hand to mouth. The adhigari says that this is the general economic condition of small verumpattamdar and kuzhikanamdar in this taluk.

III

The adhigari stated that the usual renewal fee for wet lands for verumpattam renewable at the end of every four years is Rs. 10 per 100 paras of yield. For garden lands the rent is four fanams for the entire garden for the first twelve years or till the garden begins to yield. Then the lease is renewed on payment of a renewal fee of one year's yield as determined at the time and the rent of four fanams is doubled. In the alternative, no renewal fee is levied but the yield is shared equally between the janmi and the tenant.

IV

It was represented by some of the tenants present that the Mattanoor illom and Karayil illom have begun the practice of renewing kuzhikanam leases only on condition that the tenant admitted in the document executed for the renewed lease (e.g., in the marupad) that the improvements made by him up to that time belonged to the janmi. In return for this admission the janmi makes a large reduction in the rent to be paid, the usual rate of rent otherwise being half the produce. But a marupad which was obtained on the spot and examined did not bear out this allegation.

(3)

NOTES OF A VISIT MADE BY THE PRESIDENT TO KIDDAKKAT AMRAM, CHIRAKKAL TALUK ON 15TH OCTOBER 1927.

Instance of a verumpattam.

Name of the verumpattamdar.—Kolathatil Nambiyar.
Wet lands.—One crop.

Extent.—325 edangalis—is held under two devaswams. These lands have been in the family from time immemorial. The last charth was in 1052. There has been no renewal since then. Even that charth relates only to a portion of the land. As regards the rest there has been no recent charth.

Gross yield.—2,000 to 2,500 edangalis. Cultivation attended to by eleven members of the family consisting of four men and seven women adults. Besides their labour, coolies and cattle are employed at a cost of Rs. 125 a year. Manure costs Rs. 20 a year.

Total rent.—1,380 edangalis.

Janmi pays the nikuti. For eighty-five edangali extent out of the total, rent recently increased to 415.

What was paid before is not known?

He gets assistance from his neighbours and also uses their bulls for cultivating the lands in return for his own assistance and the loan of his bulls for their cultivation.

He also holds three acres on kuzhikanam under two charths.

No. (1) sixteen years old and No. (2) twenty years old. He grows coconuts thereon. For the Charth No. (1) which is sixteen years old, he pays Rs. 16 rent and for its renewal after twelve years he paid one year's rent and six rupees as extra fees. For the twenty years old lease he paid Rs. 39 rent for the first twelve years and a renewal fee of the same amount plus eight rupees extra fees. These lands have been in his family for a very long time and all the trees thereon have been planted by his ancestors. He gets from the land covered by charth

No. (1) Rs. 20 as income for a year

No. (2) Rs. 45 do.

He says that most of the trees in No. (2) are young and have not yet come to bearing.

General economic condition.—He has got a family of four male members, seven adult female members and four or six children. He lives on a house built nine years ago on his own janmam lands (two acres). The house was built with materials got out of his older house. It has an upper storey which is thatched. Some of the younger members of the family read in schools. One daughter is married to a constable, and another to a schoolmaster. The family takes only two meals a day. Kanji at 10 a.m. and rice at night. There is no mid-day meal. They want about six edangalis a day in all for their expenses. The family owns one pair of bulls. He has a debt of Rs. 1,750 to a devaswam raised on the security of his kudiyruppu. He pays Rs. 20 per annum as interest on the amount. The interest according to him is low because he is a scion of one of the Uralar families of the temple. The security is also good. The yield from the kudiyruppu garden is not good. The amount was borrowed to pay arrears of rent due. Rent fell into arrears because the family was big and the income was not enough for their maintenance. The present karnavan has been a widower for eight years and says he could not marry again because he could not afford to pay anything to his wife if he marries.

His two sisters were married and one of them has children. But their husbands do not contribute anything towards their maintenance. Two of his nieces are now living with their husbands. He says he keeps his lands in spite of the fact that they do not give enough for the family, as he has many women and cannot move from his ancestral place and can take to new occupation at this time of his life.

(4)

NOTES OF A VISIT MADE BY THE PRESIDENT TO TAMARASSERI AMSAM IN CALICUT TALUK ON 18TH OCTOBER 1927.

P. C. Unnikumaran Nayar, janmi and kanamdar, District Board member, stated as follows:—

1. (1) The *meni* of wet lands in the Calicut taluk is never more than five for one crop.

(2) The kanamdar makes very little profit and all that he realized was the interest on the kanam amount; new kanams are created by janmis with a view to find funds to evict previous kanamdars who make default in payment of *michavaram* and also for the purpose of finding fresh money for family expenses; in this taluk the kanams are more like those of North Malabar, that is, they are really mortgages. Out of the ten paras, two paras went towards seed; four paras towards cultivation expenses; the janmi gets only 2½ or 3 paras and the remainder goes to the actual cultivator whether he is a kanamdar or verumpattamdar; the janmi pays the nikuti which is about half a para out of the 2½ or 3 paras which he gets and if there is a kanamdar the janmi has to pay the interest on the kanam out of the 2½ or 3 paras. Speaking broadly the verumpattamdar gets very little paddy out of wet land for his labour. The straw he gets will be worth about Rs. 5 per acre. The lands in the taluk are mostly double crop lands; if the seed extent is one para the total yield is never more than ten paras; two paras went towards seed.

2. Kanamdars in this taluk do not spend any money for making improvements on their kanam wet lands when they leased them out to verumpattamdars; they do not give the verumpattamdars any money for manuring the land or for otherwise improving the yield. There are no big kanamdars in this taluk as in the Palghat taluk and they do not make much profit. So there is no agitation among them for a land legislation.

3. Where virgin land is given on kuzhikanam for planting coconuts (no pepper is grown in this taluk), it takes 12 to 15 years for the whole garden to come to full bearing.

Till then the kuzhikanamdar pays only a nominal pattam from 12 annas to Rs. 1-4-0 per acre; during this interval he raises surface crops like vegetables, modan paddy or tapioca in the interspaces between the trees; at the end of the first 12 or 15 years when the whole garden has begun to yield the lease is continued for another twelve years on the same terms for the same nominal pattam; after 24 or 25 years the janmi takes some of the trees by paying eight annas to Rs. 2 for each tree as compensation. All the trees in the garden are then classified as good, indifferent or poor. The yield of the trees is taken on an average 36, 24 or 12 nuts per tree per year according as they are good, indifferent, or poor, and the total estimate of the yield of the garden is struck. The pattam due to the janmi for the subsequent 12-year period is then fixed at the rate of Rs. 20 per thousand coconuts of this estimated yield, which is about half the market rate of a thousand coconuts (the remaining half the value being the tenant's share). At every renewal more and more trees are taken over on such terms by the janmi until all the full grown trees in the garden become the janmi's property. This means that when the tenant is evicted at this stage the janmi need not pay him any compensation for any of the full grown trees. In the case of kovilagam lands kuzhikanam pattam is determined on a different principle as the kovilagams never take over any trees on a low value from the tenants as is done by the other janmis. The only way in which they increase their profit after the trees begin to yield is by adding 20 per cent at every renewal to the original pattam of eight annas to Rs. 1-4-0 per acre.

4. The witness is directly cultivating 30 acres of paramba and 10 acres of wet land; he could easily manage direct cultivation of such an extent; the only difference between direct cultivation and cultivation through verumpattamdar lies in the fact that the direct cultivator gets for himself the share of the produce and that straw would go to the verumpattamdar; there is, however, no difference in the manner of cultivation in the two cases; the lands are not manured better by the direct cultivation and the gross yield is the same in both cases.

5. In Calicut taluk except in Calicut town the renewal fee is based on the pattam; ordinarily *michavaram* in the case of kanam is calculated by deducting from the verumpattam the 'palisa' on the kanam; the renewal fee is generally eight annas per para of one year's pattam (not deducting interest on the kanam advance) in the case of wet lands and 1½ times the annual rent in the case of garden lands, plus in both cases one to four rupees per renewal for the expenses of writing, witnessing and registering and the appointment of the agent to register the renewal deed plus registration charges plus Rs. 2 per case, the perquisite for the junior members (*santhavaravakam*). In the opinion of this gentleman this was a fair renewal fee. As regards kovilagams he stated that renewal fees are higher as the rents charged are lower.

6. Three tenants were further examined at this visit—(1) *N. Moothara Kutti*.—He is a cultivating kanamdar. His janmi is the Karampalli Kurup. He holds four parambas (total six acres in extent) with three-fourth of an acre of wet land. The kanam is sixteen years old. He let one paramba on kuzhikanam two years ago. He got the kanam by transfer from another kanamdar. There were trees on the parambas even before he got his kanam. He gets Rs. 46 a year from his kuzhikanamdar. He is paying the pattam on the whole kanam to the janmi and could not say how much he pays separately for the land in kuzhikanam included in his kanam. He has 20 acres of garden and 15 acres of wet lands in his possession.

(2) *Choyi, a Tiyya*.—He had four items of garden land in all measuring three acres and three items of wet land measuring in all nineteen paras seed or three acres; he holds out of the three items of the wet lands, one item 75 edangali seed under a kanamdar; and the rest of the wet and garden lands he holds on verumpattam. He cultivates the land directly. The rent for the wet land held on kanam (75 edangali in extent) is 212 edangalis. He has given Rs. 50 as advance to the kanamdar under whom he holds it. He does not get interest for the same. For the other wet lands the rent is 205 edangalis and for the parambas 33½ rupees a year. Out of these parambas, two has been in the possession of his family for nearly one hundred years; one for about twenty years and the other for about four years. His family consists of 10 adults and four children. All the adults work in the fields. The family wants 10 edangalis of paddy for its consumption. He keeps a cart and two bulls which he lets out on hire in the non-agricultural season. He has to employ casual labour during agricultural season for transplantation, etc. He has a debt of Rs. 275 in all. Rupees 200 he has taken on the mortgage of his paramba. He pays 15 per cent interest per mensem on that. Rupees 75 he has borrowed by pledging Rs. 100 worth of jewels with a bank. He says he first borrowed Rs. 100 five years ago and has been repaying and reborrowing since. The purpose of the borrowing is marriage expenses.

(3) *Pisharath Vittel Ali, a Mappilla*.—Verumpattam tenant. He has in his possession 30 paras seed (5 acres) of wet lands and three parambas which are little over three acres in extent. For the wet lands he pays 65½ paras. He has had two items of wet lands for 25 years and one for one year only. The lease is from year to year. The pattam for garden lands is Rs. 29½. He has subleased one of them (for which he pays Rs. 8½ a year) on a pattam of Rs. 9 a year. The trees in one of them were grown before he got the land. In the other he has planted trees. Two of them have been with him for 20 years. His family consists of

himself and five adult females and two children. He supplements his income by trading in beads and grocery. He has no cart but has two pairs of bulle. Two or three years ago he built a tiled house by spending Rs. 2,000 on it. For doing so he borrowed Rs. 600 on interest at 15 per cent. The balance represents his savings from the income of the lands he has been cultivating and from his trade and from what the women of his family have saved. His women assist him in the agricultural operations. They also earn by making coir.

(5)

NOTES OF A VISIT MADE BY THE PRESIDENT ACCOMPANIED BY RAO SAKIB V. KRISHNAN
MENON TO KARAMPULLI ANSAM ON 19TH OCTOBER 1927.

Two tenants were examined as to their economic condition—

(1) Padiyeri Eraman Nayar.

(2) Mootharidath Krishnan Nayar.

(1) Padiyeri Eraman Nayar said:—My janmi is Karampulli Kurup.

Holding (a) two wet lands. Extent five paras seeds. Of these two paras are two crops lands and three paras one crop land: (b) a paramba about two acres in extent. The whole holding is held under one kanam charth. Kanam amount Rs. 2-8-0. Michavaram 17 paras and Rs. 26. The old michavaram was 26 paras and 26 rupees. Owing to the salinity of the land the landlord has reduced the sum to 17 paras and Rs. 17. The total gross yield of the wet lands is about 20 paras. The kanam began fifty years ago. There was a renewal three years ago. He says he is unable to state what he paid as renewal fee. This tenant also holds other parambas besides one included in the kanam charth and he pays Rs. 9-8-0 as pattam for the other. He has also two other wet lands for which he pays 22½ paras as pattam. His family consists of four adult males, three female adults and four children. Another branch of the same family consists of six adults who live separately and all these properties belong to the two branches together. All of them work in the fields. The adult males work as coolies for others also. The family owns a pair of bulle and three cows. He occasionally sells the milk of the cows. For the last fifteen years he has had debts to the extent of Rs. 200. Sometimes he repays a portion and borrows again for the purpose of paying the arrears of pattam. The repayment is made by the selling of the coconuts.

(2) Mootharidath Krishnan Nayar.—He lives in a substantial two-storied house which he says he built four years ago. He was formerly working as 'karyastan' under the tarwad of the present Karampulli Kurup's wife. The house cost him six to seven thousand rupees. He built it out of his own income (1) as karyastan (he saved about five to six thousand rupees during the fifteen years of his karyastan-ship), (2) of a small janmam land for which he is paying Rs. 5-2-0 per year as assessment. He has 7 or 8 parambas now and also wet lands 1½ acres on verumpattam and two or three acres on kanam. The kanam amount is Rs. 160. He got it by melocharth in 1921 and paid Rs. 160 to the original kanamdar. The fee that he paid for the melocharth was one and a half year's pattam. The kanappattam is five paras. For the verumpattam he pays 12 paras. He says he does not get 12 paras from the land held on verumpattam but only 10 paras. He says he keeps that verumpattam because otherwise he might lose the kanam charth which is profitable to him. He has also other lands on kanam. He has leased all but ten paras of land out of that kanam property. He pays forty-five paras for that other kanam as pattam. Out of the land leased he gets 20 paras by way of verumpattam from five paras. From that verumpattam and from the yield of the other lands he pays 45 paras. The 10 paras which he has under his own cultivation is one crop land and the gross yield is 35 paras and also Rs. 25 worth of straw. He spends Rs. 600 a year on his family. The lands in his possession do not enable him to save much. He has no debts worth mentioning. His wife and children and nephews and nieces and sisters live with him. He has one pair of bulle and six cows. He uses all the milk for his family and does not sell any portion of it.

(6)

NOTES OF A VISIT MADE BY THE PRESIDENT TO KALLADICODU, WALLUVANAD
TALUK ON 30TH OCTOBER 1927.

1. Tenant's name—Chellan Ravuttar.—He holds both kanam and verumpattam lands. Verumpattam extent 130 paras; of which 20 paras are held directly under a janmi (Kuravayar Mana) and 110 paras under others. He held the rest under janmis either on kanam or verumpattam. He has held verumpattam lands for 16 years under one Nedungadi who is a verumpattamdar under a janmi. He gave him a written lease three years ago. Before that it was an oral lease. He has paid him *mupattam* of Rs. 30. All the verumpattam lands in his possession are double crop lands except 30 paras. He pays 330 paras as pattam for a holding of 35 paras of land,

200	paras for a holding of 20	paras of land.
150	"	" 18 "
200	"	" 20 "
100	"	" 10 "
100	"	" 20 "

He says that he gets six *moos* for the single crop lands. For 45 paras single crop land he got 266 paras as gross yield, and for 75 paras double crop land he got 906 paras gross. For these 75 paras he pays a pattam of 750 paras of paddy and 750 sheaves of straw. He said that the seed for these 75 paras cost him 80 paras and the labour, etc., cost him 100 paras. In all he had to give away 930 paras. He got 950 sheaves of straw out of which he had to give away 750 and he could retain only 200 sheaves. Thousand sheaves of straw are worth about 20 to 30 rupees. It might be noted, however, that the 950 paras gross really amounted to 1,065 paras owing to difference in measurements. Therefore he was paying 930 out of 1,065 even according to his own calculations. He has a tiled house. He stated that he gets a profit of 200 paras out of all his lands, that he wanted 2 paras a day for his family, that he got other crops from his parambas, that they were equal in all to 200 paras, that out of those 200, he paid a rent of 40 paras, that the net income was 160 paras from those lands; and that he also got Rs. 40 from tapioca. His son is a bamboo trader who gets Rs. 10 a month which he gives to the family. His son was married and that there were in all 12 persons in the family. The women do not work in the fields. He began cultivation about sixteen years and has prospered so well that he has built a tiled house after that with the income of the lands and other income. For interest on the 200 paras *mupattam* he has paid, he gets a reduction of 20 paras out of the *verumpattam*. He owes 100 paras borrowed for seed and has petty debts of Rs. 20. He has spent Rs. 250 in rebuilding and for tiling his house. He came from Kongad 30 years ago as coolie. He had then only two pairs of cattle. He has now six pairs of plough buffaloes and four cows. He has also lands on kanam. He got the kanam right from the previous kanamdar by paying Rs. 250 for what was due to him for improvements. The kanam amount is only Rs. 1. The improvements consisted in converting dry lands into wet lands. Michavaram nine paras. The renewal fee paid by him was Rs. 60. The landlord is still demanding some more money for *oppu*. He got no receipt for the renewal fee. He cannot say why the renewal fee was fixed at Rs. 60. The whole kanam holding consists of one paramba, 4½ acres of wet lands and a seedling land which was originally part of the paramba and has been converted into seedling land by his predecessor. He paid Rs. 1 to the karyastan for the renewal. Michavaram which was originally 8½ paras has been this year raised to nine paras as he has converted two and a half paras land from paramba into wet land. He has to pay six annas plus Rs. 1½ worth of oil to the janmi every year for *suddhi*. He had no complaints to make against his janmi and said that he was happy and that it was the intermediaries that made him pay high rent.

2. The next person examined was one Kunjumin Ravuttar. He was a verumpattamdar holding 20 paras of land under kanamdar and verumpattamdar. Fifteen paras out of his holding gave him a gross yield of 60 paras. The pattam was sixty paras and for five paras the pattam is only seven paras. He says that the gross yield is eight paras. According to him he might get 16 paras more out of those 20 paras of land in a good year. He annually gets 200 sheaves of straw for himself worth about four to six rupees. He has, however, grown gingelly this year and he expects to make some profit. There are six persons in his family; himself and his two sons work as coolies in the timber forest. He has to borrow every year for his seeds. He and his son get 10 annas a day as wages. He says he can get work every day at that rate if he likes. He borrows from his neighbours for seeds at 30 per cent interest. He has "never gone near a janmi". He has two pairs of small bulle and he feeds them with straw and grass. In olden days he was a handy driver and also used to buy and sell bulle. He had a cart also. As his buffaloes died, he gave up that cart and took to coolie work. He has been buying and selling bulle during the last 20 years. Although cultivation does not pay him he keeps his lands because he gets straw to thatch his house and to feed his bulle.

He lives in a small plot of land which he holds under *Therukuthi Arakasam*. Its extent is six paras. He has planted coconuts, jacks, mangoes, oranges and plantains on it. He got it ten years ago as a bare paramba. Only the jack trees have begun to yield now. He pays no assessment or rent for it. He says that he was on another paramba belonging to the same janmi. The janmi took it to build a kalam on it. So he gave the present holding in exchange. He was on the previous paramba for five years paying nothing. For the last two or three years the janmi has been asking him to execute a pattam chit. He has not yet done so. The old site was given to him without rent as he engaged to watch the janmi's properties. He is an immigrant into this place from the Palghat taluk. His sons go to the forest and do coolie work at 10 annas a day. He has no debts.

3. The next person examined was Pakkirkutti, son of Kuttusa who is alive. He lives on a paramba on *Therukuthi Arakasam*. There is no charth for this. Kuttusa got it 40 years ago. Since then no rent has been paid to the janmi. The janmi is *Pilapatta Nayar*. The Nayar family has been paying the *nikuti* on this land. The tenant does no service for the family and he cannot say why his family has been allowed to live on the land. He holds lands on verumpattam under a devaswam from which one Nedungadi has taken a kanam. In all he holds 57 paras. Of these, 12 paras he holds under that Nedungadi, 20 paras he holds direct from that devaswam and 25 paras under one Musaliar. For the 12 paras he pays 84 paras as pattam and for the 20 paras, 170 paras and 170 sheaves of straw, and for the 25 paras, 250 paras and 300 sheaves of straw. They are all double crop lands. A second crop is not always raised on the 12 and 20 paras holdings. He was unable to give the gross yield of his lands. His family

consists of ten individuals and wants one para a day. He has a cart and two buffaloes. They are also let on hire and he gets Rs. 10 a month in that way. He has no debts. He has four pairs of bulls and four cows. The milk is not sold but is converted into butter-milk. They take kanji twice and full meal once. Sometimes they get flesh.

(7)

NOTES OF A VISIT MADE BY THE PRESIDENT TO KARIMBA ON 30TH OCTOBER 1927.

1. *Tenant examined Vallakutti Ravuttar.* He has 60 paras of double crop wet lands on verumpattam with parambas and seed-lands attached. He gets 600 paras as gross yield and has to pay 425 paras and 425 sheaves of straw as pattam. He gets the extra straw for himself. He has two pairs of bulls and two cows and one pair of buffaloes. He holds a kudiiruppu on *tharakuthiasakam*. No obarth. He got it 20 years ago. He pays Rs. 1-1-0 a year for this as rent. He has raised teak and other trees on it. Some of the coconut and jack trees have begun to yield. He paid Rs. 100 to an old tenant for the improvements and got that land. He does not pay any rent for the parambas which he holds along with the wet lands. He borrows 70 or 80 paras every year for seeds at 80 per cent interest from his fellow tenants. His family consists of ten adults. He wants one para a day for the expenses of his family. His two sons do coolie work as sawers and get about Rs. 10 each month which they give for the family expenses. He has no other trade. He has two cows whose milk is used by the members of his family. His women and children work in the fields.

2. The next person examined was *Mr. M. Ramunni*, Adhigari of Karimba amsam. He gave the following statement in writing about his lands and their yield. Total extent of land he holds under Pulapetta Thiruvaiyanad devaswam and Mannarghat Swamiyar, Kizhaka kovilagam. Four hundred and twenty-seven paras of field yielding 2,865 paras of paddy per annum. Kanartham Rs. 200. Interest 30 paras of paddy per annum. Of the above he himself cultivates 150 paras field which yields 1,060 paras of paddy for which he has to pay to the janmi a michavaram of 140 paras of paddy. The above 1,060 less michavaram 140 and 150 paras of paddy as coolie and 150 paras of seed yields a net pattam of 620 paras of paddy.

Verumpattam—Thirty-five paras of field on a mupattam of Rs. 400. Yields gross income of 500 paras of paddy less 20 paras of seed, 35 paras of paddy as coolie, and the interest on mupattam 47 paras of paddy. Has to pay a pattam of 350; hence the profit is 46 paras of paddy.

(8)

NOTES OF A VISIT MADE BY THE PRESIDENT TO KANJIKODE ON 31ST OCTOBER 1927.

Tenant examined—Sandu Muhammad Ravuttar—Jenmi Nanjappa Gowndan He holds 100 paras of land on verumpattam. Fifty paras of them are single crop lands. Gross yield of those was 300 and pattam 250. Other 50 paras were double crop lands. Gross yield 600 paras. Pattam 450 paras. He lives on Palli land for which he pays four annas a year. He spent Rs. 700 and built a tiled house thereon ten years ago. According to him for ten paras extent only six paras are necessary for seed. He gets 400 sheaves of straw per acre. He gives no straw to the janmi. According to him 100 sheaves of straw are worth only twelve annas though the ordinary price is Rs. 2½ according to those who were present at the time. This tenant was examined. He says that he uses all the straw he gets for his own cattle. He engages labour and bulls at six paras per acre for each crop. He himself has got three pairs of bulls. There are six persons in his house but none of them work in the fields. He keeps a shop which gives him a profit of eight annas a day. He borrows occasionally for the purpose of engaging labour. He bought a forest which led to litigation and so he had to borrow. He built his shop out of the profit of his trade. He bought a thatched house for Rs. 100 recently. The janmi occasionally gives up a portion of the rent due to him if the season is really bad.

(9)

NOTE OF A VISIT MADE BY THE PRESIDENT TO PERALAPARA NEAR WALAYAR ON 31ST OCTOBER 1927.

Tenant examined—Mukkukara Chinnappan.—Janmi—Murthi Ayyar. He holds on verumpattam seven acres of wet lands and forty acres of dry lands. The pattam for the seven acres is 450 paras and 450 bundles of straw. For the forty acres (dry) it is Rs. 208. The assessment is paid by the janmi. He has no debts. Janmi advances money without interest when necessary. He has fifteen persons to feed in his house. He has been on the land for 23 years paying the same rent. He is not bound to pay more even if a second crop is raised in the wet lands. He has not saved anything. He has five pairs of cattle and seven or eight farm servants under him. All his family work in the fields. There is no pattam chit. The seven acres wet land yield 650 paras gross a year and the 10 out of the 40 acres of dry land give him Rs. 450 worth of ground-nut every year.

(10)

NOTE OF A VISIT MADE BY THE PRESIDENT ON TO ISWARAMANGALAM IN PONNANI TALUK. 6TH NOVEMBER 1927

*Name of the tenant—Chullikal Kunhihaidu.—*Extent of verumpattam land in his possession 100 paras of wet lands, of which 30 paras are double crop lands and 70 paras are single crop

lands. The pattam is 750 paras. The landlords are Pagoravar Nambudri, Achuta Warriar, and a Ponnani Muhamadan. He holds 80 paras out of the 100 parambas under kanamdar. The other 20 he holds directly under the janmi. To the latter he pays 96 paras for both crops. To the Warriar he pays 240 paras for 40 paras land. He also holds ten paras under one K. Achuta Menon who holds them on usufructuary mortgage and pays him a pattam of 50 paras. He also has ten paras of lands under one Moosad for which he pays 45 paras as pattam. He said that on an average he gets five *meni*, but he afterwards admitted that the gross yield is seven or eight and odd for double crop lands for both crops and six *meni* for one crop. He says that he gets a gross yield of 700 paras and 3,000 sheaves of straw for the 100 paras in his possession. He never sells the straw. He has two pairs of plough buffaloes, one cow and one she-buffalo. There are 23 members in his family consisting of himself, his children and his brother and his children and his widowed sister and her children. He wants 1½ paras every day for the expenses of the family. His brother trades and gets about Rs. 10 a month as income. The females of the family do not work in the fields. He spends about Rs. 100 on seeds and Rs. 100 for other expenses such as the cultivation of the land. In the latter are included Rs. 80 spent on manure. He has to buy about Rs. 300 worth of paddy every year for the upkeep of his family. He keeps a tea-shop near his house and gets income from it. He has invested Rs. 100 in his tea-shop. He uses the milk of his cattle for the tea-shop. He also has three parambas on verumpattam from each of which he gets 4 or 5 rupees a year. For one of the parambas he has paid a mupattam of Rs. 15 and pays a yearly pattam of two and odd rupees, the landlord paying the assessment. He planted coconut trees on it about twelve years ago. There has been no increase of rent since then. He renewed the lease five years ago. Another paramba he holds on rice pattam of 16 paras. It was a wet land. He got it eight years ago on one year's lease. He built a house on it four years ago at a cost of about Rs. 1,000 and odd which he got by selling another land which he possesses. He converted the wet land into a paramba and built a house on it as he had no house-site to build on. He has a debt of Rs. 500 incurred in constructing the house. For Rs. 200 he pays interest at the rate of 12 per cent and for the other Rs. 300 he pays interest at 18 per cent. Every year he borrows for cultivation expenses from Ponnani money-lenders and grain merchants. He holds another paramba on verumpattam. On that he planted coconut trees 25 years ago. All trees yield. It is 30 cents in extent. Pattam is Rs. 1-2-3. Excepting four trees all the trees belong to him. He has not renewed the lease. There has been no increase of rent during the last 25 years. The janmi has been demanding an increase of rent but he has refused to pay increased rent and has asked him to take the trees after paying the cost of improvements. He said that the janmi could evict him but believed that he would not do so. So he planted on and improved the land. He is not in a position to pay one year's rent in advance. He is in arrears to the extent of 168 paras for this year's rent on the verumpattam lands. He occasionally buys manure.

2. Next tenant examined was one *A. V. Kunja*, retired taluk clerk. He has taken to agriculture after his retirement. He owns 300 paras of janmam lands from which he says he gets 300 paras in the first crop and 150 paras in the second crop. The seed he uses is 55 paras for both the crops. He has two pairs of buffaloes. He has also verumpattam lands in his possession. The extent is sixteen paras. The gross yield for both the crops is 250 paras. Pattam 90 paras. He holds these lands directly under the janmi. He stated that if he held the same lands under a kanamdar he would have to pay a higher pattam. He said that in his village the usual pattam was five times the seed whether it is a double or single crop land. He does not use any special manure.

3. *C. Moideen Kutti* was next examined. He took 2½ cents of wet lands on verumpattam. He has converted them into a garden on which there are 17 coconut trees, 16 years old. Pattam is Rs. 6 a year. He sold his rights away this year for Rs. 300.

(11)

NOTES OF A VISIT MADE BY THE PRESIDENT TO TIRUNAVAI ON 7TH NOVEMBER 1927.

*Name of the tenant K. Moideen Kutti.—*He is in possession of 2½ acres of garden lands. It was taken originally on verumpattam with ten coconut trees on it. The rent then was five paras. Rupees 25 was paid as mupattam. The verumpattam went on for 20 years during which arecanuts were planted on the lands. Then the verumpattam was converted into kanam. The tenant paid Rs. 200 to the landlord for the ten trees at that time. The kanam amount was sixteen fanams at Rs. 4-7 per fanam. Michavaram 2½ paras and eight annas. The tenant pays the nikuti of Rs. 4-8-0. The garden fetches about one hundred rupees a year. The arecanuts give him that income. He has a debt of Rs. 200 which was the amount he paid for the ten trees. That bears interest at 12 per cent. Three years' interest and three years' pattam are now in arrears. The kanam is over 12 years old. His family consists of three adult males, three adult females and five children. The family has also got ten paras of wet land on verumpattam near that garden. The janmi is a Nambudiri. Pattam 60 paras. The Nambudiri pays the nikuti. The tenant would not state what the gross yield of the wet lands is. All that he would say is that the profit that he makes is second crop from that land, while the first crop has

to be paid as pattam. He, however, admitted that the meni is eight for each crop. He gets all the straw for himself. He has borrowed from the co-operative society Rs. 50 at 9 per cent. He has one pair of buffaloes.

2. Next tenant examined was *Mannuparambil Kunhikoya*. The kudiyruppu on which he lives is held on kanam. The kanam is 60 years old. Last renewal was 14 years ago. Kanartham Rs. 4. Gross yield Rs. 25 a year. A tiled stonehouse was built on the land by his father. It is worth about Rs. 1,000. He has on verumpattam one paramba which is 6½ acres in extent, and also 60 paras of wet land. For the first he pays a pattam of Rs. 6 and also the assessment of Rs. 5 a year, the gross yield being Rs. 20. For the second he pays a pattam of 600 paras. He says the gross yield is 1,000 paras. He gets all the straw and does not give any portion to the landlord. He does not sell it but uses it for the four buffaloes. He and his son aged 20, his wife and five other children form members of the family. Everyday they want one para. He has a debt of Rs. 1,000 due to the fact that he kept his rent in arrears and was sued in court. Even in the present year he has not paid 400 paras rent yet. He employs labour to till the land. He has no other source of income. His women work in the fields. His father who died eight years ago left no debts. All the debts were contracted by the son. His is a case of typical paramba reclamation.

(12)

NOTE MADE AT TIRUR ON 7TH NOVEMBER 1927.

Ponnani taluk.—*Nambudiri Adhigari of Tirur*—an intelligent and experienced man—says that there are very few meloharths in this taluk against the Mappilla who is mostly the tenant and very few suits for eviction. Most of the suits are for arrears of michavaram and arrears of rent. Mappillas keep rent and michavaram largely in arrears and won't pay. In their kudiyruppus there are improvements generally and janmi cannot easily pay for improvements and the tenants generally refuse to renew. The Mappilla lives better than the Nayar or the Tiyya tenant and will not stint himself to pay rent, etc. So he does it at the expense of the janmi. Procedure in regard to recovery of rents is cumbersome both to the janmi and the tenant. The suits are tried as regular suits. Some summary procedure for recovery of rent essential both in the interest of janmi, tenant and Government. Suits take on an average about two years to decide. Commissioners make a lot of delay in valuing kuzhikuru. Old practice of making over one-third of the improvements free to the janmi at the time of renewal which is called *Nodikum* has fallen mostly into disuse.

There is no well-established formula in this taluk in regard to renewal fee or raising of rent or michavaram in the case of kuzhikanam gardens as in North Malabar.

(13)

NOTES OF THE VISITS TO MANJERI AND OTHER PLACES MADE BY THE PRESIDENT ON 4TH, 5TH AND 6TH DECEMBER 1927.

I.—Manjeri.

The first place visited was *Manjeri* and the first person examined there was *Muhammad Kurakkal*, Vice-President of the Ernad Taluk Board. He said that he was partly a verumpattamdar and partly a kanamdar, that there was considerable rackrenting in those parts that the verumpattamdars required fixity of tenure very much, that if fixity was given they would be able to manure the lands better and that the yield would be considerably higher than what it is now. He said that fixity should not be given to the ordinary verumpattamdar unless he was willing to give security for two years' rent, as, otherwise, the janmis would find it difficult to collect their dues. Asked whether the present day verumpattamdars would be able to give such security he said that it was no doubt true that several of them would not be able to do so; he added that if a man could not give such security, he was not going to be benefited by any fixity of tenure and there was no use giving fixity to such persons. Questioned as to whether the Mappilla rebellion of 1921 was the result of agrarian troubles he said that agrarian troubles were not the cause and that it was mainly due to the fact that there was considerable preaching of political doctrine against the British Government. As an example he stated that the ignorant Mappillas were led to believe that while the British guns had a range of only 1,500 yards, Ghandi's *charka* would go 7,500 yards. He himself had no grievances against his janmi, though he was recently evicted from one of his lands, because he refused to pay enhanced michavaram. He, however, thought that, though the janmis left to themselves, were good, they were mostly in the hands of kariatthans and that that state of affairs produced ill-feeling.

The next person examined was the *Karanmulpad* of *Manjeri*, a considerable janmi. He and his manager who is a retired taluk head clerk said that the janmis were in a very difficult position as regards lands which have been planted on. They instanced the case of a demise by their tarwad of only 30 acres of paramba over which improvements have been made to the value of nearly one lakh and fifty thousand rupees, which amount the janmi was unable to pay. The tenant taking advantage of this had not been paying the rent regularly and has failed to renew the lease with the result that the janmi was entirely at the mercy of the tenant. The manager also referred to nearly 400 cases of demands for rent of one or two *sanams* each of which had been

returned by the collecting agent owing to the default of the tenants to pay up. Such rents, it seems, are difficult to collect and the tenants mostly neglect to pay them, knowing full well that the janmi would have to spend very much more than the rent itself to collect the same if he went to court. Most of these rents related to holdings which were kudiyruppus. The manager, however, when asked whether he found more difficulty in dealing with the Mappilla tenants than with the Hindu tenants, stated that if treated properly and with some consideration the Mappillas were better tenants than the Hindus.

II.—Kottakkal.

At *Kottakkal* the President's attention was specially drawn to the fact that a large number of houses next to the kovilagam had tiled roofs including the roofs of *paripuras*. One of the charges made against the janmis is that even for putting up a tiled roof their consent was necessary. The fourth Raja of Kottakkal stated that if that was so, such a large number of tiled houses would not be found in the neighbourhood of the kovilagam. On inquiry it was found that at this place, the verumpattakars generally get half the gross yield for their share besides the entire straw, only half the gross yield being paid to the janmi as rent, partly out of the first crop and partly out of the second crop.

III.—Poomulli.

At *Poomulli*, the senior Nambudiripad of the place stated that giving fixity of tenure to the kanamdars was altogether against his wishes, that he was not for granting any concession to the kanamdars; that he himself never evicted his tenants unreasonably, but that it is just possible that there were janmis who do so occasionally. He thought that that was a matter which was so insignificant that no legislation was necessary. Questioned as to a particular case of eviction against a tarwad of which Mr. Ramunni Menon, a District Munsif, is a member and to which one previous witness, Mr. Kavil Panju Nayar, had made special reference, the senior Nambudiripad said that he had reason to believe that the karnavan of that family had set up the Mappillas against him and that he had also insulted him openly by holding a meeting of the tenants' association, and making abusive speeches in a land belonging to the Nambudiripad without even his permission. He stated that such acts were against the *Kana-Janma Mariyoda* on the basis of which kanams with very low michavaram had been granted, and that giving fixity of tenure in such cases would be merely giving away the property of the janmi to the kanamdar without any good reason. He also complained about the difficulty of collecting small rents.

IV.—Punnathoor.

At *Punnathoor* near *Guruvayoor*, the President had a long conversation with the Raja of the place. He also complained that the smaller rents were practically non-recoverable and that the janmis were at the mercy of the tenants who had taken parambas and planted trees thereon. He was, however, unable to suggest any remedy for this state of affairs. He could think of no other way except the fear of eviction by which the tenants could be made to pay up regularly. He stated that in this region the average number of coconut trees planted on an acre was about 60 unlike in the case of North Malabar where very many more trees were planted on an acre. Asked whether the janmis would agree to give fixity of tenure to kanamdars if they gave half of the extra profit they were making out of the land after deducting the assessment and interest on the kanam amount, either as michavaram or as renewal fee the janmi did not give a definite reply but doubted about the kanamdars agreeing to the proposition.

V.—Kollengode.

At *Kollengode*, the President examined two verumpattamdars. One of them *Chakkungal Nannu Meron* held 500 paras of land on verumpattam. According to him 5 to 7 *edangalis* only were necessary for sowing a para of land though it was called *one para seed land*. He stated that 100 paras seed land would yield, if it was double-crop land, 1,000 paras for the first crop and 800 paras for the second crop, that the drying would reduce the quantity by 15 per cent. According to him, if half gross yield is given to the tenant it would be a proper share to cover the cultivation expenses and also the tenant's profit. Three and a half times dry seed was necessary for the cultivation expenses in the hilly parts and 2½ times in other places. Part of the rent is generally paid in green paddy but mostly it is paid in dry paddy. Ten paras (1 acre) of land generally yield about 30 bundles of straw worth Rs. 7½ for each crop. He used all the straw got in the first crop for his cattle and he sold what he got in the second crop. He stated that only 10 per cent of the present-day verumpattamdars would be able to give security for two years' rent, that most of them have to borrow even for seeds paying from 80 to 90 per cent interest, that only 40 per cent of the present-day tenants will be able to pay the present rate of rents regularly even if given fixity of tenure and that the others will have to vacate after one or two years.

The next man examined was *Mr. Damodara Menon*. He is cultivating lands as the agent of the Raja of Kollengode. According to him, 500 paras double crop land will give a gross yield of 9,000 paras, that the cost of cultivation including the proportionate value of bulls, etc., would be 3,500 paras. For cultivating such an extent of land, about Rs. 1,000 worth of bulls would have to be purchased and they could be used only for about four years and then sold for half their price.

(2)

Serial number and name of janmi.	Total extent of janm holdings.	Total assessment.	Taluk in which janm lands are situated.	Number of kanams to be renewed (each year 1916-26).	Number of kanam and renewal deeds executed (each year 1904-16).	Number of renewal deeds executed (each year 1916-26).	Number of		Number of eviction suits filed by janmis (1916-26).
							Melcharth executed (1916-26).	'Karars to lease' executed (1916-26).	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
1. Vengayil Chathukutty Nayanar.	ACS. Over 2 lakhs roughly (unoccupied dry included).	Rs. A. P. 10,000 0 0	Chirakkal taluk.	1916 to 1926—Nil.	1904 to 1916—Nil.	1916 to 1926—Nil.	1916 to 1926—Nil.	1916 to 1926—Nil.	1916 to 1926—Nil.
2. Kalliat Thazath Veetil Chathukutty Nambiyar.	36,679	6,200 0 0	Kottayam and Chirakkal taluks.	1916 to 1926—Nil.	1904 to 1916—Nil.	1916 to 1926—Nil.	Nil.	Nil.	Nil.
Sultan Adi Raja Ayisha Beebi of Cannanore.	About 5,000	10,811 14 2 (exclusive of inam lands).	Chirakkal, Kottayam and Calicut taluks.	1916 to 1926—Nil.	1905 1 1907 1 1908 1 1910 1 1911 3 1912 1 1913 1 1916 1	1916 229 1917 209 1918 106 1919 351 1920 103 1921 475 1922 261 1923 125 1924 99 1925 112 1926 254	Nil.	1916 6 1917 8 1918 4 1919 11 1920 2 1921 6 1922 7 1923 4 1924 7 1925 4 1926 4	1916 11 1917 15 1918 8 1919 11 1920 4 1921 3 1922 23 1923 21 1924 16 1925 14 1926 21
4. Sulapani alias Kolathur Moopil Warier.	About 6,000	13,000 0 0	Walluvanad, Ernad, Pon-nani and Palgati taluks and also in the Madura district.	1916 to 1926—480	1904 5 1905 6 1906 8 1907 3 1908 8 1909 5 1910 7 1911 8 1912 5 1913 7 1914 8 1915 8	1916 9 1917 8 1918 2 1919 10 1920 7 1921 2 1922 } Nil 1923 } 1924 } 1925 } 1926 }	Nil.	Nil.	7
5. Chirakkal Kovilagath Rama Varma Raja.	About 30,000	46,716 7 5	Chirakkal, Kottayam, Kurumbranad and Calicut taluks. Also in the Kasargad taluk in South Kanara and French Mahe.	1915 17 1916 2 1920 2 1921 2 1922 4 1923 8 1924 5 1925 7 1926 5	1904 2 1905 2 1906 1 1909 1 1910 2 1911 7 1912 1 1913 3 1914 1 1915 20 1916 1	1916 10 1917 8 1918 11 1919 21 1920 19 1921 14 1922 29 1923 42 1924 2 1925 1 1926 2	1916 3 1917 3 1918 6 1919 14 1920 9 1921 8 1922 10 1923 12 1924 1 1925 1	Nil.	..
6. Manniledathil Ramanunni alias Valiya Nayar Calicut.	72,294	6,000 0 0	Calicut and Ernad taluks.	About 300 up to 1926.	About 100 during the period.	About 85 up to 1926	Nil.	Nil.	3
7. Puthiya Madathumal Peringati Mayan Kunhamad.	Unable to give extent.	About 3,000 0 0	Kurumbranad taluk.	Nil.	About 20 each year.	About 20 each year.	5	..	About 25
8. Varayal Nayar ..	3,594.27	5,804 4 6	Wynaad and Kottayam taluks.	Nil.	Nil.	Nil.	Nil.	Nil.	..
9. Bran Ali ..	More than 100 acres.	Nearly 250 0 0	Wynaad taluk.	..	..	..	..	..	..
10. E. P. Sankaranarayan Embrandiri.	1,096.96	587 1 0	Do.	..	..	..	..	..	..

Number of eviction suits (1916—1926).					Number of decrees executed (1916—26).	Number of kanams created before 1852 now in the possession of the original family. (17)	Kuzhikanam.		Verumpattam in the same family on 1st July 1927.			
Decreed ex-parte.	Decided on contest.	With-drawn or compromised.	Judgment given				Number of holdings.	Ex- tent.	For 10 to 19 years.		For 20 years and more.	
			For plaintiff.	For defendant.					Number.	Ex- tent.	Num- ber.	Ex- tent.
(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)	(23)
1916 to 1926—Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	Not possible to say.	ACS.	Nil.	ACS.	Nil.	ACS.
Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	Nil.	1,808	3,072	399	1,200	399	1,200
1917 3 1918 1 1919 1 1920 1 1923 2 1924 2 1925 1 1926 3	Nil.	1916 3 1917 4 1918 3 1921 6 1922 11 1923 8 1924 6 1925 2	83	7	1916 7 1917 10 1918 5 1919 9 1920 4 1922 6 1923 4 1924 5 1925 1 1926 4	Nil.	2,126	(Not given).	..	263	263	..
..	..	1	6	..	7	About 400 (no information available as to whether in possession of original grantees).	300	600	150	500	60	200
Difficult to give information shown under each head.						Nil.	Cannot give accurate figures, roughly 5,100 kuzhi-kanam tenants and 3,125 verumpattam tenants.					
..	..	..	..	..	..	About 63 in Calicut taluk.	..	..	About 42.	..	About 30	..
..	About 8	3 or 4 compromised.	All the cases.	..	About 15	1	Not given.	..	..	..	..	..
..	..	..	..	..	..	..	..	..	..	..	..	..
..	..	..	..	..	..	..	..	..	..	..	..	..
..	..	..	..	..	..	..	12	..	10	..	..	..

Serial number and name of janmi.	Total extent of janm holdings.	Total assessment.	Talaks in which janm lands are situated.	Number of kanams to be renewed (each year 1916-1926).	Number of kanam and renewal deeds executed (each year 1904-16).	Number of renewal deeds executed (each year 1916-26).	Number of		Number of eviction suits filed by janmis (1916-26).
							Meloharths executed (1916-26).	'Karars to lease' executed (1916-26).	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
11. Kurumathu Parameswara Nambudiripad.	ACS. 5,615.24 (joint patta 2,620.79)	RS. A. P. 384 5 10	Chirakkal and Kottayam taluks.	1916 49 1917 40 1918 34 1919 47 1920 35 1921 33 1922 37 1923 36 1924 38 1925 36 1926 34	1904 6 1905 3 1907 2 1909 1 1911 1 1912 3 1917 5 1914 2 1915 2 1916 8 1925 19 1926 11	1916 8 1917 13 1918 28 1919 8 1920 11 1921 7 1922 8 1923 24 1924 49 1925 19 1926 11	1916 1 1918 1 1924 2 1925 2 1926 1	Nil.	1916 1 1917 2 1918 3 1919 2 1920 2 1923 1 1924 1 1925 1 1926 1
12. Punnasseri Nambi alias Nara-yanan.	1,291.29	2,643 0 0	Walluvanad, Ernad and Ponnani taluks.	1916 292 1917 243 1918 241 1919 241 1920 238 1921 250 1922 229 1923 217 1924 208 1925 200 1926 162	1904 5 1905 2 1906 11 1909 13 1910 1 1911 1 1912 2 1915 58 1916 51 1925 38 1926 12	1916 51 1917 13 1919 3 1920 1 1921 23 1922 13 1923 11 1924 8 1925 38 1926 12	Nil	Nil.	1916 3 1917 2 1919 1 1921 2 1922 3 1925 1 1926 2
13. Mappilloth alias Makkattilath Vasudeva Nambudiri.	991.61	1,263 14 0	Calicut taluk.	303 (includes 20 ottidars)	176 roughly.	152 roughly.	1 in 1921	Nil.	1925 1
14. Kizhedath Kesava Menon.	674.84	2,024 0 0	Ponnani and Calicut taluks.	1916 40 1917 3 1918 4 1919 5 1920 1 1921 14 1922 9 1923 7 1924 2 1925 4 1926 5	1904 1 1905 3 1906 4 1907 5 1908 1 1909 14 1910 9 1911 7 1912 2 1913 4 1914 5 1915 9 1916 2	1916 2 1917 5 1918 7 1919 9 1920 6 1921 10 1922 8 1923 4 1924 9 1925 4 1926 4	1923 2 1924 2 1925 1 1926 1		1917 8 1918 5 1919 8 1920 10 1921 6 1922 7 1923 9 1924 6 1925 6 1926 4
15. Blahayil Kandunni Nayar.	1,756.41 roughly (156.43 unassessed)	4,598 15 0	Ponnani taluk	1916 128 1917 1 1919 2 1920 7 1921 1 1922 1 1923 1 1925 1	1904 4 1905 2 1907 3 1908 8 1909 1 1910 1 1911 1 1913 1 1914 1 1915 2 1916 8	1916 8 1917 53 1918 17 1919 72 1920 12 1921 14 1922 11 1923 4 1924 5 1925 3 1926 3	..	..	1916 1 1918 2 1919 5 1920 5 1921 4 1922 1 1926 1
16. P. Vasudevan Bhattathripad.	1,100.00	2,500 0 0	Ernad and Ponnani taluks.	1916 85 1917 16 1918 10 1919 14 1920 10 1921 14 1922 11 1923 17 1924 6 1925 15	1904 18 1905 7 1906 3 1907 14 1908 6 1909 18 1910 11 1911 13 1912 4 1913 14 1914 9 1915 7	1916 10 1917 9 1918 7 1919 1 1920 3 1923 4 1925 5	..	..	..
17. Pannathur Goda-Sankara Valia Raja.	6,500	13,452 3 0	Ponnani taluk.	1916 293 1917 476 1918 278 1919 150 1920 111 1921 114 1922 93 1923 108 1924 90 1925 137 1926 200	1904 293 1905 476 1906 278 1907 150 1908 111 1909 114 1910 93 1911 108 1912 90 1913 137 1914 210 1915 234 1916 137	1917 365 1918 244 1919 213 1920 240 1921 185 1922 195 1923 41 1924 84 1925 67 1926 95	Nil .. Nil ..	..	1920 2 1921 3 1922 4 1923 2 1924 6 1925 8 1926 8

Number of eviction suits (1916-26).					Number of decrees executed (1916-26).	Number of kanams created before 1852 now in the possession of the original family. (17)	Kuzhikanam.		Verumpattam in the same family on 1st July 1927.			
Decreed ex-parte. (11)	Decided on contest. (12)	With-drawn or compromised. (13)	Judgment given				Number of holdings. (18)	Ex-ent. (19)	For 10 to 19 years.		For 20 years and more.	
			For plaintiff. (14)	For defendant. (15)					Number. (20)	Ex-ent. (21)	Num-ber. (22)	Ex-ent. (23)
Nil.	1916 1 1917 2 1918 3 1919 2 1920 2 1923 1 1924 1 1925 1 1926 1	1917 1 1918 1 1920 1 1923 1 1924 1 1925 1 1926 1	1916 1 1917 1 1918 2 1919 2 1920 1 1925 1 1926 1	Nil.	1916 1 1917 2 1918 3 1919 2 1920 1 1926 1	None so far as existing records show.	400	ACS. 450 roughly.	Not possible to say at present.			
Nil.	12	5	11	1	6	124	..	..	3	3	29	25-25
..	..	1	..	..	..	About 21	4	5	..	..	..	..
Nil.	69	15	54	..	54	20	5	4	40	105	20	46
..	..	5	14	..	11	Unable to say.	..	..	118	320	224	430.
..	..	..	..	..	..	26	..	..	109	75	36	35
1920 2	..	1924 3 1926 1	1920 2 1921 3 1922 4 1923 2 1924 6 1925 6 1926 4	Nil.	1920 2 1921 3 1922 4 1923 2 1924 1 1925 1 1926 2	..	..	..	50	180	80	350

Serial number and name of janmi.	Total extent of janm holdings.	Total assessment.	Taluku in which janm lands are situated.	Number of kanams to be renewed (each year 1916-26).	Number of kanam and renewal deeds executed (each year 1904-16).	Number of renewal deeds executed (each year 1916-26).	Number of		Number of eviction suits filed by janmis (1916-26).
							Melobarths executed (1916-26).	'Karars to lease' executed (1916-26).	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
18. Poomulli Manakkal, Narayana Nambudiripad.	acs. 18,000 roughly.	Rs. A. P. 35,000 roughly.	Palghat, Walluvanad, Ponnani, Ernad and Calicut taluks.	1916 277 1917 78 1918 107 1919 103 1920 107 1921 121 1922 57 1923 171 1924 110 1925 106 1926 154	1904 131 1905 75 1906 108 1907 100 1908 107 1909 122 1910 56 1911 171 1912 103 1913 86 1914 149 1915 39	1916 176 1917 110 1918 151 1919 154 1920 140 1921 23 1922 12 1923 106	Nil ..	Nil ..	1916 5 1917 1 1918 1 1919 1 1920 2 1921 3 1922 2 1923 2 1924 9 1925 1 1926 2
19. The Valiya Thamburatti, Calicut Kishakke Kovilagan.	34,872	50,000 (case not included in assessment.)	Walluvanad, Ponnani, Ernad, Palghat, Calicut and Kurumbra-nad taluks.	1916 2,260 1917 2,142 1918 2,074 1919 2,099 1920 2,120 1921 2,192 1922 2,160 1923 2,314 1924 2,240 1925 2,254 1926 2,400	1904 195 1905 136 1906 137 1907 250 1908 249 1909 283 1910 217 1911 236 1912 265 1913 191 1914 267 1915 168	1916 237 1917 250 1918 293 1919 179 1920 244 1921 270 1922 114 1923 282 1924 194 1925 151 1926 255	Nil ..	Nil ..	1916 24 1917 24 1918 32 1919 31 1920 29 1921 17 1922 13 1923 20 1924 17 1925 21 1926 17
20. Kanambra Nayar.	Palghat 6,293-22 Wallu- nad 1,849-40	5,127 12 0 2,251 9 0	Palghat and Walluvanad taluks.	1916 122 1917 8 1918 9 1919 6 1920 6 1921 1 1922 15 1923 44 1924 4 1925 2 1926 2	1904 13 1905 14 1906 4 1907 8 1908 11 1909 7 1910 15 1911 42 1912 4 1913 5 1914 5 1915 19	1916 10 1917 12 1918 3 1919 6 1920 9 1921 6 1922 1 1923 43 1924 6 1925 4 1926 2	Nil ..	Nil ..	Nil ..
21. Orupalasseri Manakkal BavaJama Nambudiripad.	About 2,000	About 3,000	Walluvanad, Palghat and in Cochin State also.	1916 1 1917 1 1918 1 1919 3 1920 1 1921 14 1922 22 1923 24 1924 36 1925 16 1926 21	1904 1 1905 1 1906 5 1907 1 1908 1 1909 14 1910 24 1911 36 1912 16 1913 21	1916 42 1917 23 1918 24 1919 1 1920 1 1921 10 1922 12 1923 14 1924 4 1925 4 1926 1	Nil.	Nil.	1917 4 1918 3 1919 2 1920 2 1921 2 1922 1 1923 9 1924 4 1925 4 1926 1
22. Thavanar Manakkal Pamaran alias Bana Nambudiri.	1,400	3,770	Ponnani taluk.	1916 163 1917 10 1918 11 1919 18 1920 9 1921 10 1922 18 1923 13 1924 8 1925 5 1926 19	1904 12 1905 7 1906 10 1907 11 1908 18 1909 9 1910 10 1911 18 1912 13 1913 8 1914 5 1915 19	1916 12 1917 23 1918 8 1919 8 1920 18 1921 14 1922 5 1923 4 1924 1 1925 3 1926 3	Nil.	Nil.	17
23. Vengat Mannakkal Thattannarayana alias Thaypan Nambudiripad.	2,371-61	4,210 7 0	Ponnani and Walluvanad taluks.	568	328	10	..	..	10
24. Kadanpettan Manakkal Narayana Nambudiripad.	2,700	3,700	Walluvanad-Palghat and Ernad taluks.	361	164	122	..	118	6

Number of eviction suits (1916-26).					Number of decrees executed (1916-26)	Number of kanams created before 1852 now in the possession of the original family. (17)	Kushikanam.		Verumpattam in the same family on 1st July 1927.			
Decreed ex-parte. (11)	Decided on contest. (12)	With-drawn or compromised. (13)	Judgment given				Number of holdings. (18)	Ex-tent. (19)	For 10 to 19 years		For 20 years and more.	
			For plaintiff. (14)	For defendant. (15)					Number. (20)	Ex-tent. (21)	Num-ber. (22)	Ex-tent. (23)
Nil.	28	Nil.	28	Nil.	1917 6 1918 1 1919 1 1921 2 1922 1 1923 2 1924 4 1925 6 1926 2	Palghat 160 Walluvanad 12 Ponnani 78	Nil.	acs. Nil.	490	acs. Not availa-ble.	854	acs. Not availa-ble.
1916 4 1924 1 1925 1	Nil.	1917 2 1918 3 1919 1 1920 6 1921 1 1922 2 1923 1 1924 3 1925 1	1916 14 1917 18 1918 29 1919 34 1920 22 1921 10 1922 15 1923 23 1924 12 1925 23 1926 16	1917 1 1919 1	1916 15 1917 17 1918 24 1919 31 1920 14 1921 22 1922 14 1923 16 1924 19 1925 16 1926 20	Ernad 217 Ponnani 29 Palghat 81 Walluvanad 53 Calicut 129 Kurumbra-nad 6	Ernad 818 Ponnani 6 Walluva-nad 41 Palghat 221 Calicut 14	975 3 16½ 108 7½	300	500	388	700
..	..	..	..	..	..	Palghat 2 Walluva-nad 12	Palghat 18 Walluva-nad 3	70 15	127 23	..	298 31	..
17	9	2	8	1	25	Not given.	Nil.	Nil.	Not available.			
8	4	5	..	..	11	Do.	Nil.	Nil.	Do.			
2	8	..	8	..	10	Do.	Nil.	Nil.	..	..	18	.
1	4	1	5	..	4	150	Nil.	Nil.	30	..	60	.

Serial number and name of janmi.	Total extent of janm holdings.	Total assessment.	Taluk in which janm lands are situated.	Number of kanams to be renewed (each year 1916-26).	Number of kanam and renewal deeds executed (each year 1904-16).	Number of renewal deeds executed (each year 1916-26).	Number of		Number of eviction suits filed by janmis (1916-26).
							Melharth executed (1916-26).	'Karars to lease' executed (1916-26).	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
25. Mangada Kovilagar.	ACS. Not given.	Rs. A. P. Not given.	Not given ..	1916 42 1917 20 1918 16 1919 21 1920 66 1921 29 1922 32 1923 12 1924 18 1925 49 1926 32	1904 42 1905 20 1906 16 1907 21 1908 66 1909 29 1910 32 1911 12 1912 18 1913 49 1914 32 1915 42 1916 21	1916 21 1917 27 1918 29 1919 13 1920 21 1921 1 1922 18 1923 21 1924 5 1925 29	Nil.	1916 2 1917 4 1924 6 1926 1	11
26. Varikkumaneheri Manakkal Narayanan Nambudiripad.	8,744-46	11,692 6 0	Walluvanad, Palghat and Ponnani taluks.	1,504	613	515	2	..	4
27. Tirunavai Itti-thayan Vadyan Nambudiri.	Not possible to give extent.	6,045 13 0	Ponnani and Ernad taluks.	Not given.	1904 13 1905 40 1906 11 1907 6 1908 24 1909 6 1910 14 1911 7 1912 13 1913 12 1914 33 1915 12	1914 21 1917 86 1918 10 1919 9 1920 20 1921 1 1922 9 1923 29 1924 12 1925 4 1926 17	Nil.	Nil.	1916 4 1917 1 1918 1 1919 6 1920 2
28. Kannothe Thasath Chanda Nambiyar.	Do	1,5 0 0 0	Chirakkal and Kottayam taluks.	1	Nil.	Nil.	1	..	Nil.
29. Ayilliath Kola-purath Krishnan Nambiyar.	Do.	1,800 0 0	Do.	Nil.	Nil.	Nil.	Nil.	Nil.	1925 1
30. Komachenkandy Mundayodhan Narayan Nayar.	568 (wet and dry.)	1,200 0 0	Kottayam and Kurumbra-nad taluks.	Nil.	Nil.	199	9	..	13 (includes 9 filed by janmis and tenants together).
31. Chandloth Kudali Thasath Kunhi Kamaran Nambiyar.	578-90	2,233 7 0	Kottayam taluk.	1916 21 1917 22 1918 20 1919 19 1920 18 1921 20 1922 19 1923 18 1924 16 1925 19 1926 16	(Renewal deeds only). 1904 8 1905 1 1906 1 1907 2 1908 1 1909 1 1910 2 1911 1 1912 1 1913 1 1914 2	1916 1 1918 1 1919 1 1922 1 1923 1	Nil.	Nil.	..
32. Kutthiravattath Appu Kuttan Thampian alias Puliyakot Mootha Nayar.	3,117-83	5,894 12 11	Palghat, Walluvanad and Ernad taluks.	1916 21 1917 21 1918 22 1919 20 1920 20 1921 22 1922 20 1923 23 1924 24 1925 26 1926 26	1904 4 1905 8 1906 13 1907 7 1908 9 1909 9 1910 16 1911 58 1912 20 1913 45 1914 27 1915 29	1916 37 1917 22 1918 11 1919 11 1920 8 1921 13 1922 8 1923 40 1924 33 1925 48 1926 70	1923 1 1924 5 1925 14 1926 6	Nil.	1917 2 1918 2 1919 6 1920 5 1921 3 1922 2 1923 1 1924 1 1925 8 1926 6

Number of eviction suits (1916-26).					Number of decrees executed (1916-26).	Number of kanams created before 1862 now in the possession of the original family. (17)	Kushikanam.		Verumpattam in the same family on 1st July 1927.			
Decree ex-parte.	Decided on contest.	With-drawn or compromised.	Judgment given				Number of holdings.	Ex-tent.	10 to 19 years.		20 years and more.	
			For plaintiff.	For defendant.					Number.	Ex-tent.	Num-ber.	Ex-tent.
(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)	(23)
..	..	..	..	..	11	15	Nil.	ACS. Nil.	95	ACS. ..	256	ACS. ..
3	1	Nil.	4	..	3	666	..	..	..	..	..	..
Nil.	14	1	12	2	12	Nil.	Not given.		25	..	24	..
..	..	..	..	..	..	Nil.	Nil.		..	..	..	..
..	..	..	1	..	1	Nil.	Not given.		..	..	..	..
..	..	1	12	..	12	Nil.	Kottayam taluk—245 Kurumbra-nad taluk—18	500 7	..	..	..	..
..	..	..	..	..	..	Nil.	Kottayam taluk—430	95	..	..	147	95
1922 1 1925 1	1918 1 1919 4 1920 2 1921 2 1924 1 1925 8 1926 5	1917 1 1920 1 1922 1 1925 2 1926 1	29	Nil.	13	Palghat-30	Nil.	Nil.	Palghat taluk—4 Walluva-nad--taluk 28 Ernad taluk—Nil.	9-80 163-3 ..	4 16 ..	9-8 5 ..

Serial number and name of janmi.	Total extent of janm holdings.	Total assessment.	Taluka in which janm lands are situated.	Number of kanams to be renewed (each year 1916-26).	Number of kanam and renewal deeds executed (each year 1904-26).	Number of renewal deeds executed (each year 1916-26).	Number of		Number of eviction suits filed by janmis (1916-26).
							Melohartha executed (1916-26).	Karars to lease executed (1916-26).	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)
33. Kavalappara Moopil Nayar.	15,542-41	Rs. 24,201 3 11	Walluvanad and Palghat taluks.	1916 2 1917 294 1918 135 1919 147 1920 122 1921 116 1922 281 1923 133 1924 50 1925 99	1904 3 1905 318 1906 147 1907 149 1908 127 1909 150 1910 271 1911 133 1912 52 1913 106 1914 228 1915 126	1916 131 1917 335 1918 158 1919 191 1920 168 1921 77 1922 182 1923 178 1924 171 1925 140	Nil ..	Nil ..	1916 1 1917 2 1918 1 1919 1 1920 2 1922 2 1924 1
34. Manjeri Karanamalpad.	3,348-31	8,288 5 0	Ernad and Walluvanad taluka.	1916 9 1917 10 1918 22 1919 18 1920 27 1921 20 1922 18 1923 25 1924 18 1925 49 1926 29	1904 8 1905 21 1906 28 1907 22 1908 35 1909 28 1910 27 1911 25 1912 30 1913 45 1914 31 1915 21	1916 42 1917 11 1918 23 1919 32 1920 15 1921 20 1922 5 1923 14 1924 14 1925 20 1926 30	1916 7 1917 2 1918 3 1919 2 1920 4	Nil ..	1917 1 1918 3 1919 2 1920 1 1921 1 1922 1 1925 2
35. Damodaran alias Kuthiravattath Nayar.	10,788-00	About 21,587 0 0	Palghat and Walluvanad taluks.	1916 483 1917 45 1918 87 1919 88 1920 94 1921 47 1922 46 1923 26 1924 47 1925 86 1926 105	1904 133 1905 48 1906 93 1907 83 1908 94 1909 44 1910 44 1911 35 1912 41 1913 55 1914 101 1915 116	1916 163 1917 200 1918 84 1919 93 1920 141 1921 110 1922 71 1923 45 1924 36 1925 67 1926 83	1924 2 1925 1	Nil ..	1916 3 1917 3 1918 7 1919 2 1920 5 1921 5 1922 1 1923 5 1924 2 1925 1 1926 1
36. Zamorin of Calicut.	45,108-00	1,12,311 0 0	Kurumbranad, Calicut, Ernad, Ponnani, Walluvanad and Palghat taluks.	Nil ..	1904 763 1905 721 1906 747 1907 706 1908 661 1909 813 1910 544 1911 558 1912 227 1913 380 1914 211	1917 57 1918 254 1919 762 1920 560 1921 711 1922 609 1923 641 1924 675 1925 674 1926 740	Nil ..	4 ..	1916 2 1917 19 1918 152 1919 80 1920 59 1921 42 1922 50 1923 98 1924 83 1925 78 1926 57
37. Ulanat Krishna Moortha Pannikar.	..	13,000 0 0	Walluvanad and Ponnani taluks also in Cochin State.	530	About 300	312	Nil ..	..	4
38. Nilambur Kovilgath Manavedan Valiya Tiramalpad.	100,782-84	46,666 9 1	Ernad, Walluvanad, Calicut, Gudalur and Wynad taluks.	1916 636 1917 20 1918 5 1919 14 1920 22 1921 19 1922 17 1923 66 1924 16 1925 17 1926 34	1904 24 1905 22 1906 14 1907 16 1908 22 1909 20 1910 12 1911 71 1912 20 1913 32 1914 35 1915 30 1916 44	1916 37 1917 25 1918 40 1919 50 1920 155 1921 45 1922 3 1923 11 1924 15 1925 30 1926 14	Nil ..	Nil ..	1916 13 1917 35 1918 31 1919 11 1920 35 1921 4 1922 1 1923 3 1924 11 1925 23 1926 16

Number of eviction suits (1916-26).					Number of decrees executed.	Number of kanams created before 1852 now in the possession of the original family. (17)	Kuzikanam.		Verumpattams in the same family on 1st July 1927.			
Decree ex-parte.	Decided on contest.	With-drawn or compromised.	Judgment given				Number of holdings.	Ext.	10 to 19 years.		20 years and above.	
			For plaintiff.	For defendant.					Number.	Ext.	Number.	Ext.
(11)	(12)	(13)	(14)	(15)	(16)	(17)	(18)	(19)	(20)	(21)	(22)	(23)
Nil.	7	2	9	Nil.	1917 1 1919 1 1920 2	Walluvanad taluk— 393 Palghat taluk— 205	Nil.	ACS. Nil.	328	ACS. 496-8	296	ACS. 303-20
1917 1 1918 1 1919 2 1925 2	5	1	5	Nil.	9	Ernad taluk— 3	Nil.	Nil.	11	..	5	..
Nil.	Nil.	1916 2 1917 1 1918 5 1919 2 1920 2 1921 1 1923 1	17	Nil.	17	Palghat taluk— 210 Walluvanad taluk— 39	Nil.	Nil.	13	193 paras of land.	41	1,064 paras of peramba land.
Not generally decided ex-parte	..		Not able to furnish.			..	..	..	..	..	..	..
2	2	..	4	..	3	400	Nil.	Nil.	..	..	..	..
1916 2 1917 2 1918 12 1920 21 1924 2 1925 4 1926 4	1916 5 1917 25 1918 4 1919 7 1920 13 1921 5 1922 1 1924 7 1925 6 1926 7	1916 4 1917 1 1920 4 1924 1 1925 3	1916 2 1917 2 1918 6 1919 2 1920 15 1921 1 1923 1 1924 5 1925 6 1926 2	1916 1 1925 1	1916 2 1917 11 1918 18 1919 4 1920 28 1921 1 1922 3 1924 9 1925 15 1926 6	(Records not available.)	71	Not available.	610	..	212	..

**Diwan Bahadur Krishnan Nayar's Bill as passed
by the Legislative Council.**

THE MALABAR TENANCY ACT, 1926.

ACT No. OF 1926.

WHEREAS it is expedient to define in certain respects, amend and declare the law relating to landlord and tenant in the Malabar district and whereas the previous sanction of the Governor-General has been obtained to the passing of this Act; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Malabar Tenancy Act of 1926. Short title.
- (2) It extends to the whole of the Malabar district except the Wynad. Local extent

2. In this Act unless there is something repugnant in the subject or context—

- (a) "Agricultural year" means the year commencing with the 16th March in any year and ending with the 14th of March of the following year. Agricultural year.
- (b) "Cultivate," with its grammatical variations, means cultivate by oneself or by the members of one's family or by hired labour. Cultivate.
- (c) "Eviction" means and includes redemption or recovery of possession of land demised or leased to a kanamdar or tenant. Eviction.
- (d) "Holding" means a parcel or parcels of land held by a tenant or kanamdar under a single instrument or engagement. Holding.
- (e) "Improvement" means any work or product of a work, which adds to the value of the holding, is suitable to it and consistent with the purpose for which the holding was let, mortgaged or occupied. Improvement.
- (f) "Kanam" means the consideration, in money or in kind, or partly in money and partly in kind, paid to the janmi by a kanamdar for his holding. Kanam.

Diwan Bahadur Krishnan Nayar's new Bill.

BILL No. 28 OF 1927.

THE MALABAR TENANCY BILL, 1927.

WHEREAS it is expedient to define in certain respects, amend and declare the law relating to landlord and tenant in the Malabar district and whereas the previous sanction of the Governor-General has been obtained to the passing of this Act, it is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Malabar Tenancy Act, 1927. Short title.
- (2) It extends to the whole of the Malabar district. Local extent

2. In this Act unless there is something repugnant in the subject or context—

- (a) "Agricultural year" means the year commencing with the 15th March in any year and ending with the 14th of March of the following year. Agricultural year.
- (b) "Cultivate," with its grammatical variations, means cultivate by oneself or by the members of one's family or by hired labour. Cultivate.
- (c) "Eviction" means and includes redemption or recovery of possession of land demised or leased to a kanamdar or tenant. Eviction.
- (d) "Holding" means a parcel or parcels of land held by a tenant or kanamdar under a single instrument or engagement. Holding.
- (e) "Improvement" means any work or product of a work, which adds to the value of the holding, is suitable to it and consistent with the purpose for which the holding was let, mortgaged or occupied. Improvement.
- (f) "Kanam" means the consideration in money or in kind, or partly in money and partly in kind, paid to the janmi by a kanamdar for his holding. Kanam.

(g) "Kanamdar" means a person who holds land under a janmi on payment of kanam to him and includes assignee and representative in interest of such person.

(h) "Kushikanam" means a tenancy created or continued by a landlord for the purpose of garden cultivation, by the planting of fruit trees, pepper, vine or other garden products.

(i) "Landlord" means a person under whom a tenant or kanamdar holds.

(j) "Lease" is a transfer of a right to enjoy a land made for a certain time expressed or implied in consideration of a price paid or promised, or of money, a share of crops or anything of value to be rendered periodically or on specified occasions to the transferor by the transferee who accepts the transfer on such terms, but does not include the lease of the mere usufruct of trees on the land. The transferor is called the lessor and the transferee is called the lessee. The word "lease" includes a sub-lease.

(k) "Melkanam" means a transfer of an interest in a holding in the possession of a tenant or kanamdar entitling the transferee to evict such tenant or kanamdar.

(l) "Michavaram" means whatever is agreed to be paid or delivered annually to a janmi by a kanamdar.

(m) "Renewal fee" means a fee or fees payable by a kanamdar or tenant to his landlord on renewal of his holding.

(n) "Rent" means whatever is lawfully payable or deliverable periodically to the landlord by the tenant in money or in kind or partly in money or partly in kind in respect of his holding.

(o) "Revenue" includes all public dues leviable on the land.

(p) "Tenant" means a person who, as lessee, or in good faith believing himself to be lessee, of land, is in possession thereof, and includes a verumpattam tenant, kushikanam tenant and assignee and representative in interest of such tenants but not a mortgagee.

(g) "Kanamdar" means a person who holds land under a janmi on payment of kanam to him and includes assignee and representative in interest of such person.

(h) "Kushikanam" means a tenancy created or continued by a landlord for the purpose of garden cultivation, by the planting of fruit trees, pepper vine or other garden products.

(i) "Landlord" means a person under whom a tenant or a kanamdar holds.

(j) "Lease" is a transfer of a right to enjoy a land made for a certain time, expressed or implied, in consideration of a price paid or promised, or of money, a share of crops or anything of value to be rendered periodically or on specified occasions, to the transferor by the transferee who accepts the transfer on such terms, but does not include the lease of the mere usufruct of trees on the land. The transferor is called the lessor and the transferee is called the lessee. The word "lease" includes a sub-lease.

(k) "Melkanam" means a transfer of an interest in a holding in the possession of a tenant or kanamdar entitling the transferee to evict such tenant or kanamdar.

(l) "Michavaram" means whatever is agreed to be paid or delivered annually to a janmi by a kanamdar.

(m) "Renewal fee" means a fee or fees payable by a kanamdar or tenant to his landlord on renewal of his holding.

(n) "Rent" means whatever is lawfully payable or deliverable periodically to the landlord by the tenant in money or in kind or partly in money or partly in kind in respect of his holding.

(o) "Revenue" includes all public dues leviable on the land.

(p) "Tenant" means a person who, as lessee, or in good faith believing himself to be lessee, of land, is in possession thereof, and includes a verumpattam tenant, kushikanam tenant and assignee and representative in interest of such tenants but not a mortgagee.

3. Nothing in this Act shall affect forest lands leased or demised for felling timber or for fugitive cultivation or for both or for tea, coffee and rubber plantation.

Forest lands
exempted.

4. Nothing in this Act shall affect lands in North Malabar held on kanam tenure.

Kanam in
North Mala-
bar exempted.

Nominal kanams which are charged over kuzhikanams or in leases of paddy lands shall not be deemed to be kanams for the purpose of this section.

5. Nothing in this Act shall apply to the janmam lands of janmis who own, on the date of the passing of this Act, ten acres or less of such lands under cultivation.

Janmis own-
ing ten acres
and less
exempted.

CHAPTER II.

OF THE RIGHT OF OCCUPANCY.

6. A cultivating kanamdar or a kuzhikanam or other tenant, who is in possession under a demise or lease made before or after the date of the passing of this Act, shall have a permanent right of occupancy in his holding and shall not be evicted therefrom except as provided in this Act.

OF PERMANENT RIGHT

6. A kanamdar or a kuzhikanam or other tenant under a demise or lease made before or after the date of the passing of this Act, shall have a permanent right in his holding and shall not be evicted therefrom except as provided in this Act.

7. A non-cultivating kanamdar or kuzhikanam tenant of a holding under a demise or lease which was made in or before 1853 and has since been periodically renewed shall have a permanent right therein and shall not be ejected from the same except as provided in this Act.

Provided that no tenant other than a kuzhikanam tenant shall have permanent right, unless he deposits with his landlord *mumpattam* or rent in advance for one year, for which he shall be entitled to interest at 6 per cent per annum.

8. The provisions of section 6 shall not apply to lands which, being cultivated by a janmi on the date of the passing of this Act, may thereafter be demised to a kanamdar or leased to a kuzhikanam or verumpattam tenant, or to land which, being reclaimed by the janmi after the date of the passing of this Act and cultivated continuously for a period of 12 years, may thereafter be demised to a kanamdar or leased to a kuzhikanam or a verumpattam tenant.

7. In the absence of any contract to the contrary, the tenant of a house, shop, warehouse, or any other building constructed by or at the expense of the landlord, together with the garden and compound appurtenant thereto, shall not have therein a permanent right.

9. In the absence of any contract to the contrary, the tenant of a house, shop, warehouse, or any other building constructed by or at the expense of the landlord, together with the garden and compound appurtenant thereto, shall not have therein a right of permanent occupancy.

No right of
occupancy in
buildings.

10. Nothing in this chapter shall affect the right of a janmi in any of his holdings—

- (1) to make irrigation channel, footpath, road and ways into adjacent and other holdings,
- (2) to work laterite and other quarries, and
- (3) to cut or use the usufructs of trees belonging to him.

Some savings
in respect of
janmi's
rights.

Provided that the tenant shall be entitled to a proportionate reduction of *michavaram* or rent if by the exercise of such right his profits are decreased.

CHAPTER III.

RENEWAL AND RENEWAL FEES.

11. If a kanamdar entitled to permanent right of occupancy under section 6 or to permanent right of tenure under section 7 does not surrender his holding under the provisions of this Act, the landlord shall be bound to grant and the tenant to accept on the termination of the kanam demise and thenceforward at the end of every successive term a renewal on payment of the renewal fee.

Renewal of
kanam

12. (1) The renewal fee payable by a kanam tenant on renewal of his demise shall be levied at the rate of one year's net produce of the land.

Renewal fee
payable by
kanam
tenant.

(2) The Local Government may from time to time prepare tables for the whole or part of the Malabar district, fixing the rate of renewal fee payable by a kanam tenant; such tables shall on publication in the Fort St. George and the Malabar District Gazettes be receivable in evidence and the rates therein specified or those mentioned in subsection (1) of this section, whichever rate is more favourable to the landlord, shall be the rate payable by the kanamdar for the renewal of his holding.

The Local Government may from time to time by like publication cancel or vary the tables so published.

13. If a kuzhikanam tenant entitled to a permanent right of occupancy or to a permanent tenure does not surrender his holding under the provisions of this Act, the landlord shall be bound to grant and the tenant to accept

CHAPTER III.

RENEWAL AND RENEWAL FEES.

8. If a kanamdar does not surrender his holding under the provisions of this Act, the janmi shall be bound to grant, and the kanamdar to accept, on the termination of the kanam demise and thenceforward at the end of every successive term, a renewal on payment of the renewal fee.

Renewal of
kanam.

9. The renewal fee payable by a kanamdar on renewal of his demise shall be levied at the rate of five times the Government revenue in respect of paddy lands and three times the Government revenue in respect of garden lands.

Renewal fee
payable by
kanamdar

10. If a kuzhikanam tenant, or other tenant whose tenancy is subject to renewal under custom, does not surrender his holding under the provisions of this Act, the landlord shall be bound to grant, and the tenant to accept, on the expiry of the term of the tenancy and thenceforward at the end of every successive term, a renewal on payment of the renewal fee.

Renewal of
kuzhikanam
and other
tenancies.

11. The renewal fee payable on renewal by a kuzhikanam tenant, or other tenant whose tenancy is subject to renewal under custom, shall be one year's rent.

Renewal fee
payable by
kuzhikanam
tenant or
other tenant.

on the expiry of the term of the tenancy and thenceforward at the end of every successive term a renewal on payment of the renewal fee.

14. The renewal fee payable by a kuzhikanam tenant on renewal shall be one year's rent.

CHAPTER IV.

OF MICHAVARAM AND RENT.

15. A kanamdar or a kuzhikanam tenant or any other cultivating tenant entitled to permanent right of occupancy under section 6 or permanent right of tenure under section 7 shall pay to the landlord michavaram or rent, as the case may be, according to the terms of the engagement under which he is holding on the date of the passing of this Act, until the same is revised under the provisions of this Act.

16. Where lands are let on verumpattam lease after the passing of this Act, the rent payable by the tenant to the landlord shall not exceed one-third of the net produce and the Government revenue payable thereon.

17. Where the rent is payable in kind it shall, in the absence of a contract to the contrary, be delivered at the landlord's granary in the village in which the holding is situated or at such other granary within six miles of the village as may be provided in that behalf by the landlord.

CHAPTER IV.

OF MICHAVARAM AND RENT.

12. A kanamdar or kuzhikanam tenant or any other tenant shall pay to the landlord michavaram or rent, as the case may be, according to the terms of the engagement under which he is holding on the date of the passing of this Act, until the same is revised under the provisions of this Act.

13. Where michavaram or rent is payable in kind it shall, in the absence of a contract to the contrary, be delivered at the landlord's granary in the village in which the holding is situated or at such other granary within six miles of the village as may be provided in that behalf by the landlord.

CHAPTER V.

OF ENHANCEMENT AND REDUCTION OF MICHAVARAM AND RENT, ETC.

18. The michavaram or rent payable by a kanamdar or a kuzhikanam or other tenant shall be liable to be revised according to the provisions of this chapter.

19. The landlord may, on the expiry of a period of twenty years from the date when the michavaram or rent was last fixed, claim an enhancement of the michavaram or

CHAPTER V.

OF ENHANCEMENT AND REDUCTION OF MICHAVARAM AND RENT, ETC.

14. The michavaram or rent payable by a kanamdar or a kuzhikanam or other tenant shall be liable to be revised according to the provisions of this chapter.

15. The landlord may, on the expiry of a period of twelve years from the date when the michavaram or rent was last fixed, claim an enhancement of the michavaram or

or rent fixed under the existing kanam demise or kuzhikanam or other lease only on one or more of the following grounds:—

(1) That, where the michavaram or rent is payable in money, there has been during that period a rise in the average local prices of staple food-crops in the taluk.

(2) That during that period the productive powers of the land held by the tenant have been increased by any improvement effected by, or at the expense of, the landlord.

(3) That the productive powers of the land held by the tenant have been increased by fluvial action.

Explanation.—'Fluvial action' includes a change in the course of a river rendering irrigation from the river practicable where it was not previously practicable.

Provided that no enhancement under clause (1) of this section shall raise the michavaram or rent by more than 12½ per cent of the amount previously payable for the holding.

20. A kanamdar or a kuzhikanam or other tenant may, on the expiry of a period of twenty years from the date of the last revision, claim reduction of michavaram or rent on one or more of the following grounds:—

(a) that the soil of the holding has, without the fault of the tenant, become permanently deteriorated by a deposit of sand or by other specific cause, sudden or gradual; or

(b) that, where michavaram or rent is payable in money, there has been during the said period a fall, not

rent fixed under the existing kanam demise or kuzhikanam or other lease, only on one or more of the following grounds:—

(a) that the area of the holding actually under cultivation is in excess of the area on which the michavaram or rent was previously fixed;

(b) that the yielding capacity of the land comprised in the holding has increased since the time when the current michavaram or rent was fixed from causes not merely temporary or casual;

(c) that the number of trees in the holding on which michavaram or rent is assessable has increased since the date of the current demise or lease;

(d) that where michavaram or rent is payable in money, there has been a substantial rise in the average local prices of the produce of the holding during the currency of the demise or lease.

Provided that when the excess of the area under cultivation or the increase in the yielding capacity of the land or in the number of assessable trees is due to reclamation or other works of permanent improvement effected by the kanamdar or tenant, the interest on the amount of money spent by the kanamdar or tenant in effecting such reclamations or other works of permanent improvement, calculated at 12 per cent per annum shall be allowed in favour of the kanamdar or tenant in enhancing the michavaram or rent, and

Provided also that no enhancement under clause (d) of this section shall raise the michavaram or rent by more than 12½ per cent of the amount previously payable for the holding.

16. A kanamdar or a kuzhikanam or other tenant may, on the expiry of a period of twelve years from the date of the last revision, claim reduction of michavaram or rent on one or more of the following grounds:—

(a) that the area of the holding has been diminished owing to causes which are not under his control and for which his own act or neglect has not contributed, such as the action of sea, river or lake or like causes;

(b) that the soil of the holding has, without his own fault or neglect, become permanently deteriorated;

due to a temporary cause, in the average local prices of staple food-crops in the taluk;

(c) that the rent payable by a verumpattam tenant exceeds two-thirds the net produce.

21. Notwithstanding anything in the foregoing sections of this Act, the court shall not in any case decree any enhancement or reduction of michavaram or rent which is in the circumstances of the case unfair or inequitable.

22. Every kanam demise granted to a kanamdar or its counterpart executed by the kanamdar after this Act comes into force shall contain—

- (a) the name, description and extent of the holding,
- (b) the interest on the kanam,
- (c) the amount of michavaram agreed upon,
- (d) the Government revenue and all local cesses, if any,
- (e) the renewal fees levied from the kanamdar.

23. Every kanamdar paying michavaram shall be entitled to a receipt specifying—

- (a) the date of payment,
- (b) the amount paid,
- (c) the period for which it is paid,
- (d) the holding in respect of which it is paid, and
- (e) such other particulars as may be necessary to elucidate the transaction.

24. Every kuzhikanam or verumpattam lease granted to a tenant or its counterpart executed by the tenant after this Act comes into force, shall contain—

- (a) the name, description and extent of the holding,
- (b) the amount of rent agreed upon,
- (c) the Government revenue and all local cesses, if any,
- (d) the renewal fees levied from the kuzhikanam tenant.

25. Every kuzhikanam or verumpattam tenant paying rent shall be entitled to a receipt specifying—

- (a) the date of payment,
- (b) the amount paid,
- (c) the period for which it is paid,
- (d) the holding in respect of which it is paid, and
- (e) such other particulars as may be necessary to elucidate the transaction.

26. The cost of stamp and registration of kanam, kuzhikanam and verumpattam grants and their counterparts to be executed by the landlord and the tenant, respectively, shall be borne by the tenant.

27. All rights of occupancy shall be heritable and shall be transferable by sale, gift or otherwise.

28. Renewal fees, arrears of michavaram or rent due to the landlord shall be a charge on the holding and shall have priority over all other charges on the same, save arrears of revenue due to the Government.

CHAPTER VI.

OF SURRENDERS AND EVICTIONS.

29. A kanamdar or a kuzhikanam or verumpattam tenant may, at the end of any agricultural year, surrender his holding to the janmi or the landlord by a document in writing registered.

The janmi or the landlord shall not be bound to accept the surrender unless notice has been given in writing to the janmi or landlord by the kanamdar or tenant of his intention to do so three months prior to the date of the expiry of the agricultural year and unless it be in respect of the entire holding and the whole of the arrears of michavaram or rent is also tendered at the time of the surrender. Nor shall he be bound to refund the kanam or tenant, the kanamdar or the kuzhikanam or verumpattam tenant, the value of his improvements.

30. A kanamdar or a kuzhikanam or verumpattam tenant entitled to permanent right of occupancy or permanent tenure right under sections 6 and 7 may, at the end

(c) that where michavaram or rent is payable in money, there has been a substantial fall in the average local prices of the produce of the holding during the currency of the demise or lease;

(d) that the number of assessable trees in the holding has substantially diminished by causes beyond his control and to which his own act or neglect has not contributed.

17. Notwithstanding anything in the foregoing sections of this Act, the court shall not in any case decree any enhancement or reduction of michavaram or rent which is, in the circumstances of the case, unfair or inequitable.

18. Every kanam demise granted to a kanamdar, or its counterpart executed by the kanamdar, after this Act comes into force, shall contain—

- (a) the name, description and extent of the holding,
- (b) the interest on the kanam,
- (c) the amount of michavaram agreed upon,
- (d) the Government revenue and all local cesses, if any, and
- (e) the renewal fees levied from the kanamdar.

19. Every kanamdar paying michavaram shall be entitled to a receipt specifying—

- (a) the date of payment,
- (b) the amount paid,
- (c) the period for which it is paid,
- (d) the holding in respect of which it is paid, and
- (e) such other particulars as may be necessary to elucidate the transaction.

20. Every kuzhikanam or lease granted to a tenant, or its counterpart executed by the tenant, after this Act comes into force, shall contain—

- (a) the name, description and extent of the holding,
- (b) the amount of rent agreed upon,
- (c) the Government revenue and all local cesses, if any, and
- (d) the renewal fees, if any, levied from the kuzhikanam or other tenant.

21. Every kuzhikanam or other tenant paying rent shall be entitled to a receipt specifying—

- (a) the date of payment,
- (b) the amount paid,
- (c) the period for which it is paid,
- (d) the holding in respect of which it is paid, and
- (e) such other particulars as may be necessary to elucidate the transaction.

22. All permanent rights shall be heritable and shall be transferable by sale, gift or otherwise.

23. Renewal fees, arrears of michavaram or rent due to the landlord shall be a charge on the holding and shall have priority over all other charges on the same, save arrears of revenue due to the Government.

CHAPTER VI.

OF SURRENDERS AND EVICTIONS.

24. A kanamdar or a kuzhikanam tenant at the end of the period of his demise or lease or of its last renewal, and any other tenant, may, at the end of any agricultural year, surrender his holding to the janmi or the landlord by a document in writing registered.

The janmi or the landlord shall not be bound to accept the surrender unless notice has been given in writing to the janmi or landlord by the kanamdar or kuzhikanam or other tenant of his intention to do so, six months prior to the date of the expiry, in the case of the kanamdar or kuzhikanam tenant, of the period of the said demise or lease or of its last renewal, and in the case of any other tenant, of the agricultural year, and unless it be in respect of the entire holding and the whole of the arrears of michavaram or rent is also tendered at the time of the surrender. Nor shall he be bound to pay the kanamdar or the kuzhikanam or other tenant the value of his improvements.

of any agricultural year, be evicted from the whole or a portion of his holding in any of the following cases :—

(a) If the holding or a portion thereof, not being the site of a residential house or the garden or compound appurtenant thereto, is required by the landlord—

(1) for the bona fide purpose of extending the residential house of himself or the members of his family, or for building a new and permanent house for the residence of himself or the members of his family; or

(2) for bona fide cultivation by himself, or for agricultural improvement, which requires capital outlay and which the tenant is not willing to undertake or is not capable of undertaking.

Provided that if the landlord fails to extend the residential house or build a new and permanent house or to cultivate or carry out the improvement or transfers on kanam, kuzikanam or verumpattam the land from which the kanamdar or tenant has been evicted, within three years from the date of the eviction, the previous kanamdar or tenant shall have the option of recovering and holding the same on the original tenure.

On eviction from a portion of a holding a tenant or kanamdar shall be entitled to a proportionate part of the kanam amount and the value of the improvements on such portion. But at his option he shall have the right of surrendering the whole of the holding and requiring the landlord to pay the kanam if any and the value of the improvements thereon.

The landlord shall give to the kanamdar or tenant notice by registered post of the intended eviction and the object thereof at least three months before the date of such eviction.

If on eviction any kanam amount or value of improvements has been paid to the tenant or kanamdar he shall, on exercising the option under the proviso of

covering and holding the land on the original tenure, repay to the landlord the amount paid to him or credited in his favour at the time of such eviction.

(b) If the kanamdar, kuzhikanam tenant or other tenant fails to pay the renewal fee payable on the holding for six months after it has fallen due.

(c) If a kanamdar or tenant fails to pay michavaram or rent for two years consecutively notwithstanding a demand made by a letter by registered post at any time after the first year's arrears have become due.

(d) If the tenant wilfully denies the landlord's title.

Explanation—A denial of the landlord's title under a bona fide mistake of fact is not wilful within the meaning of this clause.

(e) If the tenant intentionally and wilfully commits such acts of waste as are calculated to materially and permanently impair the value or the utility of the holding for agricultural purposes.

31. Where a kanamdar or tenant has incurred forfeiture on account of non-payment of renewal fees, michavaram or rent and the landlord sues to evict such kanamdar or tenant, if the kanamdar or tenant, at the first hearing of the suit or within such time as the court may fix in the circumstances of the case, pays into court the renewal fees, michavaram or the rent in arrears, together with the interest on the renewal fees, michavaram or the rent at 12 per cent per annum, and the landlord's costs in the suit, the court shall pass an order relieving the kanamdar or tenant against forfeiture and ordering payment of the amount deposited to the landlord and thereupon the kanamdar or tenant shall hold the land as if forfeiture had not occurred.

32. No melkanam shall be enforced except upon proof that the grantor prior to the grant had offered to the tenant in writing an option of a demise or lease on the terms of the melkanam and that the terms offered were reasonable and were not accepted by the tenant.

33. The provisions of Madras Act I of 1900 shall apply in all cases of eviction under this Act.

Relief against forfeiture.

When melkanam can be enforced.

Act I of 1900 to apply in cases of evictions.

25. A kanamdar or a kuzhikanam tenant on the expiry of the term of his demise or lease, and any other tenant at the end of any agricultural year, may be evicted from his holding in any of the following cases :—

(a) If the kanamdar, kuzhikanam tenant or other tenant fails to pay the renewal fee, if any, payable on the holding for six months after it has fallen due.

(b) If a kanamdar or tenant fails to pay michavaram or rent for one year notwithstanding a demand made by a letter by registered post at any time after it has become due.

(c) If the kanamdar or tenant wilfully denies the landlord's title.

Explanation—A denial of the landlord's title under a bona fide mistake of fact is not wilful within the meaning of this clause.

(d) If the kanamdar or tenant intentionally and wilfully commits such acts of waste as are calculated to materially and permanently impair the value or the utility of the holding for agricultural purposes.

Relief against forfeiture.

26. Where a kanamdar or tenant has incurred forfeiture on account of non-payment of renewal fees, michavaram or rent, and the landlord sues to evict such kanamdar or tenant, if the kanamdar or tenant, at the first hearing of the suit or within such time as the court may fix in the circumstances of the case, pays into court the renewal fees, michavaram or the rent in arrears, together with the interest on the renewal fees, michavaram or the rent at 12 per cent per annum, and the landlord's costs in the suit, the court shall pass an order relieving the kanamdar or tenant against forfeiture and ordering payment of the amount deposited to the landlord and thereupon the kanamdar or tenant shall hold the land as if forfeiture had not occurred.

Act I of 1900 to apply in cases of evictions.

27. The provisions of Madras Act I of 1900 shall apply in all cases of eviction under this Act.

CHAPTER VII.

MISCELLANEOUS.

34. Notwithstanding any contract to the contrary, in all cases where michavaram or rent is payable in kind, the measure shall be the standard measure of the locality recognized by the Government.

Measure to be standard measure.

35. The Collector of the district shall publish in the local official gazette at the beginning of each official year the average market price of paddy for the twelve months preceding the date of publication.

Collector to publish average market prices.

36. (1) The Local Government may make rules to carry out all or any of the purposes of this Act.

Power of Local Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing powers, they may make rules regulating all or any of the following matters:—

(a) the investing of courts of original jurisdiction with powers to try summarily suits for the recovery of rent or michavaram and the procedure to be followed in such suits;

(b) the appointment of assessors to be associated with the court for determining questions relating to enhancement or reduction of michavaram or rent or the amount of compensation to be paid under the provisions of this Act, the qualifications of such assessors, and the mode of selecting them for each case and the procedure to be followed in case of difference of opinion between the judge and one or more of the assessors.

CHAPTER VII.

MISCELLANEOUS.

28. The Collector of the district shall publish in the local official gazette at the beginning of each official year the average market price of paddy, coconuts and pepper for the twelve months preceding the date of publication.

Collector to publish average market prices.

(iv)

Mr. KOTIETH KRISHNAN'S BILL.

THE MALABAR TENANCY BILL.

WHEREAS it is necessary to consolidate and amend in certain respects the existing law regulating the relationship of janmi and tenant in the Malabar district, it is hereby enacted as follows:—

Clause 1.—This Act may be called the Malabar Tenancy Act of 1927.

Clause 2.—It extends to the whole of the Malabar district and shall come into force on the day of 1927.

CHAPTER I.

DEFINITIONS.

Clause 3.—(a) *Eviction* means recovery of land demised or leased by a demisor or lessor to a tenant.

(b) *Holding* means land or groups of land held under a single engagement or instrument evidencing a demise or lease.

(c) *Improvement* means any work or product of a work which adds to the value or yield of the holding, is suitable to it, and is consistent with the purpose for which the holding was demised or leased.

(d) *Janmi* means the owner of land, as distinguished from the holder of any subordinate tenure under him.

(e) *Demise* means the transfer by way of kanam under a registered instrument of a right to enjoy land or lands included in a holding, made for a certain time express or implied in consideration of a periodical payment of rent in money or in kind or partly in money and partly in kind, after deducting the interest on the kanam, to the transferor by the transferee, who accepts such transfer, on such terms.

The kanam is called the demise. The transferor is called the demisor and the transferee is called the demisee.

The term demise includes a sub-demise and the terms demisor and demisee include a sub-demisor and sub-demisee, respectively.

(f) *Land* means a property commonly called as nilam or paramba.

(g) *Lease of land* is a transfer by a registered instrument or other engagement, of a right to enjoy land included in a holding made for a certain time, express or implied in consideration of periodical payment of rent in money or in kind, or partly in money and partly in kind, to the transferor by the transferee, who accepts the transfer on such terms, but does not include the lease of the mere usufruct of trees on the land.

The transferor who transfers the right is called the lessor, and the person who accepts the transfer is called the lessee.

The terms lessor and lessee include sub-lessor and sub-lessee, respectively.

(h) *Manusham* means a fee payable by a demisee or lessee, to the demisor or lessor for granting a demise or lease.

(i) *Melcharth* means and includes a subsequent demise, sub-demise, lease or sub-lease, executed by a janmi, demisee or lessee entitling the grantee thereof, to evict a demisee or lessee out of his holding, under the provisions of this Act; and a person, in whose favour a melcharth is executed is called a melcharthdar.

(j) *Tenant* means a demisee or lessee, sub-demisee or sub-lessee under a janmi, demisee or lessee as the case may be.

(k) *Prescribed* means what is lawfully claimable under this Act or under any rule made under this Act.

(l) The terms *pay*, *payable* and *payment* used with reference to rent, include deliver, deliverable and delivery, respectively.

(m) *Rent* means what is lawfully payable in money or in kind or partly in money and partly in kind by a tenant to his demisor or lessor.

(n) The terms janmi, tenant, demisor, lessor, demisee or lessee shall include the tarwads, tavazhi, devaswams, stanams or corporations which such person or persons represent, and also include the assignees, legal representatives or other persons who acquire such legal rights by any legal methods prescribed by law.

CHAPTER II.

Clause 4.—A demisee or lessee or other tenant of land included in a holding, under a demise or lease, made

before or after the passing of this Act, shall not be evicted out of his holding except as provided for by this Act.

Clause 5.—Nothing in this Act shall affect forest lands, demised or leased for felling timber, or for fugitive cultivation or for both, except in cases where such lands were, or are demised or leased for agricultural purposes for twelve years or more.

Clause 6.—Nothing in this Act shall apply to a demise or lease of a house, shop, ware-house or other building, owned by the demisor or lessor together with such lands and appurtenances as are necessary for the enjoyment of such house, shop, ware-house or other building.

Provided the demise or lease is mainly in respect of such house, shop, ware-house or other building.

CHAPTER III.

RECOVERY OF LANDS AND RENEWALS.

Clause 7.—Notwithstanding, anything contained in this Act, a demisor or lessor may evict a demisee or lessee, out of his holding, after the period of the demise or lease in the following cases:—

(a) If the lands included in the holding are required by the demisor or lessor, for *bona fide* cultivation by himself, or by the members of his family provided that if at any time within 12 years from the date of such eviction, the demisor or lessor, or those claiming under them, re-demises or re-leases the whole or any portion of the holding, to any other, the tenants in actual possession of land included in such holding, at the time of eviction, shall be entitled to recover such lands and hold them for a period of 12 years thereafter, on payment of rent payable under this Act, to the demisor or lessor who evicted them out of their holding.

(b) If the demisee or lessee has left in arrears during the currency of the demise or lease, rent equal to three years' rent payable in respect of the holding, notwithstanding an express demand made through registered post by the demisor or lessor, after such arrears accrued.

(c) If the demisee or lessee wilfully denied the demisor's or lessor's title as the case may be.

(d) If the demisee or lessee intentionally and wilfully committed such acts of waste as are calculated to materially affect the value or utility of the holding.

(e) If the holding or any portion of it is required by the demisor or lessor for the *bona fide* purpose of extending his family residence or for building a new house for his family residence.

Provided that if the demisor or lessor fails to complete the extensions of his family residence or build a family residence within two years from the date of eviction, the tenants in actual possession of land at the time of eviction shall be entitled to recover the same, and hold it for a period of 12 years thereafter on payment of rent payable in respect of such lands under the provisions of this Act.

(f) If the demisee or lessee refuses or does not agree to renew the demise or lease after demand made for the purpose by the demisor or lessor under the provisions of this Act.

Explanation (i).—In cases falling under sub-clauses (b), (c) and (d) of this section the tenants in actual possession of land under the demisee or lessee against whom suits for eviction are brought shall not be evicted out of lands in their possession, except as provided for by this Act.

Explanation (ii).—In cases falling under sub-clause (e) the lands which are not required for the purposes mentioned therein, shall not be recovered by the demisor or lessor.

Explanation (iii).—Nothing in this Act shall prevent a demisor from enhancing the rent payable by a demisee by paying off the kanam due to the latter, at the time of renewal, provided the rent claimed does not exceed the maximum prescribed by this Act.

Clause 8.—In all cases falling under section 7 the demisor or lessor shall give six months' notice ending with the period of the tenancy of his intention to evict the tenant, which shall be by registered post.

Clause 9.—The notice under clause 8 shall contain—

(a) The reasons for recovering the holding or any portion of it, and in cases falling under sub-clause (f) of

section 7, it should contain the following additional particulars.

(b) The amount of manusham which the demisor or lessor claims.

(c) The annual rent or enhanced rent, claimed from the demisee or lessee.

(d) The expenses of renewal which may include the expenses of private registration of the demise or lease, in cases in which the demisor or lessor or any one of them is entitled under the Indian Registration Act to demand private registration of the document.

Clause 10.—If within the expiry of the term mentioned in section 8, the demisee or lessee does not accept the terms offered, under section 9, the demisor or lessor shall be entitled to evict a demisee or lessee out of his holding.

Provided that, if the manusham or rent claimed or both are found to be in excess of the maximum amount prescribed by this Act, the suit in so far as it seeks to evict the demisee or lessee out of his holding, shall be dismissed with costs.

Explanation (i).—In a suit for eviction under sub-section (f) of section 7 of this Act the sub-demisee in actual possession of land shall not be evicted out of it without his consent.

Explanation (ii).—A dismissal of a suit under this section shall bar a fresh suit for eviction by such demisor or lessor, till after the expiry of 12 years from the date of the decree in such suit, during which period, the demisee or lessee shall be deemed to be holding the land on payment of rent which was payable before such suit for eviction.

Clause 11.—If within the period mentioned in section 8, the demisee or lessee accepts the terms or offers fresh terms which the demisor or lessor accepts, such demisee or lessee shall be entitled to claim a renewal of the demise or lease from such demisor or lessor, on the terms contained in the notice, or in the subsequent agreement as the case may be, and to enforce the same in a court competent to try such suits under this Act.

Clause 12.—If within the period mentioned in section 8, the demisor or lessor has not given notice as is mentioned in section 9, the demisee or lessee shall on the expiry of the demise or

lease be entitled to claim a renewal from his demisor or lessor on his offering to pay the manusham, the expenses of renewal payable under this Act, and the rent payable under the demise or lease which has expired, and to enforce the same, in a court competent to try such suits under this Act.

Clause 13.—In all suits for eviction under this Act the following procedure shall be adopted :—

(a) If the entire holding is in the possession of a demisee or lessee, against whom the demisor or lessor is entitled to file a suit for eviction, the whole holding shall be surrendered to the plaintiff on his depositing the kanam and value of improvements due to the tenant after setting off the amounts claimable by the plaintiff.

(b) If the demisee or lessee whom the demisor or lessor is entitled to evict has sub-demised or sub-leased the holding, before the suit, to tenants under him, the demisor or lessor shall be entitled to recover the whole holding.

Provided that, if the sub-demisee or sub-lessee who holds land under the demisee or lessee who is liable to be evicted under clauses (b), (c), (d) and (f) of section 7, expresses his willingness, to retain possession of such lands, at the first hearing of the suit, the decree shall provide that the plaintiff shall execute a renewal in respect of lands in the possession of such sub-demisee, or sub-lessee on his undertaking to hold the land on payment of the expenses of such renewal, the manusham and the rent payable under the provisions of this Act.

Explanation.—The demisee, sub-demisee, lessee or sub-lessee who is evicted shall be entitled to the value of improvements, if any, effected by him on lands in the possession of tenants who are not evicted under the provisions of this Act.

Clause 14.—If within the time which the court shall fix for payment under clause 13, the sub-demisee or sub-lessee has not paid the amounts and expressed his willingness to pay the rent payable under this Act, the plaintiff shall be entitled to evict such tenant.

Provided the court may for sufficient reason extend the period for complying with such order.

Clause 15.—In any suit for eviction under this Act, if any disputes arise as between the tenants, as to, who is entitled to all or any of the sums payable by the plaintiff, the court shall award such sums to persons who make out a *prima facie* title to receive such amounts and refer the unsuccessful party to a suit.

Clause 16.—A janmi may, if he so desires raise kanam or additional kanams in respect of lands included in one holding by granting a melcharth in respect of such lands, but the melcharthdar shall be entitled to evict a demisee or lessee out of his holding only in cases falling under sub-sections (b), (c), (d), and (f) of section 7 and only in the manner provided for under section 13.

Clause 16 (a).—A janmi who owns less than 100 acres of janm land may in cases in which he does not intend to evict a demisee or lessee under sub-clause (f) of clause 7, institute after the period of the tenancy, a suit, to get the rent enhanced up to the limit prescribed by this Act, and for the manusham claimable by him provided he gives to the tenant six months' notice, by registered post, ending with the period of the tenancy, of his intention to enhance such rent.

Clause 17.—A demisee or lessee of a holding may, after the period of the demise or lease, or of 12 years from the date of the last renewal, if no term is fixed, surrender his holding to the demisor or lessor after giving two months' notice ending with the period of the demise or lease, of his intention to surrender the holding.

Provided the demisor or lessor shall not be bound to accept the surrender unless it be in respect of the entire holding and the whole of the arrears of rent are paid at the time of such surrender.

Clause 18.—In case of surrender under section 20 the demisee or lessee shall not be entitled to any value of improvements due to him.

RENEWAL FEE AND RENT.

Clause 19.—The rent payable by a demisee or lessee before the passing of this Act shall be the rent payable by him in respect of his holding, until such rents are enhanced, under the provisions of this Act.

Clause 20.—In any case where rent has been enhanced after the passing of this Act, either by agreement between the parties or under the provisions of this Act, the same shall not be enhanced till after the expiry of 24 years from the date of the last enhancement.

Clause 21.—It shall not be lawful for a demisor or lessor to recover from his demiset or lessee rent in excess of one-third of the net yield of the land, and the revenue and public charges on the land included in his holding.

Provided that the following deductions from the net yield shall be allowed in favour of the demisee or lessee :

(a) The amount of interest at 12 per cent payable on the kanam if he holds on a demise.

(b) The interest at 12 per cent on the value of improvements effected either by him or by tenants under him in so far as the yield or its increase is derived from or is attributable to such improvements.

Clause 22.—All agreements entered into after the passing of this Act, to pay any sum or produce or article, other than the rent or periodical manushams by the demisee or lessee to the demisor or lessor shall be invalid and unenforceable.

RENEWAL FEES.

Clause 23.—The renewal fee shall be one year's rent payable in respect of the holding under the demise or lease under which the property is held at the time of the renewal.

Clause 24.—Arrears of rent shall be a charge on the tenants' interest in the land included in a holding and shall have priority over all charges except Government revenue and other public charges and shall in the absence of a contract to the contrary carry interest at 12 per cent per annum till the date of payment.

Clause 25.—Every demise or lease granted to a tenant or its counterpart shall after this Act comes into force contain—

(a) The name, description, and extent of the holding with the patta numbers of the land.

(b) The amount of rent agreed upon or fixed and the due date of payment.

(c) The Government revenue and other public charges payable in respect of the holding.

(d) The renewal fee paid.

Clause 26.—Every demisee or lessee paying rent to his demisor or lessor shall be entitled to a receipt specifying—

(a) The amount paid,

(b) The date of payment,

(c) The period for which the rent is paid,

(d) The name and description of the holding in respect of which the rent is paid.

Clause 27.—If the demisee or lessee has paid the Government revenue and other public charges, payable by the demisor or lessor, credit should be given in the receipt for such payments.

Clause 28.—In the absence of any of the particulars mentioned in sections 26 and 27, in the receipt, the court shall presume that all rents due up to the date of such receipt have been paid.

Clause 29.—The demisee or lessee may send the rent due, by money order calculating the price of paddy or other produce at the rate fixed by the Collector of the district under the provisions of this Act.

Clause 30.—The Collector of the district shall publish in the local official gazette, at the beginning of each official year the average market price of paddy, and other produce for the twelve months preceding the date of publication, and payment of rent, on the basis of such prices by the demisee or lessee shall be accepted as valid tender of the rent.

Clause 31.—At any time after the rent or any portion of it has accrued due, and remains unpaid, the demisor or lessor may serve on the tenant a written demand specifying—

(a) The amount due, and,

(b) The holding in respect of which it is claimed,

(c) The time within which it should be paid.

Clause 32.—If in any suit for rent by the demisor or lessor, after service of notice under clause 31, the court finds that the claim is true it shall decree in favour of the plaintiff a sum not exceeding rupees fifty as compensation, in addition to the costs of the suit and the amount found due.

Clause 33.—If in a suit, the court finds that the claim or any portion of it is not true, or that the suit was filed without sufficient cause, the demisee or lessee shall be entitled to claim in the suit an amount not more than fifty rupees as compensation, in addition to the costs of the suit.

Clause 34.—In all cases where the rent is payable in kind, the measure shall be the standard measure of the locality recognized by Government.

Clause 35 (1).—The Local Government make rules to carry out all or any of the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing powers, they may make rules regulating all or any of the following matters:—

(a) The investing of courts of original jurisdiction with powers to try suits under this Act and the procedure to be followed in such suits.

(b) The appointment of assessors to be associated with courts or with officers appointed by court for determining questions relating to enhancement of rent or the amount of compensation to be paid under the provisions of this Act, the qualifications of such assessors, the mode of selecting them, for each case and the procedure to be followed, in the conduct of such suits.

Clause 36.—The provisions of Madras Act I of 1900 shall apply in all cases of eviction and enhancement of rent under this Act.



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