

REPORT

OF THE

MALABAR TENANCY COMMITTEE

1927-28

VOLUME II—EVIDENCE

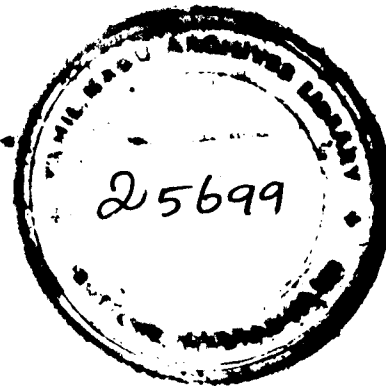
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THE MALABAR TENANCY COMMITTEE, 1927.

Questionnaire.

Disabilities.

കുടുംബം.

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

I. (എ) നിങ്ങളുടെ അഭിപ്രായത്തിൽ മലയാളത്തിലെ താഴെ പറയുന്ന തരത്തിലുള്ള കുടുംബങ്ങളുടെ കഷ്ടതകൾ ഏതെല്ലാമാകുന്നു?

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

- (1) കണക്കാർ. } ജന്മികളുടെ നേരെ കീഴ്ചയുള്ളവർ.
(2) കൂഴിക്കണക്കാർ. }
(3) വെറും പാട്ടക്കാർ. }
(4) കീഴ് കണക്കാർ. } കണക്കാരുടെയോ, കൂഴിക്കണക്കാരുടെയോ നേരെ കീഴ്ചയുള്ളവർ.
(5) വെറും പാട്ടക്കാർ. }
(6) വെറും പാട്ടക്കാരുടെ കീഴ് കുടുംബങ്ങൾ.
(7) മേൽവിവരിച്ച കുടുംബങ്ങളൊഴികെ മറ്റ് കുടുംബങ്ങൾ.

(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?

(ബി) നിങ്ങൾ പറയുന്ന കഷ്ടതകൾ മലയാളത്തിലുള്ള കുടുംബങ്ങൾ പ്രത്യേകമല്ലെന്നോ, അല്ല, ഇന്ത്യയിൽ ശേഷമുള്ള എല്ലാ ഭാഗങ്ങളിലെയും ജന്മി കുടുംബങ്ങൾ ബന്ധത്തിൽ പൊതുവിൽ ബാധിക്കുന്നതോ? അവ മലയാളത്തിലേക്കു പ്രത്യേകമെന്നു നിങ്ങൾ വിചാരിക്കുന്നുണ്ടെങ്കിൽ, ആ അഭിപ്രായത്തിനുള്ള കാരണങ്ങളെന്താണ്?

(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?

(സി) കുടുംബങ്ങളുടെ കഷ്ടതകൾ വടക്കും മലയാളത്തിലും തെക്കും മലയാളത്തിലും ഒരേപോലെതന്നെയോ? അല്ലെങ്കിൽ അവയ്ക്കുള്ള പ്രധാന വ്യത്യാസങ്ങളെന്തെല്ലാമാകുന്നു?

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

(ഡി) ഇക്കാര്യത്തിൽ തെക്കും മലയാളത്തിൽ തന്നെ പലപ്രകാരം വ്യത്യാസമുണ്ടോ?

Evictions

ഒഴിപ്പിക്കൽ.

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?

II. (1) (എ) കുടുംബങ്ങൾ നിങ്ങൾക്കു കഴിയുന്നതോളം ഉറപ്പാക്കുന്നതോ, അനാസ്ഥയായി ഒഴിപ്പിക്കുന്നതോ എന്നിങ്ങനെ വിചാരിക്കുന്നതിനുള്ള കാരണങ്ങളും വിവരങ്ങളും അങ്ങിനെ അനാസ്ഥയായി ഒഴിപ്പിക്കൽ, നിങ്ങളുടെ അറിവിൽ പെട്ടതോളം വർദ്ധിച്ചുവരുന്നുണ്ടോ?

(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.

(ബി) അനാസ്ഥയായി മേൽചാർത്തുകൊടുക്കുന്നുണ്ടോ? ഉണ്ടെങ്കിൽ നിങ്ങൾക്കു കഴിയുന്നതോളം ഉറപ്പാക്കുന്നതോ, അവ അനാസ്ഥയായ മേൽചാർത്തുകൊടുക്കുന്നതിനുള്ള കാരണങ്ങളും വിവരങ്ങളും പറയുക.

(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.

(2) ജന്മി തന്റെ അധികാര നിബന്ധനകളെ സാമൂഹിക കാര്യങ്ങളിൽ ഉപയോഗിക്കുന്നതോ? ഉണ്ടെങ്കിൽ അടുത്ത പതിനഞ്ചു കൊല്ലങ്ങൾക്കുള്ളിൽ ഉണ്ടായിട്ടുള്ള ആധിപത്യപരമായ സാമൂഹിക അധിപത്യത്തെക്കുറിച്ച് ഏതെങ്കിലും കൊല്ലത്തിലാണ് സംഭവിച്ചതെന്ന് അറിയിച്ച നിങ്ങൾക്കു കഴിയുന്നത്ര ഉദാഹരണങ്ങൾ സമീപ വിവരിക്കുക.

Remedies.

നിവൃത്തികൾ.

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

III. (എ) നിങ്ങൾ വിചാരിക്കുമ്പോഴുള്ള കഷ്ടതകൾക്കു ഫലപ്രദമായ നിവൃത്തിമാർഗ്ഗങ്ങൾ നിങ്ങളുടെ അഭിപ്രായത്തിൽ ഏതെല്ലാമാകുന്നു?

(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?

(ബി) ഈ കഷ്ടതകളെ നീക്കം ചെയ്യാൻ സ്ഥിര വാടകക്കാരെ അനുവദിക്കണമെന്ന ആവശ്യം നിങ്ങൾക്കു പരിഹാരമുണ്ടോ? ഉണ്ടെങ്കിൽ, 1-ാം ചോദ്യത്തിൽ വിവരിച്ച എല്ലാ തരം കുടുംബങ്ങൾക്കും സ്ഥിരവാടകക്കാരെ കൊടുക്കണമോ? വേണ്ടെങ്കിൽ ഏതു തരം കുടുംബങ്ങൾക്കും മാത്രം കൊടുക്കണമെന്നാണ് നിങ്ങൾ അഭിപ്രായപ്പെടുന്നത്?

(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?

(സി) ഒരേ വസ്തുവിൽ കൂടുതൽ തരത്തിലധികം കുടുംബങ്ങൾ ഉണ്ടെങ്കിൽ, നിങ്ങൾ അവരിൽക്കൂടെ സ്ഥിരവാടകക്കാരെ കൊടുക്കുമോ? അതുകൊണ്ടു സ്ഥിരവാടകക്കാരെ കൊടുക്കുന്നതിന് മുമ്പെങ്കിൽ, ഇപ്പോൾ അനുഭവിക്കുന്ന കഷ്ടതകൾ കാര്യമായ നിവൃത്തി കിട്ടുന്നതാണോ?

(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 (1 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?

(വി) കഴിക്കുന്നതും വളരെക്കുറവായി വന്നു കയ്യടക്കിയവയുടെ വെറും പാട്ടുകാർ 1852-ൽ കൊടുത്തിട്ടുള്ള വസ്തു കയ്യടക്കം കിട്ടി ആ കൊല്ലം മുതൽ ഇടവിടാതെ കയ്യടക്കം ചെയ്യുന്ന കടന്നുകയറ്റം വാങ്ങാൻ സ്ഥിരവാക്കം കൊടുത്താൽ മതിയെന്ന ചിലർ അഭിപ്രായപ്പെടുന്നു. ഇതിനെപ്പറ്റി നിങ്ങളുടെ അഭിപ്രായമെന്താകുന്നു?

(ജ) സ്ഥിരവാക്കം ഏതെങ്കിലും തരം കടിയോടുകൂടി കൊടുക്കുന്നതായാ ആ കടിയോടുകൂടി അവർ വസ്തുക്കളെ ആരടെ കീഴിൽ കയ്യടക്കം ചെയ്യുന്നതായാ അവർ പാട്ടവും മറ്റും പിരിക്കേണ്ടതിന്നു ഏതുവിധം പദ്ധതികളായി മാറ്റങ്ങൾ ഉണ്ടാക്കിക്കൊടുക്കേണ്ടതാണെന്നു നിങ്ങൾ വിചാരിക്കുന്നു?

(എഫ്) നിങ്ങളുടെ അഭിപ്രായത്തിൽ, വല്ല പ്രത്യേക അവസ്ഥകളിലും സ്ഥിരവാക്കം കൊടുക്കുവാൻ പാടില്ലെന്നെങ്കിൽ ആ അവസ്ഥകൾ ഏതെല്ലാമാകുന്നു?

IV. (എ) (1) കടിയിരുപ്പുകാർ സ്ഥിരവാക്കം കൊടുക്കണമെന്നുള്ള അഭിപ്രായത്തെ സംബന്ധിച്ചു നിങ്ങൾ എന്തു വിചാരിക്കുന്നു?

(2) ഇക്കാര്യത്തിൽ നാട്ടുപുറങ്ങളിലും നഗരങ്ങളിലുമുള്ള കടിയിരുപ്പുകളെ സംബന്ധിച്ച വിഭിന്നമായ വല്ല ഏല്പാടുകളും ചെയ്യേണ്ടതുണ്ടോ?

(ബി) (1) നഗരങ്ങളിലും, (2) നാട്ടുപുറങ്ങളിലും സ്ഥിരവാക്കം കൊടുക്കുന്ന കടിയിരുപ്പിന്നു കുറഞ്ഞ വിസ്തീർണ്ണം എത്രയായിരിക്കണം?

(സി) (1) കാണാവകാശമോയോ വെറുവാട്ടാവകാശമോയോ വഹകളിൽ പ്രവേശിച്ചു അവയിൽ ഒരു വീടു അടക്കിയിട്ടുള്ളതും വഹകളെ പൊളിച്ചെഴുതി വാങ്ങുവാൻ വെറുവാട്ടമായി കൈവശം വെക്കുവാനോ ഒരു കടിയോ സംധിക്കാത്ത സംഗതിയിലും,

(2) ഒരു കാണുകടിയോർ തനിക്കു ചാത്തികിട്ടിയിട്ടുള്ള വഹകളെ മറ്റൊരുകാരെ അനുവദിക്കുന്നതിന്നുവശ്യമായിട്ടുള്ളതായി വലുതായ വീടുണ്ടാകുന്ന സംഗതിയിലും,

(3) ഒരു കടിയിരുപ്പ് അതിന്റെ സ്ഥിതിക്കൊണ്ടോ മറ്റു കാരണത്താലോ ആ നില്ക്കുന്ന വഹകളെ സൗകര്യമായും ആദായത്തോടുകൂടിയും അനുവദിക്കേണ്ടതിന്നു വഹകളോടുകൂടി ഒഴിഞ്ഞുകൊടുക്കേണ്ടതായി വരുന്ന സംഗതിയിലും, ഏതുവിധം ഏല്പാടുകൾ ചെയ്യേണമെന്നാണ് നിങ്ങളുടെ അഭിപ്രായം?

(ഡി) (1) കടിയിരുപ്പുകളിൽ ജന്മിക്കുള്ള അനുവാകാശത്തെ കൈവശമാക്കാനായ കടിയോർ, ഗഡുക്കളായി കൊടുക്കുന്ന ഗവൺമെന്റുകൾക്കു പരസ്പര സഹായ സംഘം വകയായോ മറ്റു വാങ്ങാത്തവരുമുള്ള നില്ക്കുന്നതായി വാങ്ങുന്ന ഒരു സമ്പ്രദായത്തെപ്പറ്റി നിങ്ങൾ എന്തു വിചാരിക്കുന്നു?

(2) ഇങ്ങനെ നില്ക്കുന്നതായി വാങ്ങുന്ന സമ്പ്രദായം മലയാളികളുടെ സാമ്പത്തിക പ്രകൃതിക്കു ആപാദനം അനുഭവിക്കുന്നതാണോ?

V. നിങ്ങളുടെ അഭിപ്രായത്തിൽ "മലബാർ കഴിപ്പുറ ചരയ ആക്ട്" (1900 ചെ I) കൊണ്ടു ജന്മിയും കടിയും തമ്മിലുള്ള ബന്ധത്തിന്നു സംഭവിച്ചിട്ടുള്ള പലതരം നഷ്ടം വരുത്തുന്നുണ്ടോ? ഇവർക്കുമിടയിൽ ആ ബന്ധത്തെ നന്നാക്കുന്നതിന്നു ആ ആക്ടിന്റെ അതിനനുസരിച്ചിട്ടുള്ള നടപടികളിലൊ വല്ല മേഖലയും വരുത്തേണ്ടതുണ്ടോ?

പ്രതിഫലം.

VI. (എ) സ്ഥിരവാക്കം കൊടുക്കുന്നപക്ഷം അതിനാൽ നഷ്ടപ്പെടുന്നവർക്കു പ്രതിഫലം കൊടുക്കേണ്ടതു എത്രയാകുന്നു? അതു ഏതു മാതിരി വേണോ?

(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?

(ബി) ഒരു വസ്തുവിൽ ആർ പ്രതിഫലം കൊടുക്കണമെന്നു വെച്ചാൽ പുറമെ വേറെയും കടിയോടുകൂടി പ്രതിഫലം ഏതു പ്രകാരമാണ് അതിച്ചുകൊടുക്കേണ്ടതു?

(സി) അങ്ങനെ പ്രതിഫലം കൊടുക്കുന്നതിനോ കടിയോടുകൂടി വല്ല പ്രത്യേക സൗകര്യങ്ങളും ഏല്പാടുകളും കൊടുക്കേണ്ടതോ? വേണമെങ്കിൽ അവ ഏതെല്ലാമാകുന്നു?

വാട്ടം.

VII. (എ) ചിലവു കഴിച്ചുള്ള വിളവിൽനിന്നു എത്ര ഭാഗം കടിയോർ കൊടുക്കണം; ജന്മിക്കോ; കടിയോറും ജന്മിക്കും മദ്ധ്യത്തിൽ വല്ല കടിയോറും ഉണ്ടെങ്കിൽ അവനോ? ഏതു പ്രമാണത്തെ ആസ്പദമാക്കുന്ന ഭാഗവിഭാജനം കൊടുക്കേണ്ടതു?

(ബി) ഇപ്പോൾ കടിയോർ കൊടുക്കുന്ന വാട്ടം നിങ്ങളുടെ VII (എ) എന്ന ചോദ്യത്തിനുള്ള ഉത്തരത്തിനനുസരിച്ചു അന്യമായി അധികരിക്കുന്നുണ്ടോ? ആണെങ്കിൽ ഉദാഹരണങ്ങൾ പറയുക.

പൊളിച്ചെഴുത്താവകാശം.

VIII. (എ) ഏതു പ്രമാണത്തെ ആസ്പദമാക്കുന്ന നിങ്ങൾ പൊളിച്ചെഴുത്താവകാശത്തെ നിജപ്പെടുത്തുക?

(ബി) നിങ്ങളുടെ താലൂക്കിൽ പൊളിച്ചെഴുത്താവകാശത്തിന്റെ നിരക്കെന്താകുന്നു?

പൊതുവില്ലുള്ള ചോദ്യങ്ങൾ.

X. സ്ഥിരവാക്കവും നില്ക്കുന്നതുമായ ക്രയവും അന്നു വശ്യമാണെന്നു നിങ്ങൾ വിചാരിക്കുന്ന പക്ഷം യഥാർത്ഥ കടിയോറായ കടിയോറോടു വസ്തു കടിയോറായ കൈവശം വെച്ചാൽ അവർക്കു നഷ്ടപ്പെടുന്നതിന്നു വേണ്ടുന്ന നിവൃത്തിമാർഗ്ഗങ്ങളെന്താകുന്നു?

X. (എ) മേച്ചാത്തുകൾ വിപരീതമായി കീഴ്ക്കടിയോറായ പൂർവ്വകാലം നൽകുന്ന ഒരു സമ്പ്രദായത്തെപ്പറ്റി നിങ്ങളെന്തു വിചാരിക്കുന്നു? അങ്ങനെ ഒരു ഏല്പാടുകൾ വരുന്നതിനുള്ള പ്രതിബന്ധങ്ങളെന്തെല്ലാമാകുന്നു?

(ബി) മേച്ചാത്തുകൾ കൊടുക്കുന്നതിന്നു മുമ്പായി, മേച്ചാത്തു വാങ്ങുന്ന ആളും അതു കൊടുക്കുന്നതും തമ്മിൽ ഉത്തരവിശ്വാസത്തോടെ ചെയ്തിട്ടുള്ള നിശ്ചിത വാങ്ങാൻ തന്നെ ഇപ്പോഴുള്ള കടിയോറും നില്ക്കുന്നതായി അവർക്കും പൊളിച്ചെഴുതി വാങ്ങുവാൻ ഇഷ്ടപ്പെടുന്നുണ്ടോ എന്നു മേച്ചാത്തുകൾ കൊടുക്കുന്ന ആൾ ചോദിക്കേണ്ടതെന്ന അഭിപ്രായത്തെപ്പറ്റി നിങ്ങൾ എന്തു വിചാരിക്കുന്നു?

(സി) കീഴ്ക്കടിയോറുള്ള പൂർവ്വകാലം വാങ്ങുന്നവർക്കു വേണ്ടി മേച്ചാത്തുകൾ കൊടുക്കുന്നവരും വാങ്ങുന്നവരും കൂടി യോജിച്ചു കളവായി അധികരിച്ച പൊളിച്ചെഴുത്താവകാശം ഉറപ്പിക്കേണ്ടുന്ന ഉദ്ദേശത്തോടു കൂടി ചെയ്യാനിടയുള്ള സാക്ഷ്യ ഏല്പാടുകൾ കൂടാതെ കഴിപ്പാൻ മാറ്റമെന്താകുന്നു?

WITNESSES EXAMINED AT PALGHAT.

I

*Written statement of Mr. V. Raman Nayar, B.A., B.L., High Court Vakil,
Palghat, dated 28th September 1927.*

[Answers to the Questionnaire.]

1. (a) Understanding the word "disabilities" used in question No. 1 (a) as connoting "hardships and grievances", I am of opinion that the only classes of tenants suffering from disabilities are :—

(1) Kanamdars, (2) kuzhikanamdars, and (3) tenants holding on 'kovilagam' leases and leases of a like nature, such leases being generally leases for a term of twelve years.

The simple tenants or verumpattamdars of Malabar in general, and those of South Malabar in particular, do not, so far as I know, labour under any disability. The verumpattamdars of South Malabar as a whole and of the Palghat taluk in particular are generally tenants *at will, or from year to year, or for a term not exceeding three years.*

These tenants have absolutely no interest at stake in the lands they hold for cultivation purposes. They never think of effecting, nor have they ever effected, permanent improvement of any kind on the lands held by them. They do not care to go in for leases of parambas or waste lands with a view to reclaim them into arable lands or gardens. The crops to be raised for the time being on the lands in their possession are about the only things they care for. Reclamation of lands, construction of tanks, wells, and other reservoirs of water, putting up of the necessary farm-houses, cattlesheds, and threshing grounds—these and the various other accessories or appurtenances required for a farm are all done and provided by the landlords, who may, in a few cases, be the janmis themselves, but who, in the vast majority of cases, are kanamdars, kuzhikanamdars, and tenants holding on 'kovilagam' leases and leases of a like character. It is these superior classes of tenants that have so largely contributed to the extent and yielding capacity of many a valuable and extensive holding now found in Malabar.

The great majority of the simple tenants of South Malabar, especially of the Palghat taluk, cannot command even the necessary means of cultivation. The seed, cattle, and other things have, in not a few cases, to be supplied by the landlords themselves. It is a well-known fact that the lands in Malabar are mainly fed by rain-water. In Malabar, there is no system of irrigation constructed and maintained by Government as in the other districts of the Presidency, or, for that matter, in other parts of India. Crops in Malabar do, not infrequently, suffer from drought. In such cases the simple tenants invariably sue for a remission of rent, and partial remissions are ungrudgingly granted to them.

It is a mistake to suppose that capricious evictions of the simple or verumpattam tenants are the rule in Malabar. It is only when the tenant fails to pay the rent due and keeps it in arrears for several years together and proves highly recalcitrant, and, with a view to cheating his lessor, screens what little he may possess by way of paddy, cattle, and straw, the latter resorts to Court with a suit in ejectment. Instances are not wanting in Malabar of the landlords being easily and successfully cheated of large sums of money by way of arrears of rent.

• The fear of eviction from the holding in the event of the rent being kept in arrears does generally operate as a wholesome check, and such fear of eviction is, in my opinion, the only check, upon the verumpattamdar of the present day, tending to keep him on the right path and to dissuade him from withholding the rent due to the landlord.

If, for any reason, the right of permanent occupancy should be conferred on the verumpattamdars of Malabar, I think the landlords as a class—whether they be the janmis, kanamdars, or holders of other tenures—would be exposed to very serious risks. No amount of legislation for safeguarding the interests of the landlords and for ensuring payment of rents due to them would, in my opinion, effectively or successfully avert or combat the evils that are sure to accrue from the proposed grant of permanent occupancy right to the verumpattamdars. It seems to me that the legislation now contemplated in favour of the verumpattamdars and apparently for their protection and benefit, would, ere long, be found to be utterly futile and ineffectual for the purpose in view, and might even prove positively harmful and dangerous to the very tenants concerned, as they are, in my opinion, liable to be eventually deprived of their holdings themselves.

The verumpattamdars of Malabar do not occupy the same position as the ryots of the eastern districts. In my opinion the Malabar verumpattamdars have nothing substantial in common with the ryots of the eastern districts. Unlike the latter, in the great majority of cases, the verumpattamdars of Malabar are not the 'actual cultivators' or 'tillers' of the soil. They are not entitled to any special sympathy or protection on this account.

The grant of permanent occupancy right to the simple tenants of Malabar would indeed be a calamity to the whole district. The situation can be better imagined than described.

The only protection that the verumpattamdars of Malabar as a whole and those of South Malabar in particular do want at present is, in my opinion, (1) help by way of small loans of money and grain on comparatively easy terms, and (2) relief against eviction under certain specified conditions.

The establishment of agricultural banks by Government tentatively one bank for each group of three or four villages or desams in every amsam—will, I think, effectively obviate their difficulties; and the enactment of a provision of the kind existing in section 114 of the Indian Transfer of Property Act enabling them to be relieved against ejectment if and when sued by their lessors, on payment to the plaintiff-lessor, of the arrears of rent and interest due and full costs of the suit, or on furnishing sufficient security in that behalf, will, in my opinion, sufficiently meet the ends of justice. Beyond this the verumpattamdar in Malabar needs or deserves no further protection.

But the case of kanamdars, kuzhikanamdars, and tenants holding on 'kovilagam' leases and leases of a like nature stands on a different footing. These classes of tenants have, quite unlike the verumpattamdars, large and substantial interests at stake in their holdings. The compensation awarded to them under the Tenants' Improvements Act does not afford an adequate return for the large amount of labour and capital bestowed by them on their holdings for effecting improvements thereon. Naturally they would yearn to continue in possession of the holdings for a reasonable length of time so as to enable them to enjoy the benefits of the improvements of their own making for the said period at least.

True, the contracts entered into by them with the janmis with their eyes wide open give them only a term of twelve years to keep the holdings in their possession. The eviction in such cases is, strictly speaking, legal, but it certainly offends against natural justice and equity, and from the point of view of the tenant sought to be evicted from the holding it is, indeed, unjust and illegal.

(b) The disabilities referred to above and pressing hard on the three classes of tenants mentioned by me are, I think, peculiar to Malabar. The land tenures of Malabar are, in my opinion, materially different from the land tenures obtaining elsewhere in India. The Malabar Tenants' Improvements Act is itself an enactment peculiar to Malabar. The rights and liabilities of the mortgagor and mortgagee under the Transfer of Property Act which is an All-India Act, materially differ from the rights and liabilities of the janmi on the one hand and of the kanamdar, kuzhikanamdar, and lessees above referred to on the other. The incidents of kanams, kuzhikanams, and 'kovilagam' leases and leases of a like nature are purely customary. Hence the peculiarity.

(c) The disabilities which the tenants suffer from are, I think, the same in North Malabar as in South Malabar, and, so far as I know, there is no material difference in this respect between the two sub-districts.

(d) As regards the holdings in the several parts of South Malabar itself I think the taluks of Palghat and Walluvanad and the eastern and southern parts of the Ponnani taluk stand on a different footing from North Malabar and the rest of South Malabar. The several tenures of Palghat and Walluvanad taluks and of the aforesaid portions of the Ponnani taluk may be said to be essentially alike while the tenures obtaining in the rest of the revenue district of Malabar, though more or less of the same character, are somewhat different from the former. In this connexion it may not be out of place to refer to three tenures not specifically mentioned in question No. 1 (a) though possibly coming under 1 (a) (7). They are (1) *Otti or palisamatakkku*, (2) *peruartham* and (3) *vettukanam or reclamation lease*.

Otti or palisamatakkku is *kanam plus the right of pre-emption* vested in *ottidar* under the customary law of the land. Such demises are, however, now few and far between. 'Otti' is the name given for the tenure in *Walluvanad* while in *Palghat* it goes by the name *palisamatakkku*.

Peruartham is a tenure which, I think, is peculiar to Palghat. It is considered as a mortgage for the reason that the janmi has the right of recovering or, more correctly, re-purchasing the property, but he can recover the property only on payment of the full current market value thereof.

Vettukanam or reclamation lease is akin to 'kuzhikanam' (planting) lease with this difference, viz. :—

(1) that in the case of 'vettukanam', reclamation of waste land into arable land, is the main object of the lease, while the main object of a 'kuzhikanam' lease is the making of kuzhikoors (trees), and (2) that while in 'vettukanam' leases there is no money charged on the land by way of kanam in favour of the lessee, there is generally a nominal kanam charged on the land in the case of 'kuzhikanam' leases.

In the case of 'ottidars' and 'peruartham-holders' I think there is no disability deserving any notice. 'Vettukanamdars' are, however, subject to the same disabilities as the kanamdars and kuzhikanamdars.

Evictions.

II. (1) (a). & (b) By melcharths and evictions on 'unjustifiable' grounds I understand melcharths and evictions leading to and resulting in 'hardships' and 'grievances' to the tenants concerned, and I think such melcharths and evictions in respect of kanams, kuzhikanams and kovilagam leases are common in South Malabar, especially in Palghat and Walluvanad taluks. Personally, I know very little of the situation in other parts of South Malabar and in North Malabar.

In my opinion such melcharths are generally granted and eviction made on one or other of the following grounds :—

(1) Inability or unwillingness on the part of the tenants to comply with the exorbitant demands of the janmis in the matter of renewals ;

(2) desire on the part of the janmi for a change of tenant from wrong and questionable motives induced by envy, spite and enmity due to various causes,

(3) desire of the janmi to split and divide the holding so as to leave little or no scope for the tenant to effect any substantial improvement for which compensation would have to be paid to him on eviction, and the tenant's refusal to agree to such split or division of the holding ;

(4) desire on the part of the janmis to reduce the kanam and other superior holdings to the level of mere possessory mortgages (by way of *karipanyams*) with or without terms and the tenant's refusal to accede to such desire, and

(5) existence of boundary and janm disputes between adjacent janmis in cases where the same person happens to be a tenant of both the janmis—the tenant in such cases being naturally bound to remain neutral. The process of converting

kanams and other superior holdings into 'Karipanayam' and 'Verumpattam' holdings has of late been steadily on the increase, and, in cases in which the tenants concerned do not agree to the janmi's proposal, eviction must of course be the result.

Such melcharths are generally granted only (1) by impecunious, selfish, and unscrupulous janmis who are, however, not numerous, and (2) by janmis who are rather weak-kneed and entirely under the control and guidance of clever, cunning, and heartless agents or kariyastans. I have at present in my mind a few cases of melcharths granted and evictions made on one or other of the grounds above specified, but, as I am not in possession of the details relating to them, I have not thought fit to specify them here.

(2) Such cases of social oppression by the janmi are very rare in the Palghat taluk. Such cases are said to exist in certain other parts of Malabar. I have, however, no personal knowledge about them and cannot, therefore, specify instances.

Remedies.

III. (a) The remedy that I would suggest is the enactment of a measure—

(1) Prohibiting melcharths and agreements or contracts between the janmi and a third party—whether oral or written—that may, in any way, tend to have the effect of melcharths, and declaring melcharths and such agreements or contracts to be absolutely void and unenforceable.

(2) Enhancing the terms of all kanams, kuzhikanams, and 'kovilagam' leases and leases of a like nature (simple or verumpattam leases being excluded) from twelve years to twenty-four years from the date of execution of such demises and leases.

(3) Requiring the janmi or other proprietor of the holding within, say, three months or such other period as may in this behalf be fixed by the statute from and after the expiry of the term of the demise or lease to give a notice by registered post to the tenant concerned calling upon him to take a renewal of the demise or lease within one month or such other period as may be fixed in this behalf by the statute on due payment of the renewal fee and other legitimate dues, if any, to be fixed by the statute together with the arrears of rent and revenue, if any, due to the landlord and the value of stamps required for the deeds to be executed by the two parties.

(4) Entitling the tenant to demand a renewal from the janmi similar registered notice being given to the janmi or other proprietor of the holding together with a remittance of the renewal fee and other dues, if any, and the value of stamps and registration fees, etc., required for the renewal within a period that may be fixed in this behalf by the statute.

(5) Enabling the tenant in cases where the proprietor of the holding has filed a suit in ejectment or for redemption against him to apply to the Court to have the suit dismissed on due payment or tender of the amounts properly due to the plaintiff for renewal fee, and arrears of rent and revenue, if any, together with the full costs of the suit, subject, of course, to the refund of the said costs to him and also to the payment of his own costs by the plaintiff if on enquiry the court should find the plaintiff solely responsible for the suit:—

Provided that the janmi or other proprietor of the holding shall be entitled to redeem or to recover the holding for his own residential or cultivation purposes, in which case he shall not be competent to demise or lease the holding so redeemed or recovered to a third party for a period of 24 years from the date of such redemption or recovery.

(6) (a) Fixing the renewal fee, in the case of kanam demises, (1) at 3 per ten or 30 per cent of the kanam where the kanam is Rs. 1,000 and below Rs. 1,000, (2) at 2 per ten or 20 per cent of the kanam where the kanam exceeds Rs. 1,000 but does not exceed Rs. 5,000 and (3) at 1 per ten or 10 per cent of the kanam where the kanam exceeds Rs. 5,000.

(b) Fixing the renewal fee, in the case of kuzhikanams and kovilagam leases or leases of a like nature, at one year's net rent, i.e., the gross rent minus the Government revenue and the rent or michavaram reserved for the janmi (the kanam charged on kuzhikanam holdings being extremely small and negligible).

(c) Enabling the janmi to raise fresh kanams or puramkadams on holdings with very low kanams now charged thereon, in all cases allowing to the kanamdar an annual interest of 4 paras of paddy for every 100 fanams of the sum total of the old and new kanams together, provided that in no case shall any renewal fee or other dues be levied by the janmi or other proprietor on fresh kanams or puramkadams already charged on the holdings from time to time by way of further charges nor on the fresh kanams or further charges hereby allowed.

(d) I do not think the grant of permanent occupancy right is essential for the removal of the disabilities. The remedy suggested by me above appears to me to be quite sufficient, feasible and expedient. It can be secured by legislation without any serious opposition from the parties concerned, the deviation attempted thereby being evidently on the line of least resistance. It would, in my opinion, entail no particular hardship on the janmi, and would, at the same time, effectively relieve and protect the tenant from his present disabilities. Legislation in this behalf on the lines above indicated is, in my opinion, likely to meet with the approval of the parties concerned. No right-minded and self-respecting janmi or other proprietor of the holdings can have any reasonable objection to the enactment of such a limited and comparatively harmless measure, and to the tenant, to whom it is intended to afford ample relief and protection from his present hardships, it must of course be welcome.

(e) I am not, as I have already stated, for granting permanent occupancy right to any class of tenants in Malabar. Assuming, however, that the right of permanent occupancy is to be granted in any event, I think it has to be confined to the kanamdars, kuzhikanamdars, and tenants holding on 'kovilagam' lease and other leases of a like nature; and where there are more tenure-holders than one in respect of any holding, I would grant the right to the one at the top. In no case should it, or need it, be granted to the verumpattamdars or simple tenants of Malabar.

(f) I do not approve of the suggestion contained in this clause. It is, I am afraid a case of misplaced sympathy so far as the verumpattamdars are concerned. Any distinction between kanam holders who came into the holding before the year 1852 and have been continuously in possession thereof since then, and other kanamdars is, in my opinion, invidious and unwarranted.

(g) So far as kanamdars, kuzhikanamdars, and tenants holding on 'kovilagam' leases and other leases of a like nature are concerned, no new method need, in my opinion, be provided for the collection of rents or other dues from them. Their own rights and interests in the holdings would be sufficient security for such rents and other dues. In the case of verumpattamdars I find myself unable to suggest a method which would at once be simple, and sufficiently effective and successful as against him.

(h) The answer to this question is covered by my answer I (a).

IV. (a) (1) The grant of permanent occupancy rights to occupants of kudiyruppus attached to and forming part of agricultural farms will, in my opinion, create practical difficulties all round. In the case of kudiyruppus not attached to agricultural farms I think there is no harm in granting permanent occupancy rights to the occupants thereof.

(2) For this purpose I would make no distinction between urban and rural kudiyruppus.

(b) The minimum extent to be allowed for a kudiyruppu in urban areas may, I think, be 10 cents or one-tenth of an acre of ground, while in the rural areas the minimum extent may be 20 to 25 cents.

(c) (1) If the house is suitable to the holding and an improvement within the meaning of the Malabar Compensation for Tenants' Improvements Act for which compensation should be paid under the said Act, I think it has to be surrendered by the tenant to the landlord along with the holding on receipt of the compensation due for it.

If the house is not an improvement for which compensation has to be given to the tenant under the Act, the tenant has to thank himself for having brought it into existence, and he has either to remove it from the holding, or to sell it to the landlord.

(2) In such a case the kanamdar has either to remove the house or to sell it to the landlord.

(3) I think in such a case the tenant has only to be given adequate compensation for the kudiyruppu on his eviction therefrom.

(d) (1) I think there is no necessity for introducing any system of compulsory purchase of the janmi's rights in the kudiyruppu by the tenant in actual occupation, the matter being governed by the Tenants' Improvements Act. The only question in such cases would and should, in my opinion, be whether the kudiyruppu is an improvement suitable to and necessary for the holding within the meaning of the Act. If it is so, it cannot be separated from the holding, and the tenant has only to be given proper compensation for it. In such cases it is only just and proper to allow the landlord to have possession of the kudiyruppu along with the main holding, and the tenant can have no grievance in being ordered to surrender it. If, however, the system of compulsory purchase mentioned in this question is to be introduced by legislation, I think there can be no objection to the courses suggested in the question itself for enabling the tenant to pay the purchase-money.

(2) No, it is not suited to the genius of the people of Malabar and to their customs, though in course of time they may get accustomed to it.

V. The effect, so far, has been more or less satisfactory; but, in my opinion, the Act requires modification in certain respects. For instance, the method indicated in the Act for valuation of fruit trees before bearing is very unsatisfactory, and works real hardship on the tenants—especially on the kuzhikanam tenant. Certain classes of trees that ought strictly and properly to be classed under 'fruit trees', e.g., 'graft mango' trees, are severely left out of that class, and have for purpose of valuation, to be considered and treated as included in the category of non-fruit fuel trees. Then again, the value now allowed for buildings under the Improvements Act is rather inadequate in view of the actual cost of material and labour utilized for their construction. I think the Act has to be amended in these and certain other respects.

Compensation.

VI. (a), (b) & (c) The points raised in these questions seem to me to be rather difficult and complicated, and I must confess my inability to give point blank and satisfactory answers to them.

In the first place, so far as I can see, the matter is without any precedent. Again, there is no criterion, so far as I know, which may be adopted and followed as a basis for fixing the compensation. Any method or methods to be adopted in this behalf would, in my opinion, be arbitrary. This is one reason why I am not inclined in favour of the proposal to grant permanent occupancy right to any class of tenants in Malabar. I am clear that for the various reasons given by me no legislation need or should be attempted on the proposed lines for granting the right of permanent occupancy to any of the various classes of tenants in Malabar. The grant of permanent occupancy right to any class of tenants in Malabar is, in my opinion, unnecessary, if not unwarranted. Beyond creating a sensation and an uproar in the district as a whole and a great deal of discontent and heart-burning among the janmis and the lesser proprietors of the soil, the proposed legislation is, I think, not likely to be of any practical and substantial good to the very tenants in whose interest it has evidently been proposed. The enactment of such a measure is certain to embitter the existing feelings and relations between the two parties, and may altogether estrange them from each other. The net result of any such legislation would be a state of unexpected and untold miseries for both parties.

As I am not for the granting of permanent occupancy right to any tenant in Malabar, I think these questions need not be answered in greater detail. If, however, permanent occupancy right is in any event to be granted, a reasonable fraction not exceeding a third of the janm-value of the property may be fixed as the compensation to be awarded to persons adversely affected by such grants.

VII. (a) & (b) In my opinion one-fifth of the net yield or produce would be a reasonable share to be allotted to the verumpattam tenant, the 'net' yield or produce being the balance left out of the gross produce after deducting therefrom the cultivation expenses and the paddy equivalent of the revenue of the holding.

By way of illustration, I may be permitted to take the case of a holding consisting of one acre—(10 paras) of double crop wet land. The average yield of this land for the first crop may be estimated at 10 fold or 100 paras of paddy, and the average yield of the second crop may be estimated at 6 fold—60 paras of paddy. The gross yield of this one acre of land for the two crops together would thus be 160 paras of paddy. Cultivation expenses for the two crops together may be roughly estimated at 28 paras of paddy. The average revenue of this one acre of land may be taken as Rs. 5 equivalent to 7 paras of paddy at Rs. 50 per cart-load of 70 paras of paddy. Thus the cultivation expenses and revenue of the land together would come to 35 paras of paddy. Deducting this from 160 paras of paddy—the gross produce of the land—we get a balance of 125 paras of paddy as the net produce. One-fifth of this or 25 paras of paddy will be the tenant's share and the balance 100 paras will be the share of the landlord. It may be noted in this connexion that the tenant has the benefit of the entire straw of the two crops amounting to 1,000 sheaves and the last remnant of paddy got from the straw generally known as 'പയ്യോൽ നെല്ല്' (straw-paddy) amounting to 10 paras of paddy.

In the great majority of cases the rents which tenants now pay are not 'unjustifiably' high. On the other hand, they are generally 'normal'. There may, however, be a few cases of 'rackrenting' here and there, for which the tenants themselves are responsible. It is, in my opinion, the result of unhealthy, reckless competition between one tenant and another.

The revenue due to Government being statutory charge on the land and the crops thereon, it has to be provided for from the gross produce, and cannot be taken out of the landlords' share. It ought to be put on the same footing as the cultivation expenses, and should be deducted from the gross yield.

Renewal fees.

VIII. (a) I have no direct or personal knowledge of the state of things in North Malabar so far as the amount of kanams charged on the properties and the amount of renewal fees levied by the janmis there are concerned. My information is that the lands in North Malabar are very much like the lands of the Palghat janmis—heavily encumbered—the amounts charged on the lands by way of kanam and puramkadam often reaching the level of the janm-value itself of the land. So far as I am aware, the kanams resting on the lands in the Ernad, Walluvanad, Ponnani and Calicut taluks of South Malabar are notably light and small, while the rents of the lands are comparatively large and sufficiently tempting. The michavaram or rent reserved for the janmi in these taluks is generally low though in few cases it may be somewhat high in view of the large verumpattam of the lands and the comparatively light kanams charged on them. Then again, in the case of lands held on 'kovilagam' leases and other leases of a like nature there is no kanam at all charged on the lands, and the tenants have to pay only the revenue of the lands and a comparatively low rent to the janmi.

In the chaotic state of things at present existing in Malabar, I think no hard and fast rule fixing a uniform rate of renewal fees can be enacted with the consent and approval of the people concerned. It is at the same time highly desirable and necessary to have the renewal fee settled and fixed by statute once and for all, and my suggestions in this behalf are contained in my answer 6 (a) to question No. 3 (a).

(b) Until 15 or 20 years ago the rate of renewal fee prevailing in my taluk (Palghat) was the customary rate of 2 per 10 or 20 per cent of the kanam amount, but for the past 15 or 20 years this rate has been altogether departed from, and the amount levied by way of renewal fees depends on the whims and caprices of the janmis and their kariyasithans.

IX. My answer to this question is covered by my answer to question No. III (a).

X. (a) & (b) The points involved in these questions are practically covered by my answer to question No. III (a).

On the principle that 'Prevention is better than cure', rather than allow the grant of a melcharth in the first instance and its subsequent purchase by the tenant in possession in exercise of the proposed right of pre-emption, I would straightaway abolish the right of granting melcharths altogether. The retention of the right of granting melcharths would, in my opinion, open a very wide door for litigation which is already rampant in the district.

(b) No other safeguard than the fixing of the renewal fee by legislation, as already suggested by me, appears to be necessary for preventing any collusion between the grantor and the grantee of a melcharth.

PALGHAT.

Wednesday, the 26th October 1927.

The following Members of the Committee were present at 11 a.m. :—

M.R.Ry. Diwan Bahadur T. Raghavayya Avargal, C.S.I. (*President*).
Mr. H. R. Pate, I.C.S.
Raja Sir Vasudeva Raja of Kollengode, C.I.S.
Sir T. Desika Achariyar.
Diwan Bahadur T. C. Narayana Kurup Avargal.
Mr. Kotieth Krishnan, M.L.C.
Rao Sahib V. Krishna Menon.
Khan Bahadur Haji Muhammad Abdulla Kasim Sahib Bahadur, M.L.A.
M.R.Ry. Rao Sahib C. V. Krishnaswami Ayyar Avargal (*Secretary*).

Oral evidence of Mr. V. Raman Nayar, B.A., B.L., High Court Vakil, Palghat.

The President:—Mr. Raman Nayar, the Committee is very thankful to you for your having found time to appear before it. The Committee has read with much interest the written memorandum which you have furnished. I will now, on behalf of the Committee, put some questions to you by way of elucidating some of the answers which you have given in your written memorandum.

Q.—Mr. Raman Nayar, you are the oldest member of the Bar in Palghat?

A.—As matters now stand, I am the oldest member of the Bar here.

Q.—May I know what your position exactly is as regards lands in Malabar?

A.—I am a mixture of both, more a janmi than a kanamdar.

Q.—May I know the extent of your properties?

A.—My tarward and myself together have about 200 acres of janm wet lands and about 60 or 70 acres of kanam wet land.

Q.—You have I presume got a copy of the written memorandum which you were pleased to place before the Committee. In it you begin by saying that the verumpattamdars of South Malabar as a whole and of the Palghat taluk in particular are generally tenants at will or from year to year and that they have absolutely no interest at stake in the lands they hold for cultivation purposes and that they never think of effecting any permanent improvement in the lands held by them. What is that due to? Is it due to the precariousness of their tenure?

A.—They think that no permanent improvement of land is expected from them. No verumpattam tenant ever thinks of that.

Q.—Why is it so?

A.—In the case of verumpattamdars they never approach the land with a view to taking it up for permanent improvement. In fact the verumpattamdar never has any sense of responsibility. All that he cares for is the present outturn or yield of the land.

Q.—That is the peculiarity of the tenure, is it?

A.—Probably it may be that he has come to entertain no such idea for want of the wherewithal.

Q.—So the verumpattamdars are people without means generally. Is the cultivation carried on by them efficient under the circumstances?

A.—It is not so in the great majority of cases.

Q.—Do you think that this efficiency could be increased if security in some shape or other, restricted or absolute, is given to the verumpattamdar?

A.—For my part I do not think so.

Q.—You refer to improvements made by kanamdars such as the provision of farm-houses, etc. Can you kindly give some instances of substantial improvements of the nature mentioned by you, made by non-cultivating kanamdars or kovilagam lessees?

A.—In South Malabar the vast majority are non-cultivating kanamdars and they are responsible for the improvements, and not, in any case, the verumpattamdars. Improvements consist of planting of both fruit bearing and non-fruit bearing trees, of timber trees, reclamation of waste lands into wet lands, etc. There are no kuzhikanamdars in South Malabar generally and certainly none in Palghat taluk. In Walluvanad and Ernad there are a few but in North Malabar they are most common. There is no kuzhikanam lease as such in Palghat taluk.

Q.—You say that the great majority of the verumpattam tenants of South Malabar, especially of the Palghat taluk, cannot command the necessary means of cultivation. Why is it so?

A.—The question is whether fixity of tenure would improve their position? I think not.

Q.—The cultivators of these lands on verumpattam are mere coolies then?

A.—In some cases they are. There are also verumpattamdars with some limited means. The verumpattamdars themselves get their lands cultivated on hired labour in very many cases and such verumpattamdars are no better than non-cultivating kanamdars so far as the actual cultivation or tilling of the land is concerned.

Q.—Do you mean that the actual cultivator has no capital?

A.—In the majority of cases it is so.

Q.—Are there any underlying reasons for such a state of affairs? If these tenants have not got the means for cultivation, are any advances made to them by landlords?

A.—Yes, in such cases advances are made by landlords. I have never found a verumpattamdar sincerely interested in putting his own capital and labour in the permanent improvement of the land.

Q.—The Committee has heard that the verumpattamdars never get any financial help from the kanamdar—the kariyastan of the Valia Nayar of Kongod said so, as also Mr. P. C. Kumaran Nayar, District Board Member from Tamarasseri in the Calicut taluk?

A.—I should say their experience in this matter is very limited.

Q.—To your knowledge many verumpattamdars do derive from their immediate lessors, the kanamdars, the necessary help with regard to this matter?

A.—Yes, I should think so.

Q.—Why should these landlords go about for these verumpattamdars who can take out of the land only a poor yield. Why do they not cultivate their lands themselves or through an agent, if necessary?

A.—It is only a matter of convenience. The lessors do not go about for verumpattamdars but the latter go about asking for leases.

Q.—That is to say, the landlord wants to save the time which he would otherwise have to spend on cultivation. Is it for economic or other considerations that this is done?

A.—Yes. He might find himself unable to do so and therefore wishes to lease the land out, the other man being ready and willing to take it up on lease.

Q.—Why not have the land cultivated through an agent?

A.—Well, there are such cases also. It all depends upon individual fancy, convenience and necessity.

Q.—You say the verumpattam tenants invariably ask for remission of rent and partial remissions are ungrudgingly granted to them. Could you give a rough idea what percentage of rent is usually realized from verumpattamdars taking into account good and bad years together?

A.—It is not in all years that remissions are asked for or granted. It is only when there is failure of crop owing to diverse circumstances that the tenant asks for remission and the remission is granted. The remission may be on an average 10 to 20 per cent. Bad years are more common than good years.

Q.—You are not for granting permanent occupancy right to verumpattamdars?

A.—Not at all.

Q.—You say it would be difficult to combat the evils that would accrue from granting occupancy right to verumpattam tenants?

A.—The landlord would be put to considerable loss and worry.

Q.—May I know how?

A.—It has been said that the landlord's position may be made secure by demanding security for payment of rent. I have no faith in that. I have seen in the Tenancy Bill of Diwan Bahadur M. Krishnan Nayar which was passed in the last Madras Council and which was vetoed by His Excellency the Governor, a provision to the effect that a suit in ejectment could be instituted only if the tenant kept in arrear one or two years' rent, which means giving a high premium for fraud and default on the part of the tenants. Now there is the fear of eviction which more or less operates as a check upon the tenant and makes him sensible of the situation. If this fear should be removed, the evil that would befall the landlord would be immense.

Q.—Could not the period which the landlord has to wait for be lessened? Could not the rent be made payable in instalments? Supposing you legislate on the lines of the Bengal Tenancy and the Estates Land Act, would it not meet the situation?

A.—Well, the attachment of the existing crop might give the lessor some portion of the rent but the rent due would be very large.

Q.—That is not the experience in the zamindari areas in this Presidency, I believe?

A.—The only check upon the verumpattam tenant which will in a way force him to pay up his rent is the fear of eviction. If that fear is removed, there would be untold misery to the landlord.

Q.—You don't think that any legislation with provisions to enable the landlord to recover rent more expeditiously or more effectively than now would be enough compensation for the loss which may be caused to him in case fixity of tenure is conferred upon the tenant?

A.—No. I don't think. Financially the man is not solvent. Giving him fixity would not improve his position or condition.

Q.—Won't it give him greater credit?

A.—It is not likely to be appreciated by the people at large, in the immediate future at any rate.

Q.—But it is sure to be effective in the long run.

A.—In my humble opinion it is not likely to be beneficial to the very class of verumpattamdars because the lessor may remove him from the holding, and the verumpattamdars as a class may eventually cease to exist.

Q.—The question of occupancy right does not arise at all if the landlord cultivates his own land.

A.—I would consider it a calamity for the verumpattamdars themselves if permanent right should be granted to them. The verumpattamdar has no manner of

interest at stake in the land, and so I say he does not need or deserve any special protection.

Q.—I thought what you meant was that he would soon lose his right by selling it.

A.—Automatically the verumpattamdar will cease to exist.

Q.—If the law says verumpattamdar who has got occupancy right should not alienate it, what would you say?

A.—Then the fixity is not likely to have any market value at all.

Q.—Do you think this restriction would take away the market value altogether?

A.—It would considerably affect and tend to reduce the market value of the holding as such.

Q.—You say "that the verumpattamdars of Malabar do not occupy the same position as the ryots of the eastern districts. In my opinion the Malabar verumpattamdars have nothing substantial in common with the ryots of the eastern districts. Unlike the latter, in the great majority of cases the verumpattamdars of Malabar are not the actual cultivators or tillers of the soil. They are not entitled to any special sympathy or protection on this account." Does it mean that the verumpattamdar sub-leases the land as a rule?

A.—The verumpattamdar does not do the labour himself whether he be a lessee or a sub-lessee. The verumpattamdar in most cases does not touch the plough. By actual cultivator I mean the coolie who actually does the work of ploughing, reaping, etc.

Q.—You say, "the only protection that the verumpattamdars of Malabar as a whole and those of South Malabar in particular do want at present is, in my opinion, (1) help by way of small loans of money and grain on comparatively easy terms, and (2) relief against eviction under specified conditions." You say they have no means and no credit. How can they get these small loans and on what security?

A.—In the great majority of cases loans are granted on personal security and not on property security. It is not so easy to move the capitalist janmis and kanamdars to establish private agricultural banks as matters now stand, and so, in my opinion, Government will have to do it in the first instance.

Q.—No Government will advance monies on no security.

A.—We are now advancing small loans and taking the risk.

Q.—Do you think that it would be possible for the janmis and the kanamdars to co-operate with each other with a view to bring such money-lending banks into being?

A.—It would be quite possible provided they have the will for it. The janmis and the kanamdars may co-operate with one another and bring about a solution of the difficulty. It is the present agitation which has been fostered by interested persons that has embittered the feelings between the kanamdar and his janmi to some extent. I am afraid this agitation has done more evil than good.

Q.—The second remedy you propose is a provision like the one in section 114 of the Indian Transfer of Property Act enabling the verumpattamdars to be relieved against ejectment when sued by their lessors on payment to the plaintiff-lessor of the arrears of rent and interest due and full costs of the suit. What is meant by full costs of the suit? Are out-of-pocket expenses included?

A.—I mean the plaintiff-lessor's costs—the full legitimate costs.

Q.—Would the suggested remedy not be putting a premium on the tenant's dilatoriness in paying? He would naturally wait till he is sued in court?

A.—If he would always wait till the landlord goes to court and would have nothing to do with the landlord out of court, it would be of no adverse consequence to the lessor. The tenant himself would suffer for it.

Q.—Is that not a consideration which you should remember in applying the provisions of section 114 of the Transfer of Property Act?

A.—The tenant himself would have to suffer for his persistent misconduct in thus driving the lessor to court.

Q.—Cannot the verumpattam rent be arranged to be paid in instalments?

A.—Rent is paid by instalments, even at present, over 60 per cent by Kanni and 40 per cent by Makaram.

Q.—May I take it that it is your intention to prolong the tenancy beyond the stipulated period by providing for a rule like the one in section 114?

A.—I don't mean to confer permanent right on the tenant though that inference is possible. I never aim at it. In fact the right of ejectment should remain vested in the lessor.

Q.—You don't approve of arbitrary evictions?

A.—If the lessor sues for arbitrary eviction, the remedy is what I have suggested in my written answer. From the tenant's point of view the suit for recovery of the land may be unjust but it may not be really so.

Q.—So long as he deposits the plaint amount into court you do not recommend eviction. Is that not in effect the grant of permanent occupancy right?

A.—Though the effect may be so to some extent, it is not a question which could be answered point-blank. I would allow the present state of things to continue, granting this additional relief to the tenant of being relieved against ejectment whether the landlord goes to court justly or unjustly.

Q.—When you introduce this restriction on the landlord you introduce a change in his relationship to the tenant. Is it not?

A.—Not exactly a change in relationship. When the landlord gets his dues and full costs of the suit, there is no harm in giving this relief to the tenant as a matter of State policy.

Q.—I put the question whether that interpretation would not mean grant of permanency right?

A.—Nothing is further from my heart and my intention.

Q.—You say that the verumpattamdar in Malabar needs no further protection, and that the case of the kanamdars, kuzhikanamdars and tenants holding on kovilagam leases stands on a different footing. When you say so I suppose you have in mind the idea that kanamdars and kuzhikanamdars should have their leases terminated only after 24 years instead of 12 years?

A.—Yes, I would, further, give them relief against eviction or redemption also if the janmi is paid his proper dues by way of renewal fee, etc.

Q.—You say they should be given terminable occupancy right. If a man is turned out of his holding at the end of 12 years and it is a hardship, it would also be equally a hardship if he is turned out after 24 years?

A.—There is considerable difference between the two cases. As matters now stand, where the term is only 12 years, by the time the estate is put in an enjoyable position more than two-thirds of the period would have elapsed, whether they be wet lands or garden lands, whereas by increasing the term to 24 years, the tenant would have some reasonable period of enjoyment of the improved holding.

Q.—So you won't attach any importance to the sentimental argument that if a man has held a holding for 24 years he naturally gets attached to it?

A.—I am afraid it is not a mere sentimental argument. It is also based on economic grounds.

Q.—Would it not be hard to turn him out of the land at the end of 24 years?

A.—Well, we have also to reckon with the janmi, who is the owner of the land. My attitude is one of compromise. My argument is based upon facts and experience. I allow redemption in some cases. We see many janmis who do not seem inclined at all to eject tenants. Not that they have not sufficient funds, but they don't do it. Whenever they seek to recover the holding it is only done to recover it from A with a view to hand it over to B. Respectable and leading janmis like the Zamorin of Calicut, the Poovulli Mana, the Olappa Mana, Kavalapara Nayar, Kuthiravattah Nayar, etc., do not evict their tenants as a rule.

Q.—In your answers, referring to 'remedies' you say "prohibiting melcharths and agreements or contracts between the janmi and a third party—whether oral or written—that may in any way tend to have the effect of melcharths—and declaring melcharths and such agreements or contracts to be absolutely void and unenforceable." Is it your intention that this should be an absolute rule and that there

should be no exceptions whatever? What will an impecunious janmi who is unable to find the funds for a redemption suit do?

A.—That is the only hard case that may seem to require special consideration. If he cannot hold his janm right, let him sell it.

Q.—If you restrict melcharths, then you can't sell?

A.—Janmam sales are now going on to any extent. It is only encumbered estates that are sold outright. Melcharths are considered to be the bane of the country. I don't think any special exemption is necessary in the case of impecunious janmis.

Q.—But what is a poor janmi to do with a recalcitrant tenant?

A.—There is no reason for extending any sympathy to the poor janmi. He can sell his janm right.

Q.—In other words you are giving the tenant permanent occupancy right without giving the janmi compensation for the loss of that right?

A.—No question of compensation would arise. The good and right-minded janmi never thinks of eviction and redemption so long as he continues to get his proper and legitimate dues, and so long as this continues to be the case, he has no reason to think and does not think that he is deprived of any portion of his right. By timely renewals the tenant continues in possession of his holding, and the janmi never feels that he has lost any right of his. When I say that, I have in mind the good and ancient janmis of Malabar.

Q.—Then the remedy you suggest is not of universal application?

A.—The remedy must be made universally applicable. Taking my own case into consideration, I enjoy the holdings of two janmis and these holdings are over 100 years old, and there has been absolutely no trouble. We have to consider the policy of the State also. Most people do attribute the Mappilla riots to eviction. I would therefore take away the right of melcharth altogether from the janmi.

Q.—Your position is that because a good janmi is satisfied with his michavaram and his renewal fee and does not seek to get more than that, there is no need to give any janmi anything more than that; and that therefore he should not be permitted to use his power of melcharth?

A.—That is so.

Q.—You say "provided that the janmi or other proprietor of the holding shall be entitled to redeem or to recover the holding for his own residential or cultivation purposes, in which case he shall not be competent to demise or lease the holding so redeemed or recovered to a third party for a period of 24 years from the date of such redemption or recovery". Should you not allow this concession to the janmi's wife and children?

A.—When I speak of the janmi, I mean the janmi tarwad or the janmi stanam.

Q.—Ordinarily the janmi's wife and children are not in his tarwad?

A.—No, they are not and cannot be members of the tarwad; it is the result of the Marumakkattayam law of inheritance.

Q.—With regard to the renewal fee you have suggested a scale. Why should not the renewal fee be fixed with reference to the pattam?

A.—In olden days the document used to be called 'Ubhaya pattam' deed. There was no provision for redemption. We cannot at this distance of time account for it. It would be seen that both the janmi and the kanamdar had some joint interest in the property. From the documents of that kind I see that the term of twelve years is of recent introduction. Ubhaya means mutual and pattam means rent, and so it means only rent mutually decided upon. There is no provision for any renewal fee to be paid out of the rent. Even deeds subsequent to 1852 (M.E. 1027-1028) do not contain any provision for payment of the renewal fee out of the rent of the land.

Diwan Bahadur T. C. Narayana Kurup :—Q.—You have suggested a scheme with regard to the renewal fee. That is a suggestion which we have seen made in many quarters. I think your intention is to reduce the rate of renewal fee as the kanam amount increases?

A.—The greater the kanam the lesser is the profit enjoyed by the tenant out of the rent. In the case of very many holdings, especially in the taluk of Walluvanad, the kanam amounts are very small. In the case of kovilagam lands there is no

interest on kanam to be deducted in favour of the tenant. In the case of kanam holdings the present rent will be found to be the result of reclamations on the part of the kanamdars. So the rent of reclaimed lands should not be taken into account in fixing the renewal fee.

The President:—Q.—You do not want to enhance the rent but would you increase the kanam?

A.—Yes. Where the margin of profit to the tenant is very wide it is only natural and equitable that the janmi should be allowed to raise additional kanam so as to enable him to have the use and benefit of his own land to some extent.

Q.—You don't want to offend the 'kana-janma' mariyada.

A.—The janmi is not the debtor and the kanamdars is not the creditor as now sought to be established by the theory recently propounded by some janmis. The janmi has been enjoying some sentimental privileges and the tenants have been paying some homage to them as a special consideration. It is not a mere matter of rupees, annas and pies.

Q.—You are not in favour of conferring occupancy rights on the kanamdars anterior to 1852?

A.—By confining the right to the holdings prior to 1852 you would be punishing the few good janmis for their good conduct and rewarding their erring brethren for the evil done and to be done by them.

Q.—We have heard complaints that the janmis are not able to recover rents due by kanamdars, kuzhikanamdars and kovilagam tenants. Is that your experience?

A.—Generally rents are not kept in arrear by such tenants. The complaint may be true in the case of the ordinary verumpattam tenants.

Q.—Could you give us an idea of the rent left uncollected in this way?

A.—Three days ago I settled a suit which I had instituted for Rs. 1,000. I had to settle it for Rs. 300 because the tenant was not able to pay more than that and so I lost Rs. 700. He was a verumpattam tenant.

Q.—In reality do losses occur in many instances?

A.—In the case of kanamdars, kuzhikanamdars and kovilagam tenants no losses occur and as a rule the janmi does not suffer.

Q.—You are not in favour of granting permanent occupancy rights in kudi-yirippus. Supposing permanent occupancy rights are given, do you think that compensation should be paid in such cases to the janmi?

A.—I am not against granting permanent occupancy rights to kudi-yirippu holders and this may be seen from my written answers and where it is granted, certainly compensation should be paid to the proprietor.

Q.—How do you determine the value of janmam right?

A.—There is the market value.

Q.—I should like to know what adequate compensation means?

A.—Compensation such as would be awarded under the Improvements Act. Dealing with the question of compensation, I may say that adequate compensation is not sometimes given to the tenant for the improvements effected by him. Supposing a kuzhikanamdars plants teak trees during his tenure, and if he is evicted at the end of the period of twelve years, compensation that would be paid to him would not be adequate because the teaks planted by him would not have grown to the size of timber trees. He would in such cases get only the value of fuel for such prospective timber trees.

Q.—What is your suggestion then?

A.—By prolonging the term of the demise or lease and other means enabling the tenant to retain his holding.

Q.—With regard to fruit trees you say the rates of compensation that are now awarded are very inadequate. Why?

A.—Because, under the Act the fruit trees have to be valued in a way not calculated to give the tenant the compensation he really deserves as in the case of graft mango trees for instance.

Q.—Your view is that the schedule regarding the rates prescribed with regard to newly planted trees ought to be revised?

A.—Yes.

Q.—Have you any suggestions to make with regard to the amendment of the Act in the matter of fruit-bearing trees which have not come to bearing but which are about to come to bearing?

A.—Very wide discretion is given to the commissioners now. I can't give any suggestions now because it is a matter which requires some thought.

Q.—You say the Act should be amended and you have no suggestions now to offer?

A.—Yes. The Act should be amended, but I have at present no suggestions to make except the few I have already mentioned in my written answers.

Q.—Referring to the net yield and the share of the net yield which may be considered to be a fair share for the cultivating tenant you say one-fifth of the net yield or produce would be a reasonable share and you give an example. Is it a hypothetical case or is it based on concrete cases?

A.—Though strictly speaking the case given by me is a hypothetical one, it is really based on experience. The figures adopted by me are in a sense hypothetical.

Q.—Would it not be desirable to fix it as a multiple of the assessment, say five times, in order to avoid litigation as to the fixation of the rental?

A.—It may be convenient and desirable to fix it as a multiple of the assessment, and if this principle is to be adopted I would fix the tenant's share of the produce at three or three and a half times the assessment and not more.

Q.—If you base your net rent on the assessment, you would be avoiding much room for litigation, is it not?

A.—Rent is a matter of contract between the parties. Why should the legislature interfere in that behalf?

Q.—You say that one-fifth of the net yield of the land would be a fair share for the verumpattamdars. Do you think it is a fair proportion?

A.—The rent now fixed is very fair, and it has been fixed with due regard to and after making due allowance for the tenant's share in the produce of the land.

Q.—He is not rack-rented?

A.—Certainly not.

Q.—Is he able to maintain a proper standard of living?

A.—Does the Committee want to provide a proper standard of living for the tenant's family? I don't know if it would be justified in doing so at the expense of the landlord. It may be difficult and not feasible to fix the standard. As it is, the tenant is able to maintain his own standard of living.

Q.—You want the right of contract to be respected?

A.—Yes. Such contracts are entered into by the parties with a full knowledge of the situation and with eyes wide open. If the tenant does not like, let him seek employment elsewhere. The world is wide enough for him. In my opinion and so far as my knowledge and experience go, I can say without fear of contradiction that the rent that is now being paid is, in the great majority of cases, very fair. Cases of rack-renting are very rare, and the few cases that may exist here and there are the result of unhealthy competition between one tenant and another.

Raja Sir Vasudeva Raja of Kollengode:—Q.—You said that you have about 200 acres of janm lands and about 50 acres of kanam lands. Have you got any kanam tenants under you?

A.—No.

Q.—So you are a janmi in the sense you hold janm lands, and any legislation passed in favour of the tenants against the janmi will not prejudice you as a janmi?

A.—I do not understand you.

Q.—I may explain it still further. Supposing kanam tenants are given occupancy rights. Do you stand to be affected thereby?

A.—I may at once submit that the answers that I have formulated in reply to the questionnaire of the Committee are done in the best interests of the public at large. I as a holder of janm lands may not be affected by any such legislation.

Q.—What have you done with your kanam lands?

A.—They are mostly held by verumpattam tenants.

Q.—In your written memorandum you say that “the grant of permanent occupancy right to the simple tenants of Malabar would, indeed, be a calamity to the whole district. The situation can better be imagined than described”. I suppose that is your deliberate and considered opinion?

A.—Yes, that is my considered opinion.

Q.—Any legislation conferring occupancy right on the verumpattam tenant would be a calamitous legislation?

A.—I should think so.

Q.—You know that Mr. Krishnan Nayar's Bill which was passed in the late Council but which was vetoed by His Excellency the Governor contained such a provision?

A.—I believe a calamity has been averted by the veto. I would rather have no legislation at all than have a legislation of the kind introduced by Mr. Krishnan Nayar.

Q.—Have you purchased any janm lands? What is the highest rate of interest that you get?

A.—In the case of early purchases, I think it would be about 7½ per cent.

Q.—You are aware that in Malabar several janmis have purchased janm lands. What interest do they get?

A.—Yes; within the last seven or eight years the price of lands has gone high in the market but it is beginning to come back to the original level. Barring that, I think the average rate of interest might be said to be three to four paras of paddy per 100 fanams.

Q.—Do you know of any case where the janmam purchase yields more than 6 or 7 per cent?

A.—It is about 70 paras of paddy for 1,000 rupees.

Q.—On the existing rent the janmis are not realizing more than 3 to 5 per cent?

A.—Not likely. I am not aware of very many janmis who have got the reputation of making new purchases every year. Rich and respectable janmis like the Poovulli Mana and other people do make new purchases.

Q.—What is your opinion with regard to Mr. Krishnan Nayar's Bill?

A.—I think it would be better to take away the lands by force from these landlords than try to benefit the tenants by legislation like his. I think this is worse than the Robin Hood method.

Q.—You admit that it is highly unjust and improper to reserve one-third or one-fourth of the net produce to the verumpattam tenant?

A.—I should think it most inequitable.

Q.—You are not prepared to allow melcharths in any case?

A.—No, because it is of a comparatively recent origin. In olden days melcharths were unknown. They deserve to be knocked on the head.

Q.—What do you suggest in the case of impecunious janmis?

A.—Why should there be any special provision made for them? Owing to the janmam registration proceedings titles have been placed on a safe and sound footing. So no mischief need be guarded against in that line. If necessary, they can sell the property outright.

Q.—You said that the janmi should have no right to evict a tenant if he pays his dues properly. It only means the granting of occupancy right, is it not?

A.—It may be paraphrased like that. Having regard to the course of conduct adopted by the ancient janmis, I am of opinion that no janmi has any idea of cultivating his lands himself. In that case where is the necessity for disturbing the existing right? Janmis themselves will admit that they will not cultivate their lands.

Q.—With regard to kanam tenures, you want the term extended to 24 years?

A.—Yes, in view of the hardships already explained by me.

Q.—You know stanies and karnavans have no right to grant long term leases.

A.—He has got the power to sell even the janmam right for tarwad or stanam purposes under certain circumstances.

Q.—I know of several cases where long-term leases have not been upheld by courts.

A.—Even a Hindu widow has got the right to make such grants under special conditions.

Q.—Long-term leases were not countenanced generally. What is now considered to be illegal, you want to legalize?

A.—No. The suggestions made by me are perfectly legal. I base my answers on my experience.

Q.—With regard to the renewal fees, you have suggested 30 per cent on Rs. 1,000 kanam, 20 per cent on Rs. 5,000 and 10 per cent on larger amounts. Supposing one tenant holds 10 acres of land and he has got Rs. 10,000 kanam and another 50 acres also subject to a kanam of Rs. 10,000. A man who has got 10 acres has then to pay 30 per cent, a man who has got 50 acres has got to pay less. Does it mean then the richer has to pay only less. Is that the principle?

A.—Other things being equal, the lesser the kanam amount the greater will be the margin of profit left to the tenant. So many points will have to be taken into account. There may be large reclamations in many cases. In the case of reclamation leases there is janmabogam provided for at the rate of a para or para and a quarter of paddy for every para of land. There is no renewal fee at all.

The President:—How does janmabogam differ from renewal fee?

A.—Janmabogam is generally fixed at 1½ para of paddy for every para of land and it is payable every year. Renewal fee is payable only at the time of renewal, and not every year.

Q.—You were speaking of teak trees and the tenants not having been able to get their full value. You know lands are given for cultivation purposes and not for growing forests.

A.—If it is an improvement under the Improvements Act you have to pay for it under the Act. There is no question of intention in the case. If it is not an improvement, the question of compensation cannot and does not arise. I have already indicated my opinion.

Q.—You said you would allow freedom of contract?

A.—Yes. Taking things as they are.

Q.—In practice do you find any one getting additional kanams?

A.—Yes, there are very many. If the karnavan raises kanam in the name of the tarwad and utilize the same for his own purposes then there will be trouble between the junior members and the karnavan, not otherwise.

Q.—You said that the conditions of the tenants in the other parts of the country and those in Malabar are different. Are they better off here or worse?

A.—I said I have no personal knowledge of the conditions prevailing elsewhere. I am clearly of opinion that the simple tenant in Malabar has no substantial interest in the land.

Q.—All the tenants get value of improvement when they are evicted?

A.—Yes.

Q.—But in the other districts they are not getting anything?

A.—It may be so. The provision for payment of the value of improvements to the outgoing tenant is, as submitted in my written answer, peculiar to Malabar and is, so far as I know, based on the custom of the district.

At this stage the Committee rose for lunch.

AFTER LUNCH.

Raja Sir Vasudeva Raja of Kollengode (cont)—Q.—Are you for granting permanent occupancy right to kudiiruppu holders?

A.—I have indicated my opinion in my written answers. You must not give permanent occupancy right for those attached to the farm buildings.

Q.—And the kudiiruppu holder must pay one-third of the janm value for any permanent occupancy given. Is that your view in regard to kanam lands also?

A.—I have given there my view against any 'compensation' theory.

Q.—But not against the permanent occupancy right?

A.—I am of opinion that the kanamdars may be enabled to retain the holdings without taking away the janmi's right. I respect the janmi's right subject to certain conditions.

Q.—Only they cannot exercise them?

A.—They can exercise them to the extent it is desirable and necessary as all good and right-minded janmis have hitherto been doing. They never felt they were deprived of their right.

Q.—Anyhow, if any occupancy right is to be given, you allow one-third of the janm value?

A.—Compensation must of necessity be arbitrary, and so I have fixed it at one-third of janm value.

Q.—That is your opinion, and not based upon any statutory measure?

A.—No answer.

Sir T. Desika Achariyar :—Q.—On one or two matters I want to make myself clear. You don't want to grant any right of permanent occupancy to verumpattamdars?

A.—No.

Q.—You want in your memorandum to give them some sort of convenience or privilege analogous to that in section 114 of the Transfer of Property Act. May I remind you that section 114 relates to cases of forfeiture?

A.—That is the reason why I have not adopted that section itself. Some provision of the kind enabling the party concerned to have the suit dismissed and the holding left undisturbed may be made in this behalf.

Q.—What is the restriction that you make?

A.—Let there be a provision—whether it be tenants-at-will or tenants year by year or for a longer term—when and if a suit is brought for the suit being dismissed on payment of the landlord's dues and the costs of the suit, subject to the conditions mentioned in my written memorandum in the terms in which I have put it there.

Q.—So you are willing to grant permanent occupancy right?

A.—No. The janmi's right should remain intact. I would not expressly take away that right.

Q.—Who is to decide which is abuse of his right and which is not?

A.—It is a difficult matter to decide. So I, as a matter of compromise, say that whenever a suit is brought by the janmi, irrespective of the question whether it is justified or not, if the amount due to the plaintiff-janmi, is deposited by the tenant-defendant, together with the costs of the suit, the suit shall be withdrawn or dismissed. That gives due relief to the tenant and it gives the landlord his legitimate dues. Both are placed in *status quo ante* and there is nothing to complain of on either side.

Q.—There are one or two other points also which have to be made clear. What is the term of the verumpattamdar which you are contemplating?

A.—No particular term. I am concerned only with the relationship of the landlord and tenant irrespective of the term, if any. He may be a tenant-at-will. If he conducts himself properly, there is no necessity for fixing a term, the measure suggested giving him the necessary relief.

Q.—Supposing a verumpattamdar does not pay rent for three years and a suit is instituted at the end of three years. If the landlord gets what is due in court and full costs you will allow him to continue notwithstanding that he has defaulted payment?

A.—Yes. Provided he has made good the amounts due by deposit in court.

Q.—That will apply even after 65 years?

A.—Yes.

Q.—But there is another problem consequent upon your proposition. Would you allow the lessor to increase the rent?

A.—That means litigation. That cannot be.

Q.—Supposing a tenant denies the landlord's title what will you do?

A.—Certainly he must be evicted and can be evicted by the landlord.

Q.—So your proposition is capable of being limited to certain conditions?

A.—Yes.

Q.—I see in this report (referring to Mr. Innes' report) there are five or six things which entitle a person to evict a tenant. One is fraudulent conduct, another is denial of title, a third, acting inconsistently with the purpose of the lease and so on and so forth. In all these cases you would give the landlord power to evict?

A.—Yes.

Q.—So that other things being equal, rental value not increasing, the tenant not denying the landlord's title, the tenant otherwise performing the conditions which generally he ought to perform, in this part of the country, you would allow him to continue if he pays the rent even if it is after the suit? That is your position and if legislation like that were made that would be sufficient?

A.—In my opinion it would be sufficient. More than that is not necessary. He does not require it. He does not deserve it.

Q.—There is one thing connected with this. You say there is no rackrenting in this place.

A.—I am not absolute; there may be stray cases here and there for which, in my opinion, the tenants themselves are to blame. It is the result of unhealthy competition between one tenant and another.

Q.—In this report (Mr. Innes' report) here is a sentence 'and the rest of the lands in the district are, speaking generally, grievously and terribly rackrented'.

A.—I respectfully dissent from that view.

Q.—Supposing they are rackrented, would your remedy with regard to verumpattamdars be correct?

A.—Why can't we leave the rent to be settled as a matter of contract between the parties. In my opinion the question of rent may safely be left to the parties concerned as they are not likely to go wrong.

Q.—I want to understand your position correctly. You would say that the only relief that could be given to the verumpattamdars is the relief you have indicated?

A.—Yes. As for the question of fixing the rent payable by him, I should say the rent undertaken to be paid by him is the result of the contract between the parties and would in the great majority of cases be more or less correct and fair.

Q.—You would allow the tenant to continue even if the money due is paid in court?

A.—Yes.

Q.—With regard to melcharths you think they must be avoided?

A.—Yes. In my opinion they must be absolutely avoided.

Q.—That is restricting the right of alienation which the proprietor has in the property that he owns. Why should not a man make a second mortgage?

A.—Speaking from a legal point of view nobody has the right to fetter any man's right of granting a second mortgage. But the question is whether the kanam demise is a mere mortgage and nothing more?

Q.—You put it on the ground of State policy? And on the ground that the Mappilla Rebellion and disturbances of such a character are the immediate result of melcharths?

A.—As a matter of State policy if not as a matter of law. Speaking as a lawyer, I cannot for a moment maintain the position that the absolute owner of the property has no right to grant a second mortgage.

Q.—You say melcharths are abused, and the privilege of making a second mortgage is likely to be abused?

A.—The same purpose would be served by the grant of renewal so far as the janmi is concerned.

Q.—Why do you take away that right?

A.—Because there is no necessity for retaining this right of melcharth so long as the janmi is able to get his proper dues by granting a renewal of the existing demise on the principle that "Prevention is better than cure". I would abolish this right of melcharth rather than create a difficulty by retaining it and try to remove that difficulty by further legislative provisions by way of giving the tenant in possession a right of pre-emption, etc.

Q.—I quite agree with that. How can the janmi be compensated adequately for not being able to deal with the equity of redemption?

A.—Any remedy has to be necessarily arbitrary. In my humble opinion the janmi cannot be and need not be compensated, for, he cannot be said to suffer any loss of right if he is paid all his usual and proper dues.

The President.—Q.—So you don't compensate him at all, is that your position?

A.—No; there is the middle course. Let the janmi have all his dues and let the tenants continue in possession as in the case of all good and right minded janmis and tenants as already referred to.

Sir T. Desika Achariyar.—Q.—I suppose janmis give melcharths when they are in need of money?

A.—It may be so; it may not be so. Sometimes other people are responsible or the melcharths and not the janmis. Even kariasthanans are responsible.

Q.—Some janmis at least grant the second mortgage in order to raise money for necessary purpose?

A.—They could very well raise the required amount by granting renewals, and they do so very often.

Q.—We are not now on the question of renewals?

A.—What I mean is, for the melcharths the janmi alone is not responsible.

Q.—Your objection is that the janmi tries to achieve that which he ought to do directly by indirect method setting up another person to do his work?

A.—My objection is to the ejection of the tenant in possession by this indirect method. In some cases the janmi does so for himself. In some cases the janmi does so for another that is the melcharthdar.

Q.—I simply want to understand the full implication of your proposition. You want to deprive the owner of a property of the right to effect a second mortgage or in other words, to confiscate his rights?

A.—As a matter of State policy I would curtail that right. In doing so, I say no compensation need be provided for because absence of compensation does not materially affect him.

Q.—Do you put it on the ground that some janmis grant melcharths to benefit their wives and children?

A.—Well, such cases do occur but I don't put it on that ground. In the case of their wives and children the janmis do not take any money at all.

Q.—Do you think that as a matter of policy melcharths should be avoided and then there would be no room for speculation?

A.—Melcharth is considered to be an intolerably disturbing factor. Nobody is likely to be injured by the abolition of that right. So long as the janmi gets his proper dues, he can have no room for any complaint about loss of right and no question of compensation can properly arise.

Khan Bahadur Haji Abdulla Haji Kasim Sahib Bahadur.—I would like to know whether you are in favour of legislation to adjust the relationship between the landlords and tenants, by way of compromise?

A.—Yes. Certainly. I am for conferences being held of the janmis and tenants and as a result of friendly talk a settlement can be arrived at. That would be the best settlement possible.

Q.—Anyhow you are in favour of legislation?

A.—If possible a compromise between the parties concerned is highly desirable.

Q.—May I know who are the actual cultivators, the kanamdars, the verumpattamdars or the janmis?

A.—By the 'actual cultivator' I understand the actual tiller of the soil. The labourer, who has to be paid his daily wages, is the actual tiller of the soil.

Q.—For cultivating all these people employ coolies?

A.—They do except in a few cases of verumpattam tenants who are themselves in the position of coolies. In such cases they themselves do the manual labour, appropriating for themselves the wages which otherwise would have to be paid to the coolies employed for the purpose.

Q.—Anyhow the verumpattamdars would have to be the actual cultivators?

A.—In some cases they are and in some cases they are not.

Q.—Are verumpattamdars largely of the coolie classes?

A.—No. A majority of them have got some means. There are coolies also among them.

Q.—I am given to understand that kanamdars collect rent from the verumpattamdars to pay it to the janmi?

A.—They pay the janmi the michavaram and not the rent.

Q.—They are the middlemen. That is like a post office.

A.—I do not understand the meaning of the term 'middlemen'. The kanamdar gets land from the janmi and sublets it to the tenant. Between God and earth every man is a middleman. If the kanamdar is a middleman a janmi is none the less a middleman. I can't understand the significance of the term when so used. Speaking from my experience and from my knowledge, I say without fear of contradiction that the janmi is not the man even in actual contact with the land. The kanamdar is the man in actual contact with the land for all practical purposes.

Q.—From whom did the kanamdar get the land?

A.—Some theory goes to show that lands are the joint property of the janmi and the kanamdar and that theory is not without foundation. There are other cases of people who had till then been the absolute proprietors of the soil and who for fear of aggression by a powerful neighbour went to another superior man and accepted him as the janmi and agreed to take a kanam demise from him in return for the surrender of the absolute janmi right to him.

The President.—We are not directly concerned with that.

Khan Bahadur Haji Abdulla Haji Kasim Sahib Bahadur.—So you are not in favour of giving occupancy right to verumpattamdars. You are in favour of giving it to kanamdars?

A.—I am not in favour of giving occupancy right to kanamdars except in the way I have indicated. Nobody need be given any absolute occupancy right. It is perhaps an unnecessarily offensive term that might provoke the janmi. It is enough if the kanamdar, kuzhikanamdar and kovilagam lessees are enabled to continue in possession.

Q.—Would you suggest any legislation or Act for the speedy recovery of rent from the tenants by the landlords? E.g., as is done in Bombay, or by the Revenue Recovery Act?

A.—We need not go to Bombay. There is the Estates Land Act in Madras. Having regard to the present provisions in the Civil Procedure Code regarding attachment and all that, I would propose some special legislation in that behalf. Now it is rather difficult to recover the dues if one has to go to court.

Q.—So you do not propose to give any protection to the actual cultivator of the land?

A.—There we are not at one. As I told you, the actual cultivator is the labourer.

Q.—You mean to say the tenant is the cultivator?

A.—There is the general supervision by the so-called actual cultivator. I take objection to the use of words 'actual cultivator' with reference to the simple tenant. The simple or verumpattam tenant is the man in possession for the purpose of 'cultivation'. He has the immediate supervision of the land.

Rao Sahib V. Krishna Menon :—I suppose you are for giving occupancy right to non-cultivating kanamdars?

A.—I am not for giving occupancy rights to anybody.

Q.—I suppose you understand what I mean by 'non-cultivating kanamdar'?

A.—Yes; but why that distinction?

Q.—Are you willing to give occupancy rights to the cultivating verumpattamdar?

A.—I have given him the protection he needs in case he is sued in ejectment. More than that he does not need and does not deserve.

Q.—I think that cultivating verumpattamdar and non-cultivating kanamdar must be treated at least equally?

A.—In what respect?

Q.—As far as eviction is concerned.

A.—There is no real analogy between the two. They stand on essentially different footings altogether. The kanamdar whether cultivating or non-cultivating has considerable interests at stake in the holding while the verumpattamdar has no substantial interest at stake in the holding.

Q.—Do you grant that the prosperity of the country depends upon the general increase of the produce of the country? What are the essentials for increasing the produce? I will give you, to save trouble. One is land, the other is capital, and another is labour. What portion of this is contributed by the non-cultivating kanamdar?

A.—A considerable portion, viz., land, capital and labour. The large holdings that are now found to exist in Malabar are the result of the labour and capital of the kanamdars.

Q.—Suppose a janmi gives a land fully improved, i.e., with all permanent improvements completed and hands over the land to the kanamdar. Would you treat that kanamdar as an ordinary verumpattamdar?

A.—Whatever is found to exist now in any particular holding is, you may rest assured, the result of the capital and labour of the kanamdar and not the janmi at all. Even the kanamdar of the type mentioned in your illustration has a substantial interest at stake in the land while the verumpattamdar has none.

Q.—All the permanent improvements have been made in the land; there is the compound, there is the house and such an estate has been demised to a kanamdar. Would you place him on the same level as the verumpattamdar? Taking that as a hypothetical case, how will you differentiate between the two?

A.—One is the kanamdar, the other is the verumpattamdar. There must be that difference at least between the two.

Q.—Both should have the same privileges?

A.—No. The kanamdar must have all the rights and liabilities of the kanamdar but not so the verumpattamdar.

Q.—You said that you supply cattle and other requisites to your verumpattamdars. What is the rate of interest you levy?

A.—I levy no interest from my tenants though the normal rate is 20 per cent.

Q.—Are there no instances where the kanamdar has levied something for cattle, etc., given to verumpattamdar to plough, etc., in Malabar?

A.—If the verumpattamdar is in need of heads of cattle and the kanamdar is in possession of cattle, I think temporary loans used to be given of the cattle, and no remuneration would be demanded.

Q.—So you charge no interest?

A.—No.

Q.—When you give land to a verumpattamdar do you see to his substantial nature, i.e., whether he has got other properties besides this land?

A.—One ought to, but one does not do it generally.

Q.—Why?

A.—I can't answer that. People generally trust each other. It is human nature.

Q.—Even if the land does not produce, you demand your share?

A.—If the crops fail, such circumstances are duly taken into account and remissions are sued for and granted.

Q.—Suppose you are offered a piece of land for one year and another for 12 years, which will you prefer?

A.—It is not a matter about which a pointblank answer can be given. It depends upon so many considerations. If the holding is not worth having, a term of 12 years or even more cannot avail.

Q.—I suppose you will prefer the one given for 12 years.

A.—Not necessarily. Other conditions being equal, 12 years' holding must be preferable.

Q.—If a verumpattamdar is given that, will he not be anxious to have it?

A.—The question of anxiety is, I think, irrelevant.

Q.—You have heard of Paliam verumpattam lands. Suppose you are offered an ordinary verumpattam land in Palghat taluk and a Paliam verumpattam land. Which will you take?

A.—I shall tell you. Charampet Mana is a good mana owning a good deal of land. The senior Namburipad who was known to me was averse to the grant of melcharths. But the present man, I am told, waits only for an opportunity to grant melcharths. So, you cannot say, speaking of this mana, that he is an absolutely good landlord. So also with the Paliath Achen.

Q.—So if there is no fear of eviction you will attach more importance to that?

A.—Certainly.

Q.—You were speaking about the policy of the State. Would you allow the same policy of the State both to the kanamdar as well as the verumpattamdar?

A.—Each in his own way.

Q.—If the kanamdar is evicting the verumpattamdar without any reason, then a grievance is created and you will have to put a stop to it?

A.—If there is a grievance it may be redressed. What I have already said in connexion with ejectment suits against the verumpattamdars would apply to all landlords—whether janmis or kanamdars.

Q.—I am speaking of the abuse of liberty?

A.—If the abuse of liberty results in grievance, that grievance may be redressed and measures to that extent may be passed.

Q.—The kanamdar and the verumpattamdar, both are entitled to protection in this case?

A.—I won't put them together. Each may be given relief in the way he deserves and needs relief.

Q.—They are not similar, because verumpattamdars are born to be eternally poor?

A.—I have never entertained any such idea.

Q.—Who is it that stands the vicissitudes of season?

A.—Crop suffers (laughter) and with it both the lessor and the lessee.

Q.—If extra assessment is put on by the Government, who suffers?

A.—The proprietor of the soil.

Q.—Is he compensated in kind or money?

A.—Sometimes in both, sometimes in either.

Q.—Generally?

A.—Both in kind and money.

Mr. Kotieth Krishan :—I believe you said that, so far as the verumpattam tenants are concerned, nobody ever thought of evicting them so long as they paid the customary dues. So they were also enjoying a sort of permanency of tenure?

A.—In the sense that they were not evicted. They were by the goodwill of the landlord allowed to continue. No doubt they could be evicted, but they were not. That does not mean they were enjoying a permanent right. The two are not identical.

Q.—May I take it that there was the practice and custom prevailing in this country that the kanamdar will not be evicted if he pays his rent regularly and conforms to the conditions of the lease?

A.—Yes, that was the custom.

Q.—You will not think of any compensation being paid to the janmi in legalizing this custom?

A.—Of course, if that custom alone is recognized by statute, there can be no question of compensation. Right-minded, ancient and respectable janmis followed that practice and they do so even to this day.

Q.—Good janmis do not approve of the idea of granting melcharths?

A.—They do not.

Q.—Now, in the matter of renewal fees, is there any customary renewal fee payable in the case of kanam?

A.—There is no written rule. The customary renewal fee is 20 per cent of the kanam.

Q.—Was that the custom 40 years ago?

A.—Yes. If a man were asked 40 years ago about this, his answer would be 2 per 10, whether the kanam is small or large.

Q.—Now, ancient kanams still continue in some cases and in some larger kanams have been raised. Would you have the same rate fixed for all?

A.—In my opinion a uniform rate cannot be allowed. It would work great hardship. They are now levying whatever they think fit.

Q.—As regards tenants' improvements, will you be satisfied with 12 per cent interest on the reclamation effected?

A.—Tenants' improvements ought not to be valued in that way. The amount of money expended on the improvement is not the only element to be considered. He would have bestowed considerable labour, care and attention on the land and forming the subject of improvement—all this has to be taken into account in connexion with the question of eviction or redemption.

Q.—I shall give an illustration. In A all the improvements are effected by the landlord and in B all by the tenant. In A the kanam tenant will in addition to the rate of interest expect something more. What will be the percentage he may claim? Can you give any definite data?

A.—I am afraid we would be treading on dangerous ground if we try to fix a rate by legislation. Rentals may be left to the sweet will and pleasure of the contracting parties.

Q.—According to you then, no legislation is possible in which you can fix fair rentals?

A.—It is not feasible and in my opinion not desirable.

Q.—Now, in the case of wet lands in the Palghat taluk, I suppose, if you go and see the land, you will be able to know how much the land is capable of yielding?

A.—One cannot be very exact. It depends upon season and so many other things. You may be deceived in most cases.

Q.—Supposing you are leasing out five acres of wet land on verumpattam. How will you fix the rent? What is the usual procedure?

A.—There may be pattam chits. In a case where there is no such voucher, the rent of the neighbouring land is ascertained and so forth.

Q.—You know more or less in each year what it is capable of yielding and you fix presumably on the *meni* that is prevalent in the neighbourhood?

A.—What I say is you may not be absolutely sure of the correctness of the procedure. You may be deceived.

Q.—I want 100 paras of paddy from a kanam tenant and he says it is capable of yielding only 75 paras. Is there any means of fixing it?

A.—Why should we be anxious about that when the parties are capable of contracting between themselves?

Q.—In your opinion therefore legislature ought not to interfere with rentals either in the case of the kanam tenants or in the case of the verumpattam tenants? They must be left alone?

A.—If legislature is to attempt to fix fair rentals, it is sure to end in evil.

Q.—Is it impracticable?

A.—Yes, and it is undesirable also.

Q.—Is half verumpattam called janmapattam?

A.—There is no such standard.

Q.—Suppose you are a kanam tenant; you are in possession of ten acres of land and you leased it out to a verumpattakaran for 1,000 paras. May I know what the *michavaram* will be in respect of that land?

A.—That is a question which cannot be answered point blank. Very many things have to be considered before the *michavaram* payable to the janmi is fixed.

Q.—Mr. Raman Nayar, with reference to an item of land in your possession which you hold by kanam, can you say 'I get so much from the verumpattakaran of this land out of which I pay so much to the janmi'?

A.—I cannot say now. I shall give the actual figures to-morrow with reference to a kanam land I hold without any improvements in it.

Q.—You are of opinion that legislature ought to look to the benefit of the greatest number?

A.—Greatest good to the greatest number.

Q.—Bearing that principle in mind, may I ask you, considering the number of kanam and verumpattam tenants in Malabar, who will form the larger number?

A.—I have not taken the statistics; but I think that the verumpattamdars form a large number.

Q.—And against the principle you enunciated you say this large class of tenants require no protection?

A.—The principle applicable to the kanamdars has no application to the case of verumpattamdars. The measure to be enacted with reference to each of the two classes of tenants must, in my opinion, be such as would lead to the greatest good of the greatest number of that particular class. The same measure cannot be made applicable to both the classes.

Q.—Do you know fish manure is very good for fertilizing paddy?

A.—It is good, I am told.

Q.—Is a verumpattam tenant able to buy fish manure?

A.—He is not able to do so. He uses country manure as a rule.

Q.—You know several lakhs of rupees worth of fish manure is exported from here to Japan and other places?

A.—Might be.

Q.—The kanamdar is not in the habit of buying such manure and helping the verumpattam tenant under him?

A.—He has not learned that habit.

Q.—Have you heard the Agricultural Department say that by using the western plough the yield will be more?

A.—Yes. They say a good deal about it. It means more manure and more manure means more money also.

Q.—Which I suppose your verumpattakaran will not be able to invest?

A.—I think he will not.

Q.—Ordinarily kanam tenants like to give lands on verumpattam?

A.—They also cultivate the lands themselves. That depends upon the individual status and circumstances. There are kanam tenants in actual cultivation in the Ernad and Ponnani taluks, but in the Palghat taluk the number will be very small.

Q.—You say, so long as the verumpattam tenant pays his rent regularly, he continues to be in possession?

A.—So long as a servant serves you properly, where is the necessity for dismissing him; but the servant does not become entitled to any permanent right of service because of that.

Q.—I am talking of your experience. You have got so many verumpattam tenants under you?

A.—Yes, and they have been there for forty and fifty years. They have also made default and I have condoned them.

Q.—You know their difficulties and you don't evict them?

A.—No, I don't.

Q.—Your objection to even such a verumpattakaran being given a sort of fixity, is that you will not be able to get rent from him?

A.—My position is, there is absolutely no necessity for giving fixity to him. We are trying to extend sympathy to a quarter where there is no need or desire for it. I may say that no verumpattam tenant of this taluk has cried for permanent occupancy right. Others do it in his name as a counter-move to the genuine agitation of the kanamdar. The agitation made on behalf of the verumpattamdar is, in my opinion, false and *mala fide*.

Q.—It may be that he is a dumb man but that does not mean that dumb creatures ought not to be protected. Your verumpattam tenants have been on the soil for more than fifty years. Have they been able to put by one year's rental or anything towards a rainy day?

A.—I have not enquired into that.

Q.—I take it that according to you because they were paying the rent systematically they are allowed to continue?

A.—There have been years, good and bad. In good years they would pay. In bad years they would suffer, and sue for remission, and some remission would be granted.

Q.—But have they after fifty years been able to put by one year's rental?

A.—Some of them have, others have not.

Q.—May I take it that in the case of those who are solvent you are willing to give fixity?

A.—There is absolutely no necessity for giving any fixity. They have no interest at stake. Why should any fixity be thrust on them?

In the case of one tenant who had been in a property consisting of thirty acres of land and who had been in the property for fifteen years, he has been able to maintain his whole family consisting of some fifteen members and they have been able to put by something. They belong to Cochin (Nellapilli).

Q.—Have they been able to acquire properties?

A.—I am told they have been able to put by something to acquire property.

Q.—You say they have been living there for fifteen years. Do you know their standard of living? Do you think they get three full meals a day?

A.—I should think so. I do not find them lean and hungry.

Q.—Is any member of that family studying in any school?

A.—Of the young children, some are. The elders are engaged in their business.

Q.—In the case of kuzhikanam, supposing it is capitalized and interest charged upon it shared between the janmi and the tenant. Would you advocate such a policy?

A.—I have no knowledge or experience regarding kuzhikanam tenants.

Q.—Are there not cases where kanam tenants are evicted by meloharths?

A.—Such cases are very common in Palghat.

Q.—As a rule, you will see that kudiyruppus, if valued by the Commissioner, do not form the subject of any finding. Why should these men be driven out unnecessarily?

A.—Supposing the landlord gets his dues, why on earth should he evict him? He is not generally evicted.

Q.—Suppose he has his own satellites? Then will he not evict him?

A.—Certainly. But such cases are very rare.

Q.—You have some experience of the working of the Malabar Compensation for Tenants Improvements Act?

A.—I have myself been a commissioner only in about three or four cases; but as a member of the Bar, I have had experience for about thirty-five years.

Q.—In fixing the value of coconut trees, the maximum age of the tree given under the Act is 60?

A.—I believe so.

Q.—Generally, do not coconut trees yield for about 80 or 100 years, in dry garden lands?

A.—Well, we are not experts so far as that class of improvements is concerned. This soil here is not considered so congenial to the growth of coconuts, as Ponnani and other places.

Q.—Supposing after expiry of the term the landlord wants to increase the rental. How would you provide for it?

A.—Notice may be issued to the tenant asking him to renew with an increase of michavaram.

Q.—Supposing the landlord wants an increase in the existing purappad, how will you fit in that into your scheme?

A.—They will have to go to court in cases where the parties cannot agree. But in the vast majority of cases, they do agree and fix the increased michavaram.

Q.—May I take it that your whole scheme fails if the janmi wants to increase the existing purappad?

A.—The janmi cannot demand increase as a rule. It is difficult and not feasible to fix any criterion or standard for the increase of michavaram.

Q.—Throughout Malabar no janmi can increase the rent?

A.—It will depend upon the nature of the holding. If there is scope for increase of purappad, they do it.

For instance, speaking about myself, there was a renewal recently granted to me by the Kudallur Nambudiripad where the original purappad of 7 paras of paddy has been increased to 57 and odd paras and Rs. 35 and odd. I agreed to it.

Q.—So if janmi wants increase in the purappad, your scheme fails?

A.—It will not fail. Provision will have to be made for that.

Q.—If provision has to be made for that, you will have to fix fair rentals in the Act itself.

A.—I say it must be left to the judiciary rather than to the legislature. That will be a matter for adjudication by court.

Q.—Should we not provide courts with some data?

A.—Parties concerned will furnish the necessary data.

Q.—Should not the Courts be guided by any Act.

A.—Some limit may be prescribed for the maximum michavaram payable to the janmi.

Q.—What proportion of the net yield goes to the kanam tenant?

A.—What is 'net yield'?

Q.—'Net yield' means for this purpose net rent?

A.—Net yield means verumpattam rent.

Q.—So you cannot fix any proportion or standard? You have to be arbitrary as you are arbitrary in so many other things.

A.—The matter is best left in the hands of the parties themselves.

Q.—If they cannot agree as regards rent?

A.—It is a matter of difficulty.

Q.—Can you fix any rent?

A.—Arbitrarily we may have to fix a percentage. There is no criterion or standard to be followed and relied on as a basis.

Q.—So it depends upon the whims and caprices of the janmi?

A.—Yes, if it is left to the janmi alone to decide.

Q.—Have you ever cultivated any paddy land yourself?

A.—I have done so through agents.

Q.—You have no personal knowledge?

A.—No. From the College I joined the Bar straightaway.

Q.—What is the usual rate of interest in borrowing money?

A.—Now it is almost prohibitive. It is 15 to 18 per cent here in the municipality and in the country parts you may be able to get money at 12 per cent. You cannot get money at interest less than that.

Q.—So, if the kanam tenant wants to raise money for effecting any improvement he can only get it at 12 per cent in the village.

A.—Yes.

Diwan Bahadur T. C. Narayana Kurup :—Q.—In the case of kanam tenants or verumpattam tenants under the kanam tenants is there anything in the nature of the reclamation effected by them to distinguish that from that made by the janmi?

A.—If you have original demises they will show that. In the great majority of cases I think the prior demises have been got back by the janmis. In the case of registered documents there can be no difficulty.

Q.—So if the tenant claims reclamation charges in the absence of a definite clause in the document there will be considerable difficulty for the tenants to prove it?

A.—Yes. If the janmi refuses to produce the prior deed? The refusal cannot be said to be just and proper.

Q.—Are you for this tenancy legislation?

A.—I am for legislation on the lines and to the extent indicated in my written memorandum. Any further legislation is, in my opinion, not necessary. It is uncalled for and may create evils from which we are at present free.

Q.—On what ground would you say legislation is necessary?

A.—To remove the discontent now existing on the part of the kanamdars and such other tenants.

Q.—Are there exactions of exorbitant fees in the name of renewal fee?

A.—I do not say that that is the rule. There are, of course, some exceptionally bad cases. I do not like to mention them lest I should have to disclose the names of persons concerned. So some measure of the kind suggested by me would be desirable and necessary.

Q.—Then you put it as the result of the democratic spirit that is gradually gaining ground.

A.—Partly so and partly owing to the exactions of janmis as regards renewal fees and oppression through grant of melcharths.

Q.—So these are the three reasons?

A.—There are some other reasons also.

Q.—Would you say that on account of this democratic tendency there is a breach between the landlords, and the tenants?

A.—Yes. There is a breach. The landlord expects the old state of things, viz., the customary homage and all that kind of personal honour shown to him which the present day democratic tenant is not willing to do.

Q.—You put it on the ground that the property belongs jointly to the kanamdar and the janmi?

A.—From some ancient documents I have seen, I am able to say that kanam was not being considered as a redeemable tenure, originally. The term of twelve years does not appear in those documents nor is there any provision for redemption or surrender of the holding. I have brought three documents of that nature and I shall place them before the Committee.

Q.—Things well understood are not put in documents sometimes.

A.—We are to see to the peace of the country. There was the Mappilla rebellion and there were other outbreaks.

Q.—Are there outbreaks between the janmi and the kanamdar? Are they many?

A.—There are; but they do not go the length of the Mappilla rebellion. But they are storms in a tea pot, compared to the Mappilla rebellion. Unpleasant feelings do exist between them. There are many such cases, too many to be enumerated. I mean there have been unpleasant incidents. But they are only very few in this taluk.

Q.—Is it due to the good nature of the people here?

A.—Such janmis do not reside in this taluk. It is mainly due perhaps to the bad nature of the janmis there.

Q.—Even then am I right in saying that there are only a few cases?

A.—In the Ernad and Walluvanad taluks they are said to be incidents of everyday occurrence, incidents which are not worthy of mention in an assembly like this.

Q.—Can you indicate the nature of the incidents?

A.—I do not wish to do so.

Q.—You want the State to interfere in the matter of contract between the janmi and the kanamdar?

A.—To this limited extent.

Q.—Your view is that the State should interfere because the general peace of the district has been disturbed by the Mappilla rebellion?

A.—There is no peace and harmony at present between the janmis and the tenants. This is very unhappy and certainly undesirable. It must be put an end to.

Q.—All that you can say is that on account of ill-feeling between the landlords and the tenants you want the State to interfere?

A.—On account of such ill-feeling and consequent oppression by the janmis, I say that the legislature ought to interfere to the extent indicated.

Q.—If there had been no Mappilla outbreak in this country you would not want State to interfere at all?

A.—That does not follow. Mappilla rebellion is one of the results of this difference between the janmi and the kanamdar.

Q.—You would not put it on the ground of capricious evictions?

A.—I would put it on that ground also. But they are very rare in Palghat.

Q.—Anyhow, even if the State does not interfere in other matters from your experience as a vakil, janmi and kanamdar, would you like the State to interfere as regards renewal fees?

A.—I would not. There is no necessity. The parties have been pulling on between themselves. It may, however, be desirable to prescribe by legislation the maximum renewal fee payable.

Q.—If the verumpattamdar regularly pays the rent and still he is disliked for no reason and asked to quit what is the remedy?

A.—I think the verumpattamdar ought to quit the land. Permanency is too much for him. He never dreamt of it and never dreams of it. He does not want it. You are thrusting this upon him.

Q.—Then am I to take it that as regards verumpattamdars, the cry that has been raised for permanent occupancy right is not a cry in the interests of the verumpattamdar?

A.—I should think so. It is an artificial agitation and not true, sincere or bona fide.

Q.—That is your honest impression?

A.—Yes. I have got about fifty verumpattamdars under me. I can swear that they are not aware of anything like this agitation on their behalf.

Q.—Suppose every janmi says that agitation on behalf of the kanamdar is all mercenary agitation?

A.—No, he is clearly wrong. The kanamdar's agitation is real and genuine. I believe that it is as a counter move that the agitation in the name of the verumpattamdar has been put up.

Q.—Much has been said about the economic position of the verumpattamdars. Am I right in saying that the condition of the junior members of a Nayar tarward is something worse than that of the verumpattamdar?

A.—In some cases it is. It is not the tenant problem, but it is your Marumakkattayam that is responsible for it.

Q.—I speak about the economic position?

A.—There is no analogy. You know everything about a Nayar tarward.

The President:—What Mr. Raman Nayar says is that the comparison serves no purpose.

Diwan Bahadur T. C. Narayana Kurup:—Q.—You want to prohibit melcharth altogether.

A.—Yes.

Q.—It includes melkanam also?

A.—They are in a way identical. Melcharths include melkanams.

Q.—A holds under B land on a kanam of 1,000 rupees. B gives it on kanam of 1,500 to C. Will that be melcharth?

A.—Yes.

Q.—And you would prohibit that, if the janmi is in urgent need of money?

A.—In view of the suggestion of this extreme case, I would have no objection to treat it as an exception to the clause avoiding melcharths.

Q.—You don't advocate total abolition?

A.—It does not mean that. I have given my humble opinion, and opinions may differ. The case suggested by you may be treated as an exception to the rule suggested by me.

Q.—Suppose the janmi wants a larger amount of kanam for urgent tarward necessity and the kanamdar is not willing to pay. There is scope in the holding for additional kanam. Would you make that melcharth invalid?

A.—Melcharth should be declared invalid if possible; but he can raise additional kanam from the existing tenant who may by legislation be compelled to advance the amount as suggested by me in my written memorandum.

Q.—If the existing tenant is not willing or his means do not permit?

A.—If the existing tenant is unable to advance the additional kanam required by the janmi that would be an extreme case. Such a case as already suggested by me may be treated as an exception and a special provision may be made in this behalf.

Q.—When the janmi wants higher kanam to be raised and the tenant is not willing to pay it the janmi has the right to give it on melkanam?

A.—It may have to be admitted as an exception in order to meet that extreme case, or there may be a provision compelling the existing tenant to advance additional kanam to the extent the holding may reasonably bear.

Q.—In the case of kanam cultivating tenants you say permanent occupancy rights need not be given?

A.—I say no permanent occupancy rights as such need be given to any kanamdar but a provision enabling all kanamdars to continue in possession of the holding is highly necessary and desirable as already stated by me.

Q.—Then you want to extend the period of 12 years to 24. That means curtailment of renewal fees by 50 per cent in the case of kanam. Perhaps your intention might be to raise the renewal fee?

A.—In view of my suggestion to enhance the period from 12 to 24 years there may be some increase in the rate of renewal fee.

Q.—In the case of very many janmis, if your suggestion is accepted (of course I do not want to be personal) four or five Palghat Rajas may not be able to get a pie as renewal fee. For 24 years there won't be any renewal. One's great great nephew might get it.

A.—Yes. Hard cases cannot make bad law.

Q.—I believe renewal fee is to be regarded as part of the family income?

A.—Yes.

Q.—How are the karnavans to meet the expenses of the tarward? This is a substantial item of income?

A.—Such families are few. The stanam will have other properties for the expenses of the stanamdar. Usually the karnavan makes ducks and drakes of this renewal fee. He does not as a rule treat it as part of the tarward income. He generally treats it as his own personal perquisite. Moreover, the term need not be extended provided the other measures I have suggested are enacted and the janmis are thereby prevented from recovering properties. I am not at all tenacious about the increase of the term. It is only a suggestion.

Q.—You don't consider the verumpattamdar a cultivating tenant?

A.—In some cases he is not.

Q.—You say that up to 1852 the janmi had not the right to evict any kanam tenant?

A.—Yes, I think the impression till then prevailing was as ancient documents show, that the kanam was not redeemable.

Q.—If any right of the janmi is to be taken away don't you think he is entitled to compensation?

A.—In my opinion no rights of the janmis are being taken away. We have to view the matter from the standpoint of the parties concerned. A right-minded janmi never thinks that his right has been taken away so long as his proper dues continue to be paid to him. From the janmi's point of view there is no loss of right at all so long as the tenant continues to pay him his usual and proper dues. At the same time I do not seek to take away his superior right.

Q.—Are there very many janmis who have not been evicting the kanam tenants?

A.—Unfortunately they are very few. They are not numerous as far as I know.

Q.—So, there are heavy kanams in Palghat?

A.—Except in the case of the Zamorin, the Poovalli Mana, the Kavalappara Nayar, and the Kuthiravattath Nayar, the kanams are rather heavy. Except in the case of janmis above mentioned, the kanam comes almost to the full janm value of the property. It is only by additional kanams that the amounts have become so large. As regards the abovementioned landlords renewal fees are only nominal, viz., some 30 per cent of the kanam.

The President:—Q.—The percentage is calculated on the original kanam amount?

A.—It is so.

Diwan Bahadur T. C. Narayana Kurup:—Q.—You would suggest the application of the Rent Recovery Act or the Estates Land Act?

A.—Even better provisions may be made if it is possible.

Q.—Anyhow, you agree with me that there is some practical difficulty in collecting rent from the kanam tenant?

A.—To speak the truth there is no difficulty in the case of the kanam tenant. If the janmi does not want to allow the rents to accumulate there is absolutely no difficulty.

Q.—In the statistics supplied by the Collector a large amount of rent is in arrears in the Zamorin's estate. What is it due to?

A.—It may be due to several reasons. The kariyasthan might go to the tenant, get some money and go away.

Q.—In fact there is some practical difficulty?

A.—In fact there is nothing in the world without its own difficulties.

Q.—Is the verumpattam tenant in a better position than the tenant in the ryotwari districts of the East Coast?

A.—I can't say.

Q.—What is karipanyam?

A.—I do not think you stand in need of my explaining this to you. It is usufructuary mortgage with a covenant to pay back the money at some kalappad.

Q.—If lands are left unoccupied is not the janmi entitled to rent?

A.—He may be entitled to rent if there is a contract to that effect. If not, he is not entitled.

Mr. Kotieth Krishnan:—Q.—You say there is some difficulty in collecting the rent, and some provision may be made?

A.—If the Committee thinks that some remedy is required in that behalf I am amenable to it.

Q.—May I suggest to you one method? Suppose rent is in arrears and a suit is filed. If the tenant is really in arrears, a provision may be made for the imposition of a sort of fine in the case of renewal fees and the discretion may be given to the Judge?

A.—Provided it will not be treated as a penal clause, I have no objection. But the ingenuity of lawyers knows no bounds.

Q.—Would you recommend it? Apart from that technical difficulty you have no objection?

A.—Any feasible remedy in that behalf I am amenable to.

The President:—The Committee is extremely grateful to you, Mr. Raman Nayar, for the valuable evidence you have given.

The Committee rose at 5-45 p.m.

ANNEXURE

Memorandum of particulars such as the extent (seed area), revenue, kanam, interest, michavaram, renewal fee, etc., of the land held by Vatavat Tarward of Ramasser Desam, Vengottamsam, Palghat taluk, South Malabar, under Vembancheri alias Koothalathupurath Mana—the janmi, Payankulam village, Talapilli taluk in the Cochin State.

1. The name of the holding (wet land only) ... Pacheerikolumbu.
2. The extent or seed area of the holding ... 40 paras or 4 acres of wet land.
3. The Government assessment ... Rs. 24-4-7.
4. The rent of the land at $7\frac{1}{2}$ fold ... 300 paras of paddy.
5. The kanam resting on the land ... Rs. 797-0-3 or 2,790 fanams.
6. Interest allowed on the kanam amount ... 197 paras 5 edangalis of paddy.
7. Allowance made in paddy for the revenue of the land. 50 paras of paddy.
8. The annual michavaram payable to the janmi. 57 paras 7 edangalis of paddy and Rs. 0-9-2 (the price of a bunch of banana fruits) and Rs. 5 for each of the six principal ceremonies of the Mana.
9. Cost of the last renewal of 27th February 1926. Rs. 807-14-0.

(Of this Rs. 286-12-0 is the renewal fee, and the balance is the value of stamps, registration fee, etc.)

(N.B.—In the earlier demises there was a paramba also included. This paramba is now held under a separate demise and kychit with a kanam of 10 kanams or Rs. 2-13-2 charged thereon out of the prior consolidated kanam of Rs. 800.)

PALGHAT,
29th October 1927.

V. RAMAN NAYAR.

II

Written statement of Mr. P. Sankunni Menon, Retired Tahsildar.

[Answers to questionnaire.]

I (a)—(1) kanamdars, (2) kuzhikanamdars, (3) verumpattamdars.

A.—Holding directly under the janmis.

(4) Sub-kanamdars, (5) verumpattamdars.

A.—Under kanamdars or kuzhikanamdars.

(6) Sub-lessees under verumpattamdars.

(7) Tenants other than those specified above.

I. (a) Janmis in Malabar are generally Rajas (Nativazhies), Chieftains under Rajas (Desavazhies) who are mostly Nayars, Nambudiripads, and Nambudiris. Formerly, they never cultivated their lands themselves and planted fruit-bearing trees, but always demised the lands on kanam, kuzhikanam and verumpattam tenure for a period of 12 years and when the term expired they invariably granted renewals for further periods of 12 years. Eviction then was unheard of. It will be seen that the extent of wet lands and gardens has considerably increased subsequent to the grant of the lands by the janmis to the tenants. In the case of wet lands it is the kanamdars (1) and verumpattamdars (3) who made the improvements by converting dry and waste lands into wet for which they have spent a larger quantity of paddy. Coolies were then paid not in money but in paddy. In the case of gardens it is the kuzhikanamdars (2) and verumpattamdars under them (5) who planted coconut and other fruit-bearing trees. When lands are evicted, tenants do not get as kanam and value of improvements even 50 per cent of the money they have spent. When the subject-matter is under litigation, they have not only to bear their own costs but have to pay janmis' costs also.

Out of what the tenants get as kanam and improvements, the major portion is spent in litigation. In several cases it will be seen that the dwelling houses of tenants situated in kanam lands are also evicted. The distress of the tenants evicted had better be imagined than described. Sub-kanamdars (4) seem to me to be very few. Verumpattamdars under kanamdars (5) generally take a loan of the necessary paddy for seed and cultivation expenses from kanamdars and when the crops on the lands leased to them fails for want of rain, etc., they not only do not pay the whole rent but also claim a remission of the paddy rent to them. In fact, tenants (5), (6) and (7) do not generally suffer.

(b) Yes, the disabilities are peculiar to the tenants in Malabar because the lands are not held on kanam tenure in other districts.

(c) Not same in both South and North Malabar. In South Malabar, the lands are mostly wet lands and it is the kanamdars and verumpattamdars under janmis of these lands who do not get reasonable compensation. In North Malabar, the lands are mostly gardens and as the occupants of gardens get adequate compensation they are seldom evicted.

(d) In Palghat taluk in South Malabar, kanamdars and verumpattamdars under janmis, who are mostly Nayars, themselves generally cultivate their kanam lands. Cultivation is considered by them to be an excellent profession. In other taluks it is the verumpattamdars under them who are the actual cultivators. In taluks other than Palghat lands held by tenants under janmis will not be contiguous. In Palghat it is otherwise. Tenants in Palghat taluk have therefore more facility for cultivating their lands. I hold on kanam and improvement right an estate under the Venganad kovilagam. The extent of wet land is now 135 acres. It consists of several plots and all of them are contiguous. Not one such estate on kanam in the possession of a tenant can be seen in any other taluk.

II. (1) (a) Janmis anticipate some legislation regarding tenancy in Malabar. They therefore now insist upon tenants whose term expires to give up their kanam rights and to hold the land on mortgage right for the amounts due to them as kanam and improvements. When tenants refuse to do so, they are evicted. There are evictions on other grounds also. Evictions are certainly on the increase.

(b) Before the year 1915, I was in Ernad taluk for a period of eight years and odd. The then Zamorin Raja was the senior male member of the Kizhakke kovilagam in the said taluk. He had granted any number of melcharths to enrich his wife and children, etc. Zamorin Raja is the biggest janmi in Malabar. Most of the above melcharths must be on unjustifiable grounds. They were all in respect of stanam property. Not a single melcharth was given by him in respect of Kizhakke kovilagam lands. This kovilagam is one of the most satisfactory janmis in the district.

(2) Near the Pattambi Railway station, there is a Nayar house called Kallanmarthur. The family is well-to-do. Some years ago they tiled their house. Consequently their janmi, who is a Nambudiri, caused oppression to them socially. One member of the family was a B.A., B.L., practising in Nellore district. The janmi was prosecuted for defamation. There were some other such prosecutions. Consequently well-to-do tenants are not now so oppressed. My information is that such oppressions are even now resorted to by Nambudiri janmis in the case of poor tenants who are unable to go to courts.

III. 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.

(b) Yes, it is essential. I would grant the right to tenants who have actually spent money and improved the lands.

(c) I would grant to the real sufferer and it will, in my opinion, put an end in a substantial measure.

(d) Kuzhikanamdars and verumpattamdars under janmis deserve the grant, but not the verumpattamdars under kanamdars. Kanamdars holding for a long time have a better claim.

(e) Rent Recovery Act with some modifications enabling janmis to collect rent easily with proviso that out of the annual produce of a land next to Government assessment the amount due to the janmi is the first claim on the land will be effective method.

(f) In the case of janmis who own only a limited extent of land, permanent occupancy right should not be granted. Twenty-five acres and less of wet land may be considered as limited extent.

IV. (a) (1) In the case of kudiyruppus on lands attached to wet lands, it will really be very hard if permanent occupancy right is granted. Such kudiyruppus were granted to poor people in order to enable occupants on the wet lands to get those poor people to work as coolies and with a view to fertilize the lands. If permanent occupancy right is granted to the occupants of the kudiyruppus, they will, for some reason or other, refuse to work in the lands and what manure they have, viz., ash, cow-dung, etc., they will sell to others. It will be seen that from the occupants of such kudiyruppus not even Government assessment is collected by the occupants of the lands. In the case of other kudiyruppus, permanent occupancy right may be granted.

(2) No. I would not make any distinction.

(b) It depends upon the size of the buildings. In cases in which buildings are big, 1 acre is necessary. In other cases 10 cents will be sufficient.

(c) (1) The tenant should be paid the full value of the building.

(2) Kanamdars should remove the building.

(3) Full value should be given to the occupant.

(d) (1) The system will be good.

(2) Yes, in the present state of the people.

V. The Act is in a way satisfactory but it is not properly worked. The commissioners deputed by courts to value improvements are generally junior vakils who have very few cases and pensioners whose means of livelihood are limited. To gain over such men is very easy for moneyed men. Consequently, poor tenants, when evicted by civil suits, do not get reasonable compensation. In my opinion, from among the vakils, honest men should be selected and appointed as commissioners on decent fixed salary. Then only courts will have substantial hold on them. Claims of such commissioners should be favourably considered when vacancies occur among district munsifs. The commissioners who act dishonestly on more than one occasion should be removed. Commissioners now generally travel and take their food at the expense of one party or the other when they go out to value improvements. This should be strictly prohibited.

VI. (a) Even now there are a few janmis, who are perfectly satisfied with michavaram and renewal fees at the old rates. If payment of michavaram and renewal fees at the present enhanced rates is considered not adequate compensation, out of the reasonable janmam value of the land the amount due to the tenant should be deducted and on the balance an amount not exceeding 4 per cent a year should be made payable by the tenant to the janmi.

(b) Unable to answer unless the circumstances are fully explained.

(c) Yes, the tenants should be given the option of paying 4 per cent annually—vide answer to question VI (a).

Rent.

VII. (a) Unable to answer.

(b) Unable to answer.

VIII. (a) Out of one year's rent, tax and michavaram should be deducted and the balance may be made payable to the janmi as renewal fees.

(b) Each janmi has his own rate. Even now there are a few janmis who are satisfied with the ancient rate of 25 per cent on the kanam amount. Vadakkumkara Nambudiripad in Kulukkallur amsam, Walluvanad taluk, who owns considerable janmam lands in Puthusseri amsam, Palghat taluk, is one of them. I understand that Kuthiravattath Nayar, a stani, who also owns considerable janmam lands in the taluk, was hitherto collecting renewal fees at the rate of 100 rupees per acre of wet land. The present stani, it seems, has raised it to 130 rupees per acre. My janmis are Venganad Kovilagam and the Valia Raja of Walluvanad. They do not collect more than one year's rent.

General.

IX. Grant of permanent occupancy right is, in my opinion, highly desirable.

X. (a) System will be good. As regards practical difficulties, I cannot now answer.

(b) The suggestion is good in the case of janmis who are honest in all their dealings.

(c) The rate of renewal fees should be fixed by legislation.

Thursday, the 27th October 1927.

Oral evidence of Mr. P. Sankunni Menon.

The President:—Q.—Mr. Sankunni Menon, you are a retired Tahsildar.

A.—Yes.

Q.—Now you are engaged in cultivation?

A.—Yes.

Q.—You say you are cultivating about 135 acres of land comprised in one estate?

A.—I cultivate other plots also.

Q.—May I know the total extent of land in your possession?

A.—About 150 acres of janmam lands and as much kanam land.

Q.—Do you attend to cultivation yourself?

A.—Yes, I supervise the work of cultivation myself. There are employees under me.

Q.—How much land do you cultivate?

A.—About 150 acres are under my direct cultivation.

Q.—You took to cultivation after retiring?

A.—Yes, in 1915 after I retired from service.

Q.—But while in service you had also opportunities of knowing the particulars of agrarian conditions in Malabar?

A.—Yes.

Q.—In your written memorandum which you have furnished to the Committee you say that the extent of wet lands and gardens has considerably increased subsequent to the grant of the lands by the janmis to the tenants. The Committee does not clearly understand you. Do you mean to say there was a time when the janmis cultivated all the lands themselves?

A.—I don't mean that. Tenants have made considerable improvements.

Q.—What kind of tenants?

A.—Kanam tenants.

Q.—Not verumpattam tenants?

A.—They (verumpattam tenants under kanamdars) never make any improvements in the Palghat taluk. I speak of Palghat taluk only.

Q.—Have you any idea about the extent of expenditure on improvements made by kanam tenants?

A.—All that I meant to say is that a good deal of land which was waste some time ago was reclaimed and made fit for cultivation by the kanamdars.

Q.—You say in the next sentence of your memorandum that in the case of wet lands it is the kanamdars and the verumpattamdars who have made improvements by converting dry and waste lands into wet, and that for that purpose they have spent a large amount of money. Which verumpattamdars do you refer to?

A.—They are the kovilagam tenants and not the tenants at will.

Q.—You say that when tenants are evicted, they do not get as kanam and value of improvements even 50 per cent of the money they have spent. Why is it so?

A.—I don't know. This is the opinion given out by one enlightened gentleman of standing in Malabar, the fourth stani in the Zamorin's family, who has written so in the "Vasumathi" a Malayalam journal. (Here witness read out the article which was in Malayalam.)

Q.—You say that "in several cases it will be seen that the dwelling places of tenants situated in kanam lands are also taken from them. The distress of the tenants evicted can better be imagined than described." Have you any particular instances in view?

A.—I have worked in all the taluks of South Malabar and some taluks of North Malabar. I have known of hundreds of instances, but I cannot name the parties.

Q.—You need not give the names of the parties, but can you not detail a few cases by referring to them as X, Y, Z, etc.?

A.—If necessary, I will collect such information and submit a list.

Q.—Can you prepare such a list in a fortnight's time at the latest?

A.—No, it will not be possible. I want one month's time. I will have to send my men to Ponnani, Ernad and Walluvanad taluks to find out. At present I cannot remember particular instances.

The President.—The Committee has to conclude its proceedings in a short time and draft its report. I shall be very thankful to you if you will very kindly furnish us with a list so far as you could make out in a fortnight's time and we shall use the same if we possibly can.

Q.—Are there many cases like that in the Palghat taluk?

A.—I do not think there will be a single case in the Palghat taluk.

Q.—Is it your recollection or mere impression?

A.—I have not heard of any case in the Palghat taluk.

Q.—You believe that people who have made improvements on lands and planted gardens thereon are not under any disadvantage?

A.—Yes.

Q.—Is it your position that no legislation is required in regard to garden lands?

A.—Yes.

Q.—You say that in the Palghat taluk kanamdars and verumpattamdars under the janmis, who are mostly Nayars, themselves cultivate their kanam lands. Cultivation is considered by them to be an excellent profession. How is it?

A.—Because tenants in Palghat have greater facility for cultivation and moreover the plots are generally contiguous. This is not the case in other taluks.

Q.—If the kovilagam and ordinary verumpattam lands are under the same tenant, do you find any difference between the yield of kovilagam lands and the other lands cultivated by him only as a tenant at will?

A.—Yes, there will be some difference. Tenants at will will not manure lands properly and till properly.

Q.—So there is an appreciable difference between the method of cultivation adopted by the tenant himself as a kanamdar and the method of cultivation adopted by him as a tenant at will?

A.—Yes, it is so.

Q.—Can you tell us what the difference will be in the yield between a land cultivated by the kanamdar and by a tenant at will?

A.—It will be much less in the case of the verumpattamdar. The difference will be about 33 per cent or more and not less than that.

Q.—As you say the yield is greater by 33 per cent or more (not less than that according to you), would it not be better for the tenant himself to undertake cultivation and get a better yield?

A.—He leases these lands to tenants at will because of the fact that the lands do not lie contiguously.

Q.—Is that the only reason?

A.—That is the main reason.

Q.—You say that you hold an estate under the Venganad kovilagam, and that it is on kanam and improvement right. What is this improvement right?

A.—The whole land was reclaimed by me and my family.

Q.—That is what is called vettukanam, I suppose?

A.—Yes.

Q.—You have converted forest land into wet land?

A.—Yes.

Q.—Would you kindly give us the details of this case. What are the principal incidents attaching to this holding of 135 acres of land the whole of which you hold on improvement right. Can you give us briefly the history of this holding?

A.—Well, I can. In 1025 M.E. 200 and odd acres of forest land were leased on a kanam of Rs. 85-11-5 to one Suppan Menon by the Venganad kovilagam, out of

which he was to convert 30 acres into wet land—300 paras of wet land—and the rest he was to convert into dry land, i.e., paramba fit for dry cultivation. For the wet lands he was to get compensation at the rate of 70 rupees per acre.

Q.—Who was to get?

A.—Suppan Menon, the kanamdar. For the dry land he was to get nothing. All the trees could be felled; within 60 days after felling the janmi could take such trees as he wanted and of the remaining trees the kanamdar could use as many as he wanted, but he could not sell any of them. For six years from 1026 M.E. the kanamdar was to pay to the janmi 18 paras of paddy as michavaram. Whether he reclaimed or not he was to pay this. Then for another six years he was to pay 75 paras of paddy annually and after 12 years he was to pay 150 paras. Suppan Menon found the scheme unworkable by him, and so he sold his right to another man. In a short time he in his turn sold his right to my uncle, deceased Samu Menon. He was the second male member of my family. He had some 8 or 10,000 rupees with him. He spent all that and he borrowed some money and reclaimed 300 paras; he constructed a pucca stone anicut in the adjoining river forming the northern boundary of the land: he also got three eris (reservoirs) constructed and other buildings erected. In consideration of the money spent by him the then Thampuran gave him a renewal of the demise for 50 years including the unexpired portion of the first lease. That was in 1039 M.E. In 1041 M.E. he mortgaged these lands to my tarwad for Rs. 18,800, the money borrowed by him.

Q.—Who, the janmi?

A.—No, Samu Menon. He was not the karnavan of my family. In 1880 the land was sold for his debt by Court in public auction. I was then a clerk in the Huzur office. At my instance my father purchased it in December 1880. In 1882 March my father transferred his right to his wife and children, i.e., myself and my brothers and sisters. In 1888 the janmi brought a suit against us for the recovery of the land under the first demise. Valiamma (Senior Raneer) was the managing member then. She said that the second demise was not binding on her.

Q.—We are not concerned with that. The Committee only likes to know whether the michavaram remains the same, 150 paras?

A.—Now it is 1,000 paras. It was raised 10 years ago.

Q.—Has compensation been paid for the tenants' improvements?

A.—In 1903 a suit was brought against me. We expected to get fifty thousand rupees as value of improvements. The janmi offered to give us a renewal in case we accepted Rs. 15,000 as value of improvements and those Rs. 15,000 are shown as the kanam amount in the demise. We accepted the proposal.

Q.—Including the original kanam amount also?

A.—Yes.

Q.—You say "janmis anticipate some legislation regarding tenancy in Malabar. They therefore now insist upon tenants whose term expires to give up their kanam right and to hold the land on mortgage right for the amounts due to them as kanam and improvements. When tenants refuse to do so, they are evicted. There are evictions on other grounds also." Who are these janmis?

A.—That is my information. The Oolappamanna Mana does it, the Vadaseeri people do it and so also the Nambudiri janmis of Ponnani.

Q.—Your knowledge is not personal, is it?

A.—I believe it to be true. My knowledge is not personal.

Q.—You refer to a particular case of an act of oppression on the part of a Nambudiri janmi with regard to a Nayar kanam tenant, a B.A., B.L., some years ago. Do you know when it was?

A.—I think about 80 years ago.

Q.—You say that the Nambudiri was prosecuted for defamation and there were other such prosecutions also and you say that consequently well-to-do tenants are not now so oppressed. For how long has this been the case?

A.—For the last thirty years or so.

Q.—You say "my information is that such oppressions are even now resorted to by Nambudiri janmis in the case of poor tenants who are unable to go to courts". What is the nature of that information?

A.—With your permission I will read a note written at my instance by my kariyastan in which a few cases of social tyranny and oppression by some Nambudiri janmis of Ponnani are detailed. It is in Malayalam written in his own handwriting and, if necessary, I will ask my kariyastan to appear before the Committee to prove his statements. (The witness here read out the note and the same was filed.)

Q.—Where does that kariyastan live?

A.—In my house at Vadavanur. There will be hundreds of such cases in Ernad, Walluvanad and Ponnani taluks, but there will be none in the Palghat taluk.

Q.—You say "that 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 some lands under the janmis on kanam right." Have you any personal knowledge?

A.—I have heard of two instances. (The witness explained the two cases.)

Q.—You say "Grant of permanent occupancy right is, in my opinion, the only remedy." Permanent occupancy right to whom?

A.—To the people who have made improvements.

Q.—Not to the verumpattakaran?

A.—Whoever has made the improvements.

Q.—But in cases where there are no improvements?

A.—I think the kanamdar should get it and not the tenant-at-will. Verumpattakarans in Palghat taluk are men of no substance at all. If permanent occupancy right is to be given to them, then they would not pay their rents at all.

Q.—Then what remedy do you suggest?

A.—If the verumpattakaran can furnish security for three years' rent, then he can be given permanent occupancy right.

Q.—That is the condition you would impose?

A.—Yes, because they are men of no substance. Then I think they will properly manure the land also.

Q.—What about the non-cultivating kanamdar?

A.—They are not very many in the Palghat taluk, but that is not the case in other taluks. Ninety per cent of kanamdars in Palghat taluk cultivate their holdings themselves and only 10 per cent lease them. I think the verumpattamdar has a better claim to permanency in cases where the kanamdar is not a cultivating tenant.

Q.—You said in your written memorandum "Kuzhikanamdars and verumpattamdars under janmis deserve the grant; but not the verumpattamdars under the kanamdars." So you now modify your statement.

A.—Yes, if the verumpattamdars could furnish proper security.

Q.—You refer to the Rent Recovery Act in your memorandum. I believe by that you mean the Estates Land Act?

A.—Yes.

Q.—You say “the Rent Recovery Act with some modifications enabling janmis to collect rent easily with proviso that out of the annual produce of a land next to Government assessment the amount due to the janmi is the first claim on the land will be an effective method.” It has been said in some quarters that if you extend the procedure of distraining the property of the defaulter as in the Estates Land Act to the Malabar district, there will be murders. Do you agree with this view?

A.—No, I do not think there will be murders.

Q.—If the landlord goes and distrains the movable property or other properties of the defaulter, you do not anticipate any trouble?

A.—After fixity of tenure is granted, I do not think there will be any trouble.

Q.—In the case of verumpattamdars also?

A.—Yes.

Q.—Even in the Mappilla area?

A.—I do not anticipate any trouble in that area also.

Q.—You say “in the case of janmis who own only a limited extent of land, permanent occupancy right should not be granted. Why not? It would certainly be opening up avenues of employment to the numerous anandravans who could cultivate the lands themselves?”

A.—I can't answer.

Q.—Your social life does not in any way differ from that of the janmis. You have several anandravans?

A.—Yes, but generally educated men do not take to cultivation at all.

Q.—Have you any idea of garden lands?

A.—No, I have no personal knowledge of garden lands.

Q.—What do you think should be the limit for a holding?

A.—25 acres of wet land or 50 acres of dry land.

Q.—If it is a mixture of both?

A.—Then also in the same proportion. Dry land will invariably be necessary for raising seedlings, etc.

Q.—So you want some dry lands also to be attached to wet lands?

A.—Yes.

Q.—Referring to kudiyruppus you say that “if permanent occupancy right is granted to the occupants, they will for some reason or other refuse to work in the lands and what manure they have they will sell to others. It will be seen that from the occupants of such kudiyruppus not even Government assessment is collected by the owners of the lands.” Is that the case?

A.—Yes.

Q.—Supposing you grant permanent occupancy right as regards the kudiyruppus, what compensation would you ask the tenant to pay the janmi?

A.—I am against granting permanent occupancy rights to such people.

Q.—Do you propose any compensation?

A.—It all depends upon the nature of the kudiyruppu. Some compensation should be paid. I have not thought over that and so I cannot give a direct answer.

Q.—Now you have got a complaint against the persons employed as commissioners. Can you suggest any improvement?

A.—In my opinion, from among the vakils honest men should be selected and appointed to act as commissioners on a fixed salary. Then only courts will have substantial hold on them.

Q.—It has been suggested to us that permanent revenue officials such as settlement officers or tahsildars should be put upon this work. You have been a tahsildar yourself. What do you think about that suggestion?

A.—I think appointment of vakils with fixed salary would be preferable.

Q.—Can you give your reasons?

A.—We have seen in several cases that the settlement classification is wrong. I can prove that if necessary.

Q.—What is wrong if experienced tahsildars like you are appointed?

A.—If honest men will be appointed, that will be sufficient.

Q.—But on the whole you would prefer vakils with a fixed salary and give them the prospect of becoming Munsifs?

A.—Yes.

Q.—Then with regard to compensation you say that “even now there are a few janmis who are perfectly satisfied with michavaram and renewal fees at the old rates. If the payment of michavaram and renewal fees at the present enhanced rates is considered not adequate compensation, out of the reasonable janmam value of the land the amount due to the tenant should be deducted and on the balance an amount not exceeding 4 per cent a year should be made payable by the tenant to the janmi.” What constitutes reasonable value?

A.—This 4 per cent interest is on the value of the janmam right.

Q.—You propose to pay only interest; you don't propose to pay the capital. But if the capital is to be paid you would pay it in what are called “equated annual payments by instalments.” Is that your idea?

A.—My idea is that capital should not be paid to the janmi. The janmi should continue to be janmi for ever.

Q.—Then why pay extra interest?

A.—It is not extra interest.

Q.—Then why do you pay him any interest on the janmam right? It is only in the event of taking away the janmam right from him that anything need be paid.

A.—This is for depriving the janmi of his power of eviction.

Q.—You propose to pay only interest and never pay up the capital amount?

A.—If the tenant is in a position to pay, you may take it from him.

Mr. H. R. Pate:—Q.—Briefly stated, your remedy is the grant of permanent occupancy right to the kanamdar, the renewal fee is to be collected and the janmi compensated thereby?

A.—Yes. I speak only so far as Palghat taluk is concerned.

Q.—What is the reason for which you consider that the kanamdar should be given permanent tenure? I understand conditions in Palghat are better than in other parts of the district.

A.—In Palghat taluk also there are several cases in which the kanamdars have been capriciously evicted.

Q.—You have 150 acres on kanam right. You have got certain properties on vettukanam right also. Are they included in the 150 acres?

A.—Yes.

Q.—How much of the kanam holding that you now have is not included in those 150 acres?

A.—About 50 acres.

Q.—And is that land completely improved?

A.—I think so.

Q.—Did you do the improvements, or were those improvements done when you got it?

A.—My family did it, as also myself.

Q.—If permanency is granted, the present kanamdars will retain their holdings so long as they pay up their rents regularly?

A.—There would be no change in the personnel of the people who hold kanam property.

Q.—If permanency is granted, retired tahsildars like you will not be able to invest their money on lands. Is that not so? Well, if you give permanent occupancy, the lands would not come into the market and therefore retiring Government officials will find it impossible to purchase kanam lands in future.

A.—It is not a common practice for them to purchase lands, except when their families have got lands, etc. Of course, there may be some cases like that also.

Q.—Anyway lands would not be available in the market for sale?

A.—No, unless the family gets into debts.

Q.—So, mostly one avenue of investment for the middle-class man will be lost. Is it not?

A.—Several families are divided. I don't think lands will not be available. There will be no difficulty. Several families are heavily involved in debts and they would be willing to sell their lands.

Q.—What do you think of the present-day agitation?

A.—This agitation has created lot of enmity between the tenant and his janmi.

Q.—And so you are of opinion that the relations would have been better if the agitation is not in vogue?

A.—I think so.

Q.—The sooner it is stopped the better, is it?

A.—Yes.

Q.—Why do you consider the verumpattam tenant to be a useless fellow? Would you say that he is thriftless or that he is a spendthrift?

A.—He is very poor in most cases. He is a man without means. How can he, therefore, manure his lands properly? One cart-load of cow-dung cost only Rs. 2-8-0 in previous years, but now it costs Rs. 7-8-0.

Q.—So whatever means that the verumpattamdar has are derived from the kanamdar?

A.—Yes.

Q.—And the kanamdar will have to get it from the janmi. Is that so?

A.—I don't think it would be possible to pay all the verumpattamdars. They form a large majority.

Q.—The kanamdar and the verumpattamdar have got to live. How far is the kanamdar essential for the agricultural advancement of the country?

A.—It is the kanamdar who spends money and takes great interest in the lands.

Q.—I quite see. Now, you suggest permanent occupancy right should be given to the kanamdar as a rule with the exception that if the janmi holds not more than 25 acres permanent tenure should not be granted?

A.—The janmi who owns only 25 acres and less will suffer considerably if permanent occupancy right is given.

Q.—I don't see exactly how it is hard on the janmi even if he is a comparatively small janmi if you are going to compensate him. You are wholly against giving any permanent occupancy right to the verumpattamdars because they are very badly off?

A.—Yes. But if they can give proper security I have no objection. Small janmis can cultivate their lands themselves if they like and enjoy kuzhikanam also (tenant's share).

Q.—What is the average duration of the verumpattam tenure?

A.—It varies in most cases. There may be several instances of frequent changes of verumpattamdars. If the verumpattamdar is a man of means there will be no change.

Q.—You say that they don't continue in the same holding because they are so poor. If you are willing to keep them on they would continue?

A.—Of course. It is not because they themselves don't wish to continue.

Q.—Generally speaking you don't keep a tenant for more than one or two years?

A.—Generally the verumpattam tenants are people residing in the locality. They are given some plots afresh every year or once in two years.

Q.—You think you could grant permanent tenure to kudiyruppus which are not attached to agricultural holdings?

A.—Yes.

Q.—Would it be different if kudiyruppus are attached to and form part of agricultural holdings?

A.—If permanent occupancy right is given to kudiyruppus which are attached to wet lands the land will suffer.

Q.—Would it not be difficult in practice to distinguish between the two?

A.—There will be no difficulty at all.

Diwan Bahadur T. C. Narayana Kurup:—Q.—Most of the lands are held on kanam tenure in South Malabar.

A.—Mostly in Ernad and Walluvanad taluks.

Q.—Even in Palghat taluk there are a good many kanam tenants.

A.—Yes, there are.

Q.—Would I be justified in saying that most of the lands belonging to the janmis are held on kanam tenure?

A.—I think so.

Q.—And except in Palghat taluk all these kanam holdings are held by verumpattam tenants.

A.—Generally, in most cases it is so.

Q.—And their number is considerable.

A.—Yes.

Q.—I find from the census report of 1911 that of the land holding classes 85 per cent are cultivating tenants. Would I be justified in saying that about 60 per cent are verumpattamdars?

A.—Might be so.

Q.—Then would you not advocate any legislation in the case of those 60 per cent of people as conditions stand at present?

A.—I do not think any special legislation is necessary, but if the verumpattamdars would give proper security they could be given fixity of tenure. My own opinion is that only kanamdars should be given permanency right.

Q.—That applies to kuzhikanams also.

A.—Yes. I know very little about kuzhikanam.

Q.—Supposing a melcharth has been taken within recent years of kanam land and the old kanamdar has been evicted, would you give permanent occupancy right to the melcharthdar?

A.—He must be given because he has paid for the improvements.

Q.—Then you would give permanent right of occupancy not only to persons who have reclaimed but also to those who have paid for the improvements. Can you suggest any reason for that?

A.—He may not be deserving it but since he has paid the value of improvements he may be given fixity of tenure.

Q.—Then he deserves no sympathy?

A.—Yes.

Q.—That holds also as regards persons who have accepted melcharths and ejected the old kuzhikanamdar?

A.—I know very little about them.

Q.—Eliminating these two classes the remaining number is very small.

A.—In other taluks than Palghat it will be so. In Palghat there would be a good number because capricious evictions are very rare.

Q.—Then what is your justification for legislating for a few people like this? Is it because the relationship between the janmi and the kanamdar is not very cordial?

A.—The kanamdar gets his right after paying a very large amount to the janmi which will not be seen in the kanam demise. Whether the crop fails or not he has to pay the amount due to the janmi and so his case will be rather very hard.

Q.—He has paid a large amount on the distinct understanding that he will have to pay similar large amounts at the expiry of 12 years, and therefore, why should he have permanent tenancy? So your justification is that he has paid a large amount as renewal fee?

A.—He regularly pays michavaram whether the crop fails or not.

Q.—These are the only grounds?

A.—Yes, these are the main grounds.

Q.—You say that the relation between the landlord and the kanamdar is not very cordial and that is because of Western education and the kanamdars coming in contact with Western notions. By that you get the spirit of independence which the janmis call impertinence not to be tolerated? Is that so?

A.—Yes, in the case of Nambudri janmis it is so.

Q.—You say educated junior members of the Malabar tarwads do not care for cultivation.

A.—Yes, educated junior members do not care to cultivate their own lands.

Q.—But in the interests of some of the junior members who want to cultivate their lands permanent occupancy right is to be given. Is it not?

A.—I think so.

Q.—Practically you want to give occupancy right so that the land will have a higher market value.

A.—I don't think so. They won't sell their rights.

Q.—So that they could raise loans on easy terms if necessary, is it?

A.—Yes, it is so.

Q.—You said that a janmi holding 25 acres should be exempt from the operation of occupancy right. Supposing a janmi owns 24 or 25 acres of land and a dispute arises between his tenant and the janmi. Then what course would you adopt to decide the point?

A.—In almost all such cases it can be conclusively decided with the aid of the Revenue settlement register.

Q.—You say that the disabilities are peculiar to the tenants in Malabar because the lands are not held on kanam tenure in other districts. How are the disabilities peculiar to Malabar? What are the particular disadvantages which the tenant in Malabar labours under unlike in the ryotwari districts?

A.—The main disabilities here are that the tenant has to pay his landlord a large amount for a kanam demise and afterwards he has to spend a lot of money for improving the land. A man becomes a kanamdar under the impression that he will not be ousted and therefore spends all his money on the land.

Q.—Speaking about evictions, you said "that the then Zamorin Raja granted any number of melcharths to enrich his wife and children, etc." Whether those melcharths were granted on justifiable or unjustifiable grounds you can't say. You have no personal knowledge?

A.—There were more than 250 melcharths during a short time. My impression then was that they were done unjustifiably and that impression was formed on direct information from people. There was a loud outcry then.

Q.—Janmis experience considerable difficulties in realizing their dues?

A.—Not much in Palghat taluk.

Q.—Am I correct in saying that the janmis generally have no peace of mind during collection time?

A.—Janmis who are involved in debts will have no peace of mind.

Q.—And they find it very difficult to collect rent from their tenants and consequently find it difficult to pay the assessment. It is so in all taluks except Palghat. Am I right?

A.—It may be so.

Q.—Referring to kudiyruppus, you said that if they are attached to wet lands it will really be very hard if permanent occupancy right is granted. Does it apply to garden lands also?

A.—There are no garden lands in this taluk. I have very little idea of them.

Mr. Kotieth Krishnan :—Q.—In the case of a kanam tenant, the chief ground that you urge for granting fixity of tenure to him is that he has invested a lot of money on the land?

A.—The chief reason is that he has invested his whole capital on the land.

Q.—So one reason is, once a kanamdar he should always remain a kanamdar. So far as you are aware, these are the two reasons?

A.—Yes.

Q.—In all kanam documents which are renewed during the last 50 years there is a provision for surrender of the property at the expiry of tenancy period, i.e., 12 years?

A.—Yes, but in spite of the stipulation the kanamdar considers that he will not be ousted.

Q.—Supposing the kanam tenant gets 12 per cent interest on the amount invested by him as improvements, would he be satisfied?

A.—No. He won't be satisfied because he is under the impression that he will not be ousted. Even if you make it 50 per cent he will not be satisfied.

Q.—Supposing there is a provision that the kanam tenant will not be evicted after the expiry of 12 years if he is able to pay the renewal fees and other dues and he is asked to pay the janmi over and above this 50 per cent of the money that he gets from the verumpattakaran, will he be satisfied?

A.—I cannot say whether he will be willing or not.

Q.—May I take it that kanam tenants as such will have no objection?

A.—I may have no objection. I cannot say about others.

Q.—You say you have been cultivating your land yourself. Can you say what will be the meni of the best class of wet lands in Palghat taluk?

A.—Fifteen fold will be the best.

Q.—What will be the seed required for an acre of such land?

A.—Five paras of paddy.

Q.—And for the bad ones?

A.—Sometimes they will require ten paras.

Q.—What will be the meni for bad land?

A.—About five or six times.

Q.—You say the price of manure has gone high from Rs. 2-8-0 to Rs. 7-8-0 per cart-load. So am I right in saying that cultivation expenses have also gone high all round?

A.—Yes.

Q.—May I take it then that the ordinary expenditure on wet lands will be more than four times the old expenses?

A.—We employ cherumas permanently. The value of cultivating materials, such as ploughs and cattle, have increased.

Q.—Cultivation expenses will be the same because you have cherumas under you and, if you have not got these cheruma slaves but if other labourers are employed, the cultivation expenses will be more?

A.—The wages are the same, but in some cases it may be so.

Q.—How is it you say that the cultivating verumpattamdar does not deserve any permanent occupancy right?

A.—Because he has no stake in the land. He has no means. And there are verumpattam tenants who have not even enough funds to pay for their manure.

Q.—You say that in your case you were granted a 50 years' lease. So the granting of long-term leases are necessary for the better enjoyment of the land?

A.—Certainly, it will improve the land.

Q.—If long-term leases are given, tenants will have better interest in the land and it will be still more so if they are told that they would not be evicted if they pay rents at the proper time. Is it not?

A.—Yes.

Q.—You said you had to forego about Rs. 35,000 in order to get yourself retained in possession of the land?

A.—Yes.

Q.—And on that account you had to be satisfied with Rs. 15,000?

A.—Yes.

Q.—The condition imposed on you by your janmi is generally the condition imposed on other kanamdars by the janmi?

A.—Certainly it is.

Q.—Have you any idea with regard to the rate at which renewal fees are levied by the janmis?

A.—It was 20 per cent of the kanam amount before. Even now there are a few janmis of respectable standing who collect it only at that rate.

Q.—Can you roughly put it with reference to the net yield of the land?

A.—Yes. Roughly one year's rent. I should think that the Government tax and michavaram should be deducted and only the balance should be made payable to the janmi every 12 years.

Q.—Will that be a fair proposal?

A.—I think my suggestion would be very fair.

Rao Sahib V. Krishna Menon:—Q.—You said that melcharths and Western education have some relation with each other. Is it due to education or economic changes in the land? During the last 50 years there have been an increase in the number of melcharths and I have heard it said in many quarters that it is due to the fact of professional men such as Vakils, retired Government officials and others using their influence on the janmis to grant them melcharths. Is that so?

A.—In some cases it might be so.

Q.—Have you heard of cases in which such people use their influence with the janmi and get melcharths?

A.—As I have already said there may be some cases like that.

Q.—Then don't you think that some protection should be given to the cultivator from such influences? Don't you think that the cultivating people should be protected from the janmis?

A.—Yes, they deserve protection.

Q.—Both the verumpattamdar and the kanamdar are tenants-at-will?

A.—Yes.

Q.—If the kanamdar is disposed to be more generous to the verumpattamdar, he could occupy his holding for a longer time. Is it not?

A.—Without paying rent!

Mr. Krishna Menon:—We need not consider the case of the defaulter at all.

Q.—You say that the verumpattamdars are useless fellows who have no means to maintain themselves. Why don't you look after their comforts? Why don't you help them when they are in difficulties? Why don't you give them education and thus generally improve their position?

A.—We do help them with funds sometimes, but you don't expect the kanamdar or the janmi to give them education. It is for the Government to provide education for them.

Q.—You say that the janmi should be given protection through the Estates Land Act to facilitate collection of rent. Do you think that under the present social conditions existing in Malabar the Act could be worked easily?

A.—I don't think there will be any trouble with regard to that.

Khan Bahadur Haji Abdulla Kasim Sahib Bahadur:—Q.—Is it true that the janmis oust the kanamdars whenever they like?

A.—Yes.

Q.—Is it also true that the kanamdars also oust the verumpattamdar whenever they want to give the holding to another man?

A.—Yes.

Q.—You said that verumpattamdars are people with no means but if they could give security for three years' rent you would give them permanent occupancy right. What kind of security do you expect from them being poor people?

A.—I do not think they will be able to furnish security.

Q.—What do you suggest for them then?

A.—I cannot think of any solution.

Q.—What sort of manure do you use in cultivation?

A.—Cow dung and ash. Fish manure and leaf manure are not generally used in Palghat taluk.

Q.—What is the rate of the manure used?

A.—One cart-load of cow dung would be used for four paras (40 cents) of land or so.

Q.—Do not the verumpattamdars build small houses?

A.—Yes, they live in farm houses in the estate.

Q.—Where does the cultivating tenant live?

A.—In some cases he lives on the land which he has taken on verumpattam and in other cases in farm houses.

Q.—Who builds those houses?

A.—The verumpattamdar does it.

Q.—After the harvest, does the verumpattamdar keep the seed for the next cultivation or does the kanamdar give it?

A.—For the first time the janmi or the kanamdar gives the seed necessary but afterwards they themselves manage, but there are instances where seed is not given even for the first time.

Sir T. Desika Achariyar:—Q.—So far as I have been able to follow your evidence, I presume you are for granting fixity of tenure to the tenants in general?

A.—Yes.

Q.—Let us take the verumpattam tenure. Don't you know that they get very little more than the actual verumpattam rent and not even that in some years owing to failure of crops? I shall read to you some statements which have come to my notice and may I ask you to tell us whether you consider those statements are true or not. "A number of Mappilla cultivators in an amsam assured me that there was no profit in verumpattam cultivation, rents being too high, and that the cultivators are mere coolies. Two of the cultivators told me the same story in almost the same words. A cultivator gets his coolie only and that only if the Makaram (second) crop is a success and that verumpattam cultivation is no better than coolie work." Is that right?

A.—It is not true so far as Palghat is concerned. I have no idea of Ernad and Walluvanad taluks.

Q.—The verumpattam tenant has therefore nothing to fall back upon?

A.—I don't think so. So far as it concerns Palghat it is not correct.

Q.—You said that there is no use of giving fixity of tenure to the verumpattam lessee, that he has no security to fall back upon?

A.—I said that about Palghat taluk.

Q.—Am I right in saying that the majority of the verumpattam holders are persons who could look after their holdings themselves?

A.—Most of them are very poor and most of them are living from hand to mouth.

Q.—Is it not due to rack-renting? What else is it due to? What is the present condition of the verumpattamdar due to?

A.—I don't think it is due to rack-renting. They don't cultivate the land properly because they have no money.

Q.—I should like to know why these verumpattam tenants are in a majority of cases deplorably poor?

A.—They were originally poor and they are continuing in the same state.

Q.—The prospect of being turned out of his holding at the whim and caprice of the landlord, the want of fixity of tenure and the want of confidence in himself (because he does not know about himself),—these are the causes of the perpetual poverty of the verumpattamdar. Is it not?

A.—To some extent that is also correct.

Q.—If that is correct, don't you think that you should give these verumpattam tenants some sort of fixity of tenure?

A.—Government must also give them money with fixity of tenure.

Q.—So Government should give them some money as well to enable them to become thrifty?

A.—Yes.

Q.—I wish to know whether the verumpattam tenants are persons who stick to the same place always?

A.—These verumpattam tenants stick to the same place from generation to generation.

Q.—And perhaps your own experience is that there are very many verumpattamdars who are on the same estate for thirty and forty years?

A.—Yes. There are. The verumpattam tenants under me are never turned out.

Q.—The reason is that they do not wish to leave the place where their ancestors lived?

A.—Yes.

Q.—Their cruel fate will also follow them elsewhere. That is why they stick to the same place?

A.—Yes.

Q.—Can't you suggest some qualified fixity of tenure for them? Can't you devise some other means without insisting upon security?

A.—I can't suggest any remedy.

Q.—You told us that unless the Government are prepared to pay the verumpattakarans some money no fixity of tenure should be given. We do not know whether the Government will do it. But why not the kanamdar or the janmi advance some money to these people on some terms which would ensure recovery of the advances made by instalments?

A.—I do not think it will be possible to recover.

Q.—Is it a fact that the verumpattamdar borrows money and seed every year?

A.—In the first year we give.

Q.—On what security?

A.—No security is taken.

Q.—Why not such a procedure be adopted and permanent occupancy tenure given making a condition precedent that the man should be evicted if he does not repay?

A.—In spite of the fact that we give him cultivation expenses he is not in a position to manure and cultivate properly.

Q.—Therefore you won't give him money?

A.—There is no means of recovering what we give.

Q.—Therefore you won't have any fixity of tenure so far as lands which are now being cultivated by verumpattam tenants are concerned?

A.—I have no objection to giving fixity of tenure provided rent can be recovered from them.

Q.—Would you allow land which is now being cultivated by verumpattamdars to be classified as lands to which permanent occupancy right attaches?

A.—Yes, with the proviso that they furnish proper security.

Q.—With regard to kanamdars you say that the Malabar Tenancy Act is sufficient protection against any capricious eviction so far as garden lands are concerned?

A.—Yes, I think so.

Q.—But with regard to rice-crop lands you think legislation relating to fixity of tenure is necessary?

A.—Yes.

Q.—Why do you make this distinction?

A.—They do not get proper compensation when they are evicted.

Q.—Your position is, with regard to verumpattamdar, you will have permanent right of occupancy provided the land is classified as permanent occupancy land and he produces security for two or three years?

A.—Yes.

Q.—With regard to kanam lands, your position is, so far as garden lands are concerned, no legislation is necessary?

A.—Yes.

Q.—That is, you think the Malabar Tenants Improvements Act is an adequate protection?

A.—Yes.

Q.—So, with regard to rice-crop lands, which alone remain, I suppose you said in reply to a question of Mr. Narayana Kurup that the main reasons for your advocating legislation are that you have spent a lot of money and that you won't be turned out?

A.—Those are the main facts.

Q.—But how do you get over the fact that during the last seventy years everybody did realize that the janmi could evict the kanamdar after twelve years?

A.—There are several cases in which land is held for more than twelve years. I have been holding my land for more than seventy years. I was not disturbed. The land was demised in 1025 M.E.

Q.—But supposing those two reasons are good, how do you compensate the landlord for taking away from him the power of eviction?

A.—Out of the janm value, what is due to the tenant as kanam and improvement should be deducted and on the balance 4 per cent interest should be made payable to the janmi. That covers michavaram, renewal fee and everything.

Q.—That applies to all cases in which permanent occupancy right may be created?

A.—Yes.

Q.—You said there may be permanent occupancy right with regard to verumpattam lands also? Even there compensation to the janmi may be fixed in that manner?

A.—Yes.

Q.—You have been a Tahsildar for a long time in this district. You are therefore intimately acquainted—not because you are a meloharthdar—with what are called meloharths?

A.—Yes.

Q.—Have they been used as engines of oppression?

A.—Yes.

Q.—They have been used for satisfying private spite?

A.—Yes, and for enriching the wives and children of the janmis.

Q.—Did they result in capricious and frequent arbitrary eviction?

A.—Yes.

Q.—Did they result in tedious and long-pending litigation?

A.—Yes.

Q.—To avoid that also, you think that kanamdar should have permanent occupancy?

A.—Yes.

Q.—What do you understand by permanent occupancy right?

A.—A man to hold for ever, subject to certain qualifications.

Q.—What are the qualifications, pray?

A.—You must pay to the janmi proper dues properly every year. You must not do anything against the interests of the janmi.

Q.—What do you mean by 'properly.' You want the usual conditions which you observe till now also to be embodied in any rule which would provide for fixity of tenure?

A.—Yes.

Q.—Then about rates, how will you calculate?

A.—In several cases there will be registered pattam—chits.

Q.—Supposing the land is improved and you have permanent occupancy tenure. You cannot deprive the landlord of his fair share of the produce?

A.—There should be some provision to adjust things in an equitable manner.

Q.—What would you suggest?

A.—Civil court means litigation and we must avoid litigation as far as possible.

Q.—You want some sort of tribunal to dispose of such matters summarily?

A.—Yes.

Raja Sir Vasudeva Raja of Kollengode :—Q.—You hold a holding of about 135 acres of land under the Venganad kovilagam on vettukanam?

A.—Yes.

Q.—Is there any difference between vettukanam and ordinary kanam?

A.—I don't know.

Q.—I suppose, as in ordinary kanam, in vettukanam also there is the kanam amount?

A.—Yes.

Q.—You have the twelve-years' duration period in both?

A.—Yes.

Q.—You have to pay renewal fees in both?

A.—Yes.

Q.—So there is really no difference?

A.—In the case of vettukanam the tenants' case is very hard.

Q.—The nature of the holding and the terms under which you hold are more or less the same. What difference is there then? I mean, in the terms of the lease given to tenants, is there any difference?

A.—The janmi ought to make some difference.

Q.—As they stand at present, is there any difference?

A.—They do not make any difference and that is a very hard case. No difference is made now.

Q.—On the holding that you hold under the Venganad kovilagam, I think the rent you are getting is something between Rs. 8,000 and Rs. 10,000?

A.—Yes.

Q.—Michavaram that you pay is Rs. one thousand?

A.—Yes.

Q.—And I believe the assessment is Rs. 218, including cess?

A.—I think it is more.

Q.—Including dry cultivation?

A.—Rupees 300 and odd.

Q.—With regard to wet land?

A.—I do not know.

Q.—Well, I have looked into the figures and I find that it is Rs. 218 that you have to pay on the wet lands every year. And Rs. 8,500 is the renewal fee that you are paying every twelve years?

A.—It was Rs. 8,500 that I paid last time.

Q.—Rupees 8,500 is the highest amount that you have paid on lands that yield about 10,000 paras of paddy, every year, for which you pay 1,000 paras of paddy as rent and about Rs. 218 as assessment every year? I am asking the existing state of affairs?

A.—Yes.

Q.—You have been telling Mr. Pate that you have no complaint so far as your janmis were concerned. So, I take it that Rs. 8,500 is not an exorbitant rate of renewal fee and you are quite satisfied with it?

A.—If tax and michavaram are deducted, it will be very fair.

Q.—Even according to you, if 10,000 paras is the rent, taking 1,000 paras for michavaram and then Rs. 250 for Government assessment, still there will be between eight and ten thousand. I think therefore Rs. 8,500 cannot at all be said to be unfair?

A.—I did not say it is unfair.

Q.—Yesterday Mr. Raman Nayar was telling us that in vettukanams there are no renewal fees at all. Is that your experience?

A.—I have been paying it.

Q.—Are you not aware of several such cases in Kollengode?

A.—Yes.

Q.—He also told us that it is customary to charge renewal fees at the rate of 20 or 30 per cent of the kanam amount as the case may be according to kanams?

A.—That was the old rate.

Q.—If that rule is to be applied in your case, taking the highest rate of 30 per cent into consideration, what will you have to pay?

A.—About 5,000 rupees.

Q.—You say that you are quite satisfied and you say that the renewal fee that you have been paying is Rs. 8,500. It is now sought to bring in a Bill which will enable the janmi to receive only 30 per cent or 20 per cent. Is it fair?

A.—It will not be fair.

Q.—Suppose five times assessment is made renewal fee? Will it be fair?

A.—Assessment will be raised at the next Settlement.

Q.—That is why the terms are not unalterable. You can adjust your relationship. As things now stand five times Government assessment will be Rs. 1,000 and odd in your case. Some say five times Government assessment should be made the renewal fee? Do you think it is fair?

A.—If the janmi will be satisfied it is very good.

Q.—So according to the new Bill of Mr. Krishnan Nayar the janmis' rights will be seriously jeopardized?

A.—Yes.

Q.—So also the Bill that was passed before and afterwards vetoed. It says 20 per cent or something like that.

A.—Yes.

Q.—So the suggestions put forward by those legislators are not fair and they go further than what the tenant demands?

A.—In consideration of the fact that the renewal fee was once only 20 per cent it is fair. But in consideration of the fact that the janmis collect more now it is not fair.

Q.—So you have absolutely nothing to complain of and his complaint is not yours but of other people's making?

A.—Yes.

Q.—Who is your other janmi and what is the rate of renewal fee charged there?

A.—It is Walluvanad Raja. The rent is 800 and odd paras and I paid him last time Rs. 500 as renewal fee.

Q.—Has he any system in collecting renewal fees?

A.—As far as my janmis are concerned they have their system. Their renewal fee is less than one year's rent.

Q.—You do not think it is hard.

A.—No.

Q.—You think that occupancy right should be given to all kanamdars?

A.—Yes. I think so.

Q.—Is there no class of kanamdars who do not require that protection at the hands of the legislature? I would give you some instances to make it more plain. Kottakal Palace held some lands under the Zamorin as kanam lands. Puthia kovilagam has also got lands leased from him. I have got lands from the Zamorin leased on kanam. Do you think that we all require legislative protection?

A.—I think so.

Q.—Do you mean to say that legislative protection should be given to the Puthia kovilagam as against the Zamorin? Do you mean to say that I want protection against the Zamorin? I can mention to you other individuals. You know Mr. Kaliyanakrishna Ayyar. He owns land under me. He is a man worth 20 lakhs, who has obtained his tenancy during the last few years with open eyes. He knows the law and conditions under which the tenure is held and the risk he is taking under the kanam tenure. Do you mean to say that such people want legislative protection?

A.—I think no exception should be made.

Q.—On what principle? Would you exclude at least such people or do you want to make a common present of occupancy right to every one?

A.—Yes.

Q.—Would you require any compensation from those to whom permanent occupancy right is given?

A.—I have replied already. At the rate of 4 per cent.

Q.—You had been a Tahsildar for a long time. Have you had any personal experience with regard to the working of the Land Acquisition Act. For construction of railways and buildings lands are acquired and lands under the kanam tenants are also acquired. In such cases how is the compensation money apportioned between the janmi and the kanamdar?

A.—I do not know. The apportionment is done by the janmi. The whole janm value is given to the janmi. The tenant will get his improvement value from the janmi.

Q.—And in the case of lands already under occupancy right, saswatham lands, how is it apportioned?

A.—I think the occupant will get the whole amount.

Q.—I do not think you are quite correct. The difference will be great between the tenant who has occupancy right and the tenant who has only kanam right?

A.—Yes.

Q.—That difference will be more or less the value of the occupancy right?

A.—Yes.

Q.—You said verumpattam tenants may be given occupancy right if they pay three years' rent in advance?

A.—Security for three years' rent.

Q.—Will there be a single case in which the tenant will be able to pay three years' rent?

A.—There will be a few cases. The verumpattamdar Pazhanimala, under the Venganad Kovilagam will be able to pay. At least he will be able to furnish security. He has lands of his own.

Q.—If his debts are taken into account I do not know what remains?

A.—My impression was that he is worth Rs. 60,000.

Q.—Would you give occupancy right in dry lands also?

A.—Tenants of lands attached to wet lands should be given fixity of tenure.

Q.—You say compensation on wet lands are not properly given, and the commissioners take food at the expense of one party or the other and do not make valuations properly?

A.—I would propose that honest men should be appointed as commissioners.

Q.—That is for the future?

A.—In the past commissioners were swayed one way or the other. Moneyed men easily win over the commissioners by paying them money also.

Q.—How are cherumas and other coolies paid, in kind or in money?

A.—In kind. Formerly they were to get $2\frac{1}{2}$ edangazhies a day. Whether they work or not they are to be given $1\frac{1}{2}$ edangazhies of paddy daily.

The President:—Q.—On non-working days also?

A.—Yes.

Raja Sir Vasudeva Raja of Kollengode:—Q.—Do you mean to say that verumpattamdars are making improvements in the case of wet lands?

A.—Verumpattamdars under janmis do. That is to say, verumpattamdars under the Zamorin Raja and others who hold lands on lease for six and ten years.

Q.—I think you said that while you had spent about Rs. 50,000 on your reclamation on the land that you are holding you have been given about Rs. 15,000 as compensation, i.e., the compensation money was reduced into kanam and shown as such in your document?

A.—Yes.

Q.—At the time that it was done were your Eries, Kuzhikoors buildings and everything valued?

A.—It included everything.

Q.—That was 21 years ago?

A.—In 1906.

Q.—Since then you have made a lot of improvements?

A.—Yes.

Q.—It is also agreed that for every one para of seed sowing land you are to pay one para as michavaram?

A.—Yes. That is the stipulated amount.

Q.—According to you you are holding 135 acres, i.e., 1,350 paras of land and you are to pay 1,000 paras michavaram, i.e., within the terms of the contract?

A.—Yes.

Q.—While you pay 1,000 paras to the janmi you are getting between eight and ten thousand paras?

A.—Yes.

Q.—You have said here that in all litigations between the janmis and the tenants, the tenants have not only to bear their own costs but also the costs of the janmi?

A.—Yes.

Q.—Unless the tenant puts forward very unreasonable demands do you mean to say that in all cases costs are saddled on the tenants? My own experience is that in the case of kanam tenures they are treated as mortgagees and the courts generally saddle the costs on the janmi?

A.—Recent decisions may not be so. But that was the case before.

Q.—We are trying to prevent evils now existing, and not to remedy evils that have disappeared. Was there any litigation in which what you say has happened?

A.—Yes. In 1906 I had to pay Rs. 500.

Q.—You have made a general statement here that in all cases it is so.

A.—That was my impression.

Q.—As far as my personal experience goes it is wrong?

A.—It may be wrong.

Q.—Here on the one hand you say that it will be very hard if permanent occupancy right is given to kudiyruppus on wet lands. On the other hand you say that in several cases it will be seen that dwelling houses of tenants situated in kanam lands are also evicted. How is the one consistent with the other?

A.—I think it is consistent. In the case of kudiyruppus janmis or kanamdars help the tenants to erect the buildings by giving them paddy or money; but for the kanamdar to erect a building the janmi does not give a single pie. In the case of the former no tax is collected from them, but in the case of the kanamdar it is not so.

Q.—Are you personally aware of any social oppression in the Palghat taluk?

A.—I do not think there is any oppression.

Q.—As regards other taluks you have only heard?

A.—I have been a Tahsildar and I heard of several cases then. There will be not less than 100 cases. It is generally the Nambudris that do it.

Q.—I think it is not on account of the relationship as janmi and tenant that such cases happen but it is on account of the social importance of the person concerned?

A.—Here it may be so, but not in the Ponnani, Ernad and Walluvanad taluks.

Q.—Do not several ordinary people come to you for settlement of matters? It is not that they hold lands under you. I mean all these are due to the importance of the person in the locality?

A.—It may be to some extent due to the importance of the janmi.

Q.—You say "On account of western education and association with western people the above cordiality has ceased to exist." The remedy lies in rectifying that and not going to school and trying to recast the system?

A.—If that is possible.

Q.—Agriculturists may remain agriculturists. Why should they have contact with western people?

A.—No answer.

Q.—Then again with regard to Commissioners you say they are not proper men and all that. Are the Commissioners appointed according to the whim of the Judge or according to the wishes of the tenants?

A.—Not according to the wishes of the tenants. There may be cases in which parties are also consulted. Generally they are not.

Q.—I think our legal friends will be able to enlighten us on the point. Does the law require it?

You say that the renewal fee is the verumpattam rent minus the michavaram and the assessment due to Government. Is there any principle behind it?

A.—There is no principle.

Q.—It is because you think that it is fair that you say it should be so?

A.—Yes.

Q.—In one of the answers sent to us it is stated "In the Palghat taluk the renewal fee is generally calculated on the following basis. The verumpattam rent is ascertained and the Government revenue and cess are deducted. The interest on the kanam amount at a very reasonable rate, e.g., at the rate of 1 para per ten fanams, is also deducted. Michavaram must also be deducted. The balance profit enjoyed by the kanamdar for twelve years is calculated on that basis, and half of it is fixed as the renewal fee, paddy being commuted at a favourable rate." Is this practice obtaining in the Palghat taluk?

A.—I do not know.

Q.—Do you think this is fair?

A.—I think it will be fair.

We will take, for instance, my case and see how it works. The estimated verumpattam rent is 8,000 paras. Michavaram is 1,000. Then there is 7,000. Deducting tax, i.e., 300 rupees, the balance is 6,700. Interest on the kanam amount of 50,000 at 6 per cent will come to 3,000. The balance is 3,700. Half of that is 1,850. So for twelve years it will be 20,000 and odd and half of that is 10,000.

The President:—Q.—So you think it is fair?

A.—I do not think it is unfair.

The President:—The Committee is very thankful to you, Mr. Sankunni Menon, for your valuable evidence.

APPENDIX

List of social oppression put in by Mr. P. Sankunni Menon, Retired Tahsildar.

(1) On account of not sending a Pisharisyar to Poomulli Mana, Malapulli Pisharath people were evicted from their house and lands.

(2) Mr. Gopala Menon, brother of Mr. Ramunni Menon, District Munsif, Parappanangadi, convened a tenants' meeting. On this account, Poomulli Mana has filed a suit against him for eviction.

(3) One Ponnambath Kalyani Amma, who passed the court-yard when the second karanavan of Poomulli Mana was seated in the portico, was fined and the amount collected.

(4) Yanheri Mana has evicted Achath house people from the house and lands as the order to send a woman was not obeyed.

(5) For the above reason Cheetingalatt people were evicted.

(6) On account of ill-feeling, the late Vasu Elayad of Pattath was evicted.

(7) On account of witnessing a Kathakali in the above mana, fines were levied from Vengotteri and Achath house people.

(8) Kaikandath Manakal Ethirayan Nambudiri asked his Kariastha, K. Gopalan Nayar, to send the latter's niece to him (former) which was not done. A suit for eviction was therefore made ready but on account of mediation Rs. 1,000 was levied as fine.

(9) A goat belonging to Mannarath Etticheriama went into the compound of Yanreri Mana which was caught by the mana, sold and the proceeds taken by the mana.

III

Written statement of Mr. L. A. Subbarama Ayyar, High Court Vakil, Palghat, dated 20th October 1927.

[Answers to the Questionnaire]

I (a) 1, 2, 3 & 4.—I take disabilities to mean grievances as the Malayalam rendering of it indicates. The main grievances arise from the arbitrary demands made for renewals by the janmis, the amount of renewal fee being made to depend upon their sweet will and pleasure. It may be added that in the case of sthani janmis the demand for renewal is made as often as there is change in the personnel of the sthani irrespective of the period of the demise. There are also other grievances pressing hard on the tenants as the janmis usually exact contributions from the tenants on occasions of marriage and other ceremonies in their families.

N.B.—The verumpattamdars mentioned in I (a) (3) come under two distinct classes, viz., (1) Those who hold under verumpattamcharthas (demises) granted by the janmis to tenants from whom, as in the case of a kanam demise, a kychit also is taken by the janmi. These are mainly what were known as kovilagam leases. (2) Simple lessees who take lands for cultivation for one year, from year to year, or for a fixed period, with or without kattakanam or munpattam. So far as this latter class is concerned, the disabilities or grievances are very little. These tenants are exactly in the same position as those of kuttakakkars in Eastern districts.

I (a) 5 & 6.—The answer relating to the second class of tenants in I (a) 3 applies to these also.

I (a) 7.—These are mainly vettukanam tenants of South Malabar, whose position is more or less the same as kuzhikanamdars in I (a) 2 of North Malabar, and as such my answer to the former applies to these tenants also.

I (b).—The disabilities or grievances are peculiar to the tenants in Malabar, and the reason for my thinking so are as follows:—Kanam, kuzhikanam and verumpattam of clause 1 in my answer and vettukanam are various classes of land tenures peculiar to Malabar, and one of their incidence is a qualified, if not absolute, permanency as an incident of the holding. The administration of justice under British Sovereignty was through English lawyers, and consequently by a course of decisions of courts the rules of English Law relating to mortgages and leases were indiscriminately applied to these land tenures of Malabar without caring to understand the peculiar character and incidence thereof, with the result that the tenants are now deprived of the rights and advantages which they were originally granted and enjoyed.

I (c).—My experience of North Malabar being very limited, I do not feel competent to express any definite opinion on this point, but my information is that the demises in North Malabar being mostly on kuzhikanam tenures the janmis are not from the nature of the holding in a position to oppress the tenants as their brethren in South Malabar.

I (d).—There is some difference. The oppression of the tenant is not very hard with regard to kuzhikanam leases in coastal areas of South Malabar also.

Evictions.

II (1) (a).—Yes. I am not in a position now to specify the various cases of unjustifiable evictions which are very common and, in my opinion, it is also not desirable to specifically mention the individual cases. Such evictions are on the increase.

II (1) (b).—Yes. My answer to the latter part of this question is the same as my answer to the latter part of II (1) a.

II (2).—I have no direct personal knowledge of the sort of oppression referred to, but I have information which I believe to be true that the janmis ordinarily oppress their tenants socially also and this sort of oppression is ordinarily confined to the tenants who are more or less neighbours of the janmis in country parts.

Remedies.

III (a) to (c) Not the grant, but the restoration of the old incidence of the various tenures and placing the relationship of landlord and tenant in *status quo ante* by legislation is the only just and effective remedy.

III (d) I think the suggestion is most unreasonable.

III (e) The class or classes of tenants to whom permanent occupancy rights are to be 'granted' rather 'restored', are indicated in the previous answers, and a provision for forfeiture of the occupancy right in cases of continuous default in payment of rents by the tenants for a long period, say 12 years, will be a sufficient safeguard.

III (f) In the view I take, this question does not call for any separate answer.

IV (a) 1. The kudiyruppu holders must be given permanent occupancy rights in accordance with the incidence of the special tenure under which they hold.

IV (a) 2. No.

IV (b) In the view I take, no special answer is necessary to this question.

IV (c) 1 to 3.—I have no suggestions to make as there are provisions in the Malabar Compensation for Tenants Improvements Act to cover the cases.

IV (d) 1. The system is quite unnecessary?
2.—No.

V Under the tenancy law as at present understood and administered, the Act has not the desired effect of relieving the tenants from the oppressions of the janmis. If the tenancy legislation contains provisions suggested in my answers no elaborate amendment of the Act will be necessary. But some changes in the working of the Act will have to be introduced. The changes which are necessary are in the matter of assessing compensation with respect to buildings in urban areas. These must be valued on the basis of the rental value of the building also as in the case of reclamation of lands and fruit trees under the Act. In cases of buildings in rural areas the actual cost of the building, irrespective of the market or rental value of the building, must be the compensation payable.

VI (a) to (c) In the view I take no compensation need be provided for.

Rent.

VII (a) & (b) The amount of rent does not always depend upon the produce of the land alone. The amount is fixed in the demises by mutual agreement, the same being based on the circumstances of each case.

Renewal fees.

VIII (a) The extent of renewal fees with regard to kanam must be fixed at two per ten of the kanam amount which is the customary rate. This rate of two per ten has a legal origin being based on a *smrithi* which lays down that where one has enjoyed interest continuously for a period of 12 years the *mooladhanam* or principal amount is automatically reduced by 20 per cent.

VIII (b) There is at present no fixed rate of renewal fee prevailing in my taluk or for that matter in any other taluk that I am aware of. It is made to depend at present on the good sense or otherwise of the janmi.

General.

IX In the views I take, which are indicated in my answers to the previous questions, I have no suggestion to make under this head.

X (a), (b) & (c) It is not advisable to grant pre-emption as against *melcharthdars*. The practical difficulties arising therefrom would be insurmountable, and it will be difficult to make adequate provisions to prevent collusion and want of *bona fides* on the part of the janmi and the proposed *melcharthdar*.

Thursday, the 27th October 1927.

Oral evidence of Mr. L. A. Subbarama Ayyar.

The President:—Q.—You are a prominent member of the Palghat Bar?

A.—I have not been a very unsuccessful practitioner.

Diwan Bahadur T. C. Narayana Kurup:—I shall answer that for him.

The President:—Q.—May I know whether you are a janmi or a kanamdar?

Witness:—I am not a janmi; I am a kanamdar.

Q.—What is the extent of your kanam holdings?

A.—I get between six and seven thousand paras of paddy as my net income.

Q.—Do you cultivate the land yourself?

A.—No. I have leased the land to *verumpattam* tenants.

Q.—Out of your net income you pay your assessment?

A.—Yes, and the *michavaram* which is about 1,500 paras; and the *kanartham* will be between 20,000 and 30,000 rupees.

Q.—Would you give us roughly the renewal fee which you pay?

A.—It varies according to the whim of the janmis. What my father has been paying is not one-fourth of what I now pay. The customary rate is two per ten. But whatever the janmi wants we have to pay, if we wish to retain the land.

Q.—Would you give the Committee an idea of the total renewal fee for all your holdings put together?

A.—There is only one holding which my father acquired for which he paid a renewal fee of Rs. 500 and for which I had to pay Rs. 1,500. My father has set apart that land for the maintenance of my old mother. So I thought I would be depriving my mother of that if I did not pay the janmi whatever he demanded and it was because of that that I paid such a large amount.

Q.—You say in your evidence in regard to grievances of tenants that the *kanamdar* has got grievances but the grievances of the *verumpattamdar* or the *kuthakakkar* are very little?

A.—I have also explained that the *verumpattamdar* as used in the questionnaire does not mean the exact *verumpattamdar* and that they are of two different classes.

The President:—Q.—You mean the *kovilagam verumpattamdars* and the simple lessees who cultivate land for one or more years according to contract?

A.—The latter are in the same position as the *kuthakakkars* of eastern districts. Instead of daily wages they cultivate land after taking contract for one year. *Kuthaka* means contract.

Q.—You say they have no grievances. They do not get anything more than mere wages for the labour which they devote on the land. Is this not a grievance?

A.—The contractor gets something more than mere wages. It is simply wrong to say that these *verumpattamdars* are the actual tillers of the soil and they employ persons to whom they pay wages just like ordinary contractors.

Q.—Then what is the margin of profit that you allow to the *verumpattamdar*?

A.—They generally get between 25 and 30 per cent of the net yield.

Q.—Do you speak from personal experience?

A.—Yes. That is the information which I got from my own tenants.

Q.—What does net yield mean?

A.—Net yield means gross yield *minus* cultivation expenses.

Q.—One of the witnesses said that it is one-fifth of the net yield, i.e., 20 per cent?

A.—It may be so. My experience is this. My tenants generally get 25 to 30 per cent.

Q.—Is the economic condition of the verumpattamdars (in the sense in which we understand that expression) satisfactory?

A.—Certainly.

Q.—Would you kindly explain it a little bit better—do they enjoy all the amenities of life, do they get enough to eat, are they able to give at least elementary education to their children?

A.—I think, ordinarily they are able to do all these things. But of course there are some petty tenants holding some 2 or 3 paras of land who are not able to do all these things. There are some Cheruma tenants who hold small holdings of 10 paras, 15 paras and 20 paras and they get whatever they want according to their social position and they maintain themselves by cultivating these lands and paying rents.

Q.—Are they satisfied with their economic position?

A.—I have not heard of any complaints from them.

The President:—Q.—Of course, they will be satisfied because they do not realize what a better state of affairs is. So you do not believe in this economic argument?

A.—No.

The President:—Q.—You have said here “These are various classes of land tenures peculiar to Malabar and one of their incidents is qualified if not absolute permanency as an incident of the holding”. May I take it that you are relying upon what is called the historical argument?

A.—My answers were short as the questionnaire was received late. Now I can substantiate by documentary evidence—documents all now filed in pending suits in the Palghat Sub-Court.

Q.—What is the nature of the evidence?

A.—The nature of the evidence is this. So far as the kanam tenure is concerned—incidents as understood by the janmi and the kanam tenant—we will have to gather from the agreement or the form of conveyancing of old kanam deeds. Now I have brought kanam deeds filed in the Palghat Sub-Court in O.S. No. 8 of 1921, a suit which is now pending. I may be allowed to read one or two of those deeds because the same form of conveyancing is repeated in all the documents up till a comparatively recent period. The earliest document I was able to get is of the year 1003 M. E. corresponding to the year 1828. And the operative portion of the kanam demise—of course it will be wasting the time of the Committee to read the boundaries and other things—after describing the properties, and also the kanapattam runs thus:—(Reading the document in Malayalam). And then (so much Michavaram Kotukkavum Kollavum Katavar) is the last portion. That is to say, an agreement to pay and to receive. So both parties are under obligation, the one to pay michavaram and the other to receive. Such is the language of the kanam documents. This is the earliest I have in my possession. Apart from this there is nothing else mentioned about recovery of the lands or payment of renewal fees or anything else. It describes the land, it describes the pattam receivable from the land, it says out of this pattam so much is allotted.

The President:—Q.—Your position is that you should go back on the decisions of 1852?

A.—That is why we come to the legislature. When we go to Court the judges say we have got decisions. If you want to change the view taken in previous decisions, the judges say, you must approach the legislature. That is why tenants have come to the legislature for a remedy and I think the same view was taken by Mr. Logan in his manual. I think the Committee is acquainted with that.

The President:—Q.—You say “The administration of justice was, through English lawyers, and consequently by a series of decisions of Courts, the rules of English law relating to mortgages and leases were indiscriminately applied to these land tenures of Malabar without caring to understand the peculiar character and incidence thereof, etc.” So your position is that you want to go back on the original document in each case?

A.—In each case this will be the form of the kanam demise throughout South Malabar.

Q.—There you are generalising. Are you doing it safely?

A.—So far as my experience goes—I have been a lawyer for the last 35 years and I have come across various documents—all are in this form so far as South Malabar is concerned. I have also brought documents in which changes in the wording of the operative portion of the deed have been introduced and this portion ‘Katavar’ omitted. Renewal fee or agreement to surrender is mentioned only in later documents. These conditions, I say, have been created recently.

Q.—What would you do in such cases. Would you not recognize the changed conditions?

A.—I would not.

Q.—You are in a position to say that before half a century there were no documents in which renewal fee was mentioned?

A.—Yes. The most recent of the documents that I produce is that of 1069 M.E., i.e., 1894. In none of these documents is it mentioned. They are all Exhibits in the aforementioned suit.

Q.—You say “and a provision for forfeiture of the occupancy right in cases of continuous default in payment of rents by the tenants for a long period, say 12 years, will be a sufficient safeguard”. Why do you put down 12 years there?

A.—Because my information is that in the proclamation of the Travancore State it is fixed at 12 years. If for 12 years the tenant makes default in payment of michavaram and renewal fees, at the end of 12 years he forfeits his occupancy right. I think there is a provision like that in the proclamation which restricts tenure in that State.

Q.—You think that it will be an effective provision?

A.—I say “for some 12 years.” If the Committee thinks that a shorter period might be sufficient that may be done. I have no objection to shorten the period.

Q.—Then, in the case of kudiyruppus I suppose you mean in the case of kanam holdings you would give permanent occupancy right.

A.—Yes. And I have also brought a kudiyruppu document which gives a kanam right. It is of 1030 M.E.

Q.—In the case of a verumpattam tenant—tenant-at-will—even though he might have built a house on the holding and he may be keeping it properly you would not give him permanent occupancy right?

A.—Of course, he is entitled to compensation for improvements. My idea is no new right can be created in favour of one party which had not previously existed by legislation. I only want old rights, however old they may be, should be restored, if it is by mistaken views that those rights have been ignored or taken away.

Q.—“In the view I take, no answer is necessary to this question”. You say this in answer to question 4 (b). I can understand that portion of your answer which says that if a kudiyruppu exists on a kanam holding then no limit need be prescribed. But supposing there are urban kudiyruppus and those which are not situate in kanam holdings would you fix any limit for them?

A.—May I be permitted to offer additional reasons for my view that kanam tenure has, as an incident, permanent occupancy right?

The President:—Yes.

(Witness) Mr. Subbarama Ayyar:—Now certain cases are brought to the notice of the committee by certain witnesses that a man who has a kanam of 1,000 rupees is

probably in enjoyment of land yielding 1,000 paras of paddy. But we must look to the state of things that existed at the time when these original kanam holdings began. Probably, the Committee will be surprised to hear from me that half a century ago—I do not know what was the state of things in British Malabar—I understand from the Gazetteer of Malabar that there was no regular land revenue assessment before, but there was land revenue assessment in Cochin State and the revenue was collected in kind. The persons who collected the revenue practised all sorts of frauds. They brought measures which were false and the subject population were made to suffer the greatest hardship. The subject population thereupon made complaints to the State and the State a few years before the year 1000 M.E. said that payment could be made in money provided the tenant consented to pay one fanam for every 3 paras of paddy. That means $10\frac{1}{2}$ paras of paddy for every rupee. Now the purchasing value of rupee has decreased. We cannot purchase one para of paddy for one rupee now. Now we will take a concrete example. One man has advanced 1,000 rupees as kanam. That means he had advanced 10,500 paras of paddy as kanam if we take the then value of the rupee, and he gets land yielding 1,000 paras of paddy. Now, of course, it may be a startling proposition to say that you get land which yields 1,000 paras of paddy and your kanam is only 1,000 rupees, as if you get for 1,000 rupees, 1,000 rupees interest. At the time when the original kanam was advanced it must be remembered that this 1,000 rupees was worth 10,500 paras of paddy for which I get only 1,000 paras of paddy and the customary rate of interest (*Nerpalisa*) is 10 per cent. So even if I get now 1,000 paras of paddy for the thousand rupees kanam, which I have on the property, at the time when I contracted with the janmi for this kanam tenure I was only allowed 10 per cent interest and not cent per cent. This is on account of the difference in the purchasing power of the rupee. It must also be noted that the old kanam documents will mention only *fanams*—that is the gold coin corresponding to the rupee—and even in the more recent kanam documents *fanam* is not converted into rupee, but in the subsequent documents it will be seen that $3\frac{1}{2}$ fanams is converted into one rupee. But if you go to the bazaar now to purchase a fanam we won't get $3\frac{1}{2}$ fanams for one rupee. You will have to pay 12 or 14 annas per fanam. Especially in our Brahman families we always preserve fanams, for we want them at the time of the *Sraddha*; we have to give gold as (*Dakshina*) present on that day. My father has told me that for the one fanam given as present to the Brahman on the *Sraddha* day, he will be given one basketful of paddy not less than 3 paras, and the coin will be taken back and preserved in the box to be given at the next year's *Sraddha*. That was how things were done. So fanam value is not given; that is converted into money and that money which procured $10\frac{1}{2}$ paras of paddy then will now only procure 1 para of paddy. That means less than one-tenth. Now janmis complain that we enjoy a very high rate of interest.

I have also to bring to the notice of the Committee one point in regard to kanam demise. There is a proverb in Malayalam "*Kanam Vittalum Onam Kollanam*". Onam is a very important festival in Malabar and the proverb says that even at the risk of selling kanam we must purchase things necessary for the Onam festival. The highest proprietorship in the land may be sold, if necessary, but we should not fail to observe Onam festival. I have got a work here named *Jnanapana* which is more than 5 centuries old, the author being Poonthanam Nambudiri. Many of you might have heard of the lamentations of Adi Sankara "वृद्धः तावत् चिन्तासक्तः" etc. This idea has been elaborated by Poonthanam Nambudiri. Among other things he says that the old janmi with one foot in the grave imagines he wants a boy to be born to him, that boy should be married and he must see a son born to that boy and he should also see that the lands in front of the gate of the house are not given on kanam. If once given on kanam, it is not possible to retake them. That was the impression. (The witness read slokas regarding this from '*Jnanapana*').

The President :—Q.—Well, let us revert to the point before us. You say no distinction need be made between urban and rural kudiyruppus?

A.—I have made a distinction with regard to the award of compensation at the time of eviction. For example, in urban areas you can build a shop for a few rupees with flimsy materials. In one of the commercial centres that has to be valued differently. I want to make that distinction.

The President :—Q.—I have one more question to put to you and that is about renewal fees. Mr. S. K. Ramaswami Ayyar says that the renewal fee is so much because it is the practice in Palghat taluk to levy so much. Is there no principle for regulating the renewal fee?

A.—The old practice was 2 per 10. It is according to the injunctions in the *smriti*. Of course, we are aware of the rule of Damdupat. It was recognized by the Bengal High Court. Now in the Commentary by Vignaneswara of that particular *smriti* it is clearly stated the rule of Damdupat applies not only to cases where interest is allowed to accumulate and exceeds more than the principal but also to cases where interest is paid or appropriated from time to time. According to it this rule must always be applied except in the case of Purushantharam. According to the *smriti* you have enjoyed 120 for 100. So this 20 must go every 12 years to keep up kanam at the original figure of 100. That is to say you have to pay 2 per 10.

The President :—Q.—The janmi has received 120 as against 100 which he has to pay the kanamdar?

A.—No, not the janmi. The kanamdar has paid 100 rupees to the janmi and the kanamdar has enjoyed 120 rupees as interest on the 100 rupees he has paid to the janmi in the course of 12 years. So his principal amount automatically reduces itself as I put it in the answer by 20 per cent every 12 years. So every 12 years he has to pay renewal fee which will keep up the amount of original kanam at the original 100 rupees. That is the legal basis in the *smriti*.

The President :—Q.—And so you would not change it?

A.—I would not. And according to Mr. Logan also the kanam amount between the janmi and the tenant is revised every 12 years (vide pages 608 and 609 of Mr. Logan's Manual). And the janmi Nambudris who are Brahmans and who follow the *smriti* will certainly accept it.

Raja Sir Vasudeva Raja of Kollengode :—Q.—May I ask you a few questions? With regard to renewal fees you said you are paying twice or thrice as much as you were paying before?

A.—Yes.

Q.—Has not the price of paddy also increased doubly or trebly?

A.—Yes, but the price of money has gone down.

Q.—Does not renewal fee represent a portion of the paddy that the tenant enjoys?

A.—No. Renewal fee represents what I have stated.

Q.—While a kanam tenant enjoys about 10 paras of paddy is it not true that he pays about a para or so as *miclavaram*?

A.—To make matters clear I shall quote an example, which has come to my personal knowledge. There was a litigation some half a century ago between the Nellisseri people and Vattasseril Mannadiar regarding a bond. The Mannadiar was sued for the recovery of money. The defence of the Mannadiar was that instead of cash payments he had agreed to sell a land for 5,000 rupees and he was prepared to execute the sale-deed with regard to that land to the plaintiff, that the Nellisseri people should be forced to accept that land and not sue for the recovery of the money. Of course, the Nellisseri people never agreed. That was some 40 or 50 years ago. Then the suit was decreed. The defence was not believed and the suit was decreed for 5,000 rupees with interest and costs. The Mannadiar will not part with that land even if he is offered now a lakh of rupees. So, if our ancestors had invested the amount which they had on janm lands instead of on kanam lands, they would have now lands worth more than ten or fifteen times the kanam amount which they had advanced. If necessary those records may be produced.

The President :—Q.—What is the point?

A.—The point is janm lands which could be purchased for 5,000 rupees some 50 years ago cannot be purchased for a lakh of rupees at the present day. So, as was said by Mr. Sankunni Menon, there are various persons who were owners of janm lands and who lost them. There might have been adjacent janmis who were very

big men with whom there might have been boundary disputes and various other litigations. There was one instance, a case in which I myself appeared. The contention of the kanamdar was that it was his old janm, and the janm was transferred to a big janmi and kanam lease was taken simply because there was fear that the adjoining janmi who was a big man would litigate with regard to boundaries and put him to trouble.

Raja Sir Vasudeva Raja of Kollengode :—Q.—That was to his own good.

A.—Certainly. And under the belief that he will not be evicted from the land.

Q.—Had it not been for the renewal fees do you think the janmi will be satisfied with one para of paddy while on the same land the kanam tenants get 10 paras? Do you mean to say that the janmi will hand over his land for 1 para while the actual rent is 10 paras had it not been for the renewal fees?

A.—It is not on account of the renewal fees. It is on account of the price of paddy and the conditions of the place where the land is situate and the difficulty of cultivation and the rate of interest that was prevailing.

Q.—If the renewal fee represents a portion of the gain that the tenant enjoys is there anything unreasonable in charging renewal fees twice or three times more than what it was before and if the price of paddy has risen proportionately?

A.—We will have to take into consideration the reduction in the purchasing power of money that was advanced as kanam. You commute that amount of kanam into paddy and then calculate interest that was prevailing and come to a fair rate. Then there will be no grievance on either side.

Q.—You read out a document of 1003 M.E. Was the document renewed after 12 years?

A.—Yes. A series of documents, from 1003 to 1069 M.E., all renewed and the tenant has never raised any objection that it was not renewable when he was holding under permanent tenure.

Q.—Why should the tenant agree to pay renewal fee?

A.—On account of this smriti.

Q.—Has any tenant ever raised this objection in eviction cases that kanam tenure is not redeemable?

A.—Why? Earlier decisions will go to show that kanam is a lease and now it is pure and simple mortgage to which all the sections of the Transfer of Property Act apply, or are made applicable.

Q.—You speak of restoration of old incidence. Restoration to whom? Both parties?

A.—It is restoration of the incidence and not the property.

Q.—You want restoration. You said that such a right existed in kanam tenants and it ought to be restored to them?

A.—It is in such cases that we should give legislation.

Q.—You say that Government admitted private ownership of the lands of the janmis?

A.—They are made to admit by the decisions of their courts.

Q.—And not in consideration of Government assessment? You say there was no Government assessment at all?

A.—There was no Government assessment during the Indian administration by Indian Chiefs.

Q.—So if you want restoration of the old state of affairs, will it be reasonable to ask for restoration in regard to Government assessment also?

A.—Legislature can interfere only with regard to rights created by contracts and not sovereign rights.

Q.—Are there not tenures called saswatham tenures renewable every twelve years in Malabar?

A.—There are.

Q.—If there are such and if kanam tenure has the same characteristics as the other, why should there be two different classes?

A.—Of course, old day people understood the terms of kanam tenure by the form of conveyancing, i.e., if it is redeemable, they would have inserted a clause to that effect as in the recent ones. Why not those janmis who granted those kanams insert a clause as is inserted in the present day documents?

Q.—That is a matter for argument. Supposing a person takes a renewal for the first time now. Does he not pay renewal fee?

A.—He pays.

Q.—Is there no question of remission of twelve years' interest when he pays for the first time? Suppose I give you land on kanam. Don't you pay?

A.—I do not pay and I have not paid.

Q.—No renewal fee for fresh grant?

A.—No. There may be other things such as *tirumulkashcha*, etc. Renewal fee for the first time I have not heard. Renewal fee as the term indicates is paid only at the time of renewal.

Q.—Suppose I evict a tenant and I get that land leased to you for the first time. Don't you pay the Melcharth *avakasam*?

A.—If I will; there is no custom.

Q.—You say that in the case of stani janmis as often as there is change in the personnel, there will be demand for renewal fee?

A.—Yes.

Q.—Do they charge for twelve years or only for the period that has elapsed?

A.—I do not know—whenever a stani dies, you must be prepared to pay renewal fee.

Q.—What I am told is it is not proportionate to the term that he has enjoyed but even much less because he is not bound to pay?

A.—I do not know what amount is collected. But tenants complain they will have to pay even after two or three months or after two years, as the case may be, whenever there is change in the personnel.

Q.—You say that janmis exact contributions on the occasion of marriage, etc. Of course, I am aware of marriage presents being given. But do you mean to say that is only to the janmis? Do you say other persons do not receive any presents during marriages? Can you honestly swear to that?

A.—I know of the case of a janmi who insisted on every tenant of his to purchase a she-buffalo on the occasion of a marriage ceremony. I had occasion to go to the marriage and see this done with my own eyes (Laughter). I do not know whether they were returned or not.

Q.—Can you say that Vakils of position do not receive similar things from their clients?

A.—Not she-buffaloes. We may send out invitations to our clients and they may make presents. But these janmis ask for *paravari* or *kallyanavari* and I do not think it is a free gift. The vari is in proportion to the extent of land a tenant holds. For each para of land he must pay so much. A list is prepared and sent round and the tenant is bound to pay. Otherwise his land will be taken away. I myself have paid it. If I say that a certain janmi has obtained some money for a marriage, the legislation may be passed or may not be passed, but to-morrow my kanam tenure expires! So I would request the Committee not to insist upon my saying the names of the particular janmis.

Q.—You say you will allow such a long period of twelve years even if a tenant keeps up arrears of payment? Will it be possible for any janmi for even six years to get on?

A.—Why not? The janmi will be richer.

Q.—They are only in the position of mortgagees. All are not sufficiently rich to carry on for a period of twelve years without receiving payment in time?

A.—He should not be causing inconvenience to the janmi to carry on. I think I ought to have mentioned it in my first answer. I say these janmis now want to place themselves in the position of persons who have no credit in the money market, even for four annas seven pies, and that they cannot get a loan without mortgaging their landed property with actual possession.

Q.—You want to regulate the rents of verumpattamdars?

A.—Yes, but not of the kuthakakkars. The latter is a matter of contract between the two.

Q.—And you want to regulate renewal fee?

A.—I want to regulate renewal fees according to the Smrithi.

Q.—If no other man agrees to pay a higher rate of kuthaka, for want of a better term, they are also called verumpattamdars, you won't impose any restriction?

A.—No.

Q.—With regard to capitalists, interest receivable by them, is that regulated?

A.—Some people get 5 per cent, some 8 per cent. There was the Usury Law for some days in force. Then it was repealed.

Q.—You have a regulation regulating Vakil's fees and all that, I suppose. Though there is a scale of fees regulated still you value your services as you like? Why not extend the same analogy to the janmi?

A.—If you grant a fresh demise, you may dictate your own terms. There are instances in which Vakils accept less than their legitimate fees.

Sir T. Desika Achariyar:—Q.—I am putting questions relating to the business before the Committee. We are restricted by the terms of reference to certain matters. I suppose we cannot go back on the decisions of the Courts. You say that in regard to right of tenure, the tenants are suffering from certain disabilities?

A.—Yes.

Q.—And you think that restoration of the old incidence of the various tenures and placing the relationship of landlord and tenant in *status quo ante* by legislation is the only just and effective remedy?

A.—Yes.

Q.—Supposing we are to have a legislative enactment subject to particular incidence. How could you define the position of the kanamdar?

A.—Of course, as understood from these kanam deeds.

Q.—The kanamdar shall not be ousted from the holding. Is that the way in which you would put it?

A.—Yes and he must pay renewal fee at the rate of 20 per cent of the kanam.

Q.—I want to know exactly the terms upon which you would draft a section?

A.—The section will be 'The kanamdar is bound to pay revenue and michavaram to the janmi as also the renewal fee every twelve years at 2 per 10 the customary rate'. So long as he discharges his responsibility as kanamdar he should not be evicted.

Q.—Supposing he does not pay on the lines indicated?

A.—I say in my answer 'twelve years'. If in the opinion of the Committee the period is long, it may be shortened.

Q.—Could he be evicted after three or six years?

A.—Let us not bother about the period.

Q.—Supposing within the period fixed he does not discharge his duties, could he be evicted?

A.—That is the forfeiture clause as understood in cases of leases where there is a definite stipulation that by failure to pay rent the tenant forfeits the term of the lease. The law provides that even after the suit is brought if the amount is deposited by him (section 114) ejectment will not be allowed.

Q.—That is within the term of the lease. Forfeiture within the term of the lease is different from the non-performance of the duties imposed by Statute?

A.—I do not want to impose any duty by Statute on the kanamdars. I want legislation to correct a mistake which was practised for years and thereby revive old incidence.

Q.—According to you, will he be entitled to be in possession of the property for twelve years?

A.—For ever, provided he pays the annual rent on the appointed date.

Q.—If not?

A.—Interest is provided for.

Q.—If principal and interest are not paid what will you do?

A.—Then, of course, you may evict him.

Q.—So that, if after default a suit is instituted and even then he does not deposit the money he can be evicted?

A.—That is the nature of the Cochin Tenancy Regulation.

Q.—You would be satisfied with the section with regard to eviction as in the Cochin Tenancy Regulation?

A.—Yes.

Q.—Your view is that the kanamdar, if he is protected in this manner, would be adequately protected, having regard to the grievances of the janmi?

A.—Yes.

Q.—With regard to the janmis' rights, seeing that a right like this is given, having regard to decisions ranging from three-quarters of a century, the janmi is recognized both by the High Court as well as the Government to be the proprietor, there will be loss of his proprietary right at the present day?

A.—As is mistakenly recognized by the Case law. That is why other States take up legislation.

Q.—I suppose you know that the terms of reference are narrow?

A.—I am not aware of that.

Q.—It has been published widely, in the papers as well as in the Gazette.

"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."

Let us proceed in that manner. What would you provide for the confiscation of a right which the janmi rightly or wrongly believes that he is entitled to now?

A.—That is necessary in the interest of good administration. I think also that Government can provide for it by legislation.

Q.—Can you indicate the nature or extent of the compensation which might be rendered to the janmi in such a case?

A.—A rule may be provided as suggested by me.

Q.—What do you think the nature and extent of the compensation to be fixed?

A.—I want to fix no compensation.

Q.—Then I come to the further question, i.e., with regard to kanamdars. Are there any other class of people whom you place under similar condition as the kanamdars?

A.—In my answer I have stated that. The kanam, kuzhikanam, vettukanam, kovilagam verumpattam, all come together.

Q.—Do you think that for all of them that suggestion of yours would carry out your idea?

A.—Yes.

Q.—Then there are the verumpattam tenants who are miscalled verumpattam tenants, and who according to you are like the lessees in British area.

A.—They are called kuthakakkars in the other districts. I don't know whether the English expression exactly signifies that.

Q.—Here it is said 'mostly the tenants at will are insecure and precarious and there is much reason to fear that most of them are in debt,' etc. Is that a correct description?

A.—That is not correct.

Q.—I take it from the report of one of your own Collectors, and he gives here many tables.

A.—It may be in other districts.

Q.—You say that this description does not apply to the verumpattamdars in the Palghat taluk?

A.—It does not apply. I have not sufficient experience to give an opinion whether it applies to verumpattamdars in other districts.

Q.—Can you tell me what is the ratio when the rent that is got from the verumpattamdar is compared to the Government assessment?

A.—Of course, it differs according to the nature of the classification.

Q.—I have got the figures here.

A.—It may not be correct. The classification is made by Settlement Officers.

Q.—It is no question of classification; it is a question of Government assessment.

A.—It is made to depend upon the classification of the soil by the Surveyors and other Settlement Officers. The principle is 2/5 of the net produce and the estimation of the net produce also depends upon classification.

Q.—I should like to know, being a stranger—I come here as a student more or less with a clean slate—what the assessment of good rice lands in Palghat is, that is to say, how much per acre?

A.—Five to seven, or Rs. 7-8-0 per acre.

Q.—What is the total amount of rent that you get from the verumpattamdar?

A.—60 to 100 paras. At the time of the settlement we got 3 paras per rupee. So it will come to 20 or 33½ rupees. What I mean to say is you have to pay between Rs. 5 and Rs. 7-8-0 as revenue for land yielding 60 to 100 paras of paddy as rent.

Q.—I do not want to proceed upon that basis. You may qualify it. At the present moment you have got lands for which you pay six or seven rupees to Government from which you get 60 or 70 rupees as net rent from the verumpattamdar?

A.—In good seasons.

Q.—Do you mean to say that the rent that you get is 2/5 of the net produce? It is much more I am told, and Mr. Innes has made a calculation that it is in some places 10 or 13 times the assessment and in no place less than eight times. Is that correct?

A.—I do not think it is correct.

Q.—I am putting this question that being one of the terms of reference. There is the kanam assessment, and the social conditions and the local environments of the people; all these have to be taken into account. Am I right in saying that 67 per cent of the people are verumpattamdars in the sense in which you use the word kuthakakkars?

A.—I have not made a calculation.

Q.—Is it a fact that a large proportion of the cultivators are verumpattamdars?

A.—Yes.

Q.—“The above are typical instances of what the cultivators say about their rents in almost any part of the district and I assert without fear of contradiction that the rice lands of the district are, speaking generally, grievously and terribly rack-rented.” Is that a correct statement of fact?

A.—To my knowledge it is not.

Q.—Suppose they are rack-rented. What would be the remedy? What I mean to say is, is it not necessary that we should try to rehabilitate persons who are insecure and precarious and who, there is reason to fear, are in debt,—I mean to say for social and economic reasons if not political?

A.—If the State is competent to interfere in such matters, that will be a relief.

Q.—It is from you with your knowledge and experience that I want a reply. Is it not a crying evil?

A.—In certain parts of the district it may be. But such an evil has not come to my knowledge.

Q.—Supposing it is, is it not necessary to interfere?

A.—Yes, if the legislature can interfere.

Q.—Could they be interfered with in the manner in which the Estates Land Act says regarding zamindari areas?

A.—Legislation to prevent such grievances must relieve them.

Q.—It is section 6 of the Estates Land Act, to the best of my recollection. Supposing such a regulation or set of sections particularly adapted to Malabar conditions are brought into operation, would it not be sufficient provision against this calamity?

A.—If there is a real grievance, such a thing could be done.

The Committee rose for the day.

Friday, the 28th October 1927.

The Committee was fully represented with the exception of the Raja of Kollengode who was absent.

(Forenoon proceedings.)

Continuing his oral evidence Mr. L. A. Subbarama Ayyar, B.A., B.L., Vakil, Palghat, examined by Sir T. Desikachari, said:—

Q.—Your position is that the kanamdar needs protection and that some sort of legislation on the lines of the Cochin Tenancy legislation might be given?

A.—Yes.

Q.—That is with respect to the first thing that you said?

A.—Yes.

Q.—The second thing in answer to my question I wanted to ascertain if any compensation should be given to the janmi for his loss of the right to give melcharthas you said that it was not necessary as a matter of legislation. With regard to verumpattamdar you were of opinion that if it was necessary to legislate for giving fixity of tenure, it may be done. I did not put you the further question as to whether the loss of the right of the janmi or the kanamdar to evict the verumpattamdar should be compensated for. It is an evil right?

A.—I do not think it is a very evil right. The land has to be cultivated by this tenant or some other tenant. The only thing that the janmi or the kanamdar cares for is his rent.

Q.—Though the right of eviction is an evil right, if you grant the right of occupancy to the cultivator, that loss of right to the landlord should be compensated for?

A.—That right like the right of the janmis for redemption is likely to be abused by the other person also.

Q.—If you say that permanent occupancy right could be given to some people who have not that right now, it means the deprivation of a corresponding right in some other?

A.—I have already expressed my opinion that permanent occupancy right need not be given to these kuthakakkars.

Q.—If it is found that some permanency is to be given to these people?

A.—If it is found that some right is to be given, then some security for the proper and regular payment of rent is what is wanted. No further compensation is necessary. That is my view.

Q.—I wish to ask you whether the remedy by grant of permanent occupancy rights should be extended to only cultivating tenants or non-cultivating tenants also?

A.—I have already answered that. So far as cultivating tenants under the kanamdar and the kovilagam lessees are concerned, there is no need to give them permanent occupancy rights, and if they are given I think the remedy is some security for the proper performance of their part of the contract.

Q.—I read from reports that kanamdars are often professional men unconnected with lands, such as vakils' clerks, vakils, who merely invest their money on lands as a means of investment?

A.—Many people who hold lands in Malabar are either kanamdars or verumpattamdars. There are some professional men who are kanamdars and some vakils' clerks also.

Q.—But there are some people who go in for the land as only a means of investment?

A.—Even janmam purchase of land is an investment.

Q.—Why do you want to give permanent occupancy rights to people who invest money upon land more or less as mortgagees?

A.—The idea is that they want to become landholders rather than mortgagees.

Q.—You won't make a distinction between a cultivating kanamdar and a non-cultivating kanamdar?

A.—No.

Q.—I want to ascertain whether it is a fact that by demanding heavy renewal fees from the kanamdar by the janmi, there has been a regular rack-renting and oppression by the kanamdar of the actual cultivating tenant?

A.—I don't think so.

Q.—You said that the janmis have gradually increased in oppressing the tenants. Mr. Innes in his report says that likewise the kanamdar also squeezes out as much from the verumpattamdar and consequently there is heavy rack-renting. Is that so?

A.—I don't agree. My knowledge is not an opinion but is one on a question of fact. It may be true at the time of Mr. Innes.

Q.—Can you say what proportion of janmis are persons who are oppressing the kanamdars and what proportion are being oppressed by the kanamdars? It is said that some people are hopelessly impoverished in position.

A.—Say, 5 per cent may be called rotten janmis. They are in hopelessly impoverished circumstances.

Q.—I am told that most janmis are in very bad circumstances because their janmam properties are mortgaged to the hilt?

A.—I do not think so.

Q.—What facilities can be given for the janmis to collect rents from the kanamdars and the kanamdar from the tenants? I am told that the landlord's right of distraint according to the Rent Recovery Act may not be possible to be given effect to in this district.

A.—In my experience, the majority of the janmis are not in impoverished circumstances. They do not find any difficulty in collecting michavaram. No provision need therefore be made for the proper collection of rents. So also for the kanamdar. So, I do not think there is any necessity for legislation in that direction.

Q.—You referred to 100 she-buffaloes being ordered by the janmi from his tenants for marriage occasions. Can you say how many janmis make such exactions?

A.—Ordinarily all the janmis raise funds from their tenants for all festivities in their houses in addition to the michavaram and renewal fees to which they are entitled. For every important ceremony the janmis prepare a list with the amount or whatever it is in kind marked against the names of the tenants and the list is sent round. In fact, from "Anna Prasanam to Pinda Pradanam" the janmis claim gifts.

Q.—I am told that in the majority of cases, what gifts are rendered are rendered voluntarily. Is that correct?

A.—No, certainly not.

Q.—What would you suggest to promote cordial relations between the janmis and the kanamdars and to improve their social and economic position?

A.—I would answer by saying place them in *status quo ante*.

Rao Sahib V. Krishna Menon:—Q.—It is said that during the last two decades cultivating kanamdars have been on the decrease. Am I right in saying so?

A.—On the whole there may be some decrease, but in rural areas they may be on the increase. My experience is only with regard to the Palghat taluk. It may be that people take to some other professions.

Q.—You said that you are a kanamdar. How did you get the kanam right? Is it by obtaining melcharths?

A.—The major portion was obtained as kanam right from the janmis but in one case the janmi forced me to accept a melcharth. It was from the Ekkanath family. The original kanamdar was one Subraya Pandaram and since he delayed his payment to the janmi, I was forced by the janmis, the Ekkanath people, to accept the melcharth.

Q.—So you went against your own principle in accepting that melcharth?

A.—I was forced to do so as I have already explained.

Q.—Sir Desikachariar asked you about rack-renting. What security had you in mind when you got your kanam demise?

A.—I was sure that if I were regular in my payments to the janmi, I would not be disturbed.

Q.—Now you give your kanam land to a cultivating tenant. You give the land with a certain level of fertility, say, 50 per cent and the cultivating tenant happens to be a tenant-at-will. Don't you stand the risk of deteriorating the fertility of your land?

A.—I would inspect the land myself, and see that my tenant cultivates the land properly. I would not go out of India entrusting my land with my tenant.

Q.—Don't you think this uncertainty of tenure will tend to decrease the fertility of your land?

A.—It has not done so, so far as I am concerned. During the last thirty years and more, I have had no occasion to turn out my tenants. It is only in exceptional cases that people turn out their tenants.

Q.—What is your general experience in Malabar on this matter?

A.—Generally, I think cultivating tenants are rarely disturbed.

The President :—Q.—Is there no complaint that the yield of the land is going down year after year?

A.—I have not heard it said.

Q.—I have heard that the average yield in Malabar is 900 lb. of rice per acre. In Tanjore it is said to be between 2,500 and 3,000 lb. There are certain parts in Spain which yield nearly 5,000 lb. Don't you think, therefore, that there is a possibility of increasing the output in Malabar also?

A.—You have to consult the scientists with regard to that. In the Ernad taluk the average yield is more than fifty-fold in some cases, but in Palghat it is not more than fifteen or twenty.

Rao Sahib V. Krishna Menon :—Q.—Have you been interesting yourself in the improvement of the economic condition of the cultivating tenants?

A.—So far as it was possible for me to do. I never co-operated in any general organization. My tenants never wanted anything from me for the amelioration of their condition.

Q.—The position of the non-cultivating kanamdar is that of a partnership.

A.—His position is that of a capitalist in an industrial concern. If you go to the English law, sales and mortgages are considered similar. Redemption is not considered an action even in courts of law. It is the Court of Chancery that has come to the rescue. They say it is equitable. So, I get land by kanam which is much more than a mortgage.

Q.—My idea is that the non-cultivating tenant has entered into that partnership.

A.—I say, it is a broad question which has to be carefully considered. That is only a theory. Many people may have many theories. If you want to say that kanamdar, verumpattamdar and the janmi are all partners, you may do so.

Q.—The non-cultivating kanamdar is only there for his own benefit only. Do you approve of that proposition?

A.—Everybody does business for himself. It is human nature.

Q.—But are you helping the cultivating tenant?

A.—He is self-sufficient. Certainly, I am not oppressing him.

Q.—Then why is it, it is said in some quarters that the verumpattamdar is a useless, unreliable fellow and why use all sorts of uncongenial expressions about him?

A.—Anyway, I don't say so.

Mr. Kotieth Krishnan :—Q.—You said that you are not prepared to give any occupancy rights to kudiyruppus of verumpattamdars?

A.—According to the incidence of tenancy.

Q.—At present the verumpattamdar is a tenant-at-will and he has got his kudiyruppu there. The verumpattamdar actually takes the risk of cultivation although he may not be putting his hands to the plough. Such a man is now a tenant-at-will. Is it not?

A.—Yes.

Q.—From year to year?

A.—Yes.

Q.—In such kudiyruppus, would you give him any permanent occupancy right?

A.—There is absolutely no necessity to grant him permanency. It is something like quarters built for Government officers. The next man may occupy the same building.

Q.—You say that, because you don't want to give them new rights?

A.—I want to give existing rights but which are now considered lost.

Q.—Here is a statement from Mr. Innes' report.—“However unlimited in theory the janmi's power may be, in practice kanam tenants are seldom ousted in one way or other.

A.—Some time ago it was correct. And it is that practice now that I want to restore.

Q.—In practice kanamdars and verumpattamdars were seldom, if ever, evicted. Will you subscribe to that proposition?

A.—My answer is, that if by verumpattamdar it is meant kovilagam lessees then that sentence would read all right. Otherwise it is not correct.

Q.—You said that the verumpattamdars are like the kuthakakkars of Tamil districts. Could you give the same share of privileges for the verumpattamdar?

A.—I don't exactly know what it is.

Q.—I may say that in the East Coast districts the kuthakakkars get sometimes half the produces and generally one-third.

A.—I think here also the ordinary cultivating verumpattamdar gets between 20 to 30 per cent of the net yield.

Q.—Would you put it at half the gross?

A.—I cannot say. We must work it out.

Q.—Would you give 30 per cent of the net yield to the verumpattamdar?

A.—I am not for legislating with regard to that principle.

Q.—Supposing a rate is to be fixed then?

A.—Between 20 and 30 per cent of the net yield may be fixed.

Q.—If there are sub-kanam tenants?

A.—Yes, he can also have fixity of tenure. Of course, it will be limited to the rights of the kanamdar.

Q.—Now supposing fixity is given to the kanam tenant and the sub-kanam tenant what share would you give of the net yield?

A.—According to the terms of the contract which they have entered into.

Q.—You want that to be perpetuated without any change whatever?

A.—Yes.

Q.—Would you allow any renewal fee for the kanam tenant from the sub-kanam tenant?

A.—I would fix the renewal fee at 2 per 10, the same that the kanam tenant pays to the janmi.

Q.—Supposing it is found to be possible to fix the renewal fee what percentage of the net yield would you allow as renewal fee to the janmi?

A.—We cannot fix it. It is a very wide question.

Q.—You say that kanam is not a mortgage. You read the Smrithi for the purpose of substantiating your position as regards renewal fee. You said 'Rinam' means debt. For the purpose of fixing the renewal fee you would fix the amount as a debt for calculating the interest.

A.—Just in the same way as interest is provided on moneys deposited as security for proper fulfilment of the duties of an office.

Q.—But I thought when you used the word in connection with the renewal fee it was as debt and not security?

A.—The word used is 'Kuseedham' which means investment.

Q.—Do you see that the evil of melcharth is considerably on the increase during the last fifteen years?

A.—Yes.

Q.—Are the verumpattamdars also evicted out of their holdings in the same way?

A.—I think so far as litigation is concerned, if you take statistics from courts, suits for redemption of kanam holdings are much higher than suits for ejectment of the verumpattamdars.

Q.—Do the verumpattamdars deny oral leases?

A.—There are exceptional cases.

Q.—Are evictions of verumpattam tenants more common?

A.—I have not considered that question.

Q.—Supposing the legislature fixes the maximum renewal fee which a landlord can claim, so much out of the rent payable by you: that being fixed, if the janmi is asked to make an offer within the limits, then will that satisfy you and no fixity need be given?

A.—Yes, that will satisfy the requirements, if you fix the maximum and within the maximum the janmi can contract for renewal and for michavaram.

Q.—What rent do you get out of one particular holding from your verumpattakaran? Take any property you like. You may have a holding of 10 acres and you have given it to several verumpattamdars. Will you please specify one item of property?

A.—In recent years the management is with my sons, but I think in one holding I get 1,500 paras from the verumpattamdar.

Q.—And what michavaram do you pay to your janmi?

A.—About 300 paras of paddy.

Q.—What is the kanam investment on that?

A.—I purchased it from another kanam tenant. I had to pay nearly Rs. 10,000, including kanam improvements Rs. 3,000 or 4,000.

Q.—Are the improvements paid for mentioned in the kanam deed?

A.—The janmies never allow that to be written in the deed.

Q.—Supposing your janmi evicts you, how will you make out that you have effected improvements?

Q.—By evidence only.

Q.—Is there considerable difficulty felt in making it out by evidence by the tenant?

A.—Yes that is an ordinary difficulty.

Q.—And there is the corresponding difficulty for the janmi also

A.—When the burden of proof is upon me what difficulty is there for the janmi. The janmi will make some old men come to court and say that they have seen the land in the same condition for several years together like that.

Q.—It is very difficult to get evidence?

A.—The High Court in some cases have held that the tenant must actually prove the improvements actually made on the land.

Q.—Considerable difficulty is experienced by the kanam tenant in the working of the Tenants' Improvements Act?

A.—Yes.

Q.—Have you any idea of the yield from garden land?

A.—No.

Q.—So practically you have no idea of the kuzhikanam tenure?

A.—No.

Q.—Is it a fact that all round the illoms the lands are let on verumpattam tenure?

A.—Yes, in some places.

Q.—You say that the kanam tenant is not rack-renting the verumpattamdar because it is not possible to get more rent out of him.

A.—If you get the utmost rent I think it is rack-renting. Nobody will come and cultivate for rack-renting. Are they not human beings?

Q.—Then you say there is no rack-renting?

A.—I don't think there is rack-renting.

Diwan Bahadur T. C. Narayana Kurup:—Q.—If any Tenancy Bill is to be passed you are for keeping up the existing idea of payments of rent and you will leave it to the lessor and the lessee?

A.—That will be the most practical idea in my opinion. Any other idea would lead to practical difficulties.

Q.—Supposing occupancy right is given to the tenants: if the janmi *bona fide* wants a certain property for his private use such as building a house, etc., how would you provide for the contingency?

A.—Certainly, the janmi should have the power to regain his land under such circumstances and provision should be made for the same.

Q.—You only want occupancy right to be restored by the Legislature stepping in to correct the mistakes committed by the Judiciary?

A.—Yes.

Q.—I take it that except in kattakanam you would have occupancy right?

A.—Yes.

Q.—What is your position with regard to the tenants?

A.—I hold that if by a mistake the original rights of a certain section of the subject population has been lost and if the Legislature is convinced that originally there were such rights, then the Legislature must interfere and replace the parties in their former position.

Q.—Then you are of opinion that if the kanam were redeemable in the beginning the kanaries need not be given any occupancy right?

A.—That is my view.

Q.—And you would set aside all subsequent renewals which provide for redemption?

A.—Yes.

Q.—Well, assuming that to be taken as right, how do you justify occupancy right for the new kanams?

A.—New kanams for the first time.

Q.—Similarly persons who have obtained melcharths and obtained redemption of the old kanams, they also need not be given occupancy rights?

A.—When you get a melcharth you do it for the purpose of redeeming the early one.

Q.—As regards persons who derived titles after the law as at present understood was expounded by the courts, is there any justification why that should be done?

A.—Of course the court may understand. Well, there will be hardship.

Q.—Supposing it is decided that kanams are redeemable; then what have you got to say? Even if the kanams were redeemable the janmi has no right to reduce his interest?

A.—Except to deal with the renewal fee.

Q.—If an enactment is passed now making kanams irredeemable do you think that the value of property will go down?

A.—I don't think it will go down. The value of the property will remain as it is.

Q.—The janmis' properties may decrease by a very large percentage and the value of the kanam right will increase correspondingly.

A.—Although there are legal decisions holding that it is redeemable, even to-day people go in for the purchase of kanam tenures very largely.

Q.—May I take it that it is not definitely known that kanam is not irredeemable?

A.—I suppose this question has been under contemplation of the Government for a good many years now. So people have been hoping against hope that kanams would be held irredeemable.

Q.—You will agree with me that in such a case the janmi's interests will go down considerably?

A.—Certainly.

Q.—It has been suggested in some quarters that the janmis are not wholly responsible for melcharths and that educated people like retired officials, vakils and others force them to grant melcharths in their favour? Is that true?

A.—May be in exceptional cases the statement will be true.

Q.—And is there any truth in the statement that the present cry for occupancy right is by those people who have recently acquired kanams?

A.—Most of the kanams are held by old people.

Q.—Not most?

A.—I must think that more than 50 per cent have retained their ancient holdings. They have not been redeemed.

Q.—You spoke of exaction by the janmis of presents from their tenants. Have you heard of a custom in North Malabar where janmis pay their tenants the rice necessary for feeding on ceremonial occasions?

A.—I don't think there is any custom like that at any rate. I have not heard of it. The janmi does not generally contribute anything to the tenant.

Q.—Supposing the tenant approaches the landlord with a bunch of plantains, betel leaves, etc., and invites him to a ceremony, then will not the landlord pay any presents?

A.—No, I myself have invited my janmis in similar fashion but I have not received any presents from my janmis.

Q.—In case of garden lands there is not much difficulty in assessing the value?

A.—Difficulties are less.

Q.—You said that melcharths are on the increase. Can you give us any idea about the percentage of increase during the last 25 or 30 years?

A.—It must have doubled.

Q.—Is that condition confined mostly to the Palghat taluk or all over the district?

A.—It is confined mostly to Palghat, Ernad and Walluvanad taluks.

Q.—Whether these melcharths were granted justifiably or unjustifiably, you cannot say?

A.—I have no personal knowledge.

Q.—Have not the janmis mortgaged very many of their properties?

A.—Except a few instances in Palghat taluk, I don't think it is so generally.

Q.—Rich janmis are not an exception to this rule?

A.—Yes, they are exceptions to the rule. Rich janmis generally do not mortgage their property. Palghat janmis are mostly people living in Ponnani, Walluvanad and Ernad taluks. Janmis resident in Palghat are generally poor.

Q.—Then, as regards other taluks your information is only hearsay?

A.—Yes, in some cases it is so.

Mr. H. R. Pate:—Q.—The commonest form of melcharth is generally given in favour of wife and children?

A.—I can't say they are the commonest.

Q.—It is a very common form?

A.—It is not common, because they prefer to get cash instead of getting a melcharth.

Q.—Would you accept that form of melcharth or would you prohibit it altogether?

A.—If melcharths are to be prohibited, they ought to be prohibited altogether.

Q.—Which, in your opinion, is the best form of investment of the surplus money of professional men in Malabar? Is it the purchase of land?

A.—They may purchase janmam rights if kanam rights are not found to be profitable.

Q.—Can you tell me of any professional gentleman who, in recent times, has bought janmam rights?

A.—Yes, I myself have purchased some.

Q.—Which is preferable, kanam or janmam purchase?

A.—We go in for kanam, because it is more profitable than a janmam purchase.

Q.—I want to put a practical question to you: For the production of crops three things are necessary—working capital, ownership of the soil and labour?

A.—Yes.

Q.—I think Mr. Krishna Menon's point is that in order to produce crops in the soil, the kanamdar is not essential. It might be done by means of the janmi and the verumpattamdars, janmi providing capital. Do you agree?

A.—Yes, it can be done.

Q.—Were it for the fact that the janmi is an absentee, the kanamdar would not be a necessity?

A.—No. The anxiety of the old time janmi is not to lease his lands on kanam as was evidenced by an old saying which I read from "Jnanapana."

Q.—Kanam as an investment is still attractive?

A.—Yes, of course. We have still hopes.

Q.—In the hope that conditions will still further improve?

A.—Yes.

Q.—Apart from the fact that the kanamdar has a perpetual right, you would have no particular argument to advance in favour of his permanency right?

A.—Yes, the historical aspect, the ancient custom.

Q.—What do the janmis generally do with the monies collected by them as renewal fees?

A.—Almost all the janmis have got their banks, e.g., every Nambudiri janmi in Ernad and Walluvanad taluks owns a bank. So, generally they do banking business and also spend them in other ways.

Q.—Do they invest it in their land?

A.—In some cases they do so whenever there is a necessity, by advancing loans to their tenants, for cultivation purposes.

The President:—Q.—I remember I put you Mr. S. K. Ramaswami Ayyar's formula which he says obtains in the Palghat taluk.

A.—I said that it might be so only within recent times.

Q.—I suppose you have no objection to adopt this formula in case the original money could be converted in terms of modern money and the calculation made thereon?

A.—Of course, that was not my view. I have, however, no objection to that.

The President:—Mr. Subbarama Ayyar, the Committee is very thankful to you for your very valuable evidence.

IV

Written statement of Mr. S. K. Ramaswami Ayyar, Municipal Chairman, Palghat.

[Answers to Questionnaire.]

Before giving my opinion on the various points raised in the questionnaire, I have to preface it by saying that my knowledge and experience is confined to the Palghat taluk and that therefore my answers may be taken to apply to that area only.

1. (a) Generally speaking there are no disabilities pressing hard upon any of the classes of tenants referred to in this question. There may be exceptions now and then of some landlords who have lately fallen into an impoverished condition granting melcharths or instituting evictions suits against their tenants. This is, I think, due to the fact that the present condition of such landlords could not afford them to permit their lands to be outstanding with their kanam tenants under the old favourable terms. Therefore, they are driven to have recourse to melcharths or evictions simply to increase their income. Sometimes, there are people ready to go in for such melcharths because they owe a grudge to the kanamdar. I have never come across an instance where a landlord of some status or respectability granted melcharth or sued for eviction on account of any private motive or grudge.

1. (b) If the above could be called a disability at all it is not confined to the district of Malabar, but must exist everywhere. It is but natural that a landlord who is hard pressed on account of his impoverished condition should try every means to improve his condition out of his only available source namely his landed properties.

1. (c) I am not competent to speak about North Malabar as I have no experience of the conditions there.

1. (d) As I have already said I am competent to speak about the Palghat taluk only.

2. (1) (a) I do not believe it is so. There may be exceptions which are of course rare. I don't think that evictions are on the increase.

2. (1) (b) I do not believe that they are. There may be exceptions.

2. (2) As regards Palghat taluk there is no social oppression by the janmi.

3. (a) To remedy any disabilities even if they do exist and to improve the economic condition of the district, I am of opinion that permanent occupancy rights should be granted in respect of all kanams and kovilagam verumpattams which are more than thirty years old. It is they who have an abiding interest in the land and who have improved the land and brought it to the present condition. I am decidedly against granting occupancy rights to verumpattam tenants. I feel so strongly in the matter that if I am given the option of having occupancy rights regarding my kanam holdings coupled with the grant of occupancy rights in favour of the verumpattam tenants who cultivate them, or no occupancy rights, regarding my kanam holdings, I should certainly prefer the latter.

3. (b) Occupancy rights should be given to all kanamdars, subkanamdars and kovilagam verumpattam holders and to none else.

3. (d) I do not agree with the suggestion that permanency should be granted only to the classes of persons mentioned in this question.

3. (e) Sufficient safeguards should be provided for the payment of the janmi's dues. I think the janmi's dues should be made a first charge on the tenant's interest including his rights to get compensation for improvement so that any mortgages created by him may be postponed.

3. (f) I am not for giving occupancy rights to verumpattam tenants because they have no abiding interest in the lands, they come into possession and squat over it for a short period with the only idea of carrying away what little profit they can get, they have no tendency to improve the land, and they even under favourable conditions are unwilling to pay the stipulated rent for some reason or other.

4. (a) (1) I have no objection to granting permanency to kudiyruppu-holders provided that when such kudiyruppus become necessary for the occupation of the landlord or for extending his cultivation, they are liable to be recovered. The rent and revenue payable to the landlord should be made a first charge on the tenant's interest.

4. (a) (2) I do not think any such distinction is necessary.

4. (b) The minimum extent in urban areas should be 30 cents and in rural areas about double that extent.

4. (c) If a kanamdar enters on the land he may be permitted to put up such structures as are necessary to carry on the cultivation and these will have to be paid for at the time of eviction. Improving the landlord out of the holding should be prohibited. Regarding verumpattam tenants, there is no necessity for any such provision. All tolerably big holdings have got their farm houses, etc., belonging to the landlord. In respect of small holdings the tenant may be permitted to put up such temporary structures as are necessary for cultivation purposes. The tenant may remove them when he is evicted.

4. (c) (2) The kanamdar must remove them.

4. (c) (3). In such cases the kudiyruppu should be transferable with the holding.

4. (d) (1) I have no objection to provide a system of compulsory purchase except when it falls within clause 3 above.

4. (d) (2) Whether the system is suited to the genius of the people of Malabar or not, it is unobjectionable.

5. The Malabar Compensation for Tenants' Improvements Act is according to me not at all working satisfactorily and does not improve the relation of landlord and tenant. In many cases claims for improvement which are not at all true are being ordered to be paid for while in many others claims which are real are being disallowed. The valuation varies with the commissioners sent out and there is no fixed principle guiding their valuation except in the case of certain fruit trees for which the data is published by Government. A better uniformity of practice and a more fixed principle in the matter of valuation appears to be absolutely necessary. Moreover more substantial evidence than is now tendered regarding the fact of improvement is called for. I should think that when a tenant effects reclamations he should keep accurate accounts of the work done by him and also apprise the landlord of the improvement he makes then and there by means of notice.

6. (a) The question of compensation to the landlord does not in my opinion arise at all as at present no respectable landlord evicts his tenant if his dues are regularly paid. When the permanency to be granted only secures the existing right and puts it beyond doubt at the same time providing proper safeguard for the payment of landlord's dues, I fail to see how the grant of permanency will detract from the landlord's rights. The guarantee for the regular payment of the landlord's dues is sufficient compensation to him.

6. (b) (e) The question does not arise.

7. (a) Regarding kanamholders the present rate of michavaram should continue without increase, provided that whenever new lands are made by the tenant the landlord will be entitled to an enhancement at the rate of one para of paddy for double crop and half a para of paddy for single crop per para area of land. Regarding verumpattam tenants the rent payable should be left to the parties to fix.

7. (b) I do not think it is so. Even if it is like that I can assure that such rent is very seldom realized.

8. (a) I would fix the renewal fee at the customary rate of 20 per cent on the kanam amount or one year's verumpattam rent of the land after deducting the Government revenue and cess. It should never exceed the latter.

8. (b) In the Palghat taluk the renewal fee is generally calculated on the following basis. The verumpattam rent is ascertained and the Government revenue and cess are deducted. The interest on the kanam amount at a very reasonable rate, e.g., at the rate of one para per ten fanams is also deducted. The balance profit enjoyed by the kanamdar for twelve years is calculated and half of it is fixed as the renewal fee paddy being commuted at a favourable rate.

9. I am not for giving any fixity of tenure to the actual cultivator. My experience is that so long as they are honest they are never turned out. I have under me tenants who have been continuing for over 50 years. The special pleading which has been made by the janmis in favour of the actual cultivators is a mere counterblast to the kanamdar's agitation. I do not believe that the actual cultivators in any way suffer and ever claimed permanency.

10. (a) Melcharths should once for all be put an end to. It has been the bane of Malabar and is the cause of many untold troubles and miseries. All the illwill and rancour has been caused in the land by this pernicious system. Similarly all agreements written or oral to recover lands from a tenant and demise it to another should be prohibited.

10. (b) (c) In the light of what is stated above these questions do not arise.

Friday, the 28th October 1927 (Forenoon).

Oral evidence of Mr. S. K. Ramaswami Ayyar, B.A., B.L.

The President:—Q.—Mr. Ramaswami Ayyar, since your written memorandum is almost similar to that of Mr. L. A. Subbarama Ayyar, I do not propose to engage you for more than a few minutes and I hope the Committee also will not engage you for long. You are the Municipal Chairman of Palghat?

A.—Yes.

Q.—May I know your position? Is it that of a janmi or kanamdar?

A.—I hold about 25 acres of kanam land and about 85 acres of janm land.

Q.—All recently acquired?

A.—Many of them ancestral. Some recently acquired also.

Q.—In your written memorandum you say that "you are not for giving occupancy rights to verumpattam tenants because they have no abiding interest in the lands, they come into possession and squat over it for a short period with the only idea of carrying away what little profit they can get, they have no tendency to improve the land and they even under favourable conditions are unwilling to pay the stipulated rent for some reason or other". This has been repeated more than once in the course of the evidence before us. Can you explain why it is so? Is it because they have not got the wherewithal for cultivation or the precariousness of their tenure and the consequent poor cultivation owing to poverty? Don't you think that if you give them some sort of fixity you could get men with better means?

A.—I don't think we could get a better class of men who would pay up the dues even if they get some privileges.

Q.—What is your reason?

A.—My experience is he never does anything. He is only there as a commercial man. I will have to do all the improvements myself. Otherwise he would say that he could pay only 50 or 75 per cent of the stipulated rent giving several excuses.

Q.—If you give fixity of tenure, absolute, qualified or limited, are you not likely to attract to the land men whose outlook is wider and who could command some credit. Would you not be encouraging young men to take to cultivation in these days of unemployment?

A.—I do not think so, because every tenant knows that provided he cultivates the land properly my right of eviction would not be exercised so long as he does his work properly.

Q.—With regard to your statement about the calculation of the renewal fee in the Palghat taluk, may I ask whether that formula is based more or less on an economic principle and can you give some instances?

A.—Yes, I have known of two janmis who have calculated renewal fee on this principle.

Mr. H. R. Pate:—Q.—Your objection in giving the verumpattamdar some kind of permanent tenure is chiefly because you cannot press him to pay the rent. Is that so?

A.—Because I have known personally from experience that unless I paid personal attention, either by myself or through an agent to the land and looked after the condition of work turned out, my land would deteriorate.

Q.—I take it your main objection would be first that you cannot get the rent?

A.—That is not the main reason. I am of opinion that legislation cannot force a man who is unwilling to pay.

Q.—You know the provisions of the Estates Land Act would provide for the collection of rent?

A.—I don't think that it would be possible. It must be left to mutual arrangement between the landlord and the verumpattamdar. I am willing even to forego 10 per cent of the existing rent provided my tenant does his work properly and pays his dues in time.

Q.—Supposing the verumpattamdar is assured that he would not be disturbed in his life-time nor even his descendants of the holding, do you think the property would improve?

A.—I don't think mere guarantee of fixity of tenure would improve the land. I would say that the verumpattamdar should be given special technical education regarding cultivation.

Q.—Do you consider yourself an exceptional landlord?

A.—Many landlords are like me. It has been my practice to give as much time and be as lenient to my tenant as possible to enable him to fulfil his contract. I used even to beg of them sometimes to surrender the land so that I could make other arrangements for their proper cultivation.

Q.—Have your tenants ever complained to you about the rent?

A.—None of my tenants have ever complained that they are rack-rented. As a matter of fact, I have never increased the rent once fixed by my grandfather. My relations with my tenants are splendid. Most of them are Ezhuvas and they are thrifty.

Q.—Do they save anything?

A.—I do think they save something but not much. For occasions as marriage, etc., they are able to perform them without much difficulty and without borrowing.

Q.—Have you ever known of any of your tenants investing their surplus money, if any, on the purchase of lands?

A.—I don't think they are able to do that.

Q.—Have any of your verumpattamdars sublet their holdings?

A.—In some cases small bits are being sublet to Cherumas.

Q.—Supposing you give them permanent tenure, do you think they will sublet their lands?

A.—I don't think that has anything to do with permanent tenure. I don't think it will be affected by the grant of permanency of tenure. And that is very rare with regard to my land. Only small bits of 5 to 10 cents are being sublet by my verumpattamdars when they are detached from the main block.

Q.—Have not the old rentals been increased in several instances?

A.—My own information is that the old rental has gone down in several cases but has never been raised.

Q.—Is it due to the deterioration of the land?

A.—I can't say. I always supervise my lands.

Diwan Bahadur T. C. Narayana Kurup:—Q.—You justified the grant of occupancy rights to the kanam tenants. Is it because that kanam by its nature is irredeemable?

A.—I put it on an additional ground also. I say that it is the kanam tenant who has brought the land to its present position.

Q.—Supposing it is only 1 in 1,000 would you grant occupancy rights?

A.—We cannot make any distinction.

Q.—You said that permanent occupancy rights should be granted in respect of all kanams and kovilagam verumpattams which are more than thirty years old.

A.—Yes. I say all kanam tenants who have been in possession of property for thirty years may be given permanency of tenure and not others because in the case of old kanams there is a presumption that the lands have been improved. There is no such presumption in the case of recent ones.

Q.—I think if a charitable interpretation is made there are certain persons who have gone in for melcharths. Then?

A.—I think only those who have been on the land for over thirty years should be given the permanency right.

Q.—Within the last thirty years there have been no reclamation by the kanam tenants?

A.—I should think so because the kanamdar was not sure if he will continue. I took up the period from the Cochin Tenancy Legislation.

Q.—Do you agree with me when I say that if the janmi for *bona fide* reasons wants the land for his own cultivation purposes or for building a house for his own residential purposes he must be permitted to do so?

A.—I should think so.

Mr. Kotieth Krishnan:—Q.—You said that unless you looked after your property it will deteriorate. Is that your kanam property?

A.—I referred both to my kanam and janmam property.

Q.—You think you have got a better interest in your land than the verumpattamdar and that is the reason why you are more anxious as a kanamdar to have occupancy rights for yourself than the verumpattamdar?

A.—Yes, certainly. If the land deteriorates another man would not pay the same amount of rent as before.

Q.—Supposing such an interest is created in the verumpattamdar, then he would also take the same interest in the land?

A.—I don't think that under the present circumstances he would be in a position to do so. Want of funds and want of education stand in their way.

Q.—So you want a more educated class of people to cultivate the land? Why does he not get his education?

A.—Of course, elementary education is offered to them but they don't care to send their children to these schools. What I mean to say is, that he is in need of agricultural education.

Q.—You say that on an average you get only about 90 per cent of rent from your verumpattamdar. How is it then that you fix your rent at such a high figure?

A.—The rent has been fixed at that for over half a century by my ancestors. I have not increased that rate.

Q.—In spite of the fact that the verumpattamdars have had no education, your ancestors have been getting 10 per cent more from these people. So you cannot attribute the deterioration for the want of education?

A.—It might be so.

Q.—These verumpattamdars are not voters to the local bodies?

A.—I do not know, because I am not aware of the election rules of district and taluk boards. In our municipality very few of them are voters.

Q.—So, there is no occasion for the landlord asking them to vote for a candidate of their choice?

—No.

Q.—Regarding kanam tenure you don't think a right of pre-emption would satisfy you. You don't give the right of pre-emption to the verumpattamdar at all and so you want him practically under your control?

A.—Exactly so, for safeguarding my own interests owing to circumstances I have already explained.

Q.—And you want more freedom from your janmi?

A.—Yes, because the position is different.

Mr. Kotieth Krishnan:—Oh, I see!

Q.—Do you think whether it is possible to fix the rent by any legislation?

A.—I think the present michavaram should continue and should not be enhanced. There is no principle or basis upon which you could satisfactorily legislate like that.

Q.—The present verumpattam rent should not be enhanced, because it is absolutely impossible to get more out of the man?

A.—It may be that on account of competition you may be able to get more for the time being, but the rent will naturally fall down soon and adjust to the old rate.

Q.—In your opinion, the system of land tenure in Malabar is the same as that obtaining in Cochin and Travancore?

A.—I think they are more or less the same.

Rao Sahib V. Krishnan Menon:—Q.—We have been speaking of impecunious janmis. There is some justification for increasing their rent by raising the michavaram or by raising the renewal fee, though of course it creates a grievance. Is it not?

A.—I do not justify it. Doubtless there are a few impecunious janmis in the Palghat taluk who would be benefited by such a legislation, but janmis are mostly respectable and well-to-do people and so in the matter of legislation you cannot make a distinction. It must be uniform.

Q.—Some janmis are not in affluent circumstances now and their only income is the michavaram paid by the kanam tenant. Am I right? They are being starved; is it not?

A.—I should say such janmis ought to cultivate the land themselves rather than let the same to kanamdars or verumpattamdars.

Q.—About the question of occupancy right to verumpattam tenants. You are for it under certain conditions?

A.—My own impression is that by legislation no fixity of tenure should be given, because no verumpattamdar is capriciously evicted and so long as he paid his rent properly he need not fear eviction.

The President:—Q.—In other words, you are against giving him fixity of tenure?

A.—Yes, unless there is an assurance that the property would be kept properly.

Rao Sahib V. Krishnan Menon :—Q.—You spoke as a matter of grievance or as a result of rigid feeling that you have sometimes to go to the rescue of your tenants by spending money for improvements on land, etc. Are you aware that in certain countries the landlord does everything for his tenant?

A.—I say the tenant will not be able to do, and so to protect my property I have to do it myself.

Q.—I have heard it said that in countries like England and Germany the landlord does it all himself.

A.—So also we do it here impelled by the sense of duty.

Q.—Do you think that the Tenants' Improvements Act has changed conditions in Malabar? Has it increased national wealth?

A.—It has not increased the national wealth. I am of opinion that it has wrought much mischief. Even before the introduction of that measure the country was progressing.

Q.—That will apply in the case of the verumpattamdars also?

A.—Might apply if those conditions justify.

At this stage the Committee rose for lunch.

Friday, the 28th October 1927 (After Lunch).

Oral evidence of Mr. S. K. Ramaswami Ayyar—cont.

Sir T. Desika Achariyar :—Q.—In answer to question V you say "The Malabar Compensation for Tenants' Improvements Act is according to me not at all working satisfactorily and does not improve the relation of landlord and tenant. In many cases claims for improvement which are not at all true are being ordered to be paid for while in many other claims which are real are being disallowed. The valuation varies with the commissioners sent out and there is no fixed principle guiding their valuation except in the case of certain fruit trees for which the data is published by Government. A better uniformity of practice and a more fixed principle in the matter of valuation appears to be absolutely necessary." What is it that you suggest?

A.—From my experience for the last twenty-three years at the Bar I have come to this conclusion. With regard to adjacent holdings suppose there are two suits for ejectment and there are claims for value of improvements. In both the cases commissioners go and value the reclamation work. The digging charges will be put for one holding at the rate of 12 annas a kila which is the unit of measurement in Palghat and in the adjacent holding at Rs. 1-8-0. Similarly in calculating the yield of the property one gentleman calculates in one estate at the rate of five fold and for similar land in another estate at eight fold.

Q.—Therefore you think some uniformity is necessary. But what is the proposal that you make?

A.—I cannot think of any cut and dry principle; but I think with regard to localities concerned, just as the price of paddy is fixed by taking the average of the last so many years, or the price of coconuts or arecanuts is fixed—of course Government are publishing schedules fixing the price of the above—some principle may be laid down so that there may be better uniformity. That is what I mean. With regard to the outturn also it is not possible to fix any accurate, and cut and dry principle or basis upon which we could proceed. My suggestion is that the revenue records—they are defective no doubt in certain respects—may be taken as the basis for the calculation of the yield. Generally speaking the revenue registers may be adopted for use and a particular fold upon the acreage of a particular class or taram may be fixed. With regard to standing trees, I see that one commissioner values teak wood at Rs. 16 in one estate; in the adjacent property under similar conditions, standing teak will be valued at Rs. 24 and Rs. 28 per candy according to the whim or fancy of the commissioner. So also regarding other kinds of timber or fuel trees.

The President :—Q.—There is the schedule.

A.—With regard to timber there is no schedule.

Sir T. Desika Achariyar :—Q.—So you want some such schedule to be published by Government?

A.—Of course. With regard to each taluk or each locality the rate may vary. Now with regard to price of paddy and coconuts, in Palghat taluk itself, there is difference. In Temmalapuram the rate is different. So also for each taluk, Walluvanad, Ponnani, etc.

Q.—Therefore, to secure uniformity of practice and a more fixed principle you would have an additional schedule to the Act. Then you say 'Moreover more substantial evidence than is now tendered regarding the fact of improvement, etc.' What is that?

A.—It relates to reclamation work. Of course, the evidence which is now tendered consists of the testimony of certain witnesses. My opinion is, instead of leaving the Court just to fish out the truth from the oral testimony as well as revenue records (paimash accounts), accurate accounts for proving reclamation may be maintained by the tenant.

Q.—Tenants can write up accounts just for the sake of an enquiry. Do you suggest that these accounts as and when they are prepared should be submitted to any authority recognized?

A.—It is not possible.

Q.—Then we do not proceed very much further?

A.—Of course, there is this thing. Now we have to proceed without any accounts. The Courts can say, if a man does not produce such accounts his case will not be considered at all. I would say production of accounts is giving a better piece of evidence than the oral testimony of witnesses hired for the occasion.

Q.—But how does it improve matters?

A.—I say there should be another precaution in that the tenant as soon as he makes a reclamation should also apprise the landlord of the work that is being done on the property by means of notice.

Q.—You would set out in the notice that improvements of the value of so much are going to be effected or some such thing? You would give, as far as possible, some of the details of the nature of reclamation to be made?

A.—Yes.

The President :—Q.—I suppose your intention is to give the landlord an opportunity to dispute the correctness of the amount or cost of improvement by asking the tenant to give the landlord notice of the improvement that he undertakes to do?

A.—Yes.

Q.—It has been mentioned by more witnesses than one that under the method of valuing fruit trees that is followed under the Act the tenant who plants fruit trees does not get adequate payment until they come to the age of actual bearing. I suppose the schedule is followed in respect of these trees before they begin to bear?

A.—It is so. Until the tree bears, the tenant gets only planting, protecting and manuring charges. In the case of coconut trees it is Rs. 2-12-0 or so.

Q.—It has been recently enhanced. In the practical working of the Act there is some difficulty.

A.—There should be some better method of giving compensation, and some better method of calculating the yield.

Q.—Can you give us any suggestion as to how that difficulty could be avoided?

A.—The suggestion which I would make is that the trees nearing bearing stage may be valued on the basis of capitalized value, but with regard to young trees planted two or three years ago they are liable to wither and therefore there is no use basing compensation upon the yield. In the case of trees which will begin to bear in the course of two or three years it is advisable to amend the schedule.

Q.—Then in regard to kudiyruppus you say “I have no objection to granting permanency to kudiyruppu holders provided that when such kudiyruppus become necessary for the occupation of the landlord or for extending his cultivation, they are liable to be recovered”. If so, would it not become illusory? The landlord can at any time enter upon the kudiyruppu and reduce it to his possession if he wants it either for his cultivation or anything else?

A.—I have no objection to further restrict the scope of my answer. You can add the word ‘*bona fide*’. In almost all the holdings in the Palghat taluk—of course, I have only experience in the Palghat taluk—every holding or kanam or janm has kudiyruppus attached. They will be houses occupied by poor people of the labouring class. For the beneficial enjoyment of the property, sometimes a farmhouse or threshing floor has to be put up and for that you may have to eject a few tenants and convert those kudiyruppus into farmhouses, etc. So also when there is scope for reclaiming a kudiyruppu into arable land or for adding it on to existing lands. Of course, my practice is not to interfere with kudiyruppus. I heard Mr. Raman Nayar saying—and I entirely agree with him—that these kudiyruppu holders, even though they are tenants-at-will, are never turned out. They do not pay any rent. No doubt there is a registered kychit for 4 annas 7 pies or 9 annas 2 pies. It is only a mere nominal rent. They do not pay this even. There will also be assessment of 4 annas or 6 annas or 8 annas and, if there is a coconut or arecanut garden, the assessment will sometimes come to Rs. 1-8-0. Even that is not paid by them. But, as I said, under the above circumstances we may have to eject them. So, I say that I have no objection to giving kudiyruppu holders permanent occupancy right subject to this proviso that whenever the turning out of the kudiyruppu holder is found necessary for the beneficial enjoyment of the property or for extending cultivation they are liable to be evicted.

The President.—Q.—The difficulty is that you make this concession or right more or less illusory. I can understand the necessity for taking back some kudiyruppus for the purpose of putting up buildings for the beneficial enjoyment of the holding. But why should you extend that concession to the expansion of cultivation by converting paramba into wet land to the detriment of the tenants who are holding it for the purpose of residence?

A.—But the tenants are not in any way prejudiced by that because they get value of improvements when they are turned out. The site when converted into wet land would yield more and add to the economic wealth of the country. To turn out a kudiyruppu holder is distinctly to the disadvantage of the person who turns him out. I know of an instance where a person having turned out a kudiyruppu holder after paying him 500 rupees has not been able to realize one pie. He could not get a man to occupy it and the whole building in two years has crumbled down to pieces. I have several such instances. In the case of houses which are unoccupied, if they are not properly looked after they will be of no use at all. So it is always not advantageous to the kanamdars or the janmi to turn out a kudiyruppu holder.

Q.—The question is whether it will be of advantage to the janmi or to the country?

A.—It will be both. Advantage to the janmi is advantage to the country.

Q.—You will leave it to the good sense of the janmi?

A.—Not even to the good sense of the janmi. By circumstances we are compelled not to eject them. I have got many kudiyruppu holders. Even in the town parts I have some 25 kudiyruppus. I pay out of my pocket the revenue for them. The highest income that I may get from them is once a year during Onam one man may bring some vegetable which is not worth even one anna and I do not insist upon them to do that even. They voluntarily do it.

Q.—I feel a similar difficulty, in fact a greater difficulty, in regard to cultivable land. There, if you give permanent occupancy right either to the kanamdars or to the verumpattamdars and reserve the right of redemption to the janmi, in case the janmi wants the land back for his own use or for the purpose of residence at some future date, are you not disturbing settled rights and creating a lot of dislocation? Is it desirable to give the right of redemption without limit of time? If you say the janmi

can exercise that right at any time, 50 years hence he may say “I am going to set up my own cultivation.” So would you not fix any time-limit for the exercise of the right of redemption?

A.—I have two cases. One is for the actual cultivation by the landlord himself and the other is for the putting up of residential quarters or extending the same. With regard to the latter class of cases I do not think any time-limit is necessary. Because, in the case of an increase in the number of members in a family, for convenience he has to extend his residential quarters, and I think he will have to do it at any time. But, with regard to actual cultivation I think, on further consideration, it is better that some time-limit is specified. It may not be shorter than three years. I have no objection to have even six years, within which time the janmi may make up his mind whether he is going to cultivate or not.

Q.—You say that no compensation is required if permanent occupancy right is given to the kanamdars by the janmi. And you also say “The landlord’s rights should be kept up”? The two statements are hardly reconcilable.

A.—It may be that he is legally foregoing a certain right. Practically, considering the conditions in Malabar and the nature of things when the landlord allows a kanam tenant possession of the property, the only things he gets are michavaram and renewal fee.

Q.—But the market value of janm right will certainly diminish?

A.—Not to an appreciable extent.

Q.—Then you proceed to say the guarantee for the regular payment of the landlord’s dues is sufficient compensation to him. You don’t indicate how this guarantee could be given?

A.—In the case of kanam lands and kudiyruppus and whenever fixity of tenure is given, the dues of the landlord are to be made the first charge on the property so that any mortgage on the property created by the tenant is postponed. That is the charge next to Government revenue. I heard a question being put to the other witnesses whether landlord will have to wait for twelve years if the rent has fallen in arrears. I say every year you can enforce the charge on the property. And you can sell whatever rights the tenant has on the property. I think that is sufficient guarantee for the landlord.

Q.—You say that in the case of kanam holdings where the tenant makes the improvement an increase of rent at a certain rate should be allowed, viz., one para of paddy in the case of double-crop lands and half a para in the case of single-crop lands. Is it upon any principle you fix it?

A.—Of course, it is a known fact that about a century ago, all lands near Kanjikoode and Walayar consisted of waste lands—forest lands and they were leased out by Vadasseri Mannadiar at this rate. He fixed the rate at one para for a para area of land reclaimed. This was the basis I adopted. I think the janmi should be given some compensation by way of increased michavaram calculated on this basis. I advocate this, especially because I say the present michavaram should not be enhanced except when new lands are reclaimed.

Q.—Then you advocate total abolition of melcharths. What about the poor janmi?

A.—He may recover the property by himself going to court if it is found that he is entitled to recover the property.

Q.—If he is unable to go to court, sale will be the last resort.

A.—Why, there is sufficient provision in the Civil Procedure Code for a janmi who cannot pay the court fee to sue *forma pauperis*.

Q.—That will be considered *infra dig* by janmis.

A.—He can just borrow the necessary amount of money to enable him to sue and recover a particular estate. I know of instances when the janmis resorted to suits. When they found that michavaram was not sufficient for their maintenance, what they did was this. They sued for redemption of the properties by borrowing and afterwards when they obtained a decree raised the necessary amount to pay kanam and value of improvements by hypothecation or *karipanayam* at a lower rate of interest. That is being done every day.

Q.—But once the occupancy right is given, he cannot recover. Why is it that melcharth ought to be prohibited when he is entitled to redemption of the property?

A.—I gave my opinion in my answer that melcharth has been the bane of Malabar, my reason being that this sort of granting melcharth creates a lot of ill-feeling and rancour, not only between the janmi and the tenant, but also between the old tenant and the new melcharthdar. So, it is highly necessary for the peace of the country to put a stop to this pernicious system.

Q.—Mr. Subbarama Ayyar said that if right of pre-emption is given to the tenant and if melcharths are restricted, then he would be satisfied, and permanent occupancy need not be given. So, you differ from him?

A.—Yes, for my own reasons. My impression is that instead of allowing the janmi to give melcharth to another and afterwards asking the tenant to exercise the right of pre-emption by purchasing the melcharth right, it is better if melcharth is totally prohibited.

Q.—Abolition of melcharth will not, by itself, confer fixity of tenure?

A.—If you abolish melcharths, if you say that the existing tenant should be kept on the land if he is prompt in the payment of rent and renewal fee, then it is quite sufficient and permanent occupancy need not be given.

Q.—There is still the renewal fee?

A.—The only thing is there should be some reasonable principle in the calculation of renewal fee. It was said that in calculating renewal fee the revenue as well as the michavaram has to be deducted from the verumpattam rent. And then as it was stated, the *nerpalisa* on the kanam amount has to be deducted and the balance of profit is to be divided between the janmi and the tenant. In commuting revenue, which is always in money, into paddy a very favourable rate has to be adopted. I shall state how it is calculated, for the information of the Committee. In Palghat, in some villages, the rent is always paid in paddy (raw paddy) from the threshing floor as soon as it is threshed. In other places, the paddy is well dried and seasoned and then paid. Different rates have to be adopted in the above two cases.

Q.—Those are all matters of detail.

A.—But the point I wish to emphasize upon the attention of the Committee is that the price of paddy varies from month to month. In the month of Karkitagam the highest price will be prevailing whereas in Kanni or Makaram it will not be so much. So that my point is a very reasonable rate should be adopted in calculating the renewal fee.

Q.—How do you arrive at that?

A.—The average rate. I would say that 2 paras of paddy per rupee ought to be the basis of calculation. If Rs. 50 is the Government revenue, 100 paras ought to be deducted.

Mr. Kotieth Krishnan:—Q.—You have seen garden lands where coconut trees are grown?

A.—I have seen such garden lands in the Palghat taluk.

Q.—The coconut tree will live to the age of 80 years?

A.—I have seen trees which are 100 years old, but after the age of 60 the yield is very very little.

Q.—Not appreciable at all?

A.—I have got in my own compound coconut trees which are 80 years old. Now my age is 50. Of course some trees do yield after 60, but after all the number of nuts in a year will be some 15 or 20, and all that will be very small. That will not be worth even three pies.

Q.—You have some experience in the valuing of coconut trees by commissioners?

A.—I have myself been a commissioner several times.

Q.—How do you find out the yield of a tree?

A.—It is mere guess work, and nothing else. You cannot count upon the tender ones already in the tree. They may fall down or perhaps they may be stolen away.

Q.—Do you make allowances for that?

A.—So far as I am concerned, I used to look at the nature of the tree, whether it is a healthy tree or a very bad lean tree. I first of all estimate what would be a reasonable compensation and adjust the details so as to arrive at that figure. This is the method I adopted. I could not find out a surer method.

Q.—Suppose you put as the yield 25 nuts per year. Do you make any deductions as the tree grows old? Do you make any deductions when you put the yield in the account?

A.—To be candid, with regard to the figures, I generally form an estimate of what would be the figure, taking all the circumstances into consideration and adjust the yield as well as the value and deductions so that I may arrive at that figure. That is the process which I adopted, so that it may not be harmful to either party.

Q.—Is that what the other commissioners generally do?

A.—I don't think so. I have seen coconut trees valued at Rs. 40, Rs. 30 and Rs. 50 which I for my part, had I been sent out, would not have valued at all at that price.

The President:—Thank you very much Mr. Ramaswami Ayyar for the valuable evidence that you have given.

V

Written statement of Mr. K. P. Gayatrivallabha Ayyar, Vakil, Palghat, dated 4th October 1927.

I (a) (i) Kanamdars holding directly under the janmis.

Q.—“What disabilities are, in your opinion, pressing hard on kanamdars holding directly under the janmis?”

A.—(a) Melcharths.

(b) Unfettered power of eviction.

(c) When nanja lands and parambas formed one holding and have been held and enjoyed by the kanam tenant for a long time under a single demise, the janmis compel the kanam tenants to separate the nanja lands from parambas and to take two separate demises, the one comprising the nanja lands alone and the other comprising the parambas appertaining to the nanja lands. The farm-house, pathayapura (or granary), kulappura or (dwelling house of the tenant), orapura (the shed to be used as threshing floor), cattle shed, garden, tank which irrigates the garden, the well, fruit trees and timber trees will all generally be comprised in the parambas (i.e., the improvements will, mostly, if not wholly, be on the parambas). By adopting these tactics, the janmis can very easily evict the profitable portion of the holding without paying value of improvements effected by the kanamdars on the paramba portion of the holding. When the nanja lands alone happen to be evicted, the other demise (i.e., of the paramba portion) happens to be a burden on the kanam tenant. It is not generally worthwhile for the tenant to retain the latter without the nanja lands; nay, it will be a burden. The kanamdar will therefore perforce have to surrender all these improvements for a pittance. That very rich and influential janmis have adopted these tactics to defeat the provisions of the Malabar Tenants' Improvements Act and to facilitate arbitrary eviction can easily be proved from the innumerable documents registered in the Sub-Registry Offices of Alatur, Palghat, Mankara, Parli, Ottapalam, etc., within the last forty years. If a kanam tenant refuses to consent to a renewal of his holding by separating the nanja lands from the parambas, the janmis refuse to grant him a renewal of the holding. As the kanam tenant is at the mercy of the janmi, he has to submit to this sort of dissection. This evil started by one or two janmis at the outset is now growing like wild fire. It is impossible to stop the further spreading of this contagion unless the arbitrary power of eviction and melcharths is taken away from the janmis and unless a legislative enactment declares that this subterfuge is void and that it will be considered void with retrospective

effect. I understand that the Committee has not called for statistics on this point. This is the most important statistics which will reveal the truth about the oppression by janmis. A questionnaire on this matter to all the janmis is also absolutely necessary to verify the truth about this sort of oppression by the janmis. I am positive that this point can be proved to the very hilt if the Committee adopts this suggestion.

(d) There is no standard for fixing renewal fees and several janmis therefore try to exact as much as possible in the shape of renewal fees with the formidable weapon of unfettered right of melcharths and eviction.

(e) There is no standard for enhancing michavaram and several janmis arbitrarily enhance the michavaram and the kanam tenants have to submit to any arbitrary enhancement as an alternative to a melcharth or eviction.

(f) It is doubtful whether under existing law a kanamdar can be evicted from a part only of his holding by paying the whole kanam and the value of improvements on that part alone [if the subterfuge referred to in clause (c) above is not resorted to]. Some janmis therefore adopt the tactics of granting a melcharth of a part of the holding alone, because the existing law allows eviction of a part of the holding if that part is granted on melcharth, on the principle, that an assignee of a part of the equity of redemption is entitled to evict that part alone, without paying the value of improvements on the other part of the holding. That the existing laws are powerless to prevent this evil is clearly seen from the Full Bench Decision of the Madras High Court reported in 37, Madras Law Journal, page 47, F. B.

(g) Devasoms, Nair tarwards, Nambudiri illoms and stanis are mostly the Janmis in Malabar. There are joint trustees in many of these devasoms. The stanis generally attain their stanom only at an advanced age with almost one foot in the grave. Dissensions between the joint trustees of devasoms generally result in melcharths and evictions of the kanam tenants. Quarrels and litigations between the karnavans and anandravans of Nair families and Nambudiri illoms are prevalent to an appallingly large degree. The karnavans in their old age naturally try to get as much as possible from their kanam tenants so that they may enrich their wife and children and they do not care for scruples to use their unfettered rights of eviction and melcharths to eke out as much as possible from the kanam tenants in the shortest possible time. With regard to the stanis, it is even worse. The law of Malabar has recognized that the stani has an absolute right to the income of the stanom during his life time and renewal fees come within the category of such income. The stani tries to acquire as much as possible in the shortest possible time, and he too uses his unfettered power of melcharths and evictions for that purpose.

(h) Rulings of the Madras High Court insist on the existence of an adequate necessity or benefit to the tarward, devasom or stanom for the validity of a renewal of a kanam holding prior to the expiry of the 12 years' term fixed in the prior kanam deed. These rulings, otherwise inoffensive, work a great hardship in practice on honest kanam tenants and lead to many melcharths and vexatious litigations. The hardship results under the following circumstances. If a kanam tenant does not submit to an unexpired renewal, in spite of the fact that there was no adequate necessity or benefit as required by the decisions of the High Court, the janmi (karnavan, stani or trustee) invents some false necessity and grants a melcharth. Such melcharths are held by the High Court to be only voidable and not void. On that ground, the High Court has further held that the kanam tenant is not entitled to dispute the validity of such unexpired melcharths even though granted without necessity or benefit. The janmi (karnavan or stani or trustee) who survives the period does not and could not dispute his own melcharth; or if the grantor of the melcharth dies before the expiry of the prior period the unscrupulous melcharthdar pays something to the succeeding karnavan or stani who does not therefore dispute the validity of the melcharth. Thus a kanam tenant is evicted from his holding for no fault of his own, and though he was always prepared to pay renewal fees to the janmi. In short, this unfettered right of melcharth and eviction results in a premium on dishonesty and unscrupulousness. Let me take the converse case. Suppose the kanam tenant submits to a renewal of an unexpired demise and pays renewal fees though there was really no necessity or benefit to the tarward of the

janmi or stani. If the grantor of the unexpired renewed demise survives the period, he causes his willing anandravan to dispute it. If the grantor dies before the expiry of the prior term, then the succeeding karnavan or stani certainly repudiates it. In any case, the kanamdar has to submit to a fresh levy of renewal fees as an alternative to melcharth or eviction. I understand that the Committee has called for statistics from the Sub-Registry offices only on the following points, viz., (1) number of kanams executed in each of the years 1904 to 1916; (2) number of renewal deeds of kanams executed in each of the years 1904 to 1916; and (3) number of renewal deeds, number of melcharths, number of karars to lease and number of sale-deeds in each of the years from 1916 to 1926. I understand that the Committee has not called for statistics on this point and some other important points which will unmistakably prove the oppression by the janmis. I believe that it is absolutely necessary to call for all other statistics indicated in the answers. Those now called for only strongly support the janmi's point of view and the kanam tenants do suffer by the real point of view not being brought to the notice of the Committee. Statistics on this matter from all the civil courts and Sub-Registry offices for the last about 30 years will unmistakably prove these facts. A questionnaire on this matter to all the janmis is also necessary to verify the correctness of my statement about this sort of oppression by the janmis.

(j) Some janmis evict their kanam tenants unless the latter consent to convert the kanam which under the law will ensure for 12 years into an ordinary usufructuary mortgage liable to be redeemed at will. They began to adopt this sort of tactics within the last about 30 years and many kanam holdings have thus been converted into usufructuary mortgages. A reference to the register of documents in the Alatur and Palghat Sub-Registry offices within the last 30 years is necessary and statistics on the point will clearly prove this fact. A questionnaire on the point to all janmis is also necessary.

(k) There are yet other janmis who adopted other tactics. There are in some holdings teak and other trees of substantial value. The kanam tenant is certainly entitled to the value of improvements of such trees either planted by him or are spontaneously grown and protected by him under the Tenants Improvements Act of 1900. Janmis have in many instances compelled the kanam tenants and reclamation lessees to surrender all the teak and other trees without paying any value for improvements by making a show of payment of a pittance in rare cases and the kanam tenants had to submit to this levy as an alternative to eviction. Not even the Government can forfeit a man's property except when he is guilty of very heinous crimes, but the janmis of Malabar are more powerful and can confiscate a kanam tenant's property for no fault of his own. This sort of levy has been taking place within the last about 15 years and can be proved by a reference to the renewed demises registered in the Alatur Sub-Registry office and to release deeds executed by kanam tenants surrendering their rights in the trees in the holding. Statistics and a questionnaire to the janmis on this matter are also absolutely necessary.

(l) Kanam tenants are not allowed to reap the benefits of their labour when they plant trees, by arbitrary eviction or melcharth. To make the matter clear, an instance may be given. When a kanam tenant plants say 5,000 teak trees, it takes about 25 years to cut and use them as timber trees. If the janmi happens to evict the tenant only after the said period of 25 years, the tenant gets some fair value for those trees under the Improvements Act. But the janmi tries to get an unfair advantage by evicting the kanam tenant, say, about 8 or 10 years after the planting of teak trees. In such cases, the janmi need pay only a pittance because the Tenants Improvements Act is very defective in this respect. In the latter instance the Act provides that the janmi need pay only three-fourths of the price of those plants if they are cut and sold in public auction. If they are cut and sold when they are so young, naturally they are fit only for an inferior sort of fuel and their value is ridiculously low. But if they are allowed to grow and become fit for timber, they fetch a fair value. The value of a teak tree of 25 years' growth may range from Rs. 3 to Rs. 5 according to the quality of the soil. If the janmi evicts such a kanam tenant 8 or 10 years after plantation, the kanam tenant may get a compensation of Rs. 200 to Rs. 300 only, whereas if he is evicted after 25 years, he will get about

three-fourths of Rs. 15,000 or more as value of improvements. This is a real hardship and the kanam tenant very often suffers from this sort of oppression. This is also one of the evils of the janmi's unfettered right of eviction and melcharth.

(m) *Evicting a kanam tenant if he leaves no male heirs.*—Though the kanam tenant executes a will or a gift deed, the donee is not granted a renewal for the sole reason that he has not a male descendant. A kanamdar leaving no male heirs is not also able to realise a fair price by a sale of his kanam holding, because the janmi's Karyasthan forewarns the would-be-purchaser that the latter will be evicted.

(n) *Frustrating public sales of kanam holdings to the highest bidder under judicial process or otherwise and frustrating the freedom of vote in elections.*

(o) *Insisting on the kanam tenant to consent to pay a levy of an arbitrary amount of kuttikanam on all existing trees and on all trees which may be planted in future and granting melcharths or filing a suit for eviction if the kanamdar refuses to consent to take a renewal on those terms.* Under the ordinary law, as well as under the provisions of the Malabar Improvements Act, a kanam tenant is entitled during the period of his tenancy to cut and sell all trees planted by him or spontaneously grown, and protected and maintained by him. This right of the tenant is frustrated by the janmi by means of these tactics and section 19 of the Tenants Improvements Act has been held not to apply to these kinds of levy though, at one time, that section was held to prohibit such contracts in kanam deeds after 1900. Further there is no standard for this levy so that each janmi tries to exact as much as he can in this respect. This device to defeat the Tenants Improvements Act should also be declared void with retrospective effect.

(p) Besides these disabilities which affect the agrarian question and the economic well-being of the kanam tenant, there are social iniquities.

I. (a) (2) *Kuzhikanamdars holding directly under the janmis.*—Kuzhikanamdars are suffering from oppressive melcharths and arbitrary evictions.

I. (a) (3). *Verumpattamdars holding directly under the janmis.*—These verumpattamdars should be classified under three heads, viz: (a) verumpattamdars under kovilagam leases, (b) verumpattamdars holding under janmis other than kovilagams, and (c) verumpattam of kudiyiruppus.

(a) *Verumpattamdars under kovilagam leases.*—The leases under kovilagams have always been understood in South Malabar to ensure for twelve years and have been generally subject to periodical renewals at the expiry of every twelve years like kanam demises. The tenant is also bound to pay renewal fees to the kovilagam at each renewal. The recent decisions of the Madras High Court have made serious inroads on this class of tenants. The disabilities of these tenants are as serious as those of the kanam tenants.

(b) *Verumpattamdars holding under janmis other than kovilagams.*—Their disability, if any, is rackrenting and the absence of irrigation facilities. They are also suffering from the clutches of usurious money-lenders from whom they are obliged to borrow at exorbitant rates of interest for purchasing seed, cattle and cultivation expenses.

(c) *Verumpattam of kudiyiruppus.*—These are suffering immensely from reckless and arbitrary eviction of their houses.

I. (a) (4) & (5) — *Sub-kanamdars and verumpattamdars.*—The nature of disabilities is the same as that of kanamdars and verumpattamdars holding directly under the janmis.

I. (a) (6) — *Sub-lessees under verumpattamdars.*—Disabilities are the same as those of other simple verumpattamdars.

I. (a) (7) — *Tenants other than those specified above.*—Tenants under this miscellaneous heading may be classified thus—

(a) Tenants holding under reclamation leases.

(b) Tenants holding under anubhavam, adimayavana or santhathi-brahmaswam tenure.

(c) Tenants holding under karan-kari tenure.

(d) Tenants holding house-sites.

The disabilities of these tenants are immense and may be taken one by one.

(A) *Tenants holding under reclamation leases.*—These form a very important class and are entitled to special consideration. There were many jungle lands in Malabar overgrown with wild forests and infested with wild elephants, tigers and robbers. There was a time when the Government used to grant cowls to convert these forest lands into cultivable nanja lands on favourable terms of revenue and the lessees have at great expense, inconvenience and detriment to their health cleared the wild forests and converted them into fertile nanja lands. Very often such tracts were malarial and many persons had died in their attempt to reclaim such lands, and their descendants or purchasers from them who continued their work are now in possession of such lands. Subsequently they have attorned to the janmis and they have been paying rent to them. They are now certainly entitled to the value of converting parambas into nanja lands in case of eviction under the Malabar Tenants Improvements Act. But this is hardly sufficient to compensate their labours. In many cases, the reclamation value awarded under the Malabar Tenants Improvements Act has proved to be ineffective. They stand on a higher footing than the ordinary verumpattam tenants. An instance in point may be given. There are about 4,000 acres of nanja lands converted from wild forests in Akamalavaram of the Palghat taluk which belongs in janm to the Emoor Baghagavathi Devaswam. The tenants who hold these lands may number about 1,000. In many instances, former Palghat Rajas have granted permanent rights of occupancy to such tenants by appropriate recitals in the demises granted to them. But there are yet many tenants to whom permanent right of occupancy has not been granted by the Palghat Rajas. Really there is no distinction between the tenants to whom occupancy rights have been granted by the demises and those to whom occupancy rights have not been granted. These latter are now suffering from all the disabilities of ordinary kanam tenants.

(B) *Tenants holding under Anubhavam, Adimayavana or Santhathi-Brahmaswam tenures.*—The disability of these tenants is the uncertainty of the law as at present administered with regard to the assignability of their tenures. These tenants are permanent tenants and the uncertainty of the law with regard to the assignability of the tenure works a serious hardship on them and whenever any such tenant assigns his holding, the janmi tries to evict him alleging forfeiture on account of alienation.

(C) *Karan-kari tenures.*—These tenures are held to be not assignable though otherwise such tenants are held to possess permanent rights of occupancy. If this drawback is removed, they cannot complain of any other hardship.

(D) *Tenants holding house-sites.*—These tenants suffer immensely at the hands of unscrupulous persons. A petty quarrel between the tenant and the landlord usually results in eviction of the tenant from his dwelling house. This evil is prevalent in the Ernad and Walluvanad taluks where the tenants are mostly Mappillas and the janmis are Hindus. The friction and heart-burning caused by the eviction of house-sites leads to many outrages and such evictions very often take place in the rainy season, or at a time when the tenant is unable to provide himself with another habitation. Naturally much wrangling results from it.

I (b). I think the disabilities mentioned above are now peculiar to the tenants of Malabar and my reasons are as follows:—

The Government of India and the local Governments have always retained the power to protect the tenants in the interests of public welfare, and though former Collectors, Members of the Legislative Councils and the public brought to the notice of the Government of Madras the grave peril to the public welfare on account of the acute grievances of the tenants in Malabar, the Government of Madras has not passed the necessary legislation to remove the said grievances, though the said Government has passed the Estates Land Act to remove the grievances of tenants in the whole of the Madras Presidency except Malabar and South-East Wynad, and though every other local Government has passed a beneficent legislation to regulate the relationship between the landlord and the tenant. The local Government of Bengal in the year 1859 passed the first tenancy law in Bengal giving protection to tenants by enacting that, where any tenant had continuously held the same land for a period of twelve years, he should be regarded as an occupancy tenant with hereditary

rights and secured against rackrenting and eviction. The kanam tenants of Malabar are not inferior in status to those tenants of Bengal. While the Bengal Government removed the grievances of the tenants in the year 1859, the Madras Government has not removed even graver grievances for this long period.

The Government of the North-Western Provinces extended the Bengal Act of 1859 to the North-Western Provinces in the year 1873, thus giving permanent rights of occupancy to almost all the tenants in the North-Western Provinces who had continuously held their land for a period of twelve years. The same law appears to have been extended to the tenants of Agra long before 1901, and the Agra Tenancy Act of 1901 removed several defects in the previous law, thus affording further safeguards against rackrenting and eviction by the Agra landlords.

The tenants' interests are safeguarded even more in the Central Provinces. Over and above the provision against rackrenting and eviction, the tenants' interests are further safeguarded at each Settlement by the Revenue Officer. Further by the Act of 1898, the rents of non-occupancy tenants also have been fixed at the Settlement, and exorbitant rents are liable to be reduced by the Authorities.

Act No. IX of 1873 in the Central Provinces and the Act of 1889 will throw much light on this point. The Deccan Agriculturists Relief Act XVII of 1879 relieved the hardships of the tenants of Deccan.

The Punjab Tenancy Act XXVIII of 1868 and XVI of 1887 removed the grievances of the Punjab tenants.

Chota Nagpur Tenancy Act of 1879 relieved the distress of the tenants there.

There are other local Governments also which have redressed the grievances in many respects. It was considered by the framers of the Malabar Tenants' Improvements Act of 1900 that the grievances of Malabar tenants may be redressed by that Act. It has failed to achieve its object. This is the main reason why the grievances of tenants are now peculiar to Malabar. There are certain subsidiary reasons which have also to be stated in this connexion. The customary law of Malabar with regard to the Stanis, Marumakkattayam Tarwards and Nambudiri Illoms, and the constant quarrels between the junior members and the karnavans in such tarwards have also contributed a great deal to the sufferings of the Malabar tenants.

I (c). The holdings in South Malabar and especially in Walluvanad and Palghat taluks are mostly of nanja lands. They are generally large holdings, though no doubt there may be certain small holdings also. The holdings in North Malabar are comparatively small ones and consist mostly of parambas and gardens, though no doubt there are holdings of nanja lands there also. The nature and intensity of the grievances is much more in South Malabar than in North Malabar.

I (d). I think there is some difference in this matter between the several parts of South Malabar. The extensive cowl lands and nanja lands reclaimed from forest tracts, which I have referred to already, are mostly in the Palghat taluk. Again in the Calicut and Ponuani taluks especially, there are many demises of parambas for the purpose of coconut garden, while in the Palghat and Walluvanad taluks demises are mostly of nanja lands and parambas. The grievances of the tenants holding nanja lands are much more than those of the tenants holding parambas for the purpose of planting coconut trees. The Malabar Tenants' Improvements Act gives some sort of protection to the tenants who have planted coconut trees on such parambas, while the relief granted by the Tenants' Improvements Act to the tenants of nanja holding is rather very meagre and inadequate. Then again the coconut garden is liable to destruction or to deterioration in its yield, whereas nanja lands are not liable to destruction and are not generally liable to diminution in yield. Therefore the unscrupulous and indiscriminate practice of granting melcharths and its attendant eviction and protracted ruinous litigations prevails in a more pre-eminent degree in the Palghat and Walluvanad taluks than it does in any other taluk. I may again point out that the disabilities in clauses (c), (f), (g), (h), (j), (k), (l), (m) and (o) mentioned by me in my answer to question I (a) (i) are prevalent to an appallingly large degree in the Palghat and Walluvanad taluks and

unless effective fixity of tenure is granted, their lot will continue to be precarious. Mere statistics giving numerical figures of South Malabar and North Malabar are insufficient to indicate the intensity of oppression. Practical experience counts much.

II 1 (a). I think evictions are made on unjustifiable grounds. Such evictions are in my experience on the increase. Instances may be given at the time of evidence, if any.

II 1 (b). Melcharths are granted on unjustifiable grounds. Instances may be given at the time of evidence, if any.

II 2. I have only hearsay information with regard to the social oppression by the janmis, and I am therefore not in a position to specify instances in this matter.

III (a), (b), (c), VI (a), (b), (c) and VIII (a). Before stating the effective remedies to remove the disabilities, I should think it well to state the main principles on which such remedial measures ought to be based so that my opinions may bear scrutiny. The accepted principles of Tenancy Legislation which can be gathered from a close study of the legislative enactments of the various provinces in India may be summarized as follows:—

(A) The Government of India and the local Governments have always exercised the right of regulating the relations between landlords and tenants and are prepared to further exercise the right whenever and wherever a proper necessity exists.

(B) That in areas where the State receives its land revenue from the landlords, the State has not objected, and does not hesitate to interfere by legislation to protect the interests of the tenants against oppression at the hands of the landlords (vide page 46 of the Land Revenue Policy of the India Government issued in 1902, Resolution by the Governor-General of India in Council No. 1, dated the 16th January 1902—vide page 38 of Land Revenue Policy of India Government, 1902).

(C) In certain cases, the Government found that a class of tenants had a right to permanent tenancy by historical status but that the landlords did neither admit nor give effect to such right of the tenants. The Government interfered by legislation and declared the historical status of such tenants to a permanent tenure.

(D) In certain other cases, the Government, though it did not find any pretension to such historical status, granted rights of permanent tenancy on the broad statesmanship that the granting of permanent rights of occupancy was everywhere essential to the social, material, and economic well-being and to the peace and prosperity of all classes of subjects of the State.

(E) The Government of India and the local Governments are in cordial agreement and have laid down the policy that some limit should be placed on the dues payable by a tenant to the landlord. (The same book, page 9.) To translate this principle to local terms, it is clear that the rent payable by a verumpattam tenant, michavaram and renewal fees payable by a kanam tenant should be regulated and any enhancement thereof should not be left to the caprice of any landlord.

(F) As the Hon'ble Mr. Ilbert said in his speech before the Legislative Council of India on the Bengal Tenancy Bill in 1885, the local Government cannot afford to stand aside and let things drift, trusting that they may somehow come out right in the end. Such may be a policy which would commend itself to some of the influential classes in the country, to men of the strong hand and the long purse; but such is not the policy which the British Government has ever ventured or ever can venture to adopt; such is not our conception of the duty which we owe to the millions whom Providence has confided to our care (vide page CCLXVI, Progress of the Madras Presidency, 1893).

(G) The principle of "Stare decisis" is a maxim for the judiciary. It is not a maxim for the legislative councils or the State.

(H) Compensation should be paid to all persons whose rights are sought to be affected in any substantial manner by legislation.

(J) As the tenant greatly requires to be protected against the intricacies of courts and the subtleties of law, any remedial legislation, that may be proposed, should be a simple, cheap, and a certain system of law. Chances of rushing into courts either by the janmi or by the tenant should be minimised by the proposed legislation as much as possible.

Bearing in mind these principles, I shall proceed to answer the questions; but, before doing so, I shall give the definition of the words "cultivating kanamdar" which I am going to use frequently in my answers. A "cultivating kanamdar" is one who holds lands on kanam or other cognate tenures under a janmi and who cultivates the land or supervises the cultivation thereof either by himself or through the members of his family or through his relations or dependants or through his paid servants or agents hired by him, but shall not include any kanamdars who sub-lease the property in favour of a verumpattam tenant. *Proviso* If the kanamdar, at any time, happens to be a minor or an idiot, or a person of unsound mind or happens to be out of British Malabar and hence unable to be a cultivating kanam tenant for the time being within the meaning of the definition, that circumstance by itself will not disentitle him to the benefits of a cultivating kanamdar under the proposed Bill but he shall be bound to resume cultivation after the disability or absence has ceased.

Remedies

- (1) Granting of permanent rights of occupancy to all cultivating kanamdars.
- (2) Granting of permanent rights of occupancy to all cultivating verumpattamdars who were holding lands under a lease granted for reclamation purposes and those who have reclaimed the whole or a portion of the lands granted on cowl.
- (3) Granting of permanent rights of occupancy to all cultivating verumpattamdars holding lands under kovilagam leases. (This term certainly includes verumpattam lessees under the Cochin Sirkar also.)
- (4) Granting of permanent rights of occupancy to all cultivating kuzhikanamdars.
- (5) If any one, from among the four classes of tenants described above, does not happen to be a cultivating tenant within the meaning of the above definition at the time of the passing of the proposed legislation, he will be deemed to be a cultivating tenant and will be entitled to all the benefits of the cultivating tenant if he becomes a cultivating tenant within the meaning of the above definition within 6 years from the date of the passing of the proposed legislation. In the case of a holding in which there is a kanam and sub-kanam, the sub-kanamdar should be given the right of permanent occupancy if he is a cultivating sub-kanamdar at the time of the passing of the proposed legislation or who becomes a cultivating sub-kanamdar within 6 years as aforesaid. If the sub-kanamdar does not become a cultivating sub-kanamdar as stated above, then the option should be given to the kanamdar to become a cultivating kanamdar and if he does become so, he will be entitled to all the benefits of a cultivating kanamdar under the proposed legislation.
- (6) If neither the sub-kanamdar nor the kanamdar is a cultivating tenant at the commencement of the proposed Act, and does not become so within the time specified above, then the right of permanent tenancy shall vest in the then cultivating verumpattamdar if the latter pays the janmi two and a half times the rent of the land within 12 years in equal annual instalments with 6 per cent interest. The said compensation should be paid wholly to the janmi so that neither the kanamdar nor the sub-kanamdar will be entitled to any portion of it.
- (7) In the case of all cultivating kanamdars and kuzhikanamdars who obtain permanent rights of occupancy, compensation payable by them to the janmi shall be two and a half times the annual michavaram shown in the demise in respect of the holding, such amount being payable in six equal annual instalments with 6 per cent interest.
- (8) In the case of lessees under kovilagam leases or reclamation leases, the compensation payable by them to the janmi shall be two and a half times the annual rent or michavaram shown in their lease deeds, the amount being payable in six annual instalments with 6 per cent interest. In the case of all cultivating sub-kanamdars who

obtain permanent right of occupancy compensation to be paid by them shall be two and a half times the michavaram shown in the kanamdar's kychit. The janmi shall be entitled to the whole of such compensation and not the kanamdars. The janmi shall be entitled to renewal fees at the expiry of every 12 years in respect of every kanam, kuzhikanam or kovilagam lease.

(9) If the renewal fees are not fixed with reference to any definite standard, enormous litigations will be the result. There are two evils in such a course. The harmony which ought to exist between a janmi and a tenant will be imperilled. Unnecessary ruin will happen. Therefore in fixing the amounts of renewal fees, any method of calculation might be adopted which will not contain in itself any degree of uncertainty. I have considered this question from several standpoints. It is impossible to arrive at a solution unless we take the kanam amount as the basis of calculation. The usual renewal fee is 2 per 10 of the kanam amount.

(10) With regard to fixing the renewal fees at this figure, there may be hardship to some kanam tenants who have advanced enormous kanams on the property. As a palliative to them, I am of opinion that renewal fees may be 20 per cent on the kanam plus 15 per cent on the puramkadam.

(11) The janmi's rights have to be protected especially in view of the suggestion that his unfettered right of eviction and melcharth is to be taken away from him in the interests of public welfare. The proposal by some that the renewal fees may be fixed on the annual rent of the lands is inexpedient and inadvisable as it will certainly lead to vexatious and ruinous litigations and will impair the harmonious relationship that ought to subsist between the landlord and the tenant. The janmi will exaggerate the verumpattam, while the kanamdar will try to under-estimate it. A disinterested person, who has not previously seen or known the lands and whose opinion may more or less be weighty, might be sent as a commissioner from the court. There will be much hard swearing on both sides. There is always the fluctuation in the price of paddy which not merely varies in each year but varies in each month of the year and in each village. There is also the uncertainty with regard to the measure, whether it is Pattapara, standard para, or Okkumpara, which varies not merely with regard to different persons but with regard to different places. There is again the question whether the rent is raw paddy or dried paddy. There is the question of the rate of shrinkage in case of raw paddy. There is the further question of the paddy grown in each field—anakomban, chamban, etc., may fetch a little more value. I indicated all these difficulties and I had to run into details for that purpose to show how the suggestion of some janmis that one year's verumpattam may be fixed as renewal fees is not at all feasible and is fraught with dangerous consequences. If any other method can be devised which may not give a handle to either the tenant or the janmi to rush into courts, I for one shall readily accept it. It has not hitherto been found possible. An extract from paragraph 138 of the Montagu-Chelmsford report would clearly bring out the principle to be followed in such cases and I shall therefore insert it here, viz., "A simple, cheap and certain system of law is one of his (ryot's) greatest needs. He greatly requires to be protected against the intricacies of courts and the subtleties of law, etc." I am of opinion that the right of collecting renewal fees should not be taken away by any proposed legislation.

(12) The renewal fees in respect of kovilagam leases may be fixed at one year's rent or michavaram fixed in the kovilagam lease—I do not mean one year's verumpattam rent which will introduce an element of uncertainty and unrighteous litigation. I should think that the janmi should be given the right of renewal every 12 years even in the case of all reclamation leases where renewal was hitherto customary. Let me make the meaning clear by concrete examples. There are many reclamation leases under Puzhakkaledam in the Palghat taluk and I know that it is customary for the janmi to grant renewals of such leases at the expiry of 12 years and receive some renewal fees, though the rate will be very much smaller than that in kanams. Renewals must be allowed even in future with regard to such leases, the rate being one year's michavaram or rent due to the janmi under the kychit. There are other reclamation leases, which are not subject to renewals at all; for instance, under the Palghat Raja. Such tenants should not be subjected to renewals even in future. Their rights in the property are very substantial and they are entitled to the utmost consideration in any legislation. No new

burdens could be imposed on them except the compensation to the janmi for the occupancy right which has already been provided for.

(13) Hitherto I have considered the question whether the grant of permanent right of occupancy should be given to cultivating tenants, whether kanamdars or not, and if so, what compensation should be paid to the janmi in respect of it. The grant of permanent rights of occupancy to cultivating verumpattamdars is almost conceded by the exponents of the janmi's cause subject only to the condition that the janmis are assured of their rent. I cannot see any conceivable reason why when permanent right of occupancy is given to a cultivating verumpattam tenant who is and has always been understood to be a mere tenant at will, the same right should not be conferred on a cultivating tenant merely because he happens to be a kanamdar or sub-kanamdar. On the other hand, the oppression by the janmis of their kanam tenants affords an additional reason to confer the said right on cultivating kanam tenants.

(14) Melcharths should be declared to be absolutely illegal and void as they are so very obnoxious and so constant a cause of unrighteous, ruinous and protracted litigation. There cannot be any halting or halfway measure in this matter.

(15) Rate of enhancement of michavaram should be fixed in such a way as not to cause unnecessary litigation.

(16) The kanam tenant or verumpattam tenant should be entitled to a proportionate reduction of rent if circumstances justify the same.

(17) *Whether the grant of permanent rights of occupancy is absolutely necessary in the case of non-cultivating kanamdars, sub-kanamdars and verumpattamdars.* I am emphatically of opinion that it should be given in the case of all non-cultivating kanamdars, non-cultivating kovilagam lessees, non-cultivating reclamation lessees and non-cultivating kuzhikanamdars. It is not at all necessary in the case of other non-cultivating verumpattamdars who are mere tenants-at-will. But I would in such cases propose to give to the janmi an extra amount of compensation. The compensation in such cases may be fixed in the case of a non-cultivating kanamdar at 12 times the annual michavaram payable in 12 years with 6 per cent interest. In the case of the other non-cultivating tenants above referred to, it may be $1\frac{1}{2}$ times the amount payable by a similar cultivating tenant. But the objection is mainly raised to the granting of occupancy rights to a non-cultivating kanamdar and the reason stated is that he is a mere mortgagee with possession. There cannot be a graver misconception than this. One who gets his information from mere law reports cannot be said to be wholly wrong, but a person who has any practical knowledge of a kanam tenure will unhesitatingly pronounce it to be wrong. Even the High Court does not say that a kanamdar is a mere mortgagee. There are several decisions which hold that a kanam is also a lease—see, for instance, 27 M. 373-40 M.L.J. 282. A kanam is therefore a substantial lease in which there is ample security for the rent reserved to the janmi. Then again, kanam is said to be a debt borrowed by the janmi from the kanamdar. This is not correct. Its original idea was the security for the janmapattam due to the janmi (janmapattam will ordinarily be only 50 per cent of the verumpattam). If it is only a mere debt, why is the kanamdar debarred from recalling the kanam amount. Many reasons may be urged. Kanam tenures are generally misunderstood. Kanam tenures are the most common of the land tenures of Malabar. Take, for instance, one of the most ancient and richest of janmis, viz., Poomulli Mana. The Mana has several lands in several amsams of the Walluvanad taluk, and several amsams of the Palghat and Ponnani taluks. The Mana has to get more than 100,000 paras of paddy as annual michavaram from numerous tenants. These michavarams are collected very promptly without suit. If at all suits have to be instituted, there may not be more than a dozen suits in the year and even in such suits the amounts are paid with costs and fine before decrees are passed. No suit for michavaram is contested generally. Can any one imagine that the rents can be collected so easily and without arrears if the lands were all leased to verumpattamdars who are generally poor? If any one answers this question in the affirmative, it can at once be said without any fear of contradiction that he does not know the condition of verumpattamdars in Malabar. The Mana in question has any amount of funds, ready money to pay off all the kanams, and yet it has not hitherto done so. The reason is not far to seek.

There are two main reasons. The first reason is that all people in Malabar know that it is considered to be harsh and unconscionable to evict a kanam tenant in view of his old status of permanent occupancy prior to the Sudr Court decisions; and the second reason is that it is very necessary to demise the land on kanams, for otherwise it is impossible to realize the rent. Even the Government have to issue many distress warrants for collections of land revenue. I daresay no warrants are taken to collect a single grain of michavaram due to Poomulli Mana. Therefore though the janmis may raise their hue and cry against the kanamdars, they are necessary in the janmi's own self interest. Destroy the rights or impair the rights of kanamdars by legislation by preferring the tenants-at-will and it will result in harm to janmis. Take for instance the case of the Zamorin, Poomulli Mana, Nareri Mana or Kavalappara. There are numerous kanam tenants under them whose kanam amounts may be between Rs. 100 and Rs. 200. Could anyone conceive that these multimillionaires from Calicut, Ponnani and Walluvanad came to Palghat to borrow these petty amounts and do not repay them for all these several years? The suggestion is grotesque.

III (d). I do not think that the suggestion is sound in principle, or that it will give the required relief to allay the agrarian grievances and the disabilities of the tenants. One of the principles laid down in a comprehensive statement of the Government of India's Land Revenue Policy issued in 1902 as I have already stated, is to this effect, viz., that in areas where the State receives its land revenue from landlords, the State has not objected and does not hesitate to interfere by legislation to protect by adequate measures the interests of the tenants against oppression by landlords. Therefore, any legislation that may be deemed necessary to root out oppression by landlords, must have for its basic principle the protection of the interests of those classes of tenants, who are groaning under oppression by landlords. Such oppression is now largely manifest in the case of all kanam tenants, and not merely in the case of kanam tenants, who have been continuously in possession of their kanam holdings from a period prior to 1852. The oppression is also largely manifest in the case of tenants under reclamation leases and kovilagam leases. The intensity of oppression in the case of kuzhikanams, though of a lesser degree, deserves relief in an effective manner. There is no such thing as oppression in the case of mere verumpattamdars. I should think, therefore, that unless fixity of tenure is granted to all kanamdars and tenants holding under reclamation leases and kovilagam leases, oppression by landlords cannot be effectively checked. Permanent rights of occupancy should also be granted to kudiyruppu holders. Kuzhikanamdars should also be granted fixity of tenure. The other verumpattamdars are suffering, if at all, only from rackrenting at the hands of a few landlords in rare instances. It is not therefore necessary or expedient, to grant permanent right of occupancy to a mere verumpattam tenant in preference to a kanam tenant. Further such a course will create fresh complications in the already vexed tenures of land in Malabar. The mere evil of rackrenting may be effectively checked, if the legislation provides that a landlord is not entitled to raise the rent payable by a mere verumpattam tenant except under a decree of a competent court. This will afford the verumpattam tenant the required relief. The suggestion to grant permanent right of occupancy only to kanam tenants who have continuously held lands from a period prior to 1852, is sought to be based probably on the historical status of such tenants. But this is hardly sufficient to allay the agrarian grievances in Malabar or to check oppression by the landlords which have been already pointed out in my answer to question I (a) (i). The kanamdars, who came into the holding prior to 1852 and have been continuously holding the lands since then, will not be found to be more than 3 per cent of the total number of kanamdars in Malabar. A statistics on this point is absolutely necessary to verify the correctness of this statement. A legislation giving fixity of tenure to these kanam tenants alone ignoring all other kanam tenants will therefore fail in its object, viz., relieving the oppression of all classes of tenants by landlords. Let me consider the question whether even on the ground of historical status those kanam tenants alone need be relieved. It is admitted on all hands that unrighteous evictions and melcharths were not prevalent prior to 1852 and that even now there are certain janmis who do not evict or grant melcharths. Further it will be found generally that properties which are now outstanding on

kanam of recent years were also outstanding on kanams prior to 1852; only the hands are changed by the tactics of certain oppressive landlords. If the legislation gives fixity of tenure in the case of those ancient kanams alone (i.e., to kanamdars who have been holding under landlords who are not at all guilty of oppression) and deny the same right to other kanamdars, it will be giving a premium to oppression and punishing the good landlords. There is no precedent to such a procedure and it is not sound in principle. Let me take a concrete case of legislation in similar circumstances. When the first Tenancy Act was passed in Bengal in 1859 giving permanent rights of occupancy to all tenants who had continuously held their lands for a period of 12 years, the landlords who everywhere cling to their lands, wanted somehow or other to defeat those benevolent provisions of the Act, and attempted to find out various devices to evict their tenants. Some of the Bengal landlords induced their ignorant and illiterate tenants to change part of their holding before the expiry of the full period of 12 years; some other landlords evicted and reinstated the tenants before the full period of 12 years had run out, that is, by mere paper transaction; and other landlords still adopted other tactics. This attempt on the part of the landlords to nullify the good that was done to the tenants attracted the attention of the Bengal Government who were not slow to find out the defects and remedy them. The Bengal Tenancy Act of 1885 was passed remedying all these defects. This latter Act has secured by more elaborate provisions the status and privileges of all classes of tenants. The Decennial report on the moral and material condition of India in 1913 refers to the Bengal Tenancy Act in these terms: "The Act (the Bengal Tenancy Act) provides that every ryot who has held any land in a village for 12 years acquires thereby a right of occupancy and 80 per cent to 90 per cent of ryots in Bengal have such rights. A small number of ryots hold at fixed rates of rent and the (small) remainder are without a right of occupancy. Even the latter however cannot be ejected except in execution of a decree of competent court nor can their rents be enhanced at shorter intervals than 5 years, etc." In this connexion an extract from paragraph 232 of Appendix I to the Report submitted by Mr. Logan which contains a solemn assurance by the Executive Officers of Government to kanamdars just after Malabar came under the Honourable the East India Company may be cited with advantage:—

"In 969 M.E. (1793-1794) when the late Honourable East India Company took the country, their representatives (the Joint Commissioners) assured these kanamdars that these lands would be secured to them and that the janmis would not be permitted to oust them from these lands", etc. While the Bengal Government granted fixity of tenure only in the year 1859, the Malabar kanam tenants were really assured fixity of tenure in 1793-1794 by the solemn assurance of the local Government here. Could it then be stated with any show of reason that the Malabar kanam tenants are inferior in status to the Bengal tenants to whom permanent right of occupancy was granted if only they held the land for 12 years? I venture to say that the Malabar kanamdars have a higher status. Instead of the Bengal Tenancy Act of 1859 which was amended in 1885, the Malabar Tenants' Improvements Act was passed at about the same time, i.e., in 1887, which was again consolidated, remodelled and passed in 1900. The framers of the latter Acts no doubt conceived that the said Acts would put a stop to unrighteous evictions and melcharths, and warned the Malabar landlords to be prepared to the granting of occupancy rights in case the said Act proves ineffective in its object. It is now admitted on all hands that the Malabar Tenants' Improvements Act, 1900, has utterly failed in its object. The Malabar landlords, like the Bengal landlords, found out various devices to defeat the provisions of the Malabar Act which are detailed in my answer to question I (a) (1). The remedy is not far to seek. The Bengal Tenancy Act of 1885 was the answer to the tactics of the Bengal landlords to defeat the benevolent provisions of the Bengal Tenancy Act of 1859 which gave fixity of tenure to about 90 per cent of the tenants of Bengal. Is the Madras Government to pass an Act which will give relief only to 8 per cent of its kanam tenants by giving fixity of tenure to only those kanam tenants who held their holdings continuously from 1852? No doubt such an Act, if passed, would be an answer to the big noise made by the tenants in some quarters. It would not really solve the problem of landlord and tenant in Malabar. It would not check the oppression by the Malabar landlords. It will be another edition of the.

Malabar Tenants' Improvements Act bound to fail to achieve any real object. There is a perpetual famine in Malabar for about three months in every year and this fact is generally overlooked. It will be seen on a close study that almost all the Mappilla outbreaks and outrages have occurred and disturbed the peace of Malabar in those months. A close investigation into Mappilla outbreaks will reveal the fact that acute agrarian grievances of the kanam tenants are the root causes of such outrages and unless any legislation that may be passed is of sufficient amplitude to remove the acute agrarian grievances of all kanam tenants, it cannot do lasting good to Malabar. Further, the question of the historical status of the tenants is not as important as that of the stability of the peace of Malabar and the economic prosperity of the province. Again the question of the historical status of such kanam tenants is brought into prominence by some as a sort of compromise in tenancy legislation. In my humble opinion the question whether fixity of tenure should be granted to all classes of kanam tenants and to the other classes of tenants referred to above to relieve oppression by landlords is no longer a debatable point. The circumstances amply justify the same. The question to be considered should only be the compensation that may have to be paid to the janmis for taking away from them their right of eviction and melcharth which have been conferred upon them by a long course of judicial decisions. I therefore venture to submit that if the suggestions referred to in question III (d) are alone given effect to, the solution will not be that of an administrator or of a statesman.

III (e) The answer to this question is comprised in my answer to the previous questions.

III (f) There are. If a janmi, for instance, has necessity to construct a residential house for his family, so much of the holding of the tenant as is *bona fide* necessary for the construction of such building should be made available to the janmi for the said purpose, but always subject to the condition that if the janmi does not construct the proposed residential house within five years of the surrender of necessary land by the tenant, a right of reverter should be reserved in favour of the tenant. If the janmi *bona fide* intends to construct an irrigation work, and a channel has to be cut through lands in the possession of a tenant under him, so much of the holding as is reasonably necessary for the construction of the channel should be allowed to the janmi for carrying out the said object. If the janmi desires to construct an Aeri or a big water reservoir in a portion of the holding let on a kanam demise for the purpose of irrigating his lands, he should have the liberty to do so, and the tenant should in such a case surrender that portion to the janmi, provision being made that no detriment is caused to the other portions of the tenants' holding. If the tenant would not pay renewal fees in spite of a suit, and if he would also not deposit the same in the course of the suit with costs, the janmi should in such cases be entitled to redeem or evict the tenant after the expiry of the term.

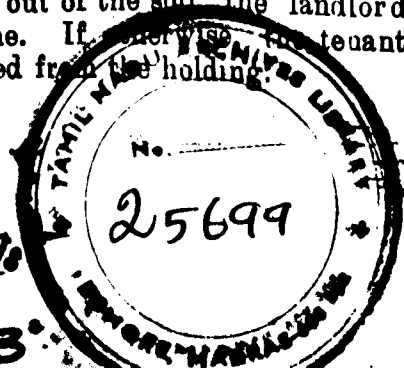
IV (a) (1) I am decidedly of opinion that permanent rights of occupancy should be granted to occupants of kudiyruppu sites; when the houses belong to the landlord, he must be given the right to recover possession of the house. I would, however suggest that, if any kudiyruppu site belonging to the janmi is *bona fide* required for his residence or as a farm house to his adjacent lands, he should be entitled to evict that kudiyruppu site.

IV (a) (2) I would make this distinction that in the case of urban kudiyruppus the janmi may be entitled to eviction if the janm price is not paid by the kudiyruppu-holder as the house-sites in towns are very valuable and there is no oppression by the janmis in this respect on a large scale.

IV (b) The answer to this question depends upon local conditions, and no hard and fast rule need be laid down as it will lead only to confusion and vexatious litigation. The present extent held by any kudiyruppu holder must be protected subject to the limitations specified in my answer to question IV (a) (1).

IV (c) (1) If the house was constructed as a *bona fide* improvement, and is not out of proportion to the value of the holding or rather if the house was not constructed with the intention of improving the landlord out of the soil, the landlord should be made liable to pay compensation for the same. If, however, the tenant should be free to remove the building when he is evicted from the holding.

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IV (c) (2) The answer to this question will be found in my answer to IV (c) (1).

IV (c) (3) The question is not clear to me.

IV (d) (1) & (2) The suggestion is not feasible in Malabar. The kudiyruppu holders in rural areas are much too poor and are not accustomed to, and may not act according to, the stipulations. In spite of all these, they are a hard-working lot who are groaning under oppression by unrighteous evictions, and deserve to be granted permanent rights of occupancy for the plain reason that it is conducive to the social welfare of the whole of Malabar. More than that, this is necessary to ensure the future peace of Malabar. After all, the price of such small bits of parambas in rural areas on which these kudiyruppus stand is too inconsiderable and the janmis can be compensated by a slight enhancement in the annual rent to be paid by the kudiyruppu holders to them. The suggestion may be accepted regarding urban areas.

V. The effect of the Malabar Compensation for Tenants' Improvements Act of 1900 is rather to make the relations between the janmis and tenants more strained, though the Act was conceived in good spirit. Judged by its practical results, it has proved only to be an evil in disguise. The said Act has given the landlord a useful weapon to oppress the tenants. The Act has not provided the checks which the framers had intended. The Act has increased the bitterness and the volume of litigation between the tenants and the janmis. The assessment of compensation under the Act is so difficult and uncertain that litigation is resorted to and carried up till the High Court in many instances. The tendency to take melcharths has also increased on account of the uncertainty of the Act. The Tenants' Improvement Acts of Malabar have increased and are still further increasing the litigious tendencies of the people of Malabar. Let any one compare the volume of litigation in Malabar with that of any other district in the Presidency and assign his reasons for the abnormal and progressive increase of litigation in Malabar after the passing of these tenancy legislations; I daresay, if he scrutinizes the reasons, he will irresistibly be led to admit that these Acts have contributed largely to this increase in unrighteous litigation. There are now about thirty civil courts in Malabar—far more than the proportion in any other district of the Presidency. There are District Courts at Calicut and Tellicherry. There are Subordinate Judges' Courts at Calicut, Tellicherry, Palghat, Ottapalam, British Cochin and an Additional Subordinate Judge's Court at Calicut. There are about twenty-four or twenty-five Munsifs' Courts—about fifteen in South Malabar and eight or nine in North Malabar. It will be instructive and necessary to extract here a paragraph from page 366 of the *Malabar Gazetteer*. The said paragraph is to this effect, viz: "The volume of litigation in the district is immense. In the last twenty years (preceding 1908) Malabar has contributed one-eighth of the total litigation in the Presidency exclusive of Madras, and if suits filed before village munsifs are excluded, the proportion rises to one-sixth. North Malabar is a worse offender in this respect and shares . . . the dubious distinction of being the most litigious district in the Presidency." After giving certain reasons for litigation the Gazetteer goes on to say "other causes are the complexity of the land tenures and the inevitable dispute as to the value of improvements on the termination of *kanam* or other demises." Let the statistics for the years 1908 to 1926 be also compared. There is no use in dubbing North Malabar or South Malabar with this odium. The odium lies in halting legislation in the inadequate nature of the Improvements Act. As I have already stated, the *kanam* and *kuzhikanam* holdings are smaller and more numerous in North Malabar than in South Malabar. Hence litigation is numerically greater in North Malabar. I should think that the intensity of the evil is felt in a greater degree in South Malabar. Any person whose vocation calls upon him to refer to the Law Reports cannot fail to notice the large part played by these inaptly worded Acts in contributing to the official and non-official Law Reports of the Presidency and to many Full Bench decisions. I have been closely studying the provisions of these Acts and observing the ruinous and unrighteous litigations which were brought about by them. I am decidedly of opinion that any amendments that may be made to the Malabar Tenants' Improvements Act of 1900 will not relieve the oppression of the *kanam* tenants by the janmis. Granting of occupancy right to the *kanam* tenants is the only remedy for the evil. All the same, proper amendments have to be made in the Act to counteract the effect of the

subterfuges referred to by me in my answers to question I (a) (1); I have indicated the nature of some of the required amendments, though, they are by no means exhaustive. But whatever may be the amendments proposed or not proposed, I am positive about one important matter which, if not pointedly brought to the notice of the Committee, is likely to ruin more than ten thousand *kanam* tenants in the near future. I believe that all the accepted principles of legislation in any civilized country, unhesitatingly endorse the view that, if any person or persons try, by any tactics, to circumvent the intention of the legislature by availing themselves of any inapt expressions in any Act or Regulation, the said legislature should unhesitatingly undo the evil effectively by passing a subsequent remedial legislation. Bearing in mind this principle, I proceed to state the minimum remedial legislation required on this point alone, with the relevant reference from the Law Reports.

Whatever the Tenancy Committee may or may not recommend, I should think that it is one of its prime duties to investigate and to remove the grave peril caused by the janmis who have adopted the tactics referred to by me in clause (c) of my answer to question I (a) (1), because it is only just to undo the evil which has resulted by the tactics of persons to circumvent the provisions of the Malabar Tenants' Improvements Act. It is admitted by a Full Bench of the Madras High Court that judiciary is powerless to redress this hardship. The learned Chief Justice has stated thus in 37 M. L. J. at page 54: "If, however, it be apprehended that janmis may be so unwise as to attempt to use the power of severance in a manner oppressive to the tenants, the proper course, it seems to me, is to move for an amendment of the Act." These are the observations of the then learned Chief Justice who is now in the Judicial Committee of the Privy Council. The observations of the learned Justice Seshagiri Ayyar are even more emphatic on the point as he had many opportunities of knowing the lot of Malabar tenants. That learned Judge says at pages 57 and 58 of the report: "I have been reading a great deal about the genesis of the Act (the Malabar Compensation Act). The report of the Malabar Land Tenures Committee shows that the present law is a compromise between the creation of occupancy rights in the soil in favour of all tenants in the same way that the Estates Land Act has done and the endeavour to purchase the landlord altogether. I do not propose to quote any extracts from the report; but, I cannot help remarking that it is a sad commentary on their labours that the law which they recommended should have been so inaptly worded as to enable the landlord to evict the tenant piecemeal. The danger which threatens the tenant is not an imaginary one . . . A tenant erecting a house in a portion of the paramba, or digging a tank in one of the demised premises to irrigate the lands demised are instances in which partial eviction would place the tenant very badly at the mercy of the landlord. When we remember the practice of granting melcharths which prevails in Malabar, it would occur at once that a *karnavan* can, by threatening to evict a tenant from a portion of the holding, exact unconscionable terms prior to renewal . . . I am anxious to catch the eye of the legislature as to the necessity of so amending the law as to make the lot of the Malabar tenant more tolerable than it would be under our decision." In spite of these emphatic pronouncements of the learned Judges of the High Court, neither the Government nor the members of the Legislative Council have up till now made any move in the matter. An amendment to remove this defect which has no retrospective operation is almost useless, because the harm has already been done to an appallingly large degree. I think that an amendment cannot be given a retrospective operation. Therefore, in any tenancy legislation which may be recommended, one of the substantive sections ought, in my opinion, to deal with this matter effectively.

VII. (a) The terms as to amount of rent in the present *kanam* demises should be taken to be the terms binding on the landlords and *kanam* tenants for the land now comprised in the demises. The proportion of produce as the reasonable share that should be allowed to the *kanam* tenant and the janmi may be fixed annually only with regard to any new improvement that may be effected by the *kanam* tenant subsequent to the passing of legislation in respect of this matter. In such cases, for every acre of double-crop wet land newly reclaimed, the janmi's share of *michavaram* may be fixed at a maximum of ten paras of paddy, and for every acre of single-crop

land of new reclamation at five paras. If the proportion in all the kanam demises is to be fixed anew by legislation, it will result in utter confusion and reckless litigation. It is impracticable, inasmuch as the differences exist not merely in different localities, but they vary with different janmis. In the case of all kinds of verumpattam leases also, the terms as to the amount of rent should be taken to be binding on the parties and the enhancement can be allowed only for any new improvement by converting parambas into nanja lands by reclamation in the same proportion.

VII. (b) The consideration of the question is fraught with very many difficulties and may well be dropped. The present rent has to be paid by every tenant. It is not unreasonably high.

VIII. (b) There is no fixed rate of renewal fee which applies to all the janmis who own lands in this taluk. Different janmis adopt different methods and generally try to exact as much as possible from their tenants. Renewal fees are fixed arbitrarily and in many instances the karnavans show a lesser amount in their accounts to enrich their wives and children. Besides the renewal fees proper, the janmi's kariyastan has to be propitiated as an alternative to a melcharth.

IX. The answer to the question does not arise in the light of my answers to previous questions.

X. (a) Melcharths should be declared to be absolutely void and illegal with retrospective effect as regards pending litigations. Right of pre-emption will not afford the checks which are necessary to prevent unscrupulous melcharths. The practical difficulties in such a system will be evidenced by the collusion between the janmi and the melcharthdar in showing a much larger amount of renewal fee as having been paid though, as a matter of fact, a smaller amount might actually have been fixed and paid. There were various tactics adopted by the landlords of Bengal to get over the benevolent provisions of the Bengal Tenancy Act and the landlords and melcharthdars in this province will not fail to invent similar devices and subterfuges to defeat the kanamdar. Therefore, the proposal to give the right of pre-emption can hardly solve the vexed question of melcharths in Malabar. The proposal will further put a premium on falsehood.

X. (b) It is highly impracticable. The word 'bona fide' in this question will result in a number of unrighteous litigations to the detriment of the kanam tenant. It is a truism that it is the long-pursed man who will eventually succeed in such litigations. Even if the courts decree in favour of the short-pursed man, the expenses of litigation will ruin the latter. In short, it is impossible for a tenant to cope with a janmi in litigations. Melcharths should not be tolerated in any event.

X. (c) No proposals would be effective to prevent the collusion referred to in this question. Human ingenuity will devise new schemes of fraud to counteract the provisions of any law that may be framed to prevent collusion between the grantor and the grantee of the melcharth, and it is impossible to provide beforehand any effective checks to prevent collusion. The proposal is unsound and impracticable.

Friday, the 28th October 1927.

Oral evidence of Mr. K. P. Gayatrivallabha Ayyar.

After the examination of Mr. S. K. Ramaswami Ayyar, the examination of Mr. K. P. Gayatrivallabha Ayyar was taken up.

The President :—The Committee has read with great interest the long memorandum of evidence which you have furnished it.

Q.—You are a member of the Palghat bar?

A.—Yes.

Q.—Of how many years' standing?

A.—In all nineteen years, of which, for thirteen years I have been practising in the courts of Palghat, and for six years, I had been practising in the Alattur court.

Q.—Are you a janmi or a kanamdar?

A.—I own my house on janm right and I own my wet lands on kanam right.

Q.—What is the extent of your kanam lands?

A.—About 3 acres.

The President :—Diwan Bahadur Narayana Kurup will examine you first.

Diwan Bahadur T. C. Narayana Kurup :—Q.—I have gone through your memorandum and do I understand right that you say occupancy right should be given to all classes of tenants except the verumpattamdars under the kanamdars?

A.—I do not say that. Even under kanamdars, the verumpattamdars may be given permanent right of occupancy on particular conditions.

Q.—Is that what is referred to in page 11, paragraph 6, of your memorandum?

A.—Yes.

Q.—You will not attach any condition to it?

A.—Yes, it is there. Two and a half times the rent of the land must be paid as compensation to the janmi.

Q.—He must furnish security?

A.—Yes.

Q.—Security for how many years?

A.—Security for two years' rent.

Q.—Are you prepared to give the verumpattamdar permanent occupancy right if security for one year's rent is given?

A.—He appears to be the darling of the legislature; if that be so, let him be given. But if security for two years' rent is insisted on, it will be fair and equitable to all parties.

Q.—In clause (1) under Remedies, you say "Granting of permanent rights of occupancy to all cultivating kanamdars". May I take it as "granting of permanent rights of occupancy to all kanamdars"?

A.—Yes, if the tenant is a cultivating kanamdar, the compensation that he has to pay would be different from what he has to pay if he is a non-cultivating kanamdar for the granting of permanent right of occupancy. I have made the point clear in my memorandum.

Q.—Please see I (a) 1 (c). If parambas are separated from paddy lands and paddy lands alone recovered, would not that be inconvenient to the incoming tenant?

A.—There are many ways by which that inconvenience can be either minimised or removed.

Q.—My only question is, whether it would not be inconvenient?

A.—It will not be very inconvenient practically. Slight inconvenience, if any, can be got over without much difficulty, because the adjoining land might belong to the same janmi and its tenant can be asked to cultivate this land also.

Q.—Will it be paying to the landlord if he is to recover the kulappura, etc.?

A.—It is not on that ground that the splitting of holdings is effected. It is to defeat the kanamdar and to get a secret gain to which the janmi is not entitled. It will be paying to him, if he evicts the paramba with farm house, etc., because these are there as appurtenant to the wet lands; for instance, the farm house was expressly constructed for the purpose of farming the wet land; to take away the farm without taking away along with it the farmhouse is only a device to defeat the tenant.

Q.—So it would be paying to the landlord?

A.—Yes.

Q.—May I suggest that the janmi will find it not paying to recover garden lands along with nanja lands?

A.—It is not a fact. It will be paying.

Q.—Then why should he separate one from the other?

A.—It is to defeat the kanamdar and to get a secret gain.

Q.—What is the secret gain?

A.—Here there is a legislation with inapt words which has given janmis a handle to get a secret gain.

Of course, if it is widely known that such a thing as defeating the tenant is carried on by this device, no legislature will tolerate it.

Q.—What is the gain that the landlord gets?

A.—Non-payment of value of the improvements which he would otherwise have legitimately to pay.

Q.—He loses the property for not paying value of improvements?

A.—He never loses. He can recover it by a suit on the separate demise of parambas. There are 72 years for the redemption of a kanam, 60 years period of limitation and 12 years ordinary period. The janmi can institute a suit for redemption within the said period of 72 years.

Q.—But the kanamdar can continue to live there?

A.—The kanamdar is not living there ordinarily. He will live in his house. His servant or agent might be living there for cultivation. Why should he have a servant unless he has lands for cultivation? The paramba without the wet land is not paying; he cannot get anything from the paramba if he had not the wet lands also along with it. The income derived from the wet land will adequately compensate for the interest on the money which has been spent by the kanamdar in effecting these improvements such as farmhouse, cattle shed, etc. If the wet land is taken away these appurtenances become useless to the kanamdar and he is clearly a loser thereby.

Q.—You would not advocate grant of permanent occupancy right as regards farmhouses?

A.—I do not understand the question.

Q.—Suppose a tenant wants occupancy right for a farmhouse alone?

A.—Without the farm there is no necessity for the farmhouse. The question is contradictory.

Q.—Suppose there is a farm and there is a farmhouse. The two are comprised in the same holding. If the legislature wants to give occupancy right for the farmhouse alone, would you advocate it?

A.—No. Because it is thrusting upon a person a useless and an undesirable burden. The two must be given together. Nobody wants the farmhouse alone without the farm.

Q.—Without farm, will there be kudiyruppu in the farmhouse, i.e., not exactly in the farmhouse, but in the holding?

A.—In some compounds there may be kudiyruppus alone. Watchmen will live there.

Q.—May I take it, there will not be a house belonging to the tenant in a paramba where a farmhouse stands?

A.—Generally.

Q.—If there are houses in an agricultural holding, could you grant occupancy right to the kudiyruppu holders?

A.—It cannot be granted, because it may cause serious inconvenience to the cultivating tenant.

Q.—Can you give any instance in which this severance has been done?

A.—I have answered it; there will be not less than 10,000.

Q.—Can you think of any instance in Palghat where nanja land has been separated from garden lands?

A.—Yes.

Q.—May I take it you are aware of more than 10,000 instances of garden lands having been separated from nanja lands?

A.—My investigation goes to show that the number may be more than 10,000.

Q.—In the Palghat taluk, how many?

A.—More than 6,000 in Palghat taluk and about 4,000 in Walluvanad taluk.

Q.—Have you seen the 10,000 documents?

A.—I have not seen all of them, though I have seen many. Wherever the kanam tenants could be compelled to do it, this has been done by the janmis.

Q.—May I know in how many cases you have seen documents?

A.—I cannot now say the exact number. But I do submit that registration copies of these documents are within the reach of the committee and documentary

evidence is the best evidence. The documents could be inspected or statistics obtained from sub-registry offices which are all under the control of the Government.

Q.—You cannot remember having seen any documents?

A.—I have seen many. Ten janmis' documents I have seen. May I give the names of those ten janmis?

Q.—May I take it that all these ten janmis have successfully severed wet lands from parambas?

A.—I would say oppressively severed, not successfully, because it is not a legitimate success as the kanam tenant is at the mercy of the janmi who can dominate the will of the former.

Q.—Some ten janmis have done it in 10,000 cases?

A.—I do not mean it in the proportion of each janmi to 1,000. (Laughter.)

Q.—Can you roughly say what is the value of improvements in any garden lands severed?

A.—In one instance, O.S. No. 120/1921 which was recently disposed of in the Ottapalam Munsif's Court, in which I appeared for the defendant, this tactics was successfully applied and the janmi evicted the nanja lands alone without the garden and the farmhouse, etc. The value of improvements in the paramba portion with farmhouse, etc., may be more than Rs. 2,000. The rent of the nanja land which was evicted was estimated by the court at 1,600 paras of paddy. Kanam in that holding was below Rs. 2,000.

Q.—Would you kindly say when this severance was first begun to be made?

A.—Exactly after the Tenants' Improvement Act I of 1887 was passed and as a subterfuge to circumvent the provisions of that Act. I believe that this subterfuge was first begun by an absentee foreign janmi living in the Cochin State, but who holds extensive lands on janm in British Malabar. The document is of 1890 and this was the first and earliest document which has come to my notice in which this subterfuge was practised.

Q.—You say "There is no standard for fixing the renewal fee and several janmis therefore try to exact as much as possible; there is no standard for enhancing michavaram, etc.," and the kanam tenants submit themselves, etc. That is because in spite of these disadvantages, lands are paying?

A.—Not exactly so. For instance, I have been a kanam holder. My family has been holding these lands for a long period. I do not mean that my janmi oppresses me. But I give you an illustration. My ancestors have been holding the lands from time out of memory. I do not care if something more is demanded by the janmi, because I am an earning member. Whatever the janmi asks I am paying without grudge, though it is not profitable to retain those lands. Therefore fondness to retain ancestral lands is one of the reasons. There is a maxim that the landlord always clings to his land. It applies equally to the tenant. That might be one of the reasons. There are other reasons also. The kanam tenants are awfully afraid of the janmi. The janmi will fight up till the High Court. They submit to this levy, because they have been in possession of the land for a series of years and because they do not want to be oppressed by means of a protracted and costly litigation.

Q.—You refer to a decision in your memorandum?

A.—Yes, 37, Madras Law Journal, 47 F.B.

Q.—May I take it that by the law as understood by you there can be partial redemption?

A.—Yes. Eviction of a part of the holding by payment of the full amount charged on the holding. That is the principle laid down in 37, Madras Law Journal, 47 F.B.

Q.—You say "Dissensions between the joint trustees of devaswams generally result in melcharths and evictions of the kanam tenants". How does that arise? How does it result in melcharths?

A.—Such dissensions generally result in melcharths and evictions. I shall give an illustration. There is a devaswam called Anjumoorthi devaswam near Mangalam in the Alathur Deputy Tahsildar's division. There are three trustees in

that devaswam, viz., Karipalli Mana, Kattil Mana and Mecheri Mana, all absentee foreigners residing in the Cochin State. The management was being carried on by Karipalli Nambudiripad alone for a long time. The other absentee foreigners might receive a few paras of paddy every year and Karipalli Mana was left in sole management (though each was equally entitled to be in management). Subsequently, disputes arose among them as regards the right of management. Mecheri Mana and Kattil Mana granted melcharths of almost all the kanam holdings of the devaswam. Karipalli Mana gave renewals to former tenants asserting that he was entitled to grant renewals as managing uralan. There were suits, suits for redemption were in the Alathur Munsif's Court and there were most oppressive melcharths in certain cases. For instance, in one case which has directly come to my notice, there were teak plants about 8 and 9 years old—the number may be 2,000—on the side of the road to Wadakkancherry and it was at that time that a melcharth was given. The Tenants' Improvement Act in that respect is very inadequate. The melcharthdar took the melcharth for the purpose of getting undue advantage of the increased value which he could derive on account of the growth of these teak plants. Of course, the prior kanam tenant was evicted. There were about 20 melcharths granted by that devaswam. This is how melcharths are granted as a result of disputes between joint trustees in other devaswams also.

Q.—I thought dissensions between the uralers prevented the granting of melcharths?

A.—It is not so. The other two co-trustees formed the majority and melcharths were granted. If the uralers had not quarrelled like that they might not be giving so many melcharths. Dissension does not give protection. Some tenants took renewals from one of the trustees, because he was the managing trustee. He said as managing trustee he was entitled to renewal fee. There were several other cases also like this by which the prior tenants were ruined.

Q.—“Rulings of the Madras High Court insist on the existence of an adequate necessity or benefit to the tarwad devaswam or stanam for the validity of a renewal of a kanam holding prior to the expiry of the 12 years' term fixed in the prior kanam deed”. That principle applies as regards melcharths also?

A.—Yes. Unexpired demises and unexpired melcharths.

Q.—Then see I (a) (1) (k). “There are yet other janmis who adopted other tactics, etc.” Do you know very many instances of that sort?

A.—I know very many instances of that sort and I would commend to the serious attention of the Committee that at least one instance ought to be personally inspected by you. Otherwise you won't be doing justice. There are a number of instances, the most oppressive I have ever known in the history of Malabar tenures.

Sir T. Desika Achariyar:—Q.—Will you give details of that one instance which you want the Committee to personally inspect?

A.—Yes. That was a very grievous case. The tenants were two Muhammadan brothers Kadir and Kammu. The janmi was one of the biggest in Malabar, viz., Late Lieutenant Kavalappara Mooppil Nayar. The estate is near Alathur. The name of the estate is Payyakundu; it is near Veezhumadai hills. All the trees were newly planted and there were many teak trees. The tenants have now almost lost their life on account of this action of the janmi, because they have worked and spent so much on this estate. There are all sorts of similar cases.

Q.—These are plantations in Palghat taluk?

A.—Plantations in the forests, in the hill slopes and on plains in the Palghat taluk.

Q.—After ten years, has anything to be done to the teak trees?

A.—There is a serious misapprehension with regard to that matter. Watching is the most important item. Otherwise, somebody will cut it and remove it. So you have to be always on the watch.

Q.—Have you any idea as to what would be the amount necessary for planting and rearing teak trees up to ten years?

A.—It is planted not by one or two in an estate, but by hundreds. The paramba whereon teak is planted will always be attached to some nanja land. If the tenant who plants teak is a cultivating tenant, he spends for watching charges from

the produce of the land. But if a verumpattandar holds under the kanamdar who plants teak, then some paddy is deducted and given credit to out of the rent of the land as watching charges to him. That is one item; that watching charge should be given to him every year. The amount or rate of watching charges differs in different places, so that we cannot give a definite rate for all places. Watching charges may be roughly 100 paras of paddy every year if the area is not too big. If there are 2,000 plants, watching charges may come to 100 paras of paddy every year for 25 years. Below 25 years, a teak tree is not fit for any sort of good timber. The cost of planting is not much. We may get about 100 teak plants for about two annas, but of which 75 will die away. The remaining 25 may survive; so it comes to this, that we get 25 teak plants for two annas. And then some labour for planting and then fencing for ten years. For 2,000 teak plants the fencing charge may come to 100 paras of paddy every year. Previously it was not so much. But now-a-days the cost of fencing has increased. So in all, it will roughly come to 3,500 paras of paddy with interest for planting and protecting 2,000 teak plants for 25 years.

Q.—What does the court allow as value for a teak tree 25 years old?

A.—I have given it in my answer, i.e., from 3 to 5 rupees.

Q.—“Evicting a kanam tenant if he leaves no male heirs”? What is it?

A.—That is one other source of oppression which is prevalent. I am aware of that only in Palghat taluk, but the particular janmi who does it, owns lands in many amsams in Palghat, Walluvanad and Ponnani taluks. That is to say, if the tenant is a Brahman and if he dies leaving only a widow, after her death some reversioners will come in as heirs; very often they will not be granted renewals. Suppose the kanamdar was a member of a Marumakkattayam family. If he has no sisters or nephews, then the janmi says that he has no heirs though he has got a wife and children, and though he can will away and make a gift of his property to them. Not merely that. Even if there is a daughter, when that daughter is 42 years old, the janmi says she is barren and she will not have any more sauthanams. But as regards the Marumakkattayam tarwad, I should say in all fairness to the present feelings of the Marumakkattayees that their family is not at all extinct even in such cases. Every Marumakkattayee if he can afford, makes a gift to his own wife and children and they are living with him.

Q.—These tactics are adopted only when the family becomes extinct?

A.—I do not concede that position, because when there is a rightful heir, i.e., when the tenant lady has got a daughter and when both of them are healthy, the janmi evicts them because that daughter is thought by the janmi to be barren, as she has not brought forth a child within that age of 42 years.

Sir T. Desika Achariyar:—Q.—You spoke of a particular janmi. Who is he?

A.—If the Committee is anxious, I shall tell you. It is Poomulli Mana, one of the biggest landlords who owns arable nanja lands, the acreage of which may be a little short of the whole acreage of the wet lands in North Malabar.

Q.—“Insisting on the kanam tenant to consent to pay a levy of an arbitrary amount of kuttikanam on all existing trees, etc.” There also, are there many instances? Will that come to 10,000?

A.—I cannot say it is 10,000. But there are many instances.

Q.—This tactics obtains in the case of a number of janmis. Since how many years has this been in existence?

A.—About 15 years, I suppose. Many janmis have adopted these tactics.

Q.—You have personal experience?

A.—Yes. I have seen documents and I have seen the particular places also.

Q.—What kinds of trees?

A.—All kinds of trees, timber trees, fruit trees, etc.

Q.—What was the kuttikanam?

A.—One rupee for every teak tree and half a rupee for other trees. That is one sort of levy. Another sort of levy is to insert a false recital in the renewed deeds that all the trees standing on the demised property belong to the janmi and not to the kanamdar. That is harsher.

Q.—What is the ordinary kuttikanam levied by a janmi?

A.—He is not entitled to any kuttikanam at all under the present law.

Q.—In forest areas where there are no nanja lands, are they not leased on kuttikanam? What is the general rate of kuttikanam levied?

A.—Two and a half rupees per cart-load which is equal to $2\frac{1}{2}$ candies if the trees belong to the janmi. So it comes to one rupee per candy. That was in the year 1909. I believe that Rs. 3-8-0 per vandi-bharam of $2\frac{1}{2}$ candies is the present rate for all trees except teak and rosewood. For rosewood, it is Rs. 6 per candy and for teak Rs. 8. But this price is for trees belonging to the janmi and not for tenants' trees.

Q.—Then later on you say "the tenant is bound to pay renewal fee to the kovilagam at each renewal. The recent decisions of the Madras High Court have made serious inroads on this class of tenants, etc."

A.—Yes. Unless renewal fee is proved to have been paid, they are put to very great difficulties. So far as my knowledge goes, kovilagoms generally receive renewal fees and then only they grant renewal deeds. The High Court gave the ruling that you must prove that you have paid renewal fees. But it is considered impertinent by the janmi to be asked for a receipt for renewal fees by kanam tenant or a verumpattam tenant. After the expiry of the prior term, the tenant pays the proper fee and takes a renewal deed also. Then the kovilagam brings a suit in the very next year alleging that it is a lease from year to year and that the tenant is not entitled to hold for 12 years, that he has not paid renewal fee and so on. So, according to the recent decisions, you have to prove even in the case of kovilagam leases that you have paid consideration for 12 years. The tenant is unable to prove it without a receipt.

Q.—Even though the document gives 12 years' term, this is the case?

A.—The kovilagam leases do not expressly specify any term.

Q.—Have you seen cowle accounts prepared by Revenue officers?

A.—Yes. I have seen cowle accounts.

Q.—It will show the probable cost necessary?

A.—The revenue which has to be paid for five years. There will be remission of revenue for a period and then there will be a small gradation of increase. I have not seen any such cowles as referred to in the question.

Q.—Can we get copy of it?

A.—Certainly. They are filed as exhibits in courts.

Q.—At the time when these cowles were obtained by the cultivators, were they in a worse position than they are at present?

A.—Certainly not.

Q.—Were they in a worse position then as they could not get value of improvements as they get now?

A.—It is only when the question of eviction comes that the question of value of improvements also arises.

Q.—Your idea is that once a man reclaims waste lands on cowle, he should not be evicted.

A.—Yes. He is in possession of a substantial right. In the eastern districts, mirasidars and others reclaimed waste lands on being granted on darkhasts by former sovereigns and a cowledar's right is not in any way less than that of a mirasidar.

Q.—Your idea is as regards cowles granted by Government. What about those of private parties? Were these cowles granted in respect of properties belonging to private janmis?

A.—There is no private property in Malabar or anywhere else in India. The question of ownership should be understood in an altogether different light. There is no private ownership and the King or his representative, such as, a zamindar or a janmi is the rent collector and he is entitled only to his *varam*. That is the position throughout India. That is the position sanctioned by Hindu Law. That was the customary law of Malabar until British Courts began to take a different view. There is absolutely nothing peculiar to Malabar. It had always been a Hindu State, till the invasion by Haidar Ali and Tippu Sultan.

Q.—These cowles were granted in respect of properties which belonged to anybody?

A.—Yes; in respect of properties under the authority of a particular sovereign. The sovereign was always entitled to fix the share or the *varam* which he was entitled to.

Q.—I believe you have seen a number of cowles? All these cowles were granted without prejudice to the rights of the janmi?

A.—If any.

Q.—I understand that the cowle simply gave a man immunity from prosecution and remission of taxes for a number of years. That was the object. As regards waste lands, do you think it belonged to nobody?

A.—I do not concede that position. At the time when these cowles referred to were granted, the waste lands belonged to the persons who squatted and effected improvements; subject to the proper payment of the share due to the sovereign or his representative the cowledar was not liable to be ejected by anybody. The judicial decisions to the contrary are not correct and proceed on a misconception.

Q.—Now, is the cowledar ejected?

A.—Certainly, he is ejected now.

Q.—Assuming for the sake of argument he was liable to be ejected at the time when he obtained the cowle, don't you think his position is much better now than when he applied for the cowle, by the passing of the Improvements Act?

A.—How can I assume that? I must say, at any rate, that on account of the bad working of the Tenants' Improvement Act, his position is now no better.

Q.—Under the Improvements Act, can it be better?

A.—But it is never working satisfactorily, and generally speaking, it is impossible to work it satisfactorily, so that unless you accord permanent occupancy (right) to such a tenant, you cannot do him justice. The Commissioners who go to value improvements do not know anything about the details of reclamation of cowle lands. It may equally be asked, what do I know? I have been investigating the position for the last so many years and therefore I am conversant with it.

Q.—May I take it that the Improvements Act has been a useless piece of legislation?

A.—It is in practice a mischievous piece of legislation though conceived in good spirit.

Q.—Therefore on account of the Improvements Act, the position of the cowledar is worse than it was before?

A.—Yes, on account of its bad working. I shall tell you how it works. If a professional gentleman of some years standing is appointed as a Commissioner, he may perhaps be able to do some justice to these cowledars. But generally gentlemen of four or five years' standing are appointed by courts and what do they know about cowles and cowle lands? They do not enquire as to what was the state of the land, what improvements were effected and what should be the value of such improvements. Then again there is the question of the honesty of Commissioners.

Q.—Your opinion is that the Improvements Act does not give proper value of improvements?

A.—Though theoretically it gives, practically it does not give proper and adequate value of improvements.

Q.—There are about 2,000 acres of nanja lands converted from wild forests in Akamalavaram of the Palghat taluk which belong in janmam to the Emoor Bhagavathy devaswam. Did they all belong to cowledars?

A.—I think many belong to cowledars.

Q.—How did all this property become the property of the janmi?

A.—There was some sort of wrong interpretation given by the High Court, and therefore these lands are the janmam of the devaswam now. These were given to the Bhagavathy devaswam by the Palghat Raja, the then ruling prince here, who himself was not really entitled to evict the cowledar. He was really entitled only to his *varam*.

Q.—I think he ceased to be the sovereign when the cowles were granted?

A.—He was entitled only to his varam. Though the proprietary right is vested in the cowledar, the sovereign is always entitled to his varam. The devaswam is only the representative of the sovereign, whoever he may be.

Q.—What is it that you suggest regarding these tenants?

A.—Certain as anything they hold a position even higher than that of the kanamdars. If any tenant is entitled to permanent occupancy right, they should first be given that right.

Q.—You want a special law to be passed?

A.—A comprehensive law which this Committee is entitled to recommend.

Q.—That is, as regards these reclamation lessees; you want it to be specifically stated that the leases granted by Palghat Rajas (kovilagoms) should be made permanent?

A.—Yes.

Q.—You want all improvement leases like this to be made permanent?

A.—Yes. I took this as an instance. There are several such cases in Palghat taluk. All such lessees should be given occupancy rights.

Q.—As regards tenants holding under *Anubhavam*, etc., you want a full bench to decide the question finally?

A.—No.

Q.—You want the Committee to take evidence of so many instances of these tenures?

A.—I should think so. It is not at all difficult. Your reference gives ample scope for that also. There are very many renewals granted by the janmis in such cases. It is only very recently that Kuthiravattath Nayar began to dispute the assignee's right. The Zamorin began the practice. These are disabilities of a serious nature and I want to impress upon the Committee the nature of these disabilities.

Q.—As regards kanam lands, how many melcharths have been granted?

A.—Unless you take the figures, you cannot come to a definite conclusion. In 1894, Mr. Bradley appears to have been horror-struck and was of opinion that melcharths ought to be prohibited. Mr. Danco, the Collector of Malabar in 1899, was strongly of opinion that melcharths were too numerous and oppressive and drafted "The Malabar Melcharths Bill, 1899". The Hon'ble Sir Henry Winterbotham in his speech before the Legislative Council in 1899 gave a warning to the janmis to put a stop to this practice as an alternative to the conferring of occupancy rights on the Malabar tenantry. The number of melcharths granted for six years from 1906 to 1911 was 18,101 and for five years from 1919 to 1923 was 17,899, i.e., the number of melcharths for eleven years was 36,000. If in five years there are 13,000 and odd melcharthdars let loose upon the society, would not the tenantry be destroyed? From 1919 to 1923, 15,767 melcharths have been granted in North Malabar alone. The practice appears to have begun from 1862. No good Government like the British can afford to tolerate this sort of persistent and defiant oppression any longer.

Q.—Have all these melcharthdars brought suits to recover the property?

A.—Not all. In some cases, the prior kanamdars, fearing the cost of heavy litigation, may come to terms without going to courts.

Q.—Is the property reduced to possession by this means?

A.—Not in all cases. Let us take a typical case, for example, that of the Zamorin. When the Zamorin happens to be a member of the Kizhakke kovilagam, he generally gives melcharths to Kizhakke kovilagam and the kanam tenant attorns to the melcharthdar. When the Zamorin happens to be a member of the Patinhare kovilagam the Zamorin grants melcharths to the Patinhare kovilagam and then the kanamdar is to attorn to the Patinhare kovilagam. Otherwise, he is evicted. It is in that way that we find instances of most oppressive melcharths given indirectly to enrich a particular man's tarwad though he is a stani and he is not entitled to do so. There it does not stop. The right, which the Zamorin had, was only the sovereign's

right to receive varam. If the land had belonged to the Zamorin as a sovereign just as the Cochin or Travancore Maharaja, the case would have been different and there would be no melcharths or evictions. The tenants should not be at a disadvantage because the sovereignty now vests in the British Government.

Q.—So, nowadays, melcharthdars have either obtained possession of the property or got attornment?

A.—Some suits have been dismissed because melcharths have been granted prior to the expiry of the term. Also, if the kanam tenant is a strong man, he takes up the case till the High Court.

Q.—May I take it that in some cases they are able to obtain possession or get attornment?

A.—Yes.

Q.—Would you grant permanent occupancy right to such people?

A.—Much against my will, I might be forced to concede that position. Because that is your law; he is entitled to the right of subrogation. If we push the matter to its logical conclusion, he is subrogated to the position of the prior kanamdar. There are decisions of the High Court on that point and under the Transfer of Property Act he is entitled to the right of subrogation.

Q.—You will advise giving permanency?

A.—No. I will put the question of law to the consideration of the Committee.

Q.—If the question of law is all right?

A.—Then perhaps they may have to be given.

Q.—Supposing the question of law is against them, should it be given?

A.—Unless he is a cultivating kanamdar, I will not recommend the grant of occupancy right to him if he is a melcharthdar; if he is a cultivating melcharthdar (melcharth holder), on that ground he may be given.

Q.—Why is it to be given to him in that case?

A.—Because, as I have already stated, the cultivator is the darling of the legislature and every law and every legislature favours him. He is a more substantial tenant than the verumpattamdar though the process by which he got the land is not very admirable or moral in the sense in which we view it. If he is a cultivating tenant, he should be given.

Q.—Am I right in saying that the agitation on behalf of permanent occupancy tenure for the kanamdar is by persons who have recently obtained melcharths and ejected previous kanamdars?

A.—I deny that. It is an incorrect statement. This agitation for permanent occupancy to the kanamdar is at least as old as 1880, if not 1793. The present agitation is only a continuation of the previous agitation. If the agitation has of late increased in volume or intensity, it is because of the attitude of the janmi sabha in assuming autocratic overlordship, passing irrational resolutions and causing immense propaganda against the interests of the tenants. This attitude of the janmi sabha has emboldened the janmis to follow a course of persistent oppression which has exasperated the tenants. This is the correct position. Any version to the contrary comes from interested quarters.

Q.—Are not the present kanamdars mostly persons who have obtained melcharths and ejected previous kanamdars?

A.—I do not concede that position. It is not correct.

Q.—This agitation is not in the interests of those who have obtained melcharths?

A.—Certainly not.

Q.—So you have no objection to give permanent occupancy right to them?

A.—It is not my objection; it should be the policy of the State. In my written answers, I have defined the particular principles on which tenancy legislation should proceed. I have also defined the main principles which have been followed throughout British India in matters of tenancy legislation and I submit the same principles may be followed here.

Q.—As regards renewal fee, would you kindly say what is the renewal fee now exactly?

A.—Whatever is exacted by the janmi, that is all. There is absolutely no principle.

Q.—What is your view regarding the rate of renewal fee stated by Mr. S. K. Ramaswami Ayyar in his evidence?

A.—I beg to differ from my learned friend Mr. S. K. Ramaswami Ayyar who gave evidence here regarding this. I do not think he is correct. The rate of renewal fee which he gave was, as stated by him, that adopted by Melathur Appathara Patter who is no other than the Appathara Patter referred to in *Logan's Malabar Manual*, volume I, page 584, i.e., against whom the tenants complained of oppression. It is really an oppressive rate of renewal fee.

Q.—You say that melchharth should be entirely prohibited?

A.—Yes.

Q.—Suppose a janmi wants to raise an additional kanam even the exponents of the tenancy cause admit that certain janmis have to be allowed and are entitled to this right, e.g., janmis having only some parambas, etc.

A.—In any legislation that may be proposed, it is not one man's grievance that ought to be looked into by the Committee. It is the practicality of the thing that should be considered. When the case of millions is involved, it is not one man's grievance that ought to be considered. If necessary, he can hypothecate his property and borrow money.

Q.—He has to pay a high rate of interest?

A.—The kanam tenant is now suffering from more serious grievances. Moreover, when he raises money on hypothecation, I think he need not pay interest for a long period; he will get his renewal fee soon and can discharge the debt.

Q.—So melchharth should be prohibited entirely?

A.—Yes. There is no half-way measure regarding melchharths.

Q.—If kanam is made not redeemable, will the value of the janmi's right on the property come down?

A.—I suppose I never stated that kanam should be made absolutely irredeemable, i.e., without conditions. Fixity is what is wanted, and that too subject to the payment of customary dues.

Q.—When you give fixity, will the value of the janmi's right on the property come down?

A.—Really it will not affect him to a considerable extent.

Q.—To some extent?

A.—To the extent the power to do harm will be taken away. That is all. I do not think there will be any substantial deterioration in value.

Q.—Will it come down 5 or 10 per cent?

A.—There might be some deterioration. It cannot be assessed exactly.

Q.—You will always give right to the janmi to evict the tenants to cultivate the property?

A.—No. That will be giving a right to the janmi to recover the property under pretence of cultivation.

Q.—If he wants to extend his building?

A.—I have provided for that in my memorandum. I forgot to mention one point. In Marumakkathayam tarwads, there are kanams granted by the tarwad in favour of tavazhis as a sort of maintenance allotment. In such cases, if in some tavazhi the members grow numerous and if in other tavazhis the members grow less in number, the karanavan is entitled under the present law to make a reallocation, because he can, under the present law, evict the kanam. But if, under any law which may be enacted subsequently, the kanam happens to be irredeemable, this right of the karanavan will be lost, and the co-owners of the property will be the sufferers. That also might be made an exception, viz., when the kanam holdings are granted by the karanavan of the tarwad to the members of the same tarwad as a maintenance allotment. The Nambudiri illom also might be included in that category.

But the karanavan should not be allowed to do as he likes with the property. He must reallocate to the members soon. Otherwise, it would be really doing injury to the co-owners of the property.

Q.—If he wants to benefit himself by this, you would not allow? You won't give him a chance even when the Bill begins to operate?

A.—Exactly. I shall tell you the nature of the oppression that may result therefrom. Suppose a janmi has under him 500 holdings. To-day he will go to one kanam tenant and say: 'I want this particular holding for my cultivation.' The poor tenant will say: 'Don't evict me, Sir, I shall pay you Rs. 500.' The janmi receives the amount from him and does not evict him. To-morrow he will go to another tenant and do the same thing. In this way he will go on making money and this will be used by him as an engine of oppression, which no legislature ought to tolerate.

Q.—Suppose there are lands very near the tarwad and suppose the tarwad is a janmi and the lands are held on kanam. He wants to cultivate the land. What would you suggest?

A.—That is a matter for consideration. A janmi should be allowed to evict kanam lands which lie surrounding his house, for cultivation.

Q.—Have you anything to say in favour of the janmi?

A.—Yes. Renewal fee must be given to the janmi. He must be given a first charge on the property subject to land revenue and local cesses. He should be given michavaram which should also be made a charge on the land. He should be given enhancement of michavaram if there is additional improvement effected by the kanam tenant. Over and above that, he should be given compensation. These and other things I have indicated in my answers.

Q.—Compensation for taking away the right to do harm to others?

A.—Yes. Anyhow he thinks it is a valuable right to him which he has acquired by 75 years' bad decisions.

Q.—Have you any experience in coconut gardens in Palghat?

A.—Yes.

Q.—According to the Improvements Act, what is the charge on the coconut tree?

A.—As regards coconut gardens, the Improvements Act is a failure.

Mr. K. Krishnan:—Q.—In the case of michavaram payable by the kanam tenant, you are not for increasing the existing michavaram unless fresh lands are reclaimed by the tenant?

A.—I think so.

Q.—You are not for any renewal fee from verumpattamdars under the kanam tenants?

A.—No.

Q.—Now, instead of giving permanent occupancy right to the kanam tenant, would you be satisfied with a provision giving option to the tenant to renew on the same terms or on some other terms?

A.—Permanent right of occupancy with a clause for forfeiture, if any, is the minimum that is necessary. Anything short of it will be a failure. That is my considered opinion.

Q.—The question of pre-emption would not work satisfactorily in your opinion?

A.—It will not merely not work satisfactorily, but it will create much heart-burning and injustice. Further, public morality will become so bad that I think it will not work satisfactorily.

Q.—With regard to renewal fees, I believe you said that you heard Mr. Ramaswami Ayyar's proposals and you are not at all in favour of it?

A.—I said I was not in favour of it.

Q.—You say Mr. Ramaswami Ayyar's proposals are very hard and will work great hardship?

A.—Yes. Further, they will give rise to litigation also.

Q.—With reference to net rent, how could you calculate it?

A.—My experience is that the kanamdar or the verumpattamdar who holds the land will understate the rent and the janmi will exaggerate the rent. It is therefore impossible to fix the net rent for every case. In Travancore legislation there is some provision regarding net rent and the result is that for every holding there is a suit.

Q.—Leaving alone the question of litigation, how can you calculate the renewal fee?

A.—Revenue may be taken as the basis.

Q.—How many times revenue would give us the renewal fee?

A.—I have not considered this question in all its aspects.

Q.—Would you kindly consider and tell us?

A.—Yes.

Q.—Supposing it is with reference to the verumpattam, leaving alone the question that litigation will arise, can you give the figure?

A.—I cannot conceive of any method by which litigation can be avoided if net rent is to be fixed anew with regard to all the holdings.

At this stage, the President requested the witness to appear the next day for completing his examination.

The Committee then rose for the day at 5-45 p.m.

Saturday, the 29th October 1927.

The Committee met exactly at 11. All the members, except Messrs. Krishna Menon, Krishnan, Narayana Kurup and Raja Vasudeva Raja of Kollengode, were present.

The examination of Mr. K. P. Gayatri Vallaba Ayyar was again taken up.

Sir T. Desika Achariyar :—Q.—I am going to cross-examine you only to elicit information. I want to know your position exactly with regard to verumpattamdars who are simple lessees. I should like to know what treatment you want to give them. I mean tenants-at-will.

A.—In my opinion they may also be given permanent rights of occupancy or at least some fixity of tenure with conditions.

Q.—What conditions would you impose upon them?

A.—The janmi should be paid compensation at the rate of two and a half times the verumpattam for one year. That is one condition. Secondly, over and above that, the verumpattamdar should give two years' rent in advance as security for future payment of rent. These are the conditions for granting the verumpattamdar permanent right of occupancy.

Q.—To whom is the advance to be paid?

A.—When there is a janmi and a kanamdar, the advance should be made to the kanamdar, and the compensation to the janmi. When the verumpattamdar is holding directly under the janmi, compensation and advance are payable to the janmi.

Q.—So your position with regard to verumpattamdars is that all the verumpattamdars can have some sort of fixity of tenure. Is it permanent right of occupancy?

A.—That is one suggestion. I have got an alternative suggestion to make. That is, payment of advance of rent for 2 years to the immediate landlord should entitle the verumpattamdar to hold the land for 8 years on condition that if he makes default in the payment of one year's rent the landlord should be given the right to recover the property but the tenant should be entitled to deposit the arrears with costs before the decree is passed whereby the forfeiture will be relieved against.

Q.—I thought that was your position with regard to kovilagom lessees. With reference to all verumpattamdars you are willing to grant this?

A.—Yes. It will be conducive to the welfare of the people.

Q.—You say janmi should get two and-a-half times the rent. What does it mean?

A.—Rent in this respect means verumpattam which the verumpattamdar is liable to pay to the immediate landlord under his lease whether it be with the janmi or with the kanamdar.

Q.—How is it calculated?

A.—Under the contract under which he now holds.

Q.—So that particular tenant who is to be given permanent occupancy right should pay two and-a-half times the rent that he is liable to pay under the contract under which he holds.

A.—Yes.

Q.—Can you not fix the rent with regard to the area?

A.—That will lead to litigation and disparity.

Q.—When you give permanent right of occupancy, you must also fix a reasonable rate of rent based upon the assessment or upon something which is certain? Is it not so?

A.—Yes.

Q.—Suppose you fix the rate of rent based upon the assessment?

A.—It will be impracticable and it will not be a success. The present rent which the tenant is liable to pay under the lease either to the janmi or to the kanamdar, whoever he may be, is not abnormal rent and considering that he gets permanency that rent may be adopted as the basis.

Q.—Are you getting any rent from your verumpattamdar?

A.—Yes.

Q.—Are you paying any rent to the janmi?

A.—Yes.

Q.—What is the rent that you get from your verumpattamdar?

A.—For 3 acres 275 paras of paddy.

Q.—That is roughly 90 paras an acre from the verumpattamdar. What is the yield of one acre of land?

A.—200 paras an acre for both crops together.

Q.—That is after deducting cost of cultivation and seed.

A.—Yes. Mine is one of the best lands. It is double crop land which is not liable to be dried up for want of timely rains.

Q.—What is the Government revenue for it?

A.—I am paying below Rs. 20 for 3 acres.

Q.—You get 200 paras net for an acre?

A.—I do not get it. My verumpattamdar gets it.

Q.—The land yields 200 paras per acre. What have you to pay to the janmi?

A.—I have to pay to the janmi 30 and odd paras of paddy as michavaram. I get 90 paras per acre as rent from my verumpattam tenant.

Q.—What does the verumpattamdar get?

A.—110 paras per acre.

Q.—Do you mean to say that he gets more than half the net yield?

A.—In my lands, generally. There may be some bad seasons. Then, of course, he may not get so much.

Q.—Perhaps you are an exceptionally good landlord and perhaps your lands are exceptionally good. I should like to have a general understanding. Whatever the condition of the land, I am told that the man has nothing left except straw.

A.—There is something to be said in favour of that view also. There are, of course, some places where there are natural facilities and drought and other things won't affect such lands. My land is one of that kind. There are yet other places where neither such natural facilities nor artificial facilities such as tanks exist. Such lands may not, first of all, yield so much, i.e., the yield would be a little less, and more than that, if there is a bad season the tenant would be ruined on account of want of timely rains.

Q.—Let us proceed in the manner in which I want to proceed so that I may get the information that I want.

I have got a series of tables prepared here which go to show that the cultivator gets his coolie only and that too only if the second crop is a success. That is with regard to verumpattam cultivation and verumpattam cultivation is nobler than coolie work.

A.—I should make a distinction here. There are two different classes of verumpattamdars even in the case of tenants-at-will, substantial verumpattamdars and mere coolie verumpattamdars, who may be placed in the position of what my friend Mr. Subbarama Ayyar put as kuthakakkars. There are substantial verumpattamdars whose case is not like that.

Q.—A verumpattamdar is a lessee for a particular term. It may be a year. That man engages to pay rent for a year, cultivates the land taking advances from you and borrowing from elsewhere. Well, in most places in this district he hardly gets anything except straw. Is that correct?

A.—It is not correct. There is no shadow of doubt that if he is a man of substance, the verumpattam rent that he contracts to pay is less. If he is not a man of substance the rent that he contracts to pay is more for the same land. So, if the verumpattamdar is a man of substance, he gets a good margin of profit, otherwise, profit is less.

Q.—So in your opinion the verumpattamdar gets half the net yield?

A.—Not generally, he gets one-fourth everywhere except when bad seasons intervene.

Q.—In your district I take it that two-fifths of the net produce is the assessment.

A.—The question of assessment will lead to larger questions.

Q.—I simply want to know whether there can be any certainty arrived at with reference to rent, instead of leaving it to the caprice of each landlord and the capacity of each verumpattamdar.

A.—It will be an utter failure here.

Q.—Will the verumpattamdar be able to pay compensation and advance?

A.—If the verumpattamdar is a substantial man, he will be able to pay two and-a-half times compensation as well as 2 years' advance. If he is not so substantial, he may also be given some relief in this way. The verumpattam lease should be subsisting for 8 years for which the tenant need pay only 2 years' rent in advance but no compensation to the janmi, and also another suggestion along with it as a condition that the landlord will not be entitled to raise the present rent at any time except when the tenant makes new reclamation in which case one para of paddy will be the rent payable by the tenant to the landlord or if the landlord makes new reclamation an additional rent should be fixed, i.e., the present rent should be the basis and there may not be any enhancement of rent except on these conditions even if the verumpattamdar is altered.

Q.—In the alternative fixing 8 years' term, you propose nothing to the janmi?

A.—No, because the verumpattamdar does not get permanent occupancy right and the janmi's right is not affected in any way.

Q.—Why do you fix 8 years arbitrarily? What if it is 6, 10 or 25?

A.—Eight years is a term in the course of which the tenant will get some love for the land. It must be a little more than 6 years. It may be even more than 8.

Q.—I should like to know exactly what the alternative for permanent occupancy right you propose is?

A.—That would be fixity for some years with another benefit to him, namely, the rent for that land, whoever the tenant may be, should not be more than the present rent. I should fix the rate of rent on the land for ever, so that the landlord will not have any inclination to change the tenant. The present rent has to be taken as the basis to begin with, unless new reclamation is made. By adopting this course the verumpattam tenant practically gets the benefit of permanent tenure without paying two and-a-half times the compensation and that will be a substantial benefit to him.

Q.—So that with regard to verumpattamdars you will have either permanent occupancy on the terms already mentioned or 8 years' term on the terms now mentioned.

A.—Yes.

Q.—You think that will give them fixity of tenure?

A.—That will practically give them fixity of tenure. Further, if the rent is fixed like this, there will no more be any fear of rackrenting.

Q.—With regard to kanamdars what proportion of them are actually engaged in cultivation?

A.—I fear that many who have given evidence and many who have sent in their view to the Government have made a mistake in that matter.

Q.—I am told that even in the opinion of Sir C. Sankaran Nayar, the whole class of cultivating kanamdars has disappeared and a new race has sprung up who are either professional men, vakil's clerks or karyasthans who have no dealing of any kind with the property and who regard it as investments?

A.—With due deference to the views of Sir C. Sankaran Nayar my experience tells me that it is not a correct statement.

Q.—Do you think the majority of the kanamdars are the actual cultivators?

A.—May be 25 per cent.

Q.—You said that kanamdars must be treated as actual cultivators, i.e., persons who are engaged in cultivation?

A.—That might be true. Kanamdars are the persons who are actually controlling cultivation; therefore they must be treated as cultivators. That is not my sole reason. That is one of my reasons.

Q.—I have no objection to your changing. I do not accuse you of contradiction or anything of the kind.

A.—Originally every kanamdar was a cultivating kanamdar. I know of instances in which kanamdars who have been cultivating their kanam lands for the last 35 years are not cultivating their kanam lands now for the last 4 or 5 years, on account of certain domestic circumstances. Therefore I say, if the question be put what is the actual percentage of kanamdars who are cultivating kanamdars at the present time I would say it is 25 per cent. Not more at any rate. That would be the maximum figure.

Q.—Therefore why should the remaining 75 per cent be given fixity? With regard to those who have, with eyes open, after 1852 embarked upon advancing money as an investment why should they be treated as cultivators?

A.—Because many of the present-day non-cultivating kanamdars had, for several years in the past, been cultivating kanamdars. All kanamdars were originally cultivating kanamdars. I know as a matter of fact many families, who had been cultivating kanamdars for a long time, have in recent years sub-leased their holdings on account of their present domestic circumstances. Many cultivating kanamdars have recently subleased their property on account of the disastrous effects of the Mappilla Outbreak of 1921. It is therefore not correct to say that a particular kanamdar is not a cultivating kanamdar because he does not actually cultivate his lands when the proposed legislation happens to be passed. The present-day non-cultivating kanamdars could not anticipate an year of grace when the cultivating kanamdars alone would be granted fixity of tenure. If so, they would have resumed their former avocation of agriculture. Therefore, if the Committee is of opinion that the granting of fixity of tenure is to depend upon actual cultivation as the basis, it is only reasonable that the present-day non-cultivating kanamdars should be given an option to become cultivating kanamdars within a fixed time. This is only one aspect of the matter. Another and a more important aspect to be considered in granting fixity of tenure is oppression by janmis which has to be relieved against in any event. As this oppression is felt by all kanamdars, cultivating as well as non-cultivating, and as there is no other method of effectively putting an end to oppression except by granting fixity of tenure, it is essential that the said relief should be extended to all kanamdars irrespective of the question whether they acquired the kanam right prior or subsequent to 1852 or whether they are cultivating kanamdars or not.

Q.—I don't want you to launch into that discussion. In your memorandum you have prescribed 6 years for a kanamdar becoming a cultivating tenant. Why do you say so?

A.—Because if a kanamdar should become a cultivating tenant he should get actual possession of the property. That can be done in many cases only by reducing the property into one's possession through Court and considering the law's delays I fixed 6 years as the time-limit.

Q.—If a kanamdar has to get the benefit of permanent occupancy right you would insist on his becoming a cultivating kanamdar?

A.—No.

Q.—Then why do you fix 6 years within which he must become a cultivating kanamdar?

A.—There is difference in the amount of compensation. I want the State to favour the cultivating kanamdar. By this policy, substantial men would become the cultivators. That has to be the policy of any State.

Q.—With regard to non-cultivating kanamdars you prescribe the highest amount of compensation?

A.—Yes. In the case of non-cultivating kanamdars, they should pay twelve times the amount of michavaram whereas in the other case it is two and a half times the michavaram.

Q.—Supposing legislation is necessary. I do not know exactly what your proposals are. I want to clear some of my doubts. Now you have defined a cultivating 'tenant' in a particular manner in your memorandum. You have defined a cultivating kanamdar. "A cultivating kanamdar is one who holds lands on kanam or other cognate tenures under a janmi and who cultivates the land or supervises the cultivation thereof either by himself or through the members of his family, etc." Supposing a cultivating kanamdar is employed as a Judge in Ganjam and does not come to your place at all for 25 years. Will he be a cultivating kanamdar?

A.—There will be the members of his family to look after the cultivation work.

Q.—Suppose there is no family?

A.—He won't be a cultivating kanamdar. He must be a resident of the district. He must cultivate or some members of his family must cultivate or must superintend the cultivation through agents.

Q.—Suppose he sub-leases the property in favour of a verumpattam tenant?

A.—Then he ceases to be a cultivating kanamdar.

Q.—Then in regard to the proviso made therein, suppose somebody in Tanjore employs a verumpattamdar, would he still be a cultivating kanamdar?

A.—No. I shall give you an example. The Kollengode Raja is the biggest cultivator in Malabar. He represents the true definition of a cultivator. He supervises the cultivation of his lands through his agents.

Q.—I find that the definition given in some places is not exhaustive or correct. You would grant permanent occupancy to all these people as suggested by you. Would you do it as it is done under the Estates Land Act of 1908 in the Madras Presidency? So far as I see from your memorandum, there appears to be no difference at all.

A.—Under the Estates Land Act no compensation is payable by the ryot. Here, I say compensation should be paid.

Q.—Subject to the payment of compensation and the advance of rent that you have mentioned, i.e., with these two conditions added the scheme of the Estates Land Act, would suit this district?

A.—I have not studied the Estates Land Act so critically as to answer this question. You know better.

Q.—I have been reading the Cochin and Travancore Regulations also this morning. With regard to the kanamdars do you like the provisions as in the Cochin Regulation? With reference to permanent occupancy right there is some thirty years' period or so there.

A.—That provision won't be sufficient here.

Q.—I wanted to know whether in the conditions of Malabar, any legislation similar to that of Cochin or Travancore would or would not answer the purpose?

A.—That would not fully answer the purpose.

Q.—If you put all these things in the form of a legislation and submit it to us, we will be in a position to understand your ideas better. Your suggestions are very useful, but we cannot put them together?

A.—I shall always place my services at the disposal of the Committee as much as possible.

Q.—You say here that the landlord must be paid his rent. What is the meaning of it?

A.—From the land he must recover.

Q.—What is the process by which he can do it?

A.—Except in the Ernad and the Walavanad taluks, the provisions in the Estates Land Act or similar provisions for distraint and all that may be advisable.

Q.—What will you do with regard to those two taluks?

A.—Civil Court is the only remedy. The Cochin Code provides that.

Q.—But the Civil Courts will never decide within six years?

A.—That is not correct. Here michavaram is fixed. When there is no dispute as to the amount, it is only the machinery for collection that is required. Three months is the general duration in the Cochin State for a suit of this nature as far as my experience goes. Six months is the period in Cochin for a quarter suit.

Q.—I have travelled through the whole of India and a portion of Burma and I know that it is six years. But that is a different matter. You say that with regard to those two taluks, Civil Courts will give you the remedy?

A.—Yes. The Mappillas there have more confidence in the Civil Courts.

Q.—Distraint and all that will result sometimes in outrage. You do not like Village Panchayat Courts to do that?

A.—They will not be a success here.

Q.—What I mean to say is, there are two enactments, the Village Panchayat Act and the Village Panchayat Courts Act. In the latter something like three lakhs of suits are disposed of in this Presidency. Would not these suits be a burden to the Courts?

A.—I have stated that if there is no difficulty in fixing the rate, there will be no room for litigations and if there are litigations at all, they will almost be all *ex parte* and there would not be undue delay.

Q.—In page 1 paragraph C, you say that there is what is called dissection of holdings and it has been going on for 40 years. Have you got a list of it?

A.—When I say it is more than 10,000 how could anybody have a list unless statistics are called for? If the Committee has any doubts about it, documentary evidence is in the possession of the Government and it is the best evidence that can be adduced.

Q.—You say that either your views are to be accepted as correct or all the public records may have to be looked into?

A.—Because I have been investigating this position for such a long time.

Q.—Will you kindly tell me the method of your examination?

A.—I have examined documents. I have seen the working of the several karyasthanas of the particular janmis who have been doing this.

Q.—I should not expect you to have examined all the 10,000 cases.

A.—It is more than 10,000.

Q.—If you have such information, and you told the Committee yesterday that it was in two taluks, will you kindly give the Committee a list of these cases in order to see whether those are cases which you characterize as dissection.

A.—Yes. At least some 100 I shall give.

Q.—I want 10,000.

A.—I must be given permission to inspect the Sub-Registry Offices; otherwise it is impossible. I am a professional man.

Q.—You are in a position to give some 50 or 60 cases? May we have that list in order to enable us to examine it?

A.—Yes.

Q.—You say that there is an organized conspiracy among the janmis to split holdings into dry and wet. If there is no improvement in the paramba, it is immaterial to the janmi and the kanam tenant also and what is there if the janmi separates the paramba from the land?

A.—I will be the last man to complain that this is oppression. There is the farmhouse which is constructed for the express purpose of farming and that is separated. That is what I call dissection.

Q.—You say separation of the nanja lands from the parambas and the taking of two separate demises, one comprising nanja lands and the other comprising parambas pertaining to the nanja lands, is a subterfuge which is being resorted to by an organized conspiracy of janmis?

A.—Many times. But I don't call it a conspiracy in my memorandum.

Q.—It struck me reading this that the janmis such of them as wanted to separate the nanja holding from the punja holding contend that the tenants improved it out of their capacity?

A.—Certainly not. I am not referring to such cases at all.

Q.—The janmi may be too poor to pay even for the ordinary necessary improvements and therefore he can redeem it without paying for the improvement. Why not?

A.—With all respect to Mr. Evans I would submit this, viz., who can say Poomulli Mana, who is a multimillionaire is a poor janmi? On investigation you will find that Poomulli Mana has done this in about 5,000 demises. Diwan Bahadur O. M. Narayanan Nambudiri, Member of the Legislative Council and a very respectable man and influential janmi who can say he is poor? And yet his Mana has done it in several instances. It is not the poor janmi who has done it. The argument of poverty is not true. There must be a qualification. Otherwise I will not be doing fairly by the janmi. There may be a paramba demised by the janmi for coconut plantation in Calicut or Ponnani taluk in which the tenant also will be living. The paramba will not be worth much. The tenant might have put up a little costly building or a very costly building for his residence. In such a case, coconut gardens will be in one portion of the compound and the house will be in another portion of the compound. If the janmi has separated his holding in such a way that the house is separated from the coconut garden, the tenant must have a house to live in somewhere and this may have been his house for a very long time. In such cases I would not make any complaint at all. Only such cases have been brought to the notice of Mr. Evans and he is justified in making his remarks if they are restricted to cases of this kind. Such cases are very few. But the cases which I have submitted to the serious consideration of the Committee are altogether of a different kind which have occurred in the Palghat and Walluvanad taluks regarding wet lands and parambas.

Q.—Kindly give us a list to enable us to understand the enormity of the grievance?

A.—Yes.

Q.—You say 'the assignee of a part of the equity of redemption is entitled to evict that part alone, without paying the value of improvements on the other part of the holding'. That is one of the recent decisions? Is it not?

A.—Yes.

Q.—That is likely to work hardship?

A.—Yes.

Q.—That is the decision in 37 Madras Law Journal, page 47.

A.—Yes.

Q.—You mean to say that the assignee of a part of the equity of redemption is in a position to oppress the kanamdar?

A.—Yes, by redeeming that portion of his good land which is profitable and leaving the other portion of his land in the hands of the kanamdar which will be burdensome to the latter as it was appurtenant to the portion evicted from.

Q.—What would be approximately the total number of devaswams in this taluk?

A.—Nearly 50 major devaswams.

Q.—Are not the quarrels and litigations between the karnavans and anandravans of a Nayar family very similar to those of the litigations between the senior and junior members of a joint Hindu family? Are they of greater intensity and complexity?

A.—Much greater. Thirty-two suits were filed in a single day by the same man all to set aside renewals for unexpired demises of a Nayar tarwad?

Q.—You say that this Committee should call for statistics. Do you not think it a very large order? I mean to say by a large order a very big suggestion. Is it not impossible to get such information?

A.—In the matter of a Tenancy Committee like this, where previous commissioners, according to me, have failed to do full justice, when you are entrusted with this serious business, this sort of statistics will never be a big suggestion and you will be coming to a decision which would be fair to both parties only by doing this.

Q.—You say 'If the grantor dies before the expiry of the prior term, then the succeeding Stani certainly repudiates it.' That is a very serious state of things. How is this Committee to get at all these things?

A.—I shall give you any number of instances so that you may call for judgments from the District Court.

Q.—Will you give us a list of such cases where this subterfuge has been practised?

A.—Of course. I will give them.

Q.—One of the other grievances which you enumerate is 'within the last thirty years many kanam holdings have been converted into usufructuary mortgages'.

A.—Yes, by mere paper transactions. Kanam property is more valuable than mere mortgages and hence these tactics are resorted to.

Q.—If a person became a kanamdar, say in 1860, he would have then known the state of the High Court decisions with reference to his right?

A.—This may be advanced as an argument in Court, but it is not correct in practice. He felt always he had a substantial interest in the land and that he would not be evicted so long as he paid the customary dues to his janmi. It is the consciousness of every kanamdar and janmi in Malabar even to-day.

Q.—Permanent interest?

A.—Substantial interest.

Q.—You said yesterday that there were 13,767 cases of unjustifiable melcharths between 1919-1923 in North Malabar alone. You say that shows the oppression. Were they all perfectly unjustifiable? Wherefrom did you get this number?

A.—Generally, in matters of legislation, it is not the case of an infinitely small number that ought to be considered. In ninety-nine cases out of 100 a melcharth is unjustifiable. That has been my experience. These speculators have been let loose on the tenantry to destroy them. I gave the number of melcharths from the statistics given by the Inspector-General of Registration and published in the *Fort St. George Gazette*.

Q.—Of course, when you place before the Committee the information that there were thirteen thousand and odd cases of melcharths and they were all unjustifiable you are sure to have known which is justifiable and which is not. We must have the definition of justifiable and unjustifiable?

A.—I would give this definition. If a tenant continually and persistently and without reasonable cause refuses to pay the rent and renewal fee to the landlord or

if a tenant insults the janmi (however much he may have reason for it, I won't allow him to do it), if he denies wilfully the title of the landlord, in all such cases I would say it will be justifiable even if he grants melcharth because the tenant deserves it. In other cases, melcharths are unjustifiable.

Q.—How do you know in these cases it was not so?

A.—It is like a superior officer inspecting the statistics taken by an inferior officer. I am a Vakil of nineteen years standing and I am a self-made man. I have seen several melcharth documents. I have been practically investigating the position for the last ten years. In such investigation I don't find more than one per cent which is justifiable.

Q.—In your experience, regarding melcharths, in North Malabar as well as in south Malabar, your impression is that only one per cent could be called justifiable?

A.—About one per cent. May be a little more. Certainly not more than five per cent.

Q.—That is the reason why you say that melcharths are oppressive and the best way of doing away with them is to give permanent occupancy right to all tenants as stated by you?

A.—Yes, that is one of my reasons; other reasons are given in my written answer.

Q.—“Frustrating public sales, etc., and frustrating the freedom of vote in elections.” You think these two things would disappear if permanent occupancy right were given? Even if permanent right is given, if a man is prepared to bribe the voters would it be stopped?

A.—No. I mean to say, the largest means which are now employed will disappear. You cannot legislate for preventing every evil in the world.

Q.—You say that freedom of vote in elections is frustrated by reason of want of fixity of tenure. How is it?

A.—The janmi will have his own favourite candidates. All the tenants are influenced by the janmi. It was a sight for the gods to see during the last election how a janmi Nambudiripad travelled from one place to another in motor car, superintending the karyasthans' work in influencing voters from one end of South Malabar to the other end, in a single day.

Q.—But if fixity of tenure is given, would there be freedom of vote?

A.—Yes.

Q.—How?

A.—Why should the tenant dread the karyasthan of a janmi who cannot arbitrarily evict him? The tenant in such a case would exercise his freedom of vote.

Q.—Still I don't think you will have freedom of voting. For various reasons it is so?

A.—It is so in America also. But there will be considerable difference.

Q.—Then with regard to the first portion “Frustrating public sales to the highest bidder under judicial processes”. How is it?

A.—I shall quote an example which took place recently. A certain man became an insolvent. The debts came to more than a lakh of rupees. He has got substantial properties, janm and kanam. He had one kanam property; if it was sold to the highest bidder it might fetch 30 to 40 thousand rupees. It seems the janmi of the kanam land had to get some money from the insolvent debtor and he sent an order that no man should purchase this property in auction when the official receiver comes and auctions. When the receiver came, there were ever so many people present willing to purchase the property and some of them were my clients. But they could not disobey the orders of the janmi. The property was sold for Rs. 16,000 within the precincts of the Sub-Court, Palghat. These are things which take place here.

Q.—Don't you think that generally when a property is sold in court auction the price obtained will be much less?

A.—In some cases it may be so. In other cases, fair price will be got. There should be freedom of bid in public auctions. That is what the law has provided. But that right is often prevented by means of the janmis' arbitrary power of eviction.

Q.—How do you want section 19 of the Improvements Act to be amended?

A.—In suits for eviction when decrees for eviction are passed, under the present law, for all non-fruit-bearing trees, the janmi is given one-fourth value and the tenant is given only three-fourths value. But if the tenant cuts and removes trees before eviction the janmi is not entitled to get anything. The janmi feels that he has a grievance in this matter. That grievance may be remedied thus: Even before eviction if the tenant cuts and removes such trees, the janmi should be entitled to one-fourth share.

Q.—I understand that proviso to section 19 has been interpreted by the High Court as not being applicable to this. Therefore where is the harm?

A.—Some janmis say *royal trees* though there is no janmi here who is a king or a sovereign.

Q.—What is the additional proviso that you would suggest?

A.—“In all cases in which the tenant cuts and removes a tree prior to the suit or even pending suit the janmi should be entitled to get one-fourth of the price if they are non-fruit-bearing trees.” Any provision in demises fixing any amount of kuttikanam over and above the said one-fourth share is invalid. Some such provision has to be made. If so, all janmis would not insert all sorts of provisions and the grievance now felt by janmis can be removed.

Q.—Would you put in a short statement showing what you would have as the tenancy law giving fixity of tenure?

A.—That may be too much for me.

Q.—You say you have been studying the question for so many years in all its aspects. I therefore request you to put in your views in the form of sections?

A.—I shall try.

Sir T. Desika Achariyar:—Thank you.

The President:—Q.—Please refer to I (a) (3) (b), verumpattamdars holding under janmis other than kovilagams. I presume they are tenants-at-will?

A.—Yes.

Q.—You say “their disability if any is rack-renting.” I believe you told Sir Desika Achariyar that there was no rack-renting?

A.—Yes, because there may be rack-renting only in a few cases.

Q.—You say “absence of irrigation facilities.” Please explain yourself?

A.—In Tanjore and other districts they have got anicuts. Here also there have been schemes for anicuts for a large number of years but the Government have not provided them for us. On account of want of timely rains the verumpattamdar is put to difficulties. If there is some irrigation facility there will not be the same grievance. Now we have to depend upon rain alone. That is one of the main drawbacks which affect the prosperity of verumpattamdars.

Q.—You say “They are in the clutches of the money-lenders from whom they are obliged to borrow, etc.” Mr. Raman Nayar said that money is advanced by kanamdars sometimes for cultivation expenses?

A.—There are several who do not do it.

Q.—Would you put it at half and half?

A.—May be, so far as my experience goes.

Q.—Even if he gets money from the kanamdar or the janmi he has to pay interest?

A.—Only a small rate of interest. If he goes to the money-lender he has to pay a heavy rate of interest?

Q.—This sentence as it is contradicts what Mr. Raman Nayar said?

A.—I cannot help it.

Q.—But you also say that some are giving advances?

A.—Yes.

Q.—You say “The Government interfered by legislation and declared the historical status of such tenants to be permanent tenure”. Whom are you adverting to in this matter?

A.—I would refer to the Punjab tenancy legislation; I would even refer to the Estates Land Act. There were conflicting decisions of the High Court. The legislature declared the historical status of the ryots.

Q.—Were they wrong decisions?

A.—Courts decided wrongly. I shall place those decisions before the Committee, if necessary. Originally it was stated there was a presumption in favour of permanent occupancy. Then there was another decision, I believe it was the case of Chokkalingam Pillai in which it was held that there was no presumption in favour of permanent occupancy. Then, of course, there were vacillating decisions for some time. The Board of Revenue put up a strong fight and espoused the cause of the ryots and a legislative enactment, viz., Estates Land Act of 1908, was passed. That is, the historical status was declared and all ryots now have occupancy right.

Q.—In regard to rent your position is that the existing rent should not be altered?

A.—Yes.

Q.—Supposing the landlord says that the rent is 10 paras and the tenant says it is 8 paras. Who is to decide?

A.—That is a matter which should be left for the judiciary. The legislature should not embark upon that. Such cases would not be numerous.

Q.—Yesterday when you were asked whether the renewal fee should not be adjusted according to land revenue; you said you would consider the matter. Have you considered it?

A.—My investigation is not complete with regard to that matter.

Q.—You are not for fixing the rent of lands in proportion to the revenue?

A.—In my opinion, it will be an absolute failure. Because I have seen, both as a commissioner and as a person investigating this matter, that in some places where one land yields 20 fold the adjacent land yields 10 fold. That is why I say like that

Q.—Lands of the same classification and of the same assessment?

A.—Practically.

Q.—You think that is general? Have you come across many such cases?

A.—Yes.

Q.—You have no belief in the settlement classification?

A.—I believe in the settlement to a limited extent, but that should not be taken as a guide for fixing rent.

Q.—With regard to rent your opinion is it could have no relation to Government assessment?

A.—I would say it is not a safe guide.

Q.—You would allow enhancement of rent if the landlord makes new reclamations or if he improves the quality of the land and the fertility of the land? And vice versa you would allow reduction of the rent?

A.—Yes. I would also allow addition to the rent at the rate of 10 paras of paddy per acre even if the tenant makes improvement for a double-crop land, and 5 paras of paddy per acre for single-crop land. Because, even if the tenant makes improvement, the janmabhogam must be paid according to the customary practice in Malabar.

Q.—So, in that respect, you differ from the principle enunciated in the Estates Land Act that where improvement is made by the tenant no enhancement of rent might be made?

A.—We cannot but differ on account of the customary practice here.

Q.—Nor would you allow any reduction in the rent if the land deteriorates?

A.—That must be allowed.

Q.—You would allow enhancement of michavaram or renewal fee?

A.—Michavaram must be enhanced if new reclamation is effected. Renewal fee should not be enhanced.

Q.—You want enhancement of rent on account of rise in the price?

A.—In the case of paddy I don't think it need be done because it is generally paid in kind. In the case of coconuts, etc., it may be done.

Q.—You explained to Sir Desikachari your position regarding the conferring of occupancy right to kanamdar, sub-kanamdar and verumpattamdar. You said that you were willing to give cultivating verumpattamdar fixity under certain conditions. Assuming that you, a cultivating verumpattamdar, are given permanent tenure under the conditions which you specify, what is it that you would give to the kanamdar?

A.—The kanamdar will get his verumpattam rent, i.e., the present rent, by virtue of the occupancy right to be conferred on kanamdar. If there is any improvement, additional rent is provided for. The janmi will get his present michavaram as well as renewal fee and compensation. All parties are satisfied. There will not be any disturbance of either the janmi or the kanamdar, or the verumpattam tenant.

Q.—What happens if a kanamdar makes default in the terms of permanency of the kanam tenure?

A.—The kanam interest may be sold.

Q.—In regard to sub-kanamdars you have made a qualification. That is, in the event of permanent occupancy being given, it must first be offered to sub-kanamdar and if the sub-kanamdar fails to become a cultivating sub-kanamdar then it must be given to the kanamdar?

A.—In order to avoid too many complications in tenures you may eliminate the sub-kanamdar if he does not choose to become a cultivating sub-kanamdar.

Sir T. Desika Achariyar :—Q.—So that in reference to one particular property there will be a janmi, a kanamdar with permanent occupancy right and a verumpattamdar with permanent occupancy right. Is it so?

A.—Yes. Because too many complications in tenures can thereby be avoided. It is a principle in tenancy legislation.

Q.—By giving permanent occupancy to the kanamdar, the janmi is deprived of the right of eviction. What would be the janmi value of the property after that?

A.—It will be the capitalized value of the michavaram, the capitalized value of the renewal fee plus compensation which should be given to him.

Q.—How do you determine that compensation?

A.—We can take only half the verumpattam, i.e., the janmi's varam, for the purpose of arriving at the amount of compensation. There, of course, we do not go against the principle of the High Court decisions at all. I do not think that compensation should be denied to the janmi on account of the kanamdar's historical status alone. But in considering the amount of compensation the legislature is entitled to take into consideration the historical status as well as local conditions. If there is an absentee landlord living in Irinjalakuda (Cochin State) for instance, with lands in Palghat, the absentee landlord will never get the same rent as the kanamdar living on the spot would get.

Q.—If he reduces the land to verumpattam, what is the verumpattam rent he will get?

A.—Only half, because he is an absentee landlord. This half represents the janmi's real verumpattam or varam. The janmi's share of the half which the kanamdar now gets will represent the janmi's real verumpattam. That is my opinion based on practical experience.

Q.—That is not based upon any law?

A.—It is based upon law also because we are all bound to follow the law in this respect, viz., Hindu law, because Malabar was under Hindu kings at the inception of kanam. Further it was also the customary law of Malabar.

Q.—According to you I suppose there is no necessity for fixing the rents which the verumpattamdars are to pay because you do not admit rack-renting?

A.—I do not. Further it will lead to numerous litigations.

Q.—You said that the Estates Land Act provisions could be extended to Malabar also in regard to the recovery of rent with the exception of Ernad and Walluvanad. Do you not think it objectionable to lay down two different procedures in regard to the recovery of the rent in the same district?

A.—Public policy demands it. I want to suggest one thing more. The rate of renewal fee should be less in those two taluks for Mappillas alone both on the ground

of historical status and on the ground of poverty, on the ground of treaty obligations and on the ground of public policy. Not only the agrarian discontent, but also this payment of renewal fee has been agitating the minds of the Mappillas since 1792. The social peace of Malabar requires it; the economic poverty of these Mappillas requires it.

Q.—Would you kindly explain 'treaty obligations' which you referred to?

A.—The treaty is not with the Mappillas. It is referred to in Mr. Logan's Manual, Volume III, page 220, paragraph 5. That was between the British and Cowlaparah Moopil Nayar. Then there were treaties, 81, 82, 84, 85, 86, 87, 89, 91, 92 and Proclamation No. 123 (pages 257 and 258). There were also certain other proclamations such as that of 969 M.E. (vide my written answers). By these, the Mappillas should not be compelled to pay renewal fees. I shall refer to one of them. At page 220, after stating the various engagements, it is stated "That the said Cowlaparah Moopil Nayar or his minister or his officers shall not collect any other taxes than those included under the head of *negudi* with the customary tax for the charge of collection, the abolition of *Purushantharam* from the Mappillas being hereby especially confirmed as well as the *nuzer* or offerings at the feasts on Onam and Vishu". And there are proclamations also. I do not ask you to remit renewal fee on this ground alone. It is also on account of economic and social conditions prevailing there. Just as in the Estates Land Act, two and half times the annual rent is fixed as the amount of compensation on account of the poverty of the people, here also, the Mappillas are very poor and they may be given some reduction. That is one ground. It is because of their hard labour that Ernad and Walluvanad are two of the best rice producing districts in Malabar. It is on account of the hard labour of the sturdy Mappilla that these forest tracts have become arable lands. Otherwise no Nambudiri or Raja would have been able to collect any rent. So on the ground that much of their labour has been spent there, on the ground of their poverty and also on the ground that there are these treaty obligations, it will be a justification for the Government to give them some special consideration in the amount of renewal fees.

The President:—Q.—But there it is described as 'tax' and not renewal fee.

It is evidently some 10 per cent commission due to the Zamorin.

A.—But 'Purushantharam' is also used for renewal fee. I do not say I have investigated that position fully. Anyhow, I have not based my reasons on that ground alone though it is by no means a negligible ground.

Q.—But why are they so poor if they are capable of hard work?

A.—On account of their law of marriage. Their law allows them to marry several wives and it is generally done. They have therefore several children whom they are unable to support. That is the real reason of their economic poverty. The facilities given to them are also very few.

The President:—Q.—You say "If the kanam tenant would not pay renewal fees in spite of the suit and if he would also not deposit the same in the course of the suit with costs, the janmi should in such cases be entitled to redeem or evict the tenant after the expiry of the term".

A.—That is wrong.

Q.—The tenant must be evicted, but not after the expiry of the term. Eviction should not be postponed? Is it not so?

A.—Eviction should not be allowed at all. The tenant's interest should be sold. It ought to be like that.

Q.—Janmi should not wait for the end of the term for the recovery of the *michavaram*?

A.—Janmi need not wait at all.

Mr. H. R. Pate:—Q.—Whatever permanent right which you would give to the kanamdar is to be confined to the cultivating kanamdar?

A.—To every kanamdar, cultivating as well as non-cultivating.

Q.—To all kanamdars?

A.—In the case of non-cultivating kanamdars, I would give more compensation to the janmi.

Q.—How do you make this difference?

A.—It is and has to be somewhat arbitrary. It is twelve times the *michavaram*. I explained all that, here.

Q.—You mean to say the loss to the janmi by the grant of permanent occupancy right is greater if the kanamdar is a non-cultivating kanamdar?

A.—No. He gets compensation.

Q.—Why do you fix additional compensation in the case of the non-cultivating kanamdar?

A.—In the case of a cultivating kanamdar, he being generally a substantial tenant, he will certainly be making more improvements in the land and the janmi's rent would eventually be enhanced. That is the reason. My second reason is that the State should favour the cultivator more than the non-cultivating tenant.

Q.—That is fanciful.

A.—Not fanciful, because the State should always favour the more substantial man to take up the profession of agriculture.

Q.—You said that speculators in Malabar have been let loose on the tenantry?

A.—Yes. That is in reference to the 13,767 *melcharths* granted in North Malabar between the years 1919 and 1923. When one of the Committee members said that there was no oppression by janmis, to bring the oppression pointedly to the notice of the Committee, I said that so many speculators had been let loose on the society in order to destroy the tenantry. On account of the absence of any legislation to check arbitrary *melcharths*, janmis have already destroyed numerous kanam tenants.

Q.—In the case of *verumpattamdars*, you have two alternatives? Do you think the *verumpattamdar* will be able to find that security?

A.—Yes. There is not much difficulty in the case of many of them.

Q.—Are there very many *verumpattamdars* who will be able to pay this two years' rent in advance?

A.—I shall, if necessary, give the names of a number of *verumpattamdars* who are worth Rs. 50,000 and Rs. 20,000. They are *verumpattamdars*. But there is a small class who won't be able to pay. In their case, the Government may establish agricultural banks to help them with loans.

Q.—For the settlement of all these disputes, to stop evictions and so on for the amicable settlement of every dispute arising between the janmi and the tenant, you should like to have a law created?

A.—Certainly. Otherwise, the present miserable condition of the tenants cannot be improved and oppression cannot be relieved effectively.

Q.—Then what will the *vakils* do if there are no disputes?

A.—*Vakils* have been in existence ever since the world was in existence. One of the main functions of a *vakil* is to assist the administration of justice as honestly as he can. If any *vakil* does not do his duty properly, I cannot help it. That is the duty of the *vakil* and the duty of the administrator is to relieve oppression of the many by a handful of janmis.

Q.—You are referring to cases of ill-feeling as a result of *melcharth* and so on?

A.—In such cases, we try our utmost to settle matters and bring matters to a compromise.

Q.—You say there are more than 10,000 instances of dissection of holdings?

A.—Yes. We are persons who are entitled to know all the aspects of the matter. We move with the people. Big officers are not allowed to move or they do not freely move with the people. We know every aspect of the matter.

Q.—Suppose there are 1,000 *melcharths* in one year. How do you infer that all of them are oppressive?

A.—Suppose I have conducted 1,000 cases on *melcharths*. I know in how many instances the *melcharth* was justifiable and I can generalise from that just in the same way as you test the correctness of several *jamabandi* returns by personally inspecting only a few of them.

Q.—Here you have used the word 'dissection'?

A.—That is to show the intensity of the pain that the tenant feels. The tenant feels as much pain by a dissection of his holding as he would feel by a dissection of his mortal frame.

Q.—Have you followed up any case in which there was this dissection?

A.—Yes. O.S. No. 120 of 1921 is a case recently disposed of in the Ottapalam Munsif's Court where this dissection took place. I told the Committee yesterday about all this. That is one case. There are several such cases.

Q.—You would give a list of such cases? Poomulli Mana resorted to this practice of dissection?

A.—Yes, in several demises.

Q.—Did you find them all unjust cases?

A.—Yes. I shall characterize them as unjust, arbitrary and most oppressive.

Q.—If permanent tenure is not to be given in respect of an agricultural land, would you nevertheless give it in respect of kudiyruppus?

A.—No.

Q.—Would you allow any time to the verumpattamdar to produce his two years' verumpattam as security?

A.—Some time may be allowed.

Q.—How long?

A.—I have not considered that. Some time must be given. Six months may certainly be given.

The President.—Thank you very much Mr. Gayatri Vallaba Ayyar.

Q.—Will you be able to supply the Committee with all those lists which you have kindly promised and also draft a Bill which Sir T. Desikachari requested you to give?

A.—The lists I shall provide. I shall try my utmost to be of help to the Committee.

The Committee rose for lunch at 2 p.m.

VI

Written statement of Mr. V. Ponnann Pillai of Elapalli amsam.

I. (1) (a) *Kanamdars*.—(a) Melcharths are given before the expiry of the term.

(b) On the expiry of the term, the tenant is harassed by the excessive demand of renewal fees, soujanyams, oppusuchi, etc., according to the will of the janmi.

(c) The tenant is evicted and melcharths given if the amount demanded by the janmi is not paid.

(d) Eviction causes great hardship and loss to the kanamdars.

(e) In South Malabar, kanam right is valuable property. On eviction, it will be difficult to get other kanam property. So, on eviction, the kanamdar is put to great hardships and difficulties to find means of maintenance.

(2) *Kuzikanamdars (holding directly under the janmis)*.—As kuzhikanam is not generally prevalent in this part of the country, it is not possible to express any opinion about it.

(3) *Verumpattamdars (holding directly under the janmis)*.—As any number of lands are available for cultivation on verumpattam tenure, verumpattamdars have no grievances.

(4) *Sub-kanamdars (holding under kanamdars or kuzhikanamdars)*.—The same answer as is given in (a), (b), (c), (d) of (1).

(5) *Verumpattamdars (holding under kanamdars or kuzhikanamdars)*.—The same answer as is given under No. (2).

(6) *Sub-lessees under verumpattamdars (holding under kanamdars or kuzhikanamdars)*.—The same answer as is given to No. (3).

(7) *Other tenants (holding under kanamdars or kuzhikanamdars)*.—The same answer as is given to No. (3).

(b) I think that they are peculiar to the tenants in Malabar. I am not conversant with the systems of tenure in other parts of India. The Malabar tenancy may be said to be somewhat similar to the tenancy in Cochin and Travancore.

(c) I do not know about the nature of tenancy in North Malabar.

(d) No.

II. (1) (a) Yes. It is not just to evict kanamdars even without asking them whether they are willing to renew their lease. Evictions are on the increase.

II. (b) Yes. Though the sub-tenant is ready to renew the lease, melcharths are given without renewing the lease. Melcharths are given considering the income from the lands, the position of the party and on receiving higher amounts.

(2) As eviction is likely to happen if the janmi's behests are not heeded, the tenants have generally to obey the orders of the janmi.

III. (a) A definite principle should be settled in respect of the amount, the sub-kanamdars should pay for renewal, the particular manner in which alone michavaram can be enhanced, that melcharths should not be given without consulting the kanamdars in writing, that if the sub-kanamdar is willing to effect renewal, this should be done and such other matters. Sub-tenants should also be allowed some time to effect renewals.

(b) Kanamdars and cultivators should be given permanent occupancy rights. I am of opinion that it will suffice if kanamdars and cultivators are given permanency of rights.

(c) It is sufficient if kanamdars are given permanent occupancy right.

(d) I know nothing of kuzhikanam. I think that all kanamdars should be given permanent rights and not merely kanamdars who were such before 1852.

(e) I think it would be desirable to collect rent through the Revenue authorities.

(f) The answer to this is the same as is given to question III (b).

IV. (a) (1) I am of opinion that permanent occupancy right is not necessary for occupants of kudiyruppus.

(2) No.

(b) Ten cents.

(c) (1) If he is unable to renew, the property must be given up to the janmi after receiving the value of improvements.

(2) Tenants' Improvements Act should be followed.

(3) Answer is included in the answer to question IV (a) (1).

(d) (1) This procedure is not necessary.

(2) No.

V. After the passing of Act No. 1 of 1900, evictions have increased. The Act may be amended so as to raise the value of the improvements paid to the tenants.

VI. (a) The renewal fees will be sufficient compensation. Because renewal fee is imposed, no other compensation is necessary.

(b) The answer to this will be found in the answer to VI (a).

(c) Do.

do.

VII. (a) Generally one tenant must pay the rent paid by another tenant for the property in question. To collect rent on the basis of produce will cause difficulties.

(b) No. Because most of the landlords regularly get such rent now.

VIII. (a) *Renewal fees*.—Out of the rent of the property in question for one year, land revenue and michavaram should be deducted, and the balance should be fixed as renewal fees for twelve years.

(b) There is no standard rate of renewal fee in this taluk and it is levied according to the will of the janmi. Only some big janmis have a special rate and that itself is different for different janmis.

IX. In case cultivators are given permanent rights, it must be decided that they can be evicted only if their rent and the michavaram are in arrears and that even if a suit be filed for eviction, eviction should not be resorted to, if the rent and michavaram and interest on the same as well as the costs of the suit are deposited.

X. (a) Melcharth is not necessary. If melcharths are allowed, the sub-tenants should be given the right of pre-emption.

(b) I think the offer should be made.

(c) It is sufficient if renewal fees, etc., are settled once for all.

[Note—As since translated by the Malayalam Translator to Government.]

29th October 1927 (Afternoon).

The Committee continued its sittings this afternoon when only the following members were present:—

President.

Sir T. Desika Achariyar.

Khan Bahadur Haji Abdulla Kasim Sahib Bahadur.

H. R. Pate, Esq., I.C.S.

Oral evidence of Mr. Ponnai Pillai.

Was the first witness examined to-day after lunch. Mr. S. K. Ramaswami Ayyar acted as Interpreter while witness gave answers in Tamil.

The President:—Q.—Mr. Ponnai Pillai, you belong to Elappulli, Palghat taluk?

A.—Yes.

Q.—Will you kindly tell the Committee what your position is?

A.—I have got both kanam and janmam lands—75 acres of kanam and 70 acres of janmam. I have no verumpattam lands. All these are wet lands and in addition I have about 125 acres of dry land.

Q.—In your written memorandum referring to verumpattamdar, you have said that these people have no disability at all as there are enough and more lands to be taken on verumpattam. Do you mean to say that they can dictate their own terms in regard to lands which they take for cultivation?

A.—Yes.

Q.—Do these verumpattamdars usually pay the whole of the mamul rent?

A.—The pattam is not reduced.

Q.—Why?

A.—Sometimes, they don't pay the rent regularly and they insist upon reductions.

Q.—Why should they insist upon reductions?

A.—On account of bad seasons due to want of seasonal rains and sometimes they don't cultivate properly for want of means.

Q.—Is it because they have not got the necessary means and their economic condition is not satisfactory?

A.—In a majority of cases it is so.

Q.—Why then do they not insist upon improving their economic condition by reducing their pattam?

A.—Because there is competition.

Q.—In spite of the fact there are several lands to be taken by verumpattamdars, the janmi is able to dictate terms. Why is it so?

A.—Because they are able to get men to accept the terms given by the landlord.

Q.—Then the position that there are not as many verumpattamdars as there are lands is not correct?

A.—Yes. In my place there is no dearth for these verumpattamdars.

Q.—You say that the renewal fees to be paid by the sub-tenant and the kanamdar and the scale in the increase of michavaram should be fixed. Unless the kanamdar is asked in writing to renew, melcharths should not be given, and if the sub-tenant is ready for renewal, the land should be re-leased to him, and a reasonable time should also be allowed. The above conditions are to be legalized. What is reasonable time in your opinion?

A.—Between six months and one year.

Q.—Whom do you refer to by the term 'sub-tenant'?

A.—In my place there are no sub-kanam tenant.

Q.—Then what about verumpattamdar?

A.—Unless he keeps the rent in arrears we do not evict the verumpattamdar. There is no renewal fee in his case.

Q.—You say that only kanamdars and cultivating tenants are to be given permanent occupancy right. What do you mean by "cultivating tenants" here?

A.—I mean verumpattamdars. If he could give security for at least two years' rent, then he could be given occupancy tenure.

Q.—Will he be able to give the security?

A.—I am of opinion that only those who could pay security should be given occupancy right. Permanent occupancy right should not be given to tenants who hold a portion of the land and, if occupancy rights are given to these people, they would not be amenable to the landlord. Permanency could be given only to those tenants who cultivate a block of land in a kanam holding.

Q.—Then the benefit will only be for a few?

A.—That is my opinion.

Q.—Do you consider that there is rack renting in the cases of several verumpattamdars?

A.—They have been paying that rent for a very long time and they seem to be satisfied with the wages that they have been able to get. During the non-working season they have got palmyrah trees which they tap and make a living.

Q.—Are you for fixing the rent?

A.—Yes.

Q.—How would you fix it?

A.—It will be difficult to suggest. I should think that if present rent is reduced by 10 per cent it would give him sufficient margin for his expenses.

Q.—Now they don't get even 10 per cent is it?

A.—Now 90 per cent of rent is being realized and so 90 per cent of the existing rent might be fixed.

Q.—Why do you say that homesteads should not be given permanency rights?

A.—Of course, if the kudiirippus are attached to the kanam lands, then I am not for giving the occupancy rights, but if they are attached to a place something like a village where there are a group of houses, I have no objection to give occupancy rights.

Q.—In regard to rural kudiirippus attached to the lands, do you agree that permanent occupancy rights might be given?

A.—No.

Q.—In case permanent occupancy right is given to the verumpattamdar, what compensation would you give to the janmi?

A.—The renewal fee once in twelve years would be sufficient. In the case of verumpattamdars no compensation is necessary because he pays his rent regularly.

Q.—Would you give permanent occupancy right to the kanamdar? And if so, to the cultivating or the non-cultivating kanamdar?

A.—All should be given.

Q.—What is your justification for giving occupancy right to the non-cultivating kanamdar?

A.—Because for several years they have spent large sums of money in reclaiming the land and have had long possession of the property.

Q.—Would you give the janmi compensation in such cases?

A.—The renewal fee may be increased by about 10 or 12 per cent.

Q.—There is a complaint that the renewal fee is enhanced arbitrarily. Are you aware of such a complaint?

A.—All the janmis have been demanding renewal fees arbitrarily. Sometimes renewals are even demanded before the expiry of twelve years. Whatever the janmi demands we have to pay.

Q.—Would you suggest any legislation to meet the situation?

A.—It may be fixed as 20 per cent on the old kanam or as a multiple of the assessment or the profit on the property for 12 years may be calculated and half share may be given to the janmi.

Q.—You say that evictions are on the increase after the passing of Act I of 1900. Can you say why? One would imagine that evictions are on the decrease.

A.—Because people have known that a Tenancy Act would come into being.

Q.—How are the janmis able to pay compensation and evict the tenants?

A.—In some cases they are able to do so.

Q.—You say that the Act may be amended in such a way so that the tenant may get more value for improvement?

A.—Yes.

Q.—In what way does the tenant get less compensation?

A.—With regard to some trees such as tamarind, mango, etc., they are only valued as fuel. They should be classed as fruit-bearing trees and be given enhanced value. If the tenant has built a house adjoining a village and even though the house is a little big, full compensation ought to be awarded for that or the tenant should not be compelled to remove.

Q.—What do you mean by little big?

A.—Too big for purposes of agriculture.

He builds the house for his residential purposes it being situated near the village and because he could not get any other holding.

Q.—Then you are of opinion that the Act should say that all residential buildings put up on lands close to the village will not be considered suitable for purposes of agriculture?

A.—Yes.

Q.—What distance limit would you impose?

A.—It must be in very close proximity to the village.

Q.—You say that "Renewal fees should be the amount of income on the land for 12 years minus the michavaram and land revenue for the above period". Is it 12 years or one year?

A.—I mean one year not 12 years.

Q.—You say that if permanent occupancy right is given to a cultivating kanamdar and if he is in arrears of michavaram, etc., he could be evicted. What period do you fix?

A.—It might be three years.

Sir T. Desika Achariyar:—Q.—What kist do you pay for an acre?

A.—From 3 to 7½ rupees on wet land.

Q.—Please take the Rs. 7½ land. What is the gross yield?

A.—For one acre of land I will get 100 paras of paddy for one crop.

Q.—What is the verumpattam rent for it that you are getting?

A.—If the seasons are favourable and if the land would yield two crops, we could get verumpattam rent of 100 paras per acre.

Q.—So ordinarily without any reference to the second crop the gross yield represents the verumpattam rent?

A.—If the plot is fit for two crops the rent is fixed for the two crops together. If the land could yield only one crop, rent is fixed for one crop only and in the latter case he has to pay only 40 to 60 paras for one acre.

Q.—So, if 100 is the gross yield, 60 would go to the kanamdar while the verumpattamdar would get about 40 paras for his cultivation and other expenses. Is that so?

A.—Yes.

Q.—Generally verumpattamdars are heavily in debt?

A.—Most of the verumpattamdars are indebted. Sometimes the kanamdars help them with funds for cultivation purposes, but otherwise they go to the money-lender and pay usurious rates of interest.

Q.—What is their wealth generally?

A.—They generally have a pair of cattle. Some have seed grain and a few vessels.

Q.—How long has the verumpattamdars been under you?

A.—They have been under me for over 25 years, but they don't stick to the same man as slaves. Sometimes they change.

Q.—Who gave them the cattle?

A.—I think they are their own.

Q.—Why should these people who are under you for over 25 years be in this degraded position?

A.—Some people are better placed.

Q.—Supposing permanent occupancy right is given would not their condition improve?

A.—Whether the right is granted or not the landlord would have to advance money invariably.

Mr. H. R. Pale:—Q.—Who are the verumpattamdars generally?

A.—They are Ezhuvas.

Q.—Any Cherumas?

A.—Yes, there are Cherumas also who till small plots such as 5 or 10 para lands.

Q.—They pay rent still?

A.—They are under the verumpattamdar and they cultivate the property and pay rent to the verumpattamdar.

Q.—They don't generally pay rent to the kanamdar?

A.—Yes, there are instances like that also.

Q.—Who pays them their wages?

A.—The verumpattamdar pays them their wages but on special occasions like Onam and other festivals the kanamdar gives them some presents.

Q.—Supposing the verumpattamdar is given permanency of tenure would he improve the value of the land?

A.—Yes, the value of his rights will increase.

Q.—So that if they let their lands they could probably make much better profit than they do now. Is that so?

A.—As they have already taken the land for the highest possible rent they would not be able to get profit by sub-letting. It is all that the land is capable of yielding.

VII

Written statement of Mr. N. N. Rama Ayyar, President, Bench Court, Palghat.

Disabilities.

Kanamdars.—(1) Kanamdars holding under the janmis are liable to be evicted by melcharthdars.

(2) Granting of renewals and melcharths before the expiry of kanam period.

(3) Kanamdars who plant trees are not always allowed to enjoy the full benefits of their labour but are evicted before the trees can be profitably enjoyed.

(4) Some janmis insist upon the payment of kuttikanam by the kanamdars before the trees in the holding are cut, irrespective of the fact that the trees belong to the kanamdars.

(5) Unconscionable enhancement of michavaram on threat of eviction and melcharths.

Verumpattamdars.—(1) Verumpattamdars under the kovilagams, though entitled in theory to hold the lands for twelve years, are often asked to take renewals at the sweet will and pleasure of the stani.

(2) Verumpattamdars holding under other janmis suffer from want of irrigation facilities and as a class they are heavily indebted. Other tenure holders do not suffer from any disabilities.

Evictions.—Melcharths are sometimes granted on unjustifiable grounds. In my own family four such melcharths of properties in our possession were granted.

Remedies.—(1) The Transfer of Property Act should be so amended as to make the granting of melcharths generally and the effecting of renewals and melcharths before the expiry of the kanam period in particular to be illegal. The Malabar Tenants' Improvements Act must be so amended as to secure to the tenants the full benefits of their labour, irrespective of the fact that the trees planted by them have not become mature. Section 19 of the Tenants' Improvements Act must be so amended as to declare any stipulations in the kanam demise about the levy of kuttikanam to be illegal.

III. (b) and (c) I am against the grant of permanent occupancy rights to the tenants.

III (d) I think the suggestion to be unsound.

III (e) If it is intended to confer permanent occupancy rights on the verumpattamdars (actual cultivators), the following safeguards should be provided in the proposed legislation, to enable persons entitled to receive the rent from them to recover the same promptly.

(1) It should be made obligatory on verumpattam tenants to pay the rent from the threshing floor. The tenants should not be allowed to remove the paddy or other produce from the threshing floor without paying the landlord's dues. His removal of the same without paying the landlord's dues should be made a cognizable offence.

(2) Summary recovery of the landlord's dues from the tenant through criminal courts.

(3) Tenant's interest in the lands and the produce thereon should be made a charge for the landlord's dues.

(4) If the landlords demand from the tenant kattakanam as security for the rent, the tenant must be prepared to advance sufficient amount to cover at least two years rent. Otherwise the landlords must be given the right of entry to the land.

(5) The Government and the local bodies must collect their dues from the tenant direct. To give effect to this, the Revenue Recovery Act, District Municipalities Act and Local Boards Act should be amended.

(6) Summary evictions in case of non-payment of landlord's dues through Criminal or Revenue Courts. There must be no relief against forfeiture.

(7) Tenant's holdings should be made non-transferable.

(8) Irrigation tanks and channels must be kept in proper repair by the tenants. Village officers must be empowered to distribute the water from the tanks and channels to the lands forming the ayacut thereunder.

III (f) Lands of persons who pay less than Rs. 1,500 as Government revenue should not be affected by the proposed legislation.

IV. (a and b) I am against the granting of occupancy rights to occupants of kudiyruppus both in urban and rural areas. If at all it is considered necessary to grant occupancy rights to them it should be conferred only on occupants in urban parts after full compensation to the janmi. Such kudiyruppu holders should not thereafter be allowed to transfer their interest in the land. The janmi should be allowed to resume the kudiyruppu from the transferee on refunding the compensation money and the payment of improvement value if any. The grant of occupancy rights to rural kudiyruppu holders may lead to communal troubles.

IV. (d) I do not think the suggestion to be sound and having regard to the fact that the kudiyruppu holders are as a class extremely poor, the system contemplated will not at all work.

Compensation.

Since I am of opinion that no occupancy rights should be granted to the tenants I do not think it necessary to consider the question of compensation.

Rent.

The existing rents should not be interfered with and if the rent is sought to be fixed with reference to the actual produce, it will lead to endless litigation and cause ruin both to the janmis and the tenants. The rents which the tenants now pay are not at all unjustifiably high. After every settlement the janmis usually enhance the rents.

Renewal fees.

The renewal fees should be fixed with reference to (1) kanam amount, (2) seed sowing area, (3) verumpattam, (4) michavaram, (5) Government revenue. No particular rate of renewal fee prevails in Palghat taluk.

General.

There is no necessity to secure the fixity of tenure for the actual cultivator of the soil.

The grant of pre-emption right to the kanamdars as against melcharthdar will not work satisfactorily. The suggestion, if carried out, will lead to endless litigation. No amount of safeguard will circumvent the collusion referred to in X (c).

29th October 1927 (afternoon).

Oral evidence of Mr. N. N. Rama Ayyar.

The President:—Q.—You are a member of the Palghat Bar.

A.—I was, but not now—since 1921. I am the President of the First-class Bench Court here.

Q.—May we know how much land you own?

A.—My lands are all janmam. I hold about 200 acres of nanja and about 750 acres of garden lands (dry lands as we have in Coimbatore district). I have about 45 acres of nanja land in the Cochin State and about 30 acres in the Coimbatore district.

Q.—Do you cultivate your janmam lands yourself?

A.—I have let them to verumpattamdars. I have no kanamdars under me.

Q.—Are they tenants-at-will?

A.—Yes, they are tenants-at-will, from year to year, cultivating my lands.

Q.—What assessment do you pay?

A.—For 200 acres of wet lands with the attached 750 acres of dry land I pay an assessment of about Rs. 900.

Q.—Could you give us an idea of the gross verumpattam rent you get on this holding?

A.—About 12,000 paras of paddy and Rs. 3,500 in cash.

Q.—Being a janmi-yourself you have no michavaram or renewal fee to pay?

A.—No.

Q.—At what price do you estimate the value of your paddy?

A.—On an average at Re. 1 per para.

Q.—So in terms of rupees your pattam is Rs. 15,500 from your lands in Malabar?

A.—Less assessment of about Rs. 900 per annum.

Q.—Have you effected any improvements on this land?

A.—When we got them they were mere forest lands. In fact my ancestors reclaimed all the lands.

Q.—In talking of disabilities to which the kanamdars are subject you refer to granting of renewals and melcharths before the expiry of the kanam period. Is it not prohibited by law?

A.—Not prohibited. They are voidable. It can only be questioned by the members of the janmi's family.

Q.—You say that "kanamdars who plant trees are not always allowed to enjoy the full benefits of their labour but are evicted before the trees can be profitably enjoyed". Could you give us any instances?

A.—I can't give instances. Those are the grievances which I have heard from kanamdars.

Q.—These trees are grown on the parambas. What remedies do you suggest?

A.—I have suggested a remedy.

Q.—Well, that is not a practical suggestion. It is in the direction that the Act should be amended. Could you give any specific suggestions?

A.—No.

Q.—You say "some janmis insist upon the payment of kuttikanam by the kanamdars before the trees in the holding are cut irrespective of the fact that the trees belong to the kanamdars." Is it a recent practice?

A.—Yes. In my own family there were two demises under the Vadakkunathan devaswam; they were renewed in 1062 M.E. where we won't find this stipulation. They were again renewed in 1086 M.E. This stipulation was first introduced in the 1056 M.E. demises. These lands are still in the possession of one of my divided cousins.

Q.—What is the exact provision in the lease deed?

A.—Trees like teak, veety, aini should not be cut without the permission of the Cochin Sircar and without payment of the kuttikanam amount fixed by the Sircar. The lands demised are in British Malabar.

Q.—You refer to "unconscionable enhancement of michavaram on threat of eviction and melcharths". Does it mean that you are agreeable to reasonable enhancement of michavaram. Do you concede that michavaram can be enhanced reasonably?

A.—Yes. My position is that if the janmi wants enhancement, the tenant should agree to the enhancement or surrender the property. I hold that whatever the janmi demands the tenant should be able to pay or surrender the property.

Q.—Well, that means eviction.

A.—Yes.

Q.—You say "verumpattamdars under the kovilagams, though entitled in theory to hold the lands for 12 years, are often asked to take renewals at the sweet will and pleasure of the sthani". Is it because the lease deed does not specify the period?

A.—Yes, but the custom is that the tenure should last for 12 years.

Q.—That is possibly a recent decision?

A.—In the absence of an express understanding about the period the tenants are merely tenants-at-will.

Q.—Then you say that "verumpattamdars holding under other janmis suffer from want of irrigation facilities and as a class they are heavily indebted. Other tenure-holders do not suffer from any disabilities". How can you expect the verumpattamdars to make costly improvements?

A.—Government should help them.

Q.—It is a general disadvantage and so agriculture suffers?

A.—It is the verumpattandar who has to pay the pattam.

Q.—The crop therefore will be insecure for want of irrigation facilities and correspondingly he pays reduced rent?

A.—But his liability has not decreased.

Q.—You say the verumpattandar is under a disadvantage on account of the want of irrigation facilities or the failure of crops, for want of seasonal rains, either total or partial. So he would pay only rent according to the nature of the crop?

A.—The rent is fixed before he comes in possession of the land.

Q.—Then why should he enter into a contract like that?

A.—He must have the means of livelihood.

Q.—There is such a great competition and the competition raises the rent artificially. Is it so?

A.—Good janmis won't care for enhancement of rent.

Q.—As a class more than 90 per cent of them are heavily indebted. Why?

A.—Because these verumpattamdars don't practise the habit of thrift and because of their toddy-drinking, tea and coffee-drinking, attending to amusements such as dramas, etc.

Q.—Are these recent vices?

A.—Yes.

Q.—Then why did not the ancient verumpattamdars live better?

A.—Because they were also not very much better off.

Q.—For how long have these vices been prevalent?

A.—Drunkenness may not be a recent vice. Coffee and tea-drinking may be so.

Q.—So you cannot say whether drunkenness is an ancient or a modern vice?

A.—I do not attribute these alone. Want of education is the cause.

Q.—Why not provide education for them?

A.—They have not enough elementary schools. They cannot afford to send their children to distant schools.

Q.—Take the case of a poor Brahman. Somehow he finds it possible to send his children to schools.

A.—The cultivator with his wife and children have got the land to attend to. But that is not the case with the poor Brahman. He does not cultivate the lands and he commands greater credit.

Q.—The verumpattamdars therefore prefer work in the field to education.

A.—I should think so.

Q.—Speaking of evictions you say that "Melcharths are sometimes granted on unjustifiable grounds. In my own family four such melcharths of properties in our possession were granted". Could you furnish the Committee with details of these melcharths?

A.—Yes. In two cases the janmis granted melcharths before the expiry of the kanam periods because each of them wanted to benefit his daughter or son-in-law. In two other cases, we had a partition suit in our family and we wanted the permission of the court before the money could be paid to the janmis, but the janmis granted the melcharths in the meantime. In the remaining case the janmi granted the melcharth in favour of his daughter.

Q.—So, in three cases it was for the purpose of favouring the janmi's relative and the fourth was because of the litigation in your family.

A.—Yes.

Q.—So, you say you are not able to make any specific suggestions with regard to improving the Compensation Act?

A.—I have thrown out my suggestion.

Q.—You say that section 19 of the Tenants Improvements Act must be so amended as to declare any stipulations in the kanam demise about the levy of kuttikanam to be illegal. How would you amend it?

A.—I would tack on to section 19 some provision in the way I have indicated.

Q.—You say that you are against the grant of permanent occupancy right to the tenants. What is your reason?

A.—For the reasons set out in the Dissenting Minute of Sir C. P. Ramaswami Ayyar, the Law Member. The proposals are of a confiscatory nature.

Q.—Even if adequate compensation is provided for the janmi?

A.—Even if compensation is granted I am not in favour of the proposal.

Q.—Why?

A.—We are Brahman families and belong to the middle classes. Brahmans are not wanted by Government. So, if any contingency arises, we should be able to have full sway over our lands unfettered by any contingencies. I want the old system to continue. It may be our children may themselves go in for cultivation. In a recent Government Order the Government say that the middle classes must turn to agriculture for an occupation.

Q.—While in Travancore I myself adumbrated a scheme for the grant of lands for cultivation purposes for people who had passed the School Final and I invited applications. Do you mean to say that the Legislature should not interfere in public interest?

A.—Public interest requires that the middle classes should have full sway over their lands. Individual rights ought also to be respected. Why should the individual be victimised?

Q.—Referring to grant of permanent occupancy right to the verumpattamdars you say that "it should be made obligatory on the verumpattam tenants to pay the rent from the threshing floor". Do you think it is practicable to enforce it?

A.—The tenant must send notice to the landlord about the date on which he is going to harvest the paddy when the landlord could make arrangements for personal supervision, etc.

Q.—You refer to "summary recovery of the landlord's dues from the tenant through criminal courts". Do you mean that if the tenant harvests without sanction of the landlord he should be prosecuted?

A.—I do suggest that. There should be some sanction attached to the direction to pay rent from the threshing floor.

Q.—By summary courts you mean criminal courts?

A.—If Municipal dues could be recovered through criminal courts then why not the rent? Criminal courts are not involved with insolvency. Supposing I go to a civil court, get a decree and have the debtor arrested, the first question that the judge would put to the party would be whether he is prepared to file his insolvency schedule. So I don't want to take the risk of losing my money.

Q.—But in the Bill introduced by Mr. Krishnan Nayar the produce has not been made responsible and also in the Bill drafted by Mr. Evans. You would make the Government Revenue the first charge on the produce and the second charge will be your rent. Is that so?

A.—Yes. Generally, the tenants sub-lease the land or assign the produce. If the landlord attaches the produce, a claim is brought by the sub-lessee or the assignee. Such a device must be prevented.

Q.—Then you say "if the landlords demand from the tenant kattakanam as security for the rent, the tenant must be prepared to advance sufficient amount to cover at least two years' rent. Otherwise the landlords must be given the right of entry to the land." You mean the landlords themselves can enter on the land?

A.—I mean through the court, of course.

Q.—You say that the "Government and the local bodies must collect their dues from the tenant direct. To give effect to this, the Revenue Recovery Act, District Municipalities Act and the Local Boards Act should be amended". How is this possible? Dues of Government and Local Bodies should be the first charge on the crop and on the land.

A.—At least to relieve the landlord of his liability. The landlord is responsible for the payment of the municipal dues and the Government tax. If the tenant pays his dues properly the landlord will be able to pay the municipal assessment, etc. Assuming the tenant delays in payment, the landlord will be prosecuted for failure to pay the tax and if the landlord is not able otherwise to raise the necessary money, he is sent to jail or his land is sold.

Q.—So you want to lay down that the Act should be so amended that the demand should be made first on the tenant and if he fails to pay then only, the landlord should be made to pay?

A.—Yes. The tenant's interest also should be attached. We proceed on the assumption that occupancy right is granted. His permanent right should be made a charge for these dues and should be resorted to first.

Q.—You say "there must be no relief against forfeiture"—by which I understand that even if the tenant pays into court the arrear rent with costs immediately after the decree he should not be allowed to keep on. Is that not too drastic? Several witnesses have suggested to us that he may be excused.

A.—It may be drastic. But that suggestion is essential; you should provide against my being driven to court year after year by a refractory tenant, for, I am sure no tenant would pay regularly under such circumstances unless we go to court.

Q.—You want the tenants' holdings to be made non-transferable?

A.—Yes. To prevent disintegration of the holding. He may transfer to 50 persons. Am I to be driven to the court to sue 50 people—if it so happens—when my original cause of action was only against one person? My second objection is that when we let our lands we look into the antecedents of the man and satisfy ourselves about him, but if transferability is permitted it may be that my lands would go into undesirable hands. Involuntary transfers should also be prohibited. The Transfer of Property Act has in sections 10 and 12 recognized this principle.

Q.—Then you are of opinion that permanent occupancy right could be given to such people as are able to pay compensation?

A.—I do not think it will work satisfactorily. I am of opinion that it will lead to much trouble.

Q.—Then what do you say with regard to transferability?

A.—I don't want transferability at all. It will lead to disintegration of the holding and much trouble.

Q.—Do you mean to say that the customary annual repairs and other things such as silt clearing from the tanks, construction of bunds in channels and other things necessary for cultivation should be done by the tenant himself without any expenditure and loss to the landlord?

A.—Yes.

Q.—Are you prepared to allow any deduction in rent on this account?

A.—No. I am not prepared.

Q.—Generally the complaint is that the verumpattamdar neglects these things and so the landlord has got to spend money and get them into proper repair. Is that so?

A.—If the landlord makes proper supervision, I don't think there will be trouble. For want of supervision it may be so.

Q.—You say that "lands of persons who pay less than Rs. 1,500 as Government revenue should not be affected by the proposed legislation." What is your idea?

A.—I want to improve the condition of the middle classes. Only people who are paying more than Rs. 1,500 should be subject to this legislation. Persons who pay more than Rs. 1,500 are alone classified as janmis by Government. They are given special representation in the councils.

Q.—How many such janmis are there in Malabar?

A.—I am sure more than 90 per cent of the people would be paying less than Rs. 1,500. They own only less than 10 per cent of the lands. This suggestion would safeguard the recent purchasers of lands.

Q.—You say “I am against granting of occupancy rights to occupants of kudiyruppus both in urban and rural areas. If at all it is considered necessary to grant occupancy rights to them it should be conferred only on occupants in urban parts after full compensation to the janmi. Such kudiyruppu holders should not thereafter be allowed to transfer their interest in the land.” Why do you want to restrict the power of transfer in the case of urban kudiyruppu holders?

A.—Because owing to the lapse of more years the value of the property would increase, and I want to get the full benefits of the same.

Q.—Why do you expect communal troubles if occupancy rights are granted to rural kudiyruppu holders?

A.—Take the case of Nambudri illoms; there are several houses of his dependents surrounding the illom very closely. Assuming that you give occupancy rights to these people, then a Muhammadan acquires a site and builds a mosque. Then there will be trouble. Likewise, the same will be the case if a Hindu builds a temple after acquiring the site adjoining a Muhammadan house. To prevent all these possibilities I would not give him the power of transferability at all and I don't think it can be regulated in any manner.

Q.—You say “renewal fees should be fixed with reference to kanam amount, seed sowing area, verumpattam, michavaram and Government revenue.” Could you illustrate it?

A.—I would follow Mr. S. K. Ramaswami Ayyar's method.

Q.—You say that “there is no necessity to secure fixity of tenure for the actual cultivator of the soil.” Is it not necessary on economic grounds?

A.—How will his economic condition be improved by the mere granting of occupancy right? I don't evict him if he pays the rent properly. Now that there is the threat of eviction he pays the rent properly, but if the threat is removed I am of opinion that he would not pay up his dues properly.

Mr. H. R. Pate:—Q.—If you give permanent right of occupancy to the tenant, you increase the value of the holding and correspondingly decrease your value on the holding. Is it not?

A.—Yes.

Q.—Do you anticipate that a holding may on the grant of fixity of tenure disintegrate into small pieces?

A.—Yes, by inheritance also.

Q.—Also by mortgage?

A.—Yes. Transfer includes mortgage. I want to prevent that also.

Q.—You think then that the tenant's indebtedness will be greater than under the present conditions?

A.—Certainly greater. Now the landlord may be helping the tenant. The moment permanency right is granted the relation between the landlord and the tenant will be greatly strained. The tenant will hereafter have to go to the money-lender and take loans at exorbitant rates of interest, such as 30 or 40 per cent.

Q.—What is the size of the present verumpattam holding? Is that an area which the verumpattamdar can cultivate and which will be sufficient to maintain himself and his family a little decently?

A.—The highest is about Rs. 1,000 rent with an area of 15 acres of nanja and 75 acres of punja lands. That is the highest area of a holding which I have given to a single verumpattam tenant.

Q.—What will be the general average?

A.—7½ acres of nanja lands and 20 acres of punja lands would be the average size of a holding.

Q.—Has your verumpattamdar sub-leased his 15 acre land?

A.—He has sub-leased a portion of dry land in Walayar where there is great demand for paramba lands.

Q.—Supposing you wish to let it in blocks of 10 acres. Will you get tenants?

A.—Of course, I would.

Q.—Would it pay you better?

A.—It may not pay me, but it may pay the tenant better because he has a very good economic holding.

Q.—You get better cultivation in cases of small holdings?

A.—Yes.

Q.—Do you think that the mere fact of making tenancy permanent would tend to make the tenant sub-divided?

A.—He would certainly sub-let and transfer, for once occupancy right is granted it would become a negotiable quantity.

Q.—You don't propose to prohibit transfers altogether?

A.—Yes.

Q.—You spoke of melcharths effected before the expiry of the kanam demise. Do you oppose the grant of melcharths in exceptional circumstances during the pendency of the kanam period. For example, a janmi in the event of approaching death may like to execute a melcharth to benefit his relatives. Then?

A.—Yes, it may be done to benefit the children of the janmi or the karnavan.

Q.—Do you think it unfair?

A.—Unfair to the children or unfair to the prior kanamdar?

Q.—I myself am doubtful on that point?

A.—It all depends upon the circumstances of each case. It may not be unfair.

Khan Bahadur Haji Abdulla Kasim Sahib Bahadur:—Q.—Who cultivates your lands?

A.—Verumpattamdars.

Q.—Do they pay rent regularly?

A.—They do every year. Sometimes they may pay less due to want of seasonable rains.

Q.—Do they purchase their agricultural implements themselves?

A.—Yes.

Q.—Cattle also?

A.—Yes.

Q.—Are they men of means?

A.—They have sufficient means to maintain themselves.

Q.—Who builds their houses?

A.—They themselves.

Q.—You don't advance any money?

A.—I do sometimes in case of necessity.

Q.—You referred to communal troubles. What solution would you suggest to solve the difficulty?

A.—The only way to obviate the difficulty would be not to grant occupancy rights to rural kudiyruppus. If it is a small site, I would give the same free for purposes of building places of worship. As a matter of fact there is a mosque in one of my lands held by the verumpattamdar.

Q.—From your tenants do you collect dry paddy or fresh paddy on the due date?

A.—I collect dry paddy. If it is wet paddy, we get something more to allow for shrinkage. Generally we get green paddy for the kanni crop and dry paddy for the makaram crop.

The President:—Q.—I have now found out that the number of persons paying more than Rs. 1,500 assessment in Malabar is only 269. So you suggest that barring this number all others should be exempt from the operation of legislation?

A.—Yes. They own about 90 per cent of the lands.

With this the examination of the witnesses concluded.

The President announced that the hearing of oral evidence in Palghat was over. The Committee rose for the day at 4-20 p.m.

WITNESSES EXAMINED AT TELLICHERRY.

I

Written statement of Mr. E. Govindan Nayar, High Court Vakil, Tellicherry.

1. I (a) No disabilities are pressing on tenants holding directly under the janmi, except that there is now the possibility that the janmi or his melcharthdar may evict the tenant on account of personal spite or ill-will. The point will be dealt with in my answer to question II.

2. As to sub-kanamdars and verumpattamdars under intermediate tenants there is the abovementioned possibility coupled with the chance of being rack-rented by their immediate lessor.

3. Taking the district as a whole, I am not prepared to say that these two disabilities are 'pressing hard' on the tenants, but since there is a possibility I would eliminate it. Inasmuch as money-lenders have and are acquiring intermediate tenures, there is the chance that they would try to get as much as is possible out of the actual tenant in possession. To prevent this I would declare the maximum of the produce that the cultivator is entitled to keep for himself. The kanamdars and kuzhikanamdars under janmis are generally well-to-do folk, educated in methods of publicity and agitation, consisting of vakils, merchants, schoolmasters, Government officials and other monied people, and old-standing tarwads with well-recognized status and consideration. They are, as a rule, well able to take care of themselves, and are alert and able enough to repel such attempts as may be made to 'press' them 'hard' by our conservative and old fashioned janmis.

4. I (b) I am not in a position to say from experience that such disabilities as exist in Malabar are or are not peculiar to Malabar. But my reading of the literature connected with the subject, and of the opinions of those who are competent to speak with first-hand information, shows that the disabilities, if any, of the Malabar ryot are not confined within the Western Ghats, but he shares them with his friends elsewhere. If the Committee will permit me, I shall call its attention to the observation made by Sir T. Madhava Rao as early as 1884 when writing about Mr. Logan's Alternative Scheme (to give occupancy to cultivators) he said that the scheme bears no exclusive reference to Malabar, and it should be applicable to all the parts of the Presidency. Among the opinions recently published by the Government on Mr. Krishnan Nayar's late Bill I find (1) the Board of Revenue (page 101), (2) Mr. Macmichael (page 92), (3) Mr. T. V. Narayanan Nayar, who as a Judicial Officer, knows of East Coast conditions (page 19), (4) and the Diwan of Cochin (at page 84) indicating it as their opinion, that the conditions in the East Coast and the West Coast are not much different on this point. But there is this supreme difference to the advantage of the Malabar cultivator, that the latter is statutorily entitled to the market value of his improvements.

5. I (c) In so far as the disability pointed out by me in answer to question I (a) subsists, there is no difference between North Malabar and South Malabar. Personal ill-will being the motive for the eviction or melcharth, it follows no distinction can be made in this matter. But there is one difference. The existence of improvements in most of the holdings in North Malabar operates as a check to some extent against such evictions or melcharths in North Malabar, while the operative force of that check in South Malabar seems to me to be less.

6. II (1) (a) Eviction by the janmi or the intermediate tenant is or may be caused by (i) the negligence or refusal of the tenant to renew, (ii) by non-agreement as to the terms of the renewal, (iii) neglect or refusal to pay rent in time or habitually, (iv) personal enmity to the tenant, (v) desire or necessity to benefit a friend or a near relation, (vi) higher offer of a monetary consideration by a stranger for the property, the higher offer being either as to renewal fee or the yearly rent, (vii) junior members suing in ejectment or redemption to get rid of voidable mortgage or other invalid alienations made by the karnavan, (viii) a desire to settle disputed claims of rival title-holders, (ix) denial of title of landlord and (x) the fact that arrears of rent of several years were due, and that a simple suit for arrears would be barred by limitation, unless you sue in eviction, when you have the right to set off rent

against the value of the improvements. I believe this is a fairly exhaustive list of the grounds of evictions in general, and I am not prepared to say that the above are unjustifiable grounds, except perhaps No. (iv) above.

7. To take these grounds in detail. As regards (i) above, I believe it is a very common thing in North Malabar to find a considerable body of tenants not renewing time-expired leases. I know of several janmis who have not been able to get their tenants to renew for years and years. Oftentimes, in North Malabar, the tenant is encouraged in his negligence, or evasion, or refusal, to renew by his consciousness that his lessor is too poor to pay the high value of improvements due to him. If the Court of Wards representing the Zamorin's estate had to file 123 suits for refusal to effect renewals, 41 suits since tenants refused to attorn, 270 suits since there was habitual neglect in payment of rent and 56 suits since they set up hostile title (see page 74 of the opinions published by the Government on the late Tenancy Bill), it may well be imagined the lot of the poor janmi folk in the district. As regards (ii) above the non-agreement may be due to bona fide difference, and if so the eviction cannot be unjustifiable. If mala fide on the lessor's part, his conduct may be unjustifiable. As regards (iii) it is a notorious fact, particularly in North Malabar that it is a very rare thing to find a tenant who is prompt in meeting the yearly dues. Experience in civil courts justifies this view, and I also draw the attention of the Committee to the fact that if the statistics of village courts and panchayat courts are also examined, it will be found that that a huge quantity of litigation refers to successful suits by lessors for rent against their lessees. In the absence of other reliable figures, I beg leave to refer to the figures given about the Zamorin's estate and Kizakke kovilagam published in the opinions above referred to at page 66. It is found that on an average, $3\frac{1}{2}$ lakhs of rupees are left in arrears by the tenants (even after remission in deserving cases) out of the average yearly demand of 5 to 6 lakhs. As regards ground (iv) it is a matter for relief that it is of rare occurrence, and therefore evictions caused by personal ill-will and enmity are also rare. Such evictions are not on the increase. With reference to the next ground (v), enumerated above, what I have in mind is chiefly the desire to benefit the wife and children of the karnavan and sometimes, though very uncommonly, to benefit a friend, who wants to get possession of a particular property. One cannot really say that this motive is unjustifiable, and a Malabar karnavan would naturally prefer his wife and children to the tenants of his tarwad. Yet another class of evictions is that which is caused by the offer of a stranger, that, after ejectment of the existing tenant, he would pay higher rent or higher renewal fees for a new lease. In my opinion, this class of eviction also cannot be condemned. Janmi families in Malabar have only their immovable properties to fall back upon. They have generally no other means of subsistence. What with the increase in the level of prices and in the standard of life, it is no wonder if they are anxious to get as much benefit out of their landed properties as they can. It should also be remembered that, there is no law in Malabar which enables a landlord to enforce an increased rent, in cases where an enhancement is justified. The only recourse, therefore, is to evict the tenant, and introduce another who is amenable to better terms. The seventh class is largely peculiar to Malabar. Inasmuch as the anandravans can ignore an invalid alienation made by the karnavan, they have to so frame the suit, and ask to eject the tenant on the admitted lease. The real question to be decided is the validity or otherwise of the disputed encumbrance. Nevertheless the suit has to be called an eviction suit, though no eviction may follow. The next class mentioned above belongs to the same category. There might be several technical pleas or legal objections when a suit is brought simply to declare one's title as against another. Malabar litigants know that such pleas can be evaded, if the suit is based apparently on the lease with a prayer for ejectment, and if the rival title-holder is added as a party. Here, also, real eviction may not follow at all. I think there is a large body of ejectment suits in the district falling under these two classes, and it is only a superficial view that finds abomination in such litigations. This is not a modern feature of Malabar eviction suits.

The late Mr. K. R. Krishna Menon whose experience in such matters was unique, writing in 1888, says: "This kind of underhand business (i.e., bringing

suits ostensibly for eviction but really for other purposes) prevails to a great extent in the country and consequently the number of eviction suits on paper does not reveal the real state of things" (vide paragraph 16 of Appendix A to his memorandum on Mr. Logan's report). The validity of the ninth class of evictions is universally admitted, nor can the tenth be classed among unjustifiable evictions.

8. Under these circumstances I have to answer that evictions are not generally made on unjustifiable grounds, except in those rare cases where they are prompted by personal ill-will or spite. This kind of eviction is not on the increase.

9. II (1) (b) As regards melcharths, the observations made above about the direct evictions by the janmi or intermediate tenant apply more or less to evictions made indirectly through a melcharthdar. Melcharth taken by a man out of spite or envy towards the tenant is the only kind of melcharth which I condemn. Here again my answer is that out of ten such classes of melcharths nine cannot be said to be unjustifiable, and those, viz., those granted because of the lessor's ill-will or spite, or those taken out of melcharthdar's spite or envy, are alone reprehensible.

10. Subject to these two exceptions, I must confess that I do not share the pretention of abhorrence to melcharths as such. The majority of tenancy reformers of the present day have been melcharthdars in the past, and as Mr. Justice Sir Sankaran Nayar said in 1911, the majority of old tenants' tarwads have disappeared and new men have come on the land (G.O. No. 9, dated 9th January 1914). It therefore seems to me that if you start with the theory that all melcharths are immoral and intolerable, any tenancy reform now would stand self-condemned, unless you first turn out the immense crowd of tenants who came on land under melcharths for the last half a century. I may also be permitted to add, with great respect, that my view about melcharths in general is fortified by the opinion of Mr. (Sir Charles) Innes. In his report in 1915, paragraph 30, he says: "Indeed it is difficult to see, what other course is open to the impoverished janmi who is defied by his tenant and who cannot himself afford to evict." To the same effect is paragraph 7 in his report embodied in G.O. No. 9, dated 9th January 1914. A tenant having considerable improvements denies the title of the janmi who happens to be poor. The only recourse left to the latter is to give a melcharth, so as to free his title from the cloud cast upon it by denial. A tenant similarly situated refuses to renew, or he commits waste. Surely no fair-thinking person can condemn melcharths in these instances. Also we should not forget that the system of melcharth was evolved out of the strong craving of the Malayali mind to possess rights in immovable property.

11. II (2) These questions relate to the alleged social oppression of the tenant by the janmi. Malabar janmis are (1) Devaswams, mutts and other endowments, (2) Rajas, (3) Nambudris, (4) Nayars, (5) Mappillas, (6) Tamil Brahmans, (7) Moosads and Nambisans, (8) Ezhuvas and Thiyyas, (9) Goundans, (10) Chettis. Mr. (Sir Charles) Innes, in paragraph 41 of his report of 1915, points out that one-fifth of the total land revenues of the district is paid by 22 Rajas, 23 Nambudris, 29 Nayars, 5 Moosads and Variyars, 2 Tamil Brahmans, 1 Thiyyan and 1 Goundan. It is therefore clear that big janmis are drawn from all the strata of Hindu society, with an appreciable number of Muhammadans as well. It is also useful to remember that the annual jamabandi reports give us the number of pattadars in the district. A very small number of janmis alone who own big estates are really affluent and above want. A big majority of the janmis own small parcels of land and are in needy circumstances. Therefore the alleged social oppression on an appreciable scale is unfounded. And even if there be social oppression in some nook and corner of the district, it arises not because the parties are janmis and tenants. Land has nothing to do with the question. In pre-British days, under the ancient social constitution of the district, for each 'nad' there used to be a naduvazhi or chieftain, who was generally a Nayar or Stani. The theory was he was the social head also, in the sense he was the arbitrator in social matters relating to Nayars and other castes below Nayars. I know of one such uncared-for naduvazhi and social head near my house, and he is now eking out a beggarly existence. In theory, I suppose, he still continues to be the social head, but it is ludicrous to think of any social oppression by him. No doubt Rajas and Nambudris do still retain their position in some places as the head of

social organization, but social organization is an independent and parallel institution, and there is no need to confuse land-tenure incidents with those of social polity. I am not aware of any instances within the last fifteen years of any social oppression and to talk of janmi oppression in social matters in North Malabar would be an untrue statement. On the other hand, within the last three or four years in Tellicherry and adjacent places there have been, due to bad and foolish advice, apparently from their leaders, concerted attempts at oppression of landlords by tenants and particularly by Tiyya tenants.

12. III (a) The disabilities which the janmi or other landlords are now subjected to are (i) want of legal rights for speedy collection of rent, (ii) heavy value of improvements and particularly valuation of plants and trees of spontaneous growth in gardens and hills, under the Improvements Act.

13. The disabilities which the tenants are now subjected to are (i) evictions caused by the landlord out of spite or ill-will, (ii) melcharths caused by ill-will or spite without notice to the tenant in possession.

14. As regards disability No. (i) of the landlord, I shall indicate the remedy that I propose in answer to question III (e). The remedy to remove disability No. (ii) I shall indicate in answer to question No. V.

15. As regards the two disabilities of the tenants, I would respectfully in passing request the Committee to consider the possibilities and practicability of the Fourth Bill drafted by Master's Committee in 1887 and contained in Appendix D to its report.

16. To put evictions on a sure and well-recognized principle, and to restrain capricious or malicious evictions and melcharths, I would suggest the enactment into law of a section on the following lines.

17. On the expiry of the term of the tenancy, or of twelve years from the date of the lease or the last renewal, in the absence of a contract to the contrary, a landlord shall be entitled to bring a suit in ejectment or redemption in the following cases only:—

(a) If the holding or a portion thereof is required by the landlord for the purpose of extending the residential house of himself or the members of his family, or for building a new house for the residence of himself or members of his family, provided that, if the landlord fails to extend the residential house or build a new house within three years of the date of eviction, the previous tenant shall have the option of recovering the same on payment to the landlord of the kanam or value of improvements, if any.

(b) If the holding or a portion thereof is required by the landlord for bona fide cultivation by himself or members of his family.

Provided that if the landlord creates a simple or kanam lease over the holding within three years of the date of eviction, the previous tenant shall have the option of recovering the same on payment to the landlord of the kanam or value of improvements, if any. [Explanation.—Family in clauses (a) and (b) includes the landlord's wife and children in cases where he is governed by the Marumakkattayam law.]

(c) If the tenant neglects or refuses to pay the renewal fee when the renewal is customary, and take a renewal, within six months of demand after the expiry of the term or twelve years from the date of the lease.

Provided that if the tenant deposits at the first hearing of the suit or on such date as the court fixes one year's net income, together with other dues in arrears with interest thereon at 12 per cent, and the plaintiff's cost of suit, the court shall pass a decree directing that the tenant do hold for a term of 12 years from the date of the expiry of the previous lease or kanam.

(d) If the tenant fails to pay rent for three years consecutively.

(N.B.—If the usual relief against forfeiture is to be given, I would reduce the period to two years.)

(e) If the tenant willfully denies the landlord's title.

(f) If the tenant, or any one in lawful possession under the tenant, wilfully commits such acts as are calculated to materially impair the value, or change the character, of the holding.

During the currency of the term the tenant shall also be liable to eviction under clauses (d), (e) and (f).

18. As regards the tenant's disability when a melcharthdar out of ill-will or spite tries to evict the tenant, the above clauses will be an ample protection. The question of a notice anterior to a contemplated melcharth will be referred to when answering question No. X.

19. III (b) I do not think that for the removal of the disabilities pointed by me a grant of occupancy is essential. All that I consider necessary and practicable is to impose some restraints on evictions and melcharths. Even if all such grievances and disabilities exist in our land tenure as are generally pointed out by tenancy reformers, I am emphatically of opinion that a gift, or even a grant with compensation, of occupancy rights to tenants would produce irreparable loss and injustice to others.

20. Assuming, however, that permanent occupancy rights are to be given, it is impossible to imagine the grant of it to all tenants, sub-tenants, under-tenants, and so on, till we reach the man in possession. Of all the taluks in Malabar, I believe my native taluk, Kurumbranad, has most developed a finely graduated scale of tenures. It is a common thing to find over a single item of garden land (1) a janmi, (2) a kanamdar, (3) a sub-kanamdar, (4) a kuzhikanamdar, (5) a melpattamdar and (6) one or two panayamdars. Or it may be A takes a kanam from the Raja of Kadathanad for ten items of properties. A keeps possession of one, and sub-demises to B on kanam five other items, and leases on kuzhikanam to C the four remaining items. B, in his turn, keeps possession of one or two and underlets four or three properties to D. C, in his turn, may keep possession of some properties and lease out the rest to E. D and E may again lease out the properties they thus acquired to several others. In the face of facts like this, the idea of giving occupancy to all classes of tenants is an impracticable proposition.

21. Assuming, however, that it is decided to grant such rights, and assuming the question arises to whom it is to be granted, I would then submit that it should be granted only to verumpattam and kozhu tenants in possession of paddy lands. All kanam tenants who were not in possession should, in the first place, be denied the privileges of occupancy, since (1) they are mere middlemen, and (2) since no landlord should be compelled to keep alive for ever an encumbrance on his estate. Kanam tenants who are in possession should not be allowed the right of occupancy as kanamdars, since the effect would be to prevent the landlord from paying off the kanam which always bears interest. So, in such cases, I would suggest that the landlord should be allowed to pay off the kanam, but no actual ouster need be allowed. In short, the landlord should have the option of converting a kanam tenant in possession into a simple tenant. In the case of kuzhikanam tenants of gardens, the Improvements Act, coupled with my proposals in paragraph 17 above, gives them in my opinion all the protection they are entitled to. If occupancy is to be given, I would propose that kanamdars and other tenants not in possession as well as kuzhikanam tenants should be left under the existing law; kanamdars in possession of paddy lands may be made subject to redemption without eviction; verumpattam tenants in possession of paddy lands may be given the occupancy.

22. III (c) If there are more tenure holders than one in respect of any holding, I would restrict the grant of occupancy rights (in case they are to be granted) to the tenant in actual possession. This limitation, though it may not satisfy the loud-mouthed section of the non-cultivating tenancy agitators, would be more than sufficient to put an end in the most substantial measure to such disabilities as the deserving class of tenants is said to be subject to.

23. III (d) The suggestion, it appears to me, has no merit in itself, though I concede it may be supported on the ground of expediency. The idea that the year 1852 is a landmark in our land-system is the relic of a past mistake. It was supposed by Sir T. Madhava Rao's Committee that evictions through courts of law date from 1852 only, and that they were unheard of anterior to that date. But Mr. Strange, who enquired into the Mappilla riots in 1852, gives figures of redemption or ejectment suits and decrees for ten years anterior to 1852. I have myself seen and read certified copies of several redemption decrees passed by courts since at least 1810 A.D.

24. Though therefore I think there is no historical basis for the suggestion, I feel it has acquired the strength of long-repeated assertion. It is less harmful than many other wild proposals of occupancy. In the first place, the principle of the fixation of a time-limit has several authorities to support it, though in detail the authorities may not have agreed. For example, Sir T. Madhava Rao's commission proposed, to the benefit of occupancy, kanamdars of 30 years' standing in 1884; Mr. Innes in 1915 of kanamdars of 40 years' standing; Diwan Bahadur M. Krishnan Nayar in 1922 of kanamdars of 25 years' duration; the Cochin Regulation of 1914 recognizes only the claims of those of 30 years' standing, whereas the Travancore Regulation of 1866 requires 25 years' anterior possession. Secondly, the suggestion is only a legal recognition of the moral claims of long-standing enjoyment and possession of the tenant, and it may fairly be assumed that a janmi who has not disturbed the tenant for 75 years will have no objection to his continuance as an occupancy tenant. Thirdly, the suggestion has the great advantage that it will create the least disturbance and violence in the land system. Fourthly, the suggestion will keep out melcharthdars and new persons who evicted old tenants, and so it would give universal satisfaction to all tenancy reformers to whom melcharth is an anathema. As against all these, it may be pointed out that the suggestion involves the penalisation of good landlords who did not disturb their tenants by eviction or melcharth, while leaving bad landlords free. But I do not feel this is entitled to such weight as to override all the considerations in favour of the suggestion. I have only to add that inasmuch as it would be difficult for tenants to prove possession for more than about 50 years past from now by registered documents, continuous possession for 50 years may be deemed to have continued from anterior to 1852.

25. III (e) If any law is passed granting occupancy rights to tenants in possession, I would propose a chapter dealing with the recovery of rent on the following lines. I would define the word 'tenant' as a person who as lessee of land is in actual possession or cultivation thereof and I would adopt the definition of lease, lessee, etc., as given in the Transfer of Property Act to indicate all other kinds of derivative holders. Of course I assume that intermediate tenure holders are left out of the proposal for occupancy, and that, therefore, the janmi would find it to his benefit to redeem all middlemen. My proposal for the recovery of rent may roughly be framed thus:—

(1) At any time after an arrear of rent has become due and remains unpaid the janmi may serve on the tenant a written demand signed by him specifying—

- (a) the amount due for arrears, and interest, if any;
- (b) the holding in respect of which the demand is made;
- (c) the period in respect of which the arrears are due; and
- (d) the intention of the landlord to apply for attachment.

(2) (a) If the demand is not complied with within 30 days of the receipt of the notice of demand, the janmi may, in addition to other remedies, be entitled to apply with an affidavit to the civil court holding jurisdiction for attachment and sale of the tenant's holding or the movable property of the tenant, or the growing crops, or the produce of the land, or the trees in the holding; and the court shall forthwith attach the property specified by the applicant in the mode prescribed in the Code of Civil Procedure and issue notice to the tenant:

Provided that—

(a) the particulars exempted from attachment or sale under section 60, Code of Civil Procedure, shall not be attached;

(b) no attachment shall be levied under the provisions of this chapter for more than three years' rent preceding the date of demand specified in section (1) above.

(3) (a) The tenant shall not be entitled to raise any defence unless a tender of the amount claimed is made in court, and the tender shall be deemed valid though made under protest; and on such tender being made the court shall cancel the attachment and stop the sale, and shall proceed to decide the amount the applicant is

entitled to and pay him the amount so found due (after deducting the court-fee which would be leviable on the amount so found, if a suit for it had been filed in a court of small causes).

(b) The decision shall be deemed to be a decree within the meaning of the Code of Civil Procedure.

(4) If the court finds that there was no arrear and that the attachment or sale was obtained on insufficient grounds, the court may besides costs award as compensation to the tenant a sum of money not exceeding double the amount claimed.

(5) The provisions in rules 58 to 103 of Order XXI in the Code of Civil Procedure shall as far as may be applicable to attachment and sale under this chapter, but it shall not be necessary to issue the notice mentioned in sub-rule (2) of rule 66 of that order, and the sale shall be held within 45 days of the attachment unless the court for reasons to be recorded fixes a later date.

(6) When any conflict arises between the right of a janmi attaching under the provisions of this chapter and the right of any other person except the Government, the right of the janmi shall prevail.

(7) It shall be competent for the Local Government to amend, modify, add to, or annul all or any of the provisions of this chapter.

(8) The provisions of this chapter shall apply only if there is no intermediate lessee between the janmi and the tenant.

[A revised draft is submitted in the appendix following.]

If the ultimate proposal accepted be to extend occupancy rights to intermediate tenants as well, then in the above clauses the words 'or intermediate tenant' should be added wherever the word janmi occurs and the last clause should also be deleted. The above proposal tallies more or less with what Mr. K. P. Raman Menon proposed to add to Mr. Krishnan Nayar's Bill as amended by the Select Committee (see agenda of the Legislative Council, dated 8th February 1926, amendment No. 147). I ought to add that I do not claim the draftmanship of the above clauses as mine.

26. III (j) I would object to occupancy rights being given in—

(1) Municipal areas (since it would hamper town-life, and the floating population of towns would find it irksome).

(2) Forests and hills (Mr. Krishnan Nayar's Bill contained this exception, clause 5 of his Bill).

(3) House, shop, warehouse, or any other building constructed (or owned) by the landlord together with the garden and compound appurtenant thereto [clause (ii) of the Tenancy Bill as finally amended by the Select Committee. The object of exclusion is obvious, since if not excluded no landlord will allow a man to live in his house in future].

(4) Lands or gardens, within, say, 200 feet of temples and perhaps of mosques or places of worship. A logical extension of this would generally be unpopular, but the habits and social customs and sentiments of the people, which nobody can totally ignore at present, do require that such cases, for example, as where a Panchama occupancy tenant is foisted on a garden adjacent to a Hindu temple, should be averted, if possible.

(5) Lands purchased in janm for value, after, say, the year 1852. The same reasoning which leads to the favour proposed to be granted to tenants in possession with cash on the faith of the existing law, which permitted redemption, should not be exposed to loss by confiscating their right to redeem or eject, and depreciating the value of janm right. The Hon'ble Mr. Justice Sundara Ayyar forcibly draws attention to this aspect in G.O. No. 9 of 1914.

(6) Lands which are being leased for the first time after the enactment of the proposed law, and lands which having reverted to the landlord free of existing kanams or leases, are being leased out afresh after the enactment. Otherwise, the result will be new leases will not be given to tenants because landlords can only do it at the risk

of occupancy rights attaching to them forthwith. Even otherwise, it would be intolerable, indeed, if two persons in Malabar cannot enter into a contract to give and take a lease for a short or definite term.

(7) Janm lands of janmis who own 25 acres or less of such lands in wet or garden cultivation (clause 5 of the late Bill revised by Select Committee proposed 10 acres only). I confess such a provision may in practice create difficulties, but poor janmis, who may otherwise be crushed out of existence, do require some provision to this effect.

(8) Lands which, being cultivated by a janmi on the commencement of the proposed legislation, may thereafter be let to a tenant, or land, reclaimed by the janmi after the legislation, and subsequently let to a tenant—vide clause 10 of the late Bill as revised by Select Committee.

27. IV (a) (1) As regards the questions relating to 'kudiyiruppus,' I cannot put my answer better than in the language of Mr. Thorne who both as Estate Collector of the Zamorin's Estate and Collector of Malabar had ample opportunities of knowing the facts. Where a house is really a home, where one's ancestors have lived, where they have died and been buried or cremated, where the family worship has been celebrated without interruption for many years, eviction is something more than an eviction from the mere roof and rooms (his opinion on the Bill, paragraph 23). But the real difficulty arises only when we think of remedies. The term 'kudiyiruppu,' in the sense in which it is used in this connexion, is more current in South Malabar than in North Malabar. Generally speaking, a kudiyiruppu in South Malabar has been a kudiyiruppu from a long time past, and is generally an ancestral home. It has got a well-defined demarcation, and one may fairly say, I think, that the lease or portion of the lease relating to kudiyiruppu is, firstly, a distinct thing in itself, and, secondly, is not an agricultural lease. What I mean is that in South Malabar, either the lease of a kudiyiruppu is a distinct lease standing by itself, or even if part and parcel of an agricultural lease, is still separable from it. In other words, the lease of kudiyiruppu is not meant as an agricultural lease in South Malabar in the ordinary meaning of those words, though a kudiyiruppu is a useful and sometimes necessary adjunct to cultivation of the neighbouring or surrounding paddy lands. But the predominant characteristics of North Malabar holdings are fundamentally different. Partly due to the habit of Marumakkattayam, people living with their wives and children together, away from the tarward house as often as possible, and partly due to the fact that paddy cultivation has been and is being neglected in favour of coconut cultivation in parambas, North Malabar has become predominantly a land of parambas, and the ambition of a North Malayali is to build a house in a paramba. Ordinarily a paramba would be about, say, half an acre, or an acre thereabouts in area. One who goes about in North Malabar will be struck with the rapidity with which paddy lands are being converted into small parambas with houses in the middle. Census reports are not available to me just now, but I believe that a comparison of figures of dwelling houses in the three reports will show a phenomenal increase in North Malabar. Thus the tenant planting up the parambas with coconuts, arecanuts, jack, mango and other trees and pepper vines usually builds a house also which is almost always in the middle of the paramba. Here kudiyiruppu or dwelling house is only incidental and not the main idea. I do not ignore the fact that some parts of South Malabar, like Calicut taluk and parts of Ponnani, approximate to the conditions of garden cultivation of North Malabar. Nevertheless, I still maintain it ought to be possible to separate the kudiyiruppu in South Malabar from the rest of the agricultural holding and give it some kind of occupancy right. But in North Malabar it is hopelessly impracticable to suggest that the tenant shall be given fixity in his house, but shall be subject to resumability as regards the garden. If you clothe the house and the necessary surrounding space, say, 20 cents or 30 cents or 50 cents round about the house with occupancy, the rest of the paramba, cut up piecemeal into bits, becomes useless for the owner, and it is impossible for anybody else than the occupant of the house to hold that part and enjoy it. I have not, therefore, the slightest hesitation in affirming that to give occupancy generally to homesteads in North Malabar is impracticable, whatever be the conditions in South Malabar. Since I have already indicated my opinion that

restraint on unjustifiable evictions and unjustifiable melcharths would afford the necessary protection to tenants in general, any special legislation with reference to kudiyruppu-holders is not necessary, because that protection will enure for their benefit also.

28. In most of the parts in South Malabar these house-sites are often occupied by labourers and agricultural coolies, and the ejectment of such occupiers is fortunately one of the rarest things in Malabar. All landlords require their services; no landlord has any motive in turning out persons required for farming purposes; no rent is received from them, though a nominal rent of a few annas may be fixed; the object of the landlord is to create as many kudiyruppus as practicable and ejectments of tenants from houses alone would be a profitless and ruinous proposition to the landlord. If the advocates of occupancy can point out 27 instances during the last 27 years from 1900 in which kudiyruppus, mere houses, unattached to agricultural lands, have been sought to be recovered in rural parts of Malabar (not because of arrears of rent or denial of title) one can understand this demand, though instances of 27 suits are too poor a figure to base a special legislation upon. Though in theory I agree with the view that nobody should be wantonly turned out of his old ancestral home, I think, in practice, this does not happen. If protection of tenants' ancient homestead could be given without infringing seriously on the rights of the landlord, I agree it should be given; but I believe sufficient protection would be afforded if my proposal in paragraph 17 is accepted.

29. Another thing which I wish to point out is that you can protect only old ancestral homes and not all houses; otherwise in half an hour and with material costing about half a rupee, any tenant can put up a thatched shed and claim occupancy anywhere in Malabar. Even after a suit has been filed for recovery, he can put up a hut and claim fixity.

30. But if some form of special protection is required for homesteads, I would make the following remarks:—

(i) Occupiers or tenants of kudiyruppus which have been continuously in their occupation or possession from 1852 shall not be liable to ejectment from their kudiyruppus unless they deny the landlord's title, or the land required by the landlord for his own residence, or the tenants do not renew at the expiry of the term or 12 years from the beginning of the tenancy, when renewal is customary. No sum exceeding Rs. 25 shall be demanded by the landlord for a renewal of the kudiyruppu.

(ii) The above clause will apply only if the lease relates to kudiyruppus only, or if part of an agricultural lease is severable from it. In considering whether it is severable or not, the court shall take into account the whole terms of the lease, the extent of the holding, facilities for cultivation in the holding without the kudiyruppu, etc. If the court finds that the provision relating to kudiyruppu is severable, the clause will apply and ejectment from the holding except the kudiyruppu shall be decreed. If it is not, or if the kudiyruppu is essential for the cultivation of the rest of the holding, the holder may be ejected.

(iii) The tenant shall pay the revenue for the kudiyruppu.

(iv) It may perhaps be safe to add that no assignee from a kudiyruppu-holder should be entitled to any special consideration.

31. The whole subject is so much bristling with practical difficulties that I find it difficult to formulate more precise provisions, but the lines I have indicated seem to me the most appropriate under the circumstances. We have to rely on the judicial discretion of the court to some extent, when we find that appreciable difference between taluk and taluk and desam and desam exist in the district.

32. IV (a) (2) Urban kudiyruppus should not be artificially protected by any statutory enactment of occupancy.

33. IV (b) In my opinion, the question shows that a special occupancy to homesteads is a point that can be mooted only to be rejected. Sometimes the area included in a kudiyruppu may be ten acres; one or two acres, often between half and one acre, and sometimes a few cents, say, five or ten. It depends on the nature

and locality of the holding. In hilly places, where the house is on the slope of a hill, the kudiyruppu may cover several acres. In the midst of a paddy land it may be a few cents. Again with reference to the house-site, the gate may be several yards away, the well may be distantly situated, the cow-shed will be in a different place, and the granary for keeping the paddy and the seed in an out-house for the purpose. The house-site and the yard may itself consume a few cents. I know of several Mappilla tenants in North Malabar, making money in Burma and the Straits, putting up such commodious residential houses and out-houses that the paramba itself is covered over by the buildings. The impracticability of a statutory minimum extent for a kudiyruppu is therefore manifest. If you say 25 cents or 50 cents round the house is a reasonable minimum, who will make the demarcation and how? What will happen if the well or the gate is outside the limit? Supposing a demarcation is made and the landlord erects a wall along the boundaries, lest the occupiers should trespass on the rest of the land, what sanitary arrangements are you going to make for them? I am sure the tenants of Malabar will not bless anybody for proposing their virtual imprisonment within 25 cents or 50 cents.

But, however, since the question has to be answered I would say that 25 cents may be deemed to be the minimum required for a kudiyruppu in rural areas.

34. IV. (c) (1) This question is already answered by implication in my answer to question IV (a). If the man entered on the land before 1852 or any other fixed date, then alone the question would arise, because if he had made a homestead after that date, it follows that, since it was the family association and attachment, clustering round an old ancestral seat, that justified the proposal, the reason failing, the new tenant building a new house is not entitled to such consideration. If the question relates to a man building a new house in future, I submit with all emphasis the proposal to grant occupancy to such houses is unthinkable. If so, every tenant in Malabar can at once thatch up a hut or numerous huts and entitle himself to occupancy. It would then be more honest to legislate that everybody with a lease-deed is forthwith entitled to fixity of tenure. So I take it the question relates to a man who entered previous to 1852 or any other fixed date. If he is unable to renew the kanam or to continue the verumpattam and if the landlord does not want him, as per my proposals in paragraph 30 above, the court will have to see whether the kudiyruppu is only incidental to the kanam or verumpattam or is separable therefrom. If the former, he will be ejected; if the latter, he will not. The intentions of the parties, coupled with the characteristics of the lease, i.e., whether a building lease mainly or an agricultural lease, must decide the question, I think, in the absence of better standards.

35. (2) The sort of enquiry contemplated by this question is, I humbly think, fruitless. It is obvious it is impracticable to lay down the estimates and plans of houses to be built by tenants. Even if practicable, the chances are that such stipulations regulating the size or extent of a building would be repugnant to the Improvements Act I of 1900. The only test that can be laid down is what is laid down in that Act, whether the building is suitable to the holding, consistent with the purpose for which the building is let, etc. Though the test has worked till now to the grave prejudice of the janmi I think this is the only workable basis. Therefore my answer is if the house is an improvement under the Act, though larger than is necessary (from whose standpoint?) it may be given occupancy under the conditions which I have already indicated above. If not, no.

36. (3) Under the circumstances mentioned in the question, the occupant should have no occupancy. The kudiyruppu is so attached to the rest of the holding that it must be deemed to be not severable and therefore should be resumable by the landlord along with the holding.

37. IV (d) (1) & (2) A compulsory purchase of janmi's rights to protect homesteads with payments either forthwith or spread over a period of years by means of bonds issued by Government or co-operative society is not suited to the people of Malabar. When janm right is owned by tarwad or even, by devaswams, it will do incalculable harm if the karanavans or trustees are allowed to handle the value thus realized. It is notorious that karanavans will misappropriate the money and the

junior members are practically helpless to prevent it. I need not labour the point as it is obvious to everybody who knows the Malabar system of holding property. On this ground I am strongly against the *cropus* of tarwad property being converted into money. There is also the greater danger that karanavans in collusion with the occupiers of homesteads will create occasions for such compulsory purchase of janm right and the consequent conversion of immovable property into cash.

38. If the Committee is anxious to investigate into this aspect of the matter, I may be allowed to make an alternative suggestion. Tenants of homesteads may be given a pre-emptive right over the house-site and a minimum extent of surrounding space, whenever practicable, in the discretion of the court, in the event of their being sued in redemption or eviction. The money value payable by the defendant may be calculated according to the principles of Land Acquisition Act. But instead of the defendant paying into court or to the plaintiff the amount so ascertained, it shall be made a 'rent charge' on the land and the tenant shall be directed to pay interest at 6 per cent every year along with the rent. The suit so far as it relates to eviction shall be dismissed, and no subsequent suit to evict shall be brought as long as the tenant regularly pays the interest and other dues. The tenant practically gets the janm title; he is secure; the janmi gets adequate compensation; and opportunities of fraudulent dealings by karanavans and trustees are reduced to the minimum. I may be allowed to add that ordinarily the capitalized value of the house-site will be very small since the site will generally be about 10 cents, and that there is a very great advantage in this proposal in that you are relieved to some extent of the difficulty of statutorily fixing the minimum space referred to in question IV (b), since the automatic limitation, induced by the means of ability of the tenant with reference to the amount of the "rent charge" and the interest thereon, will be an effective check on the possible exorbitant demands for space by the tenant, and the discretion of the court on the possible niggardly attitude of the janmi.

39. V. After the present Improvement Act was passed in 1900 the Government on several occasions reviewed the effect of that enactment. As a result of the enquiry in 1905, I believe, it was found that the Act operated as a check on indiscriminate evictions. The result of the second enquiry, started in 1911, is recorded in G.O. No. 9 of 1914. It was found that the Act had very much benefited tenants of garden lands but not of wet lands. In 1915 Mr. Innes (paragraph 53 of his report) was of the opinion that as regards garden lands and kudiyruppus the Compensation Act had undoubtedly made janmi's position a difficult one. The area under garden cultivation is not small; it is 43.4 per cent of the total area under cultivation. The view of Mr. Thorne that the Act has given virtual occupancy to kuzhikanam tenants (page 31 of the opinions on the late Bill) is supported by a host of competent observers, and there are several instances where the janmi's title has been imperilled by the inability of the janmi to pay the heavy value of improvements, and the tenant has been able to overawe the janmi and dictate his own terms.

40. The enactment of the Act has led in some degree to certain developments not expected at the time. (1) It has increased melcharths. The janmi, not having the means himself to pay the value of improvements, has to seek the help of investors who will pay off the value of improvements. (2) It has encouraged the evil practice of conversion of paddy lands into parambas to an alarming extent. (3) It encourages the tenant to plant improvements with the view of getting more money than with a view to agricultural needs, and so sometimes overplantation and deterioration of the holding follows. Now, melcharths embitter the tenants' feelings, and the attempts of the tenant to improve the janmi out of his land and overload the holding with costly improvements embitter the janmi's feelings. So far as I can recall at present, this is the extent of the bad effects of the Act on the relation between the janmi and the tenant.

41. As a remedy, I can only suggest two ideas of reform—(1) no value shall be paid for trees of spontaneous growth in the holding which did not entail the expenditure of capital or care of the tenant, (2) conversion of paddy lands into parambas or gardens and the erection of buildings, with or without such conversion, in paddy lands, without landlord's consent shall be deemed to be waste, and no value shall be paid for them.

42. VI (a) & (b): (a) *Nature of compensation*.—The compensation value shall be ascertained in money and instead of that being paid to the landlord it shall be made a 'rent charge' over the holding in favour of the landlord and against the tenant claiming occupancy. Interest on this at 6 per cent per annum shall be payable annually along with the rent.

43. (b) *Extent of compensation*.—I think it is very difficult to say what the extent of compensation to 'persons adversely affected' should be, in case of occupancy being granted. The question obviously comprehends the case of intermediate tenants also, and question (b) relates to them specifically. However, we shall take the following instance: A property has a net income of Rs. 60. A, the janmi, has leased it to B on kanam of Rs. 100, the michavaram being Rs. 10. B has sub-leased the land to C on verumpattam for Rs. 50. Neither B nor C has any improvements. The present janm value of A over the holding would be Rs. 1,000 (at 5 per cent interest). If occupancy is given to B, the value would be only Rs. 200 (at the same interest). Therefore, the loss of the janmi, viz., Rs. 800 minus kanam = Rs. 700, should be his compensation. Suppose C also is given occupancy. Profit made by B is Rs. 40 a year from which should be deducted the interest on his kanam money of Rs. 100, which we shall assume to be Rs. 6. Thus B makes a profit of Rs. 34 a year and the capitalized value of B's interest would be Rs. 680. Suppose C also is given occupancy rights. B hereafter would not be able to eject C and make Rs. 60 from the holding; he will continue to get Rs. 50 only. So by C getting occupancy B loses the possibility, and if he desires the certainty, of getting the additional profit of Rs. 10. The capitalized value of this, viz., Rs. 200, is the loss of B and so C has to make compensation to B of Rs. 200 in case occupancy is given to him.

44. VI (c) I am decidedly of the opinion that no compensation should be payable except when the person adversely affected by occupancy holds the right affected in his own right, as his self-acquisition. Compensation should not be paid down in cash at once or in instalments when it is payable to tarwads or tavazhis, stanams or devaswams or other limited owners; it should be payable preferably in instalments in cash, only when it can be claimed individually in one's own right. In the latter cases, arrangements, as contemplated in question IV (2) (d) or in instalments, as will best suit the tenant may be made. The danger of dissipation of the estate in the case of limited owners is so patent and real that no payment should be contemplated. The amount may be ascertained and interest alone thereon should be annually paid along with the rent, and the fixity of tenure should depend on the punctuality of the payments.

45. VII (a).—I do not support any proposal to fix the rent by statute except perhaps when there are only the janmi and the tenant in possession. Such cases are very infrequent. If there are middlemen tenureholders (and often there might be several grades of such persons) I think it is not a practicable proposition to lay down any useful rule which will apply to the manifold instances which must occur in practice. Wise statesmanship would leave such cases to be regulated by freedom of contract. It is high time to lay down unequivocally that kanams are mortgages. In North Malabar kanams are looked upon as a business proposition between the creditor and debtor. South Malabar would give similar transaction a different name as panayam or kaivasam panayam. Therefore, I would look upon kanamdars as mortgagees liable to be redeemed. What they would be entitled to would be only interest on the kanam, though at present they insist on and do get, besides the interest, a profit as middlemen. As regards the rent payable by the tenant in possession he should not be liable to be called upon to pay more than two-thirds of the net income and the janmi should have the right to get two-thirds, subject to his giving credit to interest on the kanam if there is a kanam. The janmi should of course pay the revenue. Here I would adopt the amendment proposed by the Government to the late Tenancy Bill, and say that it shall not be lawful for the janmi or intermediate tenant to recover from the tenant in possession rent in excess of two-thirds of the net produce with the provisos given therein. I would add an additional proviso that if the rent now paid by the tenant in possession be in excess of two-thirds, the tenant shall not be entitled to any reduction merely on the strength of the above clause.

46. But there is one aspect of the matter which merits consideration. In the case of paddy lands the tenant may bring new waste lands under cultivation after reclamation. In the case of garden cultivation too, he may bring under cultivation waste parts of the holding. Or, as often happens in the eastern tracts of North Malabar new lands now lying waste may be leased out fresh for garden cultivation. So far as my knowledge goes, I think it is true to say that at present in the district no janmi assesses to rent such lands brought under cultivation by the tenant, though a nominal rent of a few annas is generally fixed because the janmi has improvements of his own. In the case of garden lands it is obvious that in course of time the improvements now owned by the janmi must die out, and so it is necessary to make it clear that whatever may be the present practice, rent in future should be fixed on a proportion of the net income whosoever improvements might be the cause of the net income.

47. There is another point that should also be considered. It has been suggested in some quarters that, in calculating rent or income, you should value the improvements made by the tenant and guarantee to him, say, 6 per cent interest on that value by first deducting that interest from income. I find it difficult to entertain the suggestion seriously. Nobody compelled the tenants to make improvements on another man's land, and to *compel* the landlord that interest on the tenant's capital or labour should be statutorily payable out of the income seems outrageous. Suppose in a garden land fetching a net income of Rs. 50 the tenant has built an upstairs tiled house worth Rs. 8,000. This is only a very common instance. The interest due on the tenant's improvements would be Rs. 480. In this instance, to give effect to the tenant's demand is a mathematical impossibility. [I find even 8 per cent has been put down in clause 18, sub-clause (b), of a Tenancy Bill printed in Appendix B to Mr. Kodanda Rao's book, and attributed by him to Mr. K. Krishnan.]

48. If the demand is based on the consideration that the tenant had to invest his labour or capital, there can be no difference on principle between improvements and improvements, because whatever be the improvement, house, well, irrigation, trees or reclamation, the tenant had to invest labour and capital in each of such cases. Again, if you say that interest on the tenants' investment should be guaranteed, what answer would you make to the similar demand made by the janmi that interest on the value of his janmi right should be guaranteed? Or, in case the janmi is leasing out a garden fully planted up by himself to a tenant, would the tenant undertake to pay 6 per cent interest on the value of such trees in addition to a portion of the balance profits? If the principle of mutuality is not recognized or admitted, the whole basis of the demand fails. It appears to me that such partisan claims are based on undue emphasis being put upon particular aspects of the question, in ignorance or forgetfulness of the fact that the janmi's soil and its manorial properties serve as the foundation of, and contribute to, the income along with the tenants' labour and capital. The division therefore should be one-third by the tenant, one-third by the janmi and one-third by other claimants. To simplify matters the tenant may take one-third for himself, and out of the two-thirds paid over to the janmi the latter should meet the claims of the Government and that of kanamdar, if the janmi's wish is to continue the kanamdar, created by him, without redeeming him.

49. VII (b) So far as my knowledge goes, the rent paid by kanam tenants is unjustifiably low, and the rent paid by the tenant in possession cannot ordinarily be said to be unjustifiably high. But it is quite possible that the kanam tenant may sometimes rack-rent the tenant, and squeeze out almost the full net income. But such cases will not be a paying proposition to the kanamdar, since the tenant will abandon the holding. In North Malabar, the income from the improvements belonging to the tenant is not generally taken into account in fixing the rent. Therefore, broadly speaking, I am not prepared to say that the rent is unjustifiably high.

50. It is impossible to specify instances unless we have the lease deeds, and we also get the net income of the holdings we examine. But I would invite the attention of the Committee to such instances as have been published, and they are—

(a) Paragraph 34 of Estate Collector's report on the Bill at page 70 of the printed opinions on the Bill.

(b) Mr. Evans gives a schedule of 70 instances investigated by him in appendix to his report submitted, I believe, in 1916.

(c) Paragraph 46 of Mr. Innes' Report in 1915.

(d) Figures regarding Kollengode Raja's Estate at pages 19 and 20 and schedule B at page 15 of "Malabar Tenancy Legislation", volume II.

(e) Figures published about two years ago relating to Kizakke kovilagam and Kuthiravattam estates.

I am not able to specify more reliable instances.

51. VIII (a) Renewal fees ought to be fixed at a proportion either to the net income or the rent. The former gives a definite basis though the ascertainment may not be easy. The rent basis would at present be a misleading basis; rents are now fixed haphazard without any definite principle. Sometimes we get the traditional rent of a few annas out of properties which give an income in hundreds of rupees. Generally if the renewal fee is properly paid no janmi increases the rent. So, it is difficult to assume that rent-basis would give us a fairly safe foundation. I believe one or one-and-a-half times the net income would be a fair proportion for the renewal fee every twelve years. Or, it may be thrice the rent received by the landlord, whichever is the higher.

52. (b) The rate of renewal fee paid in my taluk of Kurumbranad varies from locality to locality if not from janmi to janmi. (i) Three or four times the rent, (ii) one year's mesne profits,—these appear to be the popular standards. But to each of these two there is invariably added (iii) a fixed amount for signing fee and other sundries which varies from Rs. 10 to Rs. 15. As regards paddy lands the renewal fee is Rs. 5 or 6 for one hundred seers of paddy rent, and it is payable every four years. Higher fee has to be paid by an assignee or a heir of the original tenant.

53. IX As I have already indicated, neither occupancy nor compulsory purchase is desirable. All that I would support is a proposal to restrict evictions (and melcharths) within the limits required. I have indicated in answer to question III (a) the lines of reform. Enumerate the cases where eviction will be decreed, and you confine eviction within those cases. The cases I have enumerated in paragraph 17 are taken by me more or less from Mr. Krishnan Nayar's Bill, which agrees in this respect with the general law of landlord and tenant, and, in particular, with the regulation in force in Cochin.

54. X (a), (b) & (c). These questions assume that melcharths may be necessary to some extent, and I respectfully agree with that assumption. In view of the difficulties put in a poor landlord's way by the Improvements Act, I consider a general invalidation of melcharths as Mr. Krishnan Nayar and the Legislative Council proposed last year, would be a very unfair blow at the minority community of landlords. But it is also necessary to restrict the operation of melcharths. Therefore, what I propose is this:

(a) In so far as the melcharth empowers the grantee to recover the stipulated rent for the tenant, the melcharth to that extent shall be valid, without any exception. This aspect of the matter is so often lost sight of that I have thought it necessary to specify it. It should be a matter of indifference to the tenant whether he pays rent into the hands of A or his agent. But it is a serious matter to the janmi. The janmi should obviously have the right to raise loans by way of kanam melcharths or otherwise. Whenever necessity compels him to do so, he should be free to make the arrangement, that the rent payable by the tenant should be appropriated towards interest on the loan or part of the debt itself, or both. I do not see any reason why the janmi should be compelled to knock at the doors of the tenant for further loans, when he can raise them freely in the money market, so long as the tenant is not unjustifiably evicted.

(b) A melcharthdar should have the right to evict the tenant only—

- (i) if rents are kept in arrears,
- (ii) if there is a denial of title of landlord by the tenant,
- (iii) if the tenant commits waste,

(iv) if the tenant assigns his interest in the land permanently or leases or mortgages it for temporary occupation without giving previous notice of such transfer, lease, or mortgage, to the landlord, and against the valid objection of the landlord, if any, raised within one month after the receipt of notice.

55. I prefer the above proposals to the system of pre-emption referred to in the questions. If that system is adopted there is the patent danger referred to in sub-question (c) and even if the notice be sent as sub-question (b) suggests anterior to the melcharth, there is still the danger that the offer to the tenant may be put at a higher figure than what really is agreed upon in secret by the melcharthdar. Shortly put, I think the suggested system of pre-emption would in the first instance lead to a lot of false and evasive correspondence in the shape of registered notices and lawyer's notices, as a sort of preliminary skirmish and secondly to a lot of perjured evidence in court after the melcharth. When the matter comes to court one would find it hard to prove collusion or fraud and therefore the tenant would be at a disadvantage. Apart from these I do not find any other practical difficulty.

I would respectfully crave the indulgence of the Committee to permit me to submit herewith a draft of a Bill, which, in my opinion, will do the minimum harm to landlord and will satisfy the reasonable claims of the tenant. I do not pretend it will be of material help to the Committee, but I request its attention to it.

APPENDIX.

Whereas it is necessary to amend in certain respects the law relating to landlords and tenants in the Malabar district; it is hereby enacted as follows:—

CHAPTER I.

1. (a) This Act may be called the Malabar Tenancy Act.
(b) It extends to the whole of the Malabar district.
2. (a) 'Cultivate' with its grammatical variations means cultivate by oneself or by members of one's family or by hired labour.
(b) 'Eviction' includes redemption.
(c) 'Holding' means a parcel or parcels of property held by a tenant under a single engagement or instrument.
(d) '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.
(e) 'Kanam' means the consideration in money or in kind or partly in money and partly in kind paid to the landlord by the kanam tenant for his holding, but does not include the fee or premium paid by him. Kanam tenant means a tenant who holds on kanam.
(f) 'Lease' includes a kanam.
(g) 'Meloharth' means a lease or kanam created by the landlord from out of his reversion or equity of redemption entitling the melcharthdar to evict the tenant or kanam tenant.
(h) 'Net produce' or net income means the total value of all the produce of a holding after deducting the expenses of cultivation or upkeep.
(i) 'Tenant' includes a kanam tenant.
3. Nothing in this Act shall affect forest lands leased or demised for felling timber or for augitive cultivation or for both, whether the forest land forms the entire holding or only a portion thereof.
4. Nothing in this Act shall apply to lands or buildings in areas to which the Madras District Municipalities Act applies.
5. The lease or demise of a house, shop, warehouse, or any other building constructed or owned by the landlord together with the garden or compound appurtenant thereto shall not be governed by the provisions of this Act.
6. Nothing in this Act shall apply to annbhavam, saswatam, or other perpetual tenures nor to the otti or kaivasam panayam tenures; nor to melpattam or underthi tenures.

CHAPTER II.

Of evictions.

7. On the expiry of the term of the tenancy, or twelve years from the date of the lease, or kanam, or the last renewal, in the absence of a contract to the contrary, the landlord shall be entitled to bring a suit in ejectment or redemption in the following cases only:—

(a) If the holding or a portion thereof is required by the landlord for the purpose of extending the residential house of himself or the members of his family, or for building a new house for the residence of himself or members of his family.

Provided that if the landlord fails to extend or build the residential house within three years of the date of eviction, the previous tenant shall have the option of recovering the same on payment to the landlord of the kanam or value of improvements, if any.

(b) If the holding or a portion thereof is required by the landlord for bona fide cultivation by himself or members of his family.

Provided that if the landlord creates a simple or kanam lease over the holding in favour of a stranger within three years of the date of eviction, the previous tenant shall have the option of recovering the same on payment to the landlord of the kanam or value of improvement, if any.

Explanation.—'Family' in clauses (a) and (b) includes the landlord's wife and children, in cases where he is governed by the Marumakkathayam law.

(c) If the tenant neglects or refuses to pay the renewal fee, when the payment of renewal fee is customary, and take a renewal within six months of demand after expiry of term or "twelve years from date of lease."

Provided that if the tenant deposits at the first hearing of the suit or on such date as the court fixes, one year's net income, together with the other dues due to the plaintiff with interest thereon at 12 per cent, and the plaintiff's cost of suit, the court shall pass a decree dismissing the suit, and directing that the tenant do hold for a term of twelve years from the date of the expiry of the previous lease or kanam.

(d) If the tenant refuses to renew on the ground that the rent required by the landlord is high or on the ground of difference of opinion between them regarding the rent to be fixed.

Provided that the court may fix the annual rent, and may by its decree direct that the tenant shall hold for another term of twelve years, at the rate so fixed, from the date of the expiry of the previous lease or kanam.

Explanation.—In considering the matters referred to in sub-clauses (c) and (d) the court shall also take into account the provisions of sections 9 and 10.

(e) if the tenant fails to pay rent for two years consecutively,

(f) if the tenant wilfully denies the landlord's title, and

(g) if the tenant or any one in lawful possession under the tenant wilfully commits such acts as are calculated to materially impair the value, or change the character, of the holding.

8. Notwithstanding anything contained in the above, the tenant may be liable to eviction during the currency of the term for the reasons mentioned in sub-clauses (d), (e) and (f) of clause 7.

CHAPTER III.

Rent, Renewal Fee and Meloharth.

9. It shall not be lawful for the landlord to recover from the tenant rent in excess of two-thirds of the net produce of the holding, provided that if the tenant from whom rent is to be recovered holds on a kanam demise the amount of interest due on the kanam at 6 per cent shall be deducted from the amount recoverable, and provided also, if the tenant from whom the rent is to be recovered pays the Government revenue, the amount so paid shall also be deducted from the amount recoverable.

Explanation.—Nothing in this section shall entitle the tenant to demand a reduction of rent payable on the date this Act comes into force on the strength of the section.

10. It shall not be lawful for the landlord to demand from the tenant renewal fees in excess of one year's net produce from the holding.

11. No meloharthdar shall evict the tenant except in the cases mentioned in sub-clauses (d), (e) and (f) of section 7.

CHAPTER IV.

Recovery of rent.

12. Arrears of 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 and shall in the absence of a contract to the contrary carry interest at 12 per cent per annum.

13. Every lease or kanam granted to a tenant or its counter-part executed by the tenant shall contain,

- (a) the name, description and extent of the holding,
- (b) the amount of rent and other customary dues and the due dates of payment,
- (c) the Government revenue and all local cesses, if any,
- (d) the amount of the kanam, if any, and renewal fees, if any, paid,
- (e) rate of interest, if any, on the arrears of rent and on the kanam, if any,
- (f) Improvements, if any, belonging to the landlord, and
- (g) such other particulars as may be necessary.

14. Every tenant paying rent shall be entitled to a receipt specifying

- (a) 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.

15. The cost of stamp, registration and other expenses of the lease or kanam and its counter-part shall be borne by the tenant.

16. The provisions of Madras Act I of 1900 shall apply to all cases of eviction under this Act, provided that no compensation for trees or plants of spontaneous growth, not requiring any labour, skill or capital of the tenant, shall be paid for by the landlord.

CHAPTER V.

17. At any time after an arrear of rent has become due and remains unpaid the landlord may serve on the tenant a written demand signed by him specifying

- (i) the amount due for arrears and interest, if any,
- (ii) the holding in respect of which the demand is made,
- (iii) the period for which the arrears are due, and
- (iv) the intention of the landlord to apply for attachment.

18. If the demand is not complied with within 30 days of the receipt of notice of demand, the landlord may, in addition to other remedies, be entitled to apply with an affidavit to the civil court having jurisdiction for attachment and sale of tenants' holding or the movable property of the tenant, or the growing crops, or the produce of the land or his trees in the holding; and the court shall forthwith attach the property specified by the applicant in the mode prescribed by the Code of Civil Procedure and issue notice to the tenant.

Provided that (a) the particulars exempted from attachment or sale under section 80, Code of Civil Procedure, shall not be attached. (b) No attachment shall be levied under the provisions of this chapter for more than three years' rent preceding the date of demand specified in section 17.

19. (a) The tenant shall not be entitled to raise any defence unless a tender of the amount claimed is made in court, and the tender shall be deemed valid though made under protest; and on such tender being made the court shall cancel the attachment and stop the sale, and shall proceed to decide the amount the landlord is entitled to and pay him the amount so found due.

(b) The decision shall be deemed to be a decree within the meaning of the Code of Civil Procedure.

20. If the court finds that there were no arrears and that the attachment or sale was obtained on insufficient grounds the court may besides costs award as compensation to the tenant a sum of money not exceeding double the arrears of rent claimed.

21. The provisions in rules 58 to 103 of Order XXI in Code of Civil Procedure shall so far as may be applicable to attachment and sale under this chapter.

22. When any conflict arises between the rights of the landlord attaching under the provisions of this chapter and the rights of any other person except the Government the right of the landlord shall prevail.

23. It shall be competent for the local Government to amend, modify, add to or annul all or any of the provisions of this chapter.

Tellicherry, 9th November 1927.

Oral evidence of Mr. E. Govindan Nayar, High Court Vakil, Tellicherry.

The Malabar Tenancy Committee began its sittings at Tellicherry on 9th November 1927 at 11 a.m. in the Divisional office when the following Members were present :—

Diwan Bahadur T. Raghaviah Pantulu Garu, C.S.I. (*President*).
Mr. H. R. Pate, I.C.S.
Diwan Bahadur T. C. Narayana Kurup.
Mr. Kotieth Krishnan, M.L.C.
Khan Bahadur Haji Abdulla Kasim Sahib Bahadur, M.L.A.
Rao Sahib V. Krishna Menon.
Rao Sahib C. V. Krishnaswami Ayyar (*Secretary*).

The following Members of the Committee were absent :—

Sir T. Desika Achariyar.
Raja Sir Vasudeva Raja of Kollengode.

Mr. E. Govindan Nayar, High Court Vakil, Tellicherry, was the first witness examined.

The President :—Mr. Govindan Nayar, the Committee has read with very great interest the written memorandum which you have furnished. The written memorandum is very exhaustive. It gives the Committee an opportunity to examine you at some length and I propose to put you some questions which might keep you for an hour or so.

Witness :—I am always at your disposal.

The President :—Thank you.

Q.—You are a member of the Tellicherry bar?

A.—Yes.

Q.—You were the Secretary of the Janm Sabha for some time?

A.—No.

Q.—I am sorry, I mistook you for another gentleman. Are you a janmi or a kanamdar?

A.—My tavazhi possesses more of kanam properties than janmam properties. All the tavazhis put together, i.e., the tarward also owns more of kanam properties than janmam. Personally, what little I have consists more of tenancy than janmam rights, mostly kuzhikanam, kanam and otti.

Q.—May we know what the extent of your interest is?

A.—I cannot say exactly.

Q.—You say that "inasmuch as money-lenders have and are acquiring intermediate tenures, there is the chance that they would try to get as much as is possible out of the actual tenant in possession." May we know what exactly you mean by the word 'money-lenders'?

A.—I mean by that, people like vakils, clerks, merchants, etc., who invest their money in land.

Q.—Referring to sub-kanamdars and verumpattamdars under the janmi you say that, "there is now the possibility that the janmi or his melcharthdar may evict the tenant on account of personal spite or ill-will and that in respect of those under intermediate tenants there are also chances of their being rack-rented by their immediate lessor?" Can there not be rack-renting in the former case also?

A.—There is a chance, but I don't think the chances are equal.

Q.—Talking about the question of unjustifiable evictions you say that “it is a matter for relief that it is of rare occurrence, and therefore evictions caused by personal ill-will and enmity are also rare”. Is that your impression?

A.—Yes, that is my impression.

Q.—You have not got any definite evidence to support that statement?

A.—No, I have no concrete facts or particular instances to substantiate that statement. It is impossible to prove it unless statistics are examined.

Q.—Referring to the action taken by anandravans to set aside an invalid alienation, you say, “Inasmuch as the anandravans can ignore an invalid alienation made by the karnavan, they have to so frame the suit, and ask to eject the tenant on the admitted lease. The real question to be decided is the validity or otherwise of the disputed encumbrance. Nevertheless, the suit has to be called an eviction suit, though no eviction may follow.” I suppose eviction should follow in such cases if alienation has happened?

A.—In some cases it might be so.

Q.—In paragraph 9 of your written statement you stated certain circumstances under which melcharths may be declared justifiable. In paragraph 10 you say that “a tenant having considerable improvements denies the title of the janmi who happens to be poor. The only recourse left to the latter is to give a melcharth, so as to free his title from the cloud cast upon it by denial. A tenant similarly situated refuses to renew, or he commits waste. Surely no fair-thinking person can condemn melcharths in these instances.” Further on you say “What is to become of the impoverished janmi?” What do you say to this suggestion? Supposing it is legislated that no melcharths should be given without the grantor obtaining the sanction of the court, a poor janmi can go to court and request for sanction to grant a melcharth on the ground that he is too poor to undertake litigation himself.

A.—There are several objections to such a proposal. By so doing, we would be burdening the courts with an unnecessary increased volume of work. Supposing a janmi wants to borrow money. That borrowing can only be done through a third person which means a melcharth.

Q.—Why, he can borrow money in the open market on simple hypothecation?

A.—That means no second encumbrance is possible.

Q.—Supposing your janmam right is worth, say, Rs. 1,000. You can borrow small sums of money till you have exhausted your credit up to that limit.

A.—In the case of simple hypothecation, you will have to pay a higher rate of interest.

Q.—You do not mean to say that the course I suggested is legally objectionable?

A.—I don't say so. My second point is that persons are not generally so fond of investing money on hypothecation bonds. They would prefer to have kanam bonds.

Q.—So, I don't see that there is any formidable difficulty in the way of the janmi coming into the open market and raising money by hypothecation bonds.

A.—Here in Malabar it will be very difficult to get money on mere hypothecation bonds for less than 12 per cent interest unless the amount taken is large, such as Rs. 10,000 or Rs. 15,000. The larger the amount, the less will be the rate of interest.

Q.—The janmi must go to court in all cases where he could afford it. There are certain grounds on which the janmi can go to court. In all such cases he should go to court instead of giving a melcharth unless he is himself unable to do so out of financial considerations.

A.—What does it matter to the tenant whether the janmi himself does it or anybody else does it? It does not make any difference to the tenant.

Q.—You, therefore, want to perpetuate the janmis' right of melcharths?

A.—I concede some difficulties will arise. Clause 11 of the Appendix attached to my memorandum would meet the situation.

Q.—Melcharthdar, you will admit, is an investor. His feelings towards the tenant cannot be the same as those of the janmi. That is one reason why you should not unnecessarily create melcharths.

A.—My own view is to say that melcharths can be granted only with the consent of the court would be imposing too much burden on the court.

Q.—Are you not exaggerating the position when you say so? Janmis would, as far as possible, avoid going to court.

A.—It may be so in South Malabar, but I must confess that it is a different story in North Malabar—Malabar is considered to be the second in the Presidency so far as litigation is concerned.

Q.—That is probably because of high education which you get here and consequent scuffle for rights.

A.—I would say that there are more melcharths in North Malabar than in South Malabar.

Q.—You say that “Indeed it is difficult to see what other course is open to the impoverished janmi who is defied by his tenant and who cannot himself afford to evict”, which is quoted from Mr. Innes' report. Why not say that no melcharth should be given without obtaining the permission of the court by a petition as in the case of suit *in forma pauperis*?

A.—From practical view point there will be some difficulty. The case of *forma pauperis* is very different. In this case, ordinarily, the tarwad will be the petitioner. If you simply say the tarwad is too poor to pay a particular tenant for his improvements, what is the relative degree of poverty that you would require? If the whole tarwad property is sold in the open market then there would be more money than what is required to evict the tenant.

Q.—But the court can after a summary enquiry say whether the tarwad is rich enough to conduct the litigation itself or not?

A.—What is the test of poverty or richness? Is it the value of the landed property or current income or balance cash in hand? So I believe no janmi would get sanction. Supposing he has property which if sold would fetch Rs. 500 but no cash or current income, and he wants to grant a melcharth because he is not able to pay the value of improvements which, say, comes to Rs. 500. I don't think on the construction of the phraseology the court would declare him poor.

Q.—If a man can raise a loan, then the court will be justified in saying he is sufficiently rich?

A.—I am of opinion that it would open the door to interminable investigations.

Q.—Referring to social oppression you say at the end of paragraph 11 “On the other hand, within the last three or four years at Tellicherry and adjacent places, there have been due to bad and foolish advice, apparently, from their leaders, concerted attempts at oppression of landlords by tenants and particularly by Tiyya tenants.” What sort of oppression have you in mind?

A.—It is the time-honoured custom for the Tiyya tenants of a janmi whenever there is any death in the janmi's family to cut the janmi's mango trees generally for fuel and arrange them for funeral pyre. Some attempt was made within the last 3 or 4 years to put a stop to this mamul practice and in some cases the tenants have refused to do so.

Q.—Can you recall any other instances?

A.—There is no other instance that I can recall.

Q.—It is only a customary levy, it is not a legal levy, which a man is at liberty to refuse?

A.—Yes.

Q.—You say in paragraph 15 “As regards the two disabilities of the tenants, I would respectfully in passing request the Committee to consider the possibilities and practicability of the fourth Bill drafted by Master's Committee in 1887 and contained in Appendix D to its report.” Well, that won't prevent evictions?

A.—No, nor did I want it.

Q.—Will you kindly explain how that Bill will meet the situation?

A.—I am free to confess that agitation having reached the high level in which we are now in 1927, that Bill will not be acceptable. I only suggested that so that you might explore the lines of investigation along the method indicated.

Q.—So it is not your intention that that Bill should be adopted?

A.—No, not at all. That Bill is not at all far-reaching and so I don't press that suggestion.

Q.—In paragraph 16 you say "To put evictions on a sure and well-recognized principle, and to restrain capricious or malicious evictions and melcharths, I would suggest the enactment into law of a section on the following lines." Then you give a few clauses. You say "if the holding or a portion thereof is required by the landlord for the purpose of extending the residential house of himself or the members of his family, provided that, if the landlord fails to extend the residential house or build a new house within three years of the date of eviction, the previous tenant shall have the option of recovering the same on payment to the landlord of the kanam or value of improvements, if any." There is one difficulty so far as I can see. Supposing a landlord who evicts his tenant for this reason puts up a temporary structure this year and removes it and lets in a tenant for cultivation the next year. What is the remedy?

A.—I don't claim any originality for this clause. I think I have taken it from Mr. Krishnan Nayar's Bill. I have no objection if evasion is made difficult. I believe the wording "residential house" might be sufficient to avoid such a possibility of construction."

Q.—In the same clause and the other clause relating to lands being required by the landlord for his own cultivation you provide three years for the landlord to construct or cultivate. Is not three years too small a period?

A.—My personal opinion is that three years is too long a period. It is not advisable to leave the rights and liabilities in suspense for such a long period, both the parties looking at each other. Even three years is too long a period and I would rather reduce it by two years.

Q.—Won't it be defeating the very object of the provision itself?

A.—We have to draw the line somewhere. I think three years is quite enough.

Q.—May I know whether it is your intention that the janmi should have the power to evict his tenant only in case he wants the land for his own purposes?

A.—My idea is that a landlord can evict a tenant only for his own purpose or when the tenants commit default or do harm. That is why I say that it is a curtailment of the powers of the janmi.

Q.—Now I am at a difficulty to see how you differ from Mr. Krishnan Nayar's position when you say that in future a janmi cannot evict, except under specified conditions?

A.—I am glad you put that question. At first glance it would appear there is not much difference.

Q.—Are you not giving fixity practically?

A.—Yes. The janmam right of a janmi who has leased his property on kanam or verumpattam consists of a bundle of rights. The janmi has got the right to grant melcharth. He has the right to sell his property. He has a right to renew the tenant. He has a right to evict the tenant. All this bundle of rights make up the janmam right. Once you say you give permanency of rights to the tenants you withdraw some rights from the janmi and transfer it on to the tenant either for compensation or as a gift. Whereas according to my proposals you simply restrict the power of the janmi to do harm. The practical effect is considerable. By withdrawing a large slice out of the janmi's bundle of rights and creating occupancy you cause a heavy fall in janm value and cause a corresponding appreciation in tenancy values. This requires heavy compensation. Whereas if you simply restrict the right of eviction, as I propose, the fall in janm value would be much less and so compensation also much less. Only a legislation on this line is desirable in my opinion.

Q.—That is why you prefer this to the grant of permanent occupancy?

A.—Yes.

Q.—In other words you have no objection to the grant of fixity of tenure on certain conditions?

A.—That is my position. I have no objection to the wording 'fixity' if the sense is the same.

Q.—Is not the janmi entitled to some compensation in that case?

A.—Yes, he is entitled to some compensation. You can do so by slight enhancement of the present rate of renewal fee. The janmi is logically and legally entitled to compensation to the extent this proposal would affect him.

Q.—In paragraph 19 you say that "I do not think that for the removal of the disabilities pointed out by me grant of occupancy is essential. All that I consider necessary and practicable is to impose some restraints on evictions and melcharths. Even if all such grievances and disabilities exist in our land tenure as are generally pointed out by tenancy reformers, I am emphatically of opinion that a gift, or even a grant with compensation of occupancy rights to tenants would produce irreparable loss and injustice to others". You mean loss to janmis?

A.—Not only to janmis. I mean all lessors, putting it in the widest language. Everybody would suffer if the man under him would get occupancy. By suffering, I mean suffering in the value of his right.

Q.—So the idea of giving occupancy right to all is an impracticable proposition. Do you give the right of occupancy to the man who actually cultivates and give fixity of tenure to the tenants above him?

A.—You can either give the man at the bottom fixity of tenure and give fixity to all the people above him in the hierarchy of tenants, or give the man at the bottom permanency rights, i.e., the man who is the actual cultivator. But fixity or permanency to all grades of tenure holders is impracticable. I don't say it is impossible. I am of opinion that the value of the landlord's rights would diminish.

Q.—You say "Assuming, however, that it is decided to grant such rights, and assuming the question arises to whom it is to be granted: I would then submit that it should be granted only to verumpattam and kozhu tenants in possession of paddy lands. All kanam tenants, who are not in possession, should, in the first place, be denied the privileges of occupancy". This statement is somewhat confusing. Will you please explain your position?

A.—The kanamdar not in possession will continue under the present law. As regards kanamdars in possession I would allow the janmi to pay off the kanam money by depositing the amount in Court but would not permit dispossession, in other words, I would respect his possession, but reduce him to a simple tenant.

Q.—Kanam tenure has got a limited fixity at present. And it is quite difficult to say now under what considerations it originated. So the kanam tenure has got a distinct characteristic from the verumpattam tenure. Why should you seek to terminate this tenure?

A.—My submission is that there is no basis for the historical view that kanam was permanent at one time.

Q.—Referring to the suggestion in the questionnaire that kanamdars who came into the holding before 1852 and have been continuously in possession thereof since then may be given occupancy rights you say that it will create the least disturbance and violence in the land system. Is it because the percentage of such kanamdars is small?

A.—Yes.

Q.—In paragraph 25 you say "that intermediate tenure holders are left out of the proposal for occupancy, and that, therefore the janmi would find it to his benefit to redeem all middle men". Is that practicable?

A.—It may not be practicable in many cases.

Q.—With regard to your suggestion for the recovery of rent it seems to be a good one. But the one objection which strikes me is whether the Civil Court is a proper agency for the purpose. You see an affidavit has to be filed. Then the court should attach the property and issue a notice to the tenant. Do you think all this procedure could be effectively carried out in Civil Courts?

A.—Yes, the Civil Procedure Code has ample provisions to deal with the situation. The Procedure Code is very effective.

Q.—With reference to question III (f), you say in paragraph 26 "I would object to occupancy rights being given in municipal areas since it would hamper town-life, and the floating population of towns would find it irksome". Do you say this with regard to kudiyruppus? Or all lands within municipal limits?

A.—Yes, I mean all lands in the municipality. It may be that particularly in Palghat a large portion of the municipal area may be classed as agricultural lands. I believe they will soon be converted into residential quarters with the growth of the municipality. I would therefore treat all municipal lands on a different footing.

Q.—Fixity of tenure is essential for the proper cultivation of the land and for deriving the highest yield from it. If so, what is the justification for your proposal denying it to future tenants?

A.—In case you make occupancy compulsory in future, it means that the janmis won't lease their lands at all.

Q.—Very good. Let them cultivate the lands themselves?

A.—That may be one result. But I am of opinion that the janmi would try to evade the law by letting lands to verumpattam tenants on oral demise, say for a season without giving them permanency of tenure. In these days when there are very many verumpattam tenants, it would be possible for the janmi to do so. So the position of such tenants would be worse than now. Now at least they have got a lease for 12 years. The janmi of course will say that he is cultivating his land through his servants. Looking into human nature as it is, I think the probability is that janmis won't lease their lands to tenants if they know that the tenants would claim occupancy rights.

Q.—I don't think any difficulty has been experienced in the zamindari areas?

A.—I don't know.

Q.—In clause 7 of paragraph 26 relating to the exemption of small janmis you say: "I confess such a provision may in practice create difficulties, but poor janmis, who may otherwise be crushed out of existence, do require some provision to this effect." All that I want to ask you is whether fixing an assessment limit would not be better. You have stated in your pamphlet published in 1924 that there are statutory precedents for this. Can you kindly quote one or two precedents?

A.—I have no objection to that, but still it would be very difficult to draft a clause on that basis. I have no objection if instead of acreage of the land you put assessment.

Q.—Have you any suggestions for overcoming the difficulties which you apprehend?

A.—No, I have not thought of any remedy.

Q.—A similar provision is embodied in Mr. Krishnan Nayar's Bill?

A.—Yes.

Q.—So the same objections which you formulated in regard to clause 6 will apply to clause 8 also?

A.—Yes.

Q.—You point out in regard to kudiyruppus that there is a distinction between North and South Malabar. Is not the fact that in North Malabar, kudiyruppus are not separable from the rest of the holding a powerful argument for granting fixity of tenure to the entire holding?

A.—It may be so if in the agricultural lease it is not possible to separate the kudiyruppu portion from the rest of the land.

Q.—In paragraph 29 you say: "Another thing which I wish to point out is that you can protect only ancestral homes and not all houses. Otherwise, in half an hour and with material costing about half a rupee, any tenant can put up a thatched shed and claim occupancy anywhere in Malabar. Even after a suit has been filed for recovery, he can put up a hut and claim fixity." So some time-limit is necessary, and I see later on you propose that only kudiyruppus which have been in the occupation or possession of the tenant from 1852 should be given protection. Is that not far too long a period?

A.—I think it is a matter of detail.

Q.—Can you suggest any shorter period which, in your opinion, is reasonable?

A.—If occupancy right to kudiyruppu-holders is to be given, then I suppose 24 years' residence in the house would be a standard. I say, as Mr. Thorne has said, that it is not every house that requires protection.

Q.—You are not prepared to allow a lesser period?

A.—No.

Q.—In speaking of limits to the fixing of some minimum area in regard to homesteads you say: "It depends on the nature and locality of the holding. In hilly places, where the house is on the slope of a hill, the kudiyruppu may cover several acres." Why should it be so? I suppose it is quite sufficient if you have one acre?

A.—Yes. As a matter of fact, at present it might be that some portion of the residential quarters, such as the gate-house, etc., may be outside that one acre which you stipulate.

Q.—In paragraph 34 you say: "If the question relates to a man building a new house in future, I submit with all emphasis the proposal to grant occupancy to such houses is unthinkable." So you make the man buy the janmam right of the land?

A.—If you give occupancy. What I said in that paragraph is that the occupant of new houses should not be clothed with occupancy right.

Q.—So you would leave him to acquire occupancy rights?

A.—Then the whole of Malabar will be full of houses.

Q.—May I take it that your point is that in regard to all houses that might be built in future, the right of occupancy should not be given?

A.—Yes.

Q.—Supposing a tenant who has no house wants to build one? I am asking you whether it is your idea that he should buy the permanency right from the janmi?

A.—I am not of that idea. The future owners must be exposed to the risk of being turned out by eviction.

Q.—Is it not hard?

A.—Yes, it may be so. I believe from a practical standpoint such evictions from houses alone would be very rare, and I think, it would not be practicable to lay down any hard and fast rule in regard to these matters. My reason is that if such a right is granted, that right would be abused. Even if the right is granted, I do not think it would be conducive to the right sort of cultivation and agriculture.

Q.—Now in regard to compensation you say that "a compulsory purchase of janmi's rights to protect homesteads with payments either forthwith or spread over a period of years by means of bonds issued by Government or co-operative society, is not suited to the people of Malabar. When janmam right is owned by tarward or even by devaswams, it will do incalculable harm if the karnavans or trustees are allowed to handle the value thus realized." Later on you say in paragraph 38 that the "amount so ascertained shall be made a 'rent charge' on the land and the tenant shall be directed to pay interest at 6 per cent every year along with the rent." What is your objection to some provision like section 32 of the Land Acquisition Act being made?

A.—I do not think it would be a popular suggestion because as matters now stand, we people of Malabar do generally like to make investment in immovable property.

Q.—That can be done under that section?

A.—If the money could be safely invested in other properties I have no objection. If it is invested in immovable properties, then the karnavan can do only what the law allows. He should not interfere with the *corpus*. Investments on other things such as Government bonds, co-operative credit societies, etc., would fetch only a smaller rate of interest.

Q.—In the case of homesteads compensation may not amount to very much and the interest on the compensation amount may also be little, but in the case of compensation payable to the janmi on account of the grant of permanent occupancy rights, it will be a heavy burden on the tenant and you propose therefore that the tenant need not pay it in cash. He thus remains always a debtor which you object to in the case of a janmi?

A.—He does not remain a debtor because he purchases his permanency every year by paying annual instalments of both the *corpus* and the interest.

Q.—The Irish Land Act indicates how by mere payment of the rent the tenant is able to pay off both the capital and the interest?

A.—If such a scheme can be found out, then I have no objection to the grant of occupancy rights.

Q.—In regard to the working of Compensation for Tenants Improvements Act, you suggest a remedy by way of improving the working of the Act. You say: "I can only suggest two ideas of reform. No value shall be paid for trees of spontaneous growth in the holding which did not entail the expenditure of capital or care of the tenant." Well, the idea seems to be logical and correct. Have you got any suggestions with regard to the working of it?

A.—There is no difficulty about that. In the present Act there are three classifications, viz., fruit-yielding trees, timber trees and trees of spontaneous growth. By trees of spontaneous growth I mean trees which are not fruit-bearing trees or timber trees and which did not demand the labour of tenant.

Q.—Usefulness is a necessary ingredient according to the Act.

A.—These trees of spontaneous growth may be used, in the sense that everything in the world may be 'used.'

Q.—I am not clear about the defect in the Act with regard to this and how it should be removed. So far as the Act is concerned, there does not seem to be any trouble.

A.—If so, I would suggest that the matter may be made very clear in the Act itself.

Q.—Then you make another suggestion: "Conversion of paddy lands into parambas or gardens and the erection of buildings with or without such conversion, in paddy lands, without the landlord's consent, shall be deemed to be waste and no value shall be paid for them." You think landlord's consent is sufficient guarantee?

A.—Of course there is no injustice from the landlord's point of view, if he consents, and from the economic point of view the landlord may be correct. I believe generally, landlords will not give permission to convert the paddy lands into garden lands. Sometimes permission is granted.

Q.—When we went to Ponnani the other day on an economic inspection we found that the landlords had given consent to their tenants to convert paddy lands into garden lands.

A.—Sometimes permission may be given in cases where it should not have been.

Q.—In paragraph 43 you have given an illustration to prove the extent of compensation. Will you kindly explain the principle?

A.—I have already explained it in the illustration. I may add that if you are going to clothe all these intermediary tenants with occupancy rights or rights of fixity, then the subsidiary man must pay compensation to the man above him inasmuch as the latter's right of eviction is lost and that right is now a valuable element in the making up of the market value of his right. In short, I would say if you are giving new rights to the lessee the lessor must be compensated whether he be the janmi or any other

lessor. Does the tenancy value increase in the market as a result of the new legislation? If so, that increased value came out of the lessor's rights. I apprehend a fall in the landlord's right if occupancy is given. So, find out the difference between the present market value of landlord's rights and his rights if the legislation is passed. The difference between the market values may be treated as compensation.

Q.—That is full compensation, but if instead of transferring a portion of the bundle of rights from the janmi to either the intermediary or the man in possession, you give fixity of tenure to these people, subject to certain conditions, you say that adequate compensation could be given to the janmi by giving him some increase in the renewal fee?

A.—Yes.

Q.—Supposing the kanamdar has advanced a certain amount as kanam. If you ascertain the net income of the property, that is, the economic rent which the man in possession should pay and then deduct from that rent *michavaram* and interest on kanam, then you get a certain residue which is the profit of the kanamdar from the holding. If you multiply it by 12 it represents the full measure of profit which the kanamdar gets for the period of 12 years for which he now holds. The formula which has been suggested by some is: Find out the balance, then halve it in the case of kanamdar in possession, while in the case of kanamdar not in possession fix a slightly higher proportion, say, two-thirds and pay it to the janmi as a fixed renewal fee in return for giving him fixity. Would some such formula be satisfactory?

A.—Yes, I have no objection provided you would fix at the same time interest on the kanam statutorily.

Q.—Would you deduct interest at 6 per cent on the kanam amount which might have been stipulated in the kanam deed between the parties. The *palisa* is paid in paddy?

A.—Most of the kanam documents will not specify what the interest is. In 90 per cent of cases interest on kanam amount is not stated. So, if you fix the rate of interest in money and not in paddy, then I believe for restraining the rights of eviction that formula may be made applicable.

Q.—In regard to the fixing of rent and renewal fee at a proportion of the net income, it is a matter of difficulty to find out the net income. Can you make any suggestion in regard to solving that difficulty?

A.—I do not find any other test which would be a safe test in regard to calculation. Fixing net income is difficult between the parties. I am of opinion that it can only be done through court if the parties don't agree. I would like to add to my written memorandum the following words in paragraph 45 with regard to payment to the janmi:—"As regards the rent payable by the tenant in possession, he should not be liable to be called upon to pay more than two-thirds of the net income subject to the provisos given by Mr. Evans." I mean the provisos which he framed on 3rd March 1926.

Q.—You therefore object only to clause (c) of Mr. Evans' Bill, as drafted by him later on?

A.—Yes.

Q.—You say, "I would add an additional proviso that if the rent now paid by the tenant in possession be in excess of two-thirds, the tenant shall not be entitled to any reduction merely on the strength of the above clause". That would nullify the effect of the whole proposal. Would it not?

A.—So many janmi families have framed their domestic budget on the present rental, and a sudden upset would entail serious dislocation.

Q.—The tenant has no budget at all?

A.—Another reason which I believe strongly is that when you give occupancy rights to the tenant you are giving him an inducement to leave the lands not well cultivated. But at present there is the danger that he will be evicted, so he will be very careful. The present rent may be taken to be the fair rent until the contrary is proved. I have no objection, however, to the court being given the discretion to do the right.

Q.—With regard to paragraphs 46 and 47, I think Mr. Krishnan will cross-examine you, but I should like to make one point clear. You say, "In the case of garden lands it is obvious that in course of time the improvements now owned by the janmi must die out, and so it is necessary to make it clear that whatever may be the present practice, rent in future should be fixed on a proportion of the net income, whosoever's improvements might be the cause of the net income". Do you mean that even if all the improvements are the janmi's he should not get more than two-thirds as rent?

A.—Yes, otherwise in the course of 30 years from now no janmi in Malabar will own gardens. I am of opinion that ownership of improvements, whether the present or future, should not be made the test for the assessment of rent.

Q.—That formula which I suggested to you. Do you think it could be made applicable to garden lands also?

A. I have no objection.

Mr. H. R. Pate.—Q.—Can you give us your idea in a few words. Are you in favour of giving permanency of tenure to kanamdars?

A.—No, I am not.

Q.—And the tenants below the kanamdar or the actual occupants of the soil?

A.—No.

Q.—But I do understand that you seem to put some restriction on the janmi's power of evicting—I presume both the kanamdar and the verumpattamdar?

A.—Yes.

Q.—And briefly it comes to this—provided a tenant does his duties properly and provided also he pays the renewal fee at a statutory rate bearing some relation to the land, he should be entitled to a renewal or rather to be kept on the land?

A.—Yes.

Q.—That is to say, he will become a fixed tenant subject to these conditions?

A.—In other words it is so.

Q.—Do you concede that legislation on these lines would deprive the janmi of a great deal of his powers and rights?

A.—Yes, it would to some extent decrease the money value of his janmam right but not to such an extent as may be the case if occupancy rights be granted. How it strikes me is this: If you are granting occupancy rights you are withdrawing or deducting certain rights from the janmi—making up the janmam rights—and transferring them on to the tenants. In the case I propose you are only putting a curb on the janmi's right by making him statutorily a typical good janmi. That is my view. So that there is a difference in the two proposals from the practical standpoint.

Q.—You are stripping the janmi practically of his right of eviction and your proposal is that so long as the tenant is regular and pays the renewal fee properly he should not be disturbed?

A.—My proposal is to deprive the janmi of doing unnecessary harm to anybody. Sometimes melcharths and eviction are done out of personal spite. I want to do away with that.

Q.—Do you consider that evil widespread?

A.—No, I don't. But there have been instances in which melcharths have been taken by enemies of the existing tenants or the janmis owing to ill-will with their tenants, etc.

Q.—Is it because the janmi is an enemy of the tenant in possession or the melcharthdar?

A.—It may be both ways.

Q.—You could probably give us some instances for our private perusal?

A.—No, particular instances are not in my mind now.

Q.—You think it is an evil that really calls for legislation?

A.—I do not really believe so. I don't say that that particular evil is so deep-rooted as to call for any special legislation, but the agitation of the present day cannot be ignored.

Q.—All baseless agitations could be ignored. Don't you think so?

A.—I cannot say they are absolutely to be neglected.

Q.—How would you fix the renewal fees?

A.—The suggestion that I made was that one year's net income should be paid to the lessor under the existing conditions.

Q.—You mean the net annual income which the janmi gets from the tenant under the expiring lease?

A.—Yes.

Q.—And hereafter of course every janmi will take nothing less than the maximum if you fix the rate?

A.—Yes, there would be a tendency.

Q.—Is the figure based on your experience?

A.—In my native place in Kurumbranad one year's net income is the usual renewal fee.

Q.—I notice you say even if you grant occupancy rights to verumpattamdars the janmi can inveigle his position. How do you contemplate that contingency?

A.—Supposing the land reverts back to the janmi at a future date. After that the janmi will himself cultivate through his servants. He would certainly hesitate to give lease.

Q.—You don't contemplate that in the case of existing lessees?

A.—No.

Q.—Do you think if you grant fixity of tenure to verumpattamdars the cultivation will improve or do you think the reverse will happen?

A.—It is rather difficult to say, but my own individual view is that unless the characteristics of Malayalis change, we won't take to cultivation on an economic basis. We don't generally cultivate our lands properly, as outsiders say.

Q.—And you get jolly good rainfall too? Do you think it more likely that cultivation would be bettered if permanency is granted?

A.—Generally it follows. But I am not prepared to say whether that will be the case in Malabar. Lands held on perpetual tenures are cultivated just like other lands now. Since the verumpattam interest would acquire a higher selling value, surely the inducement would be to sublet. Moneyed persons would acquire occupancy verumpattam and sublet. I believe the Cochin Tenancy Regulation restricts the power of subletting and division of the verumpattam tenure and I know Mr. Logan and Sir Charles Turner proposed that actual cultivators should not sublet or sub-mortgage.

Q.—Do you think that prohibition of that sort will be practicable and effective?

A.—That will not be useful, particularly the verumpattam tenants of Manjeri and other places in the Ernad taluk who are Mappillas won't like that prohibition. Muhammadan law allows minute partition. So it goes on into fragmentation. I know of several instances particularly in Manjeri and adjoining places where these Mappilla tenants create sham documents in the name of women and other persons just to defeat the janmi's claim for arrears of rent. The danger would be more if you don't restrain further fragmentation or subdemise by those occupancy tenants.

Q.—Are you in favour of some special form of legislation to protect kudiyrrippus?

A.—I am not in favour of granting occupancy rights to kudiyrrippus in North Malabar, but as regards South Malabar, if it is possible to separate the rest of the holding from the kudiyrrippus, and, if that kudiyrippu has been an ancestral house of the tenant, you might give him some protection. The court may be in a position to deal with such cases of differentiation whenever necessary. My idea is to protect ancestral homes, but not adjoining lands. If it is possible to give occupancy to kudiyriruppus alone, I have no objection.

Q.—You cannot determine what the proper area for a kudiyrippu is?

A.—That is most difficult to say. I believe it creates more complications than good.

Q.—Summarised, your suggestions are to curb the janmi's power of eviction by regulating the renewal fee and also you will not permit melcharth and eviction except in very special conditions, namely, only if the tenant denies the landlord's title, or does waste, or is in arrears of rent?

A.—Yes. I don't say that all melcharths are illegal. Melcharths are often given without eviction. So it does not matter to the tenant to whom he pays rent. Now the document gives him the right.

Q.—Are documents drawn in such terms?

A.—No. Generally all melcharth documents give the right of evicting the tenants also.

Q.—And you think many will accept melkanams on those terms?

A.—Well, if the janmi is in need of money this is the only method.

Q.—Then the janmi cannot raise either a loan covering more than the value which is represented by the current rent, nor can he raise an enhanced rent by means of a melkanam?

A.—No. In fact according to my proposal melcharths will cease to be an instrument for increasing the rent.

Q.—And how is the impecunious janmi who has not got enough to raise the rent?

A.—According to my proposal what I suggest is this. A janmi can bring a suit if the landlord and tenant do not agree as regards enhanced rent; then the court can fix the rent according to circumstances of the case. If the parties do not agree, I think litigation follows.

At this stage the Committee rose for lunch.

(After lunch, 3 to 5-15 p.m.).

Examination of Mr. E. Govindan Nayar—cont.

Mr. Kotieth Krishnan:—Q.—You remember last year the janmis of Malabar waited on deputation on His Excellency the Governor at Ootacamund?

A.—Yes; I think they waited on deputation on the whole three times.

Q.—And they urged that no legislation is necessary for Malabar at the present moment?

A.—If you tell me that is a fact, I shall take it to be so. Possibly it might be so.

Q.—You were present at all the three times when the janmis waited on deputation on His Excellency? Were you not one of them?

A.—Yes.

Q.—Did not the janmis urge that no legislation is necessary at present?

A.—I believe among other things they might have said that. But they concentrated more on the objections to Mr. Krishnan Nayar's Bill. In the course of that, they might have said that no legislation is necessary.

Q.—At the time when Mr. Krishnan Nayar's Bill came up for discussion in the Legislative Council, you had accompanied some of the janmis to Madras?

A.—I cannot say 'accompanied.' I was present at the discussion.

Q.—Did not Mr. Prabakaran Tampan represent the views of the majority of the janmis in Malabar?

A.—As a matter of fact, he did not represent the majority; at least a section of the janmis of Malabar. Under the Government of India Act and as an elected representative, he did 'represent'; but whether he voiced the views of the majority of the janmis of Malabar I cannot say.

Q.—You say that you own some kanam lands under Koothali Nayar?

A.—Yes.

Q.—And under no other janmi?

A.—My tawazhi has got lands under one devaswam also.

Q.—Is Koothali Nayar in the habit of granting melcharths?

A.—He has granted melcharths, but generally he does not.

Q.—You say that tenants holding under kanam tenants are rackrented?

A.—There is a chance of their being rackrented. There is not so much chance of their being rackrented under the janmi.

Q.—May I know the reason why it is so?

A.—One obvious reason is that the middlemen have an eye on the profits. In the case of the janmis, especially of long-standing old tarwads in the country, they have not yet lost the old conservative habit. Of course under the impact of modern conditions and with the inducements offered by melcharth-takers, it is quite possible that some janmis are falling down from that condition. But I think it will be fairly true to say that the janmis still retain more affection for their tenants than the middlemen.

Q.—But in the case of janmis holding small items of property, they have as much chance of rackrenting as the kanam tenants; and, in your opinion, a large majority of the janmis are owners of small holdings?

A.—Yes, in regard to numerical number. But in regard to the extent of land, I suppose they are more or less in the hands of big janmis. I cannot say for certain whether the area held by the smaller janmis is greater than the area held by the big janmis. I do not know the figures.

Q.—Do you know that in the case of several janmis, they do not give receipts when rents are paid?

A.—I am not aware that the janmis refuse to give receipts.

Q.—In any case, in civil suits the tenants very often plead that receipts are not given to them?

A.—They do. And in many cases that plea is not upheld also.

Q.—Do you think that the conditions of the tenants in Malabar are the same as those of the tenants of the ryotwari areas?

A.—So far as the tenants in actual possession are concerned, the conditions are more or less the same.

Q.—Do you think that the tenants in the East Coast districts could be evicted out of their homesteads—kudiyruppus?

A.—Possibly not.

Q.—And there are large extents of Government poramboke lands given to tenants by the Government?

A.—Yes.

Q.—There are large tracts of lands which Government could give to tenants in Malabar also?

A.—They cannot get; there are no such lands.

Q.—Are there many intermediate tenure-holders in other districts?

A.—There are. But I do not expect they are so numerous as they form in some parts of Malabar.

Q.—You say in paragraph 7: "There is no law in Malabar which enables a landlord to enforce an increased rent." Supposing there is a provision made by the legislature for enhancement of rent without evicting the tenant, will it not be more advantageous to the landlord seeing that the landlord has to pay the value of improvements to the tenant before getting him evicted? Will it not improve the condition of the landlord as in that case he will not have to pay compensation for the tenants' improvements?

A.—To that extent it would certainly improve his condition.

Q.—If there is such a provision, will not that satisfy the janmi?

A.—If there is only that provision in the legislation, of course it would. But we will have to examine the other provisions. Supposing there are other provisions very prejudicial to the janmi; simply because there is this clause that won't minimize the effect of the prejudicial nature of the other provisions.

Q.—You say in the same paragraph: "There is a large body of ejectment suits in the district falling under these two classes, etc." Have you got any statistics?

A.—I have quoted the authority of Sub-Judge, late Mr. K. R. Krishna Menon, who, I believe, had more experience in these matters than many possess.

Q.—You base that statement on Mr. Krishna Menon's report?

A.—That is one authority. So far as my experience goes, I find a large body of eviction suits where the junior members bring suits for the ostensible purpose of evicting the tenants but really to get rid of encumbrances. They don't bring declaratory suits.

Q.—But what is the special difficulty there?

A.—First there is the limitation of six years. Then there is the technical difficulty with regard to bringing a declaratory suit, without asking for consequential relief, e.g., eviction and possession.

Q.—Do you think that because a higher rent is offered that is sufficient justification for grant of melcharth?

A.—I won't call it an unjustifiable melcharth.

Q.—So, you are against any provision restricting competitive rent?

A.—At present we are entitled to demand competitive rent.

Q.—Do you think it will be advisable to prevent it?

A.—I belong to the school of economists who say that competition must rule. So, as a matter of principle, that is my answer.

Q.—As a matter of experience, would you suggest any provision being made?

A.—As a matter of sentiment or as a matter of concession to agitation, or as a matter of compromise, or as a matter of pacifying a large body of malcontents rightly or wrongly, I have no objection. But on principle I say there is no reason why mere economic forces should not operate.

Q.—Provided the tenant is paid his value of improvement you won't object to his being turned out of his house either?

A.—No.

Q.—So may I take it that the suggestions that you make are alternative suggestions and that personally you are not for any restriction?

A.—Personally I am not satisfied that there is any reason whatever for interfering with our freedom of contract.

Q.—But if the legislature thinks it is necessary then you make these alternative proposals?

A.—Yes.

Q.—Suppose a janmi brings a suit against a kanam tenant who refuses to pay enhanced rent and there are several under-tenants under the kanam tenant, who are in actual possession. Would you make any concession in their favour? Will you allow them to remain undisturbed on payment of rent? In the alternative suggestions that you make would you make that concession to them? I mean to say whether you would give any concession to such under-tenants who are prepared to pay rent and who do not deny the landlord's title, etc?

A.—No concession would I give, because if the janmi's immediate lessee commits default, then all the under-leases created by the lessee fall to the ground.

Q.—Supposing a sub-tenant is asked to remain on the soil on payment of the maximum kanam rent, will you allow him to remain if the janmi chooses to evict the kanam tenant? Supposing the legislature is to make such a provision, will you allow him to remain as a concession to agitation?

A.—In other words, you want to force upon the landlord a tenant not introduced by him with the condition that he must pay the kanam rent. Even that I am not in favour of.

Q.—May I know the reason why?

A.—My reason is it is quite possible that a man not wanted by the landlord might be introduced by the kanam tenant, and it might be that this kanam tenant might commit default. Then who is to regulate the contract between this sub-tenant and the landlord?

Q.—Suppose the legislature lays down a rule to that effect. Then the courts can enforce.

A.—I do not deny the power of the legislature to enact such a law.

Q.—Will that create any hardship to the janmi?

A.—I think it would.

Q.—What is the hardship?

A.—I let my property to you and you put in somebody else there and you simply go away and bring me to that man face to face. Have you any right to do that—to force a tenant upon me against my wishes? You infringe that principle.

Q.—According to the concessions that you make you say that the tenant who pays rent regularly need not be evicted. Supposing he assigns that right to a third person who is also the actual cultivator, you will not allow this concession in his favour?

A.—Then a person whom the janmi does not want may be forced upon him. Is the janmi to accept that? I believe I have proposed in answer to Question X (a), (b) and (c) towards the end that, "if the tenant assigns his interest in the land permanently or leases or mortgages it for temporary occupation without giving previous notice of such transfer, lease or mortgage to the landlord and against the valid objections of the landlord, if any, etc." I took that from the Cochin Regulation. The reason why I inserted it is to avert such contingencies as you refer to.

Q.—Have you incorporated it in the Bill?

A.—I find I have not. I discover the omission only now. I believe it is a slip. I had to do the whole thing within a week after receipt of the questionnaire. So there was no time for revision.

Q.—Then in paragraph 16 you say you would suggest the following "If the holding or a portion thereof is required by the landlord" and so on. You have not provided for any compensation to be paid to the janmi?

A.—The only suggestion that I make is that it might form part of the renewal fee.

Q.—At the time you prepared it you did not think of making any provision for compensation?

A.—I have made provision for renewal fee and it is difficult to make a demarcation between what the renewal fee should be and what the compensation for qualified fixity should be.

Q.—May I take it then that the renewal fee in your Bill covers the compensation you mention?

A.—I deem it that the figure I have given would be sufficient to cover both.

Q.—Then as regards rent you say in your Bill 'provided that if the tenant from whom rent is to be recovered holds on a kanam demise the amount of interest due on the kanam at 6 per cent shall be deducted from the amount recoverable, etc.' You allow that because it is monetary investment on the soil?

A.—Yes.

Q.—Suppose the kuzhikanam tenants have such interest in the land; you will not take that into consideration at all?

A.—They have no kanam investment.

Q.—But they have made improvements which can be capitalized in money. You do not take note of the value of improvements which the tenants make upon the land. It is only what is given by the kanam tenant that you take note of. May I know the reason why you make this distinction?

A.—Interest on the kanam money is certainly payable. It is money taken by the janmi from the tenant. It is not money forced upon the landlord, by the tenant.

Q.—You take it then that the improvement by the tenant is money forced on the landlord by the tenant?

A.—Really it comes to that. That is one reason. Another reason is no question of capitalizing the value of improvements comes in, because we are not assigning or transferring or valuing the improvement at all. The tenant remains the full owner of his improvements and is in possession and no question of capitalizing or transferring comes in.

Q.—Then may I take it that these improvements on the soil are something forced upon the janmi by the tenant? They are not made by the tenant with the wish of the janmi?

A.—I do not say that it is forcing something on the janmi in an unqualified way or that it is not with his consent. But to say that interest ought to be paid upon that as though we are forcing the landlord to be the debtor to the extent of the value of improvements, surely that is a position for which there is no principle.

Q.—That is the reason why you exclude kuzhikanam from this category?

A.—Yes.

Q.—Can you say why you put two-thirds of the net produce as the share of the janmi? Is there any basis for that?

A.—I believe it is the time-honoured custom in Malabar. There was a proclamation of the East India Company to the Zamorin and Chieftains, I believe, in 1800 or 1803. It is somewhere in Mr. Logan's Malabar Manual. There it is laid down, I speak subject to correction—one-third to Government, one-third to the janmi and one-third to the kudiyan. You will please note that I never said in my proposal that the landlord is *entitled* to two-thirds. I have only said that it shall not be lawful to recover more than that.

Q.—Would you make any distinction between garden lands and wet double-crop lands in assessing rent?

A.—For the sake of simplicity I won't.

Q.—If you ignore simplicity, if you want to make a distinction on equitable grounds, what distinction would you make?

A.—In the case of paddy lands I think the janmis ought to be satisfied with the restriction that I propose. That is two-thirds. In the case of garden lands I must say it is a very difficult matter, because if there are several intermediate tenants, portions of the improvements might be owned by different grades of tenants. Ten trees may belong to the janmi, five coconut trees to the tenant, 25 trees to the sub-tenant and the rest to the tenant in possession. So that, if you are going to statutorily fix the ratio between all these persons, my humble submission is that it is a somewhat impracticable proposition. So it is that I suggested this ratio of two-thirds and one-third.

Q.—Supposing you are capitalizing the value of improvements out of which the rent is paid—I do not mean the house or any other thing, but the improvements—supposing they are capitalized and a percentage of interest is made payable to the tenant, would the difficulties that you suggest be overcome?

A.—That will only be creating greater difficulties.

Q.—That particular difficulty can be overcome in the sense that you can find the value of the janmi's improvements and apportion accordingly?

A.—It may be possible mathematically to apportion, provided the income is greater than the sum total of six per cent interest or even 3 per cent.

Q.—Supposing there is a garden in which all the improvements belong to the tenant, what share of the produce will you claim for the janmi?

A.—As I said the tenant shall not be bound to pay more than two-thirds.

Q.—You will claim from the tenant up to two-thirds of the income in the case of a garden land where all the improvements belong to the tenant?

A.—Yes.

Q.—Then Mr. Evans has been more considerate to the janmi in his second proposal?

A.—In a way he was restricting the present right of the janmi.

Q.—He was more considerate to the tenant?

A.—He was more considerate to the tenant than according to my proposal.

Q.—You know the tenants were not at all satisfied with Mr. Evans's second Bill?

A.—Those who were agitating for the tenantry of the country were not satisfied.

Q.—So far as you know the janmis have not sent in any written protest against Mr. Evans' second proposal?

A.—I do not think any occasion arose for the janmis to do that. I believe Government deputed Mr. Evans to bring in certain amendments to Mr. Krishnan Nayar's Bill and he did, and there it ended.

Q.—Did any janmi protest against that?

A.—I believe Mr. Prabhakaran Tampan protested. He wanted to make amendments to Mr. Evans' amendment. With reference to your idea of giving 6 per cent or 4 per cent interest to tenant on his improvements, I think it is not a fair proposal unless you give the option to the janmi to say that he will be satisfied with 6 per cent or 4 per cent interest on the janm value. If you give that option, I have no objection to your proposal.

Q.—Do you think that any legislation is necessary to protect the interests of the cultivating tenants?

A.—Personally I do not think it necessary.

Q.—You say 'I would object to occupancy rights being given in municipal areas since it would hamper town-life, and the floating population of the town would find it irksome.'

A.—Yes, there will be students, clerks, etc. And their one day's occupation of a house would be tantamount to occupancy.

Q.—I am not talking of a house built by the landlord and let to the tenant. I am only talking of a house built by the tenant in a municipal area.

A.—Even then I am opposed to that because the growth of the town would be hampered, by giving that privilege to the tenant?

Q.—May I know the reason why?

A.—Presumably, if a tenant is allotted one house and one paramba and if he is given fixity how are you going to build another house there?

Q.—Don't you think that the tenant would allow another man to build a house on that land?

A.—I think it not likely. The other tenant also will claim occupancy. Human nature being what it is, it is not likely.

Q.—You think that the tenant in possession would not increase the number of houses?

A.—He might.

Q.—From your experience in municipal areas, who build houses for letting out, I ask whether it is the janmi or the tenant?

A.—I think in the Tellicherry town it is fairly equal.

Q.—Your experience is confined to Tellicherry only or to Calicut also?

A.—I have some experience of Calicut.

Q.—Can you say that in Calicut the janmi builds more houses?

A.—I cannot say.

Q.—According to you if there is any justification for legislation it is on the ground that a man cultivates the soil.

A.—That is one principle.

Q.—That is the main principle?

A.—I do not say that it is the main principle.

Q.—If that is so, would you fix any time-limit for the tenant's possession before he is entitled to any sort of fixity—qualified fixity or whatever you may choose to call it?

A.—Well I would put a limit of 24 years.

Q.—May I know if it is based on economic grounds? why do you fix any time-limit?

A.—Because I deem it right to say that a landlord who has had a tenant for 25 years in the land will have no objection to his continuance in the holding if he is a good tenant in other respects.

Q.—You want such a long period to test the quality of the tenant, whether he is a deserving tenant and all that?

A.—That is one method.

Q.—You say that if cultivating verumpattamdars are given fixity that right may be purchased by vakils or clerks. Won't they be cultivating themselves if they do so?

A.—I do not expect that. They will sub-let it.

Q.—Then if a tenant has behaved properly for 25 years you would give him permanent occupancy.

A.—No. As I said I am opposed to all proposals giving permanent occupancy.

Q.—Do you find any difference between the kudiyruppus in North Malabar and South Malabar?

A.—In a majority of cases in South Malabar the kudiyruppu might have been an ancient kudiyruppu. In North Malabar such ancient kudiyruppus are not so numerous.

Q.—You say in paragraph 21 that 'assuming it is decided to grant such rights, etc., it should be granted only to verumpattam and kozhu tenants in possession of paddy lands'. You would not include the kuzhikanam tenants who have planted trees?

A.—No. For the reason that authorities who are competent to pronounce an opinion have said that the Improvements Act has virtually operated in their favour and to the prejudice of the janmis, so that you need not encumber such tenants with additional luxuries.

Q.—You say in one place that the Improvements Act has accelerated meloharthas in Malabar?

A.—It has been responsible.

Q.—If that is so, would you revise your opinion now and say that the kuzhikanam tenants are also entitled to some sort of protection? See paragraph 40.

A.—As a result of the Act melcharth has been on the increase. It has contributed to that effect. But as regards kuzhikanam tenants I hold the same opinion; I see no reason to revise my opinion on the point.

Q.—At the end of paragraph 48 you have stipulated certain proportion to the tenant and the janmi. In the case of garden lands in which all the improvements belong to the janmi would you be satisfied with one-third rent?

A.—Two-thirds.

Q.—Even if all the improvements belong to the tenant you make no distinction whatever?

A.—No. Because it is not possible for future purposes. Improvements are perishable. And there is also the other patent danger. Once a lease is granted, if you are going to base the rent on the janmi's improvements, supposing the tenant does not look after those improvements properly, would he not ask for diminution of rent.

Q.—In the case of suggestions that you make regarding attachment before judgment, do you think that some money not exceeding double the arrears of rent is sufficient security?

A.—Yes plus costs payable. It would operate as a check against arbitrary filing of petitions for attachment.

Q.—You say that if there are more tenure holders than one, you would restrict the grant of occupancy right to the tenant in actual possession. You stick to that?

A.—Yes, as an alternative.

Q.—Even if there are tenure holders above him, you will evict them all and allow this man to be in possession?

A.—I will leave them under the present law. The janmi can evict them or not as he pleases.

Rao Sahib V. Krishna Menon:—Q.—You suggest restriction of right of evictions. You would apply that to all tenants under the janmi?

A.—Yes.

Q.—You suggest that on economic and social grounds?

A.—My main reason is in response to agitation. Personal enmity is not a social ground.

Q.—If that step will tend to the increase of the produce in the country by giving more certainty of holding land, is it not economy?

A.—I believe prosperity of the tenant will be the result.

Q.—With that object in view you restrict?

A.—Yes.

Q.—The prosperity of the tenant always increases the value of the land because you have put the janm value of the land on the net produce?

A.—Not necessarily.

Q.—The prosperity of the tenant naturally increases the net produce?

A.—It might. But the prosperity of the middleman tenant won't affect the question at all. Suppose I am a prosperous wakil and I am a tenant under a janmi and if I do not cultivate, my prosperity does not affect the land at all.

Q.—If the actual tenant in possession has capital to effect improvements on the land, it may increase the janm value? So, in some cases, by restrictions that you impose, the value of the land will be increased?

A.—If cultivation is attended to better.

Q.—And in those cases you have no right for claiming compensation?

A.—Compensation is not based on the condition of the soil. Compensation is asked for, for the diminution of the right of the janmi.

Q.—But the diminution of the right is compensated by increase in the value of the land. If you take away my right, you have got something more?

A.—It is an uncertain contingency. It is possible or impossible. I do not mean to say there is no possibility of increase in the value of the land.

Q.—Have you heard that the value of land in Ernad is lower than in the Palghat taluk?

A.—Possibly it might be. I take the fact from you.

Q.—And the reason is not the fertility of the land, but the prosperity of the tenants who cultivate?

A.—If you say it is so, I accept it. I am not interested in contradicting you.

Q.—What I want to drive at is, that the prosperity of the tenant is in the interests of the janmi.

A.—As I said before, the tenant may be prosperous, but the land may lie fallow.

Q.—By increasing the produce of the land it would follow.

Q.—You said that legislation might increase oral leases?

A.—Yes.

Q.—But I thought that oral lease is always disadvantageous to the lessor.

A.—It depends upon the position of the parties. If the tenant is a big tenant and an influential man and the janmi a poor man, the janmi naturally won't give oral lease at all.

Q.—You put the limit of 24 years for occupancy of a kudiyruppu. Is it not too long? A poor labourer earning 12 or 14 annas with great difficulty—might have built a small hut; you want such a long time to give him permanency? Is it not too hard?

A.—In spite of the best law there is hardship. I have no objection to reduce it to 20 years.

Q.—Is the renewal fee the same for garden lands and paddy lands? What is the ratio?

A.—I believe in the case of garden lands one year's net yield is the common standard. But that is not the only system. There is also the system of twice the rent. In certain places it is thrice the rent. In Quilandy side it is thrice or twice the rent as manusham, plus a definite amount (about Rs. 15 or 20) being perquisites for (oppu) signature, (sakshi) witness, and so on. In certain places it is twice the rent plus an extra sum of 7½ to 12 rupees and so on. As regards paddy lands in certain places I believe it is Rs. 5 per 100 seers of rent. The lease is only for five years. It is leased on verumpattam and not kanam. Verumpattam we call here 'kozhu'. So, the renewal fee is Rs. 5 per 100 seers.

Q.—Do you not think that if all this is calculated on the Government assessment it would be more easy?

A.—The calculation may be easier, but I do not advocate that. I do concede it would have been much better if we could base it on the rent or more preferably on the assessment because that is a definite figure. But then you will have to multiply it by a bigger multiple.

Q.—Mr. Krishnan Nayar said that three times the assessment would be sufficient.

A.—I would consider it very, very low.

Khan Bahadur Haji Abdulla Haji Kasim Sahib Bahadur :—Q.—I think you said you are not in favour of granting permanent occupancy right within kudiiruppus?

A.—Yes.

Q.—Suppose one man has taken an acre of land from the landlord some 30 years ago and he has constructed a house and he is living there. Now, if the janmi asks him to vacate is it not a hardship?

A.—Provided competition rules there is no hardship.

Q.—You are not in favour of giving occupancy right even in such cases?

A.—No.

Q.—Even though they were paying rent regularly and even though they had been in the land for the last 30 years, you won't give them any protection?

A.—I do not think there is any reason for it.

Diwan Bahadur T. C. Narayana Kurup :—Q.—You are very well acquainted with the relationship existing between the landlords and tenants in North Malabar?

A.—Yes, I am well acquainted with these two taluks, viz, Kurumbranad and Kottayam. As regards Chirakkal, I am less acquainted.

Q.—You are fairly well acquainted with the conditions in South Malabar?

A.—I believe I may say that I am.

Q.—Ever since Mr. Krishnan Nayar's Bill was introduced in the Legislative Council, you have made a special study of this tenancy problem both practically and theoretically?

A.—Yes.

Q.—In your view is it necessary to introduce any legislation regulating the relationship between the landlord and the tenant?

A.—My individual personal view is that it is not necessary to have any legislation whatever on the merits. But under the circumstances in which we are placed in 1927, it would be wiser for the janmis to consent to some legislative interference.

Q.—That is, you do not know what Bill may be enacted later on and it is only the fear of that?

A.—Yes. To prevent the possibility of a harsher legislation, I would propose that the janmis now consent to some legislation.

Q.—You say that in some cases janmis eject tenants through ill-feeling. Can you at present think of any case like that? I do not want the names of parties. How many instances do you recollect?

A.—I have heard of three or four instances where tenants have been evicted out of personal ill-will.

Q.—Whether that representation is correct or not you are not in a position to say?

A.—No.

Q.—As regards melcharths are you prepared to admit that there are equitable and inequitable melcharths?

A.—My view is that melcharth is highly necessary in our present land tenure. If a janmi is defied by his tenant who owns improvements of high value the only recourse for the janmi is to give it over on melcharth. The tenant may even go to the length of denying the landlord's title and the janmi may not be in a position to find funds for litigation and pay the value of improvements. I am acquainted with several instances of janmis in North Malabar not being in a position to pay value of improvements, I refer to the Raja of Kadathanad and the Valiya Raja of Chirakkal.

The Raja of Kadathanad brought a suit against one Mappilla in Nadupalam side. As he could not pay the value of improvements which amounted to more than 2 lakhs, he had to submit to the terms imposed upon him by the tenant. The Raja of Chirakkal also wanted to redeem a kanam which was about 75 thousand or so and the value of improvements amounted to more than a lakh. The Raja had to borrow money to pay for value of improvements. If two of the biggest janmis in Malabar (North) are put to such straits, the poor janmi folk would be very much prejudiced if you enact a general law that all melcharths are invalid.

Q.—Suppose the janmi's house is on fire or the janmi has some other urgent necessity for money, and melcharths are prohibited. How would the janmi raise money?

A.—He can raise money only either on his personal credit or simple hypothecation. On personal credit I don't think anybody would advance money to Marumakkathayam karnavans. One would be reluctant to invest money on simple hypothecation because it is only for twelve years. If you do not bring a suit within twelve years, your money is lost. If you bring a suit, even then, there is a lot of details, preliminary decree, final decree and so many other things.

Q.—So your opinion is that you cannot enact a law saying that melcharths are invalid?

A.—I am emphatically of that view.

Q.—You have analysed the reasons for evictions under ten categories and out of them you say only one is blameworthy. That is personal enmity to the tenant. Of all eviction suits what percentage would that come to?

A.—Some 4 or 5 per cent. So far as my experience goes in all the eviction suits there are arrears of rent.

Q.—In the vast majority of cases are kanams renewed or are tenants evicted?

A.—They are renewed.

Q.—Can you say what proportion?

A.—No.

Q.—Most of the lands in North Malabar are garden lands?

A.—Yes.

Q.—Do you think that the value of improvements given in the Tenants' Improvements Act is sufficient protection in cases of evictions of garden lands?

A.—I think so.

Q.—Suppose the janmi recovers a property in which all the improvements belonged to the tenant. What return could he expect from it?

A.—He might get a return of 1 to 1½ per cent.

Q.—And if there are costly buildings on it?

A.—Then it might be half.

Q.—May I take it that as far as garden lands in North Malabar are concerned, your sincere view is that no legislation is necessary?

A.—That is my view.

Q.—Would you allow a reduction in the rate of interest, i.e., 12 per cent on kanam? Would you make it 6 per cent?

A.—As I answered the President, my humble submission is that in future it is necessary for the legislature to say that all kanams will bear an interest of 6 per cent. It should be put down definitely and statutorily. Because now, I do not think old kanam deeds will show the rate of interest on the kanam. The kanam might have originated 100 years ago and the rate of interest might have been fixed also 100 years ago and that too in paddy so that we have now to adjust it to the present economic conditions. Now, I believe it would be fair to say that kanam shall always bear 6 per cent interest which will simplify legislation.

Q.—Your firm conviction is that it is impossible to have a definite principle fixing the rate of rent?

A.—Yes, i.e., rate of rent applicable to all the grades of tenants, cannot be fixed by Statute.

Q.—They should be given freedom of contract?

A.—Yes.

Q.—Is your answer the same as regards the renewal fee also?

A.—In the case of renewal fee I cannot say that the problem is so complicated as rent. That you can fix at a certain figure.

Q.—And as regards compensation to be paid in case permanent occupancy is granted, the problem is more difficult probably?

A.—The principle you can lay down, but the actual working will be difficult.

Q.—Taking all this into consideration, it is better for the legislature not to interfere with the present state of affairs?

A.—That is my impression.

Q.—You said that if all the improvements belong to the tenant or to the janmi, the rent he has to pay would be the same and Mr. Krishnan said it would be hard on the tenant. Assuming that some deduction has to be made, would you do it on the capitalized value of the improvements or on the cost of labour? Between the two which would you propose?

A.—I would propose the cost of labour, for the reason that it is not necessary to find the value of improvements belonging to the tenant in fixing the rent.

Q.—You say that it has to be fixed on the cost of labour and not on the capitalized value?

A.—Not on the capitalized value as found in the Improvements Act for ejectment purposes.

Q.—According to Mr. Krishnan Nayar's present Bill, the renewal fee is twice the assessment. What do you say about that?

A.—That would be an abnormally low figure. And I do not think any tenant has demanded till now that the renewal fee should be only twice the revenue.

Q.—What is the renewal fee that the Kadathanad Raja generally gets?

A.—In regard to garden lands he calculates the mesue profits. But in doing so several deductions have to be made. One deduction is made by the kariyasthan, for reasons of his own, in favour of the tenant; then the tenant goes to the kovilagam and there is a good deal of protestation and things of that sort and another deduction is made by the Raja. Only the coconut trees are taken into account. Then the total number of fruits is calculated and it is valued at Rs. 20 or Rs. 18 per thousand. The present market value of coconut is Rs. 45 to Rs. 50.

Q.—In regard to these big janmis, the Kadathanad Raja and the Chirakkal Raja, there are very many people holding land under them for a number of years. There are very many intermediate holders also. Are those who have been holding for a large number of years the persons who originally planted the properties, and improved them?

A.—That is a difficult question to answer. My belief is most of the intermediate tenants of the Kadathanad Raja consist of big Nayar tarwads and they were not the actual tenants in possession. Their sub-tenants must have been the persons who had been the actual cultivators.

Q.—Would it be real hardship to turn out these intermediate holders?

A.—That depends upon how you view it.

Q.—Some of them may not have any value of improvements at all. That is practically turning them out of the soil?

A.—Only turning them out on paper.

Q.—Will there be very many families like that?

A.—I think there will be several families. The condition is the same as regards garden lands under the Chirakkal Raja. But the major portion of his properties is paddy land.

Mr. Kotieth Krishnan :—Q.—In the case of Kadathanad Raja do you know what rent he gets for garden lands?

A.—He is getting a fixed rent of a few fanams and tenants pay the revenue.

Q.—And the Raja has compensation at the time of renewal only?

A.—Yes.

Mr. H. R. Pate :—Q.—When a demise is renewed, rent is never raised, is it?

A.—Generally in the case of big janmis rent is never raised.

Q.—Under your proposals if a tenant is regularly paying his rent he is to continue in his enjoyment of the holding because eviction is forbidden under these conditions?

A.—Yes.

Q.—You forbid melcharth eviction also?

A.—Yes. Subject to exceptions.

Q.—The renewal fee will be fixed?

A.—Yes.

Q.—So that a janmi will have no means of obtaining an enhancement of rent?

A.—There is provision in my proposal for that. If the rent is found to be too low there is provision for enhancement of rent. If the court is satisfied that there is justification for enhancement of rent there is provision.

Q.—But it would be a bit difficult to obtain an increase under these conditions?

A.—It might be.

The President :—Q.—Mr. Govindan Nayar, just one question. We were trying to distinguish between granting of permanent occupancy and fixity of tenure. And you conceded that the loss to the janmi in the value of janm right in the case of transfer of occupancy right would be far greater than the loss in the event of prevention only of evictions and securing continuity of tenure to the tenant?

A.—Yes.

Q.—I would just put it in another way which would show that the difference is substantial and real. If default is made by a tenant who has been given fixity or if there be any other condition justifying his eviction, the land would revert to the landlord; the landlord would be entitled to go to court and say the tenant should be evicted because he has defaulted with regard to some of the conditions enumerated by you or any of the conditions that may be imposed, and the land would go back to the janmi, whereas if occupancy right is transferred the janmi becomes a mere rent charger and the remedy lies in the sale of occupancy right. So in the case of mere continuity of tenure a smaller compensation would be adequate than in the case of transfer of occupancy right?

A.—Yes. You have summed it up much better than I have been able to do.

The President.—The Committee is very thankful to you, Mr. Govindan Nayar, for the trouble you have taken and the valuable evidence you have given.

II

Written statement of Mr. M. Anantan Nayar Avargal, Retired Deputy Collector.

I. (a) (i) There are, in my opinion, no pressing disabilities at present for kanam'ars holding land directly under the janmi in North Malabar, because the relationship between the janmi and kanamdar is analogous to the relationship between a debtor and creditor; whereas in South Malabar in the case of old kanamdars where the money advanced to the janmi as kanam is very small compared with the profit enjoyed by the kanamdar—if such cases still exist—there is always the fear of eviction or melcharth on the expiry of the lease period.

(ii) After the passing of the Tenants' Improvement Compensation Act kuzhi-kanamdars suffer from no disability at all.

(iii) No disabilities.

(vi) Do.

(v) In this case rack-renting is possible.

(vi) There are not many cases belonging to this class in North Malabar and, where there are, there is the chance of the maximum yield being collected as rent, leaving very little margin for the actual cultivator to enjoy.

(vii) I know of no instances.

(b) The disabilities mentioned under I (a) (v) and (vi) are not, in my opinion, peculiar to Malabar. The one mentioned under I (a) (i) is peculiar to Malabar as there are no instances of kanam outside this district.

(c) No. In North Malabar, as I have already stated, kanam is a mortgage, and a heavy sum almost equal to the janmam value is paid by the kanamdars to the janmi. In South Malabar the old kanams were not regular mortgages effected by needy janmis, nor can they be called securities given by tenants for the due discharge of the michavaram or annual rent, for it is very unlikely that rich janmis like Kovilagam and Nambudiripads would have borrowed paltry sums from tenants and leased out large areas of cultivable lands fetching an income which bears no proportion to the amount of the kanam, the rate of interest being never thought of. The present-day kanams, however, are similar to the kanams in vogue in North Malabar.

The grievance of the old kanamdars in South Malabar, so far as I am aware, is the conversion of the kanam lands into verumpattam lands by some of the janmis. The tenants of other janmis fear that a similar fate awaits them. This, I believe, is at the bottom of the agitation to give permanency of tenure to the kanamdars in South Malabar. That the old kanamdars were not mere lessees of the land is perhaps evidenced by the fact that, before the settlement, the kanamdars in most cases were also the pattadars of the kanam lands and were directly paying the assessments of these lands to the Government, getting no remission from michavaram due to the janmi.

Kuzhikanam tenure is very rare in South Malabar, but it is the most common tenure in North Malabar as regards gardens and dry lands. In the same way, there are very few verumpattamdars in North Malabar. The gardens are leased out on kuzhikanam generally for a period of twelve years, and wet lands on kozhu generally for a period of four or five years. In South Malabar, wet lands are generally cultivated by tenants on oral leases mostly from year to year. It may, however, be that the same tenant continues from year to year for a long time. It is obvious therefore, that there is no security for even verumpattam tenure in South Malabar.

(d) So far as I know, there is not much difference.

II. (i) (a) Yes, in a few cases, viz.,

(1) Eviction due to personal enmity or spite towards the tenant, (2) to oblige a friend or benefit a near relation, (3) in case of the higher offer of a monetary consideration by a third party either in rent or in renewal fee. I cannot quote specific instances. Such evictions are, however, rare and are not on the increase.

(b) I cannot say that some of the melcharths are not granted on unjustifiable rounds. Please see answer to II (1) (a). I cannot quote specific instances.

(c) No such cases to my knowledge in North Malabar. I have heard of a few such cases in South Malabar.

III. (a) The power of eviction and grant of melcharths should be restricted by enacting a law.

(b) No; the remedy suggested in answer to question III (a) would, in my opinion, be sufficient to put a stop to spiteful and capricious evictions and melcharths; but to protect the interests of ancient kanamdars and to prevent the conversion of such kanam lands into verumpattam lands it may be necessary to grant permanency of tenure to kanamdars holding kanam lands continuously for the last sixty years or more. In such cases the kanamdars should submit themselves to a reasonable periodical revision of rent.

(c) I am of opinion that permanency of occupation may be granted, if at all, only to ancient kanamdars indicated in the answer to question III (b).

(d) I am against the grant of permanent occupancy rights to kuzhikanamdars and verumpattamdars. I have already stated that permanency of occupation may be granted to ancient kanamdars.

(e) Provisions of the Rent Recovery Act with modifications if and wherever necessary may be resorted to. The attachment of the moveables of the defaulting tenant should however be effected only through the civil court.

(d) I am not in favour of granting permanent occupancy rights to anyone except ancient kanamdars. Answers to questions (e) and (f) do not arise in view of the answer to (d).

IV. (a) (i) I should be glad to give permanency of occupation to kudiyruppu-holders provided it is feasible without giving permanency of occupation of the holding also in which it is situated. I fear it is not practicable. Kudiyruppu, as it is understood in North Malabar, is a house situated in a garden which may have been leased to the tenant generally on kuzhikanam, and it is usually this tenant who occupies the house. It is impossible to separate the house from the garden. When permanency of occupation of the garden cannot, according to me, be granted to a kuzhikanamdars, the same man cannot be allowed to hold a permanent right over the house which should go along with the gardens to any other tenant in the event of an eviction or melcharth. Except where people live in streets—a custom very rare in Malabar—there are very few kudiyruppus as such separated from the gardens. There are again kudiyruppus appurtenant to wet lands where the tenant who cultivates the lands lives. When there is a change of the cultivating tenant, there must necessarily be a change of the occupant of the house also. Therefore, it is not possible to grant permanent occupancy rights to kudiyruppu-holders however much one may desire it.

(ii) Certainly. Urban kudiyruppus are very valuable and in any event permanency of occupation cannot be granted in Municipal areas.

(b) I have already pointed out the impracticability of giving permanent occupancy rights to occupants of kudiyruppus.

(c) (i) The question apparently relates only to new kanamdars and verumpattamdars and not to ancient kanamdars whose ancestors had lived and died and been buried or cremated on the property. In the case of new kanamdars or verumpattamdars, they must subject themselves to eviction in the ordinary course of law.

(ii) As it will not pay the janmi to evict the tenant, it is not likely that the tenant would be evicted.

(iii) I have already answered.

(d) (i) A proper valuation of a janmi's rights, in many cases, would be impracticable. Even if practicable, it would lead to the impoverishing of many a Marumakkattayam tarwad considering that the present-day karnavans are always on the look-out to collect as much money in cash as possible and misappropriate the fund to benefit their wives and children. Cases might also arise of karnavans colluding with the occupants of homesteads for a compulsory purchase of janmam rights to benefit themselves.

(ii) No.

(v) The Act, so far as I know, is working to the great benefit of tenant in North Malabar at the janmi's cost. The Act has also been a setback to productive agriculture. Overplanting of coconuts and other fruit trees with an eye to the value realizable in Court at eviction is the rule. Conversion of paddy lands into coconut gardens is going on steadily, bringing about an economic disaster. Costly buildings are put up by the tenants on the holdings with a view to prevent eviction, and when they find that the janmi is not able to effect an eviction by paying for the improvements they refuse to pay rent regularly and to effect a renewal at the end of the term. In such cases janmis are driven to the necessity of granting melcharths. For the above reasons in most cases of eviction the janmi stands to lose and the tenant to gain.

The Act has increased melcharths to some extent, the janmi not having the means to pay the value of improvements.

Yes; it should be made a rule that no value shall be paid for trees of spontaneous growth; overplanting of fruit trees should be checked by prescribing a maximum per acre; and costly buildings, not calculated to improve and enhance the

value of the holding, should not be paid for. Conversion of paddy lands into parambas without the explicit permission of the janmi in the lease itself should be made a ground for eviction without payment of any compensation.

(vi) (a) I have already stated that general principles with regard to the valuation of janmi's rights can never be arrived at, as it depends entirely on the circumstances governing individual cases.

(b) —

(c) No.

(vii) (a) One-third of the net produce to the cultivating tenant and two-thirds to the janmi who has to pay the Government revenue. This relates only to lands held by tenants directly under the janmi. If there are middlemen as tenure holders, it is not easy to fix the rent by statute.

(b) No. There might be rack-renting only in the cases of yearly tenants.

(viii) (a) Renewal fees with regard to old kanams in South Malabar, so far as I know, is mostly the cumulative full annual income from the land for about half the lease period or more. I am not sure if this information is correct, but I know that the renewal fee in most cases is exorbitant and is vastly disproportionate to the rent paid on the property, so much so that the janmis who have leased out lands on small kanams are benefited more by the renewal fee than by the annual rent. Such exorbitant renewal fees are not collected in North Malabar except by the Rajas who have leased out lands (gardens) on a low pattam.

The renewal fee is not collected on any fixed principle at present. I would fix it at twice the annual rent on the property or six times the annual assessment, whichever the janmi prefers.

(b) Twice the rent or even less than that. Some of the janmis don't collect any renewal fee.

(ix) Restriction about eviction (Melcharth).

(x) (a) It may be granted.

(b) I see no objection.

(c) I have no suggestions to offer.

Wednesday, the 9th November 1927.

Oral evidence of Mr. M. Anantan Nayar.

The President:—Q.—Mr. Anantan Nayar, you are a retired Deputy Collector?

Witness.—Yes.

Q.—You reside in Tellicherry?

A.—Yes.

Q.—May I know what is your position with regard to land?

A.—My tavazhi pays an assessment of about 1,000 and odd rupees for janmi lands and 200 rupees for kanam lands.

Q.—Are you taking any part in cultivation after your retirement?

A.—No.

Q.—Now, you say in answer to question III (a) "the power of eviction and grant of meloharths should be restricted by enacting a law." Will you kindly enlighten the Committee as to the *modus operandi*, how you would enact a law, what provisions you would make, etc.?

A.—I have said eviction and meloharth would be unjustifiable under three conditions. One is eviction due to personal enmity or spite towards a tenant, (2) to oblige a friend or benefit a near relation and (3) in case of a higher offer of a monetary consideration by a third party either in rent or renewal fee.

Q.—Can you quote specific instances?

A.—I cannot quote specific instances.

Q.—Even if the rent or renewal fee is too low you will not allow direct eviction or eviction through melcharth?

A.—In that case the tenant must be given the option to pay the higher rent.

Q.—Suppose the tenant refuses?

A.—Then the janmi must have power to grant melcharth.

Q.—You have suggested certain remedies in answer to question III (a). How would you give this right without giving the janmi compensation?

A.—My idea is—I know of instances where the michavaram is very small and yield is much more.

Q.—What about renewal fee?

A.—I have stated that in such cases it is usually the cumulative full annual income from the land for about half the lease period or more. That impoverishes the tenant. The thing is as he cultivates he spends away the income without thinking of the renewal fee at all.

Q.—Have you any specific reason to urge for grant of permanent occupancy?

A.—The conversion of these lands into verumpattam lands will be a greater hardship to such kanam tenants. I know of an instance where such lands have been converted into verumpattam lands. The michavaram is about 10 paras and the verumpattam of the land will be 100 or 150 paras. That would be a great grievance. The whole family must have been depending upon the yield of those lands for many years.

Q.—So instead of the legal position that kanam is a redeemable tenure you would give kanamdars permanent occupancy?

A.—On account of the ancient character of the holding.

Q.—Would you provide for any compensation?

A.—I do not think any compensation is necessary, because they are collecting that in the shape of renewal fee.

Q.—The kanamdar might have continued undisturbed. But the janmi might be a new janmi. He might have got possession by paying the full janmam value? Considering the yield from the land when he pays money, he knows what michavaram he is to get. You must have heard Mr. Govindan Nayar say that the janmam right is valued with reference to the net yield of the land?

A.—I differ from that view. The janmam value is paid considering the income which the janmi has derived out of that and not on the quality of the soil alone.

Q.—That is not what many others say. Are you quite sure that that is the position when a janmi sells his right and a new janmi purchases that right—that he pays only the capitalized value of the michavaram plus the renewal fee? Then he must be paying with the idea of enhancing the rent. It is open to him to do that?

A.—In that case, of course, the janmam value might be on the quality of the yield.

Q.—How is the value of the janmam right determined?

A.—Even in land acquisition cases it is on the income.

Q.—That is to say, the net yield is capitalized and represents the full janmam value. From that various deductions are made with reference to kanamdars' right, verumpattamdars' right, etc., for distribution purposes?

A.—Yes.

Q.—You said a little while ago that a new janmi purchases the janmam right by paying the capitalized value of the michavaram plus the renewal fee?

A.—I do not say it is always the case. That is the first consideration. He looks to the net income he would be immediately deriving from the land he is buying.

Q.—Not the prospective yield? You admit that there is a balance? Which does not reach the hands of the janmi and which the kanamdar now enjoys? There is a possibility of his getting that balance if he wants it?

A.—My own idea is on account of the antiquity of the tenure the landlord is not entitled to that surplus.

Q.—And therefore you do not propose any compensation?

A.—Yes.

Q.—And you do not propose to give any relief to kanamdars or kuzhikanamdars whose tenure is not sixty years old?

A.—No. I am against grant of permanent occupancy to kuzhikanamdars and verumpattamdars.

Q.—What is your reason? Why are you against even granting them security of tenure?

A.—Because they suffer from no disability at all.

Q.—Do you mean that, under the existing law, they do not suffer any disability and the Act for compensation for tenants' improvements gives all the protection that they need?

A.—Yes.

Q.—Don't you think that giving fixity or continuity of tenure would induce the verumpattamdar to cultivate the land better?

A.—I do not take the position that the tenant neglects the land for the reason that he has no continuity of possession. He tries to get as much yield from the land as possible.

Q.—But is he able to cultivate the land properly? Has he got the means to do it?

A.—Will he have the means if he is given permanent occupancy right?

Q.—If he is given security of tenure, the value of his holding increases and he finds better credit in the market and he is likely to put more money into the land and cultivate the land better. That is the economic argument which is adduced by many people?

A.—It might be that the tenant might have inducement to cultivate the land better on account of the fact that he is able to borrow more money on the security of his land. But if that is given, the janmi loses.

Q.—He loses what?

A.—He loses his prestige and power of evicting him.

Q.—Prestige of having the power to do harm?

A.—Prestige of having so many tenants under him.

Q.—He can have so many tenants even now?

A.—But once permanent occupancy is given, they will not stand in the position of tenants. They then stand on a par with the janmi. So long as the rent is paid, he is as good as the janmi. At least there is no fear that the janmi might at any time evict him.

Q.—You say with regard to recovering rent that attachment of movables of the defaulting tenant shall be effected through the civil court. Have you any reason in support of that proposition?

A.—Because I think if the janmi sends his agent particularly in the Mappilla taluk, probably that might end in murder.

Q.—You suggest in regard to payment of compensation either in the case of house-sites or agricultural land that it is impracticable, etc. Why should we not introduce a procedure similar to section 32 of the Land Acquisition Act in the case of limited owners? The awarding officer must invest the money either in land or on security approved by the Government and the interest should be paid to the limited owner. That is the procedure laid down in that section. Why can't that procedure be followed?

A.—That will be a complicated procedure.

Q.—Why? Instead of compensation awarded being disbursed to the karnavan of the tarwad, you invest it either in the purchase of fresh lands or on approved security and the interest will be paid to the karnavan?

A.—Well, I have not thought of that section at all. And I do not know who is to fix the compensation. Is it by enacting a law or is it to be fixed by the court?

Q.—I suppose ultimately by the court if the parties do not agree. If the parties agree, money can be paid to the karnavam and the money need not go to the court at all. Or you may go to the court and say we have agreed that such and such an amount should be the compensation. Then the court may take the money and invest it in the manner specified in section 32?

A.—If that is done, there is no harm.

Q.—You say something about trees of spontaneous growth? Which are trees of spontaneous growth? The Act does not seem to be very clear?

A.—Ambayam and murikku are such trees. These are trees which have to be paid for now. I believe the Act provides compensation only for fruit-bearing trees, such as coconut trees, jack trees, tamarind and in the case of timber trees also.

Q.—But whether they are planted or of spontaneous growth, it gives compensation? The mango tree may be a spontaneous growth, but still it is a fruit-bearing tree. You say that compensation should not be paid for all trees of spontaneous growth? You want to amend the Act like that?

A.—The trees must be specified. Only fruit-bearing trees need be paid. The difficulty is this. A dry land is given on lease and the tenant does not care for it. Trees spontaneously grow on the land and when he is to be evicted he has to be paid value for all that.

Q.—But if he has not taken proper care to look after them, they will be grazed by cattle. Some trees require water. Some have to be fenced?

A.—Even if the cattle graze, some trees still survive. I understand that whatever tree is found in the garden is valued. That is how the Act is working against the janmi so much so that the janmi sometimes pays compensation for the tree from which he gets no income at all.

Q.—Your position does not seem to be correct. The tree must be useful either as a fruit-bearing tree or for timber, and then only it will be valued?

A.—Everything is useful. Even ambayam is useful as firewood.

Q.—You have no suggestion to make, to make the working of the Act satisfactory? I shall put forward a suggestion and that is: The tenant should give notice to the landlord that he has planted so many trees and he is going to tend such and such trees that have spontaneously grown. Will that be a satisfactory method?

A.—If that is done there is not much harm. If the tenant notifies to the landlord that he is growing so many trees and the landlord thinks that some trees need not be grown at all he may object. Some such suggestion would be satisfactory.

Q.—And if there is a dispute and the matter has to be referred to the Court this would be useful?

A.—Yes.

Q.—Then in answer to Q. VII (a) you say that one-third of the net yield should go to the cultivating tenant and two-thirds to the janmi?

A.—That is the mamul.

Q.—Why should that rule be abrogated when the tenant holds under an intermediate holder?

A.—One-third should be set apart for the cultivator. With regard to the other two-thirds that will have to be distributed according to the money value which the second man has.

Q.—That will be distributed according to the various rights which the intermediaries have. You agree to that position?

A.—I agree.

Q.—You say in answer to Q. VIII (a) something about renewal fees in South Malabar. You will be satisfied if that is continued?

A.—I would fix the renewal fee. It may be twice the actual rent.

Q.—Supposing the michavaram is very low and the renewal fee is very low, if you fix the renewal fee at twice the michavaram is it not a hardship to the janmi?

A.—Such cases are very rare.

Q.—Just now, we were told that michavaram in the case of Kadathanad Raja is only a few fanams. You only want to fix it as a multiple of michavaram or assessment? Have you any reasons in support of your proposition?

A.—My reason is at the present day renewal fees are exorbitant and it differs from land to land and from janmi to janmi. It is more a question of bargain.

Q.—You want to introduce a principle. I want to know what is the justification for the principle?

A.—So that it may not work hardship to the tenant.

Mr. H. R. Pale:—Q.—You say that kanamdars should be given permanent tenure?

A.—Yes, ancient kanamdars if they still exist.

Q.—If kuzhikanamdars have been existing for a long time you won't give them this right?

A.—It is not on account of the number of years that I based it. I doubt whether they were kanams as understood now. Ancient kanam tenures were not present day kanams.

Q.—It is not on account of the length of tenure but on account of the nature of the tenure?

A.—My idea is that small kanams which big janmis have received from the tenants are more to secure tenants than to secure rent. In those days there would not have been so many cultivators and the janmi was anxious to secure one as a permanent tenant.

The President.—Thank you very much Mr. Anantan Nayar.

The Committee rose for the day at 5-15 p.m. and witness was asked to appear the next day at 8 a.m. for completing his examination.

Thursday, the 10th November 1927.

The Committee met to-day exactly at 8 a.m. All the members except Sir T. Desikachari and Raja Sir Vasudeva Raja of Kollengode were present.

Oral evidence of Mr. Anantan Nayar—cont.

Diwan Bahadur T. C. Narayana Kurup:—Q.—You said yesterday that you would give permanent occupancy right to kanamdars (ancient kanamdars) for the reason that the kanams of those days were not as at present understood and that they were tenures which could not be redeemed?

A.—Yes.

Q.—If kanams were originally redeemable would you advocate occupancy right?

A.—No. In old documents it is stipulated that it is not redeemable. But if there is no stipulation to the effect that they are not redeemable you have to presume that they are redeemable and you would not give permanency in such cases.

Q.—In the case of other tenants you would not give this permanent right of occupancy?

A.—No.

Q.—You restrict the power of eviction and melcharth except in certain cases?

A.—Cases might be multiplied. I have stated some cases.

Q.—You have given three reasons there and you say that such evictions are rare. So am I to understand that a tenant cannot be ejected at all?

A.—For those reasons he should not be ejected.

Q.—If eviction is for any other purpose than these you won't advocate eviction?

A.—No.

Q.—That means you are prepared to give qualified occupancy?

A.—Yes. It must be for a justifiable purpose always.

Q.—Even in those cases you would have the question of rent or renewal fee left to the legislature?

A.—Yes.

Q.—That means you are prepared to give qualified occupancy?

A.—I would prevent all unjustifiable evictions.

Q.—What are the unjustifiable grounds?

A.—I have mentioned three. There may be many more.

Q.—That also you leave to the legislature to decide?

A.—Yes.

Q.—I believe your answer related even to kuzhikanam?

A.—To every form of tenancy.

Q.—You take away the right of the janmi without giving any compensation to him?

A.—The janmi's right is not to be exercised arbitrarily and the janmis deserve no compensation in such cases of unjustifiable melcharths or evictions.

Q.—Then you say in regard to rent, that one-third is to the tenant and two-thirds to the landlord?

A.—That is the mamul. One-third to the tenant, and out of the two-thirds to the janmi, one-third goes to the State.

Q.—But if the tenant subsequently sublets the property to several other tenants what is your view?

A.—Well, one-third must be left to the actual cultivating tenant and the remaining two-thirds must be distributed according to the monetary value they have on the holding.

Q.—Suppose, A a janmi, lets a land to B. In that case A gets two-thirds and B one-third. B subsequently lets it to C. Do you mean to say that C must get one-third?

A.—Yes, C must get one-third. The remaining two-thirds must be distributed between A and B.

Q.—For no fault of the janmi?

A.—No, but on the ground that the tenant should get his share.

Q.—Supposing there are ten intermediate tenants, the tenants would be getting nothing? And possibly that is not the fault of the landlord. The landlord is not to be deprived of his share?

A.—I do not think the tenant is to be deprived of his legitimate share for the reason that there are many intermediate tenants. My position is that the actual cultivator must be given one-third share.

Q.—But the intermediaries may sometimes get nothing?

A.—They will get some share during distribution.

Q.—You think that simply because a person gets fixity of tenure he is not likely to cultivate better?

A.—I think so. Whether he has fixity or not, the cultivator tries to get as much yield as possible. I have seen the cultivation in South Kanara and here it is nothing when compared with South Kanara cultivation. Even in South Malabar cultivation is better. Cultivation depends upon the person who cultivates and not on fixity of tenure at all. That is my experience.

Q.—Are lands cultivated by janmis in Malabar better off than lands cultivated by kozhu tenants?

A.—Sometimes it is worse. The janmi does not care to get as much yield as possible from the land as the tenant.

Q.—You say 'such evictions are very rare, etc.' Then why should there be legislation at all?

A.—There are still some cases. I know of some hard cases in South Malabar.

Q.—Have you heard of any cases in North Malabar?

A.—No.

Q.—So it is only on account of the fact that you have heard that there are some hard cases of such evictions, namely, due to personal enmity, etc., that you put this here?

A.—Yes. But even if there be no such cases there ought to be legislation to prevent such cases hereafter.

Q.—In the case of kuzhikanamdars do you mean to say that a kuzhikanamdar who came yesterday and one who had been for the last so many years, should be treated in the same way?

A.—I do not advocate permanent tenure to kuzhikanamdars. Eviction should be restricted.

Q.—You restrict eviction and melcharth and you say that the landlord should not get more than the rent fixed by legislation?

A.—I do not know how the legislature is going to fix the rent.

Q.—You want the rent to be fixed by the legislature?

A.—I am not quite sure of that, for the reason that it will be a difficult affair for the State to fix the rent.

Q.—So you leave it to the tenant and the landlord?

A.—Yes.

Q.—If they do not agree?

A.—They will have to go to the revenue court. The court has to go and inspect the land and decide what return it will yield and one-third of that should be given to the tenant.

Q.—Then I take it you want the legislature to fix the rent so that the tenant may get one-third?

A.—Yes.

Q.—If he is prepared to pay that rent he should not be ejected?

A.—No.

Q.—That is a sort of permanent tenure?

A.—I do not think so.

Q.—You give him the right of occupancy so long as he behaves well and pays the rent? Then you are for giving permanent occupancy to all tenants who would pay rent?

A.—Not at all. Even without permanent occupancy I have ascertained from my uncle that there has not been a single case of eviction or melcharth so far as our tenants are concerned.

Q.—You want therefore a legislation to prevent unjustifiable melcharths and evictions?

A.—Yes.

Q.—And your opinion is that the renewal fee should be twice the rent or six times the revenue? Is not twice the rent very low in certain cases?

A.—I have heard of instances in Kurumbranad where the rent is very low and the renewal fee, if fixed at twice the rent, would be very low.

Q.—The Kadathanad Raja will be getting very low renewal fee. Would it not be better to have a common law for all?

A.—I have suggested the land revenue because there would be certainty. We know if it be calculated on the annual net yield it would be a very difficult affair.

Q.—Even in the case suggested by you, in fixing the rent the annual net yield has to be ascertained?

A.—No. You take the past rent.

Q.—As regards future renewals to be granted, if the tenant is to get one-third how is the net annual rent to be ascertained?

A.—That is a matter which is best left between the janmi and tenant.

Q.—If they don't agree?

A.—They have to go to Court which will settle what the net yield is.

Q.—Then there is no difficulty in fixing the renewal fee also?

A.—No.

Q.—You suggested six times the assessment on the ground that it would be difficult to ascertain the net yield? I say at the time of subsequent renewals hereafter to be granted the annual yield has to be ascertained?

A.—Yes.

Q.—Is there any objection to fixing the renewal fee at one year's net yield?

A.—That would be too low for the janmi.

Q.—Then you would have it like this? Either one year's net yield or six times the revenue, whichever is more profitable.

A.—I would fix two years' rent because one year's net yield will be less than twice the rent.

Q.—So either one year's net yield, or twice the rent or six times the revenue, whichever is more profitable to the landlord, you have no objection for that?

A.—I have no objection.

Rao Sahib V. Krishna Menon:—Q.—You said that renewal fee should be twice the rent or six times the assessment? Are you sure that would be fair?

A.—Yes. That is my idea.

Q.—That is rent due from the verumpattamdar to the janmi?

A.—Rent due from the tenant, whatever tenure he may be holding, to the janmi.

Q.—Suppose a kuzhikanam tenant has a coconut garden the net yield of which is Rs. 20? You would fix the renewal fee at Rs. 20?

A.—Yield is not rent?

Q.—What will be the rent per acre generally here?

A.—With reference to gardens that will depend upon the number of fruit-bearing trees and the bearing capacity of the trees.

Q.—If there are 80 trees per acre what would be the rent?

A.—If they are first-class trees I think it may be getting about Rs. 40 rent.

Q.—What the janmi now gets is very low and you want that to be increased?

A.—I know of a specific instance. Recently I purchased a garden. There are 104 coconut trees, 26 jack trees, and 100 pepper vines. The rent is only Rs. 40.

Q.—Supposing it is renewed, what is the usual renewal fee here?

A.—Generally in Kottayam taluk, so far as I have ascertained—I have no experience—it is generally twice the rent.

Q.—You restrict permanent occupancy to kanamdars holding kanam lands for the last sixty years. You mean kanamdars before 1853?

A.—I don't put it as kanamdars before 1853. I would put it as ancient kanamdars.

Q.—You won't give the same right to cultivating kanamdars?

A.—No. Even in the other case, I did not say they ought to be given but I say they may be given.

Q.—You say that there might be rack-renting in the case of yearly tenants. You admit that there is rack-renting in their case?

A.—There is a possibility just as house-rent in municipalities where there is a rise of one or two rupees for the change of every tenant.

Q.—Are you aware that there is rack-renting among annual lease holders?

A.—I am not personally aware.

Q.—You state in your evidence that the Tenants' Improvements Act has been acting as a set back to productive agriculture?

A.—I still hold that view. Nowadays improvements are made with a view to getting money at eviction time.

Q.—Let us consider that the Tenants' Improvements Act does not exist. Do you think that the existing development of garden cultivation would be seen some thirty years ago in the absence of that legislation?

A.—I would have seen better gardens.

Q.—The drawbacks you have noted are over-planting, increase of melohartha?

A.—That is only the result.

Q.—Lastly buildings, conversion of paddy lands into gardens, these are the other drawbacks enumerated by you. Don't you think all these drawbacks can be rectified by the Improvements Act?

A.—I have not read the Improvements Act. We know what sort of commissioners we get for inspecting and valuing the improvements. Most of the conversions of paddy lands into gardens are, I understand, to prevent eviction and also to obtain a good value. The tenant would not have spent more than Rs. 5 per tree. At the time of eviction he will get at the rate of Rs. 10 or Rs. 15. Overplanting can be avoided. 120 trees to the acre is too much. Generally 60 is the standard. Suppose it is reduced to 80 or 60, then there would not be so many conversions.

Q.—There are lands where you could get a better yield of coconuts than paddy. In that case is it not legitimate to convert it into a coconut garden?

A.—I do not think it is always the case. Where a paddy land is unsuited for paddy cultivation and is suited to coconut cultivation it is good.

Q.—You said that permanency of a holding is not an essential condition for the improvement of land.

A.—Yes.

Q.—You think it is one of the factors?

A.—It is not a factor which could be reckoned. My position is security of tenure will not make the cultivator improve the land but it depends upon the person.

Q.—Would you convert 12 years' leases of kanam lands into one year?

A.—I think economically it would be injurious to the tenant for the reason that he has to pay renewal fee every second year.

Q.—You spoke of trees of spontaneous growth yesterday and said that they should not be valued and that they are useless. You mentioned the murukku and ambayam as such trees. Are you aware that ambayam is used for packing cases.

A.—That is a new discovery. Yesterday it was said that murukku is used for firewood. I understand that it is not used for firewood even.

Q.—It is not useful for manure?

A.—No tree is useless in this world. I would restrict the payment of compensation to trees for the growth of which the tenant has taken some care.

Mr. Kotieth Krishnan :—Q.—There is a greater demand for investing money on janm than on kanam in North Malabar?

A.—That is due to the Marumakkathayam system. Because if the karnavan invests money in the bank, his eldest nephew may squander away the whole sum, leaving nothing to the tarwad.

Q.—I am not talking of the reason. I ask whether there is a greater demand for janm lands?

A.—Yes.

Q.—It is because there is a permanency and fixity for it?

A.—Yes.

Q.—Investment on kanam is not so good because the tenure is not so secure?

A.—Yes, the kanam could be redeemed and money in cash would be coming into the hands of the karnavan.

Q.—So there is always a demand in Malabar for a sort of fixity for investment on land?

A.—Yes.

Q.—Suppose a property is owned by A, a janmi, unless he wants it for his own private purpose, unless the tenant is committing waste, or if the tenant is not paying rent regularly or he is not paying renewal fee at the expiry of the term, it is the usual practice in Malabar for good janmis to renew rather than give the property to a stranger?

A.—Yes.

Q.—Giving the property to a stranger without sufficient justification is condemned by respectable people?

A.—Yes. All right-minded men condemn it.

Q.—Public opinion is against it?

A.—Yes.

Q.—And that is the reason why you say that you would allow the old tenant to continue in possession rather than allow a janmi to replace him by another?

A.—Yes.

Q.—You welcome legislation on those lines?

A.—Yes.

Q.—You will not give fixity of tenure for the reason that once it is given the tenant will not pay his rents regularly?

A.—There are many more reasons.

Q.—You make a distinction between permanent occupancy and qualified occupancy?

A.—Yes. I am for legislation restricting eviction and melcharth.

Q.—How would you value land in Land Acquisition cases? You would take the yield and capitalize it?

A.—Yes.

Q.—You don't value according to the Tenants' Improvements Act?

A.—No.

Q.—Do you know whether the value paid according to the Land Acquisition Act is more or less when compared to the value as per the Improvements Act?

A.—It is less.

Q.—How many years capitalized value of the net yield do you take in the case of land acquisition?

A.—Twenty years' net yield.

Q.—Do you know how many years capitalized value is taken for the basis of valuation according to the Improvements Act?

A.—I do not know.

Q.—So you cannot say whether it is more or less except from hearsay?

A.—Yes.

The President :—The witness's point is different; he says compensation awarded by the Land Acquisition Officer is less for a different reason.

Mr. Krishnan :—Q.—What is the reason?

A.—There we do not value each tree. The annual yield alone is taken. We don't value the ambayam or murukku and such other trees.

Q.—In the case of kuzhikanam tenants also if they are prepared to pay renewal fee at the expiry of the term you would have legislation for compelling the janmi to give renewal?

A.—I say by restricting eviction and melcharth the other follows. If the legislature would restrict him to do the right, I have no objection to such legislation.

Q.—You have no personal knowledge of the renewal fee paid by tenants in the Kottayam taluk?

A.—I have ascertained that to be twice the rent.

Q.—You say that the tenant gets one-third net yield after paying the landlord's dues. Have you any personal knowledge of it?

A.—I have no personal knowledge but I think if they were not getting that income there would not have been such keen competition for lands. That is what I gathered—that is the general information. Of course, I have not personally ascertained. I am not a cultivator myself.

Q.—So you base your statement on hearsay information?

A.—Yes. But not in the sense that hearsay evidence should be shut out.

Q.—I am not talking of Evidence Act. I say you understood this from general conversation with persons acquainted with these matters?

A.—I have also experience of these things as I was a Revenue Officer in Malabar.

Q.—Had you any experience as Revenue Officer in North Malabar?

A.—Yes, I was sub-magistrate of Taliparamba for some time. I was there for four months.

Q.—Suppose there is a tenant who pays a varam of 1,000 seers. You say renewal fee for that would be 2,000 seers which means about 300 rupees. For how many years would you give renewal?

A.—For five years.

Q.—For five years you would demand 300 rupees renewal fee from a tenant who pays 1,000 seers varam? Have you ever heard of this rate in North Malabar? Even half this rate have you heard of?

A.—With regard to wet lands probably so much is not collected in North Malabar. For that matter there are families who do not collect any renewal fee at all except Rs. 5. If the lease is for twelve years like gardens two years' rent will not be too much.

Q.—In the case of kozhu lands renewal fees are not collected in the Kottayam taluk?

A.—Some janmis do not.

Q.—Ordinarily?

A.—I cannot say.

Q.—Will you have renewal fee for the verumpattamdar in South Malabar?

A.—That is yearly tenancy. There is no question of renewal fee.

Q.—In the case of kozhu tenants as well as kuzhikanam tenants you say that one-third net yield should go to the tenant. Suppose there are two gardens one adjacent to the other. In one of them improvements are made by the landlord and he has given it to the tenant and in the other all the improvements are made by the tenant. Would you have the same standard for both?

A.—Certainly. The janmi has to pay one-third to the State. Irrespective of whether he cultivates or not he should have his share.

Q.—You don't make any distinction between janm value of waste land and the janm value of plantation land? Here are two cases—one, a land where all the improvements have been made by the janmi is given to a tenant—and another waste land where all the improvements were made by the tenant. You hold both the tenants under the same category?

A.—You should not take into consideration the value the tenant would be getting at the time of eviction under the Improvements Act. At the time of eviction the janmi gets nothing and the other man who has planted gets the value of his improvements.

Q.—But here is a man who gets an equal income and at the same time all the improvements are made by the landlord?

A.—I have understood it thoroughly.

Q.—I am not going to ask you anything further on this point. Do you know what is janm pattam in South Malabar?

A.—I do not know.

Q.—You know how michavaram is calculated in South Malabar?

A.—No.

Q.—Am I right in saying that the present-day janmis content themselves with claiming larger renewal fees but allowing the same rent to continue?

A.—That is a fact with most of the Marumakkattayam tarwad karnavans.

Q.—In the Kottayam taluk at the time of renewal do janmis increase the rent in the case of kozhu land?

A.—Some do.

Q.—Kuzhikanam also?

A.—Some do.

Q.—What is the practice in Kurumbranad?

A.—I don't know. I have no idea of Kurumbranad at all.

Q.—When did you go out of Malabar?

A.—In 1913.

Q.—Till then you were employed in Malabar?

A.—Yes.

Q.—Where?

A.—South Malabar mostly.

Q.—From which year?

A.—From 1895.

Q.—You have some experience of South Kanara. There, most of the pattadars themselves cultivate the land?

A.—Generally the pattadars themselves cultivate. On that account they are able to get more yield. There the cultivation process is better. They take particular care to put cow dung, leaf and other manure.

The President:—Q.—Is there any difference between the cultivation of mulgani and chalgani tenants?

A.—No.

Mr. Krishnan:—Q.—So according to you one-third yield is the share of the tenant; beyond the remainder the janmi ought not to be permitted to claim as that will be rackrenting?

A.—Yes. But I have great hesitation in fixing the rent by any statute. That is a matter which should be adjusted between the janmi and the tenant.

Q.—If they don't agree they will have to go to Court. What data will you give the Court? You will leave it to the discretion of the Judge?

A.—Yes.

Q.—And if the parties are not satisfied?

A.—Naturally like all civil cases they will have to take it to the appellate Court. My own idea is to fix the rent will be a very difficult affair.

Q.—With reference to paddy lands can you say whether it would be possible to fix a rental with reference to revenue in respect of that land? Say, first class revenue paying land, so much, so many times, like that.

A.—That would be more satisfactory than fixing it at one-third.

Q.—You will take the settlement classification as the basis?

A.—Yes. But I do not think it will be a workable scheme.

Q.—May I know the reason why?

A.—There will be various classifications, and how many times the assessment would you fix it to be?

Q.—It may be five times, it may be ten times. You may give a multiple just to represent the net yield of one-third?

A.—There is difficulty in fixing it. Unless you go to each field and find out the nature of the soil and what facilities there are there is difficulty in finding out the yield of all lands.

Q.—Supposing a machinery is established for finding it out in each taluk?

A.—It is unworkable, and it will not be practicable. That will be another settlement department going over the whole thing, perhaps much more elaborate than that.

Q.—You say that there are some defects in the working of the Tenants Improvements Act and if your suggestions are accepted it will not work hardship to the janmi and the tenant?

A.—Yes.

Mr. H. R. Pate:—Q.—I have but one question to ask. Would you compensate the janmi? You are giving some right to kanam tenants. And you want to restrict melcharths and evictions. Would you compensate the janmi?

A.—I would not, for the reason that, as I stated, old kanams were not like kanams of to-day.

Khan Bahadur Haji Abdulla Haji Kasim Sahib Bahadur :—Q.—You know of chalgani, mulgani and arthagani in South Kanara?

A.—Yes.

Q.—Chalgani is verumpattam and mulgani is permanent tenure?

A.—Yes.

Q.—With regard to rent what percentage is mulgani more than chalgani?

A.—I think it will be 12 or 15 per cent more than chalgani.

Q.—Do you know arthagani? What percentage is it?

A.—It is, like Malabar kanam. Some money is given as consideration. I think it is 25 per cent.

Q.—Even in that case the rent is higher than chalgani?

A.—Yes.

Q.—You think that the present rent in Malabar is high or low?

A.—I cannot say either way. I would take it as a reasonable equitable rent now.

Q.—Supposing the landlord wants to give land on the mulgani system. You would propose to raise the rent or give it at the present rate?

A.—Certainly the rent ought to be raised by about 20 or 25 per cent.

Q.—There is scope to raise the rent in Malabar?

A.—Well, janmis are not anxious to raise the rent.

If they raise the rent and if the outturn is not equal to the rent how will the tenant be able to pay?

Q.—Is the chalgani rent now paid in South Kanara the full kanam rent, that is to say, do they get one-third the net yield?

A.—Yes.

Q.—But how can the mulgani tenant pay more?

A.—He should for the reason that he is getting permanent occupancy.

The President :—Q.—Have you ever served in the East Coast districts of this Presidency?

A.—I have served in Malabar, South Kanara and Bangalore. That is all.

The President :—Q.—You have experience of the Estates Land Act? There are provisions in the Estates Land Act relating to fixing a fair rent. There are certain considerations given as a guide to the Collector when he is to fix a fair rent. Have you any experience of it?

A.—No.

The President :—Q.—Thank you very much, Mr. Anantan Nayar.

III

Written statement of Mr. A. C. Kannan Nambiyar, High Court Vakil, Tellicherry.

I have the honour to forward to you the following answers to the questionnaire framed by the Malabar Tenancy Committee.

Disabilities.

I (a) (1), (2), (3), (4), (5), (6) and (7). In my opinion, there are absolutely no disabilities pressing hard on the tenants in question.

(b) So far as my knowledge goes, there is nothing peculiar to Malabar tenants. The relationship of landlord and tenant in Malabar, I understand, is just the same as it is in any other country.

(c) The North Malabar tenants are not suffering from any disabilities. I do not know much of the conditions in South Malabar.

(d) I do not know. I can't say.

Evictions.

II. (1) (a) I don't think evictions are made on unjustifiable grounds and that evictions are on the increase. It has become almost impossible to evict tenants on payment of the heavy value of improvements.

(b) I don't think that melcharths are granted on unjustifiable grounds. No melcharth was ever granted by my family which owns landed estate paying assessment, I think, just over a Rs. 1,000. Melcharths are sometimes quite necessary in the case of certain janmis who grant melcharths only under exceptional circumstances. That is only justifiable.

(2) I am positive that there is absolutely no social or any other kind of oppression of the tenants by the janmis in North Malabar.

Remedies.

III. (a) There are no disabilities.

(b) The grant of permanent occupancy right is neither essential nor necessary. I am not for granting permanent occupancy right to any class of tenants.

(c) Assuming that there are disabilities, grant of permanent occupancy rights to one or more of several tenure-holders will not mend matters. Practically each one is in the position of janmi to the one immediately below him.

(d) There is nothing in this suggestion. I don't find any reason to make any distinction between old and new tenants.

(e) If permanent occupancy rights are to be granted, the effective method of collecting rent and other dues from such tenants will be either by suit or by making provisions for the janmis to enter upon the property and take the produce themselves. If rent is allowed to fall in arrears, the tenant must be made to forfeit all his rights in the property. Some such coercive steps may be taken.

(f) In any case and under any circumstances, I am not for permanent occupancy rights.

IV. (a) (1) If permanent occupancy rights are given to occupants of kudiyruppus, the garden in which the house is built loses considerably in value and it will be very difficult for the janmi to get a proper tenant for the property minus the house and house-site. If such an arrangement is made, the consequence will be disastrous. There will always be quarrel between the occupant of the kudiyruppu and the tenant of the rest of the garden.

(2) I don't make any distinction between urban and rural kudiyruppus.

(b) I am against any grant on permanent tenure for kudiyruppu either in urban or rural areas.

(c) (1) If a tenant on the expiry of his term, is unable to renew the kanam or to continue the verumpattam, he will have to give up the house built by him also along with the holding on receipt of the value of the house. The house, no matter who built it, must go with the holding.

(2) He must be asked to remove it or to agree to receive reasonable value which will be consistent with the value of the holding.

(3) The building should be paid for.

(d) (1) I am against this system of compulsory purchase.

(2) Such a system of compulsory purchase is not suited to the customs of the people of Malabar.

V. The effect of the Malabar Compensation for Tenants Improvements Act (I of 1900) is not such as to improve the relations between janmis and tenants. No doubt the Act stands in the way of unjustifiable evictions and granting of melcharths indiscriminately. The tenant now feels that he should not be considerate to the janmis, because if it comes to eviction, he gets by way of value of improvements, an amount sometimes almost equal to, or exceeding, the value of the entire property. Sometimes the tenants therefore do not agree to the terms of renewal or even refuse to renew and enhance the rent. The Act requires amendment by reducing the rate of the value of improvements belonging to the tenants.

Compensation.

VI. (a) If permanent occupancy right is to be granted, at least half the value of the property in its present condition should be given to the janmi, and it should not be given only to the karnavans of the janmis' 'tarwad', but provisions must

be made for proper investment of such amounts for the acquisition of fresh properties or for the enjoyment of such amounts by all the members of the tarwad who are equally entitled to it.

(b) This is difficult of solution; and I have no reasonable suggestions.

(c) I don't suggest any facilities. Tenants must pay in lump sum and not by instalments.

Rent.

VII. (a) After deducting the Government revenue and the cost of upkeep, one half of the net income must be given to the janmi and the other half to the tenant. The rent that is already existing should not be disturbed. All contracts made between the janmi and the tenants already should be respected.

Renewal fees.

VIII. (a) The renewal fee should ordinarily be fixed as an amount which is equal to double the annual rent of the property. But other circumstances, such as the soil, location of the property, area in which it is situated, etc., have also to be considered in fixing renewal fee.

(b) I belong to Kottayam taluk. The renewal fee is different in different areas. Ordinarily it is one year's rent. It varies according to circumstances pointed out above.

IX. In the view I take, the only remedy I can suggest to secure fixity of tenure for the actual cultivator of the soil is to make stringent provisions against unjustifiable evictions and granting of melcharths. It may be provided that the tenants who are regular in payment of janmi's rent and other dues and who are agreeable to renew the property on payment of reasonable renewal fee and who improve the land by giving proper attention to it should not be evicted at all and the properties of such tenants should not be passed on melcharths. This secures fixity of tenure to a steady tenant who is regular in payment of rent, etc.

X. (a) I will gladly accept it in the case of tenants who are regular in payment of janmi's dues, and who improve the land.

(b) The suggestion is good and acceptable.

(c) The collusion apprehended is probable.

But this can be avoided by leaving it to be decided by the civil courts. The reasonableness or otherwise of the amount of renewal fee can be easily settled by courts of law, and any probable collusion can be averted.

Thursday, the 10th November 1927.

Oral evidence of Mr. A. C. Kannan Nambiyar.

The President.—Q.—You are a High Court Vakil in Tellicherry?

A.—Yes.

Q.—May I know your standing at the bar?

A.—I am a vakil of 23 years' standing.

Q.—Are you a janmi or a kanamdar?

A.—I am a janmi, I am a kanam and kuzhikanam tenant under my tarwad and I have one garden on kuzhikanam right from another janmi.

Q.—Will you kindly give the Committee an idea of the extent of holdings of your tarwad?

A.—In fact, I cannot say roughly the extent, but I may say that the assessment payable to Government by my tarwad is over 1,000 rupees.

Q.—You have taken kanam of a portion of the property from the tarwad?

A.—It was an outstanding kanam from the tarwad. I took an assignment of some kanams from the original mortgagees.

Q.—What is the extent of the kuzhikanam land which you own?

A.—Under my tarwad I hold some 40 acres of land on kuzhikanam. It is a coconut garden and another of about 50 acres under my own family. Then under a different janmi there is a garden, i.e., where I live in Tellicherry and that will be about three-fourths of an acre.

Q.—Did you reclaim the 50 acres of land which you hold on kuzhikanam under your family yourself?

A.—I reclaimed some 40 acres myself.

Q.—When the land came into your possession it was a waste land?

A.—Yes.

Q.—What are the terms on which you hold the garden?

A.—There is only a nominal rent of rupees (1 or 2) I do not exactly remember.

Q.—And the question of rent is determined when the plants have begun to yield. They have not yet begun to yield?

A.—I planted up piecemeal, i.e., bit by bit, and practically the garden has not begun to yield.

Q.—Then the compound in which you live, it is also a kuzhikanam and it was also a waste land?

A.—It was a garden with fruit-yielding trees. When I took up that garden there was also a house, but I had permission to improve and add to the house which I have done. The garden was also leased out to me in kuzhikanam and for the garden I am to pay Rs. 37-8-0 a year. It is a garden consisting of some 15 to 20 coconut trees and a few pepper vines.

Q.—For how long has this kuzhikanam been subsisting?

A.—For the last 20 years.

Q.—And there has been no revision in the terms on which you hold the garden ever since you took up the holding and you don't pay any separate rent for the house?

A.—I pay separate rent of nearly Rs. 50 a year for the janmi's portion of the house.

Q.—And for the improvements which you have made in the house, you enjoy that portion of the house free?

A.—Exactly.

Q.—Now you say "there are absolutely no disabilities pressing hard on the tenants in question". It includes all sorts of tenants?

A.—That is my opinion. There may be rare instances here and there but that is not sufficient reason for any generalization.

Q.—There may be rare instances?

A.—To my knowledge I cannot think of any specific instance.

Q.—Then how do you say there may be rare instances?

A.—Probably some janmi may have some ill-feeling towards a tenant. It is only human nature.

Q.—You talk only of possibilities and not actualities?

A.—Personally I do not know of any specific instance, not even through information.

Q.—You say that no melcharths are granted on unjustifiable grounds?

A.—That is my position.

Q.—You say "melcharths are sometimes quite necessary in the case of certain janmis."

A.—The janmis may be so circumstanced that the granting of a melcharth becomes an absolute necessity. That does not apply to wet lands. Suppose a garden is leased out on kuzhikanam and the tenant has effected considerable improvements. If the janmi wants to enjoy the property or if the janmi wants an enhancement of rent, after the expiry of the term, the tenant knowing the position and the status of the janmi may not be agreeable to the janmi's terms, because the janmi has to give a large amount by way of compensation for value of improvements; and it becomes practically impossible for the janmi to enjoy the property properly and he has to do it through another man who is in a position to pay the tenant.

Q.—What do you mean by “his inability to enjoy the property properly”? In the case of kuzhikanams I presume—and you yourself say—that the improvements are made by the tenant. Am I to understand that the janmi is to send out the tenant and get the full benefit of the improvements himself?

A.—It is not exactly that. In my own case I said I am a tenant under my family. I took up the land as waste and I planted them up. The rent now fixed is only a nominal sum which I am sure, after the expiry of the term, will be increased. I have planted about 3,000 plants in 40 acres and the rent must be more than Rs. 2 when the trees begin to bear. If I am not agreeable on the ground that the janmi is not in a position to evict me because a large amount has to be given to me by way of value of improvements, the only alternative for the janmi will be to find out another rich man who will be able to pay me and recover possession of the property.

Q.—Take your own case and forget for the moment that you hold the kuzhikanam under your own family. What will be the reasonable rent in a case like that? By the bye you are not for permanent occupancy?

A.—No. I am not for permanent occupancy being given.

Q.—Well, you may give me an alternative answer. That is, in the event of permanency or fixity being given and in the event of no fixity being given, what will be the reasonable rent?

A.—In the event of fixity being given, I would say, deducting the Government revenue, and the upkeep of the garden, half net must go to the janmi and half to the tenant. That is in a case where all the improvements have been made by the tenant. In the event of occupancy not being given, one-third must go to the janmi if all the improvements belong to the tenant.

Q.—And I suppose you will graduate the rent according to the extent of the improvements, i.e., supposing a portion of the improvements belong to the tenant and a portion to the janmi?

A.—Certainly.

Q.—Then you say that grant of permanent occupancy right is neither essential nor necessary. Are you opposed to fixity of tenure being given provided reasonable conditions such as regular payment of rent, reasonable renewal fee, attornment to landlord's title and not committing waste are acted up to?

A.—On those conditions I have no objection to fixity being given, but I say I am against permanent occupancy being given because that is taking away the inherent right of the janmi. Suppose I have purchased a property by making a large investment and just entrust it to a tenant; for the reason that I have entrusted it to the tenant it will be hard to say that I cannot get back my property, whenever I want it. If I have invested money in a bank, I will get it back after the period for which the money has been invested.

Q.—Then you are not prepared even to give continuity of tenure?

A.—Personally I have no objection, if such conditions are made, but I do not believe there is any necessity for granting permanent occupancy. My own idea is that even the present mass of tenants are not for fixity of tenure.

Q.—One argument that is advanced in favour of permanent occupancy is that it is essential for the proper cultivation and improvement of the land.

A.—I do not believe in that. We are continuing with this sort of tenure for centuries and centuries and we are not worse off for that.

Q.—Have you ever devoted your attention to a comparison of the yield of lands in this district and the yield in other parts of this Presidency?

A.—I have not.

Q.—Then you say you are quite satisfied with the way in which agricultural cultivation is carried on here?

A.—I am satisfied.

Q.—Even though the yield may be much less here than the yield which other people get from similar lands elsewhere?

A.—I do not think that the condition or yielding nature of the soil can be changed by giving fixity to the tenant. I do not believe also that because fixity is not given

they are neglecting the land. In other words I do not believe that if permanent occupancy right is given the tenant will improve the land. I have no belief or faith in all such things.

Q.—Then you say ‘If permanent occupancy rights are given the effective method of collecting rent and other dues from such tenants will be either by suit or by making provisions for the janmis to enter upon the property and take the produce themselves, etc.’

A.—In fact after giving that answer I think it is not workable. That might occasion disturbance of the peace and all that.

I am sorry I made an answer like that.

Q.—How would you modify it?

A.—I would say ‘on default of payment of rent by the tenant for one year he must forfeit his right on the property or if the janmi goes to court and if he pays the whole amount of arrears in court with costs he may be relieved’.

Q.—So the janmi should wait for one year and then go to court.

A.—That is the only alternative I can say.

Q.—Then in regard to kudiyruppus, don't you think fixity is desirable?

A.—It is not desirable but mostly the kudiyruppus are in parambas and I do not think the separation of the two is workable.

Q.—But in order to obviate this difficulty would it not be necessary to give continuity of tenure in the gardens?

A.—I should think so.

Q.—Then you say in answer to question IV (d) that you are against such a system. Would you kindly tell us why?

A.—My main reason is I am against the grant of permanent occupancy right.

Q.—You said that some permanency is desirable in the case of kudiyruppus at least?

A.—I have not.

Q.—I thought you did.

Q.—You say in regard to the Improvements Act that some amendment should be made reducing the rate.

A.—As it is the rate allowed by the Act is exorbitant in regard to garden lands.

Q.—What is the rate for a bearing coconut tree? Is it not regulated according to age?

A.—It is regulated, but sometimes it is exorbitant. Sometimes it is even valued at Rs. 20. When you compare the cost of protecting and maintaining the coconut tree which is Rs. 2-6 or so every year, with the cost that you have to pay, the rate is very high. Sometimes it comes to twenty times the actual expenditure.

Q.—You say those rates should be reduced?

A.—That is my view.

Q.—Then you say, if permanent occupancy is to be given, half the janm value should be given to the janmi?

A.—Because, in fact, if fixity is given the janmi becomes a mere rent receiver and he cannot get back the property. It becomes just like our saswatham properties. Practically the tenant becomes the janmi, subject to payment of rent fixed.

Q.—But in the case of saswatham lands you cannot increase the rent whereas even if permanent occupancy is given, under certain conditions you can increase the rent.

A.—Still roughly half the janm value should be given.

Q.—Then in the case of rent you say that one half of the net income must be given to the janmi. That is in the case of kuzhikanam?

A.—Yes.

Q.—You say that in cases where all the improvements have been made by the janmi, the tenant should get one-third and the janmi two-thirds?

A.—Yes.

Q.—In the case of renewal fee of gardens the practice in Kottayam taluk is twice the annual rent?

A.—Yes.

Q.—What is it in the case of wet lands?

A.—The renewal fee for four years in the case of paddy land for 100 seers rent giving land is from 10 to 20 rupees. But then there will be difference according to certain conditions.

Q.—You would make the renewal fee uniform by fixing it at twice the annual rent?

A.—Yes.

Q.—Then you think that no compensation need be paid to the janmi even if fixity is given and even though he is deprived of a right which he now enjoys of turning out the tenant whenever he pleases?

A.—Yes. No compensation need be paid to him for that.

Mr. H. R. Pate :—Q.—In paragraph 9, you proceed to suggest remedies. Is this remedy to be limited to the actual cultivator of the soil?

A.—Yes.

Q.—Then you do not intend to go against eviction of non-cultivating tenants?

A.—I do not know.

Q.—Are non-cultivating tenants, provided they pay their rent and what is called renewal fee, to be evicted?

A.—They need not be.

Q.—The cultivating tenant, is it the kanamdar?

A.—In fact my remarks apply to North Malabar only. In North Malabar there is nothing like kanamdar. It is the kuzhikanamdar.

Q.—What about verumpattamdars?

A.—In North Malabar there is nothing like verumpattam. There is kozhu land. If cultivation of wet land is described as verumpattam land then there is verumpattam. Otherwise there is no verumpattam land.

Q.—You would apply this formula to South Malabar?

A.—I do not know the conditions of South Malabar.

Q.—You do not make any recommendations about South Malabar.

A.—No.

Q.—Do you cultivate yourself?

A.—I do not.

Q.—This does not apply to the non-cultivating kanamdar or non-cultivating verumpattamdar?

A.—Yes.

Q.—You limit it to the actual cultivator of the soil?

A.—You may extend it to the non-cultivating tenant also under certain conditions so far as fixity alone is concerned. You should safeguard the interests of the janmi, make provisions for the good relationship between the landlord and tenant and for regular payment of rent and renewal fee.

Q.—You have not quite expressed your meaning in paragraph 9. The words 'actual cultivator' should, I think, be 'tenants in general'. Under those conditions you would give fixity to all classes of tenants?

A.—Yes.

Q.—You would fix renewal fee at two years' rent?

A.—Yes.

Q.—It is often said that if renewal fee is based on that basis it would be oppression.

A.—No tenant has any grievance in the matter of putting renewal fee at two years' rent.

Q.—Sometimes they say much larger sums are demanded?

A.—Not to my knowledge. It won't be workable. If exorbitant amounts are claimed, the tenant is not likely to pay.

Q.—Then you could bring in a melcharth?

A.—That is why I said there is a possibility of oppression. But, so far as my personal knowledge goes, I do not think there is any worth mentioning.

Q.—You are against grant of occupancy right?

A.—I am still against it.

Q.—But you said that fixity may be given under certain conditions?

A.—Provided the tenant pays rent regularly, provided he is agreeable to the payment of renewal fee, provided he does not deny the title of the landlord, if all these conditions are made, personally I have no objection to fixity being given. If I am point blank asked, 'Are you against fixity of tenure?', I would say 'I am against it'. But if I am told, 'We are going to give fixity of tenure, what have you to say,' I will say all these things. That is my position.

Mr. Kotieth Krishnan :—Q.—Your personal view is that no tenancy legislation is necessary for Malabar?

A.—That is my view at present.

Q.—You say that you have made some substantial additions to a house in a compound which you hold on tenure? I ask you, if you are to be paid all the value of improvements considering the rent that you pay, what percentage of interest would it pay the janmi?

A.—He would get some 3 or 4 per cent interest.

Q.—Your family never gave melcharths?

A.—Never.

Q.—You take a pride in it?

A.—I have not considered that aspect, that is, whether I should take pride in it.

Q.—Is it not the practice in Malabar, especially of good janmis, not to evict tenants who pay rents regularly and attorn to the janmi?

A.—There is no such practice.

Q.—You hold some lands as a janmi? What is the renewal fee you get for kozhu land?

A.—I take 10 to 20 rupees for four years per 100 seers of wet yield. I have taken only up to 12 rupees.

Q.—You say that if the attitude of the tenant towards the janmi is all right, there is no necessity to evict him subject to certain conditions. What do you mean by that attitude?

A.—I mean in the general sense the word is used that he is not recalcitrant or impertinent.

Q.—You mean subservient servility to be the attitude. What is the idea?

A.—Suppose the tenant is asked to help the janmi with some labour. The tenant is asked to send some coolies. If he has the consideration that it is the janmi that has sent word to him he will send the coolies and get the work done for the janmi. Of course, the janmi will pay the wages. If the tenant refuses to do this there is the change of attitude.

Q.—So, if the tenant refuses, you would make that a condition to evict the tenant?

A.—Not on that alone.

The President :—What I understood him to say was the attitude of the tenant with reference to particular matters, i.e., regularity in the payment of rent, renewal fee, etc.

Mr. Kotieth Krishnan :—If that is so, it is all right.

Q.—Are tenants of Malabar anxious to get continuity of tenure?

A.—On the other hand, they are anxious for the termination of tenure and the janmis are anxious to retain the old tenants. That there is an agitation for this by the tenants is not true.

Q.—You say that in the Improvements Act the rates have to be reduced. Suppose the yield is 25 nuts in a coconut tree. How is it valued?

A.—I do not know.

Q.—Then how do you say that the rate is excessive?

A.—I say that because in some cases where 1,000 and odd rupees is paid as value of improvements not even 3 per cent interest is obtained on recovery of the property.

Q.—Do you know of any instances?

A.—In my village I know of two instances.

Q.—You think evictions on melcharths are rare in Malabar?

A.—I should think so.

Q.—When compared to South Malabar, do you know there are more melcharths in North Malabar?

A.—I do not know. My idea is that, looking into the number of holdings and looking into the number of janmis and tenants, melcharths in North Malabar are very rare. I do not for a moment say that there are no melcharths.

Q.—You know in the case of Saswatham lands the rent is only a few fanams?

A.—In some cases it is only a few fanams, in other cases it is something more.

Q.—It is not substantial?

A.—It is substantial in certain cases. In the case of paddy lands it is substantial. In the case of garden lands it is nominal.

Q.—Do you know in what condition these dry lands have been when they were given on Saswatham? I suppose they were all given as waste?

A.—Yes, and all the improvements have been made by the tenant.

Q.—At the time it was given on Saswatham the understanding between the janmi and the tenant was that the tenant would not be evicted?

A.—Yes.

Q.—The improvements that we see to-day on such lands are the result of the tenant's labour?

A.—Yes.

Q.—Do you know at what rate money is borrowed in villages?

A.—That will depend upon the amount. If it is a small amount of Rs. 100 or Rs. 200 it may be 12 per cent. If the amount is large invariably it will be 4 to 8 per cent and that will be on security and often not on pro-notes. If it be on pro-notes it will be 8 per cent.

Q.—So if the tenants want to make some reclamations they have to borrow money at this rate?

Then you say that irrespective of whether all the improvements are made by the tenant or the janmi you would give out of the net income half to the janmi and half to the tenant?

A.—Yes.

Q.—Irrespective also of the fact whether it is garden land or wet land?

A.—Yes.

Q.—In your experience do big janmis like the Chirakkal Raja and Kadathanad Raja increase the rent at the time of renewal?

A.—I have no personal knowledge of these janmis.

Diwan Bahadur T. C. Narayana Kurup:—Q.—The members of your tarwad own janm lands, kanam lands, saswatham lands and kuzhikanam lands and you are well acquainted with the different tenures in Malabar?

A.—Yes.

Q.—You appear in almost all the important criminal cases? I don't minimise your civil work?

A.—I appear both for civil and criminal cases, but more on the criminal side.

Q.—You say that you are against any tenancy legislation?

A.—Yes.

Q.—Some people say that tenants are evicted immediately after they have planted the garden and before the trees begin to bear?

A.—It is not a fact. If the opposition can quote instances, they will not work out to one per cent.

Q.—You belong to Eruvetty amsam and not only in that amsam but in the neighbouring amsams your family tenants have been living in your garden lands for a series of years, and have you come across a single case in which the tenant was evicted immediately after the trees were planted and before the trees began to bear?

A.—I have not only not come across such a case but I have not heard of it even.

Q.—And you say there is no social oppression of any kind in North Malabar?

A.—No. There is no social oppression at all.

Q.—You say you are living in a paramba which has been leased on kuzhikanam and you pay a rent of Rs. 37-8-0. If the same land is in a village what would be the rent?

A.—At the most Rs. 10.

Q.—In fixing the rent you would suggest there should be difference between that for the lands in the municipality and outside the municipality?

A.—Within the municipality gardens are very dear and you cannot therefore have a uniform rate.

Q.—So, if your house be in the village, would it be paying for the janmi to recover?

A.—No.

Q.—You want renewal fee to be fixed at twice the rent?

As regards rent itself is there not difference between taluk and taluk and janmi and janmi?

A.—There is difference. It depends upon the nature of the janmi more. I know of janmis who have not raised rent for nearly one century.

Q.—In some cases janmis look more to renewal fee than to rent?

A.—Yes.

Q.—Therefore would it not better to fix the renewal fee on the net yield rather than twice the rent?

A.—Yes. But I do not think it will work out much difference between one year's net yield and two year's rent. It will practically be the same.

Q.—Is there considerable difficulty in collecting the rent now?

A.—Yes. In fact, in respect of properties acquired by me I have yet to get two or three years' rent from certain tenants.

Q.—You are satisfied that the Tenants' Improvements Act is a sufficient check as regards eviction of garden lands.

A.—There is no doubt about it.

Rao Sahib V. Krishna Menon:—Q.—You said the tenants in North Malabar have no grievances because you know the janmis are not oppressing them?

A.—Yes.

Q.—You do not know the conditions in South Malabar?

A.—No, I do not know.

Q.—Supposing there is oppression you will grant that some sort of legislation is required to control it?

A.—If there are oppressions in South Malabar then of course, it is necessary.

Q.—If a legislation restricting the tyranny in South Malabar is extended to North Malabar also, you have no grievance?

A.—So far as North Malabar is concerned, there is no oppression. I know that as a matter of fact.

Q.—I mean to say if that legislation is extended to North Malabar also, you don't mind it?

A.—I won't mind it. But there is no necessity.

Q.—Now, in the matter of the tenants' improvement, you say there is hardship now for the janmi to evict a tenant paying off the value of improvements. Is it because that you have to pay more than the cost of producing the tree or because the janmi is unable to get any revenue out of these trees?

A.—The janmi is made to pay more than the actual cost of producing the tree. The tenant is getting more than what he actually spends.

Q.—Only after a tree reaches the bearing stage it is properly charged. For example for a coconut tree they pay only Rs. 4-12-0 till the tree reaches maturity. Do you object to the paying of this Rs. 4-12-0?

A.—I object to it. I understand that the Act causes hardship. As soon as the tree has begun to bear the compensation is calculated upon the produce. That is not at all the amount actually spent by the tenant.

Q.—You said in fixing the rent that, if the improvements are the janmi's, the janmi should get half. If the improvements belong to the tenant?

A.—It must be given as two-thirds to the tenant and one-third to the janmi. In other cases it must be graduated according to the proportion each has on the property.

The President:—"I want to put one question to you, Mr. Kannan Nambiyar. In answer to question VIII (a) in regard to renewal fee, you say that renewal fee should be fixed at double the annual rent of the property. When Diwan Bahadur Narayana Kurup asked you whether it would not be more satisfactory to fix it on the net yield basis you said you had no objection, and you said one year's net yield may be fixed as renewal fee. I believe you mean that that formula should be applied in the case of both garden and wet lands. Now in regard to giving fixity of tenure your position, as I understand it, is, left to yourself, you would not give fixity of tenure, but if it is decided that continuity of tenure should be given then you would give it on the terms which you mentioned.

A.—Yes.

Q.—You also said that the attitude of the tenant towards the janmi should be proper and when questioned by Mr. Krishnan what that attitude meant you said, for instance, it is a mamul for the tenant to find labour for the janmi on payment if the janmi wanted that labour and that the mamul should be kept up.

A.—I did not mean it is a mamul. They usually send, that is all.

Q.—I do not find any difference between mamul and what you say. If the janmi wants some labour, and if good relationship exists between the janmi and the tenant, the tenant usually finds it. Similarly there are certain *mariyathas* during the time of marriages in the janmi's house to be done by the tenant. For instance, plantains, etc., are given to the janmi. In South Malabar it is called *Kanayanmamariyatha* and I suppose there is that *mariyutha* in North Malabar also?

A.—It is not a legal obligation, but tenants generally do that. They are not compelled to do that.

Q.—It is generally done and all these things have a money value. When I put the question to you whether you would not give any compensation to the janmi in case you give continuity of tenure on condition that the tenant pays rent regularly and does not dispute the landlord's title and pays renewal fee fixed by the janmi and does not commit waste, you said no compensation is required for the janmi. If you give security of tenure to the tenant do you think the tenant would continue to give these *mariyathas* to the janmi?

A.—In fact that will depend upon the good sense of the tenant.

Q.—Therefore do you not think that the janmi should be compensated for the loss of these *mariyathas*?

A.—In fact I did not take that aspect of the matter into consideration. He has to be compensated.

Q.—You now think so?

A.—Yes. That aspect did not occur to me.

Q.—In regard to renewal fee you say that one year's net yield may be fixed as renewal fee. May I take it that in so fixing the renewal fee you are taking into account existing practice?

A.—Yes.

Q.—But when fixity of tenure is given, what would you suggest as adequate renewal fee?

A.—Then one year's net yield won't be sufficient.

Q.—You have said that in the case of permanent occupancy the compensation that you would award to the janmi is half the value of the janmam property. Remembering that and remembering also that this restriction means loss of some money

value in the janmi's right, what do you think would be adequate compensation to be paid?

A.—Taking all these into consideration I think the renewal fee has to be increased. But I have not considered that aspect as to how much it should be under such circumstances.

The President.—Thank you very much, Mr. Kannan Nambiyar.

IV

Written statement of Mr. V. C. Mayan, Tellicherry.

I. (a) 1, 2 & 3. In my opinion tenants of these classes have neither honest nor justifiable disabilities in North Malabar.

4, 5 & 6. Except in very rare cases, tenants under these heads also in my opinion have little disabilities, because the kanamdars of North Malabar (usufructuary mortgagees) generally do not get more than 3 to 5 per cent interest per annum on their investments from their tenants in the shape of rent. In like manner the tenants under kuzhikanamdars generally pay a rent to cover the interest on the amount invested by the latter to effect the improvements plus the rent payable to the janmi with the reservation of a small margin of profit to the kuzhikanamdar. Tenants under verumpattamdars to my knowledge in North Malabar are almost numerically nil.

7. Tenants of this nature—for instance Oondaruthi pattam tenants, etc., have absolutely no disabilities whatever to seek remedy for redress.

(b) I say there are no disabilities peculiar to tenants in Malabar and in my opinion if there are any disabilities they are not to the tenants but to the janmis, since the "Malabar Compensation for Tenants Improvements Act" (Act I of 1900) came into force. In all other respects they are common to the relationship of landlord and tenant in all parts of India.

(c) & (d) As I have little knowledge of the land tenure in South Malabar I could not conscientiously answer these questions.

II. (1) (a) I could boldly say there are not many instances of unjustifiable evictions made by janmis but at the same time I am not prepared to deny that there are rare cases of such evictions by smaller janmis. To my experience those evictions are never on the increase.

(b) Same as answer to (a)

(2) To my experience it is unknown in North Malabar that ever a janmi using his position as landlord oppressed his tenants socially.

III. (a) In my opinion no new enactment is necessary. The Malabar Compensation for Tenants Improvements Act amply provides to safeguard the tenant's interest in the land. (Where there is no new epidemic there is no need for a new remedy to be hunted after.)

(b) I do not think permanent occupancy is essential to remedy the existing disabilities, if any, to tenants. If permanent occupancy right is to be granted at all I would grant it to tenants mentioned in 1 (a) 2, 3 and 5.

(c) I would prefer to grant permanent occupancy right to the man in actual fiscal possession and occupation of the land and I am strongly of opinion that this grant will substantially put an end to the disabilities, if there are any, of the tenants as a whole.

(d) I could not agree with this suggestion as it would exceed the limitation in my answers to III (b) and (c) supra.

(e) If permanent occupancy right is to be granted the landlord may be allowed to recover the arrears of rent on payment of proper court fee either through the medium of magistracy as in the case of recovery of arrears of municipal dues or through the revenue courts by attachment and sale as is done in the matter of recovering revenue arrears. In these proceedings defence of the tenants should not be entertained unless the claim amount and costs are deposited or on production of proper securities as required in the case of summary suits in civil courts. If the court finds the claim vexatious and unfounded the complainant may be ordered to pay compensation not exceeding the claim amount to the tenant respondent.

(f) I would not agree to grant permanent occupancy rights in the following holdings to the tenants :—

- (1) Houses, bungalows, warehouses, stores, shops, barbecues and other buildings owned by the janmis.
- (2) Lands and buildings within the municipal areas.
- (3) Hills and forests.
- (4) Lands of janmis who do not own more than 50 acres assessed to their name as their janm.
- (5) Lands and buildings within a furlong in circumference of temples, mosques, churches and other houses of worship.
- (6) Houses necessary for the dwelling of members of the janmi's family and lands required for cultivation by the janmis and the members of their family by themselves.

IV. (a) (1) I am not in favour of granting permanent occupancy right for kudiyruppu (homesteads) in North Malabar as the parambas here are generally of small extent and if permanency rights are granted to kudiyruppu the remaining torn bits of the paramba will materially reduce in its purchase value and will also not find a tenant to take it on proper rent as it will necessarily cost more money to fence it in different parts than the necessary fencing required otherwise.

(a) (2) I would never agree to grant permanent occupancy right to kudiyruppu—tenants in urban areas.

(2) (b) In my opinion 15 cents will be the proper minimum extent in rural areas for kudiyruppu.

(2) (c) In urban areas mostly the buildings are occupied by people who come on trade purpose or as public servants or as employees of merchants. They in my opinion do not need permanent occupancy right. In rural area there are no such people.

(c) (1) In these circumstances there is no need for a permanent occupancy right to be granted for kudiyruppu and these tenants are to be evicted.

(2) The kanamdar should remove at his own cost any house or building larger than necessary for the proper enjoyment of the holding demised to him.

(3) In such cases the kudiyruppu must be vacated along with the remaining land otherwise it would be inconvenient for cultivating the remaining land.

(d) 1 & 2. The system of compulsory purchase of janmis' rights in the kudiyruppu by the tenant in actual occupation by means of bonds issued either by Government or co-operative societies the amount due thereon being payable by instalments would do more harm to the Malabar tarwad as the purchase money is likely to be misappropriated by the karnavan, stani or uralan and use it to his wife and children's benefit detrimental to the tarwad, stanam or the devasam to which the kudiyruppu land belonged in janm. It is therefore unsuitable to the genius of the people of Malabar and to their customs.

V. I consider the Malabar Compensation for Tenants Improvements Act (I of 1900) has done more injury to the relationship of landlord and tenant to force granting melcharths by landlords who could not find money by themselves to pay off the improvements of those tenants who refuse to renew or accumulate rent in arrears. In my opinion amendment of Act I of 1900 is unavoidable and a change in the method of its working is also necessary to improve the mutual relationship between the tenant and the janmi.

VI. (a) If permanent occupancy right is to be granted the janmi must be compensated by fixing the rent at the rate equal to 6 per cent interest per annum calculated on the sale value of the janmi's right plus Government taxes.

(b) My answer to (a) does not necessitate an apportionment of the compensation.

(c) My answer to (a) gives sufficient convenience to the tenant in compensating the janmi.

VII (a) The proportion of rent I would suggest payable to the janmi should be two-thirds of the net produce of the land after deducting the cost of preparation of the soil for paddy cultivation, the seed value and the reaping expenses, etc., the janmi to pay the Government taxes on the land, and in the case of garden lands held under kuzikanams the janmi's share should be after deducting the maintenance expenses of

the garden two-thirds of the produce of the trees belonging to janmi and one-third of the trees belonging to the tenant, in this case also the janmi has to pay the Government and other taxes out of his share of profits.

(b) The rents which the tenants now pay are invariably too low and in several cases less than the Government taxes the janmi pays for the said land.

VIII. (a) A year's net produce of a garden land and half the net produce of a wet land in my opinion would be the proper renewal fees for the lease of 12 years and 5 years' holding respectively.

(b) The rate of renewal fees in Chirakkal and Kottayam taluks are approximately the rates stated in VIII (a) supra.

IX. An Act only to prevent unjustifiable evictions or melcharths would suffice, is my candid opinion. The justifiability or otherwise of the eviction or melcharths, the civil courts are the competent authorities to decide.

X. (a) I do not think a system by which tenants would be granted the right of pre-emption as against melcharthdars would in any way improve the complication.

(b) This suggestion in my opinion is the best remedy to prevent unjustifiable melcharths.

(c) I could find no remedy to prevent such frauds being practised against human morality. Civil courts are alone competent to decide the nature of such fraudulent collusion.

Thursday, the 10th November 1927.

Oral evidence of Mr. V. C. Mayan, Tellicherry.

When the Committee reassembled this afternoon at 3 p.m., Mr. V. C. Mayan was examined.

The President. Q.—You are a janmi and a brother-in-law of the late Arakkal Raja?

A.—Yes.

Q.—You are an anandravan of your tarwad?

A.—Yes.

Q.—May we have an idea of the extent of the properties which your tarwad possesses?

A.—Over a thousand acres of land: 600 acres of wet land and about 400 acres of garden lands.

Q.—Does the family cultivate any of the lands itself or are all the lands leased out?

A.—They are all leased out. They are all leased out to kuzhikanam and verumpattam tenants and the paddy lands to kozhu tenants and some lands are also leased out on kuzhikanam, that is, lands which are unfit for paddy cultivation to be converted into garden lands.

Q.—Could you tell the Committee the average pattam that you receive from wet lands per acre from the verumpattam tenants?

A.—The average comes to about 250 seers of paddy per acre or about 25 paras per acre.

Q.—Could you give us an idea of the gross yield of one acre of paddy land?

A.—That will vary, but on an average it will be about 600 seers.

Q.—Can you give us, an idea of the cultivation expenses, I mean *vithuvalli* expenses, etc.?

A.—That will be about 200 seers.

Q.—You say the average net produce is about 400 seers, after deducting the expenses i.e., the seed as well as the expenses for cultivation.

A.—Yes.

Q.—What about the cultivator's share?

A.—The average now comes to just half of what the landlord gets which will come to about 150 or 200 seers.

Q.—So according to you the cultivator gets on an average about a third of the net yield?

A.—Yes.

Q.—What about garden lands?

A.—If all the trees belong to landlord the average rent he would get would be Rs. 40 per acre.

Q.—But if the improvements belong wholly to the tenant?

A.—It varies and I think no average could be struck there. To give an example from my personal experience: For 283 items of garden lands extending over 7 to 800 acres the landlord gets Rs. 1,866 as pattam every year while he pays an assessment of Rs. 1,400 per year.

Q.—How is it like that?

A.—He being a big landlord he does not insist upon exacting the full economic rent.

Q.—Therefore he chooses to take a light rent?

A.—Yes, because he does not feel its want being a very big janmi himself.

Q.—Am I to gather from your answer that the rent varies considerably?

A.—Yes, it varies considerably. There is no uniformity at all.

Q.—There must be some sort of principle.

A.—I have managed the Arakkal kovilagam for 6 years. There also it varies. I cannot give any reason except the whim of the janmi.

Q.—I suppose it is true to say that only a nominal rent is charged in the case of waste lands given for reclamation for the first 12 years?

A.—Yes.

Q.—The assessment being paid by the landlord himself?

A.—Yes.

Q.—What happens at the end of the period of 12 years?

A.—A renewal is effected.

Q.—Assuming it is a coconut garden and coconuts are planted as soon as the land is handed over to the tenant and for 12 years he continues to be in possession of the property. When does it begin to yield?

A.—If it is a fertile garden it will yield after 7 years, if not, it will depend upon the condition of the soil; it may be from 10 to 12 years. Fertility depends upon the nature of the soil.

Q.—On an average you can say that after the ninth year the tenant will get some yield though not the proper yield?

A.—Yes.

Q.—What is the renewal fee demanded on the first occasion under the conditions stipulated above?

A.—For the first occasion it will be rather nominal, say, Rs. 10 or 12.

Q.—Then all the trees will be in full bearing in the twelfth or the thirteenth year. What amount would be fixed for the next lease?

A.—One-third of the net income will be charged if there is no intermediary.

Q.—What will be the renewal fee in terms of the net income?

A.—One year's net yield.

Q.—So there is a principle underlying the fixation of rent as well as the determination of the renewal fee as regards gardens?

A.—The difficulty will arise only in cases where the improvements belong both to the landlord and the tenant. If the improvements were entirely the landlord's then he would take two-thirds out of the net income.

Q.—In your written memorandum in answer to question I (a) you say that "the tenants under kuzhikanamdars generally pay a rent to cover the interest on the amount invested by the latter to effect the improvements plus the rent payable to the janmi with the reservation of a small margin of profit to the kuzhikanamdar."

Tenants under verumpattamdars to my knowledge in North Malabar are almost numerically nil". What tenants are these?

A.—I mean verumpattam tenants under kuzhikanamdars.

Q.—In answer to question III (a) you say "in my opinion no new enactment is necessary. The Malabar Compensation for Tenants Improvements Act amply provides to safeguard the tenant's interest in the land. (Where there is no epidemic there is no need for a new remedy to be hunted after)". Well, I suppose the Tenants Compensation Act, although it evidently safeguards tenants' interests to a very large extent, it does not prevent the janmi exercising arbitrarily his power of evicting the tenant?

A.—That is done on payment of heavy compensation for improvements.

Q.—Supposing a janmi takes it into his head to evict a tenant out of ill-will or spite, then?

A.—That is only a remote chance.

Q.—So you are not in favour of any special legislation to stop that?

A.—I do not think in the near future, in North Malabar at any rate, any special legislation is required. As regards South Malabar I have no knowledge.

Q.—Supposing in South Malabar such a state of affairs exists and legislation of some kind is found desirable then what objection have you to that legislation being in force in North Malabar also?

A.—Why do you want North Malabar to be pointed out specially? All parts of the Presidency have the same conditions prevailing. There is no occurrence of evil here in North Malabar and so I am not for any special legislation.

Q.—In answer to question III (f) you say "Lands of janmis who do not own more than 50 acres assessed to their name as their janm". 50 acres of what?

A.—Either wet or garden lands or both.

Q.—What about dry parambas?

A.—I include that in the term "Garden lands".

Q.—You don't think that an assessment limit is more desirable?

A.—No.

Q.—Why?

A.—What I mean is this. If a janmi family owns only a few dry or wet lands no occupancy rights should be given in those lands.

Q.—In regard to kudiyruppus you say that you are not in favour of granting permanent occupancy rights. Is there no real disability attaching to the tenant on account of the fact that he is not given fixity of tenure?

A.—From my experience I can say there are none. No landlord will evict such a tenant and live there.

Q.—He might do it out of spite?

A.—There have been no instances like that at all in North Malabar.

Q.—You say in answer to question VI (a) "If permanent occupancy right is to be granted the janmi must be compensated by fixing the rent at the rate equal to 6 per cent interest per annum calculated on the sale value of the janmi's right plus Government taxes". That means he becomes a janmi. It, in other words, would mean outright purchase of janm right.

A.—We have taken Government poramboke lands on lease. On an average we pay Rs. 100 per acre as advance and Government only gives us the occupancy right for that land. Of course we pay premium to Government, plus assessment and janmabhogam. Likewise these lands may be valued at market price and 6 per cent interest may be paid. By saying "janm right" I meant only "occupancy right". I am wrong in the written statement.

Q.—Then you are of opinion that the sale value need not be paid to the janmi but interest at 6 per cent may be paid and the tenant will always remain a debtor, the debt being never cleared.

A.—Yes.

Q.—You say in regard to this proportion of rent “I would suggest that the amount payable to the janmi should be two-thirds of the net produce of the land after deducting the cost of preparation of the soil for paddy cultivation, the seed value, and the reaping expenses, etc., the janmi to pay the Government taxes on the land and in the case of garden lands held under kuzhikanams the janmi's share should be after deducting the maintenance expenses of the garden two-thirds of the produce of the trees belonging to the janmi and one-third of the trees belonging to the tenant, in this case also the janmi has to pay the Government and the other taxes out of his share of profits”. That is to say in case of tenures where there are no intermediaries you won't assure him of any particular share?

A.—All put together the janmi's share should be two-thirds and all intermediary tenants including the occupancy tenant should get together one-third.

Mr. Kotieth Krishnan :—Q.—You have managed the Arakkal Raja's estate for over 6 years?

A.—Yes.

Q.—Are the rents paid on garden lands increased at the time of renewal?

A.—Ordinarily it is increased at renewal time according to the increased value of the land.

Q.—What is the basis for such an increase?

A.—If all the trees belong to the tenant I would claim one-third of the net income and at the time of the renewal the basis of the renewal fee is one year's net income.

Q.—May I take it that it is the same basis on which lands of the Chirakkal Raja are calculated?

A.—I have no idea.

Q.—Is that the general practice in North Malabar?

A.—Yes.

Q.—In the case of kozhu lands (paddy) is there any renewal fee in Kottayam and Chirakkal taluks in all cases?

A.—Yes, so far as I am aware in all cases.

Q.—In the case of lands leased out the marupad will mention the janmi's and tenant's trees?

A.—In some cases, not all.

Q.—Is that not repeated even in cases when the trees have perished?

A.—As I have already stated some leases contain that statement but others don't.

Q.—You have some idea of litigation. You have heard of disputes between the janmis and tenants about ownership of trees?

A.—It is not very common. In some cases it is so.

Q.—You said that the average gross yield on 1 acre of wet land is 600 seers. Is it not one crop land?

A.—Yes.

Q.—Is the average yield the same in Chirakkal and Kottayam taluks?

A.—It varies in some parts.

Q.—Considerably too?

A.—Possibly in some places.

Q.—Expenses of cultivation also vary in both the taluks, especially in some amsams where labour is dear?

A.—Yes.

Q.—What will be the assessment for this land which will yield 600 seers?

A.—It will be about Rs. 4 an acre.

Q.—Have you in view any particular land when you say this?

A.—I have known it from my experience. Why, I have in view the lands adjoining the Tellicherry railway station which belong to my sister.

Q.—What will be the *meni* of that land?

A.—About twelve to fifteen times.

Q.—Can you say what seed will be required for an acre?

A.—About 40 to 50 seers of paddy.

Q.—Can you say what is the *meni* of one crop lands in the Chirakkal taluk, say, Cherukunnu amsam?

A.—It will be 15 for one crop.

Q.—Ordinarily in the case of the Arakkal kovilagam when the tenant undertakes to renew on the terms which you suggest the Raja invariably gives a renewal. Is it not so?

A.—Yes.

Q.—Have you heard of cases where janmis have given melcharths to benefit their wives and children or relatives or friends. Are they common?

A.—Yes, they are common.

Q.—Do you think it is justifiable?

A.—Why not?

Q.—Do you think it would be justifiable in the case of a friend?

A.—In my case, I will always oblige a friend if it is possible. If possible I will avoid giving a melcharth but if pressed I would grant a melcharth.

Q.—You yourself know that it is unjustifiable but still you yourself would grant the same?

A.—I would not call this an unjustifiable melcharth.

Q.—Then may I know what an unjustifiable melcharth is?

A.—If the melcharth were granted for some other consideration or out of ill-will then I would call that illegal.

Q.—You said something about janmabhogam, that you are paying Rs. 100 for an acre of river poramboke lands. What is the revenue of that land per acre?

A.—Twelve annas revenue and 12 annas janmabhogam.

Q.—You know river porambokes are very good soil for planting coconuts?

A.—Yes, it is not so in all cases. We have to experiment and sometimes the experiment fails.

Q.—What will you pay for one acre of land, say, within 10 miles of the Municipal area?

A.—It may be even Rs. 5,000 or Rs. 6,000 per acre. For shop sites we can get even Rs. 1,000 for 1 cent of land.

Q.—You said in answer to question VII (a) that one-third of the net yield from improvements of the tenant and two-thirds of the net yield from improvements of the landlord should be paid to the landlord. Are you prepared to give fixity of tenure to the tenants provided you are given an opportunity to demand your renewal fee?

A.—Certainly, with also a convenience for proper payment of rent.

Q.—And also you will expect to get one year's rent as renewal fee?

A.—I do not expect anything more if rent is not in arrears and proper renewals are made.

Q.—Do you make any distinction between “permanent occupancy right” and “qualified occupancy” giving an option to renew at the end of 12 years?

A.—I thought that by permanent occupancy is meant Saswathavaksam without a renewal, on the existing rent. It is in such cases I would demand compensation to the janmi.

Rao Sahib V. Krishna Menon :—Q.—You said that you have got some poramboke lands from the Government. They are very suitable for coconut cultivation?

A.—Yes, but of course it depends on circumstances.

Q.—Can you give us the net yield from a coconut garden of one acre on an average?

A.—The maximum which a coconut garden of one acre with about 80 trees will yield will be about Rs. 300 to Rs. 400 per annum.

Q.—What will be the value of the average yield of a single tree?

A.—It all depends upon the nature of the tree. Some trees yield even Rs. 10 worth of nuts while others do not even yield eight annas worth of nuts.

Q.—Supposing in one acre of land you plant coconut trees. What do you expect to get after twelve years as renewal fee for the first time?

A.—About Rs. 30.

Q.—Out of this what will be the Government assessment?

A.—Government may class it under first-class land when the Government assessment will itself come to Rs. 7 plus Rs. 7 as janmabogam or quit-rent. Janmabogam is equivalent to Government assessment.

Q.—Generally there are no intermediary tenants in North Malabar?

A.—So far as my knowledge goes there are no intermediaries in Malabar at all.

The President:—Q.—I suppose the mortgagee stands on a different footing. He advances money and gets interest. Is it not?

A.—Yes.

Rao Sahib V. Krishna Menon:—Q.—In calculating compensation you base your rate of interest at 6 per cent, but you said that you don't ordinarily get more than 3 or 4 per cent interest on janm rights. Then why do you demand this extra payment?

A.—This is because of the grant of permanency.

Q.—Even if you allow permanency you will have no necessity to grant compensation to the janmi. You are not exercising the power of evicting your tenant now?

A.—That is our pleasure: goodwill.

Q.—It is not possible for you to give the average yield of a coconut tree?

A.—It all depends upon the quality of the soil and the yield. Some trees will yield 5 to 8 rupees; but, as I have already said, some may not even pay eight annas nuts. I have known that the coconut trees of Chowghat give excellent yield. Sometimes they yield Rs. 15 worth of nuts per year.

Diwan Bahadur T. C. Narayana Kurup:—Q.—I take it your view is that no special legislation is necessary at present?

A.—Yes.

Q.—A number of disabilities have been talked about. Some say that in the case of a waste land leased out to a tenant when it is about to yield the tenant is evicted at the end of the statutory period of twelve years and so on. Have you heard a single instance like that?

A.—I am now 58 years old. As a landlord myself and as a Manager of the Arakkal kovilagam, I could say that not a single instance of that kind has been brought to my notice and I firmly believe that any statement like that is absolutely unfounded so far as North Malabar is concerned.

Q.—Then they talk about social oppressions by the janmis?

A.—I should think that it is a bare-faced lie.

Q.—Supposing permanent occupancy right or qualified occupancy is given to the tenant, will the janmi's right go down in value?

A.—I am sure it will go down materially.

Q.—Are you of opinion that in either case compensation is to be given to the janmi?

A.—It is absolutely necessary if permanent or qualified occupancy is granted to the tenant.

Q.—In some parts of Kurumbranad taluk there is a system that when all the trees belong to the tenant, in calculating the value of the net produce it is fixed at a certain proportion?

A.—I would say the average market value for the last five years should be taken into consideration whether the trees wholly belong to the tenant or the landlord.

Q.—Supposing it is decided that occupancy right is to be given to the tenant and the landlord is to be paid his compensation, would you fix the same rate both within the municipal limits and outside?

A.—Inside the municipality we will have to fix a much higher rate than outside it. Here we have to pay all sorts of taxes including house-tax, profession-tax and in this municipality even compulsory education tax, though education itself is not given compulsorily.

Q.—So you are of opinion that land in municipal areas is very valuable?

A.—Certainly. As a matter of fact I sold one cent of land for a shop site for Rs. 1,000.

Mr. H. R. Pate:—Q.—Your experience is confined to North Malabar and none of your statements can be safely applied to South Malabar?

A.—My statements are all based on North Malabar conditions.

Q.—Though you are of opinion that permanent occupancy right should not be granted to the tenants, I understand your view is that, if any legislation is to be enacted, it should take the form of granting permanency of tenure to the actual cultivator?

A.—Yes, if any enactment is decided upon.

Q.—So, if you grant occupancy it is an improvement upon the present status of the tenant?

A.—Yes, certainly.

Q.—And if you give him that status will he continue to cultivate his land better?

A.—Well, he may or he may not, but it is presumed he will cultivate the land better.

Q.—Supposing the janmi is compensated in cash and supposing he does not misappropriate the funds for his own purposes, what will he do with the amount?

A.—He will have to invest it in lands or in Government promissory notes.

Q.—What is your practice with your tenants? Do you change them every year?

A.—It is generally done once in five years.

Q.—You have no yearly leases?

A.—No.

Q.—How many tenants have you roughly under you?

A.—I have 63 tenants cultivating my lands directly under me and my tarwad has nearly 400 to 500 tenants under it.

Q.—Do you know all those tenants personally?

A.—Most of them I know.

Q.—Do they continue from year to year or are they changed once in five years?

A.—We don't evict them at all. We sue them if they are in arrears of rent, that is all.

Q.—If they are recalcitrant tenants, you will have to turn them out?

A.—Yes.

V

Written statement of M.R.Ry. T. V. Narayanan Nayar Avargal, retired
District Judge, Dharmadam, dated 17th September 1927.

Disabilities.

1. (a) These tenants whether holding directly under the janmi or not have to pay the rent fixed and to surrender at the expiry of the period prescribed in their demises unless the demises are renewed. They have not bargained for more and no honest and self-respecting man should feel or any one should be encouraged to feel these conditions as grievances or disabilities. In all ryotwari holdings in the East Coast and also in respect of the private lands of the zamindars in zamindari tracts these conditions prevail just as in Malabar. In fact they prevail all over the civilized world

except where the tenants are conceived to be part proprietors or where socialism has disintegrated the conception of property. In the case of Malabar tenants, unlike their confreres on the East Coast and elsewhere they are also given value of their improvements on eviction and therefore they have no legitimate grievance or real disability. I may also state here that as verumpattam is the Malayalam expression for simple lease, if a person happens to take a sub-lease from the simple lessee, he has no place as a distinct tenure-holder. Neither the Transfer of Property Act nor the customary law of Malabar leaves scope for any tenure below the simple lease.

Evictions.

In vast majority of cases, tenants are evicted for keeping the rent in arrears, for wasting or damaging the holding or tampering with its boundaries or colluding with a rival claimant or when land is required for the personal enjoyment of the owner or the members of his family. In some cases landlords yield to the influence of others who bait them with higher rent or renewal fee either to spite the tenant or to find investment for their newly acquired money. But such instances are becoming rarer as people are now taking to Government securities and banks for investments and as the tenants are also now better able to protect their interests. Most of these considerations apply to melcharths also, which are often granted when the janmi cannot or would not finance the litigation which is necessary for eviction. Thus eviction and melcharths are mainly caused by the recalcitrancy of the tenants.

There are hundreds of non-Brahman—Hindu and Muhammadan—janmis who have no voice or interest in the social questions of their tenants; and the influence which Brahman janmis once possessed in certain parts of South Malabar is fast declining, as the tenant class there has become powerful and independent through education and acquisition of vast wealth. In North Malabar the janmis—Brahman and non-Brahman—have never wielded a baneful social influence.

Remedies.

I do not think there is any justification under any circumstances for granting permanent occupancy rights to any class of tenants. If such rights are anyhow conferred, there should be a guarantee (1) that the holding will not deteriorate and (2) that the janmi's title is not jeopardised; (3) there should also be a provision that the rent should be periodically revised so that the janmi or the lessor gets the benefit of the general rise in the market-value of the produce; (4) rents and other dues should be charged on the holding and should be made recoverable by summary suits in district munsifs' courts and (5) failure in respect of either of the guarantees Nos. (1) and (2) or to pay rent for two or three years should result in forfeiture of the occupancy rights. These are the provisions I would suggest for securing to the janmis and other lessees due payment of the rents and other dues.

Kudiyiruppus as found in the eastern section of South Malabar as in Ernad, Walluvanad and Palghat taluks are entirely different in their characteristics and value from those found along the coast line, particularly North Malabar, where the very word 'kudiyiruppu' is hardly in vogue. In North Malabar tenants build houses in the gardens (parambas) of the landlords, which are also leased to them, and those houses are generally built in the very centre or in the part best situated for the proper husbandry of the gardens, whereas, in the aforesaid taluks, tenants enclose grounds unfit for general cultivation and build houses in them as they are very often in the vicinity of their cultivable holdings and comprised in their demises. While the janmis of such kudiyiruppus may not seriously feel their loss, when the tenants get occupancy rights in respect of them, the janmis of parambas in North Malabar would feel the loss too keenly. To them the loss would be vital and would be like cutting off the bowels of a man and leaving him to use all his limbs as best as he could.

Urban kudiyiruppus should also be distinguished from rural ones as the house-sites in towns are by themselves of good and growing value.

Any system of compulsory purchase will be utterly opposed to the genius and customs and habits of the people. Most of the lands belong to joint and impartible families or to devaswams and a compulsory conversion of the real property into money whether secured by Government loans or shares in co-operative societies will in a very large majority of cases be followed by malversation and misappropriation. The powers

of a karnavan or even of the uralan of a devaswam over movable property are almost absolute and in many cases his personal inclinations are swayed by his affection for his wife and children, who have no claim or interest in his tarwad or devaswam properties. A karnavan or uralan cannot alienate or encumber the joint family or devaswam real property except for strict necessity and for the preservation of the family or devaswam and generally in the case of family lands without the consent of all the members. But when these restrictions are to be ignored as would have to be done in compulsory purchases, the families and the devaswams which are now counted wealthy will be ruined before long.

The Improvements Act has effectively protected tenants from capricious eviction. But it has gone further and has encouraged the recalcitrant tenants to defy the claims of the poor and middle class landholders for regular payment of their rents. By raising a few coconut or other plants or by erecting a house in the holding or even by tolerating the spontaneous growth of trees and plants he can safely withhold payment of rent as the landlord cannot evict him even after the expiry of his term before payment of the value of all improvements made by him or which have sprouted naturally and grown without his aid and that value as estimated under the schedules of the Act is generally higher than what can be got on private assignments. Landlords of slender means are thus placed in great difficulties and are virtually improved out of their lands. The Act should be so modified in its working as to give no such undue advantage to recalcitrant tenants and it should be placed on a footing of fairness to both parties.

Compensation.

If permanent occupancy right is granted, the landlord becomes a rent-charger and the tenant becomes the landlord and it is impossible to estimate the money value of this reversion of position involving profit as well as prestige. All the considerations bearing on the conversion of real property into money under compulsory purchase and the powers of the karnavans and uralans over movable properties apply equally to all the moneys paid as compensation under this head in respect of joint family and devaswam lands.

Rents.

Rents vary according to the soil and situation of the holding and the ability resulting from the industry, experience and attitude of the tenant. An idle tenant or one ignorant of the conditions and needs of a particular holding will soon impoverish it. A skilful and experienced tenant spends only a moiety of what a thriftless and ignorant tenant does, but gathers double his crop and could pay a proportionately higher rent. In cases where tenants are not much more than mere caretakers as in the case of many a simple lessee of gardens their share in the profits is much smaller than when they have substantially contributed by labour and money to the growth and maintenance of the holding. Thus there has been no uniform standard for apportioning the shares of the landlords and tenants even in any single village as each holding has its own history and special characteristics. It is impossible to evolve any general principle for fixing the shares when the conditions are so divergent and it has to be left to be settled by the contracts of the parties interested in each holding.

Renewal fees.

Renewal fees are also not demanded on any uniform principle. In some parts of Malabar, they form a substantial part of the landlord's income, while, in other parts, the rent alone is counted as the main income and the renewal fee as an occasional exiguous resource.

Thursday, the 10th November 1927 (afternoon).

Oral evidence of Mr. T. V. Narayanan Nayar.

After the examination of Mr. V. C. Mayan, Mr. T. V. Narayanan Nayar was examined.

The President:—Q.—You are a retired District Judge?

A.—Yes.

Q.—Your experience of Malabar is, I presume, varied?

A.—I have experience of both South and North Malabar. My judicial experience in Malabar was mostly confined to South Malabar.

Q.—The Committee is very anxious to benefit by your experience. I shall now put to you a few questions bearing on your written memorandum which you have furnished. You say that tenants have no grievances because they have not bargained for more and therefore they don't deserve more. But you would grant, and it is admitted by everybody, that as a matter of fact these tenants are not disturbed. Usually they continue for generations on the same land and there is a general belief that they won't be turned out if they pay rent regularly. Don't you think that those circumstances deserve some consideration?

A.—It is a matter for the consideration of the landlord and tenant. I do not think there is any necessity for State interference. If, in those circumstances, the State restricts or takes away the landlord's right of re-entry, it is the good landlord that suffers; and for any State restriction the landlords must be reasonably compensated.

Q.—I only want to clear the point whether you are against the grant of continuity or fixity?

A.—In either case it involves an invasion of the landlord's right.

Q.—You may make a provision that if a suit for ejection is brought and if a man deposits the arrears of rent and other costs of the suit he need not be disturbed?

A.—When the landlord is driven to court to recover his rent, the tenant should not be secured in his possession against the landlord's will, even though the tenant deposits the rent and the court costs. Those costs do not cover all the actual expenses to which the landlord has been put and besides the expenses he is put to annoyance and waste of time by resorting to courts. With this security of tenure the tenant will give ample room for litigation; and in the end for the cost he pays, he gains time.

Q.—You are of opinion, therefore, that if permanency rights are granted to tenants it will lead to interminable litigation?

A.—Yes, certainly.

Q.—Then may I take it that you are not disinclined to the grant of fixity of tenure with certain reservations provided the tenant is not in arrears of rent and pays the renewal fee?

A.—Yes, provided the landlord is given the power to evict his tenant if he wants the land for cultivation by himself or by the members of his family or to build a house for himself or any member of his family.

Q.—Regarding melcharths, your position is, I take it, that there is no need to abolish them altogether?

A.—I do not think there is any necessity for State interference now in regard to the grant of melcharths.

Q.—Is there not a general complaint that melcharths are generally brought about by the viles of the kariyastans of the janmi?

A.—I don't think that is so generally. It may be so in some particular instances. That complaint is generally raised by the melcharthdar himself, for he is in fear that the evils of his sin would follow him also. I don't deny that melcharths are generally conceded to be undesirable. I would leave it to the good sense of the janmi and his tenant.

Q.—Don't you think it would be better if the landlord would go to court instead of granting melcharths?

A.—By all means if he can. But there are several cases where poor janmis cannot afford to do so.

Q.—Can we say that no melcharths should be granted unless the party goes to court and says that he is not rich enough to go to court and gets the permission of the court for the issue of the melcharth?

A.—If the courts are prepared to go into those questions, there is no objection.

Q.—You are opposed to the grant of permanent occupancy rights under any circumstances, but you are for the grant of fixity of tenure subject to judicial restrictions. Is that right?

A.—Yes.

Q.—Then what compensation would you grant to the janmi for the loss of his right?

A.—It is difficult for me to say that. It entails a matter of prestige. It depends also on the circumstances of each holding, and nature of the improvements, etc.

Q.—Take the case of a kanam holding in South Malabar. I want to put it to you whether some such formula like this would be acceptable to you: Ascertain the net yield of the land for one year; from the net yield deduct the michavaram, the interest on the kanam and the assessment that is payable to the Government; then the balance represents the profit to the kanamdar. Then adopt some multiple of that, say, six times as renewal fee. Would that not be sufficient compensation?

A.—I think it will all depend on the peculiarities of the holding. I cannot think of any fixed formula.

Q.—So, you have no opinion on that matter?

A.—No. But if you think it is right I have no objection to your proposal.

Q.—You say compensation should not be paid in cash. You have worked the Land Acquisition Act and you know how it is made applicable in the case of limited owners. What objection have you got to adopt some such procedure?

A.—I am only particular about a proper investment. I don't want the money to be misappropriated or alienated by an unscrupulous karnavan for selfish interest and not for the farward benefit.

Q.—In regard to kudiyruppus you have specified the difference between South and North Malabar. There are also houses attached to or appertaining to the holding. In all these cases don't you think that the tenant should get some assurance of continuing in his kudiyruppu?

A.—In places where the janmis will not suffer very much.

Q.—In that case you have no objection to the grant of occupancy provided compensation is paid?

A.—Whenever you take away a right from one person you should compensate him. The nature of the compensation should depend upon the nature of the property. There are different standards but I cannot indicate them now.

Q.—With reference to the grant of compensation under the Tenants Improvements Act you say "By raising a few coconut or other plants or by erecting a house in the holding or even by tolerating the spontaneous growth of trees and plants he can safely withhold payment or rent as the landlord cannot evict, etc." I take it that under the Act even trees of spontaneous growth are considered to be trees of useful growth?

A.—Any tree is useful. It can at least be used as fuel.

Q.—I only draw your attention to this that according to you in spite of the tenant's supervision he should not get anything as compensation for these 'spontaneous trees'?

A.—I don't think the tenant bestows any labour on such trees. My own view is that the tenant gets something more than he deserves. Wild trees simply sprout and grow of their own accord and the tenant is compensated for doing nothing.

Q.—In regard to rent you say it is not possible to attempt at the fixation of a fair rent or a maximum rent which a tenant should pay. You don't want to fix any economic rent. May I know why?

A.—It depends upon each holding.

Q.—Would you reserve a certain share of the net yield to the cultivating tenant? Are you in favour of laying down any specific rule?

A.—Well, that will again mean interminable litigation.

Diwan Bahadur T. C. Narayana Kurup :—Q.—I take it you are against the grant of any legislation?

A.—Yes.

Q.—You find in the papers there has been a good deal of agitation in favour of legislation?

A.—Yes. I should think that it is really an artificial agitation. Real tenants are not at the bottom of the agitation. On the other hand I believe that the tenants are really suffering from this agitation.

Q.—If any permanency or qualified occupancy right is given you are of opinion that compensation should be paid and renewal fee will have to be fixed. Is that practicable?

A.—It is difficult for me to conceive of any solution by legislation. It is a subject for the landlord and the tenant to decide.

Q.—The President suggested to you the advisability of going to court whenever a janmi wanted a melcharth. Is that practicable? Will it not be prolonging civil litigation more especially if the tenant raises any plea? That means delay. Is it not?

A.—Yes.

Q.—So you are not for the suggestion?

A.—I am averse to it.

Rao Sahib V. Krishna Menon :—Q.—You have said in your written memorandum that "Socialism has disintegrated the conception of property". So you think that the legislation that we are thinking of is a result of socialistic tendency?

A.—I have said that conception of property becomes disintegrated through ideas of socialism. But there are tenants who are part proprietors owning kudivaram while the landlords have only melvaram. I think where socialistic tendencies prevail, private properties and rights of contract are invaded.

Q.—Health and vigour of a country is as much an asset to the State as landed property. Supposing the State wants to protect labour is it not justifiable?

A.—If the State proceeds on that policy throughout British India we will see to it then, but why do you want to pick out Malabar alone.

Q.—If the prosperity of a country suffers, then should not the State interfere?

A.—I should say that in Malabar tenants are improving in all respects.

Mr. Kotieth Krishnan :—Q.—You gave your opinion that no legislation was necessary even when you were an official when you were consulted?

A.—Yes.

Q.—You were a member of the deputation on behalf of the janmis that waited on His Excellency the Governor?

A.—Yes, I was one of the members in one of the deputations.

Q.—In answer to Mr. Kurup you said that the present tenancy agitation is all the work of a few agitators and that the real tenants were out of it and they want to be left alone. Do you think that the ordinary tenant does not attach any importance to permanency right?

A.—The tenants seem to think that the agitation is creating ill-feeling with their landlords. If they get any benefit by legislation they would certainly accept it. I should think they are not avaricious.

Q.—Therefore it is not because of their ignorance for demanding their rights that they are silent?

A.—They don't want to be participators in the agitation. If you can get another man's property by agitation some people will say 'we need not participate in the agitation, but if as a result of the agitation we could get anything well and good, we will take it'. That is I think the position.

Q.—Does that apply also to the actual cultivating tenants?

A.—I think so.

Q.—May I know the name of any tenant who expressed this opinion to you? Is it one man or more than one?

A.—In the course of the general conversation some people have told me so.

Q.—Can you name them? Are they mere tenants or tenants who hold janmam rights also?

A.—I talk of the general feeling. I have also seen what several tenants have written in the newspapers, that the Tenancy Bill is unnecessary. I do not mention the names of persons who told me so lest they should be troubled by some others.

Q.—You can't say whether those informants were not holding janmam interest also?

A.—No, I can't say. I have not gone into their antecedents. Only in the course of casual conversations they have told me so.

Q.—Supposing the legislature thinks that some sort of legislation is necessary, then if fair rents are fixed and fair renewal fees are also fixed by some machinery and if the tenant is agreeable to these terms, would you be satisfied?

A.—Yes. I don't want all my lands for myself.

Q.—In such cases would you demand compensation also?

A.—Oh yes! That follows from the inroad on the property.

Q.—You had been working in the Tamil districts—also in Telugu districts. There are certain tenants in the Zamindari areas and there also lessees under the ryotwari pattadars. Do you think tenancy under a Zamindari area is more valuable?

A.—Yes. It is more valuable because occupancy right is attached to it.

Q.—Supposing a compensation fee has to be fixed. Will it not be better to fix a renewal fee also?

A.—I am not able to answer that question. There is considerable difficulty in deciding that point.

Q.—So it is because of this difficulty in framing rules that you are not in favour of any special legislation for Malabar?

A.—Yes, that is one of the reasons.

Q.—You say there are not many unjustifiable evictions and melcharths. May I take it that it is not possible to find out from the list of suits whether they are on unjustifiable grounds or not?

A.—Generally we find that about 80 per cent of suits are also for arrears of rent.

Q.—In many cases the tenant sets up the plea of payment saying that receipt has not been granted by the landlord?

A.—Yes.

Q.—Do you think that there is rack-renting in South Malabar?

A.—I don't think so.

Q.—Supposing it is a paddy land where the tenant does not spend any money of his own. What share do you think the janmi now gets out of the gross or net yield?

A.—I should think generally not less than two-thirds of the net yield.

Q.—Often more?

A.—Possibly. The tenant does not spend anything more than his labour.

Q.—You have not chosen to find out what share goes to the janmi and what share goes to the tenant?

A.—The tenant won't give the actual figures.

Q.—In the case of garden lands similarly, can you say what share goes to the janmi if all the improvements belong to the tenant?

A.—I can't say that. As I have already said, it depends upon each holding.

Q.—You cannot give a standard even for a village?

A.—No.

Mr. H. R. Pate :—Q.—You said this agitation is artificial. Do you think that the question of caste has got to do anything at all with it?

A.—I don't think so.

Q.—How do you account for it?

A.—By general improvement in the country under British rule. There is more prosperity in the land than poverty.

Q.—What is the evidence?

A.—We see that people are better fed, better clothed and better housed. A larger percentage of children are now attending schools. These improvements are striking in labouring classes.

Q.—You mean the actual cultivating verumpattam tenant in this district?

A.—Yes. I should think he is better off than in the East Coast. Here they eat rice while people of better status in the East Coast have to be content with ragi, cumbu and cholam.

The President:—Ragi is a very nourishing food. Many well-to-do people take to it.

Mr. H. R. Pate:—Q.—I suppose rice is considered a refined food?

A.—Yes.

Q.—If you give the cultivating tenant permanency, he will be better off, I think?

A.—Certainly.

Q.—But it is not your idea that he needs to be lifted from his present position?

A.—If you want to lift him up, let him pay for it.

The President:—Q.—One or two questions please. You said that the East Coast lessee is much worse off than the Malabar labourer. Will you kindly explain yourself?

A.—I have seen them. I have seen their houses and surroundings. From all appearance, I am led to the conclusion that our Malabar tenants are much better off than those people.

Q.—You say that in all ryotwari areas these conditions prevail just as in Malabar. Is it not the rule that it is the owner of the land that cultivates the land on the East Coast?

A.—I have seen many cases where the kuthakakkaran cultivates. My experience is so.

Q.—The rule there is that the pattadar cultivates the land himself and attends to his own cultivation, whereas here it is not generally the case?

A.—In many cases the tenants themselves cultivate in the Eastern districts.

Q.—I can refer you to statistics in support of my statement?

A.—I am not aware of statistics.

Q.—I am inviting your attention to the point whether that does not make any difference between the agrarian position in Malabar and other parts of the Presidency?

A.—We can ask the janmis or induce them to cultivate their lands themselves.

The President:—Certainly we can do that!

This closed the examination of this witness.

VI

Written statement of Rao Bahadur P. Raman, dated 19th September 1927.

I (a) Evictions from homesteads, premature eviction from plantations, rack-rent, exorbitant renewal fees and melcharths. These are some of the disabilities pressing on the tenants. For the purpose of this question, I would club all the tenants together as there is hardly a tenant on whom one or other of these disabilities does not press. There are, of course, exceptions, but in these days of economic pressure they are rare.

I (b) They are peculiar to Malabar. I am told that in other parts of the Presidency tenants are not evicted from homesteads. The chief and main cultivation in Malabar is planting of coconut and other fruit trees and pepper-vines. In the matter of coconut and other fruit trees the tenant can hope to enjoy the fruit of his labour and the profit on his investment only after fifteen or twenty years, whereas in other parts of the Presidency, where fugitive cultivation is the rule, the tenant can obtain his reward in the course of one year, that is, within twelve months of the planting. Then again under the Marumakkathayam law prevailing in Malabar land is impartible, and therefore ownership is restricted to certain families. If one wants a piece of land for cultivation, he must go to one of such janmi families and be prepared to pay an exorbitant amount as manusham. In other parts there is partition and the

ownership of land is widely distributed and a tenant who wishes a piece for cultivation can hope for selection. In other parts Government also has waste lands at their disposal for distribution, but in Malabar Government has practically little or no such lands.

(c) In North Malabar the staple produce consists of coconuts and pepper, and therefore garden lands predominate. The temptation to evict a tenant in possession of such land by a janmi or his melcharthdar is greater in North Malabar than in South Malabar.

(d) I cannot say.

II 1 (a) Some eviction suits are based on unjustifiable grounds, but I am not now able to specify any case. I have reason to believe that such evictions are on the increase.

II (b) Melcharths are given generally on unjustifiable grounds. Only in very few cases can they be said to be justified. Not being conversant with court matters now, I am unable to quote any case in which unjustifiable melcharths were granted.

II 2. Not being a tenant myself, I cannot speak from personal experience on this point. I have heard of several instances. I would also refer the Committee to the speech of Rai Bahadur Sir K. Venkatarreddi Nayudu in the Legislative Council on the subject—vide Proceedings of the Legislative Council of the Governor of Madras, Volume XXX, pages 180 to 184 at page 183.

III (a) Fixity of tenure for tenants.

III (b) Yes. The grant of permanent occupancy rights is essential for the removal of the disabilities and that to all the tenants in question I.

III (c) I would give to all, but with respect to kanams generally I would however invite the attention of the Committee to the difference between the kanams of North Malabar and South Malabar and also to clause 4 of the vetoed Bill.

III (d) I approve the suggestion.

III (e) The usual remedy, that is suing for arrears of rent, coupled with a provision for payment of some fine as compensation to the janmi if he succeeds or to the tenant if he succeeds. This provision is intended to check frivolous and vexatious suits and worrying and false defence.

III (f) The only special circumstance I would state is where a janmi wishes to cultivate the land for himself.

IV (a) 1. If any tenant is entitled to obtain permanent occupancy, it is the occupant of a kudiyruppu. He should be provided first.

IV (a) 2. No.

IV (b) No hard-and-fast rule can be laid down for this. The extent to be granted will depend on the size of the house, the social position of the occupant, the extent of the paramba whereon the house stands and other considerations. In urban areas people are generally engaged in some settled profession or other and all that they need is a house and a space round it for comfortable residence. In rural areas where there is no industrial establishment like factory, etc., people have to live chiefly on their own manual labour and produce thereof and therefore they must be given a larger extent of land for cultivation to supplement their income. I would therefore say that in rural areas the extent should be larger than in urban areas and that the extent can only be ascertained with reference to each item and that by agreement between the parties or by the intervention of court.

IV (c) 1. Eviction as usual.

IV (c) 2. The provisions of the Improvements Act can be applied.

IV (c) 3. If parties cannot agree, recourse must be had to court.

IV (d) 1 & 2. I do not approve the system at all. It is not suited to the genius of the people of Malabar or to their customs. It will lead in many cases to the ruin of both the purchaser and the tardward of the seller.

V. It is not necessary to revise the principles of the Act, but the agency by which it is now being worked may be improved by the appointment of an officer of the grade and qualification of a revenue inspector to each court.

VI (a) If compensation is necessary, a fair rent and a manusham equivalent to a year's rent at each renewal period should be considered an adequate compensation. In this connexion I am tempted to quote Justin McCarthy who is reported to have observed "what is there so sacred in the property right of the landlord as to exempt him from that legislative control which is always interfering with the property right of the mill-owner, the railway company, the factory owner, the shop-keeper, the right of the master over his apprentice, the mistress over the hire and treatment of servants, the theatrical manager over the condition under which his theatre is held."

VI (b) & (c) The question does not arise in view of my answer to (a).

VII (a) Capitalize the value of tenant's improvements, deduct 6 per cent interest thereon and pay one-third of the balance of the net produce to the janmi as his annual rent.

VII (b) Verumpattam leases for which there is no fixed standard the rent is very high. I cannot say as much about kanam tenants.

VIII (a) One year's rent will be a fair renewal fee.

VIII (b) Whatever might have been the renewal fee in olden days, it is now exorbitant. There is no standard.

IX. The question does not arise.

X. As a general rule I would put down all melcharths. Exceptions, however, must be made where the tenant refuses to pay renewal fee without unreasonable delay when the time for renewal period comes, or persistently refuses to pay rent for two consecutive years. In such cases melcharth cannot by itself be considered unjustifiable. The system of granting the right of pre-emption or the offer of a renewal on the same terms as are agreed to between the proposed melcharthdar and the grantor are all productive of corruption and litigation with no benefit to the tenant or the landlord.

Friday, the 11th November 1927 (Morning).

When the Committee re-assembled this morning at 8 a.m. Rao Bahadur P. Raman was examined. Sir T. Desika Achariyar and Raja Sir Vasudeva Raja of Kollengode were absent.

Oral evidence of Rao Bahadur P. Raman.

The President :—Q.—You are a Retired Sub-Judge?

A.—I was acting as Sub-Judge in Palghat when I retired.

Q.—And you were at the Bar before you got into service?

A.—Yes.

Q.—When did you retire from service?

A.—I retired in 1911.

Q.—You have served both in North and South Malabar?

A.—Yes.

Q.—You were a member of the last Madras Legislative Council, you took part in the discussions in the Council on Diwan Bahadur M. Krishnan Nayar's Bill which was vetoed by His Excellency the Governor. You have also given your opinion on Mr. Krishnan Nayar's Bill?

A.—Yes.

Q.—I take it you are a tenant?

A.—I am neither a tenant nor a landlord. I have no holdings at all. I had one or two parambas which I have transferred in favour of my wife and sister.

Q.—So you are now living on your pension?

A.—Yes.

Q.—In your written memorandum you say that evictions from homesteads, rack-renting, etc., are some of the disabilities that are pressing upon the tenant. What do you mean by rack-renting?

A.—That is to say exorbitant rent.

Q.—Can you tell us what in your opinion is the proper standard of rent which can be taken from the cultivating tenant first in regard to paddy land, secondly in regard to garden lands?

A.—I have already answered that question in answer to question VII (a).

Q.—What exactly do you mean by "capitalized value of the tenant's improvements"?

A.—Find out the value of the trees of the tenant with reference to their present yield according to market value. You capitalize that and then calculate interest thereon at 6 per cent, deduct it from the gross yield from the garden and pay a third of the balance to janmi.

Q.—Do you think if you capitalize the tenant's improvements in the manner indicated by you there will be anything left from the yield after deducting interest at 6 per cent on the capitalized value of the improvements? Would there be any balance left? Won't you be faced with a minus balance?

A.—There may be exceptions, but I believe there will generally be a plus balance.

Q.—Will that be so appreciable that the janmi will be satisfied with one-third of it?

A.—I can't say, he must be satisfied.

Q.—What will be the return on the value of the janmi's property of the soil which he owns?

A.—The renewal fee which he gets at the end of the term of the tenancy would represent his value of the soil to him. His right will always be retained.

Q.—The rent which you propose would very often be a minus rent?

A.—I don't think it will be the case. In large plantations it cannot be a minus rent.

Q.—Have you any experience of the yield got from the plantations where coconut trees have been planted?

A.—I have no personal experience. I have not made any calculations. That is only my opinion.

Q.—So if your formula results in a minus balance would you revise it?

A.—Certainly I must with some justice.

Q.—Do you think that the yield of the garden reflects the improvements effected by the tenant?

A.—It will depend upon the nature of the soil and the labour that has been spent upon it by the tenant.

Q.—Why should the tenant get 6 per cent interest on the estimated value of his improvements and also two-thirds of the net produce. The Committee is not able to appreciate the fairness of your proposal?

A.—What I say is he must get some interest on the money he has spent on the property over and above his share of the produce.

Q.—If you put that proposition forward there could be easily this retort: When you want to allow the tenant 6 per cent interest on the estimated value of his right and two-thirds share of the yield why should not the janmi also get 6 per cent on the estimated value of his right, i.e., his proprietorship of the soil, besides his share of the yield?

A.—It is from the tenant's labour that he gets the yield. The landlord gets his share in the shape of renewal fee and other things.

Q.—How do you estimate the renewal fee?

A.—One year's rent which the tenant pays to the janmi.

Q.—Your proposal does not adequately compensate the janmi. Do you recognize it?

A.—There may be inequalities, but I adhere to the proposal that the tenant should get over and above his produce 6 per cent interest on the amount invested by him.

Q.—This is on the assumption that the present state of affairs is to continue, i.e., when the tenant has got only fixity for twelve years?

A.—Yes.

Q.—Your proposal then is that the janmi should be deprived of the right of renewal fee but get only the rent which you propose?

A.—Yes. If occupancy right is given that will be the result. In that case the tenant will continue in possession of the property paying renewal fee according to the value of the produce estimated at the end of every twelve years.

Q.—The janmi gets these things now—rent and renewal fee which you don't propose to enhance. Then what is the compensation which you would allow the janmi for parting with his right of evicting the tenant whenever he likes?

A.—What I would say is that the janmi who does not cultivate his own land should be granted only renewal fee and he should not evict the tenant. I don't propose to pay him any compensation.

Q.—Why should he be not allowed to evict the tenant if he gets a higher rent?

A.—If a fair rent is fixed why should he claim a higher rent.

Q.—Do you consider the present rents fair?

A.—I should think that in several cases the existing rents are not at all fair. They are much more than what they ought to be.

Q.—So you want to deprive the janmi not only of his power to evict the tenant but you want also to reduce the rent which he gets now?

A.—I think it comes to that in effect.

Q.—Do you think it is a fair proposal?

A.—From the point of view of the tenant it is so.

Q.—In regard to paddy lands what is your proposal in regard to fair rent? Even there you say that the present rents are rack rents?

A.—In some cases they are. They are never too low for verumpattams. That is my information. I have not examined any particular case or cases.

Q.—In the case of paddy lands the *kozhu* tenant gets a lease for four or five years. What is the rent and the renewal fee that he pays?

A.—I can't say what rent he pays. The renewal fee is, I think, one rupee for 100 idangalis of rent. Now of course there is no fixed standard, but in the old days that was the rate, and sometimes even less than that. It depends upon the nature of the janmi.

Q.—In regard to wet lands your proposal is similar to that made for garden lands?

A.—No improvements are made on wet lands in North Malabar excepting perhaps some lands are filled up and planted.

Q.—What is the basis for your statement that there are rack rents?

A.—At recent enquiries made by me the *kozhu* tenants have told me so. They say 'this year it is a loss to us' and so on.

Q.—How do they continue in possession of the holding if they are habitually incurring losses?

A.—They spend other earnings for cultivation expenses.

Q.—Is that common among the *kozhu* tenants?

A.—Poor people will have to supplement their labour by other means. Sometimes they borrow and pay the landlord.

Q.—Then how do they maintain themselves?

A.—Somehow they maintain themselves. I have not investigated into these matters.

Q.—So your impression is based upon the general statement of the tenants that they always cultivate their holdings at a loss?

A.—I don't believe in all that they say, but there are cases like that also. Some of the tenants are really honest men and they have told me that in certain years they suffer losses and so I believe their statement.

Q.—It is difficult to conceive of a tenant losing year after year on his cultivation and supplementing his cultivation expenses from his other earnings. Is it not against human nature?

A.—It is because of their affection for their land, possibly the lands are adjoining their houses. They won't part with their lands because of sentimental reasons.

Q.—You have mentioned a number of disabilities and you say that exceptions are rare. Can you give us a few instances of premature evictions from plantations, i.e., before the plantations begin to yield?

A.—I have not been in touch with courts for the last sixteen years, so I cannot say anything definitely on this point.

Q.—Then these statements are your own impressions and beliefs?

A.—Yes, that is my opinion.

Q.—In answer to question I (b) you say 'I am told that in other parts of the Presidency tenants are not evicted from their—home steads.' Are you aware that in some parts of the Presidency like Tanjore tenants are liable to be turned out of their houses because they don't own the soil?

A.—I am not aware. I have not worked outside Malabar.

Q.—How many years does a coconut tree take to yield?

A.—In some cases it takes fifteen to thirty years to bear fruit. But in certain other cases they begin to bear in the sixth or the seventh year. For instance, where I live now the coconut trees begin to yield only in the thirtieth year.

Q.—What will be the average?

A.—It all depends upon the nature of the soil. We might take fifteen years as the average.

Q.—How many years would a tenant take to enjoy the fruits of his labour and to recoup himself of all his investment in the garden?

A.—That depends upon each case. I cannot make a general statement.

Q.—I am putting that question with this object: with a view to point out if the Committee recommends some fixity, what period it should recommend in the case of gardens; for how long should you keep the tenant in the holding uninterruptedly if it is our object to keep him sufficiently long to enable him to recoup his investment?

A.—I can't say.

Q.—You cannot quote any instances either of unjustifiable evictions or melcharths or social oppression?

A.—No.

Q.—Could you give us the worst instances of social oppression which you have heard of?

A.—I have heard that in the matter of ceremonies tenants are not allowed by their janmis to celebrate them with due pomp and splendour. I have no personal experience about it.

Q.—If you grant occupancy right to the tenant you are not prepared to compensate the landlord for the deprivation of his right of eviction and the grant of melcharths?

A.—I don't think we need compensate the janmi for that.

Q.—Do you make any distinction between the terms "permanent occupancy right" and "fixity of tenure"?

A.—No, I don't make any difference.

Q.—In answer to question III (e) you say "the usual remedy, that is, suing for arrears of rent, coupled with a provision for payment of some fine as compensation to the janmi if he succeeds or to the tenant if he succeeds." Is that the present procedure?

A.—No fine is attached to it at present.

Q.—Do you think that suing for arrears of rent is an expeditious procedure. Don't the courts take too long a period. Supposing the tenant denies title, then you will have to go into the whole case and try it in the regular way?

A.—But if it is all mentioned in the registered verumpattam deed then how can he deny the title. Such pleas are very rare. In a suit for arrears of rent these pleas are very seldom raised.

Q.—We find that a large majority of these suits are tried as regular suits?

A.—My experience is that they are tried as Small Cause suits.

Q.—Do you think that with the suggestion you make of attaching fine in the case of vexatious suits the procedure would be sufficiently effective?

A.—Yes.

Q.—It has been suggested to us by another witness that the procedure could be improved if you allow the landlord to put in an affidavit and apply for attachment before judgment. What do you say?

A.—It is a very dangerous procedure. That is my opinion. I believe it will only increase litigation.

Q.—But the fine that you would impose may be made deterrent. Would that not decrease vexatious litigation?

A.—I don't think so.

Q.—So you don't favour any such summary procedure?

A.—No, sir.

Q.—It was brought to our notice that if you give fixity in the case of kudiyruppus in North Malabar—one witness put it very graphically—"You would be cutting off the bowels of a man leaving his limbs intact." If you separate kudiyruppus from the parambas it will very largely reduce the utility of the parambas. Do you admit the difficulty?

A.—Yes. I have answered the question in reply to question IV (b).

Q.—Then you will treat the whole paramba as a kudiyruppu?

A.—If the paramba is large enough it may be separated, but if it is not large enough the whole garden must be called kudiyruppu and permanent occupancy right should be granted.

Q.—Then you say that no distinction should be drawn between urban and rural kudiyruppus. Don't you think that the value of the former is bound to go up faster under present circumstances and it is not so difficult to find houses in urban areas as in rural areas. Shouldn't these things be considered?

A.—I have no objection if a distinction is drawn so far as the extent is concerned. I have already answered that point and in my opinion permanent occupancy right should be granted although house-sites are situated in urban areas.

Q.—In answer to question VI (a) regarding compensation you say "If compensation is necessary, a fair rent and a manusham equivalent to an year's rent at each renewal period should be considered adequate compensation." Is it not too low? You are taking away the janmi's social privileges, etc., which have some monetary value?

A.—I don't think it is too low. That is my view.

Q.—In answer to question V about the working of the Tenants' Improvements Act you say that "it is not necessary to revise the principles of the Act but the agency by which it is now being worked may be improved by the appointment of an officer of the grade and qualification of a revenue inspector to each court." What is the special qualification of a revenue inspector which would enable him to discharge these functions more satisfactorily than the present commissioners?

A.—He will have all experience in revenue matters which would enable him to value the improvements better than the commissioners.

Q.—Don't you think his status is too low and he would not be trusted by the parties? Nowadays, especially, young men are recruited as revenue inspectors and they have not much experience.

A.—I don't think he would in any way be inferior to the present commissioners. Young men with revenue experience are necessary to properly value the improvements and find out the age of the trees, etc. If he is made an officer of the court I think he would discharge his duties in a more satisfactory manner.

Q.—You have no other suggestion to make with regard to this?

A.—No.

Q.—You have quoted a passage from Justin McCarthy which was also quoted by Mr. Krishnan Nayar in his speech in the Legislative Council in introducing his Bill. That passage refers to regulating the control of the master over his servants.

It does not mean confiscation or the deprivation of a man's rights without giving him compensation. You have said that no compensation is necessary for depriving the janmi of his rights. Does Justin McCarthy contemplate confiscation?

A.—I mean legislative control should be established. In answer to question X I have stipulated certain conditions which will enable the janmi to get back his right and redeem his property.

Q.—So your proposal is not absolute grant of permanency right but it is only fixity of tenure with certain reservations?

A.—Yes.

Mr. H. R. Pate :—Q.—You say you have no particular knowledge of South Malabar?

A.—I have not been in touch with courts for the last fifteen years.

Q.—Is it not the case that in North Malabar janmis are also tenants and tenants also hold janmam lands?

A.—Big janmis are not tenants themselves.

Q.—Are there not to your knowledge a large number of people who have both janmam and verumpattam or kuzhikanam lands in their possession?

A.—It may be so in the towns.

Q.—Do you find that also in South Malabar?

A.—The majority of them there are tenants.

Q.—Do you mean to say that as a rule tenants are rack-rented but nevertheless they go on cultivating from year to year? If it is a question of rack-renting do they pay their rents regularly?

A.—Rent is not paid regularly and they will be accumulating.

Q.—And so they are ejected?

A.—But in some cases they are allowed to continue.

Q.—Do you believe that in spite of the rack-renting the tenant will continue in the same holding from generation to generation?

A.—Well if they pay their rents regularly they may be allowed to continue.

Q.—In the case of wet lands does the tenant get a renewal at the end of five years?

A.—In North Malabar especially the karnavan is the man who leases the land. So at the time of the renewal the karnavan would try to get as much as possible from the tenant and utilize the same for his own private purposes. He will demand sometimes even a higher rent than the actual yield.

Q.—Everyone does that practically?

A.—Not everybody. There are very good janmis also.

Q.—Do you think it is wrong to put aside anything for one's wife and children?

A.—I don't say that, but strictly speaking that money ought to go to the tarwad according to the Marumakkattayam law.

Q.—You propose two processes, one to fix the rate of rent and the other to fix the renewal fee. You described how the rate of rent is to be fixed and also how the renewal fee is to be fixed. You say for renewal fee one year's rent will be fair. How are you going to ascertain the figures in those two cases. What machinery are you going to apply?

A.—By regular inspection of the land. The landlord and tenant will generally agree.

Q.—According to you the janmi is to part with a great deal of his profits. If the relations between the landlord and the tenant are very cordial why do you want to deprive the landlord of his right?

A.—Once his interest is touched he may not yield. That is all what I can say. There will be some rub in the beginning. For instance, when the Improvements Act was passed there was some rub but later on all settled down, so also better understandings will prevail after some time.

Diwan Bahadur T. C. Narayana Kurup:—Q.—The trouble over the Tenants' Improvements Act has cooled down. Is it? How do you propose to put down all melcharths?

A.—In answer to question XI have answered the point how melcharths should be put down generally with exceptions.

Q.—Supposing a janmi gets a better offer. He cannot grant a melcharth?

A.—He cannot do it.

Q.—Do you find generally the relations between the janmi and the tenant in North Malabar satisfactory?

A.—I live in the town and my experience is limited. All the disunion and oppression are found only outside the municipal limits.

Q.—What is the cause of these unfriendly relations?

A.—I think some dispute about the tenure must be the cause.

Q.—Can I take it that there are misunderstandings between the landlord and the tenant?

A.—They are more so in the rural parts than in the towns.

Q.—When did this condition start?

A.—I think tenants are coming to find out their personal liberty more and more now than before and in the matter of elections, for instance, tenants are compelled to vote according to janmis' wishes in some cases.

Q.—May I take it that this disunion is really one of the boons of democracy?

A. (Witness did not answer).

Mr. Kotieth Krishnan:—Q.—If a fair rent and renewal fee is fixed, do you think that the karnavans of the tarwads will agree within themselves and will avoid going to law courts?

A.—Yes.

Q.—You said that you would advocate fixity of tenure for the tenants. Supposing the Committee or the legislature does not think that the law should go to that extent—I am putting an alternative scheme for you to consider. Supposing the legislature fixes a fair rent and says that if a tenant in possession is willing to renew on those terms the property should be given to him in preference to a stranger subject, of course, to the right of the janmi to get back the land for his own private purposes being retained. Is that suggestion acceptable? Will the tenants be satisfied with such a provision?

A.—The difficulty is about the fair rent.

Q.—The court can fix it, in cases of dispute?

A.—I cannot give a definite opinion. It may be acceptable to some tenants.

Q.—Do you think that instead of a single Commissioner as at present three persons, one Commissioner and two other assessors selected by the parties (as is done in the Cantonment area where lands are acquired) are asked to make a report to the court upon the value of the improvements according to the Improvements Act. Would that not work better?

A.—I do not think it will work. It will be more complex. As I have said already a man of the qualification of a Revenue Inspector attached to the Court would be better.

Q.—Supposing you make the tenant pay the revenue to Government out of the gross yield and pay himself the expenses of cultivation; deduct the interest at 6 per cent on the capitalized value of the improvements and out of the balance pay one-third to the janmi. Would that be fair?

A.—I don't say anything about the revenue purposely, so that the question may be decided between the janmi and the tenant.

Rao Sahib V. Krishna Menon:—Q.—Don't you think that the condition of the agricultural classes is getting worse day by day especially those that cultivate the paddy lands?

A.—Yes.

Q.—What is the reason?

A.—Paddy cultivation is not paying now and also I find that paddy lands are being converted into lands for the cultivation of tapioca which is more profitable than the cultivation of paddy.

Q.—And the condition of the land becomes poorer day by day?

A.—Yes.

Q.—Supposing the crop fails owing to want of seasonal rains and the tenant is not able to pay his lessor the fixed rent. What happens?

A.—The lessor adds it up to the next year's rent.

Q.—He adds the arrears with interest to the next year's demands?

A.—Yes.

Q.—And by accumulating the rents like this the lessor tries to get as much out of the cultivator as possible?

A.—Yes.

Q.—And by gradual process these people's properties become encumbered and the lessor is compelled to evict the tenant?

A.—Yes.

Q.—His original property is thus lost and he becomes very much reduced in circumstances. Don't you think that this process has been going on for the last 30 or 40 years in Malabar?

A.—Whatever I say is my own personal opinion, but I cannot give concrete facts to bear out my statements.

Q.—Now supposing the actual cultivator of the soil—the verumpattamdar—is given some sort of fixity of tenure, don't you think his interest in the land will increase and consequently his condition would be slightly bettered?

A.—Yes. That is why fixity of tenure is recommended.

Q.—In regard to garden lands will it not be better if the term of lease is made say 24 years instead of 12 years at present. Will not the condition of the tenant improve thereby?

A.—The longer they are retained on the land the better for them.

Q.—You were quoting Mr. Justin McCarthy. Don't you think the sanctity of the landlord's right is exaggerated there?

A.—That is a matter of sentiment.

Q.—Are you not of opinion that for general welfare individual interests ought to be curtailed a bit?

A.—Yes.

Q.—Is it not your experience that there is a good deal of corruption in civil courts. Generally when the amins go to execute a decree or to make other valuations, etc., they don't acquit themselves properly?

A.—They are all stories. There are no proved cases like that.

Q.—Don't you think that there is danger in appointing a permanent officer of court to make valuations, etc., out of disputes arising out of the Improvements Act? Don't you think because he is a permanent man he could have his own way?

A.—That is a matter of opinion.

Diwan Bahadur T. C. Narayana Kurup:—Q.—You are of opinion that the existing rights ought to be respected?

A.—Yes.

Q.—If any of those rights are taken away, the man infringed has to be compensated?

A.—In certain cases they are to be compensated, but for general welfare compensation need not be given.

Q.—So you think that for general welfare private rights could be taken away?

A.—Well, to a certain extent.

Q.—You know that many landlords are worse than coolie labourers. Very many maintenance suits have come into being and some of the junior members of this so-called tarward of the landlord do not even get two or three rupees a month as

maintenance? In your judicial experience have you come across any decision which paid more than eight or ten rupees a month as compensation for a junior member of a Malabar tarward?

A.—Yes, it is so.

Q.—That is the position of the junior members of the so-called janmi's tarwards?

A.—It will depend upon the wealth of the tarward.

Q.—You take a tarward which has 100 members and which pays a thousand rupees assessment. When a maintenance suit come in, these junior members are in no way better off than mere coolie labourers?

A.—I cannot say exactly. Generally it may be so. I don't dispute your statement.

Q.—If there is curtailment of a right, would you say that compensation should or should not be paid?

A.—I agree that compensation should be paid in such cases.

Q.—What is the return from the janmam purchase?

A.—It is about five or six per cent.

Q.—If permanent occupancy right is granted, do you think that the janmam value of lands would increase or decrease?

A.—The tenant's right will go up.

Q.—That means a corresponding decrease in the janmi's rights?

A.—I don't think there will be any decrease in the janm value at all.

Q.—If one has increased in value, the other must go down?

A.—I don't think that is the case here.

Q.—So, you are not prepared to say that the landlord's right will not go down or go up?

A.—No, I am not prepared to say that, but I admit the tenant's value will go up if permanent occupancy right is granted to the latter.

Q.—Personally, I take it, you cannot say how the rent or the renewal fee is calculated?

A.—I have no personal experience. It is only my information.

Q.—In some cases even if the tenant pays the assessment, the landlord gets nothing. If your principle is adopted, the landlord will not even get enough to pay the assessment?

A.—It may be so. If the landlord gets less than the assessment, in that case he may ask the tenant to pay the assessment.

Q.—Supposing they don't agree to the terms?

A.—Then he may be evicted.

Q.—Have you carefully studied the Improvements Act. It works great hardship on the landlord?

A.—Then the landlord will have to suffer. That is all.

Q.—For having put the tenant in possession of his land why should he suffer?

A.—I can't say why the landlord should suffer.

Q.—So in the case of garden lands you would allow the janmi 12 years' rent plus one year's rent as renewal fee and the landlord in your opinion does not deserve more than that. So you are not prepared to grant any other concession in favour of the landlord?

A.—No.

Q.—Have you heard of a single instance where a tenant has been turned out of his holding after 12 years? I challenge you to make a statement?

A.—I can't say.

Q.—In your neighbourhood there are janm lands in the possession of cultivating tenants. Do you know for how many years they have been in possession. Have you heard of any complaints that they have been unnecessarily ejected?

A.—No.

Q.—You said that there is considerable rack-renting. Then can you explain why people go in for melcharths?

A.—People want to convert paddy lands into parambas and build houses, while some others go in merely as an investment.

Q.—It is not an investment. It is losing money according to you?

A.—People go in for lands for prestige and status.

Q.—Though rack-renting is going on as you say, still landlords don't find any difficulty in getting tenants or for granting melcharths?

A.—No.

Q.—Generally what is the return from house property in towns?

A.—It may not be more than 5 or 6 per cent on the outlay.

Q.—In the villages it is practically nil?

A.—Yes.

Q.—Most of the rent suits in North Malabar are heard as regular suits?

A.—Yes.

Q.—You know it is no good to the landlord to proceed against an impoverished tenant personally?

A.—Yes, it is no good.

Q.—With highest respect to the judiciary you have to admit that the decrees in small cause courts are in several cases not correct?

A.—Yes.

Q.—You said that some of the tenants have complained to you that cultivation is not paying. The complaint is because of the want of proper rains and consequent failure of crops.

A.—Yes.

Q.—Have you ever heard of a case where the rent is high?

A.—Whether high or low they still cultivate.

Q.—You know labour is very dear in these days?

A.—Yes.

Q.—Why should these cultivators take to a losing job every year, why not they do coolie work and earn 10 or 12 annas a day?

A.—They don't like to part with their holdings.

Q.—You said that tenants were not allowed to perform their ceremonies with due pomp. Do you know of any particular instance like that?

A.—I have no personal knowledge. I have only heard of such statements.

Q.—In making the valuations how do you think that a Revenue Inspector is better off?

A.—How is the other man better off?

Q.—Don't you know that very often the awards of revenue officers are disputed in courts and reversed?

A.—Sometimes it is so.

The President:—Q.—In answer to Mr. Pate about the state of feeling between the landlord and the tenant you mentioned the word 'tenure'. Would you make yourself quite clear on the point?

A.—I meant by that term rack-renting, evictions, melcharths, high rent, high renewal fees and interference in social ceremonies by the janmis and so on.

The examination of the witness was concluded.

VII

Written statement of Mr. Paloran Koran.

1. (a) 1, 2, 3, 4, 5, 6, 7.—The first grievance is that the janmis by giving meloharths and creating unnecessary causes evict their tenants. As there is no standard for fixing rent and varam, and as it will be a great hardship to hand over the property to the janmi when he demands rent, varam and manusham as he pleases, the amount demanded by him has to be paid as purappad and manusham.

Here tenants live as slaves of the janmis. The major part of the improvements made by tenants in North Malabar consists of coconut trees, which will take nearly twenty years to come to fruition. The period of lease will expire before then and the tenant has to take a fresh lease, if he wants the property, by paying whatever amount the janmi demands. If not, eviction will follow. A karnavan cannot give a lease for more than twelve years. Even in such a lease there is a condition that the property should be given up on demand by the janmi.

(b) Yes. They are peculiar. In other places tenants do not make improvements to enjoy their fruits. Hence eviction will not be a source of hardship to them. In foreign parts there are extensive tracts of Government lands for the tenants to cultivate. Here, there are no Government lands fit for cultivation. In foreign parts house-sites are not redeemed. Here the Marumakkattayam system of law is followed. Therefore lands are not available for cultivation.

(c) There is more hardship in North Malabar than in South Malabar. Here the majority of the tenants hold their lands under kuzhikanam, kozhu and verumpattam tenure. They are evicted before ever they can enjoy even a tender coconut from the trees they planted. The major portion of the tenants in North Malabar belong to the poor and the depressed classes and the janmis are the high caste people. The Government that tries to protect the depressed classes should make efforts in this direction especially in North Malabar.

II. (1) (a) In most cases not on justifiable grounds. Tenants are evicted if they displease the agents of janmis. If at the time of the election to the Legislative Council, taluk boards and municipalities, if franchise is not exercised as directed by the janmi, eviction will surely be resorted to.

(b) The reply to this is that the condition is the same as that in the case of eviction. Such records will be found in Courts and Registrars' offices.

(2) Generally he does. In affairs between tenants, janmis interfere and cause trouble. There are more facts to be related. As I do not like to displease the janmis by giving their names and as I apprehend eviction if I do so, I do not relate such facts. I shall place them before the Committee confidentially. I do not make myself bold to do so if these are to be made known to the janmis in the Committee.

III. (a) A law prohibiting eviction.

(b) Should be granted. Holders of land under kuzhikanam, kozhu, verumpattam and kanam who are really in possession should certainly be given permanent rights.

(c) To all tenants who are in possession.

(d) This will not redress the grievances.

(e) If rent and varam are left in arrears for three years continuously, eviction may take place.

(f) There is no difference.

IV. (a) (1) Those who have constructed houses at their own cost and occupy them should be given permanent rights.

(2) Both may be treated alike. This will not apply to those who occupy houses on rent.

(b) The house and the surrounding yard will do.

(c) (1) Such tenants may be evicted.

(2) The nature of the house cannot be specified. One will have to build according to one's convenience.

(3) The occupant of kudiyruppu should not be evicted.

(d) (1) It will be good if possible.

(2) The janmam value received from the tenant should be deposited in the bank and the interest thereon should be received as if it were purappad. This will be good.

V. By the Tenants' Improvements Act, the relationship has not improved and it will not be improved by amending it. The value of tenants' improvements according to the Act is too small. The life of a coconut tree is fixed at sixty years. The value is calculated according to that period of enjoyment. The fruits are really

enjoyed for more than 100 years. Thus the value of 40 years' enjoyment is not paid for. While Rs. 50 is the price of coconuts, the High Court allows at the rate of Rs. 35 only. The commissioners are in most cases the janmis or their relations. They estimate the yearly value of the fruits of the improvements agreeably to the wishes of the janmi. In this way the Act is not properly worked.

VI. (a) No compensation need be given.

(b) No reply is necessary.

(c) No reply is necessary.

VII. (a) From the net produce should be deducted 12 per cent of the value of tenants' improvements and one-third of the balance should be paid to the janmi. The land-tax should be paid by the tenant. The intermediate tenant should also be paid 12 per cent on his improvements.

(b) Yes. It is high.

VIII. (a) A scale equivalent to the rent for kuzhikanam lands, and a little lower in the case of kozhu lands will do.

(b) From half rent to the full amount of rent. Some janmis do not demand manusham even now. This will be known from records. Other janmis demand it as they like.

IX. Permanency of right is certainly necessary. If there is no other way, a fixed rate may be settled for varam, pattam and manusham and a law may be made that the tenant who is prepared to pay this should not be evicted.

X. (a) This confers no benefit.

(b) More hardship will be caused.

(c) It is not fair to demand from the person in possession the amount offered by the melcharthdar before melcharth is given. Perhaps the melcharthdar may take at a rate a little less than the Government rate. As time passes the janmi can increase the rent according to his will. This should never be. It should be determined by law that nothing more than the rate fixed by the Government should be demanded from the tenant. Renewal should be made compulsory in the case of tenants who are ready to abide by these conditions. Otherwise tenants will have no safety. This itself will not do. Permanent rights should be given to those in possession.

[Note.—As since translated by the Malayalam Translator to Government.]

Friday, the 11th November 1927.

Oral evidence of Mr. Paloran Koran.

Mr. Kotieth Krishnan :—Q.—You hold janm lands as well as kanam lands?

A.—Yes, I am both a janmi and a tenant.

Q.—What rent do you pay?

A.—I have to pay 6,000 seers of paddy as rent.

Q.—Is it usual in your parts for janmis to grant melcharths?

A.—Yes. Some janmis give melcharths.

Q.—Is it because of personal ill-will towards the tenant or on account of getting more rent from another tenant?

A.—Melcharths are generally given to get more money.

Q.—That is for more renewal fees and more rent?

A.—For more premium and more rent.

Q.—There is no scale for renewal fees which the ordinary janmis demand?

A.—No.

Q.—They demand anything they like, is it not?

A.—They demand as they wish; if not paid, they give melcharth.

Q.—Does it apply both to garden and wet lands?

A.—For gardens it applies more, but for paddy fields less.

Q.—Why is it that there is not so much demand for paddy lands?

A.—Because generally rents are very high in the case of paddy lands.

Q.—You have experience of a number of places in Kottayam taluk?

A.—I have a knowledge of places within an area of four miles surrounding my place. I live in Vadakkumpad, four miles north of Tellicherry.

Q.—Within a radius of four miles from your place rent payable is very high?

A.—I cannot say definitely, but some lands are paying increased rent within that radius.

Q.—From your experience can you say how many cases of unjustiable melcharths have come to your knowledge?

A.—I have known of 25 melcharths like that. I can produce a detailed list giving particulars. I file a list now.

Q.—In the case of garden lands why is it that there is more of melcharths?

A.—The tenant might have made large improvements and the tenant might be getting large income and a stranger who has a spite against the tenant might offer a large amount of premium to the landlord.

Q.—In the case of one-crop paddy lands, speaking from your experience, can you say what would be the seed required for planting up one acre of land?

A.—In the case of good lands 30 to 40 seers of paddy seed would be required.

Q.—And in the case of bad lands?

A.—It will be about 40 to 45 seers.

Q.—In the case of one-crop lands what would be the average *meni*?

A.—The average would be tenfold or ten times the seed.

Q.—For manuring the land, tilling the land, cultivation expenses, etc., till the time the paddy is harvested, dried and stored in the granary, what would be the expenses for one acre of land?

A.—100 to 150 seers of paddy including the seed grain.

Q.—For an acre of land like that what will be the rent that you will pay to the janmi?

A.—There is no fixity of rent there. Generally it will range from 125 to 200 seers.

Q.—Who pays the assessment?

A.—For some lands the janmi pays and for others the tenant pays. Some janmis allow assessment out of that rent while others do not.

Q.—For a tenant's family consisting of six members what would be the acreage required for maintenance, the labour of the family not being taken into account?

A.—If a large extent of land is cultivated then the family will not be able to get much out of the land. But if a smaller extent is cultivated, the tenant would be able to pay better attention to the land by using more manure and so it may be more paying.

Q.—So it is only for the labour that you get paid?

A.—Out of the profits it is not possible to maintain the family.

Q.—Supposing the rent payable is fixed and the renewal fee is also fixed and the tenant is given the option to renew with the janmi at the expiry of the term. Supposing there is such a provision, will that satisfy you?

A.—If melcharths are not given and the tenants are not oppressed that itself would satisfy the tenants' requirements.

Q.—What is that oppression?

A.—Melcharths are the oppression. Otherwise somehow or other the tenants could maintain themselves.

Q.—In the case of garden lands how many years does a coconut tree take before it begins to yield?

A.—From 10 to 20 years.

Q.—During all this time the garden will have to be fenced?

A.—In some parts no fencing is wanted. In some gardens only mud walls have to be renewed or repaired.

Q.—You now put only ash manure for the coconut trees?

A.—To get more yield we are putting ash as well as fish manure and some other manure also.

Q.—Can the ordinary tenants afford to use fish manure? You need not take your own case.

A.—Only those tenants who could afford to use fish manure do so.

Q.—The price of ash manure also has gone up?

A.—Yes, from 6 pies to 2 annas per muram.

Q.—Has the cost of labour also gone up?

A.—Yes, formerly it was only 2 annas; now it has gone up to 4 annas for half-a-day's work.

Q.—At the time of kuzhikanam renewal do the janmis fix any standard for rent?

A.—They fix as they like. It is very hard.

Q.—You say the janmis interfere in social matters and give trouble. What is the interference?

A.—The agent or the kariyastan of the janmi must be propitiated more than the janmi himself. Otherwise the agent will cause a melcharth to be granted.

Q.—Do the senior anandravans give you trouble or the karanavans alone.

A.—If the karnavan is living alone with his own children then there is no trouble.

Q.—Ambayam and murukku and such other trees of spontaneous growth are used as standards for growing pepper vine?

A.—In town parts there are no spontaneous growth. That will only be in villages. Those trees are planted for growing pepper vine.

Q.—So without them it will not be possible to grow pepper vine?

A.—No.

Rao Sahib V. Krishna Menon :—Q.—It is said that on account of frequent evictions the proper cultivation of the land is not attended to. Some of the Committee members want to know whether it is a fact?

A.—It is true.

Q.—Supposing you are giving a land on annual lease, and the land is poor. Will the tenant take sufficient care to improve it?

A.—No.

Q.—If you put manure why can't you get good yield and if necessary give back the land?

A.—Within one year it is not possible.

Q.—What are the manures that you put?

A.—Ash, leaves, fish manure, cow-dung, etc.

Q.—How long do you think the effect of these manures last?

A.—In the paddy lands it will last for two or three years.

Q.—Whatever you spend and do, can you improve a land in one year?

A.—No. It is impossible.

Q.—Do you know of any instance where fixity of tenure has encouraged the tenant to do better cultivation?

A.—Yes.

Q.—When better crop is reaped the janmi and the kanamdar and the verumpattamdar are equally benefited?

A.—Yes.

Q.—Do you think that by restricting the power of eviction the janmi's value of the land is affected?

A.—No, it will never decrease.

Q.—I will put to you an example. Suppose a land worth 1,000 rupees is given to a tenant. At the time of giving it there was no restriction at all. After two years a law restricting eviction comes into existence. Suppose by that time the produce on the land has increased. At that time the janmi wants to sell that land. Will the value of the land decrease?

A.—No, it will not. Anybody will pay more and purchase it. Under no circumstances will the janmam value be less.

Q.—Have you heard of kanam tenure?

A.—Yes.

Q.—Suppose you are a tenant under a kanamdar as well as a janmi. Who will be a better landlord for you?

A.—I will consider the janmi better. Kanam in North Malabar is big kanam. So I would like to be under the janmi. The tenants will never be evicted by North Malabar janmis.

Q.—You are a real cultivator?

A.—Yes.

Q.—If you are given all facilities, you can improve the land by intensive cultivation and rent is then only a secondary consideration?

A.—Yes. Eviction is the greatest hindrance.

Q.—You are for evicting a tenant if he is opposed to the interests of the janmi?

A.—Yes.

Khan Bahadur Haji Abdulla Haji Kasim Sahib Bahadur :—Q.—You are a landlord?

A.—I am a landlord as well as a tenant.

Q.—Are you a merchant also?

A.—No.

Q.—Is the rent here high or is it low?

A.—There are high rents as well as low rents.

Q.—You were a tenant first and then you acquired property?

A.—Yes.

Q.—Is it from the savings of the land that you leased?

A.—In my younger days I had trade in pepper.

Q.—From the savings effected as a pepper dealer you bought lands?

A.—By the janmis I had very large profits and out of them and also from trade I acquired these properties.

Q.—Your landlord has not raised the rent?

A.—In some cases he has increased.

Q.—Even after paying the rent to the landlord you were able to save?

A.—Yes.

Q.—You are a tenant of what standing?

A.—For 45 years or more I have been a tenant.

Q.—Did your landlord give you any trouble?

A.—Only one landlord. He took away seven items of property by means of a melcharth and gave them away to one Meleveetil Krishnan Nambiyar. My other janmis advised me to surrender the properties without defending the suit for eviction. I received 500 rupees as compensation.

Q.—What was the reason for the melcharth?

A.—The melcharthdar was the said Nambiyar who was living originally in Movillay amsam three miles away from my house. Subsequently he came to live near my house and seeing that I, a Tiyyan, was in such a prosperous condition his envy was roused and he took the properties on melcharth.

Q.—You said that you had trade when you took the land. Were you not prosperous then?

A.—From my father I got a little sum of money and with that I got some leases of properties.

Q.—Then the janmis did not give you any trouble because you were a Tiyyan?

A.—No.

Q.—Does the landlord ask you to send she-buffaloes and other presents during marriages?

A.—They never used to ask me, but if I was asked anything I used to give. They won't compel me.

Diwan Bahadur T. C. Narayana Kurup :—Q.—Do you live in your tarwad or in your self-acquired property?

A.—I have no tarwad house and my tarwad possesses no property. I live in my own land. My brother, I and my sisters are the only members. I alone have properties and they have no claim over my property.

Q.—The property you live in is janm?

A.—Yes.

Q.—When did you purchase it?

A.—Some nine years ago. It was my kuzhikanam under Erattumkandy tarwad.

Q.—How long were you under that tarwad?

A.—For 30 years I was a tenant under them.

Q.—What was the rent that you were paying to them?

A.—I was paying Rs. 17 rent.

Q.—And the janmi had to pay the assessment?

A.—Yes.

Q.—At the time of renewal what was the renewal fee that you had to pay?

A.—In earlier days I used to give only Rs. 5 as renewal fee.

Q.—At the time of last renewal what did you pay?

A.—Rs. 10.

Q.—That is just a little over half the rent?

A.—Yes.

Q.—For the last 30 years you were under them and you have no complaint against the janmi?

A.—No.

Q.—What janm value did you pay them?

A.—Rs. 900.

Q.—Supposing you were a permanent tenant of the property and the janmi could not eject you. Could he get this Rs. 900 for the property then?

A.—In this kuzhikanam I had built a large house. I was desirous of possessing it and so I paid that money. As the landlord wanted to sell his janm right I feared if it was purchased by some big man I would be ejected.

Q.—If there was no fear of eviction you would not have paid this sum? If you had permanent right of occupancy would you have paid this amount?

A.—The land is so good that I would pay this sum. That was the first land I got on lease and from that land I prospered and I will not leave that land.

Q.—Then it is sentimental value?

A.—Yes. There are people who would pay more than this.

Q.—Have you taken any meloharths?

A.—No.

Q.—You acquired a number of kuzhikanam properties, I believe?

A.—Yes.

Q.—How did you acquire them?

A.—By assignments from holding tenants and also directly from the janmis.

Q.—How many properties were taken by you directly?

A.—Ten or fifteen items of properties, the janmi gave me direct.

Q.—All these fifteen items were in the actual possession of the janmis?

A.—Yes.

Q.—Did you obtain any lease with power to eject the tenant at any time?

A.—No.

Q.—Are you certain?

A.—Yes.

Q.—You are cultivating these lands yourself?

A.—Yes.

Q.—You have paddy lands under how many janmis?

A.—Sixteen or eighteen janmis.

Q.—What is the term of the lease?
 A.—Five, eight, ten and even four years.

Q.—You were not put to any oppression by these janmis?
 A.—No, except this one case of melcharth.

Q.—You have lands under Chingoran tarwad?
 A.—Yes, two properties.

Q.—What is the total rent you have to pay?
 A.—For one it is 260 seers and for the other 190 seers of paddy.

Q.—For how long have you been in possession?
 A.—Both for over fifty years.

Q.—The lease is for five years?
 A.—Yes.

Q.—You pay rent in money or in kind?
 A.—In kind as well as in money.

Q.—At what rate do you pay money for the paddy?
 A.—Rs. 15 or 16 for 100 seers.

Q.—What is the rate of renewal fee you pay?
 A.—Rs. 5 as *chirukasu*. That is writing charges, etc.

Q.—So, at the rate of Re. 1 per hundred seers?
 A.—Yes.

Q.—You spoke of one melcharth to one Krishnan Nambiyar. Who is the janmi?
 A.—Puthiaveetil house people.

Q.—That is one of the melcharths mentioned in your list?
 A.—Yes.

Q.—Had that Nambiyar any ill-feeling except this jealousy?
 A.—That is the only spite.

Q.—Why did you surrender?
 A.—If I defend the suit other janmis will get annoyed with me. To avoid that I submitted to their terms.

Q.—You have given a list of unjustifiable melcharths? Can you say for what reason the melcharths were granted?
 A.—Almost all I know. I do not know whether the tenants' names given there are all correct, but the janmis' names are all correct.

Q.—Do you know whether there were any arrears of rent when the melcharths were granted?
 A.—There may be cases of arrears or may not be arrears.

Q.—You know of any case in which there was no arrears of rent?
 A.—I cannot say.

Q.—Would you give us full information on that point?
 A.—I cannot say. Some melcharths are ten or fifteen years old.

Q.—Then you cannot say whether these melcharths are unjustifiable or justifiable?
 A.—No.

Q.—You know how waste lands are planted with coconut trees?
 A.—Yes.

Q.—In the first year tapioca is planted, I believe?
 A.—No. That was not the practice. It is only six years since that practice began.

Q.—Are banana plantations grown on them?
 A.—Yes.

Q.—And that is paying?
 A.—In these parts there will not be much profit out of bananas, but the coconut trees will improve.

Q.—Are there many waste lands here to grow coconut trees on?
 A.—There is no good ground for coconut gardens now.

Q.—Have you converted any paddy land into paramba?
 A.—Yes.

Q.—Is it with the consent of the janmi?
 A.—That is the stipulation in the lease itself.

Q.—How do you raise the level of the soil? Don't you plant tapioca?
 A.—I bring down earth from other places. So far as I know, I have never planted tapioca before planting coconut trees.

Q.—Is not ragi, gingelly, yam, etc., planted if there is space for surface cultivation? Don't you get yearly income from the surface cultivation?
 A.—In my village it is not the practice. It is only done in the eastern parts. In some places here ragi is planted. About the other plants I do not know.

Q.—Do you know what time it will take for a coconut tree to bear from the time of its plantation?
 A.—That will depend upon the nature of the soil.

Q.—Can you not say on an average?
 A.—I cannot say.

Q.—Can you say what would be the value of 100 coconut trees?
 A.—How can I say? Nobody has evicted me.

Q.—Can you say on an average what would be the net yield of 100 coconut trees?
 A.—No.

Q.—Now when you wrote the answer to question VII (a) regarding rent, you did not calculate the margin of profit?
 A.—No.

Q.—You have not taken into consideration whether it would be in the interests of the janmi or the tenant?
 A.—If the janmi does not get anything what is the benefit to the tenant.

Q.—What will you give to the janmi besides the rent?
 A.—Whatever the janmi demands I will pay.

Q.—In a coconut garden which yields 1,000 nuts and where all the improvements belong to the tenant what rate will you pay to the janmi?
 A.—About Rs. 10 must be paid.

Q.—That is one-fifth of the total yield?
 A.—Yes.

Q.—When you pay the Rs. 10 who must pay the assessment?
 A.—The tenant must pay the assessment.

Q.—Would that not work hardship to the tenant?
 A.—No.

Q.—In that case what would be the renewal fee you will pay?
 A.—Rs. 10 could be given as renewal fee and assessment can be paid by the tenant.

Q.—If there are arecanut trees, jack trees and pepper vines would you allow that also to be taken into consideration?
 A.—Yes.

Q.—What percentage would you allow to the janmi?
 A.—Some compensation should be given, that is all. But I have no personal experience of it.

Q.—Do you know of instances of melcharths of lands which are in your neighbourhood?
 A.—I have given a list and all the melcharths mentioned there are of lands in my neighbourhood.

Q.—On account of your exemplary conduct no melcharth other than the one you mentioned was given of your lands?
 A.—Yes.

Mr. H. R. Pate :—Q.—You spoke of seven items of property given on melcharth to one Nambiyar. Are they all paddy lands?
 A.—They are garden lands.

Q.—At the time of melcharth how many trees were there?

A.—One hundred and odd trees.

Q.—At the time you took the land on assignment was it a waste land?

A.—No, there were trees.

Q.—You took the paramba along with the trees on assignment?

A.—Yes.

Q.—So you did not plant many trees?

A.—In the murappad there is a recital that 150 trees belong to the landlord though actually there were only 100 and odd trees actually existing. That was the reason.

Q.—How many of these trees did you plant yourself?

A.—About 50 or 60 trees.

Q.—You said you got Rs. 500. You have spent more than that amount?

A.—I have spent more.

Q.—What did you do with this Rs. 500?

A.—I have got new leases from janmis of waste lands and I have planted after that over 200 trees on them and I have invested some portion of the money on improving other properties also.

Q.—Have you planted 200 trees?

A.—I have planted over 100 trees, but I have spent money on the parambas. I have also purchased a paramba.

Q.—What rent do you pay for these parambas?

A.—I have to pay Rs. 80 rent for the new leases.

Q.—You are investing money in land again. You may be turned out any day by melcharths?

A.—I may be ousted, I am old enough and I don't care.

Q.—Are all your lands in Nettur amsam?

A.—No. They are in four amsams altogether.

Q.—Can you look after all of them?

A.—Yes.

Q.—Have you kariyasthans?

A.—I have got two sons and two nephews and they also look after the lands.

Q.—Have you given any of your properties on pattam?

A.—Not many.

Q.—I take it that you are a specially good tenant and that is the reason you are not turned out. Your neighbours are being turned out now and then?

A.—Yes.

Q.—Do you know of any kudiyan who held land for a very long term?

A.—There are a few tenants who are holding lands to my age. I am now 65 years old.

Q.—Why are tenants turned out?

A.—The agents take bribes and report to the janmi against the tenants.

Q.—Have you any experience?

A.—I will always deal with the janmi direct. I will never go through the agent or kariyasthan nor pay rent to him.

Q.—Why don't other tenants do so?

A.—They will pay bit by bit and so they have to go to the agent. I pay all in one lump sum direct to the janmi.

The President :—Q.—How long will it take for a kuzhikanam tenant who takes up land and newly reclaims it, to recoup the entire cost of his improvements, i.e., the investment he makes on the land, on the assumption that he pays a nominal rent?

A.—I cannot say. It depends upon the nature of the soil. If it is good land he will get it from 20 to 30 years. If the land is bad it will take even 60 years.

The President asked the interpreter to thank the witness on behalf of the Committee. The President also thanked Mr. Mayan, the interpreter. The Committee rose for the day.

VIII

Written statement of Mr. P. Mammaly.

I. (a) (1), (2), (3), (4), (5), (6), (7). There are no disabilities.

(b) From the answer given above this question does not arise.

(c) I am not aware of the conditions prevailing in South Malabar.

(d) I do not know.

II. (1) (a) I am not aware that tenants are unjustly evicted.

(b) I do not know that melcharths are unjustly given.

(2) I do not know that the janmi uses his position as landlord to oppress his tenants in social matters. The janmis who are able to do so are very few.

III. (a) I do not think that there are any disabilities.

(b) Permanent rights should not be given and there is no necessity for doing so.

(c) There is no necessity for giving permanent rights to anybody.

(d) There is no necessity at all for giving permanent rights to kuzhikanamdars. Till the expiry of the period of the lease they have permanent rights. In case of eviction the tenants get more than enough compensation under the Tenants' Improvements Act for their improvements and even for trees that grow of their own accord. It is doubtful whether there is any janmi in Malabar who is able to evict all his tenants paying value of improvements. There is none certainly in North Malabar. Janmis who pay for the improvements do not generally get interest at two per cent per annum on the amount so paid. Kanamdars are not at all entitled to get permanent rights. The view that kanamdars who came into occupation of property before 1852 and who have been holding them ever since without interruption should be given permanent rights is wrong, unjust and inequitable. According to that view the janmi who instead of changing his tenants frequently grants them renewal is penalised for his sense of justice and kindness.

(e) The janmi should have the right to directly attach all the movable property of the tenants and in cases where the tenant pleads that he has already paid, he should prove his contention by means of a suit. And the law should be modified accordingly. When the janmi is not able or does not like to directly attach the tenants' property on account of the tenants' position or influence, the janmi may apply to the court for the balance of rent by means of a petition and the court should issue all the necessary processes and take all steps till the realization of the amount without demanding any other fees except the court fee paid on the petition.

(f) From the answers above, this question does not arise.

IV. (a) (1) Occupants of kudiyruppus should not be given permanent rights. In several cases there will be the necessity to redeem even kudiyruppus. The present position is that the members of janmi families are increasing day by day in number and their properties are declining. And people do not now like the joint family system. If kudiyruppus cannot be redeemed janmi tarwads will be ruined by internal dissensions. Besides the population of the world as a whole is on the increase. Janmis will not find it convenient to provide kudiyruppus to those who have none. But tenants have the freedom to transfer their kudiyruppus. To deprive the janmi of this right is not just.

(2) I am of opinion that whether in urban or rural areas or elsewhere, occupants of kudiyruppus should not be given permanent rights. In any case, permanent rights should never be given in towns. As the towns are thickly populated the major portion of the land has become kudiyruppus. The price and value of kudiyruppus will also be very high. So if in towns permanency of rights is given to kudiyruppus, it will be unjustly depriving the janmis of their just rights.

(b) If permanency of rights is given to kudiyruppus eight kols square in towns, and ten kols square in rural areas will be sufficient. The portion thus taken must be at one end of the compound.

(c) (1) Where the rights of the tenant can be demised to any one else that might be done. Otherwise fix a rent for his house-site, keep it in his possession and surrender the rest to the janmi without any compensation. If the tenant secures the right to compel the janmi to pay compensation, the janmi will be subjected to great hardships and will be ruined.

(2) The tenant should either remove the house thus constructed or surrender the house to the janmi receiving the cost of a house necessary for the proper enjoyment of the holding.

(3) The tenant should be paid compensation as per the Tenants' Improvements Act.

(d) (1) I think that to do so, will be highly unjust and inequitable.

(2) No. Not at all.

V. The Malabar Tenants' Improvements Act has greatly changed the relations between janmis and the tenants. Formerly the janmi loved the tenants next only to his family. The feeling of the tenant also corresponded to it. When their relative rights were fixed by the Tenants' Improvements Act, their mutual dependence and confidence disappeared. At present their relations are regulated by agreements and law. The provision that compensation should be paid even for useless plants and wild trees that grow on the property even though they may be absolutely unprofitable and would bring no income, whether the property is transferred from one tenant to another or is taken possession of by the janmi himself, is a provision that causes loss to the janmi. If this loss is to be averted it should be decided that only the four varieties of fruit-trees and others should be paid for. Even a tenant who does not in any way improve his land after taking a lease but neglects it has to be paid compensation under the present Act.

VI. (a), (b), (c) If permanent rights are given, the loss arising from it will be too great to be compensated by any means whatever. Hence I cannot describe the nature or the amount of such compensation.

VII. (a) From the net produce the tax should also be deducted and the balance should be equally divided between the janmi and the tenant. If there is another person between the janmi and the tenant, that person should pay to the janmi the amount fixed by the agreement between them. As between the tenant and the intermediate person, the tax and the janmis' purappad should be deducted from the net produce and half the balance should go to the tenant, the remaining half being shared equally by the janmi and the intermediate person.

(b) No.

VIII. (a) Double the amount of the rent should be paid as renewal fees.

(b) In my taluk an amount equal to the rent, double the rent or even thrice or four times the rent is received as Manusham according to the condition of the property.

IX. According to the present law, tenants have the right to hold permanent possession of the property till the expiry of the period fixed in the lease. Hence I do not think that other remedies are necessary.

X. (a) I think that the sub-tenant should be given the right of pre-emption as against melcharthdars. But when the members of the janmi's family or his children want to directly occupy the land or to live on it, tenants should not be given the right of pre-emption. The objection to bring into force such an arrangement is that the one who takes the melcharth and the janmi may by collusion dupe the tenants. In such cases there is no other resort except to get a decree from a court of law.

(b) I agree.

(c) I do not think that there is any way to avoid such private arrangements. But in the case of melcharths given by collusion and fraud, a decision may be had from the courts.

[Note.—As since translated by the Malayalam Translator to Government.]

Friday, the 11th November 1927.

Oral evidence of Mr. P. Mammaly.

The Committee met again after lunch at 3 p.m. and the examination of Mr. P. Mammaly was taken up.

The witness spoke in Malayalam and Mr. V. C. Mayan acted as interpreter.

Diwan Bahadur T. C. Narayana Kurup :—Q.—Mr. Mammaly, your father was in management of the properties of Puthiapura tarwad in the Kottayam and Chirakkal taluks for a series of years?

A.—Yes.

Q.—Now they are being managed by your father's nephew and brother-in-law?

A.—My sister's husband is managing it, now.

Q.—What assessment does your father's tarwad pay in the Kottayam and Chirakkal taluks?

A.—Over 4,000 rupees.

Q.—And in Kurumbranad taluk?

A.—Over 5,000 rupees.

Q.—All the properties in Darmadam have been purchased by your father's tarwad?

A.—My father's tarwad has purchased more than seven-eighths of the property in the estate.

Q.—Almost the whole of the janm properties there belong to your father's tarwad?

A.—There are properties worth over one and a half lakhs of rupees in Darmadam alone.

Q.—You are well acquainted with the tenants of Darmadam?

A.—Yes.

Q.—All these properties have been leased out?

A.—Yes, except a warehouse and compound.

Q.—Most of the improvements belong to your father's tarwad?

A.—Yes.

Q.—How did they acquire the tenants' rights?

A.—Some purchased from the tenants and some were planted by the tarwad.

Q.—Has there been any eviction of any tenant from those Darmadam properties?

A.—Within the last forty years, to my knowledge, only five tenants have been evicted.

Q.—And the rest of them have been in possession for a number of years?

A.—Yes.

Q.—Why were these five tenants evicted?

A.—One of the tenants was keeping seven years' rent in arrears. The property was therefore recovered and half the property was leased back again to the same family and the other half to different tenants.

Q.—And what was the cause for the other four evictions?

A.—They were also keeping the purappad in arrears for a series of years.

Q.—So, there has been no unnecessary eviction?

A.—No.

Q.—What is the rent that your father's tarwad generally gets from coconut gardens?

A.—For a garden which gives a net income of 100 rupees they are getting some 20 to 25 rupees.

Q.—That is for the Chirakkal and Kottayam properties?

A.—Yes.

Q.—As regards Kurumbranad properties also, you are sure that they do not give melcharth?

A.—Yes.

Q.—What assessment does your Puthravakasam pay?

A.—About 1,000 rupees tax.

Q.—Are all those properties in the possession of the tenants?

A.—Yes, except the garden in which my house stands.

Q.—Have you recovered by means of a suit any garden paying value of improvements?

A.—Yes.

Q.—In how many cases?

A.—In three or four cases.

Q.—Why did you bring suits in those cases?

A.—One is on account of purappad being kept in arrears. Then, I purchased a property for 1,800 rupees. Originally the rent was only Rs. 2. I asked the tenant to give me a little increase in rent. He declined and I sued and recovered the property.

Q.—What is the value of improvements you had to pay?

A.—I had to pay Rs. 700.

Q.—Is it paying for a landlord to recover possession of properties paying such large amounts as value of improvements?

A.—In some cases it is paying and in some it is not.

Q.—What return will you get on the value of improvements, generally?

A.—Three to $3\frac{1}{2}$ per cent interest.

Q.—If there be a building on the land?

A.—Then it will be still lower.

Q.—So generally if the tenants are willing to renew, will the landlords give melcharths of garden lands?

A.—They will not. There is no doubt about it.

Q.—What is the renewal fee that you demand in the case of garden lands?

A.—Sometimes one and sometimes one and a half times the net income.

Q.—Have the tenants any grievances?

A.—To my knowledge, they are very contented.

Q.—The term in the case of paddy lands is five years?

A.—Yes.

Q.—What is the renewal fee you get?

A.—For 100 seers of paddy rent they pay 8 or 10 or 12 rupees.

Q.—In the case of paddy lands, is there any fixity or principle on which rent is laid down? Suppose a paddy land fetches an outturn of 1,000 seers of paddy what will be the rent?

A.—Two hundred and fifty to 300 seers of paddy per acre.

Q.—Is that for double crop land? What is the difference between single crop and double crop in point of rent?

A.—The difference will be 25 seers of paddy.

Q.—You have to pay the assessment to the janmi?

A.—Yes.

Q.—What will be the yield of one acre?

A.—Twenty years ago my father purchased a land and handed it over to me and my brother and we cultivated and the return was thirty-one times the seed.

Q.—That was twenty years ago. I ask you the state of affairs now?

A.—It will never be below 15.

Q.—That is as regards that particular land?

A.—That is the average yield.

Q.—Generally they say the *meni* is only less than 10. Is that true?

A.—No.

Q.—Do not the tenants cultivate properly because there is no fixity of tenure?

A.—They do cultivate.

Q.—Your house is within the municipal limits?

A.—Yes.

Q.—You have got lands within the municipal limits?

A.—I pay 400 rupees municipal assessment.

Q.—Are the lands within the municipality more valuable than the lands outside the municipality?

A.—Yes.

Q.—Have you recently purchased any property within the municipal limits?

A.—Yes.

Q.—Can you say what is the value paid?

A.—In my nephew's name, nine months ago, I purchased a land which measures only 30 to 35 cents and I paid 2,600 rupees.

Q.—Is it garden land?

A.—Yes. The value is 2,225 rupees.

Q.—And what is the value of paddy land?

A.—For 100 seers rent yielding land we have to pay 500 rupees.

Q.—And you have to pay the assessment?

A.—Two taxes have to be paid by me; the municipal tax as well as the Government assessment.

Q.—Is there keen competition for lands within the Tellicherry municipality?

A.—There is.

Q.—And both agricultural and garden lands and buildings fetch very high value?

A.—Yes.

Q.—You know the land which separates the town proper from Tiruvengad? Is it not very close to your house?

A.—Yes.

Q.—You know for what price it was sold?

A.—It was for twenty-four thousand and odd rupees.

Q.—What is the rent?

A.—Now it is 4,600 seers of paddy and 80 or 100 rupees in cash, and the janmi pays the Government assessment as well as the municipal tax.

Q.—The present value would be much higher?

A.—Thirty-five thousand rupees will be the price.

Q.—If occupancy right is given as regards these lands, the price will go down?

A.—It will go down.

Q.—If it be within the municipality?

A.—It will go down very much.

Q.—Is there any necessity to grant occupancy right either within the municipality or outside it?

A.—It is not at all necessary.

Q.—Why do you say there is no necessity?

A.—There is perfect cordiality between the tenant and the janmi and there is no oppression or difficulty for the tenant and so there is no necessity for it.

Q.—We read in the papers that there is agitation for it?

A.—It is not true.

Q.—Most of the lands are owned by Marumakkattayam tarwads, I believe?

A.—Yes.

Q.—Is the position of the junior members of the Marumakkattayam tarwad much better off than that of the cultivating tenant?

A.—It is worse off.

Q.—You know the Rendupura tarwad? They have got extensive landed property?

A.—They are paying an assessment of more than 8,000 rupees.

Q.—What is the rate of maintenance given to the junior members of the tarwad?

A.—They are paid Rs. 6 a month.

Q.—Why are the rates so low? How many members are there in the Rendupura tarwad?

A.—Over 300.

Q.—Is this the case in all the tarwads?

A.—Yes.

Q.—Are conditions similar in all the Marumakkattayam tarwads?

A.—Only 2 per cent of the tarwads is in a better position.

Q.—So the junior members are worse off than the tenant class?

A.—Yes.

Q.—Is there any social oppression by the janmis?

A.—To my knowledge there is no oppression.

Q.—They say janmis interfere in municipal elections and taluk board elections?

A.—It is a talk without any foundation or truth.

Q.—You were a municipal councillor for a series of years and during the last election you did not succeed?

A.—Yes.

Q.—About that time you had to file a number of suits against your tenants? I do not say it is due to this election affair?

A.—I had to file a suit against two shop-keepers.

Q.—And what was the plea of the tenants?

A.—Others advised the tenants to say that they did not vote for me—I doubted whether they did so—and that was the cause for the suits. Three years and two months' rent was in arrears, but two months was barred by limitation and I sued for three years' rent.

Q.—Did you get a decree?

A.—No.

Q.—And on appeal?

A.—The appeal was allowed. I got a full decree for the amount.

Q.—Was there any basis for the defence?

A.—No. It was only a song.

Q.—There is no oppression of any kind by the janmis in North Malabar?

A.—Even if a very low Tiyyan were to invite me I would accept his invitation.

Q.—You don't exact any fines or fees?

A.—I never imposed any fine.

Rao Sahib V. Krishna Menon :—Q.—You have said that you are a very kind landlord?

A.—Yes.

Q.—Are you sure that there are no bad janmis in Malabar?

A.—That is my opinion.

Q.—If there are any bad janmis in Malabar, do you think any restriction by legislation necessary?

A.—No. If there are no bad janmis, why should there be legislation?

Q.—Legislation will only affect bad janmis.

A.—To my knowledge there is no bad janmi.

Q.—Good janmis need not be anxious even if legislation be passed?

A.—There is no necessity for legislation.

Q.—It is said that janmis are put to great difficulties by having to pay large sums as improvement value at the time of eviction. Is it because the return you get from the garden is not sufficient to pay the interest on the investment?

A.—Yes.

Q.—Then how do you find another man to purchase on melcharth?

A.—When immigrants come from the Straits Settlements with large amount of money and when they cannot get janm lands, they must invest it in some way or other and so they take melcharths.

Mr. Kotieth Krishnan :—Q.—If melcharth is restricted by legislation, do you think that the janmam value will be reduced to a great extent?

A.—It will not be reduced very much.

Q.—Why not?

A.—The value is not due to melcharth.

Q.—If there is power for the janmi to evict, the value will not be lost?

A.—Yes.

Q.—The Puthiapura tarwad, to which you belong, never gave melcharth of their properties and you take a pride in it?

A.—Yes.

Q.—Is it a fact that in all your murappads you put down the tenants' improvements as belonging to the janmi?

A.—It is not a fact. There are cases in which it is put down as belonging to the tenant if that is the fact.

Q.—Will you be able to give us any instance of a murappad executed to Puthiapura tarwad in which mention is made that all improvements belong to the tenant?

A.—There are decrees in courts even. I shall give you one instance. In the case with the Arakkal people the murappad is like that. Moreover, in many murappads of other people, generally improvements are shown as belonging to the janmi.

Q.—In spite of this there is a higher market value for the Puthiapura tenancy than the tenancy of other janmis?

A.—Yes. The tenure is only for three years, but the renewal is only after 36 years.

Q.—The higher market value is on account of the fact that they never evict the tenants?

A.—It is on account of the cordiality between the janmi and the tenant.

Q.—Invariably the Puthiapura landlord is able to collect rent more regularly than the other landlords?

A.—That is not a fact. There are 6, 7 and 8 years' arrears of rent.

Q.—You say that if the tenants want renewal the janmi will be glad to give it if there is a law by which the tenant could get renewal after the expiry of the term if he is prepared to ask for it?

A.—No, I will not be pleased to have such a law.

Q.—You spoke about two suits filed by you immediately after the election?

A.—Yes, one month after the election.

Q.—In one of the cases you applied for attachment before judgment and the defendant asked for compensation and the District Munsif decreed Rs. 50 as compensation?

A.—Yes.

Q.—That was reduced to 25 by the District Judge.

A.—Yes.

The President :—Q.—What is the extent of Tarisu land generally given to a kuzhikanam tenant when it is given for reclamation?

A.—It is as he demands. It may be $\frac{1}{2}$ an acre, 5 acres, or 10 acres.

Q.—In eastern parts, he is given on an average 5 acres?

A.—Yes.

Q.—What time does it generally take to plant up that area?

A.—If the tenant is resourceless it will take 10 years. If he is an average tenant he will be able to do it in 2 years.

Q.—What time does it usually take for the whole garden to begin to bear?

A.—In my opinion in eight years' time.

Q.—Generally only a nominal rent is levied for the first period of lease, is it not?

A.—For five or eight acres they charge only two or three rupees. For an acre on an average two fanams or so.

Q.—This eight years that you spoke of is the time if the land is fertile?

A.—In some hilly parts and near the sea coast it will take some 15 to 20 years.

Q.—Let us take some amsam midway between the hilly parts and sea coast. What time will it take for a garden to fully bear?

A.—Fifteen years.

Q.—Let us assume that this nominal rent continues and the garden comes to full bearing. What further period would be required for the tenant to get back all that he has spent by way of reclamation on that land?

A.—In my opinion, more than 20 years.

Q.—From the time it begins to bear?

A.—It will take 25 years from the time he is let in the land.

Q.—You have said in your written answer that the janmi should be empowered to attach movable properties of the tenant for recovering rent more expeditiously. Why should that power be given?

A.—If that power is given there will not be accusation against the landlords that they evict.

Q.—Will there not be any breach of the peace if that power is vested in the landlord?

A.—When the landlord is empowered through court how could there be breach of peace? When he is legally empowered how could there be breach of peace? The authority is given by the Sovereign.

Q.—You don't anticipate any breach of the peace?

A.—No.

Q.—You have no such fear anywhere in Malabar?

A.—No, except in South Malabar because there they are ignorant of the law.

Q.—You say "tenants after taking lease neglect lands and still they get value of improvements now"? How does it happen?

A.—Yes, compensation has to be paid even for trees of spontaneous growth.

Q.—There are cases in which tenants designedly neglect their holdings being sure of getting compensation?

A.—Many cases.

Q.—In answer to question VII (a) "after deducting the cultivation expenses, rent, etc." I suppose "rent" means revenue in that answer?

A.—Yes.

Q.—You say there that the profit should be equally divided. Your opinion is that the cultivating tenant should always be entitled to half the net yield of the property?

A.—Yes.

Q.—That is as regards kuzhikanam?

A.—Yes.

Q.—If the improvements belong partly to the janmi and partly to the tenant then you would adopt the same ratio?

A.—Yes.

Q.—What about niloms? What share of the net yield would you give to the cultivating tenant?

A.—One-fourth share to the tenant and three-fourths share to the janmi.

Q.—The janmi should pay the assessment?

A.—Yes.

The interpreter was asked to kindly thank the witness on behalf of the Committee and he did so.

Written statement of Mr. T. Narayanan Nayar, High Court Vakil, Tellicherry.

Disabilities.

I. (a) All these tenants are liable to be evicted from the property if they are not able to keep the janmi in good humour. He will either pass the property on melcharth or himself recover.

(b) I have not much information about the tenants of other parts of India.

(c) In North Malabar, the properties from which the tenant has to be evicted are generally gardens and the tenant will have to be paid value of improvements. So he cannot be evicted before paying this value. In those parts of Malabar where the property is generally paddy land, the tenant will have to get very little by way of value of improvements. So he can be more easily evicted. So this unjustifiable eviction presses more severely upon South Malabar tenants.

Evictions.

II. (1) (a) I believe evictions are made on unjustifiable grounds.

(b) Melcharths are granted on unjustifiable grounds. It is not possible for me to enumerate instances just at present without having further time to look them up. I don't think such unjustifiable evictions are on the increase now. They have existed for some time past and they are not particularly on the increase now.

(2) I am of opinion that the janmi is using his position as such to oppress the tenant socially. This is especially so in some taluks of South Malabar as far as my information goes.

Remedies.

III. To put an end to unjustifiable evictions is the only remedy. That can be done by granting permanent occupancy rights to tenants. It must be given to all classes of tenants specified in question I except tenants of buildings and melpattam tenants of North Malabar. All such who have been in the land for ten years may be given the permanent right of occupancy. I don't think any distinction need be made between kanamdars before 1852 and after 1852.

IV. Occupants of kudiyruppu must also be given permanent rights of occupancy.

The only distinction I would suggest is in the extent.

I would fix $\frac{1}{4}$ acre in urban areas and $\frac{1}{2}$ acre in rural areas as the minimum.

(c) (1) The janmi must be given an option to evict such tenants.

(2) That may be made a ground for putting an end to his tenancy.

(3) Kudiyruppu must share the same fate as the other portion of the holding.

(d) (1) I don't think any such is necessary.

(2) I don't think it is suited.

V. It acts as a check on unjustifiable evictions.

I don't think any amendment of the Act is necessary. But some change in the method of its working seems desirable. It would be better if the valuation of improvements can be got done by reliable professional men which will bring about some uniformity in the valuation also.

Another thing I have to suggest is no tenant should be allowed to convert a paddy land into a garden. He must be compelled to retain it as a paddy land. This kind of converting paddy lands into gardens is becoming very common in North Malabar so much so, after some years North Malabar people will not get local paddy even for their puthari. Of course there are enough provisions in the Act by which such acts on the part of the tenant can be treated as waste.

Compensation.

VI (a) I am of opinion no such compensation is necessary at all.

Rent.

VII. (a) I would fix three-fourths of the net produce as the rent payable by verumpattamdars and two-thirds of the net produce as the rent payable by kuzhi-kanam tenants. If the property contains large improvements made by the tenant, some variation will have to be made as regards the rent payable.

(b) I think they are high as regards the verumpattamdars are concerned.

Renewal fees.

VIII. (a) I would fix it at one year's rent payable.

(b) I have no idea.

General.

X. (a) I don't think it can work satisfactorily. The object of such a provision can be defeated by collusion between the grantor and the grantee.

Saturday, the 12th November 1927.

Oral evidence of Mr. T. Narayanan Nayar.

The President:—Q.—You are a member of the Tellicherry bar?

A.—Yes.

Q.—What is your standing at the bar?

A.—Twenty-one years.

Q.—You are often employed by the Courts as a Commissioner?

A.—Yes.

Q.—You have executed several commissions?

A.—Yes.

Q.—Are you a janmi, a kanamdar or a tenant?

A.—I cannot call myself a janmi; I have not got very much landed property. I have got 5 to 6 acres of janm property and 10 to 11 acres of verumpattam land.

Q.—Both are paddy lands?

A.—Yes.

Q.—They are in the Kottayam taluk?

A.—No. I belong to the Palghat taluk. The abovementioned property is also in Palghat taluk. I am practising at Tellicherry.

Q.—Do you cultivate the property yourself?

A.—A portion of the property is leased out to tenants. The major portion of the property is cultivated by myself.

Q.—So far as the verumpattam property is concerned, you pay rent?

A.—Yes.

Q.—What is the extent of your verumpattam land which you have sublet?

A.—It will be between 3 and 4 acres.

Q.—Is it single crop or double crop?

A.—Double crop land.

Q.—What rent do you get from your sub-tenant?

A.—Nearly 500 paras of paddy.

Q.—Do you hold under a kanamdar or a janmi?

A.—Under a janmi.

Q.—What do you pay for that portion of the land?

A.—Between 250 and 300 paras of paddy.

Q.—Have you let the janm land to a verumpattam tenant?

A.—Yes.

Q.—How much is it?

A.—I have let nearly 2 acres.

Q.—And what do you get out of that?

A.—I get nearly 150 paras of paddy.

Q.—And what is the average yield that you get for the other 3 acres that you cultivate yourself?

A.—I am getting 250 paras of paddy. But then I have to mention one thing. All the land that I have let out to my tenant is not double crop land. But all the land that I cultivate is double crop land.

Q.—Out of the 2 acres that you have let out, how much is double crop land and how much single crop land?

A.—Half and half.

Q.—What will be the difference in rent between double crop and single crop lands?

A.—If it is 10 paras for double crop land, it will not be more than 6 paras for single crop land.

Q.—That is to say it will be two-thirds that of the double crop land. What is the renewal fee that you have to pay?

A.—I pay no renewal fee. The land belongs to a devaswam of which His Highness the Maharaja of Cochin is the trustee now and they have passed a resolution to the effect that no renewal fee need be collected for the property held under them.

Q.—That is verumpattam land?

A.—Yes.

Q.—You don't levy any renewal fee from your tenant for your janm land?

A.—No.

Q.—Who pays the assessment in the case of the janm land?

A.—I pay the assessment.

Q.—And who pays the assessment for the verumpattam land?

A.—The janmi himself pays the assessment.

Q.—You say that you yourself cultivate. You get it done by hired labour?

A.—Yes.

Q.—Now, in answer to question I (a) you say that 'all these tenants are liable to be evicted from the property if they are not able to keep the janmi in good humour'. What do you mean by saying 'keeping the janmi in good humour'?

A.—If any sort of disagreement arises. That is all I mean.

Q.—On what point?

A.—Suppose a social question arises and the janmi takes up one side and the tenant another, or any other reason for ill-feeling arises between the parties, then he will either give melcharth or sue for eviction.

Q.—Is that the case both in South and North Malabar?

A.—So far as this point is concerned, I believe it is common to the whole of Malabar.

Q.—These evictions will be unjustifiable in some cases?

A.—I believe so.

Q.—Then you say in answer to question I (b) it is not possible to enumerate instances, etc., and that 'I do not think that unjustifiable evictions are on the increase now'. Of course you have made a statement that there are unjustifiable evictions. That answer, I take it, is based on your information past and present?

A.—Yes.

Q.—In such a case at least you must be able to remember one or two cases of unjustifiable evictions?

A.—I am not able to give any particular instance.

Q.—Your answer is based upon facts?

A.—Certainly.

Q.—Have you not tried to recollect one or two instances after you sent in this answer?

A.—I had not had much time to think about it.

Q.—Do you think you will be able to furnish the Committee with a short list if you think about it and recall such instances?

A.—I can.

Q.—Would you kindly furnish the Committee with a list giving full particulars of such cases say, in two or three days?

A.—Yes.

Q.—In answer to question III you say that permanency should be given to put an end to unjustifiable evictions to all tenants except the tenants of buildings and melpattam tenants? Are these melpattam tenants kanam tenants?

A.—No. They are tenants to whom parambas have been let out for collecting the produce of the paramba.

Q.—And then 'with the exception of tenants of buildings.' Is it applicable throughout Malabar?

A.—Yes.

Q.—You would give permanent occupancy right to all the tenants except tenants of buildings owned by janmis and lessees of the produce of garden lands in North Malabar?

A.—Yes.

Q.—I think you mean fixity of tenure?

A.—Yes.

Q.—Because permanent occupancy right cannot be possessed by more than one man for the same land?

A.—I mean fixity of tenure.

Q.—You qualify your statement by saying 'all such tenants who have been in the land for ten years.' Why do you fix this period of ten years?

A.—I roughly fixed some time. I mean all tenants who have been in the property for some time.

Q.—Ten years is only a sort of arbitrary limit?

A.—Yes.

Q.—You say in answer to question IV that occupancy right must be given to occupants of kudiyruppus. I take it that you mean kudiyruppus both in urban and rural areas and within municipal limits?

A.—Yes.

Q.—Don't you think that kudiyruppus in urban areas are very valuable and are increasing in value very rapidly?

A.—No doubt, they are.

Q.—In spite of that you would give permanent occupancy in them?

A.—Yes.

Q.—You say 'It would be better if the valuation of improvements can be got done by reliable professional men, etc.' What do you mean by professional men?

A.—That is those who have been given some training in the matter of valuing improvements.

Q.—You have been often a Commissioner. Could you tell us what difficulties you have experienced in estimating the value of improvements?

A.—The only difficulty will be in estimating the age of a tree. There is no definite test by which we can proceed to estimate the age of a tree. We have to put it down roughly and that is what we are doing.

Q.—How do you estimate the yield of a tree?

A.—By looking at the tree, the nature of the tree, the number of nuts it contains, etc.

Q.—That is the test at any time of the year?

A.—Inspection will be at any time.

Q.—But the number of nuts vary at different times and so it is not a uniform test?

A.—But then, it is not only the number of nuts that is taken into account, but the general appearance of the tree will also be taken into account.

Q.—Could you tell us what all trees generally spring up spontaneously?

A.—I cannot enumerate all trees of spontaneous growth just now.

Q.—The Act does not specify which trees are of spontaneous growth? Section 9 relates to fruit-bearing trees. Section 10 says 'When the improvement consists of timber trees or other useful trees or plants spontaneously grown'. So they must either be timber trees or other *useful* trees spontaneously grown. Do you come across many such cases?

A.—There will be some such trees in almost every paramba.

Q.—Excepting timber trees could you mention any useful tree or plant which grows spontaneously?

A.—The mango tree. Country mango tree is not generally taken as a fruit-bearing tree. It is practically valueless as a fruit-bearing tree.

Q.—It is useful for timber?

A.—Then there is *Uppila* and some other trees.

Q.—How are they useful?

A.—They may be used as firewood.

Q.—I suppose the value which you attach to such trees is necessarily lower than the value you attach to the fruit-bearing trees.

A.—Yes.

Q.—Then you say 'No tenant should be allowed to convert a paddy land into a garden'. Are there not certain single crop paddy lands on high level more suitable to be converted into gardens than to be continued as paddy lands?

A.—There are some such lands, but taking advantage of that, some good lands are also converted into gardens.

Q.—Your idea is that low level paddy lands should not be converted into gardens?

A.—No I would even say high level paddy lands should be continued as such. With some little work, that is by removing a little earth, etc., they can be used as paddy lands.

Q.—But high level lands only yield a single crop?

A.—Yes.

Q.—You say 'of course there are enough provisions in the Act by which such Acts on the part of the tenant can be treated as waste'. To which provision do you refer?

A.—I refer to the definition of the word 'improvement' in section 3. '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'.

Q.—Suppose a land which is suitable for paddy cultivation is let by the landlord for being converted into a garden?

A.—Then, of course, if the janmi does not mind it, nobody would object.

Q.—So you don't object and you leave it to the discretion of the janmi?

A.—Yes.

Q.—You would not limit his discretion?

A.—No.

Q.—In answer to question VI you say 'No compensation is necessary at all'. You are giving over to the tenant a certain right which the janmi now possesses. How do you justify your proposal?

A.—My idea is that the janmi's right will not diminish in value on account of this permanent occupancy being given to tenants. That is my impression.

Q.—Will you kindly explain it further?

A.—No janmi who purchases a land does so with a view to cultivating it himself. His idea is always to let it out to tenants.

Q.—You are a janmi. You are cultivating part of your janm land?

A.—I mean when the janmi wants he can recover it from the possession of the tenants. As long as he does not want it he intends it only to be in the possession of the tenants. The value of the property is calculated on the rental which the janmi gets.

Q.—You mean the value of the janm right is calculated that way?

A.—Yes.

Q.—But in a number of cases, as you will know from your experience of South Malabar and even of North Malabar—take the Zamorin's estate for instance—the janmi takes a very low rent?

A.—In kovilagam properties it may be so.

Q.—So janmam right could not be valued on that basis?

A.—My idea is, even now, when there is no occupancy right given it is the tenant that is in possession of the property. When that is so the fact that that right is given to the tenant will not affect the janm value of the property.

Q.—But the janmi has got the right of terminating the tenancy at any time under the existing law.

A.—No doubt it is so. But the janmi does not terminate the tenancy with a view to getting possession of the property. He takes it from one and gives it over to another.

Q.—Or he may sell the janm right?

A.—That may be sold even when there is permanency.

Q.—He may change the tenant for getting a little increase in rent? You don't think all these circumstances need be taken into consideration?

A.—I don't think.

Q.—Then you say 'I would fix three-fourths of the net produce as the rent', etc. What are they actually paying now? Do they pay more than this?

A.—In South Malabar verumpattamdars are paying more than three-fourths and in North Malabar also in the case of paddy lands, they are paying a little more than three-fourths. That is my impression.

Q.—You say rents are high as far as the verumpattamdars are concerned. Can you give any specific instances?

A.—In the Palghat taluk almost all the holdings are like that.

Q.—What portion, roughly, is paid out of the net produce by the verumpattamdar to his landlord in that locality?

A.—It will be generally more than seven-eighths.

Q.—The tenant gets only one-eighth?

A.—In some cases a little less than one-eighth.

Q.—Then what will be the gain to the tenant, is it straw?

A.—There will be persons who can themselves work. This includes cost of cultivation. They do all the work themselves and appropriate the wages instead of paying it to others.

Q.—You say 'I would fix renewal fee at one year's rent'. Is it in the case of paddy land?

A.—Paddy land as well as garden land.

Q.—Rent varies very much from garden to garden?

A.—Yes.

Q.—Some take low rents and some levy exorbitant rents. Still you would base the renewal fee on the rent?

A.—Yes.

Diwan Bahadur T. C. Narayana Kurup :—Q.—Ever since you were enrolled as a High Court vakil you are permanently residing in Tellicherry?

A.—Yes.

Q.—You have executed a number of commission orders?

A.—Yes.

Q.—If at all there is any complaint against you as a Commissioner, it is only on the ground that you are more a tenant's than a janmi's man?

A.—Some say like that. Some say the other way.

Q.—You would treat the kanamdar as any other ordinary tenant?

A.—Yes.

Q.—You would grant fixity of tenure not on any historical ground to the kanamdar?

A.—Not on any historical ground.

Q.—In South Malabar they say that the kanamdar should be treated on a better footing than the verumpattamdar?

A.—I don't put it that way.

Q.—You say that even if fixity of tenure is given the value of the janmi's share of the property would not go down. Will there be any difference in value between saswatham land and simple kozhu land?

A.—I have not heard of any land held on saswatham being sold. I am not aware of any such case. So I cannot say whether there will be any difference in value.

Q.—You say that there will be no difference in value if fixity is given even in municipalities?

A.—Yes.

Q.—Is not the janm value very high in Tellicherry Municipality?

A.—Yes.

Q.—So if a man who purchases a property cannot get actual possession of the property, then the increase in value would go more to the tenant than to the janmi?

A.—Yes.

Q.—Then in municipalities if fixity is given janmis would suffer?

A.—It looks like that.

Q.—Are there very many big janmis in North Malabar?

A.—Only very few.

Q.—On the average there are only very small janmis?

A.—I think so.

Q.—And most of them are in debt?

A.—Yes. That I believe is the case in South Malabar also. But it is more in North Malabar than in South Malabar.

Q.—What is the rate of maintenance given to the anandaravan of a tarwad?

A.—It is very small. I believe it would be Rs. 5. One *edangali* of paddy a day is considered to be the best rate. But there may be exceptions.

Q.—So 360 seers of paddy for a whole year. It means less than Rs. 50?

A.—Yes.

Q.—Most of the lands in North Malabar are garden lands?

A.—Yes.

Q.—Is it paying to the janmis to pay value of improvements and eject tenants of garden lands?

A.—Of course if one tenant is ejected they can let it out to another tenant who will pay rent which will be probably just equal to the interest on the investment.

Q.—Have you at any time calculated whether the janmi gets sufficient return for it?

A.—It is according to the nature of the lands. In some cases you will get only say 2 to 3 per cent interest on the value of improvements.

Q.—Improvements which probably may perish?

A.—Improvements must perish.

Q.—The janmis bring suits to eject the tenants because they cannot agree with the tenant on the terms of renewal?

A.—I am afraid it is not that. Very often it is on account of some ill-feeling that arises between the janmi and the tenant.

Q.—Will you concede that in a majority of cases it is so?

A.—I am not prepared to go so far.

Q.—What return do you expect for your house in Tellicherry Municipality?

A.—I do not think under the present circumstances I can expect more than Rs. 25.

Q.—And what amount did you spend?

A.—I spent more than Rs. 8,000.

Q.—You valued the club building next to the Revenue Divisional office here as commissioner at Rs. 32,000?

A.—I believe so.

Q.—It will not get even 2 per cent return?

A.—There are no persons to take it up. That is the difficulty. As long as the club people occupied it, they were paying Rs. 100 a month.

Q.—It is not profitable to invest money on buildings either in municipalities or in villages?

A.—In villages it is a loss.

Q.—When you give value of improvements to trees of spontaneous growth specified in section 10, do you take into consideration the fact whether the tenant has done any work for it?

A.—Probably he is expected to have watched them.

Q.—Is there any difference between the cost of labour and the capitalized value of the improvements?

A.—There will be difference.

Q.—What would be the difference. Suppose the capitalized value of improvements is Rs. 100. What would be the cost of labour?

A.—It will be Rs. 40 or Rs. 50.

Q.—Then it will be 50 per cent.

A.—I believe so.

Q.—Can you give roughly the amount necessary for maintaining a coconut tree up to the time it bears?

A.—I do not think Rs. 4-2-0 fixed in the Government notification is too high.

Q.—There are very many suits by junior members disputing the alienations of karnavans. Such suits are called eviction suits in the suit register?

A.—I believe so.

Q.—When there are suits as regards the janm title, those suits are also called eviction suits, and the suit is invariably based on some unregistered lease?

A.—May be.

Q.—Have you come across very many suits in which arrears of rent are claimed by the janmis?

A.—Yes. I have come across very many cases also in which tenants plead payment of arrears claimed.

Q.—There is some difficulty in collecting rent?

A.—There may be some little difficulty.

Q.—You say in answer to question VII (a) that 'some variations will have to be made.' If the whole of the improvements belong to the tenant, what would you suggest?

A.—I believe half and half would be sufficient.

Q.—The janmi should pay the assessment?

A.—Yes.

Q.—Suppose a garden land is leased to a tenant. There are janmi's and tenant's improvements and fixity of tenure is given. In course of time the whole of janmi's improvements disappears. And we come to a stage where the whole of the improvements belong to the tenant. Would you then recommend reduction in the rent?

A.—I would not. It will not be fair to the janmi.

Q.—Have you heard of any social oppression in North Malabar?

A.—I have heard more of it in South Malabar.

Q.—You suggest one year's rent as renewal fee. In the case of kovilagams and devaswams and big janmis where the rent is low would you suggest a change?

A.—Rent being low some change may be effected.

Q.—Have you any objection to fix it at one year's net yield? Renewal fee is payable once in twelve years?

A.—Even then I am afraid it will be too high.

Q.—In the case of kanam holdings in South Malabar is janm value calculated on michavaram? You said that the janm value is to be calculated on the rent payable?

A.—No. It cannot be calculated on the michavaram.

Q.—Then would not the janmi suffer if fixity of tenure is given? Would not the janm value go down?

A.—I do not think so.

Q.—Even in the case of kanam lands, it will not go down in value?

A.—That is my idea.

Rao Sahib V. Krishna Menon:—Q.—You say that legislation is necessary because there is oppression of the tenants?

A.—My point is this. Tenants should not be unjustifiably evicted.

Q.—That is not because it is against law?

A.—Certainly not.

Q.—It is not against custom also?

A.—No. It is not against custom.

Q.—It is only on a consideration of the economic conditions that you suggest that?

A.—That also I should think. Moreover, it causes a lot of ill-feeling among the people.

Q.—It is said that some of those kanamdars who have been having melcharths recently are now agitating for legislation against melcharth?

A.—Yes.

Q.—It is not on economic grounds?

A.—I cannot say. I do not know what motives are working in their minds.

Q.—So the object of legislation is to see that cultivation is improved and the progress of the country is ensured?

A.—That is one of the reasons.

Q.—Suppose we say all grievous evictions should be put an end to so long as the tenant pays his rent regularly and he does not do anything against the interest of the janmi; if we put some such restriction, do you think that will satisfy the present requirements?

A.—If the tenants will not be unjustifiably evicted by any other means, then it is as good as the one I have suggested.

Q.—If any means can be found by which the tenants will not be unjustifiably evicted, you think that as good as permanent occupancy right being given?

A.—Yes.

Q.—Do you want that to be extended to persons who do not cultivate the land?

A.—I want that for all.

Q.—Do you think an Arbitration Board in Malabar composed of the Collector and one or two members with summary powers would do this?

A.—I do not think.

Q.—On what does the value of a land depend?

A.—It depends upon the income or produce that the janmi or the kanari gets.

Q.—It does not depend upon the power of the janmi to giving it to anybody he likes?

A.—No.

Q.—If at all it depends on that it is only a temporary advantage and ultimately it must rest on the produce?

A.—Yes.

Q.—You say that kovilagam lands have low rents. Can you say what is the reason for it?

A.—I cannot say what induced the landlord to let it out on low rent. That may be due to various reasons.

Q.—Is it true that most of these lands were originally given for service to be rendered?

A.—There are some such instances.

Q.—When you say that rent has to be increased, you totally ignore the services he has rendered?

A.—You need not ignore that; for, the labour has been done in the land belonging to the janmi. There may be some increase made in the rent.

Q.—But the whole benefit should not go to the janmi, I suppose. How much do you think would be fair to be given to the janmi and how much to the tenant?

A.—That is a difficult question to answer. That must depend upon the rent he is already paying and the full income which can be got.

Q.—Suppose the existing rents are acknowledged to be fair and provided there is no rackrenting, the tenants will feel satisfied provided there is no fear of eviction?

A.—I think they will be very much satisfied.

Q.—Is it because that they don't get their returns from their lands that most of the janmis in North Malabar are in debt?

A.—I do not think that is the reason.

Q.—Are you aware the janmis are not keeping pace with the progress of times generally?

A.—It may be.

Q.—In education, business habits, and all these they have been lagging behind?

A.—It may be so.

Q.—Naturally they must to a certain extent feel the result of competition?

A.—Yes.

Mr. Kotieth Krishnan :—Q.—You have not taken any active part in the agitation regarding the tenancy question?

A.—I have not.

Q.—I take it then you keep an open and impartial mind in this matter?

A.—Yes. If my not taking part in any agitation will keep my mind open, then my mind is open.

Q.—And it is your settled conviction that for the peace and prosperity of Malabar it is necessary that this arbitrary power of eviction by the janmi must be taken away?

A.—That is my opinion.

Q.—And that is on account of the fact that you have seen several unjustifiable evictions and melcharths in the course of your experience as a vakil for the last 21 years?

A.—It is so.

Q.—Your service as a commissioner has been requisitioned not only by the Tellicherry Court but also by other courts?

A.—Some other courts in North Malabar also.

Q.—May I take it from you with your experience for the last 21 years that nearly 70 per cent of the suits are by landlords against tenants for eviction?

A.—I may say a very large percentage.

Q.—And after the introduction of the settlement and the janm registration in Malabar there are very few cases of janmam disputes in civil litigation?

A.—I believe such disputes are very few.

Q.—So that eviction suits in the register would more or less represent suits by landlords against tenants for the recovery of land?

A.—That necessarily follows from the previous answer.

Q.—And not for arrears of rent?

A.—That also.

Q.—And suits by anandravans to set aside alienations by karnavans, in the Tellicherry Principal Munsif's Court where you are mostly practising, will it represent 2 per cent of the litigations?

A.—It may not be more than 5 per cent.

Q.—In most of the suits for eviction there will be claim for rent also?

A.—Yes.

Q.—And in almost all those cases tenants plead payment of rent either by production of receipts or by saying that no receipts have been granted.

A.—Yes.

Q.—Have you heard of any case in which janmis have disowned receipts passed by them?

A.—I have heard.

Q.—Many cases?

A.—Some cases.

Q.—Do you think there are janmis here who are not in the habit of granting receipts for money paid to them?

A.—There are some instances like that.

Q.—My point is that by the mere fact that the janmi brings suit for eviction claiming arrears of rent you cannot say that they are all real. In your experience as a commissioner in almost all improvements that you have valued except in the case of paddy lands there are dwelling houses which you have to value in eviction suits?

A.—Yes.

Q.—And in very many of these cases these tenants have been evicted out of their homesteads?

A.—Certainly.

Q.—That is a standing grievance, in Malabar?

A.—Yes.

Q.—And in your experience you have found that there are more suits for eviction of garden lands than wet lands?

A.—In North Malabar it is so.

Q.—In calculating the value of a tree you said that you count the nuts. I take it you count the tender ones right up to the ripe ones.

A.—Yes. But we make some allowances for the fall in the yield for the subsequent years. In some cases we make allowances for increase also. Some trees may not have reached their full bearing stage.

Q.—Suppose you find 50 nuts in a fully grown up tree. You will put it at 25.

A.—I cannot say it is half. We make deduction for subsequent low-yielding capacity.

Q.—Will it be about half? I have seen many cases like that?

A.—I cannot say it will be half. A little more than half.

Q.—The age you reckon approximately?

A.—Yes.

Q.—Height will depend upon the nature of the soil?

A.—That is one of the considerations; then the appearance of the tree and several other considerations have to be taken into account.

Q.—In your experience to what age will a coconut tree live on dry land?

A.—For more than 100 years.

Q.—And even at that age some of them yield?

A.—Yes.

Q.—At the age of 60 you have seen many trees yielding properly?

A.—Yes.

Q.—In fixing the value for the purpose of the Tenants Improvement Act you don't take the age beyond 60 into consideration?

A.—I have seen it calculated up to 70. Suppose the age of the tree is taken to be 65, and the tree is 30 years old now. Then the remaining period of its life will be 35 years and we base our calculation on that.

Q.—Supposing the total number of nuts is 50. For the purpose of calculation you take it to be 30 or somewhere about it and then you capitalize the value according to the Act. What is the present rate?

A.—That differs for different localities.

For Kottayam except the Kuthuparamba Deputy Tahsildar's jurisdiction I think the value is 46 and odd rupees. Beyond that I do not exactly remember.

Q.—Then you deduct the revenue and the cost of maintaining the tree?

A.—Yes. We generally take it as 5 annas, both together.

Q.—Then you deduct that from the gross yield and with reference to the tables find out the amount?

A.—Yes.

Q.—What period does it generally take for a coconut tree to reach full bearing stage?

A.—It depends upon the nature of the soil. If it is good soil, it begins to bear in six or eight years. If it is planted in an upcountry paramba then it will take 20 to 25 years. But there is this fact. The tree which begins to bear early dies early. The other lasts longer.

Q.—You said that in the case of garden lands two-thirds of the net yield may be given as rent. You have some experience of Kadathanad. You know that a large portion of Kurumbranad taluk belongs to Kadathanad Raja. He takes from his tenants only a few fanams. So, if this principle were to be applied the Raja will be getting 300 times what he is now getting in the shape of rent?

A.—Yes.

Q.—You say that tenants of buildings and melpattam tenants need not get fixity. But in very many cases you have seen buildings let out along with an agricultural holding in rural areas? In such cases do you think the tenant should be given fixity?

A.—Such must share the fate of the holding.

Q.—You mention about Uppila tree being a spontaneous growth? Is it not used for growing pepper vine?

A.—Every tree can be used for that.

Q.—As such it will be valuable?

A.—Yes.

Q.—Is it not in the fixing of the economic rent that the janm value depends? Is it in the creating of the occupancy right?

A.—It is in the fixing of the economic rent by legislature that this value depends. That is my impression.

Q.—You said that by evicting a tenant from his holding after paying the value of improvements the janmi will be getting 2 to 3 per cent? That I suppose includes the value of the house. If the house is a big one, will you be getting that interest?

A.—What I say is if there is a big house built by the tenant and the tenant is evicted after paying the value of the house the amount paid by the janmi to the tenant as value may not even give this percentage of interest.

Q.—Supposing it is a garden, what will be the percentage?

A.—In that case it will be about 5 to 6 per cent.

Q.—You say that it is not profitable to invest money on houses in the municipal areas and yet it is your experience that several houses are being built?

A.—Yes, that is for residential purposes.

Q.—And also for letting out?

A.—Not big houses.

Q.—You say there is some difficulty in collecting rent. There is also some difficulty in collecting Government revenue? So there is nothing unusual about it?

A.—No.

Q.—You know the Vanians of North Malabar? They now style themselves as Nayars?

A.—Yes.

Q.—In Chirakkal taluk do you know that one Vanian was evicted on account of his having had his name as 'Nayar'?

A.—I am not positive. I have heard some such talk.

Q.—In the villages you know that several Nayar houses have got *melkoimma* over low castes and they interfere when there is a dispute between the low caste people and others.

A.—The *melkoimma* is to interfere.

Q.—Are there not cases where he has oppressed?

A.—I am not aware of such cases. But there must be oppression in the ordinary course of things.

Mr. H. R. Pate :—Q.—You now said about settlement of disputes by janmis or *melkoimmas*? Do you say that there is evil in it?

A.—When it results in evil consequences it is an evil. From the janmi's point of view he is right. The janmi is trying to do some evil on account of some ill-feeling caused by the tenant.

Q.—When you deprive the janmi of the power of eviction you deprive him also of the power of increasing the rent?

A.—It need not interfere in that way.

Q.—And to obviate that loss and reduce it to a minimum you would provide that the rent that he should receive should be fixed at the maximum obtainable from that land?

A.—I don't say maximum rent; but reasonable rent.

Q.—If you say that the economic rent is the compensation to the janmi for the loss of the power to raise his rent, it must follow that the economic rent must be fixed at a figure equal to the maximum rent which under present conditions a janmi can raise?

A.—It must be fixed at a reasonable rent. That is all.

Q.—Practically you are prepared to fix it at a certain proportion?

A.—Yes.

Q.—It may be equal or may not be equal to the economic rent?

A.—If by economic rent what is meant is maximum rent, it is so.

Q.—It may not be equal?

A.—Yes.

Q.—In those cases the janmi must necessarily suffer?

A.—If the janmi will be satisfied with reasonable rent, there is no chance of his suffering at all.

Q.—How would you calculate and draw up a general rent for the whole of Malabar? Would you have the tenant to complain to the Court if his rent is in excess?

A.—I suppose something must be done through Court. Otherwise I do not see how it could be worked.

Q.—That is to say any tenant who considers that his rent is in excess is at liberty to bring a suit for determination of rent?

A.—Yes.

Q.—Do you think there will be many suits on that account?

A.—There may be many.

Q.—On the whole it will tend to promote litigation?

A.—It may.

Q.—Do you think it is fair when you say that the janmi's share should be two-thirds?

A.—I suppose that will be fair.

Q.—It will be for all the period covered by the lease and the lease will not be terminable?

A.—But renewals will have to be effected.

Q.—This rent which you fix will continue throughout the period?

A.—At the time of renewal the rent may be reassessed.

Q.—Then the rent will continue for twelve years?

A.—Yes.

Q.—But you fix the same rent in the case of good lands as well as poor lands? I think there will be some hardship if you fix this rent throughout twelve years?

A.—There may be some little hardship but it will be a very difficult question to work out rent every year?

Q.—You object to the conversion of paddy lands into garden except with the janmi's consent?

A.—Yes.

Q.—What is the chief reason for your objection?

A.—The supply of paddy which is the staple food crop, will be reduced.

Q.—But will the tenant like this conversion if it is not likely to pay him?

A.—My idea is, at the time of eviction, after this conversion, he can claim value of improvement in a lump sum and the janmi is put to difficulties.

Q.—The proposal is in the interests of the janmi?

A.—Yes.

Q.—In North Malabar generally speaking, there is a class of janmis who are tenants and a class of tenants who are janmis?

A.—There are more of that class—janmi—tenants.

Q.—That is one of the reasons why social oppression is less rampant in North Malabar than in South Malabar?

A.—Yes.

The President:—Q.—Is the maintenance given to the anandravan of a tarwad usually one *edangali* of paddy a day? It is a very poor maintenance. What is the reason for such low maintenance being granted or decreed by Courts?

A.—It may be due to the smallness of the income of the tarwad.

Q.—Yesterday one witness was telling us that in a tarwad which had a net income ranging between 10 and 15 thousand rupees a month and in which there are 30 to 35 members the lower Court decreed Rs. 25 for an anandravan of the tarwad while the District Court decreed Rs. 50. That does not seem to be reasonable in the case of a tarwad which gets such a large income.

A.—I suppose it is an exception. But what induced the Court to decree such a low amount I cannot say.

Q.—So in the generality of cases the smallness of the maintenance decreed by the Courts is due to the poverty of the tarwad?

A.—I should think so.

Q.—Can you say what time it takes for a jack tree to yield after it is planted?

A.—12 to 15 years.

Q.—Irrespective of the soil?

A.—Of course, soil has something to do with that.

Q.—You say that in South Malabar *michavaram* is generally very low, in the case of *kovilakams*. That means the *kanam* tenant lets the land out to a *verumpattamdar*; the rent which he gets from the *verumpattamdar* is either full economic rent or more than that, because you say he gets seven-eighths. So there is a balance between this and what the *kanamdar* pays to the *janmi*. Of course there is the *kanam* advance on which interest is due. But it is generally a small amount. It constitutes a very small fraction of this large balance in the yield which the *kanamdar* gets himself. The *kanam* lease lasts for 12 years. Every year the *kanamdar* makes this profit. The renewal fee is only a very small fraction. So the *kanamdar* gets a pretty substantial sum for which really he has no claim. How do you justify it? Is it on account of the fact that lands were originally obtained by the *kanamdars* unreclaimed and is it as a reward for the land being reclaimed by them that the *kanamdars* are enjoying this large income?

A.—It may be due to that also, I cannot exactly say what exactly it is due to.

Q.—Don't you think that in the event of fixity of tenure being given the *janmi* is entitled to a substantial share of this large profit which the *kanamdar* now gets for reasons which we do not know and which are not apparent to us from the facts before us at the present time? You understand me: Suppose in the case of a land the *kanamdar* gets Rs. 1,000 every year. He pays only 100 rupees *michavaram* to the *janmi*. The interest on the *kanam* amount is, say, Rs. 50 and the annuity of the renewal fee which he pays is Rs. 50 so that he gets every year for himself about Rs. 800. Don't you think that in the event of fixity of tenure being given to the *kanamdar*, a substantial share of this Rs. 800 should be allotted to the *janmi* in the shape of renewal fee or in a lump sum payment or in some such shape?

A.—The *janmi* is not actually losing what he has been getting for the last so many years.

Q.—But you ignore the fact that the *janmi* can take the land back—can turn the *kanamdar* out and set up his own cultivation or directly lease it out to a *verumpattamdar*. He need not even cultivate the holding himself. He can get full rent by giving it to a *verumpattamdar*?

A.—I should think so.

Q.—What is the answer to the question that I put?

A.—In spite of the fact mentioned by you, my opinion is that what has been going on for so many years should be respected and no portion of this unearned income need be given to the *janmi*.

The President:—Thank you very much Mr. Narayanan Nayar.

The Committee rose at 10-15 a.m.

X

Written statement of Mr. K. S. Narayana Ayyar, Vakil, Badugara.

Disabilities.

I (a) (1) & (2) The liability of their lands being given on *melcharth* for no reason.

(3) Their being evicted when another person offers a higher rent, in some cases, to spite the prior *verumpattamdar*.

(4) & (5) The *kanamdar* or *kuzhikanamdar* would have created a sub-*kanam* or given a *verumpattam* lease for a term after receiving a premium (*Manusham* in North Malabar). To deprive the sub-*kanamdar* of his *kanam* amount or *verumpattamdar* of his term, a *melcharth* is taken from the *janmi* by the *kanamdar* in the name of a creature of his. Sometimes, the rent payable to the *janmi* by the *kanamdar* is not paid to deprive the sub-*kanamdar* of his sub-*kanam* amount. Sometimes the rent, though paid, is stated by the *janmi* to be in arrear, in collusion with the *kanamdar* to deprive the sub-*kanamdar* of his amount. In many cases, for the rent

a charge is created by the kanam and kuzhikanam tenants in favour of the janmi and the rights of sub-kanamdars and verumpattamdars would be only subject to this right of the janmi. Sometimes rent for 50 or 60 years even is stated to be in arrear in suits for redemption.

(6) If the sub-lessees have improvements or if they have a term, they labour under the same disabilities as in (4) and (5) above.

(b) They seem to be peculiar to Malabar. In other places, there are not so many intermediaries under the head landlord as in Malabar. The right to set off the value of the sub-tenant's improvements is, I do not think, recognized in other districts. Further the right to make improvements even is not recognized in other districts.

(c) & (d) In North Malabar, the improvements consist mainly in planting coconut, jack, areca and vines and in making houses, etc. The tenant can easily prove that he made the improvements. In South Malabar, especially in Palghat and Walluvanad taluks, the improvements consist in converting parambas into wet lands, converting single crop lands into double crop lands and in deepening or improving second crop lands. They are difficult of proof and in this way, the tenants of South Malabar especially of Palghat and Walluvanad are under a handicap.

Evictions.

II (1) (a) In some cases, the evictions are made on unjustifiable grounds. In the case of kanam and kuzhikanam tenants, evictions by melcharthdars are on unjustifiable grounds. In the case of verumpattamdars, it is rather the other way. He leaves a large amount of rent in arrear. He refuses to surrender the land also. He sometimes leaves the land uncultivated to spite the landlord also.

(b) The melcharths are generally given with some ulterior motive.

(2) I do not think. So far as I know, there is no such janmi in Kurumbranad taluk.

Remedies.

III (a) to (f) I do not think any radical change is necessary. No grant of occupancy right need be given in the case of any tenant.

(i) The janmi should be allowed to claim only six years' rent even at the time of redemption.

(ii) A kanam or kuzhikanam tenant should not be allowed to be evicted if he is prepared to take a renewal at the end of the customary period and if he does not leave the rent in arrear.

(iii) A verumpattamdar or a tenant from year to year should not be evicted if he does not leave any portion of the rent in arrear. In years of bad monsoon the landlord should remit 20 per cent of the rent to the tenant and for payment of another 20 per cent, one year's time should be given. The Government on the report of the local officers should declare in which year there was a failure of monsoon. This declaration should be made without any unnecessary delay.

IV (a) (1) I have no objection; but, I think, even that is unnecessary if my views on question III are accepted.

(2) I would make a distinction.

(b) Urban—One-fourth of an acre.
Rural—One acre.

(c) (1) He is liable to be evicted.

(2) He also does not act *bona fide*.

(3) In such cases, they should be transferred with the holding.

(d) (1) & (2) I do not think that will work satisfactorily. I do not think many a tenant would be prepared to purchase the rights of the janmi.

V. I do not think it works very satisfactorily. Much depends upon the idiosyncrasies of individual commissioners. Courts do no more than adopt the accounts of the commissioners. In many cases, the improvements of the janmi go to the tenant and vice versa. As indicated in the answer to question I (c) and (d), the tenant is not able to prove that he made the improvement at the time eviction takes place. A system of public registry and an inspection by some competent authority as soon as information is given by the tenant whether any and what improvements have been made by the tenant would be of some use.

Compensation.

VI. (a) & (b) The market value which the person adversely affected would get for his rights.

(c) I do not think.

Rent.

VII. (a) & (b) The present rent may be taken as reasonable in every case. Trying to fix another standard would only lead to endless litigation.

Renewal fees.

VIII. (a) I would fix it at four times the Government assessment.

(b) Twice the rent reserved. In the case of kanam holdings, rent would be the rent actually paid plus the reduction allowed as interest on the kanam amount. The interest on kanam is generally allowed at 5 per cent.

General.

IX. The answer is given in answers to question III (a) to (f).

X. (a) to (c) The premium given (manusham) for melcharth is unusually high. Melcharths are not given with the best of motives. So what I would suggest is the rate of rent and rate of renewal fee should be fixed by Government. It should always be presumed that there is a contract on the part of the landlord capable of being specifically enforced. If the tenant is not willing for that, the janmi should be at liberty to evict himself or to give a melcharth. Some legislative provision should be made to enable the tenant to deposit the renewal fees, etc., in court within three months of the expiry of the term. Otherwise there would be collusion. Many innocent persons would suffer.

Saturday, the 12th November 1927 (Afternoon).

Oral evidence of Mr. K. S. Narayana Ayyar.

The President :—Q.—Mr. Narayana Ayyar, you are a member of the Badagara Bar?

A.—I am a member of the Badagara Bar.

Q.—Of how many years' standing?

A.—Of 17 years. At Badagara for six or seven years now and for the rest of the period at Nadapuram in Kurumbranad taluk.

Q.—Do you belong to North Malabar?

A.—No; I belong to Palghat in South Malabar.

Q.—Do you own any lands in North Malabar?

A.—No, I don't; but I own some lands in South Malabar in Walluvanad and Palghat taluks, both janm and kanam.

Q.—Are you a big landholder?

A.—No, I am not.

Q.—May I know the extent of your holdings?

A.—About 40 acres of janm lands and 60 acres of kanam lands. Both these are wet lands which have parambas also attached to them.

Q.—Does it not constitute a pretty big property?

A.—My idea is that a man who owns even 100 acres of janm lands cannot be called a janmi.

Q.—Have you any kanam tenants under you?

A.—No, I have only verumpattamdars who are cultivating my lands.

Q.—What about your kanam lands?

A.—They are also cultivated by the verumpattamdars.

Q.—Do you hold the lease of 60 acres all under one janmi?

A.—About 50 acres of land I own under one janmi.

Q.—Are they double crop lands or single crop lands?

A.—They are mostly double crop lands.

Q.—What assessment do you pay for these 50 acres of kanam land which you hold under one janmi?

A.—I pay nearly Rs. 300 as assessment.

Q.—And what is the kanam amount?

A.—Nearly Rs. 1,600.

Q.—And michavaram? What is it that you pay to the janmi?

A.—Now I pay 195 paras of paddy and some money in cash, nearly Rs. 60.

Q.—What renewal fee do you pay?

A.—I took a renewal last year and I paid Rs. 3,000 excluding registration and other expenses.

Q.—May I know who your janmi is?

A.—Thiruyalayanat devaswam, the uralars of which are the Kuthiravattath Nayar family.

Q.—What do the verumpattamdars pay you on these 50 acres of land?

A.—Though nominally they have to pay a little over 3,300 paras, I generally realize about 2,000 paras every year.

Q.—Your janm properties also are mostly two crop lands?

A.—Yes.

Q.—What rent do you get from your verumpattamdars on your janm property?

A.—About 2,750 paras every year.

Q.—It comes to about 60 paras per acre?

A.—Yes.

Q.—What do you think the verumpattam tenant gets excluding cost of cultivation?

A.—So far as the Walluvanad lands are concerned, my impression is that they will be able to pay the rent payable to me from the second crop alone. There the second crop is more than the first crop. Deducting the cultivating expenses, etc., from the first crop the balance will be their profit.

Q.—Roughly how many paras of paddy?

A.—After meeting all expenses it may come to about 1,000 paras of paddy.

Q.—So they get a fourth and you get three-fourths and you pay the assessment?

A.—Yes.

Q.—In answer to question I (a) you say "the liability of their lands being given on melcharth for no reasons". What do you mean by "no reasons"? Will you kindly explain?

A.—The tenant won't be at fault and still their lands are liable to be given on melcharth.

Q.—In answer to question I (3) you say "their being evicted when another person offers a higher rent, in some cases, to spite the prior verumpattamdar". Why should not the landlord get a higher rent if the present rent is low?

A.—If a man gets a fixed rent and if the tenant pays up his dues regularly he should not be disturbed.

Q.—If the full economic rent is being paid, why should another man volunteer to pay a higher rent?

A.—Supposing the existing tenant pays 1,000 paras of paddy every year as rent for several years, a neighbour of his who would like to cultivate the land himself might think, "Why not I cultivate the land, I shall offer 100 paras more

pattam" even though the tenant in possession pays the full economic rent. I should think that it is more out of speculation that he volunteers to pay more.

Q.—If the landlord can get a higher rent without rack-renting the tenant, there is no reason why he should not accept the offer of the man who offers a higher rent?

A.—As I said, after all, the offer of the other man is mere speculation.

Q.—Is it your case that the man in possession should not be disturbed even though he may be paying a low rent or favourable rent?

A.—My case is that the man in possession, if he fulfils all his obligations properly, should not be disturbed.

Q.—You therefore proceed on the assumption that the existing rents are proper?

A.—Yes, I do believe it to be so.

Q.—Then you don't concede that there are low rents which are capable of being increased without resulting in rack-renting?

A.—As a rule—there might be stray cases to the contrary—I consider that the existing rents are very fair and not too low.

Q.—In answer to (c) and (d) to question I at the end of the paragraph you say "They are difficult of proof and in this way, the tenants of South Malabar especially of Palghat and Walluvanad are under a handicap." Won't the leases contain all these particulars, stipulate the improvements, etc., in the land?

A.—In the case of these leases they are not generally mentioned. Difficulties arise mainly due to want of details in the lease deed. At the time of the renewal the janmi also will not be in favour of these details being mentioned in the lease deed.

Q.—In answer to question II (a) you say "In some cases the evictions are made on unjustifiable grounds." Which ground do you consider to be unjustifiable?

A.—I shall come to North Malabar. The tenant would have made improvements in the property. Here in North Malabar the improvements in the gardens consist of planting coconut trees, pepper vines, etc. Some trees would not have begun to yield at the time of the renewal. At this time a neighbour of the tenant or another man finding out that he will not have to spend much on further improvements would approach the janmi and offer very good terms and would secure a meloharth. That I consider to be certainly unjustifiable.

Q.—Can you give us any instances like that?

A.—No, I can't quote particular cases. This is the impression which I have gathered from my 17 years' experience at the Bar in North Malabar. I know that several cases like that have occurred but I can't mention personalities.

Q.—Have you at any time appeared for a janmi in an unjustifiable suit for eviction of that sort?

A.—I have appeared for both the tenant as well as the janmi in my professional capacity.

Q.—Then you say that "the melcharths are generally given with some ulterior motive". Will you kindly explain?

A.—We have got many under-tenures. Here in North Malabar we have a janmi, under him there is a tenant and under him there are several other tenants.

Q.—Is that what you have explained in answer to question I (4) and (5)?

A.—Yes.

Q.—In answer to question III (a) to (f) you say "I do not think any radical change is necessary. No grant of occupancy right need be given in the case of any tenant. The janmi should be allowed to claim only six years' rent even at the time of redemption." Why should you limit the period to six years?

A.—The thing is this. Now, in Malabar we have the Marumakkattayam law of inheritance. One karnavan might die, all pattam receipts and other things which ought to come into possession of the next man may not come to his hands. Supposing they are lost the janmi may bring a suit for arrears of rent even though rent would have been paid regularly. I know of instances where arrears of rent for 5 and 60 years have been sued for. What happens is, during this long period

karnavans would have changed and even the tenants' interests would have changed hands. So it is that I want to restrict the period for which the janmi could claim arrears of rent.

Q.—Then you say "A kanam or kuzhikanam tenant should not be allowed to be evicted if he is prepared to take a renewal at the end of the customary period and if he does not leave the rent in arrear." You say this, I believe, on the assumption that the existing rents are fair rents and not under the contingency when the rents are low?

A.—Now renewals are taking place. Generally when the renewals take place janmis do not enhance the rent to a considerable extent. If the tenant is paying twenty rupees, he (janmi) might enhance the same by a rupee or two. That itself shows that the rent which the tenant pays is not very low. Generally every janmi will insist upon some increase in the rent at the time of renewal. In my own case in the particular holding michavaram was increased from 180 to 195 paras. All these things would go to show that the existing rents are not capable of much increase.

Q.—So this proposal of yours would not permit the landlord to take back the land for his own cultivation with the expansion of his tarwad?

A.—In cases where the landlord wants it for his own *bona fide* purposes it could be done. Janmis do not cultivate the lands themselves even after eviction. They lease them to another.

Q.—Now, supposing in future owing to a change in the outlook upon life and owing to economic pressure and other causes the janmi wants to cultivate his lands himself?

A.—All that I can say is that I don't approve of having a legislation for a future contingency. Future legislation could interfere in case of such a contingency.

Q.—In regard to rent you say "A verumpattamdar or a tenant from year to year should not be evicted if he does not leave any portion of the rent in arrear. In years of bad monsoon the landlord should remit twenty per cent of the rent to the tenant and for payment of another twenty per cent one year's time should be given." When these rents are fixed, I suppose they are fixed on the basis of the average income to the tenant taking good years with the bad?

A.—In years of bad monsoon there will be complete failure of crops and I am of opinion that some concession should be made to these tenants. Many of these verumpattamdars do not become rich by cultivating lands though they will be able to get on in a decent manner. They won't be able to provide for rainy days. So it is I say that the loss should be shared both by the tenant and the landlord owing to the failure of the monsoon.

Q.—What is the good of remitting only twenty per cent of rent when the crop has completely failed?

A.—Even in years of failure of crops owing to weather conditions, we would be able to realize one crop. So far as my experience goes there has been no failure of crops in both the seasons together in a year.

Q.—With reference to the working of the Tenants Improvements Act you say "I do not think it works satisfactorily. Much depends on the idiosyncrasies of individual commissioners. In many cases the improvements of the janmi go to the tenant and vice versa." You are referring to the reclamations in South Malabar?

A.—No; not only there; I refer to North Malabar also.

Q.—What in your experience is the effect of this Act on evictions?

A.—I do not think it has got any material effect. It has come to this; people have begun to think that the value under the Act is the market value of the improvement. This Act has not had much say on the evictions. No janmi as a rule goes in for a melcharth. The melcharthdar after all is another tenant and he would pay for the improvements of the existing tenant.

Q.—But does it pay the melcharthdar to pay the compensation?

A.—Now, if he pays Rs. 1,000 he does it in expectation of getting that or something more at the time he is evicted.

Q.—Improvements are perishable, are they not?

A.—Some are, but there are some improvements worth one rupee now which may fetch fifteen or twenty rupees later on.

Q.—You say "A system of public registry and an inspection by some competent authority as soon as information is given by the tenant whether any and what improvements have been made by the tenant would be of some use." Don't you think that notice to the landlord is also necessary?

A.—I have no objection. Notice may issue to the landlord also.

Q.—With regard to compensation you say "the market value which the person adversely affected would get for his rights." I believe you proceed on the assumption that what is proposed to be transferred is permanent occupancy right?

A.—What I say is if a man is to lose any right he must be compensated in money.

Q.—If you take away from the janmi his power of eviction and melcharths, would you not allow him any compensation for the restriction of his rights?

A.—A good janmi will not consider it a loss materially. All that he is particular of is the payment of the proper rent at the proper time, payment of renewal fee and the retention of his right over the property. I don't think the janmi should be paid any compensation for that, for the imaginary loss of his rights. On the other hand he is only deprived of his right of doing harm.

Q.—So you are of opinion that that subtraction from the legal right of the janmi needs no compensation?

A.—No.

Q.—With regard to the renewal fees, you have said that you would fix it at four times the Government assessment. What are your grounds?

A.—I may be permitted to say that since I submitted my written memorandum to the Committee, in fact, this morning, I had a discussion with my brother members of the Bar. They were of the opinion that four times the assessment for renewal fee would be too low. They are of opinion that six to eight times the assessment would be a reasonable amount.

Q.—What is the reason they give? Do they link it with the net yield?

A.—Unless the renewal fee is standardized, it may be detrimental to the interests of parties by opening a door for litigation. So they fix it in relation to the assessment.

Q.—Well, the assessment does not reflect generally the yield of a particular land, although it is expected to do so? Could you say from your experience what multiple of the assessment the net yield of wet lands would be?

A.—In the case of my own land I said I get 2,800 to 3,000 paras and I pay an assessment of Rs. 300. So nearly five or six times that might be the net yield.

Q.—Does that apply to garden lands also?

A.—Yes, that is my view. Take, for instance, an acre of coconut garden which has about 40 bearing trees. Then roughly 1,000 coconuts would be got which will fetch about Rs. 50. The assessment of that garden would be about Rs. 5. The net yield would be eight times the assessment. After deducting the expenses for the upkeep, etc., it will be about six or eight times.

Mr. H. R. Pate:—Q.—By the grant of fixity of tenure to the tenants your idea is that you are not taking away from the janmi any right which could be expressed in terms of money?

A.—I think no marketable right is taken away from the janmi. I think the proposals which I have made in favour of the tenant are already existing practically. I think by my suggestions I am not interfering with the existing state of affairs.

Q.—Then it might be said that it is unnecessary to do anything at all?

A.—There is this weapon which has got the power to do harm in the hands of the janmi. I want that weapon to be taken away under ordinary circumstances. The real venom is the tenant himself. For, it is only when another tenant goes to the janmi and offers better terms that the janmi gives the melcharth.

Q.—Thus the poor janmi is to be deprived of that right?

A.—No janmi would say that it is a loss of right.

Q.—Investment on garden lands in North Malabar is a very favourable form of investment?

A.—My experience is more with regard to Kurumbranad taluk. There paddy lands are considered to be more valuable than coconut gardens.

Q.—Which are the chief subjects of melcharths? Paddy lands or gardens?

A.—Generally the latter.

Q.—And that is because the melcharthdar expects to get more for the value of improvements?

A.—Yes.

Q.—If you confirm the existing tenants in their holdings you will close a very useful source of profit to the investor?

A.—Investment is made not only by taking melcharths. Many estates would be available for sale in the open market. The tenants' rights and the janmis' rights could be purchased. It is not in melcharths alone that investment could be found.

Q.—Your idea of stopping melcharths is to take away from the janmi the power to evict subject to the tenant paying the renewal fee and rent regularly. The renewal fee is graded with reference to the yield of the land. Is it not?

A.—Yes.

Q.—What is your real reason for thinking that the janmi's right to grant melcharths and evictions ought to be curbed?

A.—I think melcharth is a great hardship the tenants. I have no experience of Walluvanad and Ernad taluks. They say that the rebellion itself is due to the grant of unjustifiable melcharths and evictions; but I have no personal experience. People in Kurumbranad are not so rebellious, but, however, people who have been evicted for no fault of theirs feel it very keenly there also.

Mr. Kotieth Krishnan:—Q.—You never took part in any agitation for tenancy reform?

A.—No.

Q.—You had very wide practice at Nadapuram and now have a similar wide practice at Badagara?

A.—Yes, I have some practice. I can't put it as you do.

Q.—You need not feel shy. I say, and I know it, that you were in fact the leader of the Nadapuram Bar?

A.—I had some practice. I was one of the members of the Bar.

Q.—You say in Kurumbranad taluk you have got many instances of under-tenants and sub-tenants under the kanamdars?

A.—Yes, I have referred to them in my written statement in answer to Question I.

Q.—Apart from the question of rent you say "Sometimes the rent though paid is stated by the janmi to be in arrears, in collusion with the kanamdar to deprive the sub-kanamdar of his amount." In such cases you will have no objection to give an additional sort of tenancy to the under-tenant?

A.—Yes. If the immediate tenant is not amenable something like a pre-emption may be given to the under-tenant to remain in possession on payment of proper rent and renewal fee. The janmi should not be made to bear any burden.

Q.—It will be very hard if there is collusion between the janmi and the tenant?

A.—My opinion is that melcharths taken by the under-tenants should also be prevented.

Q.—In most of the cases of the Kadathanad Raja's leases the tenants holding directly under the Raja pay only a nominal rent?

A.—Generally, in the case of other tenants, the assessment of the property is paid by the janmi himself. In the case of Kadathanad Raja's properties, parambas, gardens, etc., the revenue is to be paid by the tenant alone; over and above that for thousand coconuts generally they assess only two or three rupees as rent. But there is another thing also. In the case of the Raja's lands all improvements belong to the tenant and the Raja owns the soil alone.

Q.—In such cases most of those tenants are tenants who have got no tenants under them?

A.—No, they sub-lease these lands to other tenants.

Q.—As regards wet lands the rent that the tenants pay when compared to the verumpattam rent of South Malabar, which is higher?

A.—I think it would be more or less the same.

Q.—What is the renewal fee that the Kadathanad Raja generally takes?

A.—I think he was receiving 20 rupees for every thousand coconuts.

Q.—That will be about ten times the rent that he is paying in addition to the revenue?

A.—Yes. The revenue of the property would be about Rs. 5 and the rent Rs. 2. So it would be only thrice the rent.

Q.—In the Kurumbranad taluk there are five Munsifs' courts?

A.—There are 5½ courts.

Q.—In almost all the courts eviction suits predominate?

A.—I can't say. There are a good number.

Q.—Most of them are suits based on melcharths?

A.—Some are by melcharth-holders and others by janmis for melcharth-holders.

Q.—So most of the eviction suits will be by melcharthdars or by the janmi for the melcharth man?

A.—So far as three courts are concerned, I can say it will be so. In the two courts at Badagara they are more or less the same.

Q.—May I take it that it is your settled conviction that some sort of legislation preventing the janmi from arbitrarily evicting the tenants is necessary for the well-being of Malabar?

A.—Yes.

Q.—You know that in many cases genuine receipts granted by the janmis are claimed as false by them?

A.—Yes. I may also tell you that there is the other thing also. Some tenants produce false receipts and say that rents have been paid.

Q.—Do you think that janmis generally give receipts?

A.—I think janmis generally do give receipts. Sometimes owing to confidence between the parties, receipts may not be taken, and later on if differences arise there will be difficulties.

Q.—May I take it that the system of taking melcharths is increasing?

A.—That I cannot say. I should say that they are on the increase to some extent.

Q.—Is it not the customary practice of relationship between the landlord and the tenant that at the expiry of the term of lease if the tenant is willing to renew on the payment of renewal fee and proper rent, the janmi should give the property back to him?

A.—Yes. That is how I have understood.

Q.—In legalizing such a custom you won't pay any compensation to the janmi?

A.—No, but the rights of the janmi ought to be respected.

Q.—And if the right to do harm is also taken away from the janmi then also you won't pay any compensation?

A.—I believe it is necessary to take away that right. Nobody has a right to complain and no compensation is necessary. I have never heard a janmi say that the right of granting melcharths should be reserved to him.

Q.—Professionally speaking, from your experience, do you think these melcharths are given for justifiable or unjustifiable reasons?

A.—For unjustifiable reasons.

Q.—In the case of reclamations effected by tenants, is it not invariably the practice for the janmi to oppose that claim?

A.—There are instances like that also.

Q.—Often in reclamation leases, the improvements effected by the janmi or the tenant will not be mentioned?

A.—No, it will not be mentioned.

Rao Sahib V. Krishna Menon:—Q.—Generally there is a wide margin of difference between the michavaram paid to the janmi by the kanamdar and the pattam collected by the kanamdar from the verumpattamdar?

A.—Yes.

Q.—It is this difference that causes a lot of difficulty?

A.—I don't know whether that causes any difficulty or not.

Q.—Why should that great difference arise?

A.—In fact there would be substantial improvements belonging to the kanamdar. The renewal fees and other things will have to be paid by him and not by the verumpattamdar, and the kanamdar has to pay michavaram irrespective of the fact whether he collects the rent from the verumpattamdar or not, and as a matter of fact, I don't think any kanamdar would be able to realize the whole of the verumpattam rent. In years of good monsoon he might be able to realize 80 or 90 per cent of what appears in the document, but at other times even less. Over and above all this the kanamdar has spent a large sum of money on his holding.

The President:—Q.—On an average how much would the kanamdar be able to realize from the verumpattamdar?

A.—About 75 per cent of the stipulated rent.

Q.—What is your idea of rent? Do you think it is purely the result of an arrangement between the lessor and the lessee?

A.—Conditions have so adjusted themselves at present that I have not heard any complaint that the present rents are unreasonable.

Q.—Suppose one man comes forward and says that he is prepared to pay 99 per cent of the produce to the landlord. Will you call that fair rent?

A.—No.

Q.—Rent always assumes certain expenditure and certain perquisites. Does it include, in the case of the cultivating tenant, the necessities of life and the cost of living and the cost of bringing up his children?

A.—If a man cultivates about 10 acres of land, after paying the janmi his rent, he will be able to maintain himself. And after all their wants are not very great.

Q.—There is a necessity to consider whether any particular rent is fair or not even though there is an agreement. Is there not?

A.—Yes. I presume that the present rents are fair.

Q.—Unjust evictions ought to be put a stop to and for that compensation is not required?

A.—No compensation is required.

Khan Bahadur Haji Abdul Kasim Haji Sahib Bahadur:—Q.—You said you have got 50 acres of kanam land for which you pay a michavaram of 195 paras of paddy and Rs. 60 to the janmi, but you get about 3,000 paras of paddy from the tenant. Do you think it is fair that the kanamdar should get so much for himself? Supposing the janmi himself cultivates the land through his verumpattam tenants, then he will get more rent?

A.—Unfortunately the janmi, if he wants the land for himself, will have to pay me Rs. 25,000 or Rs. 30,000 to redeem the kanam tenure. If he pays me that amount he can turn me out.

Q.—Will not the lease-deed stipulate the extent of garden lands, wet lands, parambas, etc.?

A.—It will all be clubbed together.

Q.—By giving permanent tenure, don't you think that the janmi's right will go down?

A.—Yes.

Q.—Then don't you think that the janmi deserves some compensation?

A.—Yes. Whatever market value that might be fixed for his lands might be paid to the janmi.

Diwan Bahadur T. C. Narayana Kurup:—Q.—All the money that you have made in North Malabar you have invested in South Malabar because it is more paying there?

A.—It is not on account of that. Possibly there might be little difference. Here in North Malabar lands will have to be paid more than gardens.

Q.—What return you get in South Malabar on janm lands?

A.—We might get about 4 per cent.

Q.—Kanam lands?

A.—About 6 per cent.

Q.—You are not for any radical change in the tenancy law?

A.—I want the existing conditions to be recognized by legislation, that is what I want.

Q.—In the vast majority of cases I take it that the landlords are willing to accept reasonable rent and renewal fee?

A.—Yes.

Q.—And it is only in a very few cases there are melcharths?

A.—I should think so.

Q.—In your opinion, I gather that the verumpattam tenant in South Malabar is the only bad man as regards payment of rent?

A.—Yes. Here also there are some tenants like that.

Q.—Then you would suggest these changes not because there is any injury at present but because you apprehend danger hereafter?

A.—There is danger even now on account of melcharths.

Q.—On a very very small scale?

A.—I can't say that.

Q.—Supposing there are 100 renewals, how many melcharths will there be? Will it be more than one?

A.—I think it should be much more than one. I would put it at 20 for every 100 renewals.

Q.—Have you any idea how many tenants the Kadathanad Raja has under him?

A.—I can't say.

Q.—Would you be surprised when I tell you that there are more than 4,000 tenants under him?

A.—There might be.

Q.—In the Kurumbranad taluk can you say what percentage of the suits as regards recovery of property will there be with reference to melcharths? Will it be more than one per cent?

A.—I have not studied all these statistics.

Q.—In your own case you said you paid Rs. 3,000 as renewal fee. You don't consider that very exorbitant, do you?

A.—I don't consider that as very exorbitant but Rs. 2,000 would, in my opinion, be a fair amount. One year's rent would be the proper renewal fee.

Q.—Would you put that also in the case of garden lands?

A.—Yes.

Q.—And when you said it might be eight times the assessment you assume that it will be one year's net yield. So would it not be better in the interest of the landlord and the tenant to fix it at one year's net yield, and in that case, do you think the tenants will be willing to pay that sum?

A.—Yes. There is no harm in the suggestion. Tenants should be willing to pay that amount.

Q.—You said that rents are not generally raised in the case of garden lands especially in Kurumbranad taluk. That is because the karnavans levy a heavy renewal fee?

A.—No, I don't think so.

Q.—Is it not because the janmis depend more upon heavy renewal fees?

A.—No, I don't think.

Q.—What is the renewal fee taken in Kadathanad?

A.—Generally twice, sometimes thrice the rent.

Q.—You know of very many waste lands in Nadapuram side which have been annually leased out to tenants on nominal rents?

A.—Yes. The tenant has to spend much of his own money on improvements, reclamations of waste lands, etc.

Q.—Therefore you say that the landlord should not be made to receive more than the present rent?

A.—I won't say that in every case. I should think that the rent payable should not be less than the Government assessment.

Q.—And who pays the assessment?

A.—In old deeds no mention is made of assessment as to who should bear the same. Even now there are cases where no provision is made; but generally leases of waste lands say that tenant should pay the assessment.

Q.—So the janmi pays the assessment in most cases?

A.—Yes. If the rent reserved is less than the assessment, then it should be presumed that the rent reserved is over and above the assessment.

Q.—In those cases, then, I take it that your opinion is that the janmi is not entitled to get any increase on account of rent?

A.—In all such cases I would say that the rent should be increased at least to the extent of the assessment.

Q.—You are anyhow of opinion that the landlord's discretion is being interfered with in fixing the rent and renewal fee?

A.—Yes.

Q.—You don't consider that an evil right, do you?

A.—I can't say.

Q.—Supposing in the case of granting fixity of tenure for the tenant we recommend a legislation that the janmi or his anandiravans should be permitted to get back the land for their own bona fide cultivation whenever they desire to do so, do you agree?

A.—I don't think any janmi thinks of cultivating the land himself.

Q.—Now that there will be a Partition Bill for Malabar don't you think that after the passing of that measure many Malayalee youths would come forward and want the land for their own cultivation?

A.—We can consider about that after the Partition Bill is passed. If all the janmis are for cultivating the lands themselves, we could enact the measure by an amending Bill.

Q.—Don't you think that there is a tendency now for the junior members of a tarward to cultivate lands themselves?

A.—I don't think so.

Q.—Don't you find in very many cases tenants claim exaggerated value for their improvements?

A.—I have no idea.

Q.—Don't the tenants claim value of improvements?

A.—Yes.

Q.—In some cases of conversion of waste land into parambas and gardens the janmi does not get even rent enough to pay the Government assessment. That is what you said. Would you request the Government to make a remission of assessment also in years of bad monsoon?

A.—Yes, I would. But whether they would accede to that request or not is another matter.

Q.—You referred to bad monsoon. Rain good for one paddy land will not be good for another. So it is not correct to say there has been failure of crops owing to failure of monsoon. You can't make a general statement like that?

A.—For the matter of that it is not possible to find out a common measure for all.

Q.—So you can't define what is a good or a bad monsoon?

A.—It is not possible to say with scientific or mathematical accuracy. But it is possible to say that generally. There will be stray instances, but generally speaking it could be said so, for example, last year there was a general clamour that there was failure of monsoon and consequent failure of crops.

Q.—In cases of bad monsoon you would grant a remission of rent in favour of the tenant?

A.—Yes.

Q.—But in the case of a very good harvest you won't get anything extra from your tenant as well?

The President:—Q.—You made an observation that the customary rights of the janmis should be respected. May I request you to explain that statement?

A.—I mean by that, regular payment of rent and the renewal fee and the janmi's right not being disputed.

Q.—You said you recently purchased fifty acres of kanam land. Can you kindly tell the Committee what consideration you paid for it?

A.—I paid Rs. 14,000 and odd and I have spent Rs. 2,000 and odd on improvements. I had also to pay Rs. 1,000 and odd arrears of michavaram to the janmi.

Q.—When did you purchase your janm lands?

A.—I purchased four and half or five acres of janm lands for Rs. 11,000 three and half years ago. Those janm lands yield me five hundred and fifty paras of paddy.

Q.—Are these kanam and janm lands situated close together?

A.—No, they are wide apart.

Q.—Are the conditions quite similar?

A.—I can't say they are quite similar.

Q.—Both of them are mostly double crop lands?

A.—Yes, mostly.

The President:—Thank you very much, Mr. Narayana Ayyar, for the valuable evidence you have given.

XI

Written statement of Mr. Y. Ayyathan Kunhambu.

I. (a) The first grievance is that the property has to be surrendered when the janmis give melcharths. As varam, rent and manusham have not yet been fixed, tenants find it impossible to submit to the demand of the janmis and eviction on this account is a great hardship. If on the other hand the tenant wants to retain the property he has to take the lease at a great loss. Thus kuzhikanamdars and verumpattamdars have to pass their days as the slaves of the janmis. The improvements in North Malabar consist mostly of coconut trees which will take 20 to 25 years to bear fruit and to give a proper yield. But the lease will be for 12 years. The possibility of eviction before the trees planted and grown with much labour and trouble begin to yield, forces the tenant to renew the lease on whatever rent fixed by the janmi and whatever manusham demanded by him. In North Malabar a karavanau cannot give a lease of a garden land for a period exceeding 12 years nor paddy land for more than five years. In the lease deeds there will be a clause that the property will be surrendered on demand.

(b) These appear to be peculiar to Malabar. I do not know the custom prevailing in other places. In other places there are Government janmam lands in abundance. These the tenants may permanently enjoy on lease on paying janma-bhogam or fixed purappad. In North Malabar as in South Malabar because the janmam is private, the hardships mentioned under (a) have to be suffered.

(c) In North Malabar there is greater hardship than in South Malabar. The tenants in North Malabar hold on kuzhikanam, verumpattam and verumkozh leases. The majority of them are the so-called depressed classes. The janmis are high-caste Hindus.

(d) I have no definite information on this point.

II. (1) (a) Evictions are generally unjust as a whole. Eviction on suits for the recovery of the so-called arrears of rent already paid—sometimes there will be also decrees to make good some such claims—evictions at the instigation of the followers of janmis, agents and others, evictions on account of opposition in elections, evictions if the tenant does not agree to convert kuzhikanam into kanam at the old rate of 8 annas per coconut tree forming the improvements of the tenant, many evictions on most silly and insignificant grounds—all such acts have greatly increased and are still increasing. I am ready to give several instances of such acts.

(b) The answer to this is the same as that to (1) (a) above. Several instances of this will be found in the Registration department and Civil Courts.

(2) This is somewhat excessive. The so-called high castes cannot plant trees or dig their lands or expose themselves to sun and rain. For this they will hand over with pleasure their barren and wild janmam lands for a low rent to the so-called depressed classes. The lease will be for twelve years. On the expiry of the twelve years or even before that period they will become greedy about the improvements made by the tenants. Then they will remember also the social difference. This is very common. The subsequent consequences are as mentioned in II (1) (a) above.

III. (a) The passing of a law strictly prohibiting melcharths and unjust evictions.

(b) In certain cases permanent rights cannot be given. If a kanamdar is not in possession of the property, he should not be given permanent rights. If kanamdars, kuzhikanamdars and verumpattamdars are in possession of lands, permanent rights should be given to them.

(c) Any kind of tenant holding the land in possession should be given permanent rights.

(d) It is not sufficient if this alone is considered.

(e) By a provision that if varam or rent be in arrears continuously for three years, the tenant may be informed by means of registered notice or through the Court and may be evicted at once or melcharth given.

(f) To the kanamdars referred to in (b) above, no permanent rights should be given. If on account of an increase in the members of janmi's family, they require a place to live in and the Government be of opinion that it is an unavoidable necessity, a tenant may be asked to surrender the property receiving the value of the improvements and if he does not accede to the demand such a tenant too should not be given permanent rights.

IV. (a) (1) The occupant of a kudiyruppu who has constructed a house at his own cost should not be evicted from that house.

(2) No difference need be made. But a tenant who takes a house on a temporary basis for rent can be evicted.

(b) (1) and (2) The house and the yard around it only.

(c) (1) May be evicted.

(2) As the house should be to suit the convenience of the occupier no restriction can be put on it.

(3) The occupant of the kudiyruppu should not be evicted.

(d) (1) That appears to be good.

(2) A law to the effect that the amount thus received should be deposited in the bank and that the karnavan should receive the interest thereon will be desirable.

V. The Tenants' Improvements Act has been of some advantage. But the life of the coconut tree has been fixed at 60 years. As it will take 20 to 25 years for a tree to fructify in some parts, it is not at all advantageous to the tenant that the law should be laid down that he can enjoy the fruits only for 35 to 40 years. The life most of these trees is 100 years. The reduction of the price of coconuts by other rules and the opinion of the commissioners in fixing the rates, cause great hardship to the tenants. So the said Act should be greatly modified.

VI. (a) As there is no persecution whatever from the janmis, no compensation is necessary.

(b) Not necessary.

(c) Not necessary.

VII. (a) From the total produce the necessary expenses should be deducted; the value of the tenants' improvements should be calculated and a deduction of at least 9 per cent of this amount should be made (from the net produce) and one-third of the balance should be paid to the janmi. If there is an intermediary tenant, the value of his improvements should be calculated and he must be paid interest at the rate of 9 per cent on that amount.

(b) Yes. They are too high.

VIII. (a) At the rate of double the rent in the case of kuzhikanam property, sometimes three times and a rate less than that in the case of kozhu lands.

(b) At a rate equal to the rent and in some cases according to the will of the janmis.

IX. Permanent rights are absolutely necessary. If there is any obstacle to this, rent and manusham must be fixed. The lease must be taken paying that amount, and such tenants as are not prepared to do so must be evicted. Such a course would be desirable.

X. (a) The tenants will not get any benefit from this.

(b) Will cause great hardship.

(c) Generally melcharth is taken in the hope of making a profit. Before the tenant is able to enjoy the fruits of the improvements made by him with great effort to give the property to another tenant, is very hard on the former. The latter may be ready to pay any amount. It is very unjust to compel the previous tenant to pay that amount. He might have been paying the rent till then suffering great loss, while he is under the hope of compensating for that loss, to take it away from him and to give the lease to another on increased rent and manusham, is very unjust indeed as every one should admit. The Government themselves should therefore fix a rate and make a law that the lease should be given to the previous tenant.

[Note.—As since translated by the Malayalam Translator to Government.]

Saturday, the 12th November 1927.

Oral evidence of Mr. Yogimadathil Ayyathan Kunhambu.

At the conclusion of Mr. K. S. Narayana Ayyar's evidence, Mr. Kunhambu was examined, this afternoon, in Malayalam.

Mr. Kotieth Krishnan :—Q.—You are a member of the Tellicherry Taluk Board and an elected member of the District Board by the Taluk Board?

A.—Yes.

Q.—You are a merchant in Kadiroor?

A.—Yes.

Q.—You hold janmam properties as well as kuzhikanam and kozhu lands?

A.—Yes.

Q.—The answers that you have given in reply to the questionnaire are all as a result of your experience?

A.—Yes, about 25 years of my experience.

The President :—Q.—How old are you now?

A.—42 years old.

Q.—Do you think there is a very large number of unjustifiable evictions and melcharths going on in your village and around it?

A.—Yes.

Q.—How many instances will you be able to give?

A.—About 10 or 20 instances in my neighbourhood.

Q.—They are all unjustifiable ones?

A.—Yes.

Q.—Have you got a list?

A.—Yes, I have a rough list now, but I shall submit a detailed list giving all available particulars on Monday next.

Q.—Can you give the reasons why they are called unjustifiable in each case?

A.—No.

Q.—And it is your set conviction that this grant of melcharths should be put an end to?

A.—It is impossible to go on with those melcharths. They should be put an end to.

Q.—You say you will produce a list on Monday and you say also you will specify reasons against each case. Why do you consider the melcharth unjustifiable in each case?

A.—Because I believe those melcharths were granted on unjustifiable grounds.

Q.—Are those reasons capable of verification?

A.—I won't be able to substantiate them with evidence. They are mostly due to trifling causes mainly due to misrepresentations made by the kariyastans to their janmis and in connexion with local and municipal board elections.

Q.—Then we have only your statement and no proof?

A.—I cannot give out the private reasons which induced the janmis to evict the tenants or grant melcharths.

Q.—You cannot produce any public records or judgments of courts?

A.—No; I will not be able to do that.

Q.—So it is only your own impression?

A.—Yes.

Q.—You say that the amount paid by way of compensation to purchasers of kudiyruppus may be deposited in the bank and the karnavan authorized to draw the interest accruing therefrom. Will the karnavans and the anandaravans agree to the proposal?

A.—I believe they must like it generally.

Q.—You say that the janmis do not suffer from any disabilities and so they need not be paid any compensation for restraining their rights of granting melcharths and evictions. Don't you think some compensation should be paid to them?

A.—Yes, some compensation may be paid.

Q.—What compensation would you pay the janmi?

A.—When the renewal is made one year's rent may be paid.

Q.—Do you think that the existing renewal fee should be increased?

A.—In addition to the renewal fee a sum equal to one-fourth of the gross produce may be given as compensation to the janmi provided that the holding has increased in value.

Q.—But why should the janmi suffer if the value of the holding has not increased?

A.—I might say that an addition to the renewal fee equivalent to one year's pattam should be paid as compensation.

Q.—Then in regard to rent you say that out of the gross yield of the property after deducting the cost of upkeep, etc., at least 9 per cent of the value of the improvements effected by the tenant may be deducted and one-third of the balance fixed as rent payable to the janmi. If there is any intermediary, 9 per cent of the value of improvements belonging to him may be paid to him. If you work the rent out at this rate, there will be none left to be paid?

A.—In order to get a balance you may decrease the rate of interest.

Q.—Would you not fix the janmi's share as a particular share of the net yield of the property, not taking into account any interest on the value of the improvements effected?

A.—I cannot say.

Q.—You say rents are rising. Do you mean to say rack-renting is prevalent?

A.—Yes, rack-renting is prevalent now in some places.

The examination of the witness was concluded when the Committee rose for the day to meet again on Monday at 8 a.m.

XII

Written statement of Mr. Ashby Brown, Manager, Anjarakandy Estate.

Disabilities.

I. (a) None that I am aware of.

(b) & (c) Does not arise.

(d) I am not acquainted with the land tenures of South Malabar.

I. (1) (a) Not to my knowledge.

(b) No.

(2) I am not aware of any cases of tenants being oppressed by the janmi; on the contrary, in our case, the oppression is from the tenants, scores of them declining to pay the Government assessment on their holdings, which is more than double and treble the amount they pay us as rent, and emboldened by the fact that we are powerless to evict them owing to the ruinous compensation that they are entitled to under the Malabar Compensation for Tenants Improvements Act. The result is that our property is being encumbered and the improvements so much needed to the estate cannot be carried out.

Remedies.

III. (a) It would be a great boon to the janmis situated as we are, to grant us the means of recovering our dues from the tenants in time to meet the heavy Government assessment, by means of the Rent Recovery Act, which would, I believe, relieve the civil courts of a good part of the heavy work that they are apparently burdened with, and if the tenants feel they are in any way unjustly dealt with, they may be at liberty to seek redress through the civil courts.

(b) Should the janmis be granted the relief they seek in recovering their dues, in due time, I see no reason why permanent occupancy should be denied to the tenants who work in harmony with the janmi, but not to all tenants; and the janmi may be allowed to use his discretion in this matter.

(c) To the tenants that are most amenable to reason.

(d) If permanent occupancy right is granted, it should be only to kuzhikanam tenants.

(e) Legislation through the means of the Rent Recovery Act.

(f) Yes, on lands that at any time may be required for the use of the janmi himself.

IV. (a) If there are tenants willing to take any occupancy of kudiyruppus alone, they may do so from the kuzhikanamdars, but not direct from the janmi, as it is liable to cause ill-feeling with the kuzhikanamdar.

(b) No limit is necessary.

(c) It would be difficult to offer any suggestion, as there may be different circumstances to govern each case, and it may be left to the discretion of the janmi.

(d) I do not think a system of compulsory purchase of janmis rights of the kudiyruppu alone would work smoothly and is liable to increase litigation.

(2) I doubt.

V. I have no suggestion to offer beyond the fact that the Act would be a great benefit to the janmis in recovering their just dues without being put to loss and hardship by proceedings through Civil Courts.

VI. If permanent occupancy is granted, the janmi should be provided with the means of levying a just and equitable rent on the holding and recovering it in time to meet the Government demands for assessment.

VII. The rent to be paid to the janmi should be half the net income of the land, after deducting cost of working and Government assessment.

Renewal fees.

VIII. (a) It has never been the custom to recover renewal fees from our tenants, so I can offer no suggestion in respect to this.

(b) I am not aware of the renewal fees payable to other landlords.

General.

IX. I believe that, if the tenant works in harmony with his janmi, he need have no fear of being evicted.

X. (a) None that I can see, provided the tenant is prepared to pay the enhanced rent.

(b) I consider the suggestion very fair.

(c) I have no suggestion to offer.

Monday, the 14th November 1927.

Oral evidence of Mr. Ashby Brown.

*The President :—*Q.—Mr. Brown, you are a big janmi of North Malabar and the owner of the Anjarakandy estate?

A.—Yes.

Q.—The lands were granted by the East India Company to your great grandfather and you have a number of coconut, pepper and cinchona plantations and a vast extent of paddy lands under you?

A.—Yes.

Q.—May I know what assessment you pay to the Government?

A.—Rupees 5,600 and odd.

Q.—How long have you been managing your estate?

A.—Since 1897.

Q.—Will you kindly refer to your written answers? In answer to question II (2) you say "I am not aware of any cases of tenants being oppressed by the janmi, on the contrary, in our case, the oppression is from the tenants, scores of them declining to pay the Government assessment on their holdings, which is more than double and treble the amount they pay us as rent, etc." Who should pay the assessment in these cases under the original contract?

A.—No mention of assessment is made in our leases.

Q.—With the result you pay the assessment?

A.—Yes. And these leases commenced before Government began to assess the lands.

Q.—Further on you say "Emboldened by the fact that we are powerless to evict them owing to the ruinous compensation that they are entitled to under the Malabar Compensation for Tenants Improvements Act. . . The result is that our property is being encumbered and the improvements so much needed to the estate cannot be carried out". Is that the case throughout the estate or only in regard to a portion?

A.—The majority of them. In about two-thirds of the cases.

Q.—Then why do you continue this sort of disadvantageous terms?

A.—What remedy have we? It is ruinous attempting to purchase the property back again. We can evict the tenant, no doubt, but look at the huge compensation we have to pay. A tenant of ours was paying us Rs. 8 as rent, for which property the Government assessment was Rs. 22-14-0. We called upon him to pay at least Rs. 20 towards the payment of assessment. He declined and we had to turn him out for which we had to pay a compensation of Rs. 1,067. Another man has now come forward and taken up the same property at a rental of Rs. 55 a year.

Q.—So you can turn out your tenants if they refuse to pay you fair rents?

A.—Yes.

Q.—Is that not an argument for fixing a fair rent?

A.—If the tenant pays a fair rent, we do not want to evict him at all.

Q.—You are of opinion that the tenant should be made to pay a fair rent?

A.—The landlord must have power.

Q.—If you give him some fixity of tenure, he will pay much better than now?

A.—I doubt it.

Q.—He will become solvent. If he is given fixity of tenure subject to fair rent and fair renewal fee, if a formula is found for fixing fair rent and fair renewal fee and the tenant is made not to dispute the landlord's title, don't you think that the conferring of fixity of tenure would make him much more solvent?

A.—Yes, certainly.

Q.—And then the provisions of the Estates Land Act which you want to be applied in the case of the tenant could be applied much more effectively because the tenant will have a marketable interest in the land?

A.—Yes.

Q.—So under those conditions, provided a fair rent and renewal fee could be fixed and rents could be recovered in time, you have no objection to the grant of fixity of tenure to the tenants?

A.—No, we don't in our estate take any renewal fee at all. But I have no objection to the proposal.

Q.—The Estates Land Act gives the landlord the power to attach the movable property of the tenant and the crop on the land. Do you favour the grant of that power in Malabar?

A.—Yes, I do.

Q.—Don't you think it will lead to abuse. On the East Coast of this Presidency since this Act came into operation in 1908, there has been a great complaint that this power has been very largely abused by the landlord, that the distraint is generally excessive that is to say the landlord's agents attach the properties of the tenant to a larger extent than is required and also that the tenants are put to considerable hardship, and it has also been suggested to the Committee that vesting that power in the landlord might lead even to murders in the Mappilla country, that is, in Ernad, Walluvanad and Ponnani taluks. Do you attach any weight to that objection?

A.—I don't think there need be any apprehension so far as North Malabar is concerned. I can't say much about South Malabar. I don't think there will be any serious breach of the peace consequent on this power being vested in the landlord.

Q.—A milder alternative would be to make the landlord put in an application with an affidavit to a Revenue Court as soon as the rent falls due saying that so much rent is due from the tenant and he has not paid that rent. On receipt of that petition the Revenue Court issues an order through its own agency, the Tahsildar, the Revenue Inspector or the village officer. The crops may then be attached. The tenant can dispute the attachment in the court, but he should not do so before he deposits the arrears in court. Then the court may hear the application on its merits and, if the application is found to be in order, then the attachment may be confirmed; but if the attachment is found to be vexatious, the landlord may be asked to pay compensation to the tenant and the application dismissed. How do you like it?

A.—Yes, that may also be done. I beg to quote an instance. This was where we could not collect the Government assessment from the tenant, so we petitioned to the Collector. The Collector ordered the attachment of the property and the Tahsildar had the property attached and sold in auction. The tenant filed a suit on us for the recovery of alleged excess amount realized. The Government assessment was much more than the rent for one year as I have already stated. The court gave a decree in favour of the tenant and it was in that case that I had the tenant evicted.

Q.—Don't you think that it should be stipulated that the landlord should be entitled to a certain amount as rent exclusive of assessment and the tenant should be entitled to a certain percentage of the produce?

A.—I want some sort of arrangement like that.

Q.—In answer to question III (b) you suggest this remedy but you say "should the janmis be granted the relief they seek in recovering their dues, in due time, I see no reason why permanent occupancy should be denied to the tenants who work in harmony with the janmi, but not to all tenants; and the janmi may be allowed to use his discretion in this matter". We do not want a law for this. If the janmi likes, he can give it even now. So what is the *quid pro quo* you would offer for the legislature enabling you to recover your dues better? If the janmi is a bad janmi even in spite of the fact that the tenant discharges his obligations satisfactorily, he would try to give a melcharth and get more money in that way?

A.—For instance, I build a house near my premises for my servants. Supposing the man who lives there dies and none of his dependents work for me I won't allow them to live there. I don't want to give them permanency.

Q.—Cultivation of land is not analagous to occupation of a house which the landlord builds. Here the connexion between the tenant and the landlord is more intimate than in the case of a house built by a landlord and used by his tenant?

A.—Yes.

Q.—In answer to question III (d) you say "If permanent occupancy right is granted, it should be only to kuzhikanam tenants". Why not verumpattam tenants who are the actual cultivators be also given that right? By verumpattam tenants I mean the kozhu tenants of North Malabar who cultivate the paddy lands taking four or five years' leases, subject to the stipulated conditions?

A.—Yes, he may also be given fixty of tenure. I have no objection.

Q.—When you grant fixty of tenure to the tenants don't you think it is a subtraction of the janmis' present right? To that extent he is entitled to compensation. Is he not? For no reason whatever the janmi may evict a tenant under the present conditions. When that right of the janmi is taken away, should you not pay the janmi some compensation?

A.—I think so.

Q.—Can you suggest what that compensation should be?

A.—We are entitled to a renewal fee in that case.

Q.—If the tenant is paying renewal fee already should he not pay something further than that?

A.—Is not renewal fee itself sufficient compensation?

Q.—You don't think that the present renewal fee should be enhanced?

A.—No, I don't think so.

Q.—Now take the case of paddy land. It is leased for four years. The rent is Rs. 20 a year. At the end of the fourth year the renewal fee payable is one year's rent, i.e., Rs. 20. Now at the end of the fourth year if the tenant says I want to continue on the same terms, assuming that the rent and the renewal fee are fair, you still can say "I don't want you in spite of your willingness to pay me the renewal fee". You are entitled to say that in law?

A.—But there is no reason for that. I don't think there is any necessity for compensation, but if there is legal interference with the janmi's rights then we are entitled to some compensation.

Q.—What do you think a fair compensation should be?

A.—I should say one year's rent would be a fair amount.

Q.—And in the case of garden lands?

A.—The same thing may prevail.

Q.—Then in answer to question III (f) you say "Yes, on lands that at any time may be required for the use of the janmi himself". If the janmi is given indefinite right to take back for himself his lands then where is the permanency right which you are conferring on the tenant? Take the case of a janmi who does not cultivate the land himself. One fine morning he might come round and say, I want the land

for myself. Then where is the permanency of tenure? The janmi will get his land on the plea that he wants the land for his own cultivation but might actually cultivate the same by private arrangement through a tenant of his and say that he is cultivating the land himself through his agent. I will now put one suggestion to you. Assuming that the legislature is going to say, "Hereafter we are going to grant fixty of tenure to tenants. We will give you janmis some time, 4, 5 or 6 years to decide how much land you are going to cultivate yourselves after, which period you will not be able to get back your lands." Do you think that will be a fair solution of this question?

A.—I don't see any objection to that.

Q.—In answer to question IV (a) you say "If there are tenants willing to take any occupancy of kudiyruppus alone, they may do so from the kuzhikanamdars, but not direct from the janmi, as it is liable to cause ill-feeling with the kuzhikanamdar." Presumably you have misunderstood the question?

A.—Yes. I have misunderstood the question.

Q.—You won't give permanent occupancy right to kudiyruppus with the parambas attached to it?

A.—No.

Q.—But what about paddy lands?

A.—There are no kudiyruppus in the paddy lands. Kudiyruppus are all in parambas in North Malabar.

Q.—In answer to question V you say "I have no suggestion to offer beyond the fact that the Act would be a great benefit to the janmis in recovering their just dues without being put to loss or hardship by proceedings through civil courts." I don't understand that answer. Possibly you are referring to the Estates Land Act?

A.—Yes. I think I must have mistaken it for the Estates Land Act.

Q.—Then in answer to questions VI and VII you say "If permanent occupancy right is granted, the janmi should be provided with the means of levying a just and equitable rent on the holding and recovering it in time to meet the Government demands for assessment. The rent to be paid to the janmi, should be half the net income of the land, after deducting cost of working and Government assessment." Shall I put a concrete case before you as an illustration? The gross income of a land is Rs. 120, cultivation expenses come to Rs. 20, assessment payable is Rs. 10 and so the balance available is Rs. 90 out of which the janmi would get Rs. 45 and the tenant Rs. 45 according to you. Now, if there is an intermediary between the janmi and the cultivating tenant, what will you do in that case?

A.—The tenant to whom the land is leased is responsible to make his own arrangements with the tenants under him, if any. The janmi should always get his half share and the other half may be divided between the other tenants.

Q.—When you lease out waste lands to the kuzhikanam tenant for conversion into gardens, you charge a nominal rent don't you?

A.—Yes. We charge a nominal rent of a rupee or Rs. 1½ at the most per acre.

Q.—You can't say that rent is nominal, how do you expect the tenant to pay that rent when there is no yield but on the other hand the tenant has to make all sorts of improvements spending large amounts of money?

A.—During that time he can have some surface crop.

Q.—Who pays the assessment during the first twelve years?

A.—The janmi pays.

Q.—What happens at the end of twelve years?

A.—The janmi assumes ownership of the trees that have been reared and a nominal compensation of eight annas or four annas a coconut tree is paid to the tenant.

Q.—Why is it done?

A.—Because we don't fix the rent of a tree till we pay a compensation to the tenant.

Q.—What rent do you fix in the case of a yielding coconut tree which has been in full bearing for three or four years?

A.—It all depends upon the soil and situation of the garden. It might be 8 annas for the best and the lowest rent will be 2 annas sometimes, e.g., for trees which are planted on the slopes of hills, etc.

Rao Sahib V. Krishna Menon:—Q.—You said tenants have no grievances at all. By saying so did you refer to your own estate or to the whole of North Malabar?

A.—I referred only to my own estate.

Q.—Are you aware that there are lots of evictions taking place in North Malabar?

A.—I am not aware of it.

Q.—The statistics show that there are a large number of eviction suits by janmis and melcharthdars, as many as 200 in one year?

A.—I have no idea of statistics.

Q.—There is no such thing as arbitrary eviction at all?

A.—Not to my knowledge.

Q.—Supposing a tenant is paying his rent regularly and he is willing to pay a fair proportion of the increase of his garden's improvements, is the janmi justified in evicting the tenant? Would you call that arbitrary eviction?

A.—If he does so without any particular reason I should call it so. I see no reason why the tenant should be evicted under those conditions.

Q.—When any janmi exercises such arbitrary powers don't you think that those powers should be curtailed?

A.—Yes.

Q.—By curtailing that right to do harm does the janmi lose anything?

A.—I don't think he is entitled to compensation if the arbitrary power is curtailed.

Q.—You were stating in the case of compensation one year's rent may be paid as compensation. Is that in addition to the existing renewal fee?

A.—Yes, in addition to the present renewal fee if there is one.

Q.—Have you any objection to the renewal fee being fixed in relation to Government assessment so that future alterations between the janmi and the tenant may be avoided?

A.—I don't think it is possible to make a basis like that.

Q.—Assessment is in proportion to the net yield?

A.—I suppose it is so generally. In some cases it is not.

Q.—I suppose you conceive frequent change of lands by repeated evictions is injurious both to the landlord and the tenant and so in the interest of both of them you are of opinion that the cultivating tenant should not be disturbed?

A.—Yes.

Q.—I suppose if you allow this constant change to take place the interest of both the landlord and the tenant will be affected?

A.—Yes.

Khan Bahadur Haji Abdula Haji Kasim Sahib Bahadur:—Q.—In connexion with wet lands do you raise the rent often?

A.—No. These rents are generally fixed once in five years.

Q.—After five years when you renew the lease do you increase the rent?

A.—There are cases in which rents are increased as also reduced at the time of renewal.

Q.—Do you give remission of rent in cases of failure of crops owing to the failure of the monsoon?

A.—Yes.

Q.—Supposing a tenant has in his possession two acres of land, one acre of paddy fields and one acre of waste land. If the tenant converts that waste land into paddy fields, at the time of the renewal do you charge any rent for those lands newly reclaimed?

A.—Yes, we pay compensation before charging rent.

Q.—You have said in answer to question IX "I believe that if the tenant works in harmony with his janmi he need have no fear of being evicted". May I know what is that harmony?

A.—If the tenant fulfils his part of the contract properly by paying rents regularly and if he does not dispute the title of the landlord.

Diwan Bahadur T. C. Narayana Kurup:—Q.—Your family was reported to be an ideal one among janmis in North Malabar by Mr. Logan in his report?

A.—Yes.

Q.—And you have kept on its traditions very well?

A.—I have been trying to keep them on.

Q.—Most of your tenants are labourers?

A.—Yes. A good number of them.

Q.—Do you think it is very easy to get rents out of them?

A.—No. It is very difficult.

Q.—At the time of paying the assessment have you not to borrow money in several instances to pay up Government dues?

A.—Yes. In some cases.

Q.—Most of the janmis get renewal fees, but you don't get any?

A.—Yes. It is not our practice to receive renewal fees in our estate.

Q.—And the renewal fee is a substantial portion of their income?

A.—I believe it is.

Q.—As regards garden lands do you think any legislation is necessary giving occupancy right?

A.—Provided the janmi's rights are safeguarded.

Q.—In the tenant's view it is not necessary. If at all it is in the interests of the janmi?

A.—Exactly.

Q.—You said in answer to the President that if permanent occupancy right or fixity of tenure is given to the cultivating tenants you had no objection to fix a period within which the landlord should recover his property for his own *bona fide* purposes. Would that not be hard on some of the janmis? To-day the janmi may have a small family, but later on when the janmi's family increases he might have a changed vision when he might like to cultivate the land himself. Therefore, do you think that the stipulation of a period is desirable? Is it not enough if you stipulate that the janmi could recover his property for his own *bona fide* purposes?

A.—I think that would suffice.

Q.—You said that if the landlord is prevented from doing harm no compensation need be given. Would you like your discretion to fix the rent being delegated to another? If the court says so, you would certainly like to have compensation?

A.—Yes, certainly.

Q.—By mere payment of renewal fee and rent do you consider that a good criterion in deciding whether a tenant is good or bad?

A.—No, there are several other circumstances.

The President:—Q.—In your experience of the administration of your estate what percentage of rent do you usually collect?

A.—I cannot say the exact percentage, but I can say that several tenants of ours are in arrears for 6 or 7 years' rent.

Q.—You can't even say roughly the percentage?

A.—We may be able to collect 50 or 60 per cent of the rent.

Q.—Diwan Bahadur T. C. Narayana Kurup asked you whether it would not be a hardship to the janmi if he could not take back his lands when he wanted the lands for members of his expanding family and whether he should not be in a position to take it back from the tenant on that ground. Let us assume that the janmi is going to get compensation for the grant of fixity of tenure to the tenant. Now, if he does not use his discretion within the time allowed and subsequently he finds it necessary to take back some of his lands, I suggest that he should pay compensation

to the tenant and get back the land. When fixity of tenure is granted, the janmi gets compensation every year and he can pay back a portion of it to the tenant when he wants to take back the land. Would not that arrangement be fair?

A.—I think that is acceptable. The tenants would be entitled to compensation in such cases.

The President:—The Committee is very thankful to you Mr. Brown for your evidence.

XIII

Written statement of Ali Rajah Abdur Rahiman Sahib Bahadur.

I. (a) My view is that these kanam, kuzhikanam and verumpattam tenants, who are directly under the janmis, have no hardships.

Kanamdars and verumpattamdars too, who are under kanamdars or kuzhikanamdars, appear to have no grievances in particular. But as the kanamdars who are in the middle wish to make profit, there is the likelihood of their realizing high rents from their sub-tenants.

As regards the sub-tenants of the verumpattamdars also, I have nothing more to add.

(b) If the cultivating tenants have any grievances they can only be similar to those of the ryots in other parts of India. But as the Tenants' Improvements Act is in force in Malabar and a similar law is not existing in other parts, the Malabar tenants have a special advantage so far as improvements are concerned.

II. (1) (a) I do not think that tenants are unjustly evicted. They are generally evicted only in cases when they keep rent and other dues in arrears, or persistently refuse to yield when they are asked to renew their lease or deny the janmi's title in collusion with other janmis. Well-behaved tenants are not evicted.

(b) It is not usual to give melcharths unjustly. When the rent and other dues are in arrears for a long period or the tenant refuses to renew the lease though the period has expired, and if the janmi is not, for the time being, able to pay the costs of the improvements to the tenants when he wishes to redeem the property himself, melcharths may perhaps be given. Sometimes when the janmi and tenant do not agree in the matter of renewals or the tenant does not consent to the enhancement of rent or there is difference of opinion on the amount of the renewal fees, melcharths may be given. I do not consider that such melcharths are unjust.

(2) Janmis do not harass tenants in social matters. So far as I know I have not heard of any such occurrence.

III. (a) I think that the making of a law prohibiting the giving of melcharths before the expiry of the lease, will meet the requirements.

(b) & (c) I do not at all think that it is necessary to give permanent rights. If at all it should be allowed, permanent rights should be given to those in possession and not to the intermediary tenants.

(d) If permanent rights are given, there will be no objection to do so in the case of those who have been in possession since 1852.

(e) If permanent rights are conferred, a law for the easy realization of rent, etc., is necessary. If the rent for two or three years be in arrears, the janmi should have the right to issue a notice to the tenant and the former should be given the right of attaching the tenants' rights by means of a petition to the civil court if the amount is not paid within two weeks. If the tenant has any objection, his defence should be heard only after depositing the amount in court. I have heard that such provision exists in the case of Municipal tax and income-tax, if an appeal is to be preferred. A similar provision is necessary here also. If the court thinks that the attachment was unjust and fraudulent, the tenant should be allowed as damages an amount not exceeding that of the alleged amount of rent due to the janmi.

(f) (i) In respect of houses and buildings, etc., belonging to the janmi.

(ii) Places within municipal limits.

(iii) Hills.

(iv) Lands of janmis possessing not more than 50 acres.

(v) Places within a furlong around churches, temples and other places of worship.

(vi) Places required for occupation or cultivation by janmis.

In these cases permanent rights should not be given.

IV. (a) (1) I do not agree to the giving of permanent rights in the case of kudiyruppus in North Malabar. If in the middle of a small paramba there is a kudiyruppu and if that is to be exempted on the score of permanency of right, the remaining land will be useless to the janmi. Even in places where there are houses it is easy to construct them here and there in places included in the lease just to harass and annoy the janmi. Considering as a whole, it is a difficult task to give permanent rights to kudiyruppus in North Malabar.

(2) In any case permanent rights should not be given to kudiyruppus in towns.

(b) 15 cents or such area as is fit in the opinion of the court may be given as the minimum for kudiyruppu.

(c) (1) Not necessary to give permanent rights in this circumstance. He should be evicted.

(2) If a house larger than is necessary for the proper enjoyment of the holding is constructed, it should not be looked upon as a kudiyruppu or improvement. The tenant should remove such a house.

(3) In this circumstance, if the remaining part of the property is redeemed the kudiyruppu too should be surrendered. If not, the remaining portion will be unfit for cultivation.

(d) (1) & (2) It will be a grave injury to allow compulsory purchase by the tenant of the janmam right in the kudiyruppu by a statutory provision. In this matter, whether the janmam value is paid in instalments or in ready cash, it will bring no benefit to the janmi. Janmam lands in Malabar are mostly the property of Marumakkattayam tarwads, Dewaswoms and sthanams. If the lands are sold for cash, it is most likely that the Karnavans, Uralans and Sthanis will easily misuse or misappropriate the amount. I, therefore, think that a law compelling the sale of janmam rights should not be made.

V. The Tenants' Improvements Act has been a source of great hardship to the janmis. As the janmis have no ready cash to pay the value of tenants' improvements, it induces them to give melcharths in increasing numbers. In cases where the janmis are poor, the Act induces the tenants not to pay the rent regularly and to evade renewals. Besides, as the tenant has to be paid the value of improvements, the evictions of such tenants is scarce. I, therefore, think that so far as parambas are concerned, a new law conferring permanent right to kuzhikanamdars need not be made in North Malabar particularly, and that the present Improvements Act will be enough. But one or two amendments have to be made in it. The law should be so modified as to prohibit the conversion of paddy fields into parambas and making of kuzhikanam improvements therein. An amendment should also be made to the effect that no compensation need be paid for trees, etc., that grow spontaneously without any cost or effort to the tenant.

VI. (a) Janmam rights are now valued on the basis of verumpattam. For example, a janmam property is given to a tenant for a rent of Rs. 20 on a kanam of Rs. 100. The tenant manages the property giving it to another for a rent of Rs. 50. If the janmam right of such a property is to be sold now, the value of the janmam right which the janmi will now get is the amount which is considered fit to be invested on a land fetching a rent of Rs. 50. If janmam right is taken to carry 3 per cent interest per annum, the janmi will get as the value of the janmam Rs. 1,566 after deducting the kanam amount. If the kanamdar is given permanent rights as he cannot be evicted the janmam price will have to be fixed on the basis of Rs. 20 only which is the annual rent which he has to pay to the janmi. In this case according to the abovementioned calculation the janmi will get only Rs. 566. If the intermediary is given permanent rights the janmi will thus lose Rs. 1,000. This

loss is only due to the giving of permanent rights. Hence in the case quoted above the janmi should be compensated for this loss. And the loss should be calculated according to this scale.

VI. (c) Calculating the above loss, it will suffice if the tenants give the interest on that amount. It is sufficient if it is provided that they should not be evicted so long as they pay interest regularly.

VII. (a) From the net produce, i.e., after deducting the cost of cultivation, the janmi should be paid two-thirds. The tenant may take one-third as his share. The janmi should pay the tax.

(b) I am not prepared to say that the rent which the tenants pay at present is unjustly higher than the above scale.

VIII. (a) The income from the property for one year after deducting expenses as far as kuzhikanamdars are concerned may be taken as the renewal fees to be paid once in twelve years. In the case of fields renewals should be made every four years. On such occasions half of one year's income should be paid as renewal fees.

(b) In Chirakkal taluk renewal fees are determined on various scales. In my Arakkal Swarupam renewal fees are collected according to the answer given in VIII (a).

IX. I am of opinion that if at all any law is necessary, a law prohibiting unjust and injurious evictions or melcharths will do. I consider that the court should decide which evictions or melcharths are of such a nature.

X. (a), (b) & (c) I find no objection to a law being made providing that before giving melcharths, a notice should be given to the tenant in occupation, showing the renewal fees and rents and asking him to renew his lease. After the melcharth is given, it is not proper to give the right of pre-emption to a tenant who does not comply with such a notice. It is not easy to make a law to prevent any collusion between the janmi and the grantee of melcharths for fixing the renewal fee or rent so as to deceive the tenant in occupation. If any dispute arises in this matter it will be easier for courts to take evidence and decide the issue.

[Note.—As since translated by the Malayalam Translator to Government.]

Monday, the 14th November 1927.

Oral evidence of Ali Rajah Abdur Rahiman Sahib, Arakkal.

The President :—The Committee is very thankful to you Rajah Sahib for the very illuminating and exhaustive written reply which you have sent.

Q.—You are the senior anandaravan of your tarwad?

A.—Yes.

Q.—Your tarwad is the owner of extensive lands in the district?

A.—Yes.

Q.—Now I shall put to you a few questions bearing on the written answers which you have given. In answer to question III (b) & (c) you say "I am not in the least of opinion that it is necessary to give permanent right to the tenants. In case it is to be so given, it may be given only to tenants in actual possession and not to the intermediate tenants of whatever sort". Why not permanent tenure be given to the intermediary tenants also so as to occasion the least economic disturbance?

A.—I am of opinion that only the actual man in possession who cultivates the land by the sweat of his brow, should be given permanency of tenure. The intermediary is only a go-between as it were, who tries to extort as much as possible from the actual cultivator, and so I am of opinion that he need not be given permanency of tenure. I am of opinion that the intermediary has no place. He may be paid his interest in the land and may be sent away.

Q.—Then do you consider that the cultivating tenant should pay compensation to the intermediary for parting with his interest in the land?

A.—The intermediary need not be given any compensation at all. He only is there to make a profit out of the actual cultivator and so he need not be paid any compensation at all.

Q.—But he has paid money for his interest in the land?

A.—He must be paid back his due.

Q.—Is it very easy to do so?

A.—No, it is not quite possible in all cases.

Q.—Then what is the harm in allowing continuity to him in the holding, assuring the janmi of a fair rent and the cultivating tenant a certain minimum share of the produce?

A.—Under no circumstances should the intermediary be given permanency.

Q.—In answer to question III (d) you say "In case permanent rights are given there is no objection to giving it to tenants who are in possession since 1852". Why should they be preferred as against tenants who have come into possession at a later date?

A.—My opinion is that they alone deserve to be given that right.

Q.—That clashes with your answer to the previous question?

A.—Only tenants in actual possession since 1852 should be given permanent occupancy right.

Q.—And you don't consider it necessary to give permanent right or fixity of tenure to tenants who have come into actual possession at a later date?

A.—No, it is not necessary.

Q.—Would you kindly tell the Committee why you think so?

A.—The tenant in possession since 1852 has been in occupancy for a very long time and tenants who have come into possession since that date are only persons who have come into possession either to benefit themselves or to make profit out of the holding and so they need not be given permanency.

Q.—Would you not be penalising the good janmi by the grant of occupancy right to the old tenants only?

A.—Certainly, it is a loss to the janmi in that case.

Q.—Therefore, don't you think your proposal is unfair to tenants who have come into possession after that date. Does it not result in injustice?

A.—Yes, it is so.

Q.—So your proposal is open to that objection?

A.—Yes.

Q.—To overcome that difficulty would you reconsider your position and say that it is not permanent occupancy right but fixity of tenure that might be granted to the tenant to continue on the holding subject to payment of fair rent and fair renewal fee and not disputing the landlord's title?

A.—I am of opinion that under no circumstances fixity of tenure should be given to the intermediary and recent tenants. That is my opinion.

Q.—Then, may I take it that personally you are against the grant of fixity of tenure to these tenants, but if the grant of permanency is decided upon, you are for granting fixity of tenure only to the actual cultivator?

A.—Yes, that is my view.

Q.—In answer to question III (e) you say that in case the Court thinks that the attachment was made unnecessarily or fraudulently, then an amount not more than the amount alleged by the janmi to be due on account of arrears of rent may be made payable to the tenants in the shape of damages. Don't you think that the penalty should be made really heavier than that? The rent in arrears may be only a few rupees and the janmi really does a very bad thing if he unnecessarily and vexatiously moves the Court to attach the property of the tenant?

A.—I am agreeable to any reasonable penalty.

Q.—In answer to question III (f) (iv) you say "Lands of the janmis who own janmam properties not exceeding 50 acres". Would it not be better to fix an assessment limit than an extent limit?

A.—I have no objection.

Q.—In answer to question III (f) (vi) you say "Sites which become necessary for use as residence of janmis or for cultivation purposes". Do you think it right to retain this indefinite power for all time? Would it not make fixity of tenure an

illusory thing? Would not a bad janmi abuse his position? He might after taking back the land at a future date say that he is cultivating the land through his agent while the agent may really be his tenant?

A.—Though bad janmis are liable to abuse this power I should think janmis should be permitted to regain their own lands for their own bona fide purposes of cultivation and other use.

Q.—In answer to question VI (a) you have given a formula and an example for fixing the compensation that should be given to the janmi. That is I believe on the assumption that permanent occupancy right is to be given?

A.—Yes.

Q.—Is it not a heavy compensation? Would it not be too heavy in many cases for the tenant to pay?

A.—If another man's property is needed such compensation should be paid.

Q.—That is why I proposed to you fixity of tenure on certain conditions. In fact you yourself have stated in answer to question IX that a law preventing unlawful eviction or melcharths may be made?

A.—Yes.

Q.—That is also a subtraction from the existing rights of the janmi?

A.—If any law is to be enacted it may be so.

Q.—Do you consider that to amount to a reduction from the janmi's right?

A.—Yes. The value of the janmi's right will be reduced and so he should be compensated.

Q.—The difference between the grant of permanent occupancy right and fixity of tenure is this. If permanent occupancy right is granted you have no right to renewal fee, and you cannot get back the land, if the tenant defaults in payment of rent; you can only get the tenants' right in the holding sold. Thus the janmi becomes a mere rent receiver, his connexion with the land being practically severed. Whereas, in the case of granting fixity of tenure, the janmi can get back the land if the tenant makes default in payment of rent or fails to pay the renewal fee. Therefore what compensation do you propose in the case of the grant of fixity of tenure under these conditions?

A.—Yes. Something must be paid. It may be as I have suggested in answer to question VI (a). A similar formula should be applied here also. That is my position.

Q.—In spite of the fact that there is difference between the grant of permanent occupancy right and fixity of tenure?

A.—Yes. Suppose I purchase a land now for Rs. 5,000. If fixity of tenure is granted to the tenant and if I want to sell away my property, I won't even get Rs. 1,000. So I would be a loser by Rs. 4,000. Now on our janmam rights we are getting only $3\frac{1}{2}$ to $4\frac{1}{2}$ per cent return. If permanent occupancy right is granted we won't get even such a return and moreover after the grant of fixity of tenure we cannot claim increased rent even though the yield has improved very much more than at present.

The President:—I don't think I need press the matter any further since you won't recognize any difference between occupancy right and fixity of tenure.

Diwan Bahadur T. C. Narayana Kurup:—Q.—Your direct elder sister is the present Sultana?

A.—Yes.

Q.—You are well acquainted with the tenantry in your estate?

A.—Yes.

Q.—You consider the provisions of the Tenants Improvements Act sufficient to meet the requirements of the tenant. You don't want to give permanent occupancy right to them?

A.—No.

Q.—Do you consider it advisable, if fixity of tenure or occupancy right is decided upon, to grant the same within municipal limits?

A.—No.

Q.—From your experience of the present rents and renewal fees you are of opinion that they are fair rents and fair renewal fees and they will not work any hardship on the tenants in general?

A.—I believe the present rents and renewal fees are fair and will not work any hardship on the tenants.

Rao Sahib V. Krishna Menon:—Q.—Are there good and bad janmis in North Malabar?

A.—In my opinion all are good janmis. Probably there may be some who are bad to their tenants.

Q.—Supposing a janmi evicts a tenant who pays all his dues to the landlord regularly and who does not dispute his right, do you call that janmi a bad janmi?

A.—This is a peculiar condition which does not generally happen. I have not heard of any such case. No janmi will evict his tenant so long as the latter pays up his dues in time.

Q.—You have stated that such evictions and melcharths should be put a stop to?

A.—Yes.

Q.—As long as he is not prevented from getting a fair increase of rent, a janmi won't consider it a grievance if this power of doing harm is removed. Why should any compensation be paid in such a case?

A.—As the janmi's liberty of action is curtailed he should be compensated. As the janmi could not at his will and pleasure evict a tenant or grant a melcharth, he is reduced in his independence.

Q.—So, the independence of a janmi consists in evicting a tenant whenever he pleases?

A.—If the tenant is regular I don't think he will be evicted.

Q.—You said that intermediaries need not exist and they need not be given occupancy right. That may be said in the case of an intermediary who has not spent any money on the land, but what about the intermediary who has paid money for valuable consideration?

A.—He could claim compensation under the Tenants Improvements Act.

The President:—The Committee is very thankful to you, Raja Saheb, for the evidence that you have given.

XIV

Written statement of Mr. E. K. Rama Varma Raja, Eliya Raja of Kadathanad.

I (a) I am not aware of any serious difficulties that press upon the tenants, as such, in Malabar—especially in North Malabar. The kanamdar, in secure possession of a fair interest, which, at the time of investment, he considered sufficient after making the necessary allowances for all eventualities, has little to complain. Classes (2 & 3) in normal circumstances do enjoy a large proportion of the annual yield and are, as a matter of fact, contented. As for the others the greater the number of holders the lesser the quota of profits and the two last classes especially have to pay a comparatively high rent very often. I may add that it is no inherent defect in the tenure itself that has given rise to the present question. Diminishing returns, failure of monsoons, fluctuations in the market, political disturbances and various other circumstances have combined to create an economic crisis in Malabar that has unjustly been laid at the door of Malabar Tenure; and the spokesman of modern freedom wants rashly, I fear, to make an end of the very old system.

Evictions.

II (a) Eviction, I dare say, is the last of his rights that a janmi would think of exercising. But when rent is largely in arrears, or the lease has long expired and the tenant refuses to renew or when a tenant sets up adverse title for himself or for another, the janmi is forced to resort to the last weapon in his hands. Evictions on unjustifiable grounds seldom take place.

(b) Meloharth is the only other solution as circumstances now stand for the difficulty which a recalcitrant tenant has placed his janmi in. The rates of improvement valuation being what they are, a tenant can practically improve his janmi out. It is but natural that the janmi is ready to come to terms with the first applicant for a meloharth to get out of an impasse. It will thus be clear that meloharth

is not as tainted as is generally supposed. I know of instances where it has been served to achieve an equitable end, as where the junior members of a marumakkattayam tarwad have obtained a melcharth to prevent the loss of the property by the wilful mismanagement of reckless karnavan. It is, however, not claimed that there are absolutely no instances of immoral melcharths.

2. The unfair use of the position of a janmi as contemplated in sub-section (2) to section II, exists more in speculation than in fact. I speak for North Malabar. Social hardship often goes hand in hand with proprietary pre-eminence, but is not a result of it. I can personally speak for the fact, that it is seldom that the people fall back on their proprietary position to enforce a social settlement. And the day is passed when the terrors of eviction were a means of coercion. No such cases have been under my notice.

Remedies.

III (a) There is nothing in the present state of Malabar Tenure that calls for legislative remedy.

(b) No. I do not think so. (c) If permanent occupancy right is to be granted at all I am not for granting to any but the actual cultivator or occupant who has been in uninterrupted enjoyment of the holding for a very long time. But to make such distinction is to create disaffection among the other tenants. All things considered I am of opinion that it is better not to grant permanent occupancy right to any.

(d), (e) & (f) Vide answer to (c) above.

IV (a) & (b) I do not think it desirable to make any distinction between the various classes of tenants so far as the question of granting permanent occupancy right is concerned.

(c) (1) The kanamdar may take a renewal if he agrees to a deduction being made from the estimated value of the building equivalent to the amount of renewal fees payable by him, and in the case of verumpattamdar he may be allowed to continue the verumpattam if he agrees to set off the amount of rent payable by him or a portion thereof against the estimated value of the building which has to be paid to him at the time of eviction.

(2) In this case the kanamdar should not have the right to demand compensation for the whole building, but only for such portion of it as may be considered necessary for the proper enjoyment of the holding. The materials of the remaining portion he may be permitted to remove at his own cost.

(3) I would give him another kudiyruppu in exchange for the one which he has to surrender, besides giving him compensation for the probable loss and inconvenience caused to him by the sudden demand for surrender.

(d) (1) & (2) The system does not commend itself to me. It is repugnant to the tastes of the Malayali.

V. The relation between the janmi and the tenant have of necessity become more cordial than before, because in the majority of cases the janmi has come to think that it is vain to attempt to exercise power over a tenant who owns large improvements, and that it is better to win his confidence and affection. It is desirable to have some provision fixing the maximum number of trees that might be planted on a specified area and to rigidly enforce that provision. At present tenants effect improvements with vengeance with the result that the land becomes deteriorated and its productive capacity poor.

VI (a) (b) & (c) I do not recommend the grant of permanent occupancy right.

Rent.

VII (a) One half of the net produce should go to the janmi and the other half to the tenant—actual cultivator or the occupant as the case may be—provided that there is no reduction of the existing rent.

(b) They are not high.

Renewal fees.

VIII (a) On the amount of rent payable by the tenant or on the annual yield of the property.

(b) In the case of garden lands the renewal fee is estimated at one year's net income for a lease of 12 years, and in the case of paddy flats half the annual rent is an approximate fee for 5 years.

IX. The best remedy that suggests itself to me is to impose restrictions on the present unlimited power of the janmi to grant melcharth. This and the Compensation for Tenants Improvements Act will meet all the legitimate demands of the tenant.

X (a) The proposed system I consider to be an excellent one. Practical difficulties will arise only if the janmi and the melcharthdar collude.

(b) The suggestion, if adopted, would remove much of the grievances of the tenant.

Monday, the 14th November 1927.

Oral evidence of Mr. E. K. Ramavarma Raja.

The President:—The Committee is very thankful to you for the written reply which you, Raja Sahab, have sent. I will put you a few questions bearing on the same.

Q.—There is the following passage in the first paragraph of your reply “Diminishing returns, failure of monsoons, fluctuations in the market, political disturbances and various other circumstances have combined to create an economic crisis in Malabar that has unjustly been laid at the door of Malabar tenure; and the spokesman of modern freedom wants, rashly, I fear, to make an end of the very old system.” What do you mean by an economic crisis? It is not peculiar to Malabar? How does the question affect the relations of the janmi and the tenant?

A.—On account of these difficulties the tenants are not able to pay rents properly and are therefore in arrears and are not able to renew with the landlord in time, etc.

Q.—And the result is what?

A.—There is scarcity of money on account of these difficulties. At present, moreover, tenants are being instructed by the agitators that they need not pay rent and renewal fee and a law will be enacted excusing them from the payment of rent, etc. Some ignorant tenants are under the impression that when they get permanent occupancy they need not pay rents or renewal fees and so some default payment like that.

Q.—But the granting of occupancy right does not absolve them from the payment of rent?

A.—That is how the so-called educated agitators have made these ignorant people understand the position.

Q.—In answer to question II (b) you say that at the end of the paragraph “I know of instances where it has even served to achieve an equitable end, as where the junior Members of a marumakkattayam family have obtained a melcharth to prevent the loss of the property by the wilful mismanagement of reckless karnavan.” Will you kindly explain that statement?

A.—What I mean by that is that there are instances where the tenant does not renew with the landlord for a series of years and there are no others to take a melcharth and the karnavan or the stani is incapable of evicting the tenant. In such a case the junior anandravans of the family of the janmi take melcharths to retain the property for the tarwad. There are some instances like that.

Q.—How are the tenant's improvements paid in that case?

A.—They sue and evict the tenant and pay the award of the court for improvements.

Q.—In any case the tenant has to get the value of his improvements either from the karnavan or the anandravan?

A.—Because karnavans have no money to evict the tenants and it is only in such cases that anandravans who have money sue the tenants.

Q.—Then you say “it is, however, not claimed that there are absolutely no instances of immoral melcharths.” If so, why should we not make a law which would prevent such unfair melcharths?

A.—Yes. I have mentioned in my statement I have no objection.

Q.—You say in answer to question II (b) “If permanent occupancy right is to be granted at all I am not for granting it to any but the actual cultivator or occupant who has been in uninterrupted enjoyment of the holding for a long time.” What period would you specify?

A.—I cannot give an answer now. I must consider about that.

Q.—In answer to question VII (a) about rents you say “One-half of the net produce should go to the janmi and the other half to the tenant—actual cultivator or the occupant as the case may be—provided that there is no reduction of the existing rent.” My question is, what is the use of fixing rents without granting fixity of tenure. How is it possible to enforce those rents? On paper it may be a fixed rent, but the janmi would receive whatever he demands. Without giving the tenant the right to renew what is the good of fixing a fair rent?

A.—So that janmis may not extort from their tenants.

Q.—But it cannot be enforced. If a tenant is not able to pay what the janmi demands the tenant could be evicted?

A.—In my experience and to my knowledge I don't think a janmi would evict a tenant, nor would he demand exorbitant rent when once the rents are fixed between the landlord and the tenant.

Q.—If the janmi is in good relationship with the tenant what is the necessity for fixing the rent?

A.—Only if it is necessary.

Q.—With regard to the renewal fee you say that it could be based “on the amount payable by the tenant or on the annual yield of the property.” What multiple of the yield do you suggest for the renewal fee?

A.—Three times the annual rent may be the renewal fee or two-thirds of the gross income for one year, the balance one-third to be retained by the tenant.

Q.—Do you think that three times the rent is equivalent to two-thirds of the gross produce?

A.—There may be a slight difference. I agree to either proposition.

Q.—In answer to question VIII (b) you say “In the case of garden lands the renewal fee is estimated at one year's net income for a lease of twelve years and in the case of paddy flats half the annual rent is an appropriate fee for five years.” Will this be a fair renewal fee if continuity of tenure is to be given to the tenants?

A.—I am not in favour of granting fixity of tenure to the tenant.

Q.—You say in answer to question IX “impose restrictions on the present unlimited power of the janmi to grant melcharths.” What restrictions would you impose? Would you prohibit all unjustifiable melcharths?

A.—Yes, but the janmi must be empowered to give melcharths when the rents are kept in arrears, when the tenant does not pay the renewal fees or when the janmi's title is disputed. In all other cases I would prohibit the grant of melcharths.

Q.—Under those conditions do you consider the present renewal fees are just, or do you think higher renewal fees should be given? Do you think any increase in the present renewal fee is necessary?

A.—Now I can't say anything about that. They should be raised according to the time and circumstances.

Khan Bahadur Haji Abdul Haji Kasim Sahib Bahadur:—Q.—You say in answer to question IV (3) “I would give him another kudiyruppu in exchange for the one which he has to surrender, besides giving him compensation for the probable loss and inconvenience caused to him by the sudden demand for surrender.” Is it by evicting another tenant that you would grant a kudiyruppu?

A.—There may be several other kudiyruppus which may be unoccupied. I would give one of them. I won't disturb an existing tenant and grant that kudiyruppu.

The President:—Thank you very much, Raja Sahib, for your valuable evidence. The Committee then rose at 11 a.m. to meet again in the afternoon.

XV

Written statement of Mr. K. T. Kammara Nambiyar, Koodali.
Disabilities.

I (a) (1) No disabilities to my knowledge except those arising from bad cultivation, failure of monsoon, high prices for food-stuffs and high revenue.

(2) Same as above.

(3) Do.

(4) Same as above and also probably high rent exacted in certain cases by kanamdars.

(5) Same disabilities as in No. 4.

(6) There are not many such tenants in North Malabar.

(7) Nil.

(b) The disabilities are not peculiar to Malabar. They are common to the relationship of landlord and tenant in all parts of India.

(c) The difference between North and South Malabar exists mainly in kanam tenure. The kanam in North Malabar is treated as pure mortgage with possession, both by the janmi as well as by the kanamdar. It is in the relationship of a debtor and a creditor that the janmi and the kanamdar stand to each other in North Malabar. There are several instances of rich janmis in North Malabar who hold lands under kanam tenure from people who occupy very low position both socially and materially. The redeeming of kanam by a janmi is viewed only as a clearance of the debts by both parties. The rate of interest allowed to kanamdars for their kanam amounts is not so high in North Malabar as in South Malabar. The highest rate of interest, allowed to kanamdars in North Malabar does not exceed 10 per cent. In South Malabar the rate of interest allowed to a kanamdar is very high. It sometimes goes even beyond cent per cent. As the kanamdars derive much profit for their money advanced to janmis in South Malabar, they are in constant fear of eviction as they could not get such higher profits from money invested elsewhere. In South Malabar, kanamdars are styled as ‘tenants’, a term which the North Malabar kanamdars will resent. The major parts of the lands in North Malabar consist of garden lands and are therefore leased under kuzhikanam tenure. The Malabar Tenants Improvements Act sufficiently safeguards the interests of the kuzhikanam tenants and they are therefore under no disability in North Malabar.

(d) I do not think there is much practical difference.

Evictions.

II (1) (a) There may be occasionally instances of arbitrary evictions owing to ill-feeling between janmis and tenants. But as it is not paying to a janmi to evict a tenant by giving him the value of his improvements, such evictions are not on the increase in the case of lands held under kuzhikanam tenure.

(b) There may occasionally be such instances, but they are not on the increase as the Tenants Improvements Act does not give any benefit to a melcharth-holder if he evicts the former occupants of the land by giving them the value of their improvements.

(2) In the case of certain classes of people who are recognized as social heads, there may be instances where they sometimes resort to evictions of lands as one of the means for enforcing their decrees. But such evictions are rare in the case of garden lands as it will not be paying to evict a tenant by giving him the value of his improvements.

Remedies.

III (a) The only remedy I could suggest for the prevention of arbitrary evictions—if they prevail to an alarming extent about which I have my own doubts—is to do away with the system of melcharths. The janmi if he is forced to give up his above right, must be protected by giving him every facility to realize a fair rent from his land.

(b) The prohibition of melcharth system is for all practical purposes the granting of permanent occupancy rights to tenants as the janmis, unless it be for their own use, either for cultivation or occupancy, will not be allowed to evict tenants. It has again this additional advantage, viz., that the time-honoured absolute proprietorship of the land which the Malabar janmis enjoy, is not interfered with to a very serious extent. This right can be granted to all classes of tenants.

(c) I am prepared to grant the right above mentioned, i.e., non-eviction of land by no other person except the one under whom the lease is held, to all classes of tenure holders.

(d) In the granting of rights above referred to, no differentiation need be made of kanamdars, kuzhikanamdars and verumpattamdars holding lands before or after 1852.

(e) Effective and speedy measures for realising the rents such as legislation of the type of the 'Rent Recovery Act' must be passed by which the janmis can collect their rents without submitting themselves to the long delays and expensive methods of the law courts. There are several instances in which by the non-recovery of rents from the tenants in proper time, many janmis have had their lands sold for arrears of revenue.

(f) Yes, when the janmis want their lands for themselves.

IV. (a) 1. They can be granted occupancy rights subject to the conditions that janmis or their superior tenure holders can evict them.

(2) No.

(b) There need not be any minimum in both cases.

(c) (1) He can borrow the renewal fee, mortgaging a part of his rights over the land and have a renewal from the janmi. When prosperous days come and his income is increased, he can clear off his debt.

(2) He should not be given the value of his house, in excess of the amount that will be necessary for the construction of a house required for the proper enjoyment of the holding. But he can be given the option of demolishing the house and taking all its materials for his use, in case he does not come to any agreement with his janmi about its value. If he gets the consent of the janmi prior to the construction of the house about its nature and cost, he can be given the full value of his house.

(3) When the janmi evicts such lands for his use, the tenants should be given the full value of the house. In case the tenant is not satisfied with the value of it, he should be given the option of demolishing the building and taking its materials.

(d) (1) It is conferring on the tenants a right for which they have not any sort of claim.

(2) It is not suited to the genius of the people of Malabar and to their customs. Malabar is following a system of inheritance where at present there is not much love between the karnavans or managers of tarwads and their successors or anandravans. The immediate effect of the introduction of a system of compulsory purchase will be that karnavans as soon as they are aware that they can realize money from the sale of kudiyruppu rights will immediately collect and utilize them for the benefit of their wives and children. The consequence then will be that junior members of tarwads will suffer much loss in their tarwad income. Several litigations are also likely to arise on the utilisation of this income arising from the sale of kudiyruppu rights. The result in the long run will be that many tarwads in Malabar will be ruined.

V. The Malabar Compensation for Tenants Improvements Act (I of 1900) has benefited the tenant classes very much. The compensation to be paid to a tenant for the improvements he has effected in a garden is at present calculated on so high a basis that it several times exceeds the full value of the land with all its improvements. There are several instances where the janmis even after they have obtained decrees have not executed them as they find they are only materially losing by such transactions.

I would suggest that in making calculation for the compensation to be paid to tenants, due consideration should be paid to the janmam value of the land. In certain rural areas where the land is not very dear, the value of improvements calculated on

the present basis sometimes amounts to twice or thrice the actual value of the land with all its improvements. Instances are very many where the tenants have not renewed their leases even after the expiry of their lease-term, as they find that the janmis will not find it worth while to evict them while the compensation to be paid to them for their improvements is so high. I have come across instances of several janmis who do not get as rent from their tenants even the revenue of their land.

Compensation.

VI. (a) If the permanent occupancy of the land I have suggested above is alone given, no compensation need be paid to the janmis except a right to raise fair rents from their lands and effectively collect them in time for payments to revenue. I do not advocate any other kind of permanency as I believe it will only lead to disastrous effects in the country.

(b) Does not arise.

(c) Does not arise.

Rent.

VII. (a) In the case of kuzhikanam tenures where the improvements are mostly tenants', the rent of the janmi should be one-half of the net income of the land after deducting the cost of cultivation and the Government revenue of the land from the gross income. If the janmi has mortgaged his property to a kanamdar, his rent can be reduced by an amount which should be paid to the kanamdar as interest for his money advanced. The rate of interest allowed to a kanamdar should in no case exceed 6 per cent of his kanam amount.

In the case of kuzhikanam tenures where the improvements are mostly janmi's, the rent of the janmi should be increased to the extent he owns improvements in the land. The rent can be calculated on the same basis as above.

(b) In the case of lands held directly under janmis, the rents now collected are not high.

Renewal fees.

VIII. (a) The amount of the renewal fee is fixed according to the high or low nature of the rent. In the case of rich janmis who lease their lands on nominal rents, the renewal fees are high and in the case of other janmis who collect a reasonable rent, the renewal fees are low. The renewal fees vary according to the nature of the rent.

(b) The rate prevailing in my taluk is based on the above principle. The renewal fee in no case exceeds the average gross income of the land per year.

IX. I do not think that there are sufficient evictions in Malabar as would justify us to give permanent occupancy rights to tenants disregarding the time-honoured claims of janmis. There are in Malabar vast areas of uncultivated lands so that it could not be said that there is land scarcity. If, however, statistics show that arbitrary evictions and melcharths are increasing to an alarming extent, and if the Committee is convinced that some sort of legislation is necessary for their prevention, the only suggestion of a non-revolutionary nature which I have to make is to have a legislation preventing the melcharth system.

X. (a) The idea is good but many practical difficulties are likely to arise from the working of the system. This system, if introduced, instead of doing good to tenants will only increase their difficulties.

(b) The idea is good but the system could not be worked without abuses. To distinguish a bona-fide melcharthdar from a bogus melcharthdar will be a task much difficult to achieve.

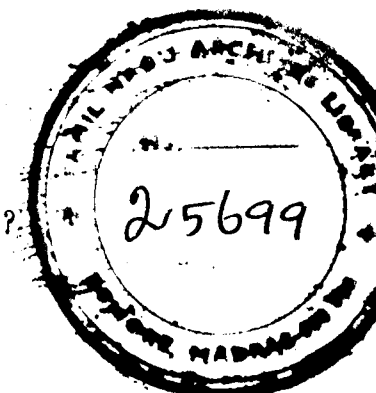
(c) I have no proposal which will be free from abuses.

Monday, the 14th November 1927.

Oral evidence of Mr. Kamaran Nambiyar.

The President:—Q.—You are a big janmi in Panniyannur?

A.—Yes.



Q.—What assessment do you pay?

A.—I pay Rs. 3,000 in my own name; my tarwad pays about Rs. 5,000.

Q.—You are the head of your puthravakasam tavazhi and you inherited the land from your father?

A.—Yes.

Q.—Now, in your written memorandum you say “there may be occasionally instances of arbitrary evictions owing to ill-feeling between janmis and tenants”; and you also concede “In the case of certain classes of people who are recognized as social heads, there may be instances where they sometimes resort to evictions of lands as one of the means for enforcing their decrees,” etc. And you suggest “the only remedy for the prevention of arbitrary evictions if they prevail to an alarming extent about which I have my own doubts, is to do away with the system of melcharths”? A.—Yes.

Q.—How can the abolition of melcharth by itself without restriction of eviction by the landlord be efficacious?

A.—The landlord will not be able to evict many lands. If at all he is evicting, that will be only very few lands.

Q.—Therefore you think that direct eviction by janmis need not be stopped by legislation?

A.—Yes.

Q.—And you would restrict melcharth because you think that by melcharth eviction is more largely effected?

A.—Yes.

Q.—For complete abolition of all unjustifiable evictions then, you realize, I take it, that not only the abolition of all melcharths is essential but also the restriction of all capricious evictions by the janmi himself.

A.—But that would be a great hardship to the janmi. He may want the lands for his own use, he may have only very few lands, or he may want to cultivate them himself and in that case he may have to evict.

Q.—You want to provide for the future contingency of the janmi providing for his progeny?

A.—A time may come when he might find it necessary to engage in cultivation also?

Q.—And so you would make that provision? If you make that provision, then you will have no objection to restrictions being imposed on the janmi also in regard to evictions?

A.—We are following the Marumakkattayam system and we have got large families and year by year the number is increasing. Some persons may want to live in a separate house. In that case they may want new buildings.

Q.—So, with that provision you have no objection to the janmis being restricted from evicting his tenant?

A.—No, provided, of course, the tenant pays his rent and renewal fee regularly and does not dispute the janmi's title.

Q.—If there is such a proviso, the tenant is always open to eviction. The power is liable to be abused by a bad janmi. He may say “I want this land for my own cultivation” at some future date. He may not cultivate it himself, but he may ask a tenant of his to say that he is his agent and may let it out to the tenant. In that way he may defeat the object of his restriction?

A.—But such cases will be very rare.

Q.—I put the possibilities before you. Is it not possible for a bad janmi to do as I stated?

A.—It is possible. But if it is proved, the land can be re-evicted from him.

Q.—If the fraud is proved, the tenant may be restored. You would provide some such remedy? Now supposing we give some compensation in the shape of enhanced rent or enhanced renewal fee or some lump amount. Then what is the harm in not having this proviso? If at some future time the janmi wants the land back for his own cultivation or for his own residence, he can pay some compensation to the tenant and take back the land?

A.—In that case there is no harm.

Q.—So, if the landlord is to get some compensation now for the diminution of his right, then there is no harm in his being asked to pay compensation to the tenant if at some future date he wants the land?

A.—There is no harm.

Q.—Please see answer to question III (e). “Effective and speedy measures for realizing the rents as legislation of the type of the ‘Rent Recovery Act’ must be passed.” I suppose you have the Estates Land Act in your mind?

A.—Yes.

Q.—Then you say “There are several instances in which by the non-recovery of rents from the tenants in proper time, many janmis have had their lands sold for arrears of revenue.” Can you give some instances of that?

A.—In my neighbourhood, there is the property of Narangoli Chirakkal family. He is a big janmi and the tenants do not pay him in time. Many of his lands are now being sold.

Q.—The Government have sold his lands for arrears of revenue?

A.—In some cases where the adhikaris are not vigilant in collecting rent from the tenants themselves, the revenue may be in arrears and the janm right is sold and other people purchase the janm right. Then there are the Oorallars of the Koocheri temple sthanam. There also such instances occur. The janm right has been sold by Government for arrears of rent.

Q.—In your answer to question IV (a) you say “they can be given occupancy rights subject to the conditions that janmis or their superior tenure-holders can evict them.” Then there is no fixity of tenure at all?

A.—But such evictions will be very rare.

Q.—What you mean is eviction by melcharth should be stopped, but eviction directly by the landlords should not be restricted?

A.—Yes.

Q.—Then you say “I would suggest that in making calculation for the compensation to be paid to tenants due consideration should be paid to the janm value of the land.” What do you exactly mean by that? Do you mean to say that the compensation for improvements should be moderated with reference to the janm value of the land?

A.—Yes.

Q.—How can that be done? Improvements have a value of their own. It is calculated according to the market value of the improvements. A barren land is worth, say, 100 rupees an acre. A man may have raised a coconut plantation which may be worth 1,000 rupees. How can you moderate the value of the improvement with reference to the original value of the land?

A.—The janm value will be much less than the actual value of improvements of the property. The value of improvements probably may be 1,000 rupees, while the janm value of the property with the improvements in the market will be about Rs. 800.

Q.—How does that happen?

A.—There are such instances.

Q.—The difficulty lies in the way in which the value of improvements is ascertained and calculated?

A.—Yes.

Q.—Your meaning is that improvements should be so valued that their value should always be less than their value taken along with the value of the land?

A.—Quite so.

Q.—That is a self-evident proposition?

A.—There should be a margin for the janm value of the land after the improvements have been effected when it is sought to sell the land with the improvements thereon.

Q.—Then you say in answer to question VI (a) “If the permanent occupancy of the land I have suggested above is alone given, no compensation need be paid to the janmis except a right to raise fair rents from their lands and effectively collect

them in time, etc." What you have suggested is continuity of tenure and not wholesale transfer of occupancy right. Do you understand that distinction? Then you say no compensation need be paid to the janmi for depriving him of his unlimited right to evict. In that case the difficulty which I pointed out to you is one thing, that is to say, if you do not pay compensation to the janmi for the restriction which you would impose on his unlimited power of eviction, then he will not be in a position to pay compensation when at a future time he wants to take back the same land himself. That is one difficulty. The other difficulty is that the restriction of the janmis' absolute right means loss of a certain money value in the janm right; is it not?

A.—Yes.

Q.—Then is he not entitled to some compensation for the reduction which takes place in the janm right?

A.—But he gets some more powers. He will be able to get his rent with greater facility.

Q.—What do you mean by 'fair rents'?

A.—That is raising rent up to the limit of fair rent. He should be given that right also. If he is given these two rights, I think that would be sufficient compensation for restricting his absolute right of eviction.

Q.—Then, in regard to rents you say that though the improvements are mostly or wholly tenants, the tenants should pay half the net income of the land to the janmi? Is that your position?

A.—Yes.

Diwan Bahadur T. C. Narayana Kurup :—Q.—You said there are two classes of evictions. Do you think that they are so intentional and numerous as to call for an enactment of law?

A.—No.

Q.—And if the power of melcharth is taken away there would be no need to legislate further?

A.—Yes.

Q.—Supposing the tenant refuses to pay rent and renewal fee and the landlord wants to raise money urgently. What is the landlord to do?

A.—He can evict.

Q.—But if he has no money to pay for value of improvements?

A.—Then he must be satisfied with the rent the tenant gives.

Q.—He cannot pass it on melkanam? Would you advocate such a proposal if this right is restricted?

A.—If he can realize a fair rent from the land I don't mind.

Q.—The janmi is obliged to borrow money. How is he to raise money if melcharth is restricted? If melcharth which is the only remedy now is taken away, would you substitute any other remedy? Suppose you give fixity of tenure absolutely prohibiting melcharth. If the property is held on kanam, melcharth would be for the purpose of raising a higher kanam. If you prohibit the janmi from raising the higher kanam, how is the janmi to meet his demand?

A.—In that case there will be difficulties.

Q.—In the case of Narangoli Chirakkal family that you referred to, the family gets a malikhana of Rs. 1,400 every year and every year their properties are sold for not paying assessment?

A.—Yes.

Q.—Similar is the case in the Chirakkal devaswam also?

A.—Yes.

Q.—I believe at the time of collection of assessment no janmi has peace of mind?

A.—No.

Q.—Why?

A.—The tenants won't pay. Then he has to go to court and there is the long delay in the court.

Q.—Do you find difficulty in collecting rents?

A.—I do.

Q.—You maintain correct accounts? What percentage of rent do you collect?

A.—I get only a few rupees more than the actual revenue.

Q.—Suppose you are to get 1,000 rupees. What percentage of that are you able to collect?

A.—About 50 per cent.

Q.—The other day you had to bring a suit for recovery of some properties. What was the amount of rent claimed in that suit?

A.—The amount of arrears of rent, i.e., 1,000 rupees.

Q.—What was the actual rent?

A.—Rs. 150.

Q.—And you had to pay heavy compensation for improvements?

A.—Yes.

Q.—You were prepared to give renewal for it?

A.—Yes.

Q.—Then why was it that you had to bring a suit?

A.—There was much arrears of revenue and rent also.

Q.—What became of the proposed renewal?

A.—The tenant was evicted.

Q.—Was he willing to renew the lease paying the renewal fee?

A.—No.

Q.—You were an M.L.A.?

A.—Yes.

Q.—In your ancestral tavazhi there are tenants of how many years' standing?

A.—More than 100 years.

Q.—Eviction is very rare?

A.—Yes.

Q.—Do you think it is very easy to fix a fair rent in the case of a coconut garden?

A.—It is not very easy. A number of things have to be taken into consideration in order to estimate the annual yield.

Q.—Would you have any multiple of the assessment as rent?

A.—That will not be quite right.

Q.—Now, as regards garden lands, the tenants get heavy rates of compensation and the janmis gain nothing. Supposing I suggest that as regards garden lands there should be no legislation at all. Supposing there is another suggestion that the occupants of garden lands should be given fixity of tenure provided they pay a fair rent and also their renewal fee regularly. Which would be better in the interests of justice?

A.—Giving them fixity of tenure is better and is in the interests of the janmi.

Q.—Suppose the tenant refuses to pay renewal fee. What is the janmi to do?

A.—There is no remedy for the janmi if fixity is given. He must be given some power whereby he could get from the tenant a fair rent.

Q.—Supposing a law is enacted that on giving a fair rent and renewal fee the tenant is entitled to renewal. Suppose the tenant refuses to do it. What is the landlord to do?

A.—He must be evicted.

Q.—He will have to pay heavy compensation?

A.—In such cases melcharths will have to be resorted to.

Q.—That is because compensation is to be paid. So it is an one-sided advantage. The tenant can take or not take renewal. But the janmi cannot evict in any case?

A.—Yes.

Q.—You think that the rent proposed by you is fair and in the interests of the landlord and tenant?

A.—In my view it is fair.

Q.—That would not work any hardship?

A.—In the case of small janmis it may work some hardship.

Q.—What do you suggest as renewal fee?

A.—One year's gross income from the land.

Q.—Then I take it that your view is that no legislation is necessary?

A.—Yes.

Q.—If any legislation is to be passed it should not proceed on the basis of granting of permanent occupancy?

A.—Yes.

Q.—Fixity of tenure is to be given if the tenant pays rent and renewal fee as suggested by you?

A.—Yes.

Q.—And I take it you are of opinion that the compensation for Tenants' Improvements Act is sufficient protection as regards garden lands?

A.—More than sufficient.

Q.—*Rao Sahib V. Krishna Menon*:—You are acquainted with the conditions in South Malabar?

A.—Not much.

Q.—Have you heard that the tenants holding lands in South Malabar without any garden attached to it are often evicted of their holding because there is no compensation to be paid for?

A.—There may be instances.

Q.—You have stated in your evidence that arbitrary evictions are more or less unjust. And if anybody resorts to them you will not call it a useful power to be exercised by the janmi? You don't attach any value to that?

A.—No.

Q.—You don't expect any compensation for giving up that power?

A.—No.

Q.—You have heard of devaswam lands?

A.—Yes.

Q.—What is the justification for evicting tenants holding devaswam lands under any circumstances? Who is benefited by such eviction?

A.—In the case of garden lands I think the tenants are more benefited.

Q.—A large amount is exacted as renewal fee from the tenants by the trustees of temples. Is there any justification for these tenants being evicted?

A.—Arbitrary evictions are not very justifiable.

Q.—Is it not very common that a major portion of the amount goes to the pocket of the trustees?

A.—I cannot say that.

Q.—Suppose an acre of land without any plantation on it is leased to a kuzhi-kanamdar, what is the rent you generally demand in the beginning?

A.—Only a nominal rent, say, four annas.

Q.—How long do you continue that?

A.—Till the trees begin to yield.

Q.—In your evidence you have stated that half the net produce should be the janmi's share. How do you reconcile this practice with that?

A.—Because at the time it is given to the tenant he will be getting practically nothing. So this nominal rent is sufficient. The value of the land will also increase when the improvements are effected by the tenant.

Q.—Why don't you yourself effect those improvements?

A.—At that time it may be that I have no money.

Q.—You said that some of the jaumis in North Malabar and South Malabar are in financial trouble.

A.—And they have been ruined in some cases.

Q.—Even with all these unlimited powers? It is not due to want of power then that they became ruined?

A.—No.

Q.—So you cannot cite their financial difficulties as a reason for depriving them of their powers? Even in the most favourable conditions they are in trouble? So what is the harm in depriving them of their powers?

A.—But that is a right which they have had.

Mr. Kotieth Krishnan:—Q.—Now, the chief objection so far as I can see of the janmi against any tenancy legislation is that he will not be able to raise rents as much as he wishes. Supposing there is a law which will give power to the janmi to raise rent as much as he wants, will you have any objection to the grant of fixity even then?

A.—I will have no objection.

Q.—So the chief trouble is with the curtailment of right to increase rent to the extent which the janmi wants. It is that that is the crux of the situation. It is over that that all this agitation by the janmi against legislation and by the tenant for legislation takes place?

A.—Yes.

Q.—You said that several janmis are put to difficulties by their having to pay for value of improvements. Supposing there is a law which will enable the janmi to raise rent without paying the tenant for value of improvements you would certainly advocate that?

A.—He must be paid some compensation.

Q.—It would be to the advantage of the janmi to have a law giving fixity to the tenant provided the right to enhance the rent is given without paying for value of improvements?

A.—In the case of big janmis it may be.

Q.—In the case of garden lands it would be more profitable to the janmi if there is such a law?

A.—Yes.

Q.—And the janmis would welcome such a law providing right to enhance the rent without paying for value of improvements?

A.—Yes.

Q.—The only question is to what extent the rent should be enhanced?

A.—Yes.

Q.—In the case of garden lands what is it you would fix as rent?

A.—I would fix it at half. Generally if a property is worth about Rs. 4,000 there may be improvements to the value of Rs. 2,000 and the janm value may be about Rs. 2,000. Supposing the property is to be sold for Rs. 4,000, then Rs. 2,000 will be the share for the improvements, to be given to the tenant, and Rs. 2,000 will be the value to be given to the janmi.

Q.—The value of the janm according to you would be same as value of improvements in the property?

A.—Generally it is so.

Q.—But in villages the lands will be less costly than the improvements?

A.—Yes.

Q.—So you would make a difference between urban and rural areas even regarding rent because there is a difference in value?

A.—Yes. It is by this Improvements Act that the janmis suffer.

Q.—You want an Improvement Act by which the value of improvements must correspond to the value of the garden whether it is in Tellicherry, Manantoddy or anywhere else?

A.—If the Improvements Act is to be amended at all the value should be adjusted to the locality in which the property is situated, that is in proportion to the

janm value of the village. It should be so remodelled that the value of improvements on the property must correspond to the janm value in that village. It is only then that it would be fair amendment to the Improvements Act. Any other mode would bring inequality.

Q.—You were asked by Diwan Bahadur Narayana Kurup where a janmi will not be able to pay for value of improvements what he should do except granting of melcharths. Would not the remedy that I suggest to you now, i.e., raising rents up to the amount that the property is capable of yielding, meet that difficulty?

A.—Yes. But he may want money?

Q.—He can raise it in the market, can he not? Don't you think that the financial difficulties of most of these karnavans are on account of the fact that they get into the sathanam rather late in life when their sole anxiety is to provide property for their wives and children?

A.—That may be one of the reasons.

Q.—May I take it that if the legislature is able to find out some way by which a fair rent and a fair renewal fee can be fixed, no right-thinking janmi in North Malabar would object to that legislation?

A.—I do not think anybody will object; but the janmi should be able to collect them in time.

Q.—And in such a case no right-thinking janmi would demand compensation either?

A.—No.

Q.—You don't evict a tenant who is in arrears for two or three years?

A.—No.

Q.—You are very lenient and it is on account of that that the tenants think that they can afford to wait?

A.—They generally don't pay in time.

Q.—Your tarwad and the Puthiapurayil tarwad are the two tarwads in North Malabar which have got a reputation of not granting melcharths under any circumstances?

A.—About my tarwad I know, but about Puthiapurayil tarwad I don't know.

Q.—In your tarwad in all the murappads executed by the tenants all the improvements are noted as janmis?

A.—No.

Q.—Are there murappads executed to Koottaly family where any improvements are stated as belonging to the tenant?

A.—I think there are.

Q.—Only very few?

A.—No.

Q.—You cannot deny that there is no such statement? Have you read any murappad executed to your family?

A.—That is what I know. I have been living there.

Q.—You could not have first-hand knowledge about the contents of the murappads. Even in spite of the fact that you mention in your murappads that all the improvements belong to the janmi there is still greater demand for the Koottaly properties than for the properties of other tarwads?

A.—That is all too familiar to be talked about here.

Q.—There is a tradition in your family not to give melcharths?

A.—Yes.

Q.—May I take it then that the Hindus consider it a sin to grant melcharths?

A.—I do not think they consider it a sin.

Q.—You think that the amount required for planting, say, 100 coconut trees, with compound interest at 6 per cent from the time of the investment right up to the time when the trees begin to bear fully is less than the value that is now given under the Improvements Act?

A.—I think it may be a little less.

Q.—You have not worked it out?

A.—I think it will be less.

Q.—You own extensive properties in French territory also. At the time of municipal and local board elections rival candidates come to you for help for securing votes of your tenants?

A.—Yes.

Q.—You ask your tenants to vote for them?

A.—I do not generally do it.

Q.—You advise them? You don't force them?

A.—They may know that I am supporting one candidate.

Q.—On account of the love or affection they bear you they follow your lead?

A.—Not all.

Q.—Do you know of cases where janmis have been forcing tenants to vote for a certain candidate?

A.—I have not known.

Q.—Do you know that one of the members of the Narangoli (Chirakkal) family of which you spoke, who is an adikari of that amsam, deliberately got the tenants' properties sold and acquired them in the name of one of his relations, because the tenants refused to assign that right to him?

A.—I do not know.

Q.—You don't know that there was an appeal to the Revenue Board to set aside the sale?

A.—I don't know.

Q.—In the case of that family there has been a dissipation of tarwad properties by successive karnavans?

A.—Yes.

Q.—It is on account of that the present karnavans find difficulty in paying the revenue?

A.—The tenants also don't pay properly.

Q.—You say here "if most of the improvements belong to the tenant the janmi should be given half," etc. Suppose all the improvements belong to the tenant; you would reduce the rent?

A.—No. It must be half and half.

Q.—Do you get that proportion in respect of your garden land?

A.—No. I get one-third, one-fourth, etc. It varies.

Q.—Is it including revenue?

A.—Excluding revenue. In my case I calculate only income from coconuts. Not the other trees.

Q.—Suppose all the trees belong to the janmi. What would you fix as the janmi's share?

A.—Between two-thirds and three-fourths.

Q.—That is valid melpattam?

A.—Yes.

Q.—Your lands are held directly by cultivating tenants? You have no middlemen between them and you?

A.—There are only very few middlemen.

Mr. H. R. Pate :—Q.—Do you think it is sinful in all cases to grant melcharths?

A.—It is not sinful; but the reputation which the janmi holds if he grants melcharth is not good.

Q.—Will no occasion arise for a janmi to grant melcharth?

A.—If the janmi has large resources it is not necessary for him to grant melcharth.

Q.—The richer the janmi the smaller the necessity to grant melcharth?

A.—Yes.

- Q.—What about the poor janmi? You think he should not be allowed to give melcharth?
- A.—In the existing state of things he must be allowed.
- Q.—But you say that right of granting melcharth must be taken away?
- A.—In the case of small janmis I do not think that power should be taken away.
- Q.—Then it will be necessary to classify the grade, i.e., who is great and who is small?
- A.—Yes.
- Q.—You said that, instead of giving melcharths, janmi who is hard pressed and wants to increase his income should be able to enhance the rent by an amount which would represent the distributive value of the renewal fee which he would otherwise get?
- A.—Yes.
- Q.—Suppose the tenant refuses to pay the increased rent?
- A.—Then the janmi must be able to evict him.
- Q.—So it all comes back to this. As soon as a crisis arises the janmi must have power to evict?
- A.—Yes.
- Q.—Then you said that eviction should be restricted except in cases when the janmi wants the land for his own use, either for residential purposes or to cultivate? But if it is as explained to you just now, the proposition breaks down?
- A.—But this applies to garden lands alone.
- Q.—What about paddy lands? Is it not paying to the janmi to recover paddy lands?
- A.—But the janmi will not be able to cultivate.
- Q.—If the janmi is told that the tenants are going to be given fixity of tenure, then will not the janmi be inclined to drive out the tenants and raise cultivation by his own men?
- A.—He will be inclined to do so.
- Q.—Then the tenant will have to find another job. What do you suggest he should do?
- A.—There are extensive uncultivated lands. He can cultivate.
- Q.—Uncultivated lands?
- A.—Yes.
- Q.—The janmi cannot cultivate even if he tries?
- A.—Yes.
- Q.—Your tenants, you say, are mostly cultivating tenants. Does that apply to garden lands as well as to wet lands?
- A.—Yes.
- Q.—What is the usual tenure in wet lands?
- A.—Five years.
- Q.—Is the renewal fee payable at the expiry of the five years?
- A.—Yes.
- Q.—Hereafter you propose to fix rents; do you?
- A.—Yes.
- Q.—You propose to introduce a scale of fixed rents both for paddy land and garden land?
- A.—Yes.
- Q.—How is this question to be settled?
- A.—At the rate I have suggested.
- Q.—Who is going to work it out?
- A.—The Government must do it.
- Q.—There should be a general rate for the whole of Malabar. You say half the produce varying from year to year?
- A.—The average can be taken.

- Q.—We will have to work it out once for all. You think the tenants will agree to this? If they do not agree what will you do?
- A.—I think they will agree.
- Q.—If the tenant thinks the janmi's demand is too high, he can go to court?
- A.—Yes.
- Q.—The courts must look to that?
- A.—Yes. Just as improvements are now valued.
- Q.—Of course, improvements are all on the spot. It is different from estimating the produce of the year?
- A.—Some average should be found.
- Q.—Where is the paddy usually threshed? Is it in the paddy field?
- A.—In the tenants' houses.
- Q.—There are no threshing floors?
- A.—No.
- Q.—There is difficulty to tell to which holding a particular heap of paddy belongs?
- A.—Yes.
- Q.—So there will be difficulty in estimating the produce of the field?
- A.—Yes.
- Diwan Bahadur T. C. Narayana Kurup*:—Q.—Mr. Nambiyar, you said that if a fair rental and fair renewal fee is fixed, no janmi in Malabar would have any objection to giving fixity of tenure. You mean the rent and renewal fee suggested by you in your answers?
- A.—Yes.
- Q.—If it is said that it is not to be the rent and renewal fee would the janmis like to have fixity of tenure?
- A.—No.
- Q.—Who is to decide if the rent or renewal fee is fair?
- A.—The court, in case of dispute.
- The President*:—Q.—In answer to Mr. Narayana Kurup's question you said that if the tenant declined to pay renewal fee the only course left for the janmi is to evict him. But if it is after fixity is given that the tenant makes default in the payment of renewal fee, then you suggest that the landlord should invoke the aid of some law to be made for the collection of renewal fee, unless the tenant says "I do not agree to pay renewal fee" in which case he will have to go to court for evicting the tenant?
- A.—Yes.
- Q.—Mr. Narayana Kurup pointed out the difficulty of janmi paying compensation in the case of tenant's improvements. What I wish to ask you is this: is it necessary for the janmi in all cases where the tenant makes default in the payment of renewal fee to ask for eviction of the tenant? Cannot the janmi invoke the aid of the Court or the revenue authority to collect the renewal fee? But if the tenant says he is not going to pay the renewal fee, he may voluntarily give up the tenancy. If there are improvements, the janmi will of course have to pay compensation.
- A.—But that compensation should not be at the existing rate which is very high.
- Q.—In answer to one of Mr. Pate's questions you said that in the case of small janmis it would be necessary to continue the power of giving melcharths. Mr. Pate said you will have to classify the janmis, big and small. But supposing we say that the janmi can grant melcharth provided he goes to Court and there declares that he is financially unable to institute a suit for eviction himself and the Court gives him a certificate to that effect, what would you say to such a procedure? Suppose it is enacted thus "If a janmi wants to give melcharth, he must go to Court and obtain a certificate from the court that financially he is too poor to undertake eviction proceedings himself," do you think that would work well? Then you can avoid this classification?
- A.—Yes. It would work well.
- The President*:—The Committee is very thankful to you, Mr. Kammaran Nambiyar.

XVI

Written statement of Mr. A. K. Sankara Varma, Valiya Raja of Kadathanad.

I shall preface my answers with a few remarks, which are indispensable to make my position clear. My remarks will be confined to those aspects and incidents of Malabar tenure, which are difficult for an outsider to understand. Any talk on how it came to be, or what it stands for is perhaps futile. Again that a system, as old as the hills should not be lightly meddled with, that any addition or amendment is sure to be the precursor of many such additions and amendments, that the interim period of adjustment will be a time of more or less uncertainty and confusion, and fruitful of much litigation, are matters that will occur to all. But so clear cannot be the close connexion between the Malabar tenure and the social system or even the 'janmi-kudiyar' relationship.

2. In a unit of a small locality the janmi is the accepted centre of society, who is often looked up to for guidance in all matters. Here the practice is not, as is sometimes supposed, to cater to the wishes of the one, but for each member, including the janmi, to share the joys and sorrows of the others. The tenure has in various ways tended to promote the life of reciprocal help that this small knot of society enjoys. Things have been done with an eye to division of labour and economic efficiency. Of course in towns and in their immediate neighbourhoods a different state of affairs prevails. Any change in the system must affect this life of interdependence and harmony.

3. The system is deeprooted and the whole society from the highest to the lowest is instinct with its spirit. The instructive picture of a small tenant setting up for a miniature janmi in the full enjoyment—but certainly more intensive from its limited scope—of almost all the rights and obligations of a janmi discloses at once the almost instinctive attachment of the average Malayali for the old system, and the narrow and selfish nature of the plea for reform. Obviously the objectionable feature is the restraint involved in the satisfaction of similar claims made from above.

4. The 'Marumakkattayam' and the Malabar tenure have grown up together and affected each other in no small degree. Any alteration of the one must have its effects on the other.

5. The relation between the janmi and the kudiyar implies much more than appears on the face of it. The legal incidents that appear expressed in the formal contract are the smallest part of it. Numerous services of a very varied nature, all tending to economy, encouraging co-operation and thrift, and proving very useful to society in a time of crisis and at the same time falling light on the tenant and most ungrudgingly performed by him are tacitly included in the contract. This explains the anomaly of a nominal rent—much less than Government revenue, in some cases—for a vast and productive holding.

6. The system has fully answered the needs of the community in the past; and smooth relations existing, I do not see why it should not do so in the future. Has a hundred years of British rule, English education and the formation of an enlightened public opinion caused such smooth relations to disappear? Or if it is that the janmi has not marched with the tenant or kept pace with him, the latter has to be reminded that the company from every quarter now is to look back and to discard old institutions.

Disabilities.

I. (a) I do not know of any general disability or disqualification legal, social political or otherwise that the tenant in Malabar, as such is subject to.

(c) Circumstances in South and North Malabar are different. In the former the janmi right is vested in a few families, while in North Malabar it is more evenly distributed. Again South Malabar lands are mostly paddy flats, while in North Malabar 'parambas' with coconut trees or pepper vine occupy the greater portion. This gives a clue to the difference in the attitude of the tenant in South and North Malabar to the proposed reform. In North Malabar, I have found from personal inquiry, that not less than 90 per cent of the tenants are against tenancy legislation. The intelligent section finds no necessity for such reform. The others seem to have

a vague fear as to its consequences. Both alike foresee in it a fresh crop of litigation. But in South Malabar, the tenant of the paddy flat, to whom the Improvements Act is not so often a protection is more afraid of eviction and has become a supporter of tenancy legislation. There is yet another fact that has made the South Malabar tenant anxious for legislation. The intermediate interest has now become vested in high placed Government officials, lawyers, or rich merchants, who, from ignorance or unwillingness, are not prepared to abide by the customary conditions of janmi-kudiyar relationship. The janmi is not likely to keep such tenants on, though they had paid in most cases a high price for the kanakudiyayma.

(d) I cannot definitely say.

Evictions.

II. (1) (a) & (b) Unjustifiable evictions are very rare. The Improvements Act has tended to make it rarer—particularly in North Malabar. The same Act has, with the present high rates of valuation, made the tenant in some cases recalcitrant and driven the janmi to resort to meloharths. But they are also rare.

(2) It is somewhat difficult to draw a line between the influences exerted by the same man as social head and proprietary head. Yet, I trust, the latter influence is not brought to bear on the tenants in the settlement of social disputes. There may be instances, but they are very rare.

Remedies.

III. (a) In fairness to the tenant, I should consider it necessary to set limits to the arbitrary exercise of these powers by a wrong headed janmi. I should also like to lengthen the period of holding in the case of the verumpattamdar or the tenant from year to year, provided he gives sufficient security to his janmi, for the rent.

(b) The grant of permanent occupancy is neither necessary nor advisable. The utmost that is needed to meet the present demand is to prevent by legislation the abuse of the janmi's right of direct and indirect eviction. To go further and grant permanency is to court trouble. For, in the first place, you have to amputate an interest, which, at the least, long enjoyment and judicial decisions have guaranteed to be absolute. Nor is there any compensating gain.

Secondly, the change would raise questions of a complicated nature. For instance the question of compensation. It is difficult to assess the value of a portion of an interest, whose value itself does not wholly depend upon the ordinary laws of demand and supply. Sentiment has largely to be taken into account, and the work of assessment becomes difficult. There are difficulties also in payment. Payment on the spot, i.e., in a lump sum, is sure to be a burden to the tenant's estate, in most cases. Payment in instalments raises the rent for a period of time.

Thirdly, it is not a remedy that may be availed of by all classes and grades of tenants. That is not a desirable result.

Fourthly, it would adversely affect the Marumakkattayam families. The karnavan who gives compensation gets a protest for permanently encumbering the tarwad properties. The karnavan, who receives compensation, gets it in cash which is at his absolute disposal. This is only one instance in which the tarwads lose.

(c) & (d) If permanency is to be granted at all, it has to be granted to all.

(e) If such rights are granted, janmis should be vested with the right to take out attachment in the civil court after demand notice for arrears of rent is not complied with.

IV. (a) From the very nature of the parambas in North Malabar it is impossible to treat the kudiyiruppus separately from the rest of the holding. Any provision granting kudiyiruppu would detract the value of the rest of the holding.

2. It is impossible to draw any distinction between the two.

(c) 1. He should wait till the janmi chooses to evict him.

2. The kanamdar shall remove at his own expense so much of the house, as is found to be unnecessary for the proper enjoyment of the holding.

3. Kudiyiruppu cannot be given permanency.

(d) 1 & 2. It is not suited to the genius of the people.

V. In my opinion the Improvement Act has not always achieved its end. The tenant who has really put in labour is not paid a good value. Trees in later growth fetch a far higher price. I suggest therefore that improvements may be valued according to the nature of the locality and the labour actually spent on them. I would also suggest that a limit be assigned to the number of trees that can be profitably grown in a given area. As for the present rates of valuation, I have to conclude that fluctuations in the market are not taken into account, and the values increase somewhat senselessly.

VI. (a) The difference between the janm value based on the rent now payable by the tenant and the janm value calculated on the basis of the rent payable by the occupancy tenant may be taken as the compensation due to the janmi.

(b) Such compensation may be apportioned among the tenure holders in proportion to the profits derived by each from the property.

VII. (a) Rent, as at present assessed, depends more on the status of the family owning the land than on the land itself. Kovilagams lease out parambas yielding one hundred rupees and more on a low rent of two or three rupees which happens to be invariably much less than the revenue assessed on the property. Other families of high social status lease such properties on rents varying from Rs. 5 to Rs. 8. The average rate may be taken to be somewhere about 35 per cent of the net income.

(b) No. Not at all.

VIII. (a) The observations in VII (a) apply to this as well. Kovilagams receive for a kuzhikanam lease a consideration of about a third of the income from coconuts alone.

(b) The normal rate is twice the annual rent.

X. At first one would be tempted to welcome the proposal in favour of pre-emption but experience gained from the operation of such rights vested in ottidars makes one doubt its efficacy in gaining the desired end. Collusion between the janmi and the melcharthdar is sure to take place.

Monday, the 14th November 1927

Oral evidence of Mr. A. K. Sankaravarma Raja.

The President :—Q.—You belong to Aiyenjeri kovilagam?

A.—Yes.

Q.—You are the head of that kovilagam?

A.—Yes.

Q.—You hold one of the sthanams in Kadathanad?

A.—It is not exactly a sthanam; I am the senior member of my branch holding two items of properties.

Q.—You were managing the Kadathanad Raja's estate during the time of the late Raja?

A.—Yes, for about 13 or 14 years.

Q.—Now you will please refer to your written answers.

You say in answer to question III (b) 'the grant of permanent occupancy is neither necessary nor advisable'. I suppose you mean to advocate only abolition of suing for eviction and granting of melcharth?

A.—Yes.

Q.—You say that the verumpattamdar's tenure should be extended. For how long would you extend it?

A.—For about three years.

Q.—By the term verumpattamdar you mean the kozhu tenant?

A.—The verumpattamdar here means the man who actually cultivates the land. The lease of wet lands extends to four or five years here.

Q.—It is only in South Malabar that he is an year-to-year tenant?

A.—I know very little about South Malabar. In North Malabar between the supreme janmi and the actual cultivator there may be six or seven tenants. The last tenant is the man who actually cultivates. I give him the name of verumpattamdar.

He will be given a term of only one year by the fifth or sixth tenant under whom he cultivates. It is that man that I want to benefit. He has no interest in the land at present. To add manure and improve the land he must have some interest in the land and for that his term should be extended at least to three years.

Q.—The Committee has so far been under the impression that there are no such year-to-year tenants in North Malabar.

A.—There are several.

Q.—Then you say that 'the utmost that is needed is to curtail the janmi's right of direct or indirect eviction'. How would you do that?

A.—That is, they should be prevented from granting melcharth. A wrong-headed janmi may now and then give a wet land to anybody provided he gets more money. That should be put a stop to, if the tenant is prepared to give timely rents and manushams or renewal fees and if he also supplies now and then what the janmi demands he should not be evicted. There is reciprocal help between the janmi and the tenant. Whenever a death occurs in the house of a tenant the janmi gives paddy or money to celebrate the festival, and whenever anything occurs in the house of the janmi, information is given to the tenants and they sometimes offer personal service, and sometimes give bananas and other things. It is for this reciprocal help that only a very nominal rent is levied. Sometimes troops of *kathakali* will be sent to the tenants and the tenants will have to allow them to play and will have to spend some 30 or 40 rupees on them. The rent to the supreme janmi will be a trifling amount, say two or three annas from a coconut garden that will fetch the tenant Rs. 600 or Rs. 800. So now and then demands will be made by the janmi and they will be met by the tenant.

Q.—Your proposal is that all those *mamuls* should be continued?

A.—Yes.

Q.—That is one of the conditions under which you would prevent eviction or melcharth?

A.—Yes.

Q.—Don't you think that these are very unsatisfactory conditions, so vague and indefinite?

A.—I cannot say it is vague. That has been the practice from time immemorial and up till now the tenants have been doing it.

Q.—Supposing it is laid down that they need not do all these things, but as a compensation for that, instead of a nominal rent, they should pay a fair rent, would it not be better?

A.—That means hereafter, the janmis will not be able to convene meetings and collect subscriptions for janmis' celebrations; it will also be impossible for the janmi to recruit forces if there be a war. During the Great War, I was able to send some forces, because they had only to pay a nominal rent and so they were bound to be of reciprocal help.

Q.—Meetings are held and public contributions are given voluntarily and taken in other parts of the country. That state of affairs can come about here also. But whether these *mamuls* are continued or not, the janmi must be able to collect increased rent. That is one of the conditions?

A.—Yes.

Q.—Are there any other conditions?

A.—If these *mamuls* are put a stop to and compensation is to be paid, it should not be paid in a lump sum. For, in the case of Marumakkattayam families, the difficulty is the karnavans will leave nothing to their anandravans to enjoy afterwards.

Q.—It will not be in a lump sum. It can only be done in the shape of annual rent, i.e., to enable the janmi to get a reasonable rent if the present rent is too low. You want any other exceptions in regard to prohibition of melcharths and evictions?

A.—Suppose a tenant holds land near a temple. On account of his poverty he will be compelled to assign it to somebody else. Suppose a Muhammadan comes in.

Suppose he butchers animals; that will be objectionable to all the Hindus who reside there. That will certainly be objectionable with the deity so near in the temple. In that case he will have to be evicted.

Q.—You would exempt that case also?

A.—Yes. Then in places where the deity will have to be taken in procession to the seashore or any other place on the occasion of the *Araattu* this right should not be taken away. Lands within the pollution distance will have to be excluded.

Q.—When you thus restrict evictions and melcharths and take away the unlimited right of the janmi to evict the tenant either directly or indirectly which he now possesses, do you think any compensation is necessary?

A.—I don't think any compensation is necessary if the tenant pays the rent regularly and every twelfth year pays the renewal fee. But at times we have to evict him if we want the land for our own use or cultivation or for our relations, wives and children or for the construction of a building suitable for our habitation.

Q.—That is another exception. That is why I am asking you what compensation should be given. If compensation is given to the janmi now for restricting his rights, when the janmi wants his lands back he can pay the tenant compensation in return, I presume?

A.—No. To-day I may receive that compensation, to-morrow my successor may not be able to return it. He finds a locality suitable for him, he wants it for his brother or for habitation, and he may not be able to find proper funds because it is I who received the compensation. I say no compensation is necessary to the janmi. Janmis need not think about it at all. Even now several tenants are doing like that; they pay rents and renewal fees regularly and they are not disturbed, except in a very few cases.

Q.—So when you want the land for your own use, or for giving it to your relations, wife or children or for your own cultivation, you want the right to take back the land?

A.—Yes.

Q.—On the question of compensation for tenants' improvements you say 'improvements may be valued according to the nature of the locality and the labour actually spent on them.' Would you kindly explain your answer further?

A.—Sometimes coconut trees are valued, in Kurumbranad taluk, at a very high rate. Anywhere in that taluk coconut trees can be easily planted and without much labour trees can grow. For about eight or ten years by which time it will begin to bear the expenditure will come to about 35 or 40 annas per tree at the rate of 4 or 5 annas a year. But a bigger amount has to be paid now under the Act.

Q.—The rate of compensation given to the tree which has begun to bear is disproportionate to the amount spent on it. That should be reduced. Is that your point?

A.—Yes. With regard to tender trees up to the sixth or seventh year compensation has slightly to be increased; otherwise the tenants suffer, because they have to spend a good deal of money before that time. Otherwise a wrong-headed janmi will always wait for that opportunity to evict him. He borrows money—he can easily get money—and when the tree reaches the stage of bearing he will evict the tenant.

Q.—Are you aware of such cases?

A.—There are several such cases, perhaps, there are such cases in all places where there is coconut plantation. That should not be allowed.

Q.—One question more. You say 'at first one would be tempted to welcome the proposal in favour of pre-emption, but experience gained from the operation of such rights vested in ottidars makes one doubt the efficacy in gaining the desired end'. Can you tell us what your experience is in this matter?

A.—In giving away the janmi right to another man, an amount will be fixed at, say, Rs. 15,000 which will not be the actual price of the janmi land. The land may be actually worth only about Rs. 5,000. The janmi finds out another man and easily gets Rs. 6,000 and at once shows in the contract Rs. 15,000 or Rs. 10,000 as the price and he asks the ottidar to pay Rs. 15,000, the figure shown in the document which will not be the actual price.

Q.—But the ottidar can refuse to buy the land at that price.

A.—The janmi colludes and finds out the proper man and fixes the amount at Rs. 100 or Rs. 150 when the tenant will have to pay only a reasonable rate of Rs. 20 or Rs. 25.

Q.—You say that fraud would be difficult to detect?

A.—Yes.

Mr. H. R. Pate:—Q.—You favour some limitation about eviction?

A.—Yes.

Q.—You would not allow the janmi to evict unless he wants the land for his own use?

A.—Yes. I do not like unjustifiable evictions.

Q.—Would you put it like that, viz., when the janmi wants the land for his own use the tenant may be evicted?

A.—That is my idea.

Q.—That makes no advance; 'his own use' would cover 'for the use of any members of his family or his wife and children.' Would it cover the case of a very particular friend?

A.—Very rarely that may also have to be done. Sometimes for the sake of our friends we will have to do it.

Q.—Do you think you can frame a law covering all these cases?

A.—It is not possible. So I would limit it to relations and wife and children.

Q.—Suppose you have a tenant who declines to pay rent. Would you have power to evict him?

A.—If I do not get rent he has to be evicted.

Q.—That is another exception. Supposing he does not pay renewal fee?

A.—That case also has to be included.

Q.—Supposing a janmi is poor and his tenant has improved his lands very much. He refuses to pay rent. What is the poor janmi to do?

A.—Then the only remedy is to get it sold. The tenant has paid something in the shape of renewal fee to the janmi and got the land leased out to him. That right has to be sold.

Q.—Does not that mean eviction?

A.—It comes almost to eviction.

Q.—Suppose a tenant becomes too poor to pay rent and renewal fee. What is the janmi to do?

A.—Some janmis cannot get them at all now.

Q.—He can give melcharth?

A.—That is the only remedy.

Q.—But don't you wish to abolish melcharth?

A.—Yes, to a certain extent. This did not strike me. Only when you questioned about this did it strike me. In North Malabar, where the coconut topes are more in number, when the janmi happens to be poor and when there is spite between the tenant and another man, the janmi is made to give melcharth by the tenant's enemy, by payment of Rs. 10 or Rs. 15 with which the janmi will be satisfied on account of his present circumstances. The man who takes melcharth goes to Court and evicts the tenant and takes possession of the property.

Q.—They are very sad cases?

A.—Yes. There are very big janmis paying Rs. 10,000 and Rs. 15,000 Government assessment and at the same time not having enough to eat. Their women will be starving.

Q.—Do you think that the condition of the janmi families in Malabar generally, excepting certain prosperous families, is becoming better or worse?

A.—Much worse.

Q.—Do you think that they will cease to exist and a new race rise in their place?

A.—Yes.

Q.—Would you cite any particular classes rising in prosperity at the expense of any other class?

A.—The Muhammadans and the Tiyyas are rising.

Q.—And who are sinking?

A.—The Nayers are going down.

Q.—What about the professional classes? Do retired officials, vakils and clerks, take up lands on kuzhikanam?

A.—No.

Q.—You say you have a long series of tenants. The janmi, and under him?

A.—The kozhu tenant.

Q.—And who is under him?

A.—Another tenant, and under him there will be another tenant. There will be some six or seven of them.

Q.—Why does No. 2 sub-let it?

A.—He may have a paddy flat fetching about 10,000 puras of paddy and he will have to give to the kovilagam only 500 or 400. He distributes it into several parts and sub-lets it.

Q.—And then No. 3, why does he not cultivate?

A.—He also will have other items of properties, and seldom these Nayar people cultivate personally.

Q.—You want fixity to be given to No. 4?

A.—Yes.

Q.—Then the interest of those above him will be reduced? No. 4 may improve the land, but he won't be able to pay directly to his janmi. The janmi won't get the benefit.

A.—The supreme janmi will make his demands to the tenant immediately under him.

Q.—If the fourth man does not obey the orders of his immediate janmi, how will the second man supply the janmi's demands?

A.—I don't know. I cannot understand why that power should be taken away from the janmi and vested in the kanamdhar alone or any other man alone.

Q.—That is what I want to know?

A.—First of all I do not think it is very essential that the right now enjoyed by the janmi should be taken away. I cannot also understand the reason for taking away that right and giving it to the second tenant or the fourth tenant and making him powerful.

Q.—Supposing the right of permanent occupancy is given to the tenant next to the janmi, would the janmi be entitled to any compensation?

A.—If that is to be taken away, he ought to be compensated properly.

Mr. Kotieth Krishnan :—Q.—I take it that you are a good janmi?

A.—I am not to say that. It is left to the people to say whether I am a good janmi or a bad janmi.

Q.—Now, if the legislature is going to say, 'if the tenant pays the rent that you mention and the renewal fee that you mention, the tenant will not be evicted out of the land unless the janmi wants the land for his own use', you will have no objection? That is to say, if the tenant undertakes to pay 30 per cent of the net yield as rent and twice the rent as renewal fee then you will have no objection to giving fixity, provided the tenant can be evicted when the janmi wants the land for his own use?

A.—Yes.

Q.—And you think it will be fair to the janmi and the tenant?

A.—Yes.

Q.—The janmi will not be a loser by it?

A.—No.

Q.—And in such a case the janmi will not be justified in asking for compensation? Naturally it follows?

A.—No. He has always got the power to evict him at any time. When I take away your right or anything like that and I do not pay for that, it is meaningless. It is rather rude. You are taking away the power from the janmi. It has got its own value.

Q.—But you yourself said that if any compensation is paid into the hands of the karnavans that will not be available when the janmi wants to take the land back by paying the compensation?

A.—Therefore in such cases it is safer and it is advisable to allow the janmi to retain the power with him rather than allow the karnavans to misappropriate the amount of compensation. It is advisable to retain the power subject to certain conditions.

The President :—With reference to your point, Mr. Krishnan, what the witness says is, the janmi must have power to take back the land when he wants it for his own use and he is also entitled to compensation for the restriction of his rights.

Mr. Krishnan :—In your opinion therefore, even if the tenant is prepared to pay the rent that you mention and the renewal fee that you mention, even then you will allow the janmi's present right to continue?

A.—If any right of permanency is to be granted, or any law comes to the effect that the tenant should not be disturbed, that means you are taking away some power from the janmi for which he has to be remunerated.

Q.—You say that if occupancy right of a permanent nature is given then it is confiscating the janmi's right. I suggest that no such deprivation of right is contemplated. At present now, in your kovilagam if a tenant is prepared to pay you your renewal fees and rent you are always giving him renewals. Most good janmis do it.

A.—Yes.

Q.—Suppose the legislature says it is only to provide against bad janmis. Supposing the legislature says that if a tenant is prepared to pay the renewal fee that you mention and the rent that you mention, then he shall be allowed to continue unless it be that for private reasons the janmi wants the land for his own use, that will not work any hardship to any janmi?

A.—No.

Q.—That is the usual practice which is being perpetuated? In such case there will be no question of compensation because you are not now getting any compensation for all these renewals?

A.—But, as Mr. Pate suggested to me, sometimes I would like to give a land to a friend. Sometimes I would like to give it to my vakil. If there is such a law what am I to do? That portion of the janmi's power is curtailed.

Q.—That is, you will not be able to give it to a friend?

A.—There are several other cases. I cannot enumerate all of them now.

Q.—What are the grounds that you think would justify eviction?

A.—I cannot now say. It is not possible for me to enumerate all of them now.

Q.—You say that the Nayar janmis are going down in prosperity. Are the Mappilla janmis prospering?

A.—I cannot say. Some are prospering; some are going down.

Q.—You are for respecting the old time-honoured institutions and not for making any changes?

A.—I cannot say that. If they are good I would like them very much; if they are bad I would discard them.

Q.—Is it a fact that the janmis often compel the tenants to vote for a certain candidate during the time of elections?

A.—In some places they do; in other places they do not.

Q.—Which is the place that you say the janmis have been interfering?

A.—Somewhere in Wynad; there the Kavandans do this.

Q.—Do you yourself do it?

A.—I cannot say I don't do it. I am not compelling them. I will use my influence. I am using that, not because he is a tenant.

Rao Sahib V. Krishna Menon:—Q.—You don't like unjustifiable or unjust evictions?

A.—No.

Q.—You don't like to see others exercising that power?

A.—No.

Q.—In the word 'unjustifiable' there is a good deal of elasticity. It is difficult to know which is justifiable and which is not? As a rule janmis have some notion of what is just and unjust?

A.—Yes.

Q.—When you hear about a certain eviction you form in your mind an opinion whether it is justifiable or not. There is some sort of convention, but when you go into the details there is some difficulty?

A.—Yes.

Q.—When the difficulty arises would you like that question to be settled by a tribunal or a third party?

A.—That is quite necessary.

Q.—By settling that, the janmi is not a loser?

A.—Every right-thinking man will allow it.

Q.—You say there is a good deal of margin between the profit allowed to your immediate tenants and other tenants?

A.—Yes.

Q.—Why do you allow that?

A.—Because the janmi makes a lot of demands to them from time to time. As I told you, sometimes kathakali troops will be sent to them and they will have to pay for them. Then for birthdays and all sorts of festivals so many things are demanded of them.

Q.—Do janmis expect compensation for not exercising the power of arbitrary eviction? Suppose the janmi does not exercise that power; he is very just in his dealings. Do they lose anything by maintaining the prestige of their family? Suppose there is a janmi who is not exercising his arbitrary power of evicting the tenant. He has continued to be as just as his predecessors. On that account does he lose any money?

A.—Certainly not.

Khan Bahadur Haji Abdul Kasim Sahib Bahadur:—Q.—You evict a tenant only if he does not pay the rent or if he declines to pay renewal fee?

A.—Yes.

Q.—Besides this, under what other circumstances you evict tenants?

A.—If they don't answer my demands from time to time I evict them.

Q.—What are those demands?

A.—Suppose a death occurs in my house or there is some other festival. They have to come and do personal service or to supply me with such things as I demand.

Q.—Are there any other circumstances?

A.—There are several other circumstances.

Q.—You just now said in answer to the President that if you want to build a temple and if the adjoining tenants happen to be Muhammadans or Christians or other Hindus they will be evicted?

A.—If their remaining there is objectionable, they will be evicted. They have to be at a distance of 64 feet or something like that. Not if he is a Muhammadan, for our biggest tenant is a Muhammadan and we have allowed him to continue for the last 120 years.

Then on the occasion of the *Arattu* procession they will have to be at a distance. To carry a *Vigraha* from place to place I do not object to their remaining there. During these *Grama Valis* and *Arattu* ceremony, the *Tampurans* will have to accompany the procession of the god. Then if a new temple is to be put up according to a *Praanam* in a particular place we have to evict them.

Q.—Even though the tenants be of 100 years' standing you have to evict them. Don't you think it is very hard?

A.—Certainly not. It is on account of different calamities that might have occurred in the family that we consult an astrologer; he might say 'you spend 10,000 rupees to put up a temple in that particular place'. He will say 'Once there was a temple there and it has been lost sight of. Nobody has been caring for that and hence all this calamity. So you put up a new temple in that particular place.' For the *Prathishta* of the *Devan* we want that particular place and we have to evict the tenant of that land. If we don't do that our family will be ruined. So to safeguard the interests of our family we have to do it.

Q.—Is eviction during the time of *Arattu* a temporary eviction?

A.—If permanency is given then the difficulty arises. Otherwise they will be asked to keep at a distance only temporarily.

Q.—You think no legislation is necessary to safeguard the interest of tenants?

A.—I do not say that. I have said legislation is necessary for restriction of unjustifiable melcharths and evictions and I have said some amendment is required in the Improvements Act of 1900.

Diwan Bahadur T. C. Narayana Kurup:—Q.—Most of the persons in Kurumbanad taluk are those who hold janm lands and kuzhikanam lands?

A.—Yes.

Q.—In your own personal opinion is it necessary that there should be any legislation?

A.—No. I do not think it necessary.

Q.—You said unjustifiable evictions and melcharths ought to be stopped. Is it easy to define what is unjustifiable eviction? Suppose a tenant comes to your kovilagam and insults you. Would you like to have him ejected from your property?

A.—Not always. I will see that he is properly punished. There is the criminal court. If he is once taught a lesson he will not come again.

Q.—In regard to giving fixity of tenure, you pointed out a number of instances in which there should be exceptions. Some more instances were suggested to you by the Collector. I shall suggest to you some more instances. If you want to give a property or a house to an old dependant of yours, do you think you should have power to recover possession of the property?

A.—Yes.

Q.—If you want to build a temple do you want to recover?

A.—Yes.

Q.—If you want to build an *Oottupura* would you like to recover?

A.—Yes.

Q.—If you want to extend your school building would you like to recover?

A.—Yes.

Q.—I take it there are a number of instances which you cannot enumerate in which it would be necessary to get possession of the property?

A.—Yes.

Q.—Now if a fair rent is fixed, and if the tenant disputes, the only remedy for the janmi would be to go to the Revenue Court or Civil Court. So for a big janmi having some 5,000 coconut topes he will have time only to run up to the Tahsildar's office or the Civil Court always?

A.—That is rather very hard.

Q.—Don't you think that a valuable right of the janmi is taken away by giving fixity of tenure under these conditions? Should you not get compensation for that?

A.—If any law is to come to that effect the janmi must be amply remunerated.

Q.—If such a law is enacted, are you of the opinion that the janm value would go down? If you have to prove before the Tahsildar or the Munsif what is the fair rent and renewal fee, would not the value of the property go down?

A.—It will certainly go down.

Q.—Then you spoke of election disputes. Do you speak to a man about election and voting because he is a tenant?

A.—No. If he happens to be my friend or my relation or my tenant or one whom I know intimately I will use my influence.

Q.—You said about cultivation of kozhu lands, that is that they are not directly cultivated. Why is it so?

A.—One tarwad may own one kozhu land in one amsam, another kozhu land six or seven miles away, and so it is not possible for the tarwad to actually cultivate all these lands. That is one of the reasons.

The President :—*Q.*—You have said in your written reply that if permanent occupancy is to be given it has to be granted to all. And you pointed out in your oral evidence that there are about five or six intermediaries between the supreme janmi and the actual cultivator. And when Mr. Pate asked you the exact significance of that answer of giving permanent occupancy to all intermediaries you experienced some difficulty in grasping the situation. May I put it to you this way? The grant of permanent occupancy to all the intermediaries and the man at the bottom is a contradiction in terms, as only one man can be really keeping the land at a time. But if it is understood as allowing the man who holds the land as also the intermediaries fixity in their respective positions, that is, if you take the expression to mean allowing them to continue in their respective tenures subject to certain conditions, that would be more understandable and more practicable, is it not?

A.—Yes.

The President.—The Committee is very thankful to you for your evidence.

XVII

Written statement of Mr. A. K. Kunhi Mayan Haji.

As I do not think that it is necessary to answer separately each of the questions, I am giving below my views in regard to some questions included in it which I can answer.

Kanamdars.—Kanamdars are of two kinds. There are kanamdars who have given as kanam an amount almost equal to the janmam value of the property and hold it in possession and enjoy it. This can be regarded only as mortgage. Such kanam amount may be paid back after the expiry of the period agreed on, and the property may be redeemed from the kanamdars. For such a lease, permanent rights cannot be given. The other kind of kanam consists of advancing a small amount as security for the rent and taking a lease agreeing to pay michavaram to the janmi. This will be found in some parts of North Malabar and in South Malabar. This lease must be considered to be like the kuzhikanam of North Malabar and no eviction should be possible in respect of it. But after twelve years, renewal fees and enhancement of rent should be allowed.

Sub-tenants.—The real tenants are those who occupy the property. Under whomsoever they may be they should have permanent rights.

Kuzhikanamdars.—Kuzhikanamdars also are of two kinds: (1) Those who take waste lands from the janmi, make improvements on it and hold it in possession. It is these tenants that really improve the lands and the country in general. They should certainly have permanent rights. (2) Those who take a lease from the janmi after he had planted trees and improved the property. Such property should be surrendered to the janmi on demand after the expiry of the lease.

Verumpattamdars.—Verumpattamdar as known in North Malabar is one who pays a fixed price for the lease of the usufructs of parambas for one or two years to the janmi or tenant. Such a person is not a cultivator but a merchant. Such a tenant does not require permanent occupancy rights. Verumpattamdars, in respect of South Malabar and in regard to lands, should be given permanent rights.

Kudiyiruppu.—A tenant should not be evicted from a house constructed by himself and in which he lives with his family. If such houses are required by the janmi or his family for their occupation, there should be power to redeem them.

Manusham.—When the lease of property with permanent rights is renewed after the expiry of the period agreed on, provision should be made to pay the janmi one year's rent as manusham.

Purappad.—When the lease of parambas is renewed, the janmi should have the right to enhance the rent by one-twelfth of the annual income derived by the tenant from the improvements made. In the case of fields, varam should not be enhanced. In the case of parambas used for pepper cultivation the enhancement of the rent should be only 2 per cent.

Melcharth.—Melcharth should never be allowed in any case.

Right to evict.—When the tenant allows two years' rent to fall in arrears and when he does not yield even after a registered notice has been sent to him demanding the same, his permanent right may be considered to have ceased, and the janmi should have the right to redeem the property.

Reduction of purappad.—Except in cases where the property or the improvements have been ruined by an act of God, the tenant should not have the right to reduce the purappad.

To whom the law will apply?—The law should apply to every tenant who has been in possession for more than twelve years.

To whom the law will not apply?—All landlords who do not possess more than 20 acres of land should be exempted from this law.

North and South Malabar.—There is difference in the hardships of the tenants in South and North Malabar. In South Malabar, lands consist mostly of paddy fields and a single janmi will have extensive tracts. When fields are redeemed, tenants are not likely to get any cost of improvements. Such being the case, the tenants of South Malabar are more likely to have to depend upon and obey the behests of the janmi and to undergo great hardship. In North Malabar, lands consist mostly of parambas which the tenant may improve and he may hope that he would get the cost of improvements when the janmi redeems the property.

An opinion.—The present great complaint of the tenants is that the janmis unjustly evict them and harass them by giving melcharths. It is sufficient if a remedy is found for this. I think that the addition of a section in the Tenants' Improvements Act might do for this. When a suit is filed for eviction, the Judge should frame an issue as to whether the grounds for eviction are reasonable or not, take evidence on this point and pass the order. An amendment to that effect should be made in the Act. There it may be laid down in which cases eviction will be justifiable. The cases may be as follows:—

- (1) When the property is indispensably needed for the janmi's own use.
- (2) When the tenant wilfully ruins the property.
- (3) When the rent or varam is in arrears for two years.

It should be enacted that a decree for eviction should be passed only when such circumstances are proved. Further details regarding this matter should receive due consideration at the hands of the Committee. I have only briefly dealt with the subject.

[*Note.*—As since translated by the Malayalam Translator to Government.]

Tuesday, the 15th November 1927

Oral evidence of A. K. Kunhi Mayan Haji.

The President:—Q.—Mr. Kunhi Mayan Haji Sahib, do you reside in Telli-cherry?

A.—I reside in Uliyil; it is 22 miles from here.

Q.—Are you a janmi or a tenant?

A.—I am a janmi as well as a tenant.

Q.—How much janm lands do you possess?

A.—I pay 1,300 rupees assessment for janm lands.

Q.—How much tenancy interest do you have?

A.—I pay 62 rupees rent for my tenancy holdings. Besides that I own some unoccupied dry lands. I pay no tax on those lands.

Q.—When they are cultivated tax will have to be paid?

A.—Yes.

Q.—Now, in your written memorandum, you refer to two kinds of kanamdars. You say that the kanamdars who are more or less mortgagees should not be granted permanent occupancy right, while the other kind of kanamdars, namely, those who have advanced an amount equal to the full market value of the property, should not be evicted?

A.—Yes.

Q.—You also say 'Once in twelve years it should be renewed and an increase made in michavaram.' Why should there be an increase at every renewal?

A.—Increase must be made in proportion to the increased yield of the land.

Q.—So that if there is no increase in the yield of the land there should be no increase in the pattam or michavaram?

A.—No.

Q.—Who is to decide whether there has been any increase in the yield or not?

A.—If the parties do not agree they will have to go to court.

Q.—Then you say there are two kinds of kuzhikanamdars. For the first class, that is, those who take dry lands from janmis, and make improvements, you say occupancy right should be given. For the other class, that is, those who get a lease after improvement is made by the janmi, you say that occupancy right need not be given. May I know whether by the second class of kuzhikanamdars you meant only the lessees of produce?

A.—Yes.

Q.—But there are cases in which the janmi may hand over the land after making certain improvements and the tenant may continue to make further improvements. 'The janmis' improvements may perish and the tenant may replace them by fresh improvements. What would you suggest in the case of such tenants?

A.—Under no circumstances should fixity be given to lands which are handed over to tenants with the landlord's improvements.

Q.—Will you apply that rule to cases where the tenant has also made improvements?

A.—If the janmi had made the bulk of the improvements then the tenant should not be given permanent right of occupancy.

Q.—What would you suggest in regard to cases where the kudiyan has put up a house for his residence on the land?

A.—If the land is such that the tenant need not be evicted then he need not be evicted. That is to say, if the tenant has built a house in a land attached to the janmi's existing trees then he must be evicted.

Q.—Then speaking about verumpattamdars, you say that in North Malabar they are those who take a lease from a janmi for a year or two, etc.?

A.—That refers only to lessees of produce of garden lands. It is not about paddy flats.

Q.—You do not bring under this category the kozhu tenants of wet lands who take lands for five years?

A.—No. Paddy cultivators who are regularly paying the rent and renewal fee should be given fixity of tenure.

Q.—In regard to homesteads you say 'A tenant who has built a house and lives there with his family cannot be evicted. The janmis should have right to evict him in case he requires the homestead for his own family use'. Now, you have qualified that statement by saying that when the bulk of the improvements have been made by the janmi the tenant should not have occupancy right in the house which he has built and in which he lives?

A.—Yes.

Q.—What do you exactly mean by 'for his own family use'? Suppose the janmi wants to give the house to a friend or servant or dependant of his. Could he then evict the tenant?

A.—Only the janmi or his children. That is all.

Q.—So you want to make a general exception that even though the bulk of the improvements have been made by the tenant, in case the janmi wants the land for himself or for his children, the tenant may be evicted?

A.—Yes.

Q.—You say in regard to manusham, 'When lands which have been given permanent occupancy right are renewed after the lease period the janmi should be given Soujanya equal to the amount of michavaram for a year'?

A.—Now, we are generally getting at this rate, and whether fixity is given or not that rate must be continued.

Q.—So you do not want any higher rate to be given in case fixity is given to the tenant?

A.—I am of opinion that it will be enough.

Q.—Then in regard to michavaram, you say that when leases of parambas are renewed the janmi should have the right to increase the rent, etc. Why should the janmi get an increase when the improvements have been made by the tenant?

A.—When the lands are first handed over to the tenant the janmi takes only a nominal rent.

Q.—You say 'In the case of lands no increase of varam can be made'. May I know for what reason?

A.—When wet lands are put into the possession of the tenants the janmi is fully aware that the land will only produce so much. If that land improves and produces a greater yield it must be as a result of the hard labour of the tenant and the janmi should not get any share out of it.

Q.—You fix the rent with reference to the present yield and would insist on the tenant paying it whether he gets it or not?

A.—Yes.

Q.—What about renewal fee in the case of kozhu tenants of wet lands?

A.—For every four years we used to receive renewal fee of one year's rent.

Q.—You would continue that even if fixity is given to the kozhu tenant?

A.—Yes.

Q.—What is the duration of the lease in the case of pepper gardens?

A.—Twelve years.

Q.—Why is it that you say that only 2 per cent can be the increase in the case of pepper gardens?

A.—Usually we lease out lands for pepper cultivation at the rate of Rs. 5 an acre and the pepper vines will not last long. They perish very soon. Therefore a higher increase cannot be imposed than 2 per cent in the case of pepper gardens.

Q.—Do these Rs. 5 include assessment?

A.—It is excluding assessment.

Q.—You say 'in any case no melcharth can be allowed'. What will a poor janmi do who has no money to go to court to get a tenant evicted?

A.—In my answer I have stated that this legislation should not affect janmis who own less than 20 acres of land.

Q.—You say under the heading 'An opinion,' 'Would it not be sufficient if one more section is added to the Improvements Act'? I suppose you mean some legislation should be undertaken for this purpose, whether it be by amendment of the Civil Procedure Code or of some other Act?

A.—Yes.

Diwan Bahadur T. C. Narayana Kurup:—Q.—You said whenever fixity of tenure is given in regard to paddy lands the rent should never be increased.—Is it your view that it should never be decreased?

A.—It should not be decreased.

Q.—Does that apply to kuzhikanam lands also?

A.—Yes.

Q.—Then I take it your answer is that as regards kozhu lands and kuzhikanam lands the present rent should never be decreased?

A.—Yes.

Q.—In the case of kuzhikanam lands it can be increased under the circumstances mentioned by you?

A.—Yes.

Q.—Would you give fixity to assignees of kuzhikanam lands?

A.—No.

Q.—If an assignment is taken from an original tenant you say that the landlord should be able to recover it?

A.—Yes.

Q.—If the janmi has partly reclaimed a land and let it out to a tenant would you give fixity?

A.—If the tenants' improvements are larger than those of the landlord and if the tenant has done nothing to destroy the improvements of the landlord the tenant must be given fixity.

Q.—I improve a property. I plant it fully with coconut trees and I lease it out to a tenant.—In course of time it is possible that the whole of my improvements may disappear. And then the existing improvements belong to the tenant. Would you give fixity in that case?

A.—No, if the landlord's improvements have perished on account of the kudiyan's improvements. If fixity of tenure is to be given to the tenant it is the duty of the tenant to look after the landlord's trees. If the landlord's trees perish he must replant the trees and thus in no case should the landlord's trees be allowed to decrease.

The President:—Q.—He should never allow the property to deteriorate?

A.—Yes.

Q.—You say that melcharth should not be allowed except to poor janmis who own 20 acres of land. Would you allow melkanam of a property for urgent tarwad necessity? Suppose my house has been destroyed by fire and I want to reconstruct it; I cannot meet that expenditure out of current income. Would you in such a case allow melkanam to be granted on the kuzhikanam property?

A.—There is no objection.

Q.—You mean hypothecation?

A.—Yes.

Q.—That carries a higher rate of interest?

A.—Yes. He has to do it in some cases.

Q.—You say the tenant should have no claim to ask for reduction of michavaram. Would you exclude from that category improvements which have perished by old age?

A.—No.

Q.—You specify three cases in which tenants can be evicted. Would you add to those three items, 'When the tenant neglects to pay the renewal fee'?

A.—Yes.

Rao Sahib V. Krishna Menon:—Q.—Do you think unjust evictions are taking place in North Malabar?

A.—No.

Q.—The suggestions made in your answers have been made with a view to prevent unjustifiable evictions?

A.—Yes. Of late, the cordiality between the tenant and the landlord has become a little strained on account of recent agitations. So, even if there are no unjustifiable evictions now, there is a possibility of that.

Q.—You are convinced these restrictions are necessary?

A.—Yes.

Mr. Kotieth Krishnan:—Q.—You are a Taluk Board Member and an elected member of the District Board?

A.—Yes.

Q.—May I know the extent of your forest lands?

A.—Lands 18 miles long and 6 miles broad.

Q.—You have got many other hills also?

A.—Yes.

Q.—You pay an assessment of Rs. 62 on the lands which you hold as a tenant. Are most of them saswatham lands?

A.—Yes.

Q.—How many elephants do you own?

A.—I own fourteen elephants.

Q.—You work your own forest lands?

A.—Yes.

Q.—You are the managing director of one timber mill?

A.—Yes.

Q.—You say 'when the leases of parambas are renewed the janmi should have right to increase the rent by one-twelfth of the amount that the tenant gets out of the improvements made by him.' I take it then that one-twelfth of the amount that the tenant gets out of the improvements is ordinarily the share due to the janmi?

A.—No. The landlord is entitled to get a rental of one-third of the net yield. I put it at one-twelfth by a mistake. It ought to be one-third.

Q.—Is there any basis for your statement that the janmi is entitled to one-third the amount of net income from the improvement made by the tenant?

A.—That is what the tenant offers to the landlord and the landlord must be satisfied with that one-third.

Q.—You say that you collect five rupees for one acre of land given for pepper cultivation. Do you collect that from the beginning of the tenancy?

A.—Yes.

Q.—And it continues for the next twelve years?

A.—Yes.

Q.—The tenant gets yield only after about seven years?

A.—Yes.

Q.—That is the practice in your desam?

A.—Yes.

Q.—You know in Chirakkal taluk no rent is levied till the pepper begins to yield?

A.—Yes.

Q.—And after it begins to yield they get 2 per 10?

A.—Yes.

Q.—So in your desam rent is more than in Chirakkal taluk?

A.—No. We are not increasing the rate of Rs. 5. We are only taking that as a fixed rent. But in places where they have the 2 per 10 ratio when there is a good crop the janmi will get much more than Rs. 5. The result is in the latter case the tenant will have to pay a larger amount than in the former.

Q.—You say that persons who are in possession for twelve years continuously are alone entitled to fixity of tenure. Don't you think that would be a great hardship to janmis who have been allowing their tenants to continue in possession for a long time? By putting a time-limit for earning fixity of tenure are you not penalising some good janmis?

A.—If a majority of the people are to be protected legislation on that line is necessary.

Q.—So would you make any distinction between a tenant who has been in possession for ten years and one who has been in possession for twelve years?

A.—What I mean to say is if a tenant who comes to-day is given fixity to-morrow, it is rather hard.

Q.—Would you give fixity to those who have purchased kuzhikanam right in Court auction?

A.—They need not be given.

Mr. H. R. Pate :—Q.—So far as North Malabar is concerned do you think any considerable change is necessary in the existing law?

A.—No, but, if under the existing circumstances some legislation is enacted there would be no harm.

Q.—What is the reason for that proposal of yours?

A.—At present the cordiality between the landlord and the tenant is a little strained. So I am of opinion that there would be no harm in enacting such a legislation.

Q.—You think that this legislation will secure cordiality between the janmis and the tenants?

A.—I cannot say that. But when there is a breach it may protect.

Q.—Would it protect the tenant or would it protect the landlord? Who is the aggressor?

A.—At present both.

Q.—You think this legislation will save them both?

A.—I am of opinion that it will protect both. It is only a *via media*.

Q.—If it were put to you that if this legislation is passed it would severely embitter the relations between the janmis and the tenants would you deny that?

A.—No.

Q.—You say that to restore the relationship between the janmis and tenants the best way is to fix the rents, to fix the renewal fees and to forbid melcharth?

A.—Yes.

Q.—Don't you think it will stimulate litigation?

A.—Yes.

Q.—Even if there is no change in the law there will be increase in litigation as the relationship as at present stands. If there is a change, then there will be very much more litigation.

Q.—You do not know much about South Malabar?

A.—I have some friends in South Malabar and I have also twice visited South Malabar.

Q.—Are you in a position to say whether this legislation is required in South Malabar?

A.—If legislation is necessary, it is more necessary for South Malabar, than for North Malabar.

Q.—Do you think some legislation in regard to forests is necessary?

A.—No.

Q.—Why do you exempt forests?

A.—No forest is leased out to a tenant.

Q.—Are they not given on kattakkanam? You think no restriction should be placed on the powers of the janmi in respect of forests?

A.—I am of that opinion.

Q.—Why do you restrict their power in regard to other lands?

A.—It is not a question of restricting or restraining the power of the landlord.

Q.—If you are told it has that effect would you support it? Do you wish to reduce the power of the landlord in North Malabar?

A.—If that would restore the cordiality between the landlord and the tenant I have no objection.

Q.—Can you mention any hardship that the tenants suffer now?

A.—I cannot mention the names.

Q.—Can you cite them in general terms?

A.—There is room for fear that the janmi might give melcharth or demand higher rent.

Q.—Does this fear extend to South Malabar?

A.—There is great difference in tenancy matters between North Malabar and South Malabar. All the tenants in North Malabar are not entirely dependent upon land. In South Malabar they are entirely dependent upon their tenancy. Moreover, the number of janmis is greater in North Malabar, and even if a tenant is evicted by one janmi he might get land from another janmi.

Diwan Bahadur T. C. Narayana Kurup :—Q.—You know Mr. Anandan of Koothuparamba?

A.—Yes.

Q.—In his catalogue of grievances he says 'Erinjal Karvanta Valappil Kunhi Mayan Haji is a big janmi in Kottayam taluk. He is the son of the present karnavan of Kottal tarwad, and owns several properties in and around Kottayam. A karyasthan of Kottal tarwad filed a money suit against a tenant Rayorath Velandi Kelappan who held properties both under Kottal and Haji. The tenant contested the binding character of the debt and succeeded. This irritated the karyasthan at whose instigation both Kottal and Erinjal tarwad properties were recovered by suits and there were other vexatious litigations also between them.' Is that a fact?

A.—No. As there was six years' rent in arrears I sued for arrears. He had destroyed 72 coconut trees; he had neglected the paramba. I sued for damages and also for arrears of rent and evicted him.

Q.—What was the yearly rent?

A.—Rs. 60.

Q.—You got a decree for six years' rent?

A.—Yes.

The President :—The Committee is very thankful to you Mr. Kunhi Mayan Haji.

XVIII

Written statement of Mr. C. K. Muhammad Keyi.

I. *Disabilities.*—(a) My personal knowledge is only about the properties belonging to my tarwad in North Malabar. As regards the tenants referred to in this section, so far as my tarwad is concerned, they have no disabilities at all to my knowledge.

(b) Vide the answer to question I. (a).

(c) I know nothing about the tenants in South Malabar.

(d) Vide the answer to question (c).

II. *Eviction.*—(1) (a) I have already stated that my knowledge about these matters is limited to my tarwad. So far as my knowledge goes, no tenant has been unjustly evicted.

(b) So far as I know, my tarwad has not given any melcharths.

(2) My tarwad has not abused any of its power as a janmi.

III. *Remedies.*—(a) As in my view there is no disability, no remedy need be sought.

(b) I am of opinion that permanent rights should not be given in North Malabar.

(c) My view is that it should not be given to any.

(d) Vide the answer to question (c).

(e) My view being that permanency of rights should not be given, no answer is necessary to this question.

(f) Permanent rights should not be given in any circumstance.

IV. (a) 1. No price can be fixed to the janmi's right. Such a right can in no way be given to others.

2. Vide the answer to (a) 1.

(b) Vide the answer to (a) 1.

(c) 1, 2, 3. No change need be made in the present procedure.

(c) 1. As my view is that the janmi's rights cannot be estimated, no answer is necessary to this question.

(c) 2. To purchase the janmi's right compulsorily is not consistent with the genius of the people of Malabar and their centuries old customary rights.

V. The Tenants' Improvements Act, 1 of 1900, is of great advantage to the tenants. If anybody gives melcharths unjustly, no greater benefit need be conferred on tenants than to stop that practice.

VI. *Compensation.*—(a) Vide the answer to IV. (a) 1.

(b) & (c) From what is stated above, no special answer is necessary for this.

VII. *Rent.*—(a) Janmis and tenants should continue their existing practice.

(b) No excessive rent is now being collected from the tenant; neither does he give it.

VIII. *Renewal fees.*—(a) That must be fixed by the janmi and the tenant according to the purappad.

(b) There is no fixed rate.

IX. *General.*—Tenants should not take, nor should janmis give melcharths unjustly. Tenants should pay purappad regularly to janmis.

X. (a) As I am of opinion that unjust melcharths should be stopped, no answer is necessary to this question.

(b) If this right is conferred, unnecessary litigation will crop up.

(c) Vide the answer to question (b) above.

[Note.—As since translated by the Malayalam Translator to Government.]

Oral evidence of Mr. Muhammad Keyi.

The President :—Q.—Mr. Muhammad Keyi, your tarwad owns extensive janm properties?

A.—Yes.

Q.—Have you any part in the management of the tarwad property?

A.—I am assisting the karnavan in the management of the tarwad property.

Q.—You say that permanent occupancy right should not be granted in North Malabar and you also say that your knowledge is confined to your tarwad. Can you give any reasons for your statement that permanent occupancy right should not be granted in North Malabar?

A.—I am of opinion that tenants have no grievances. On the other hand, the landlords have got more grievances against the tenants.

Q.—What are the grievances?

A.—Tenants are not regularly paying the rent; they do not renew regularly, and they destroy the janmis' properties. These are some of the grievances.

Q.—Why don't the janmis seek relief in Court?

A.—They go to Court and get the tenants evicted and that is the reason why all this agitation has sprung up.

Q.—Do the janmis abstain from going to Court simply because they are accused of going to Court?

A.—Yes.

Q.—They abstain from getting what is due to them for that reason?

A.—Yes.

Q.—You say 'it will be the greatest boon to the tenants if unjustifiable melcharths are stopped'. You also say the tenants have no grievances. Then why do you want melcharths to be stopped if they do not amount to a grievance?

A.—If at all anybody gives melcharth it may be stopped. Sometimes tenants go and force the janmis to give melcharths.

Q.—Is it usual for the janmis to give such melcharths, i.e., under such circumstances?

A.—It is not usual.

Q.—Are there any cases or are they entirely absent?

A.—I have no knowledge.

Q.—What do you mean by unjustifiable melcharth?

A.—I cannot say what an unjustifiable melcharth is. All that I meant by unjustifiable melcharth was where the holding tenant feels aggrieved.

Q.—He will feel aggrieved if you give melcharth even if his rent or renewal fees are in arrears.

A.—The tenant will not feel so much if suit is filed by the janmi himself for eviction.

Q.—So, in your opinion all melcharths should be stopped?

A.—Yes, I am of that opinion.

Q.—You won't make a distinction between one case of melcharth and another case of melcharth, but all kinds of melcharths should be stopped?

A.—Yes.

Q.—Can you not conceive of cases where the janmi cannot have recourse through Court directly? Supposing the janmi is a poor lady who cannot trust other people and who has nobody to help her, what is she to do?

A.—I cannot say what can be done in such cases. I am only speaking of my tarwad and myself.

Diwan Bahadur T. C. Narayana Kurup :—Q.—Your tarwad has properties, in all taluks in Malabar, in Tinnevely, in the Indian State of Travancore, in South Kanara and in the City of Bombay?

A.—Yes.

Q.—Are the tenants in Malabar worse than the tenants in other districts?

A.—No.

Q.—They do not deserve any protection and it is not necessary that any law should be enacted?

A.—No.

Q.—Is it profitable or paying to the landlord to eject a tenant from a garden land after paying the value of improvements?

A.—No. It will be a loss to the janmi.

Q.—In a case where all the improvements belong to the tenant what would you fix as rent due to the janmi?

A.—The janmi must get half.

Q.—What would you fix as rent due to the janmi if all the improvements belong to the janmi?

A.—Three-fourths must be given to the janmi.

Q.—Who is to pay the assessment?

A.—The janmi must pay the assessment.

Q.—What would you fix as fair renewal fee?

A.—In some instances one year's rent and in some instances two years' rent.

Q.—Suppose a law is enacted that one year's net yield should be given as renewal fee. Would that be a grievance to the tenant?

A.—No.

Rao Sahib V. Krishna Menon:—Q.—Your family does not give unjustifiable melcharths?

A.—No.

Q.—You consider it against your prestige to do so?

A.—We ourselves generally sue and evict directly. Moreover if melcharths are given that would be injurious to the land also.

Q.—Is it your family tradition that melcharths should not be granted?

A.—To my knowledge we have not given melcharths.

Q.—As far as you know are there other landlords in North Malabar who stick to the principle that melcharth should as far as possible be avoided?

A.—There are.

Q.—I suppose the majority are like that?

A.—Yes.

Q.—Have they suffered any loss on that account?

A.—No.

Q.—If they follow the same policy for another hundred years, they will remain in the same state I suppose?

A.—I cannot say.

Mr. Kotieth Krishnan:—Q.—What is the assessment that your tarwad pays for properties in Malabar.

A.—My tarwad has no properties in South Malabar. For lands in North Malabar my tarwad pays an assessment of Rs. 10,000 including municipal tax.

Q.—Deducting municipal tax what do you pay?

A.—I cannot say.

Q.—You have got extensive properties in Tellicherry Municipality?

A.—Yes.

Q.—The three other Keyi families have also got extensive properties within the municipality?

A.—Yes.

Q.—Your four thavazhies put together own about three-fourths the properties in the Tellicherry Municipality?

A.—That I cannot say.

Q.—Your chief item of income is your properties in Bombay?

A.—Yes.

Q.—There, there is a tenancy law prohibiting you from raising rents arbitrarily?

A.—No.

Q.—You are given a certain period within which you are to raise the rents and to a limited extent?

A.—Yes.

Q.—What will be the total income of all your properties in different parts put together? It was stated by Mr. Mammaly Keyi that it will come to 15 or 18 thousand rupees a month.

A.—I cannot say now.

Q.—Can you not say approximately? Will it come to ten thousand?

A.—I cannot say now.

Q.—How many members are there in your family entitled to maintenance? How many members are there in your family entitled to participate in the income?

A.—More than 30.

Q.—The rate of maintenance allowed by Court is Rs. 25 per adult in your family?

A.—Yes.

Q.—What is the rate for minors?

A.—Rs. 15.

Q.—How many are minors out of these 30 members?

A.—I cannot say.

Q.—Even approximately?

A.—I cannot say.

Q.—How many adults are there?

A.—I cannot say.

Q.—Approximately?

A.—I cannot say.

Q.—Why is it that the maintenance was put down only at Rs. 25?

A.—I cannot answer.

Q.—I put that question simply because it was elicited the other day that the low rates of maintenance for anandravans of a tarwad are due to the poverty of the tarwad.

A.—That may be the court's decree, but the tarwad has given large items of property to some of the anandravans.

Q.—But the rate of maintenance that is given is not in proportion to the income? A large share is given to the karnavan for various items of expenditure on behalf of the tarwad and it is only the balance that is distributed among the other members? Is that not the usual practice?

A.—I cannot answer that question.

Q.—Do you know that the present karnavan of Valiyapura tarwad has been giving melcharths during the last four years?

A.—I do not know.

Q.—You said that by evicting a kuzhikanam tenant the janmi suffers loss. Can you specify any particular case within your knowledge with facts and figures showing that there is loss?

A.—If the Committee will permit me I shall quote an instance in which I myself am a party.

Q.—Can you give any more instances?

A.—I was asked for only one instance. I have got that ready and I shall produce that to-morrow if necessary. If more are wanted I shall try to get them.

The President :—Please produce that one to-morrow.

Witness :—Yes.

Mr. Krishnan :—Q.—The properties in municipal areas are more valuable than those in other parts?

A.—Yes. The value of the property depends upon the proximity to the municipal area.

Q.—So that the properties adjoining the municipal areas will also be more valuable than the other properties?

A.—Yes.

Q.—So if any law is to be enacted, you cannot exclude the municipal area alone but you have also to exclude the adjoining properties?

A.—Yes.

Q.—So you cannot draw a line where the law should be made applicable and where it should not be made applicable?

A.—For the present the municipality alone will do.

Q.—But it will not be fair distribution. For instance the property in Darmatam will be more valuable than the property in Andalloor?

A.—I say that no law is wanted for any place here.

Q.—But if there is to be a law you will not make any distinction?

A.—I think the law should not be binding on the municipality.

Q.—If the existing rights of the janmis are protected you have no objection to a legislation prohibiting melcharths and unjustifiable evictions?

A.—There is no unjustifiable eviction now.

Q.—And therefore no law is necessary?

A.—No.

Q.—You won't provide against any future contingencies?

A.—In North Malabar there is no such eviction.

Q.—You say in your written reply that if unjustifiable melcharths are prohibited it will be the greatest boon to the tenants? So you will not object to prohibition of melcharths?

A.—No.

Mr. H. R. Pate :—Q.—You said you have lands in Tinnevely, Bombay and Travancore? In Travancore is there not a law giving fixity to kanamdars?

A.—I have not gone there; I do not know the law there.

Q.—What is the extent of land that you have in Tinnevely?

A.—We get Rs. 150 rent every year for the lands there.

Q.—And in Travancore what is the extent of land that you have?

A.—We get Rs. 400 rent for the lands there.

Q.—Did you have that land before the Travancore Regulation came into force?

A.—Yes.

Q.—Has the Regulation affected the value of the property?

A.—I have absolutely no idea of those properties.

Q.—Have you any idea of the Tinnevely properties?

A.—I have no idea about them.

Q.—So you have not taken any interest in your property?

A.—We have got only lands paying Rs. 150 rent in Tinnevely and the tenant sends that amount by post.

Q.—Is that janm land?

A.—I do not know.

Q.—And about the Bombay property, is that in the municipality?

A.—Yes.

Q.—You said that there is some restriction on the raising of rent in Bombay. Is that imposed by the municipality or by the Government?

A.—By the municipality. But it is not in force now. There is no restriction now.

Q.—It was in force in the war-time, is it not?

A.—Till 1924 it was in existence.

Q.—Do you know when it was introduced?

A.—That I cannot say.

Q.—From where do you get the greater income, is it from Bombay or Malabar?

A.—It is from Bombay.

Q.—You do not cultivate yourself?

A.—No.

Q.—Your profit would be greater if you cultivate yourself?

A.—Yes.

Q.—Why can't you do it yourself?

A.—We can't do it.

Q.—You don't know anything about cultivation?

A.—No.

Q.—You do not think it worth while?

A.—It is not possible.

Q.—You have got anandravans?

A.—Yes.

Q.—Why can't you send them to the Agricultural School or College?

A.—No. It is impossible.

Q.—Do you mean to say you cannot afford to pay fees?

A.—I can afford to pay fees. They are studying English. But they are not studying in the Agricultural College.

Q.—If they study English why don't you send them to the Agricultural College also?

A.—(After some time). They don't go.

Mr. H. R. Pate :—You can improve your income if you learn everything about agriculture.

Q.—Are not janmis who grant melcharth getting some profit by way of premium?

A.—In these parts much money is not paid as premium.

Q.—It is not a great hardship to turn out a man of his kudiyruppu in which he has been living for many generations?

A.—Yes.

Q.—Does it not happen here?

A.—No.

Q.—Even though he does not keep the rent in arrears does it not some times happen that he is evicted?

A.—To my knowledge there was no such case.

Q.—Do you think it necessary to pass a law to protect owners of houses against eviction?

A.—In some instances there will be necessity for eviction. Therefore no law is necessary. If the janmi wants to sell the paramba to somebody and when the buyer wants the paramba for his own use. Some times the kudiyruppu will be in the centre of the paramba and he will have to evict the occupant of that kudiyruppu, otherwise it will not fetch a good price.

Q.—So such cases some times happen?

A.—Yes.

The President :—The Committee is very thankful to you Mr. Muhammad Keyi for your evidence.

(The witness spoke in Malayalam and Mr. V. C. Mayan kindly acted as interpreter).

Written statement of Mr. E. P. Maheswaran Namburipad, Thalora, Taliparamba.

I. (a) Of these none, except the actual cultivators, has any hardship whatever. For the money invested by the kanamdars they do get decent interest. For the improvements made by the kuzhikanamdars they get a handsome compensation according to the Tenants' Improvements Act, when they are evicted.

(3) If at all there are any grievances, it is the actual cultivators that have them. Owing to natural causes, such as too much rain, scarcity of rain, etc., and their ignorance of the scientific methods of agriculture, and because the children of the people who formerly worked day and night have now joined schools and consider it beneath their dignity to plough the soil when they leave the school and because labourers are not available, even if higher wages are paid, real cultivators have to undergo various difficulties.

As cultivators are not able to invest a large capital for their business and as the land under cultivation is divided into small bits, it is not possible to get a reasonable income from cultivation. When the actual cultivators are not directly under the janmis but under two or three other intermediate tenants, the produce of the land has to be shared by the tenants, after giving a portion of it to the janmi, and this also causes hardship to such tenants. I understand that these difficulties will be found not only in Malabar but in some other places also.

Further, the tenants on account of neglect or other causes fail to pay their varam, rent, etc., in time, and the janmis as a result of their neglect do not collect their dues in time. Finally after two or three years, the janmi files a suit against the tenants for their dues with interest thereon. This also causes hardships to the tenants.

(b) I understand that these difficulties will be found not only in Malabar but in some other places also.

(c) There is a vast difference between the system of tenure prevailing in South Malabar and that prevailing in North Malabar. In South Malabar for a low kanam a large income and a long term will be obtained. For Rs. 100 kanam, interest is obtained at cent per cent. In most cases the kanam period is twelve years. In North Malabar the interest on kanam is very low. It ranges from 2 to 8 per cent per annum. Only in very few cases, the kanam period is fixed as twelve years. Hence the kanamdars in South Malabar feel it a great hardship to receive their kanam amount and surrender their property; whereas the kanamdars of North Malabar have no grievance. In North Malabar the majority of tenants cultivate the land direct. It is only in rare cases sub-tenants are taken.

(d) In this matter, in North and South Malabar, there is difference according to the state of the country.

Eviction.

II. (a) Generally tenants are not evicted unjustly and without any cause. So far as I know, a tenant who regularly pays varam, pattam, etc., without arrears, and renews it paying the renewal fees on the expiry of the lease has never been evicted. If there has been any eviction at all, it is only in the case of tenants who have failed to pay varam and rent and to renew their lease. In some cases, where the janmi urgently needs the property that is in the possession of a tenant, he evicts the tenant. It is doubtful whether such cases will come to 1 per cent.

As a result of the severity of the Tenants' Improvements Act and want of money to prosecute a suit, evictions are not at all resorted to amongst minor janmis. So far as I know, unjust evictions are very scarce.

(b) My information is that melcharths are not given unjustly. When the tenant does not yield to the reasonable demands of the janmi and the janmi is not able to redeem the property directly paying the value of improvements, such a janmi being driven to absolute necessity, gives melcharths.

(2) The janmi does not make use of his powers to oppress his tenants socially. Nor is it possible for him to do it. As tenants do not follow the time-honoured customs in social matters and obstruct the janmis in conducting such affairs, it is the janmis that suffer.

Remedies.

III. (a) I have already stated in the answers to question 1 that if at all there is any hardship it is to the person who is in actual possession of land. If, as a result of supernatural causes, tenants do not get any income from the lands, the janmi should, without enforcing the conditions in the contract, give up the rent for that year. It should be provided that there must be only actual tenants under the janmi. Both parties should be made to realize that there should be union between the janmi and the tenant and that there should be mutual confidence between them.

(b) The above difficulties will not be reduced but will only increase, if permanent rights are given. I do not think that permanent rights should be given to any kind of tenant. Kanamdars are merely people who lend money. If the amount due to them is paid, they should surrender the property. When kuzhikanamdars surrender their property, they get more in the shape of the price of improvements than what is due to them for their labour. Even verumpattamdars get large profits after giving the rent due from them to the janmi. If any of these are given permanent rights, it should be considered that the present janmi and the tenants have changed their places.

(c) Vide the answer to (b) above.

(d) The persons referred to have no hardships and they need not be given permanent rights. By giving permanent rights to these people, the real cultivators will get no relief.

(e) If any kind of tenant be given permanent rights, the person under whom he holds the property should be given an amount equal to ten times the rent, to be held in deposit by the janmi, and if at any time the rent falls in arrears it should be deducted from the deposit. If one year's rent is in arrears, it should be provided by law that the Revenue authorities should collect it like the arrears of taxes and hand it over to the janmi. It should also be provided that if one year's rent is in arrears permanent rights will be lost.

(f) Permanent rights should not be given in the following cases:—

(1) When the property is near a temple or tank used by high-caste people only or near a Brahman house.

(2) When it is in the midst of a temple, temple-tank and residences of persons connected with the temple.

(3) When a special portion of the produce from the [property] has been customarily utilized for any religious services.

(4) When by a usage or by agreement it is understood that the property should be used for a particular kind of cultivation.

(5) When any religious observance will be adversely affected if the property is in the hands of a particular person on account of his caste or religion.

IV (a) (1) I am of the view that occupants of kudiyruppus should be given permanent rights.

(2) Even if permanent rights are not given in towns, they should be conferred in rural areas; because there it is difficult to secure kudiyruppus and to put up houses.

(b) (1) In towns, it should not be less than 5 cents.

(2) In rural areas, it should not be more than 15 cents.

(c) (1) If the tenant cannot do as stated here, it should be laid down that his rights on the kudiyruppu will be lost.

(2) If a bigger house than is necessary is being constructed, means should be provided to prevent it easily if the janmi has previous knowledge of it. If it is

constructed without the knowledge of the janmi, it should be provided that the tenant's permanent rights will be lost and that he has to remove it.

(3) If surrendered as mentioned here, the tenant should get its value.

(d) (1) This system is not prevalent in Malabar and it will not be possible to bring it in force.

(2) This system is quite contrary to the nature and customs of the people of Malabar.

V. The Tenants' Improvements Act has seriously affected the relations between tenants and landlords. It is more injurious to the janmi. The Act enforces payment of compensation to the tenant for his improvements as well as for trees, etc., that grow without his efforts. This causes great loss to the janmi. The conditions relating to improvements should be based on the contract made between the janmi and the tenant. It should be provided that when several properties are leased out together, the janmi will be at liberty to redeem only such of them as are necessary for the janmi.

Compensation.

VI. (a) Ten times the amount due as rent per annum to the janmi from the property, should be fixed as the price of the permanent rights to it.

(b) None except the janmi who grants the permanent right should be entitled to the compensation.

(c) If the tenant is not able to pay in a lump sum, he may be permitted to pay it within a period not exceeding four years, in two or four equal instalments. Strict provisions of law should be made not to allow default in the payment of instalments.

Rent.

VII. (a) Out of the net produce one-fourth should be given to the tenant and three-fourths to the janmi. This rate is in accordance with the present custom in the land. Provision should be made to prevent the existence of intermediary tenants.

(b) The rent which the janmi gets at present is in no way higher than the above scale. From the kanam properties in South Malabar, the janmi does not get even one-tenth of the net produce.

Renewal fees.

VIII. (a) One-fifth of the income derived by a tenant from the property or in some parts one-fifth of the kanam amount, is demanded as renewal fees. This is received in accordance with the long-established custom in the land.

(b) I receive renewal fees as stated above.

General.

IX. It has already been stated that is very rarely that a janmi evicts a good tenant. The civil courts should decide whether there is just cause for evicting such a tenant. If the court comes to the conclusion that eviction is unjust and uncalled for, it should be provided that the same tenant should hold the property for four or five years more.

Besides this, a notification should be issued three years before (the introduction of any law, to the effect) that tenants will be bound for ever by the terms of agreements or arrangements made after a certain year and that janmis will not be allowed to change those terms.

X. (a) He who receives the melcharth should be considered to have come in the place of the previous kanamdar and one who holds property under the previous kanamdar should be deemed to hold it under the melcharthdar. He should be considered to have yielded to the melcharthdar who will now hold above him.

(b) I am of opinion that such an offer should be made.

(c) It will be difficult to prevent private arrangements. I think that there will be some relief if they are made offences under the Penal Code.

[Note.—As since translated by the Malayalam Translator to Government.]

Oral evidence of Mr. E. P. Maheswaran Nambudiripad of Thalora.

The President :—Q.—Mr. Maheswaran Nambudiripad, you are the karnavan of your tarwad?

A.—Yes.

Q.—I take it that your tarwad owns big janm estates?

A.—Yes.

Q.—What is the assessment that you pay to Government?

A.—Rs. 3,000.

Q.—Your estate consists of both garden lands and wet lands?

A.—Yes. 320 acres of wet lands, 303 acres of garden lands, i.e., coconut gardens and pepper vine, 63 acres of unoccupied punja lands and 240 acres of occupied punja lands.

Q.—Do you do any cultivation yourself or is it done by tenants?

A.—Some 20 acres of wet land and 40 acres of garden land are directly under my cultivation.

Q.—The rest of the wet lands are held by kozhu tenants?

A.—They are held by kanamdars and kozhu tenants. These properties are in Chirakal, Kottayam, Kurumbranad and Calicut taluks. Some properties are in Ernad taluk and there they are held by kanamdars.

Q.—What is the extent of lands that you have in South Malabar?

A.—190 acres of wet land.

Q.—Are all those lands held by kanamdars?

A.—Except 10 acres of land which are directly under me, the rest are under kanamdars and verumpattamdars.

Q.—What is the kanam amount in regard to kanam lands in South Malabar?

A.—Rs. 6,400. In South Malabar I am getting 25,000 and odd seers of paddy as michavaram and also Rs. 250 in money.

Q.—Is that solely from the kanam lands?

A.—More of it is from the kanam lands; there is also a little portion from the verumpattam lands.

Q.—How does the rent paid by the verumpattam tenant compare with that paid by the kanam tenant in South Malabar?

A.—A land for which I get 100 paras from a verumpattam tenant, if demised to a kanam tenant, I will get only 25 paras of paddy.

Q.—And then there is the kanam amount. How much is the kanam amount on your lands?

A.—On a land which pays 100 paras of paddy—on my lands there are no big kanams—my kanam is varying from Re. 1-4-0 to Rs. 50. Some kanams are only for 6 annas. They are kanams on parambas. For dry lands which give an annual income of Rs. 25 the kanam advance is only 6 annas.

Q.—My point is this. Does the kanamdar pay you in the shape of renewal fee the interest on the kanam advance and the balance between the verumpattam rent and michavaram? Do the renewal fees which the kanamdar pays and the interest on the amount advanced by him on kanam, do these things put together cover the difference between the verumpattam rent which the kanamdar gets and the michavaram?

A.—No.

Q.—In your written answers you say "In North Malabar almost all tenants do cultivation directly. It is very rare that sub-tenants are engaged". Mr. Sankaravarma Raja told us that the opposite is the case?

A.—In a majority of cases they cultivate directly. It is only in rare cases that they engage sub-tenants.

Q.—You say "verumpattamdars get large profits over and above what is actually due to the janmi as rent. If permanent rights of occupancy be given to any of these, the position of the present landlords and tenants will be placed in the reverse order." Which verumpattamdars do you refer to?

A.—I mean verumpattam tenants who have made kuzhikanams on parambas.

Q.—Is that the reason why you say that permanent occupancy should not be given to them?

A.—Not only that. I say fixity of tenure should not be given in any case.

Q.—You say “if permanent occupancy is to be given the tenants should deposit with the landlord a sum equal to ten times the rent on behalf of the actual cultivators, etc.” You mean to say that if permanent occupancy is to be given it should be given to the actual cultivators only and they should deposit ten times the rent as security for the regular payment of rent?

A.—Yes. As a compensation for the loss of janmi's power of eviction.

Q.—You mean to say that the janmi should get all this amount once for all?

A.—It may be so.

Q.—Do you think that many tenants will be able to do that?

A.—No.

Q.—Among the exceptions that you want to be made if permanent occupancy is to be given you say “When the produce of any property or a portion thereof is already set aside for the performance of any religious rites and when there exists a special custom either by usage or karar that the property be used for special cultivation.” What do you mean by that?

A.—In the first case, at some future time the janmi may take possession and get more income out of the land and thus augment the income to be used for the religious purpose; in the second case I mean this, some lands may be specially reserved for cultivation of flowers for use in temples. Then there may be a special stipulation that the gingelly oil extracted from the produce of such and such a land should be used in the temple. In such cases permanency should not be given.

Q.—Then you say “Stipulations regarding payments of improvements must be based on the karar between the landlords and tenants.” Is there not provision in the present Act itself to that effect?

A.—In the leases which I have given to tenants, I have stipulated that at the time of eviction such and such trees will only be valued at such and such a rate. But after the Improvement Act came into operation when I sued for eviction it was held that those stipulations are not binding and I had to pay higher rates.

Q.—Your rates were lower than the rates as per the Act?

A.—But the contract between the janmi and the tenant is ignored by the Act.

Q.—You must contract with the tenant according to section 19 of the Act?

A.—A contract is entered into between the janmi and the tenant according to the nature of the land, the produce it is capable of yielding and all that is ignored by the Act.

Q.—That cannot be ignored. Under the Act it can be enforced. Then you say “It should be stipulated that properties required by the landlords out of the properties held under one lease may be evicted by them.” What do you mean by that?

A.—Before the law giving fixity or permanency is enacted there must be a publication giving sufficient time for the tenants and the landlords to adjust their relations, i.e., the rent that is to be charged on the land, etc.

Q.—Do you mean to say that you should be allowed to make a contract which should be unalterable afterwards?

A.—Yes.

The President.—I shall continue my examination after lunch.

Mr. H. R. Pate.—Q.—As regards the kanam lands in South Malabar, according to the rate that you gave, you would have gained some 10,000 edangalis of paddy more than what you now get if all the lands had been leased out to verumpattam tenants direct. So would it not be paying for you to terminate all the kanam leases in South Malabar and give them all to verumpattam tenants?

A.—It will not only be paying but I will get a profit. But now, I have to pay a large amount by way of value of improvements if I am to evict them. Moreover it is not the mamul to evict kanam tenants.

Q.—You said that if it is understood that a law giving fixity of tenure to tenants is to be passed after, say, five years, all the janmis would be able to adjust their relations with their tenants and to get the best terms practicable?

A.—It would be possible for the landlord and tenant to come to a mutual agreement within that period.

Q.—If it is understood that such a law is to come into force, would not all the janmis evict all their tenants even before the period of five years?

A.—When the term of the present lease expires we may evict him.

The Committee rose for lunch at this stage.

The President.—Q.—I should like to put to you a few questions with reference to the answers you have given to Mr. Pate's questions. You said with reference to your janmam lands in South Malabar that you get only about half the rent from lands leased out on verumpattam and in regard to lands leased on kanam you said that even after deducting the interest on the kanam amount and the assessment payable to Government you are still a loser by about 10,000 edangalis of paddy every year. But when Mr. Pate asked you, why you did not pay off the kanam amounts and recover possession of your lands, you said that it would be very difficult to pay them off because they would have made vast improvements on the land and that moreover it was not the mamul to evict the kanam tenants. So far as the law is concerned, the law for the last 75 years has been that the janmi has the right to evict his kanam tenant. In regard to improvements tenants could get compensation for improvements effected by them. Then where is the hardship to the kanamdar if he is evicted?

A.—They will lose the profits from the property if I eject them.

Q.—But how are they entitled to the profits?

A.—The loss of the profits which they have been deriving from the land for so many years is itself a hardship. Even now they believe that they would be getting the profit in continuation.

Q.—Many kanamdars have purchased their kanam right from the previous kanamdars?

A.—Yes, there are some cases like that also.

Q.—So I put it to you, in view of these considerations, would it not be fair for you to forego a portion of your right in the excess profit which the kanamdar is now getting and make some arrangement with the kanamdar to grant him fixity of tenure or permanency right?

A.—I don't expect kanam tenants would be benefited if permanency is given to them. On the other hand, the janmi will have the discontent that he is made to lose his right of redemption. The loss of the fear of eviction does no good to the tenant.

Q.—It is difficult to understand that position?

A.—Even if they are ejected they get their kanam amount and the value of all improvements effected by them and they won't be benefited if occupancy right is given to them.

Q.—In the cases where there are no improvements to be paid for?

A.—The tenants would not be benefited at all by the grant of occupancy.

Q.—If that is your opinion, I don't wish to proceed further on that point.

A.—I have now 354 tenants under me. I have been managing the properties for the last eight years and ever since that period I have sued to eject only twelve tenants. I have never granted any melcharth. In having sued these twelve people for arrears of rent I have been put to a loss of nearly Rs. 2,000. Except in two cases where the value of the tenant's improvements were set off against arrears of rent I have not been able to realize anything in the case of ten other people.

Q.—Do these refer to North or South Malabar?

A.—Both North and South Malabar. One reason why I say that the kanam tenants in South Malabar won't be benefited by the grant of occupancy is that generally janmis don't evict them and therefore practically they now enjoy something like fixity, so that a new law won't give them any additional benefit.

Q.—Would not the money value of the kanam right increase under the new law?

A.—Yes, it will increase and the janmi's right will decrease.

Q.—How can you say then that the tenant does not derive advantage?

A.—Yes, the tenants do gain an advantage in the sense that they are getting some benefit by lands being leased by them to others.

Q.—So I put it to you, would it be a fair arrangement to pay the janmi by instalments or by enhancement of the renewal fee of a portion of the profit which the kanamdar now enjoys and to which the janmi is legally entitled? In consideration of the fact that now the tenant is in practice not being evicted, would the janmi be satisfied with a portion of that profit?

A.—Even on the basis that the tenant should pay a portion of his profits, I do not agree to the grant of permanent occupancy right or fixity of tenure.

Q.—You say you have no objection to give permanent occupancy right to the actual cultivators?

A.—If occupancy is to be granted, I say, it should be given only to the actual cultivators.

Q.—Then would not the janmi be entitled to compensation?

A.—Yes.

Q.—What sort of compensation would you recommend?

A.—Compensation may be as agreed to between the parties or it may be about ten times the pattam.

Q.—You say with reference to kudiyruppus "Conditions should also be laid down to easily prevent the tenant from building houses bigger than is necessary if it be known to the janmi beforehand. If buildings be erected without the knowledge of the janmis it should be laid down that the tenants' permanent right should cease and the buildings removed." I should like to know what the janmi is to do when he gets this notice, where is he to object?

A.—On receipt of the notice that he is going to erect a building the janmi should at once object.

Q.—And who is to decide whether the house is bigger than necessary or not?

A.—If the parties cannot agree, then the court will have to decide it.

Mr. Kotieth Krishnan:—Q.—In answer to question 5 you say "The relation between the landlord and tenant is greatly strained by the Malabar Improvements Act." May I know what the strained relations are?

A.—I have stipulated in the lease deeds of my tenants that they would be paid for at such and such a rate for a particular improvement, limiting also the value of buildings to be constructed. Under the Act I am not permitted to make such stipulations.

Q.—How does it strain the relationship? On that account is there enmity between the janmi and the tenant?

A.—Yes.

Q.—On that account the tenant has come to be hated by the janmi?

A.—Yes.

Q.—And on account of this Tenants Improvements Act the enmity of the tenant to the janmi is considerably on the increase?

A.—Yes.

Q.—So there is a corresponding enmity on the part of the janmi towards the tenant also because he has to pay a much larger sum than he contracted for?

A.—Yes.

Q.—And this will be getting into a real evil unless the Tenants Improvements Act is amended?

A.—Yes.

Q.—Then, may I take it, if to avoid the strained relationship between the landlord and the tenant, supposing the legislature is able to discover some law replacing the Malabar Tenants Improvements Act, would you welcome it?

A.—Yes, to bring about more cordial relationship if possible.

Q.—You are not in the habit of giving melcharth and in your experience good janmis do not give melcharths?

A.—Good janmis do not grant melcharths and good tenants do not go in for melcharths also.

Q.—If there are a large number of melcharths, it is on account of bad janmis and bad tenants?

A.—Yes.

Q.—You are for fair rent and fair renewal fee from your tenant. May I take it then that you consider the lot of your tenant is such that you feel that he must get sufficient income out of the land for the maintenance of himself and his family?

A.—Yes.

Q.—So you will only take the balance, after deducting whatever is required for the maintenance of the tenant?

A.—I have already said that one-fourth should be given to the tenant and three-fourths should go to the janmi.

Q.—Do you think that one-fourth of the profit is enough for the tenant to maintain himself and his family?

A.—It may not be possible for all. It will depend upon the nature of the property.

Q.—You will certainly not try to rack-rent a tenant but you will give him sufficient for the labour bestowed upon the land by the tenant?

A.—No, I won't try to rack-rent.

Q.—Supposing the legislature fixes the share due to a janmi and a tenant enabling neither to claim more, would you agree to such a law?

A.—I must know the principle on which the arrangement is based. I have no objection to stating that the janmi should not claim more than three-fourths out of the net income from the land.

Q.—Supposing such a law is enacted you will not claim any compensation?

A.—If along with that fixity of tenure is also granted then I will claim compensation.

Q.—The coconut tree provides most people with a living in North Malabar?

A.—Yes.

Q.—That tree is known as "Kalpaka vriksham" in North Malabar?

A.—Yes.

Q.—Do you think money value would compensate a tenant who has reared a coconut tree?

A.—Yes it could be valued in terms of money.

Q.—Supposing you plant a coconut tree and you are compelled to part with it, would you like it?

A.—I shall be very much pleased to part with it if only I could get compensation according to the present Improvements Act.

Q.—But if you are obliged to sell the tree under the Land Acquisition Act?

A.—I will not have the slightest heart-burning if I could get the present value of the improvements under the Act.

Q.—If the full rent and renewal fee is assured to you, why should you think there will be a diminution in your janmam value?

A.—Because the janmi would lose the power of eviction.

Q.—Can that loss be assessed in money value?

A.—I have calculated it at ten times the annual rent.

Q.—What is the prevailing rate of interest on which loans are granted in your village?

A.—About 12 per cent interest.

Q.—Supposing your formula of ten times the pattam amount is accepted, then it will work out to more than double that rate of interest. Is it reasonable?

A.—If he wants fixity of tenure he will have to pay dearly for that.

Q.—Supposing such an amount is vouchsafed to you as compensation, would you recover that property if at a future date you want it for your own cultivation?

A.—Yes, I should get it back whenever I want the land for my own use.

Q.—Once this payment is made by the tenant the property becomes practically the tenant's subject to the payment of rent and renewal fee?

A.—Yes, it practically comes to that.

Q.—Will you then enhance the rent at the renewal period?

A.—If the law allows it. In my case the question of increasing the rent does not come in if I would get three-fourths of the net income.

Q.—Would you still insist upon getting ten times even after twelve years when the renewal period comes in?

A.—That is too bad. I shall ask for an increased rent only if the former three-fourths rate is less than the rate of rent at the time of the renewal.

Q.—And if the tenant would not pay you will seek to recover the property?

A.—Even if the tenant does not agree to an increase of rent, I cannot sue him for recovery if permanent occupancy right is granted.

Q.—Don't you think that if the ten years' rent is paid in advance, the karnavans of tarwads would misappropriate it for themselves?

A.—That depends upon the general law by which the karnavans are governed.

Q.—Do you follow Marumakkattayam or Makkattayam law?

A.—The latter.

Rao Sahib V. K. Menon:—Q.—You said that it is more profitable for the janmi to lease his lands on verumpattam than on kanam. Then why did you lease your lands on kanam?

A.—Most of my kanams are ancient kanams, and I have raised rent only once and that was occasioned recently.

Q.—Were there not verumpattam leases in olden times?

A.—In ancient times there were both kanam and verumpattam tenures.

Q.—So evidently there was a necessity in olden times to lease lands to enable the kanamdars to profit?

A.—Possibly so.

Q.—In ancient times kanamdars would have greatly helped the janmis in many ways in return for which they got the lands from the janmi?

A.—We cannot be definite about the reasons which induced the ancient janmi to lease his lands to kanam tenants.

Q.—In several cases the kanamdar would have made improvements on the soil and such improvements cannot be seen now after the lapse of four or five turn-overs?

A.—Such improvements cannot now be known.

Q.—You stated that kanam investment is now fetching cent per cent interest. Supposing you want to purchase a kanam land in Malabar now, I suppose nowhere in Malabar you can get more than 6 or 7 per cent interest?

A.—In South Malabar it will fetch more than that rate of interest.

Q.—It is never cent per cent. You can't get more than 5 or 6 paras for an investment of 100 rupees?

A.—I know of instances myself where cent per cent interest has been obtained. My own account books would show that.

Q.—You have stated that it is better that intermediaries are eliminated. How will you dispose of these intermediaries?

A.—By paying them off their share.

Q.—You stated that by giving permanency of tenure to the tenants the janmi's share in the land will be reduced. Is it because your power of enhancing the rent is reduced?

A.—Yes.

Q.—Do you consider that apart from the loss of power of enhancing the rent, some other right is also gone by the grant of fixity of tenure?

A.—Yes.

Q.—You don't like unjustifiable eviction. Supposing the janmi's power of unjustifiable eviction is curtailed, do you object to that? Does the janmi suffer any loss on account of that?

A.—It is not exactly a loss to a good janmi.

Q.—Whether it is justifiable or unjustifiable is a doubtful point to decide?

A.—Yes.

Q.—So it is better to decide such differences of opinion through a third party?

A.—Yes, Government should decide the point.

Mr. Kotieth Krishnan:—Q.—You said that you should get three-fourths of the share. Does it apply to garden lands also?

A.—I referred only to paddy lands. In the case of garden lands the janmi gets 2 per 10 of the produce in all sorts of gardens on an average. It more or less depends as to whether the improvements belong to the tenant or the janmi. In the case of all improvements being the tenant's the janmi would get less than 2 per 10.

Diwan Bahadur T. C. Narayana Kurup:—Q.—Who pays the assessment in the case in which the janmi gets less than 2 per 10 of the produce?

A.—The tenant has to pay.

Q.—Is that the usual practice in all garden lands?

A.—There are several ways in which rent is assessed.

Q.—In excess or below this?

A.—If all the coconuts belong to the tenant in a garden, it is less than one-fifth.

Q.—What is the market price at present of a paddy land which yields a rental of 100 edangalis of paddy in the Chirakkal taluk?

A.—The value varies from Rs. 300 to 600.

Q.—Taking Rs. 5 as the average value then what is the value of 100 seers of paddy in the Chirakkal taluk?

A.—It is about Rs. 13 or 13½.

Q.—So on an investment of Rs. 500 you get only about Rs. 13.

A.—Yes.

Q.—Out of which you will have to pay assessment?

A.—Yes.

Q.—And the compensation assessed by you is only one-seventh or one-eighth of the janmam value?

A.—Yes.

Q.—The Tenants Improvements Act has embittered the relation between the janmi and the tenant. That is what you said. Supposing that Act is repealed and fixity of tenure is given to the tenants, will that embitter the feelings or make it more cordial?

A.—There will be no improvement in the relationship. On the other hand, I think it will embitter the feelings all the more.

Q.—Your tenants are tenants under other janmis also?

A.—In some cases they are.

Q.—And if each janmi is to provide for comfortable maintenance of his tenant, then it will be like the old story in the Ramayanam?

A.—Yes.

The President:—The Committee is very thankful to you for your evidence, Mr. Maheswaran Nambudiripad.

XX

Written statement of Mr. T. Chathu, School Master, Badagara.

It is very difficult to answer the questions satisfactorily without knowing the conditions of land tenure both in South and North Malabar. However, I have attempted to solve some of the questions raised therein.

I (a) (1) Kanam in North Malabar is understood in two senses. One is a mortgage pure and simple, and the other is nominal kanam of a very small amount inserted in all leases for the purpose of reducing the registration fee and the Court fees when such leases are sued on. All kuzhikanam leases will also have this nominal kanam. The question of giving permanency to kanam of the first type need not worry us so long as it is a simple mortgage.

(2) Kuzhikanamdars form the majority of the tenants of North Malabar. It is they who require protection, because, they are oppressed by the janmis in several ways.

(3) Verumpattamdars are few in number. They are not tenants in the right sense of the term. In North Malabar verumpattam has a different sense. They have only the right to enjoy the usufruct only for a limited period. A paramba is given on verumpattam and the lessee has right to pluck the coconut only for a limited period, on his advancing a certain amount of money which depends upon the price of the coconut. He is not allowed to make improvements or anything of the kind, and therefore he has no permanent interest in the land. So, he has no disabilities of any kind. So far as paddy field is concerned, a verumpattamdar gets the field for a year or two and cultivates it on condition of paying the janmi some amount of pattam. So he gets only remuneration for his labour. He too has no permanent interest in the land. There is another kind of tenure in which the cultivator invests some amount as kanam on the land and cultivates the field himself. This tenant also has not many disabilities to speak of.

(4) Sub-kanamdars are also few.

(5) Verumpattamdars under kuzhikanamdars come under section (3).

(b) I have little information about the land tenure in other parts of India.

(c) There is difference in the disabilities. The North Malabar tenants are occupants of parambas having improvements and the chamayams, and on the event of their being evicted, they will be compensated for by award of the value of improvements, etc., while the tenants of South Malabar are mostly holders of paddy fields which they often have to convert into cultivable and double crop lands. The improvement there consists in converting the holding into cultivable paddy flats. So, when the holding is recovered, the tenant gets nothing to compensate for the money and labour.

(d) I do not know.

II (1) (a) Yes. Many evictions are effected just to wreak vengeance on the tenants. Instances are too many, and an enumeration of them takes a lot of space and time. Yes. The evictions are on the increase.

(b) Yes. In many cases, it is not the janmi that evicts the tenants. What is generally done is to grant melcharth to a wealthy merchant or to some aspiring monied man who is on the look out for a suitable holding. In urban parts where suitable sites are dear, melcharths are often resorted to. The only protection for the tenant is to put up costly buildings but in urban areas where high rent for houses is procurable, even this safeguard is of no avail.

(2) Yes. Social oppression is now on the decrease. In urban areas it has more or less ceased. But in rural areas there is still oppression. In some places the tenant cannot put up tiled buildings nor can he cremate the dead. Even to-day in some parts of Kurumbranad taluk, cremation for the so-called low castes, is

strictly forbidden. The tenant cannot even perform the funeral obsequies prescribed by the Hindu religion. He cannot even have music for his wedding ceremonies, and previous sanction has to be obtained from the janmi even for conducting the ceremony as befits his position and status. Any negligent or wilful omission to obtain the previous permission, would be visited with heavy penalties in the form of evictions and fines.

III (a) The remedy is to give occupancy right to the cultivating tenant.

(b) Yes. I propose to give the permanency to all the cultivating tenants.

(c) The question of giving permanency to all classes of tenants is a very difficult one especially when there are several intermediaries between the janmi and the actual cultivator. If permanency is given to the actual cultivator, the intermediaries will gradually disappear until the janmi and the cultivator are brought near to each other. In that case, the disabilities of the tenants will become much less.

(d) Kuzhikanamdars in North Malabar are the people who require permanency. I cannot say anything about kanam-holders who came into the holding before 1852, because this has reference more to the South Malabar than to the North.

(e) If permanent occupancy is granted to the cultivator, then the only landlord to whom the rent is due, is the real janmi. The present remedy, in my opinion, is adequate enough, and the bar of limitation is a disadvantage to the janmi, which has to be fought out elsewhere.

(f) Kanamdar in the sense of a mortgagee and verumpattamdars of North Malabar, need not be given occupancy rights.

IV (a) (1) This proposal is really in favour of the janmi, and makes eviction easily possible. If any janmi to-day hesitates to evict his tenant from the holding, it is mainly due to the fear of investing a big amount to pay the tenant as compensation for his buildings which after all may not be to the taste of the janmi or the melcharthdar. This proposal takes away that fear and the janmi can easily recover the remaining portions of the holding. If kudiyruppu is protected, tenants will begin to put up houses in the other portions of the holding, so that there will be large number of houses in one compound, which will lead to endless litigation.

(2) I do not make any distinction between urban and rural kudiyruppus.

(b) I have answered this in (2).

(c) No suggestion.

(1) The court should be given the power to offer reasonable terms to the tenant to take the renewal. If he fails, he can be evicted from the holding.

(2) The present remedy in such cases is sufficient.

(3) I don't answer.

(d) (1) The system by no means, is good.

(2) No.

V. The effect of the Malabar Compensation for Tenants' Improvements Act, has been invariably good. In fact it is to a certain extent a safeguard against eviction and melcharth. The compensation is even now inadequate, and the working of it requires some change. Irresponsible Commissioners are sometimes sent to inspect the property, and the parties do not get justice at their hands.

VI (a) If permanent occupancy right is granted, the compensation I propose is the renewal fee. Permanency does not take away the right of the janmi from getting his renewal fee. At the expiry of the twelve years, the janmi may either increase or decrease the rent according to the condition of the holding, and is at liberty to get the renewal fee.

(b) I have answered that permanency need be given to the actual in possession. So this question does not arise.

(c) When no compensation except the renewal fee is proposed, I do not suggest any facilities.

VII (a) The janmi is to receive only one-fourth of the income after deducting the expense of the seed and cultivation. The tenant has to pay the Government revenue also. The janmi's share need not in all cases follow the above principle. Where the janmi has large improvements, etc., an interest of 6 per cent may be allowed on the money thus invested; where the improvements are all of the tenants, one-fourth of the net produce is a fairly good share for the janmi. It is difficult to formulate a principle applicable to all cases.

(b) Yes. The rents, the tenants now pay especially in urban areas where there is much competition for the holding, are exceedingly high.

VIII (a) The rent having been fixed it is easy to regulate the renewal fees. The maximum renewal fee should not be more than twice the rent.

(b) There is no fixity as regards this. Some janmis especially in urban areas, demand even five times and six times the rent. In some cases they demand a very big sum according to the necessity of the case. In such cases, the demand does not follow any fixed principle. However, there are cases where twice and thrice the rent are demanded. The kovilagams are much better janmis who demand only a fixed renewal fee of about twice the rent. It is the intermediaries that are exorbitant.

IX. I cannot suggest any other remedy.

X (a) The system cannot work well. The janmi and the melcharthdar may collude to dupe the tenant. In such cases it is impossible to safeguard against fraudulent transactions. The janmi may impose heavy conditions upon the tenant on the pretence that the same conditions are offered by a third man. In that case the right of pre-emption presents practical difficulties.

(b) The suggestion is good, but there must be sufficient safeguard that the conditions agreed to between the grantor and the melcharthdar, are bona fide. So, it is better, that power is given to the Court to fix the rent and the renewal fee and to ask the tenant to take a renewal.

(c) The proposal is to give the court the power to fix the figures.

Tuesday, the 15th November 1927 (Afternoon).

Oral evidence of Mr. T. Chathu, Schoolmaster, Badagara.

At the conclusion of the examination of Mr. Maheswaran Nambudiripad, Mr. T. Chathu, Schoolmaster, Badagara, was examined.

The President:—Q.—You are a native of North Malabar and a schoolmaster at Badagara?

A.—Yes.

Q.—May I know the extent of your lands, whether you are a janmi or a tenant?

A.—I have inherited from my father some lands. I own 8 acres of land on kuzhikanam tenure and 2 acres of janmam property.

Q.—In answer to question I (2) you say “Kuzhikanamdars form the majority of the tenants of North Malabar. It is they who require protection, because they are oppressed by the janmis in several ways”. Will you please explain how they are oppressed by the janmis and in what ways?

A.—In the first place these janmis give only cadjan receipts and these receipts are sometimes disowned by them when they sue their tenants for arrears of rent, and in most cases the court gives a verdict in favour of the janmi disbelieving the tenant. There are several social disabilities under which the kuzhikanam tenants of North Malabar are suffering. Cremation is denied to them in most cases and then there are evils of rack-renting and illegal evictions.

Q.—In answer to question I (3) regarding verumpattamdars, you say that they are not tenants in the right sense of the term. Do you refer in that answer to the kozhu tenants who cultivate paddy lands?

A.—Yes.

Q.—You don't advocate the grant of occupancy right to the kozhu tenant of North Malabar?

A.—No. Because he should get only remuneration for his labour and he has no interest in the land.

Q.—In many cases it may be true that they do not make any investment in the land but you realize there may be a tenant who cultivates his wet land for three or four years putting all his resources in the land unlike a tenant who does not cultivate the land properly and somehow manages to carry on for three or four years and thus tries to make profit out of the land. Then do you suggest that the man who does things properly and cultivates the land better deserves some encouragement?

A.—Such a tenant may be given permanent fixity of tenure, but I am not in favour of granting fixity of tenure to the tenants who cultivate wet lands in Kurumbranad taluk.

Q.—I believe your answers are all confined to Kurumbranad taluk?

A.—Yes.

Q.—In answer to question II (1-a) you say “Many evictions are effected just to wreak vengeance on the tenants. Instances are too many and an enumeration of them takes a lot of space and time”. Can you give us a few of the worst instances that have come to your notice?

A.—The difficulty is to substantiate the same by documentary evidence. Underlying all these instances of melcharths and evictions there is vengeance behind.

Q.—You don't call it an unjustifiable eviction if the janmi leases his land on better terms to another tenant?

A.—Supposing in my compound there is family cemetery, I won't like to be evicted out of my holding.

Q.—Can you at least make statements of fact which could not be challenged if investigated? Could you give any particular instance where the tenant suffered from that disability which could bear examination?—You cannot give particular instances which could be investigated into? We only want a few concrete examples. We don't want you to prove them. (After a pause.) Then I must take it that you are not willing or are not able to quote any specific instances.

A.—To give an instance in my own case. My father was cremated five years ago in our compound where we live. We hold that land on kuzhikanam tenure. The neighbours made an unnecessary fuss over that and even requested the janmi to grant a melcharth over our head for having cremated the body in the compound without his permission. He being a good janmi, however, did not pay heed to that advice.

Q.—In answer to question III (c) you say “The question of giving permanency to all classes of tenants is a very difficult one, especially when there are several intermediaries between the janmi and the actual cultivator”. Do you refer to permanent occupancy right or to fixity of tenure?

A.—I am referring to fixity of tenure.

Q.—Why should there be difficulty in the latter case?

A.—The lowest tenant who is the actual cultivator will have to bear all the weight. It will certainly be difficult. Moreover there are rack-renting and heavy renewal fees.

Q.—How does it make any difference if you fix a fair rent and fix a fair renewal fee, if you lay down the limits beyond which rents and renewal fees could not be taken. What does it matter to the tenant at the bottom whether there are any intermediaries or not?

A.—These intermediaries exist there for making profit and these will be pressing upon the last man.

Q.—You don't seem to have understood my question. If you fix a fair rent and a fair renewal fee, then what does it matter to the last man if there are any number of intermediaries between him and the janmi?

A.—These intermediaries have no stake in the land.

Q.—They might gradually disappear through the operation of economic laws. Do you mean to say that there is an intermediary who does not possess any interest in the land?

A.—There are.

Q.—You don't seem to understand that there can be no intermediary who could exist unless he has some interest in the land and who gets his share of interest from the man immediately under him?

A.—Such people exist only to make a profit out of the bargain.

Q.—In answer to question III (e) you say "If permanent occupancy right is granted to the cultivator, then the only landlord to whom the rent is due, is the real janmi. The present remedy, in my opinion, is adequate enough, and the bar of limitation is a disadvantage to the janmi, which has to be fought out elsewhere". By that sentence you mean that the janmi should be enabled to file a civil suit irrespective of limitation for rent?

A.—Yes.

Q.—But you say that the bar on limitation should be removed?

A.—I mean the time limit should be removed.

Q.—At the end of your answer to question IV (a) (1) you say "If kudiyruppu is protected, tenants will begin to put up houses in the other portions of the holding, so that there will be large number of houses in one compound, which will lead to endless litigation". Will you kindly tell us what exactly you mean by your answer to this question?

A.—By kudiyruppu I meant the right to occupy a house. If permanent occupancy right is given to the kudiyruppu, people will put up any number of houses in the compound which will lead to endless difficulties, because that will be practically dividing the holding into different portions.

Q.—Even now in the case of a tenant who puts up a costly building the janmi finds it difficult to pay compensation?

A.—Yes.

Q.—Then you are against the grant of permanent occupancy right to kudiyruppu holders?

A.—Yes

Q.—Do you mean to say that permanent occupancy right or fixity of tenure should be given for the whole garden?

A.—Yes.

Q.—Why should it be done?

A.—If the house alone is protected the janmi could secure the other remaining part of the compound. If fixity of tenure or occupancy right is given the janmi will hesitate to evict him because a kudiyruppu cannot be separated from the garden.

Q.—In answer to question V you say in connection with the working of the Tenants' Improvements Act, "The compensation is even now inadequate, and the working of it requires some change". Why do you say that?

A.—Because the value assessed by the Commissioners appointed by Court is not adequate in certain cases.

Q.—In what cases is the compensation not adequate?

A.—Especially in regard to houses; anybody will admit that the compensation fixed is most often far less of the real cost incurred by the tenant. The value of the coconut trees are quite insufficient, for in our place it takes nearly 20 to 25 years for the tree to come to bearing and if the tenant is evicted before that period according to the Act each tree will be valued only at two or three rupees which is quite insufficient.

Q.—You say that if permanent occupancy right is granted, compensation to the janmi should be the renewal fee, and continuing you say "Permanency does not take away the right of the janmi from getting his renewal fee. At the expiry

of twelve years, the janmi may either increase or decrease the rent according to the condition of the holding, and is at liberty to get the renewal fee". Are you for correlating renewal fee with the rent?

A.—Yes.

Q.—And therefore it is you say that if you fix the rent it is easy to fix the renewal fee?

A.—Yes.

Mr. H. R. Pate :—Q.—You want to give fixity of tenure to kuzhikanam tenants?

A.—Yes, for cultivating kuzhikanam tenants.

Q.—That is, so long as they pay a fixed rent and renewal fee at the usual interval they are not to be disturbed?

A.—Yes.

Q.—Now what about lessees of wet lands, persons who hold wet lands on kozhu cultivation?

A.—It may be given, but so far as the Kurumbranad taluk is concerned I don't think it is necessary.

Q.—And the lessee under the kuzhikanamdar who is in possession for the time being should not get fixity of tenure?

A.—Yes, he should get fixity of tenure.

Q.—What about a lessee of a garden under the kuzhikanamdar?

A.—If he has got improvements he must be protected.

Q.—If he has no improvements he need not be protected?

A.—No.

Q.—What is the reason for which you say that it is necessary to give fixity of tenure to these people?

A.—Because there is a good deal of poverty and the tenants who cultivate don't gain anything.

Q.—So it is to relieve poverty that you suggest fixity?

A.—Yes.

Q.—That is to say, the immediate factor would be to increase the capital of these classes of tenants, so that they may be able to secure a marketable right in the property?

A.—When the tenants get permanent tenure they will have more security in the land. Now at the end of twelve years they have the fear that they might be ejected. That fear will not hang over them if fixity of tenure is granted to them.

Q.—Do you think that the tenant will be able to save money in that case?

A.—Yes.

Q.—What, in your opinion, will he do with that money?

A.—He will carry on copra trade or some other trade in merchandise.

Q.—If he cannot do both at the same time what will he do?

A.—Then he will purchase other lands.

Q.—What would he do with that?

A.—He will cultivate it himself or give it to another man for cultivation.

Q.—Then will that man who has taken the lease from such a tenant be entitled to fixity of tenure?

A.—If he is determined to make improvements then he must be protected.

Q.—Then your idea is that it is owing to the prevailing poverty that fixity of tenure is required and not so much on account of the oppression of the tenant by the landlord?

A.—Yes. Oppression too comes in a way.

Q.—Who oppresses the actual cultivator. Is it the kuzhikanam tenant or the landlord?

A.—The landlord.

Q.—Which oppression is the worst, the janmi's or the kuzhikanamdar's?

A.—The oppression of the janmi is the worst because the janmi is more powerful and resourceful than the kuzhikanamdar.

Q.—Now take for instance. In one case there is a janmi and one tenant and in the other case there is a janmi, a tenant and a sub-tenant. We will assume that the tenant directly under the janmi and the second tenant (sub-tenant), are both oppressed. Who is oppressed more?

A.—The sub-tenant is oppressed more because the real janmi will make certain demands from his tenant and this tenant in turn will make similar demands from the tenant under him to enable him to recoup the janmi's demands.

Q.—About these house-sites, do you know examples of persons who have been turned out of their houses?

A.—Yes, in fact I have brought one such document in which case a poor widow who was my neighbour was recently turned out of her compound by the janmi.

Q.—Where is she now?

A.—She is now away in a distant place.

Q.—What were the circumstances?

A.—A melcharth was given.

Q.—For what reason?

A.—Just to get back the property, because the janmis in our parts have come to believe that some tenancy legislation is coming.

Q.—What does that janmi do now with that house?

A.—He has now let it on rent.

Q.—And you think it is quite wrong to do so?

A.—It is quite wrong especially at a time when she has not got any other house.

Q.—But you say some janmis give long notice of melcharths. They execute melcharths sometimes even within three years after the grant of the original kanam. This janmi did not do that, I suppose?

A.—No, Sir.

Q.—How long has this person lived in that house?

A.—For more than 25 years. Her husband who was living at the time got the land on kuzhikanam tenure and after his death the property passed on to the lady (his widow).

Q.—Were there arrears of rent?

A.—No, she paid rents regularly. There were no arrears of rent.

Q.—Does this janmi make any profit out of this melcharth?

A.—I think he has let it now on a rental of Rs. 7 or 8.

Q.—Supposing you have a thousand rupees with you and somebody says he will give you 3 per cent interest and you accept the offer and sometime later somebody else comes and tells you that he will give you 6 per cent. So according to you it is unfair to take it away from the man who gives 3 per cent?

A.—I won't say so, because this is only a cash transaction. Anyhow the effect is the same.

Q.—And you think that some legislation should be passed to prevent that, and you think those things are common in the towns and are proportionately less in the rural parts?

A.—Yes.

Q.—Are the kuzhikanam tenants frequently evicted?

A.—Yes.

Q.—Under how many janmis do you hold lands?

A.—Three.

Q.—When did you obtain your last lease?

A.—My father obtained the lease six or seven years ago.

Q.—For how many years have you been in possession of your other property?

A.—For about 100 years since my grandfather's time.

Q.—Never have you been evicted from your properties?

A.—No.

Mr. Kotieth Krishnan :—Q.—Your father was a vakil at Badagara?

A.—Yes.

Q.—And the members of your community were looking forward to him for advice in the whole of Kurumbranad taluk?

A.—Yes.

Q.—You have taken part in the tenancy agitation for some time?

A.—Yes.

Q.—And in your experience of Kurumbranad taluk how many meetings would have been held advocating the tenancy cause?

A.—Not less than 50 meetings.

Q.—And you have submitted memorials to Government?

A.—Yes.

Q.—And similar meetings have been held in Chirakkal and Kottayam taluks also?

A.—Yes.

Q.—You know who was the President of the Tenants' Association at Chirakkal?

A.—Rao Sahib K. Chantan.

Q.—You remember H.E. Lord Willingdon visited Cannanore in 1919. At that time the tenants waited on him in deputation. Mr. Krishnan Nayar's Bill was not before the Legislative Council then.

A.—Yes.

Q.—And since then several Ministers of the Madras Government have visited Malabar and you told them their grievances?

A.—Yes, and we requested them that tenants should be given occupancy right.

Q.—Similar things took place in Kottayam taluk also?

A.—Yes.

Q.—Do you remember a deputation which went up to Madras for submitting the tenants' grievances before the South Indian Liberal Federation?

A.—Yes, something like thirty people went from the Kurumbranad taluk alone and a large number from Chirakkal and Kottayam also.

Q.—They took up your cause advocating tenancy legislation for Malabar?

A.—Yes.

Q.—May I take it then that the agitation is very keen in North Malabar?

A.—I suppose that it was in North Malabar that the agitation was first started. All North Malabar is very keen.

Q.—You have moved very freely with the tenants of Kottayam and Kurumbranad taluks?

A.—Yes.

Q.—You said in answer to a question from the President that there are instances of oppression and then you said that it was not possible to prove them by documentary evidence. I am only concerned with specific instances. Now there is the system of giving *mattu*, i.e., giving cloth to Nayers and high class people by the washerwoman. Who is the social head of these washerwomen?

A.—Among Tiyyas they are called *Thandans* and they are appointed by the Raja.

Q.—On account of enmity between persons can you specify instances where *mattu* has been refused? Can you recall many instances like that?

A.—Yes, I can.

Q.—Could you give us a list by specifying details of the instances where you consider there have been unjust evictions on account of social oppression and also instances of social oppression with full particulars which you have heard or which you know?

A.—Yes, I shall prepare such a list within a day or two and submit the same for the consideration of the committee.

Q.—Is the grant of melcharths before the expiry of the full term very common?

A.—Yes.

Q.—With those documents which you now possess you can file a list signed by you as "True copy", can't you?

A.—Yes, I could have filed these documents themselves, but I can't do so as I have got them from some vakils and moreover some of them are documents required in cases which are now *sub judice*. I shall, however, submit a list.

Q.—It is common that there are social disputes even between the members of the same community?

A.—Yes.

Q.—There are very few paddy lands in Kurumbranad taluk; most of the lands are garden lands and hilly tracts?

A.—Yes.

Q.—Malaria is very common in the hilly tracts of Kurumbranad?

A.—Yes.

Q.—So the tenants have very great difficulty in planting coconut trees in hilly tracts braving Malaria?

A.—Yes, they are under great difficulties.

Q.—Are the renewal fees entered in most documents?

A.—Not generally.

Q.—The Registration department will have to be paid stamp duty for that (the renewal fee)?

A.—Yes.

Q.—On that account no renewal fees are mentioned except when the tenant insists upon it?

A.—None are mentioned.

Q.—And do you think the tenant will have the boldness to ask the janmi to record it in the deed?

A.—No.

Q.—The children of cultivators are generally sent to a school?

A.—Yes, sometimes.

Q.—Now, if the economic condition of the tenants is improved in the villages do you think the tenants will have a greater tendency to educate their children by sending them to the towns for studying latest methods of agriculture, etc.?

A.—Yes, if possible they will do so.

Q.—Do the labourers go to distant places like Penang and Singapore?

A.—Yes.

Q.—Do you think that it is so because they find it unprofitable to live in their own country?

A.—Yes.

Rao Sahib V. Krishna Menon :—Q.—You said that granting of occupancy right to the kudiyruppus may sometimes act prejudicially against the tenant. May it act prejudicially against the landlord also?

A.—Yes, it may.

Q.—Then what is your constructive proposal—it being objectionable both ways?

A.—The whole compound must be protected. Occupancy right should be given in respect of the whole compound including the kudiyruppu.

Q.—Supposing you give the right to the kuzhikanamdar, if he is a cultivator and if he has made improvements he must be protected?

A.—My point is that cultivating tenant must be protected.

Q.—Do you think that the grant of occupancy right to kudiyruppus may tend to fragmentation of holdings?

A.—Yes, it is possible.

Q.—Do you think it is good for the country?

A.—No.

Diwan Bahadur T. C. Narayana Kurup :—Q.—You are the Secretary of the Kurumbranad Tenants' Association?

A.—Yes.

Q.—When was that association formed?

A.—In 1921.

Q.—Do you keep a record of all the minutes of the meetings held under the auspices of your association?

A.—There may be stray records of some meetings, but not of all.

Q.—Do you keep a list of the members of your association?

A.—No.

Q.—At least from memory can you say how many members there are on the whole?

A.—Not less than 500 members.

Q.—To what nationality do they belong?

A.—Mostly Tiyyas, some are carpenters, etc.

Q.—And the principal work of the association is to collect money to carry on the agitation?

A.—To collect such money as is necessary.

Q.—Is there no principle on which you collect money?

A.—Whenever there is a need we collect.

Q.—You collect money from all these 500 people?

A.—From all those who can afford to pay.

Q.—And spend it—

A.—in the right way.

Q.—By sending out persons, garlanding ministers, submitting memorials, etc.?

A.—Yes, all these are money spent on the right lines.

Q.—The only properties that you have are the properties given to you by your father, i.e., you said 2 acres of janmam lands and about 8 acres of kuzhikanam lands. You also said you hold these kuzhikanam lands under three janmis. Do you hold under the janmi direct?

A.—One property alone I don't hold directly under the janmi; the other two are direct leases from the janmi.

Q.—And these properties have been in possession of your family for nearly 100 years?

A.—Yes.

Q.—With regard to the property which you said you are not holding directly under the janmi what rent do you pay and what is your position in the system of tenure?

A.—I am holding the land from the man who has obtained his lease direct from the janmi. It is a small holding for which I pay Rs. 10 rent.

Q.—Do you know what rent he has to pay to the janmi?

A.—No.

Q.—As regards wet lands in the Kurumbranad taluk you are of opinion that they need not be given permanent occupancy right. By whom are these lands cultivated mostly?

A.—Mostly by Tiyyas.

- Q.—Do they cultivate it at a loss?
 A.—Sometimes, especially when the monsoon fails.
- Q.—What is the other reason if any?
 A.—The soil also has deteriorated for want of proper manure, and the exactions of the janmi regarding renewal fee are also great.
- Q.—So it is not paying to cultivate the lands?
 A.—No. Partly due to the fault of the janmi and partly Providence.
- Q.—So as regards North Malabar the only legislation you think necessary is the grant of fixity of tenure as regards kuzhikanam tenants. And you advocate that on the ground that those gardens have been reclaimed by persons who are in possession of property. Are those gardens now in possession of persons who have reclaimed them or are they in the hands of those who have not reclaimed them?
 A.—Both.
- Q.—There have been some recent reclamations near Kuttiyadi about 15 miles to the east of Badagara where many paddy lands have been converted into parambas. These changes are very often done with the consent of the janmi?
 A.—Most often they are done without the consent of the janmi.
- Q.—You said melcharths and evictions are very common. Therefore, I take it that many of the old tenants who have made improvements have been ejected from their holdings and they are now in possession of the melcharthdars who have absolutely done nothing by way of improvements. Do you think that even those should be protected?
 A.—Yes. The other thing is past history.
- Q.—Why should they be protected—persons who have come into the land by obtaining melcharth in preference to the janmi? You yourself have said that in cases of garden lands tenants are protected by the Compensation Act?
 A.—Yes, to some extent.
- Q.—Do you think that a man who has come into possession within the last twelve years through an obnoxious melcharth should be protected?
 A.—Yes, that is my view.
- Q.—And that is because, you put it, he loves the coconut tree (which was brought into bearing by somebody else) more than the janmi loves his own land?
 A.—That is my view.
- Q.—Supposing a janmi improves his paramba and leases it to a tenant on kuzhikanam. You are of opinion that he should be given fixity of tenure?
 A.—Yes.
- Q.—Even though the whole of the improvements be janmi's?
 A.—Yes. Even then.
- Q.—You have never ejected a tenant and you had not the misfortune to be ejected by your janmi?
 A.—No.
- Q.—From your personal experience you can't say whether it is paying to the landlord to eject a tenant or not?
 A.—From other instances I have gathered I have heard that it is paying to the landlord.
- Q.—Is it paying to the landlord to eject a tenant from gardens which have been improved by the tenant?
 A.—Yes, it is paying.
- Q.—What interest does the janmi get on his janmam value?
 A.—He will get more than 12 per cent interest from these garden lands.
- Q.—Take a garden which yields a net income of Rs. 6 out of the produce. What is the maximum pattam that is exacted by an unscrupulous janmi?
 A.—It must be something like Rs. 2 out of Rs. 6.
- Q.—Do you know that according to the Tenants Improvements Act the janmi has to pay Rs. 100 to enable him to get Rs. 2 as pattam?
 A.—I don't think so. Of course I have no personal knowledge.

- Q.—Then what do you think he will have to pay by way of improvements to the tenant?
 A.—About Rs. 45 or Rs. 50.
- Q.—How do you calculate it?
 A.—That is the calculation which we understand from the nature of things.
- Q.—How?
 A.—That is my impression.
- Q.—For a paddy land which gives an outturn of 100 edangalis of paddy what will be the janmam value?
 A.—For kanam it may be Rs. 300 and for janmam might be about Rs. 400 or Rs. 500. All that varies according to the fertility of the land.
- Q.—And for every 100 seers of paddy you would give to the janmi, according to you, 25 seers as pattam?
 A.—Yes.
- Q.—Therefore, for an investment of Rs. 300 to Rs. 500 you get only 25 edangalis of paddy?
 A.—Yes.
- Q.—What is the price of 25 edangalis of paddy (market price)?
 A.—About Rs. 3½.
- Q.—As regards garden lands what do you say should be the rental?
 A.—If all the improvements belong to the tenant the janmi should get one-fourth of the net besides the assessment which the tenant pays.
- Q.—You said social oppression is on the decrease. Since how many years?
 A.—It must be a dozen years.
- Q.—Do you know the reason for this decrease?
 A.—Because of the spread in education.
- Q.—So as the years increase and education spreads, you think it will disappear?
 A.—That is my impression.
- Mr. Kurup:—Q.—Is it simply because one kuzhikanam tenant does not get fixity of tenure that education is at a drawback?
 Q.—Whom do you call a janmi?
 A.—I cannot define it. To my knowledge only those who pay an assessment of Rs. 1,500 and over could be called janmis.
- Q.—How many janmis are there like that in the Kurumbranad taluk?
 A.—I think there are something like a dozen janmis.
- Q.—You mentioned about a poor Tiyya woman being turned out of her holding. I have just gone through the memorial which she presented to the Religious Endowments Board. I find that the last lease was in 1909 and a suit was brought only in 1925. The suit was not brought by the melcharthdar but by a junior member of the janmi's tarwad and the tenant's plea was that the property did not belong to the janmi but to the devaswam.
 A.—Yes, it might be so.
- Q.—In one of the complaints that you have just handed over to me I find that rent was claimed for a period of three years. Your plea is that the landlords' pleas are always false and the tenants' pleas are always correct?
 A.—That cannot be the invariable rule.
- Q.—You referred to cadjan receipts. You can't say that cadjan receipts are not admitted by courts?
 A.—No, I can't say that.
- Q.—Can you give any single instance of social oppression at present? Can you give any specific instance of a melcharth granted on account of social oppression?
 A.—I know that several melcharths are granted before the term has expired.

- Q.—You cannot make mention of any instance at present?
 A.—I cannot remember now, but I can submit a list as I have promised.
- Q.—You have said in your answers that the janmis object to the cremation of dead bodies. Is it of the Nayar tenants or Tiya tenants?
 A.—Not of the Nayar tenants but of the Tiya tenants.
- Q.—Are you not aware of the belief among the Hindus that it is not desirable to live in a house where another man's body has been cremated in the house compound?
 A.—I don't know whether they have such superstitious beliefs or not.
- Q.—Are there no common burial-grounds in your place?
 A.—No.
- Q.—I know there are common burial-grounds. You said the renewal fee should be twice the rent?
 A.—Yes.
- Q.—You know the rents levied by the Raja of Kadathanad are very nominal?
 A.—Yes.
- Q.—So you would allow only low renewal fee? Do you believe that the Raja gets only two times the rent as his renewal fee?
 A.—That is what I have heard.
- Q.—Are the gardens well attended to now?
 A.—Yes, except in very stray cases.
- Q.—What is that neglect due to?
 A.—Tenants will not be able to meet the necessary expenditure in some cases.
- Q.—In spite of the fact that there is no fixity of tenure tenants have been looking after the upkeep of the gardens very well. How is it?
 A.—Because it is paying now.
- Q.—Whatever may be the circumstances you are not for retaining the intermediary?
 A.—I am not for the retention of the intermediary under any circumstances.
- The President* :—Thank you, Mr. Chathu.

XXI

Written statement of Rao Sahib P. Ramunni Marar, dated 20th September 1927.

I have little or no knowledge of the details of the land tenure in South Malabar. Born and brought up in North Malabar and having spent all my life here I know something of North Malabar. My answers to the questionnaire are therefore confined to the North Malabar conditions.

I. Unlike in South Malabar, where I have heard it said that kanarees are nominal mortgagees, the North Malabar kanarees are in general substantial mortgagees kanams being securities for monies borrowed by landowners, in debt. In my opinion there are no disabilities pressing hard on any class of tenants in North Malabar. Disabilities, if any, are all such as are shared by all classes of tenants and resulting ordinarily from the general relationship of landlord and tenant only.

II. Evictions made or melcharths granted on unjustifiable grounds are almost nil. To my knowledge janmis do not use their position as landlord to oppress the tenants socially.

III. As in my opinion there are no disabilities existing, I do not think there is any remedy to be suggested.

The grant of permanent occupancy right to tenants of any sort or holding for how long so ever is unnecessary. If such a grant is in the contemplation of the Government or legislature it should be only to the tenants in actual occupation and never to those who are intermediaries as the latter are only people who make a profit by taking something out of the pockets of the actual cultivators.

If legislative interference is found necessary for regulating the relations between landlord and tenant, then I am of opinion that sufficient provision should be made for the easy collection of rent and other dues. If rents and other dues are not paid in time the landlord must be able to realise the same with the usual interest (12 per cent on money and 20 per cent on grain per annum) by summary process, from the tenant.

Permanent occupancy rights should not be granted over lands situated within municipal limits. On account of growing importance of municipal towns and the increase of population therein cultivable lands are going down in extent and buildings are increasing in number. The chief source of income from land within municipal limits is building rent. If permanency is therefore granted to tenants in municipal areas practically capitalists who can invest monies in buildings will gradually take the place of the tenants who now get permanency by legislation.

IV. My view is against the grant of permanent occupancy right to occupants of kudiiruppus; but if for any reason it be thought fit to grant such rights the same should be confined to rural kudiiruppus. The case of a tenant contemplated in C (1) is really hard. But that will be no reason to keep the janmi out of his rights. The only suggestion I can make in a case like this, is that the janmi should be allowed to grant a melcharth or the tenancy interest might be sold in auction. Cases of the kind contemplated in C (2) are not rare. Big and very costly buildings are sometimes put up to put the janmi to trouble. By the expiry of the term of the marupat the garden would have improved, so that some enhancement of rent is possible at the renewal. The tenant would refuse to take a renewal and say that he might be paid the value of his improvements and he would surrender. But there would be a house in the garden which would be worth more than the janm value of the garden and paying for it would be of no use to the janmi as the house may not bring in a rent even. This is one of those instances where the landlord is helpless and the tenant takes his opportunity to dictate terms to the landlord. I would therefore suggest that, except in municipal limits and bazaars, buildings if put up should not in value exceed 25 per cent of the janm value of the garden in which it is put up. In cases where the value of the building exceeds this limit and the landlord does not agree to it, the tenant should on the expiry of his term be compelled to remove the building at his cost.

With regard to tenants contemplated in C (3) I don't think there is any need for separate or special consideration. When it is found necessary to transfer the entire holding—of course I take it that such a contingency arises on account of the position of the tenant—the kudiiruppu does not require separate consideration. It must go with the rest of the holding. My views are against the compulsory purchase of kudiiruppu by whatever means. Such purchase will only further complicate conditions.

V. I am myself as much a tenant as a landlord and with all due deference I would say that Act I of 1900 itself was a wrong step. To begin with I would submit that it was the first step taken to put pressure on landlords and benefit tenants. Payments to tenants of heavy value of improvements at eviction sufficiently well ensured their position. I know instances in which landlords had to pay for improvements so heavily that they on recovery found the land not yielding enough to give them a sufficient return for the money thus invested. In my experience of more than 25 years at the bar I have found almost all courts showing always a leaning towards tenants in ejectment suits. Changes in the method of the working the Act are highly desirable. But it is not possible to make short and easy suggestions in a matter like this. As at present worked the Act is used much to the prejudice of landlords.

VI. My view is against the grant of any permanent occupancy rights at all and if it be decided that such rights should be granted compensation equal to twice what would be found under the Land Acquisition Act might be fixed upon as a remuneration for such acquisition for the tenant.

With regard to holdings having more tenure-holders than one the apportionment of compensation might be done as now done in working Act I of 1900.

No special facilities need be given to the tenants mentioned in VI (c).

VII. It is impossible to give a general rule on the point. From out of the annual yield of a property deduct the Government assessment and cost of cultivation and 20 per cent of the rest in the case of gardens and 50 per cent in the case of paddy lands can be looked upon as the maximum payable as rent to the landlord. But each case will have to be decided on its own merits. This is only the maximum I give. This rule cannot be made applicable to municipal areas.

I can't give instances of unjustifiably high rents from personal knowledge.

VIII. Two years yield from the property deducting Government assessment and cost of tilling will be a renewal fee in the case of parambas of which leases are generally granted for twelve years. One year's yield similarly calculated will be a fair fee in the case of paddy lands as leases of paddy lands are generally granted only for five or six years at a time.

This is the average renewal fee collected in Kottayam taluk so far as I know.

IX. Any legislation which would give fixity of tenure to a tenant who regularly pays his dues to the landlord as and when they fall due cannot be unwelcome.

X. Melcharths are mostly due to the attitude of tenants. Right of pre-emption as against melcharthdars might therefore be granted to tenants. The suggestion embodied in X (b) must certainly be acceptable to landlords.

Ordinarily melcharths do bring in large renewal fees. The question of the reasonableness or otherwise of a fee in such a case as mentioned in X (c) will have to be left to courts to be decided upon if disputed by the tenant.

General.—I would humbly add that to my mind there seems to be no need for legislation now. On account of agitation by tenants and the mistaken impression that tenancy question is at the bottom of riots in South Malabar there was one piece of legislation—Act I of 1900 and its predecessor. That Act has ruined I fear many a petty landowner particularly because courts have been always showing a leaning towards tenants. Agitation is again set on foot now to get fixity of tenure. That the landlords are gradually being deprived of their rights by these ways cannot be disputed. Except in the case of some educated gentlemen who are not actual cultivators but whom I might call middlemen there is really nothing even in the present so-called agitation.

There is no doubt melcharths should be discouraged as far as possible. But here again from personal experience I can say that tenants, even though begged to, would refuse to take renewals. They do not pay rents regularly and one like my poor self often finds it difficult to collect rents regularly. I have tenants who have not renewed since the last three decades and more in spite of repeated demands, and only my determination not to grant a melcharth is their safety.

The landlords are fewer than tenants in number and organized so-called agitation amongst them, there is none. If only their grievances are properly put forth and heard and understood I fear the Government will have to think of legislation to protect their interests than to protect that of tenants. As I said above I am myself as much a tenant as a landlord and I believe I can weigh the situation much better than one who is quite a landlord or quite a tenant.

Wednesday, the 16th November 1927 (Morning).

Oral evidence of Rao Sahib P. Ramunni Marar, High Court Vakil, Tellicherry.

The President :—Q.—Mr. Ramunni Marar, you are a High Court vakil and a member of the Tellicherry Bar?

A.—Yes.

Q.—You have acted as Government Pleader and Public Prosecutor, North Malabar, on a few previous occasions?

A.—Yes.

Q.—May I know your standing at the Bar?

A.—I am a member of the Bar since July 1902.

Q.—You are the karnavan of your tarwad?

A.—I am the *de jure* karnavan of my tarwad. In fact at my request my younger brother is managing the tarwad on my behalf. As it was, my senior renounced his management, and when it came to me I renounced it in favour of my anandravan.

Q.—You are both a janmi and a tenant?

A.—Yes.

Q.—Could you kindly tell us the extent of your properties?

A.—My tarwad owns janmam properties paying assessment of Rs. 400 and kanam and kuzhikanam properties paying an assessment of about Rs. 200. My own acquisitions—I pay an assessment of Rs. 300, Rs. 150 on janmam lands and the remainder for lands belonging to other janmis held by me as tenant.

Q.—Does your tarwad itself cultivate the janmam lands?

A.—A small portion of paddy lands near our house in Thiruvangad are cultivated by our family itself. My younger brother who is managing the tarwad supervises the work of cultivation himself. The remaining wet lands and parambas are held by tenants; kozhu tenants in the case of wet lands and kuzhikanam tenants in the case of garden lands. In some of my own properties there are some kanam tenants also.

Q.—And the tenants under the kanam tenants are mostly kuzhikanam or verumpattam tenants?

A.—Mostly kuzhikanam tenants.

Q.—You say in answer to question III in your written memorandum that "If such a grant is in the contemplation of the Government or legislature, it should be only to the tenants in actual occupation and never to those who are intermediaries as the latter are only people who make a profit by taking something out of the pockets of the actual cultivators". If you eliminate these intermediaries your opinion is that they should be compensated for their interest in the land?

A.—They will be entitled to that even now.

Q.—If you don't grant permanency of tenure what is to happen to those tenants?

A.—They will have to be paid whatever they are entitled to and should be sent away.

Q.—As matters now stand there is no limit excepting the law of supply and demand and when you by legislation fix fair rents and fair renewal fees it is likely that you trench upon the profits of the intermediaries. What will happen to them then?

A.—Their rights are to be paid by the landlord. Therefore, the enhanced rent which the middleman was getting from the cultivating tenant must go to the landlord.

Q.—Let us take a concrete case. A, is the janmi, B, the intermediary, and C, the tenant. On a holding B pays to A Rs. 50 rent and B gets from the tenant under him Rs. 70. Rupees 20 which he makes for himself represents the return for his interest in the property. Now if you fix fair rent and fair renewal fee, let us suppose that the fair rent is fixed at Rs. 60. The intermediary stands to lose Rs. 10. To that extent it is trenching upon the interest of the intermediary. How would you adjust the right of the intermediary in such a case?

A.—Permanent occupancy right being given to the man in actual cultivation there is only dealing between the landlord on the one hand and the actual tenant on the other. I don't contemplate the existence of the intermediary.

Q.—In cases like this you have got to deal with the intermediaries?

A.—Then their value should be paid to them and they should be sent away. If they are still to continue then whatever the fair rent that may be fixed should go to the janmi and the balance will have to be appropriated between the intermediary and the tenant.

Q.—Is it your opinion that under those condition the tenants should pay only a fair rent and not more than that and the landlord should get nothing less than what he is entitled to and the intermediary should suffer?

A.—I don't think if any fair rent is fixed anybody would suffer. That is my position.

Q.—If the legislature by some measure says that the maximum rent that could be collected is Rs. 60, do you say that the janmi should continue to get that and the intermediary is to suffer?

A.—In a case like that I would say that the loss should be borne both by the landlord and the intermediary.

Q.—In the third paragraph of your answer to question III you say that if legislative interference is found to be necessary "If rents and other dues are not paid in time the landlord must be able to realize the same with the usual interest (12 per cent on money and 20 per cent on grain per annum) by summary process, from the tenant". Will you kindly tell us what you meant by summary process?

A.—As it is, difficulty is keenly felt in the matter of collection of rent by the landlord. I want some provision to be made by which the landlords will be able to realize their rents soon.

Q.—Probably you are having in mind something like the provision in the Estates Land Act in the East Coast districts?

A.—Yes, something like that.

Q.—You make a suggestion in answer to question IV which deserves careful consideration. You say "I would therefore suggest that except in municipal limits and bazaars, buildings if put up should not in value exceed 25 per cent of the janmam value of the garden in which it is put up. In cases where the value of the building exceeds this limit and the landlord does not agree to it, the tenant should on the expiry of his term be compelled to remove the building at his cost." I suppose in cases like that you will leave it to the janmi and the tenant to say whether the building exceeds 25 per cent of the janmam value of the land or not and only in cases of dispute you will set up some authority to decide the point?

A.—That is right.

Q.—In answer to question V you say "I would say that Act I of 1900 itself was a wrong step. To begin with, I would submit that it was the first step taken to put pressure on landlords and benefit tenants. Payments to tenants of heavy value of improvements at eviction sufficiently well ensured their position. I know instances in which landlord had to pay for improvements so heavily that they on recovery found the land not yielding enough to give them a sufficient return for the money thus invested." Have you any particular instances in mind?

A.—In my own case I had to pay value of improvements of the tenant to the extent of Rs. 500 to recover possession of the property. Now I have leased out the same property to another tenant for which I get only Rs. 10 a year as rent. That is to say, the interest on Rs. 500 is in paper Rs. 10 but in actual practice I am getting much less.

Q.—What does the improvement consist of?

A.—Coconut trees and other trees. No buildings.

Q.—Further on you say "In my experience of more than 25 years at the Bar I have found almost all courts showing always a leaning towards tenants in ejectments suits." Leniency in what way?

A.—In all possible ways in valuing the so-called improvements of the tenants. If I may be permitted I shall substantiate my position. One of the members of this Committee seated before me was opposing me in an appeal suit. The District Munsif, a gentleman who himself had considerable leanings towards the tenants, a man of 14 years' standing, found that there was no real improvement under the Act, but the Appellate Court found that so-called improvements had to be paid for. The tenant had made saw-pits in the paramba and this was

the subject of dispute for value of improvement. I remember it so well, one of the questions put to me by the Judge in the Appellate Court was "Can it not be of any use to the landlord? Do you mean to say that you cannot use it even as privy?" I thus lost the appeal and my client had to pay compensation to the tenant for his "improvements". May I ask, is it not a very hard case. It is a case which I have directly in my mind now of which I have personal knowledge.

Q.—I suppose District Munsifs are also liable to err?

A.—Anything that is looked upon as an improvement will have to be paid for. Judges are given a wide discretion in the matter.

Q.—You say "Changes in the methods of the working of the Act are highly desirable. But it is not possible to make short and easy suggestions in a matter like this." The Committee expects you to enlighten us with your experience on this matter and to give some suggestions if you could kindly do so. Are there any suggestions which you wish to make by way of improving the provisions of the Act?

A.—I have not thought over the matter.

Q.—Then, can you give us your suggestions after taking some time to think?

A.—I shall try to.

Q.—In answer to question VI you say "My view is against the grant of any permanent occupancy rights at all and if it be decided that such rights should be granted, compensation equal to twice what would be found under the Land Acquisition Act might be fixed upon as a remuneration for such acquisition for the tenant." Well, twice the full value as calculated under the Land Acquisition Act is something very high?

A.—I agree it is.

Q.—What is your reason for fixing such a high value?

A.—I have put it quite arbitrarily without any principle underlying it.

Q.—In the next paragraph you say "With regard to holdings having more tenure-holders than one the apportionment of compensation might be done as now done in working Act-I of 1900." Do you mean the Tenants Improvements Act?

A.—Yes.

Q.—Then under question VII you have said "It is impossible to give a general rule on the point. From out of the annual yield of a property deduct the Government assessment and cost of cultivation, and 20 per cent of the rest in the case of gardens and 50 per cent in the case of paddy lands can be looked upon as the maximum payable as rent to the landlord." You think that would be fair rent in the case of the landlord?

A.—I think so, 20 per cent in the case of parambas and 50 per cent in the case of paddy lands.

Q.—What sort of parambas, what about the improvements supposing all of them belong to the landlord?

A.—I found it rather difficult to draw a distinction between the two. There might be instances where all the improvements belong to the landlord or the tenant or both and so I thought it better to have an average uniform rate.

Q.—You say in answer to question IX "Any legislation which would give fixity of tenure to a tenant who regularly pays his dues to the landlord as and when they fall due cannot be unwelcome." Will you kindly expand the idea?

A.—Once it is thought necessary to legislate on the point and in such cases my opinion is, such tenants as will pay rent and other dues regularly might be given fixity of tenure. But, I am as a matter of fact against the whole thing, but I suggest this in case it is found necessary to grant fixity of tenure.

Q.—Would you give the landlord compensation in such cases? So long as the tenant pays his rent and renewal fees regularly fixity of tenure is granted as against the grant of permanent occupancy right?

A.—I should think the landlord should be compensated for the reason that his right in the property goes down in value owing to that restriction.

Q.—The diminution in the value of the janmi's right and the enhancement of the value of the tenant's right will not be so much in that case as against the transfer of permanent occupancy right from the janmi to the tenant?

A.—I think so.

Q.—Then what do you think fair compensation in such cases should be in case fixity of tenure is decided upon?

A.—That again is a matter which will depend upon very many points. For example, the situation of the property whether in the urban or the rural area, etc., will have to be considered. The property may not fetch the same price in all places and in such cases no hard and fast rule could be laid down.

Q.—In the case of agricultural lands you might say that the rent reflects to a great extent the value of the property?

A.—More or less.

Q.—Then, can you evolve some formula in regard to the payment of compensation?

A.—I have not thought over the matter in that aspect.

Q.—In your general remarks you say "I have tenants who have not renewed since the last three decades and more in spite of repeated demands, and only my determination not to grant a melcharth is their safety." What is the reason for that determination not to grant melcharth?

A.—Well, I can only say that my ancestors have not done so for the last 60 years and I can say that there has not been a single instance of melcharth all these years and therefore I thought I should follow my karnavans' example by instituting suits for evicting the tenant where necessary rather than grant a melcharth and ask the melcharthdar to sue the tenant.

Q.—What is the objection?

A.—Generally there is a feeling against melcharths. Tenant enjoys the landlord's confidence so long as one is sure that no melcharths will be given.

Diwan Bahadur T. C. Narayana Kurup:—Q.—In case permanent occupancy rights are given you would do away with the intermediaries?

A.—Yes.

Q.—If fixity of tenure is alone given you would continue the intermediaries?

A.—I should think so.

Q.—There are very many cases in which a garden is wholly or partly improved by a man in possession, for instance, the kuzhikanam tenant himself. It would be rather very hard in those cases if the intermediaries are done away with?

A.—It will be so.

Q.—And some of them depend on these properties for their livelihood?

A.—Yes.

Q.—So, you are of opinion if fixity of tenure is given the existing state of affairs should continue?

A.—Yes.

Q.—You suggest one-fifth of the net income excluding the assessment in the case of the rent where the improvements belong to the landlord or the tenant. Even if the whole improvements belong to the tenant the landlord's share should not be less than one-fifth. That is your view?

A.—Yes.

Q.—You have suggested renewal fee as two years' rent. If that is reduced the rent might be increased?

A.—Yes.

Q.—And rent will depend also upon the locality in which the property is situated?

A.—Yes.

Q.—In municipalities would it be safe to fix rent according to the income of the property?

A.—It will not be safe. In the Tellicherry municipality on account of buildings sites going up in value and the municipal assessment also going up, I think fixing of rent by looking to the actual improvements in the paramba would work hardship on the landlord.

Q.—There are kuzhikanam and kozhu tenants in the municipal limits. Do they mainly depend upon agriculture for their occupation?

A.—No, they don't depend upon agriculture as their chief occupation.

Q.—On an average a kuzhikanam tenant has only one paramba, I believe?

A.—In most instances.

Q.—And if fixity of tenure is given to the kuzhikanamdar do you expect that parents will be able to remove their children from the village schools and send them to colleges and schools in the towns?

A.—No, their conditions will not be much better than now.

Khan Bahadur Haji Muhammad Abdulla Kasim Sahib Bahadur:—Q.—Are you in favour of giving fixity of tenure to the kanamdar if he is the actual cultivator?

A.—I have no objection if permanency is given to him though I am personally against the grant of fixity of tenure or the grant of permanent occupancy right to any classes of tenants.

Rao Sahib V. Krishna Menon:—Q.—In fixing the landlord's rent you have given us a formula, one-fifth in the case of gardens and half in the case of paddy lands. You have deducted from the annual yield the bare cost of cultivation and Government assessment?

A.—Yes. Deducting *vithu valli* expenses and Government assessment.

Q.—Supposing I am going to cultivate my land employing hired labour and supervising the work. Do you expect me to be rewarded?

A.—No, I don't, because you only supervise the work.

Q.—So you reduce cultivation to the actual field labourers' work?

A.—In fact that is why I took only *vithu* and *valli* as the actual cost of cultivation.

Q.—Is it not better that the share of the actual cultivating tenant should be set apart irrespective of the fact about the rent which has to be paid to the landlord or the intermediary?

A.—I have no knowledge of South Malabar.

Q.—You are for qualified fixity of tenure?

A.—No, personally I am not.

Q.—You don't think it is right to evict a tenant unjustifiably?

A.—Certainly, it is absolutely wrong.

Q.—And if that is prevented the janmi is not entitled to compensation?

A.—If the legislature interferes and says that the discretion of the landlord should be removed completely, he would be entitled to be compensated for that.

Q.—We do not allow a man to use his discretion—a thief may say 'I am justified in thieving'?

A.—Extreme cases like that will sometimes land us in absurdities. Even courts oftentimes say that there are several matters which ought to be prevented.

Q.—Regarding intermediaries: supposing by fixing a fair rent and fair renewal fee, the intermediary suffers to a certain extent the result will be that the intermediary will cultivate the land himself to make up his loss?

A.—Not necessarily. In most cases these intermediaries won't go in for that.

Q.—You have been suggesting that summary process should be allowed for the collection of rent. Do you think collection of rent is more difficult than the collection of money interest on a cash transaction?

A.—Each has got its own difficulties, but I think collection of rent is more difficult. In the case of money loans the man who advances money satisfies

himself about the stability of the person to whom he gives the loan but in the other case it is not so.

Q.—You said that 25 per cent of the janmam value of the land should be the maximum allowed for the construction of a building. Will it not work hardship in some cases?

A.—Well, there is real hardship to the landlord.

Q.—Do you believe that whatever is useful to the tenant must be considered as a fair improvement under the Tenants' Improvements Act?

A.—I don't think the Act is capable of that interpretation.

Q.—You were speaking of compensation. A janmi has got a bundle of rights and if he is deprived of any of those rights he should be compensated?

A.—If any existing right is taken away I think he should be compensated.

Q.—Can you enumerate the rights of the janmi?

A.—The right of leasing the property, the right to collect the rent, to collect the renewal fee and in cases where found necessary to recover possession of the property, the right to grant melcharths whenever found necessary, etc. These are some of the rights which a landlord possesses.

Q.—The power of granting unjust melcharths. Is it not a right?

A.—You cannot say whether it is right or unjust.

Q.—When the question of land comes there is nothing called just or unjust?

A.—I don't think so.

Q.—You were speaking of the leniency by civil courts?

A.—Yes.

Q.—The civil courts are all manned by best men?

A.—I don't want to speak about judicial justice. I only repeat what the great Justice Holloway said, how the Tenants' Improvements Act has been prejudicially worked against the janmis by Judicial officers who are themselves tenants or have leanings towards them. Even the best men can err, I believe.

Mr. Kotieth Krishnan:—Q.—You said that you are against unjustifiable evictions. You view them with disfavour?

A.—Yes.

Q.—And you would consider a man a bad janmi who does like that?

A.—Yes.

Q.—And you don't want a third person to come and tell you which is just and which is unjust?

A.—No, I am not for outside interference.

Q.—Supposing the law interferes in such cases. May I know what you consider to be unjust melcharths or evictions?

A.—Broadly speaking, I should think that a tenant who is not in arrears and who pays the rent and the renewal fee regularly should not be evicted.

Q.—You would not expect that tenant to do any other service to you?

A.—No.

Q.—Supposing a tenant who is regular in his payments disobeys your other commands, you would not import those considerations for granting melcharth?

A.—Certainly that would be unfair.

Q.—Supposing no fixity of tenure or even qualified fixity of tenure is given in the case of garden lands where tenants have made improvements in the soil—it is not possible for the tenants to remove the trees away. In such a case would you allow a law to be passed by which a tenant can compel the landlord to renew the lease at the expiry of the term and call upon the landlord to pay up for his improvements in case he does not like to stick on?

A.—I am not for any such law. On the other hand, I am against that.

Q.—That will work a great hardship for the landlords?

A.—That will be a considerable hardship to the landlord if he is told that after the expiry of the demise period he should be asked to pay for the value of the improvements.

Q.—Supposing the tenant has not the income enough to pay the rent to the landlord, even then you would compel the tenant to continue in possession of the property?

A.—In such a case of course the tenant should be permitted to go out of the holding.

Q.—But if the income is sufficient to pay the rent you will compel the tenant to remain in the soil. You will tie him down to the land practically?

A.—I will only say that the contract ought to continue.

Q.—So even though the contract period has expired, even though they contracted to remain as landlord and tenant only for 12 years, you will allow the contract to continue in favour of the landlord and not in favour of the tenant?

A.—According to the agreement he continues as tenant as long as the janmi does not think of turning him out. That is the existing state of affairs.

Q.—Now you think that the value of improvements that is to be paid to the tenant is very high according to the Tenants Improvements Act and therefore it would not pay the landlord to turn out the tenant?

A.—Yes.

Q.—Now supposing a law is enacted to raise the rent without paying the value of the improvements due to the tenant. Will that not put the janmi in a better position?

A.—Certainly it will.

Q.—You said you had to pay Rs. 500 towards the value of the improvements to a tenant and you got only Rs. 10 rent annually. Could you tell us what was the rent which the previous tenant was paying?

A.—I don't now remember what it was.

Q.—And you don't know how many coconut trees there were in that garden?

A.—No.

Q.—You don't know the nature of the improvements?

A.—They were all coconut and mango trees.

Q.—You wanted to make a distinction between the rural and urban areas in the matter of kudiyruppus. You know the Estates Land Act does not make any difference between the urban and rural areas?

A.—As the Estates Land Act is not applicable to Malabar I have not studied that measure well.

Q.—Is there any belief among good janmis that melcharth is a sin?

A.—It is not so much looked upon as a sin. It is no doubt not looked upon as a good act.

Q.—Do you think that between evicting one tenant and then giving the holding to another and giving a property on melcharth, it is more profitable to do the former?

A.—I don't think so. Melcharths are always given when the janmis think that they can get more profit by so doing, because the melcharthdar meets all the expenses and he pays the improvements of the previous tenant, etc.

Q.—So the melcharthdar with eyes wide open goes in for an unprofitable transaction?

A.—I don't exactly say so. In one case the janmi has to meet the cost of litigation and the value of the improvements but in the case of melcharth, I believe the melcharthdar ordinarily pays a very good amount as manusham to the janmi and promises a very decent rent besides bearing all the cost of litigation and value of improvements to the previous tenant.

Q.—So, he has very little idea of making any profit by the transaction?

A.—Profit will also be one of the things that will be in his mind. In very many cases melcharths bring in large profits to the grantor of the melcharth.

Q.—When a janmi recovers a property from a tenant directly through court there is a great demand for that property by the tenants?

A.—There are instances, though few, where after recovery of the land the landlord found it impossible to find a proper tenant.

Q.—Supposing the legislature decides that no law is necessary would you suggest anything for the improvement of the existing condition of the landlords?

A.—In my opinion no legislation is necessary at present.

Q.—You say the existing state of things may continue even though the janmis are not able to collect rent?

A.—That is my position.

Q.—Who is your landlord so far as tenancy is concerned?

A.—I have got Thiruvangad Devaswom lands on kanam and kozhu as also some lands belonging to Narungoli Nambiyar.

Q.—What rent you pay to the Devaswom lands?

A.—3,000 seers of paddy on kozhu lands.

Q.—Had you any difficulty in getting a renewal from the ooralars of the Devaswom?

A.—I got the renewal from three out of the four ooralars. The other man did not join because there was some dispute then.

Q.—You said that the courts are very lenient towards the tenants. Can it be because the Judicial officers are fully aware of the deplorable condition of these poor tenants?

A.—As I have already said I would simply endorse the weighty pronouncement of that great Judge Mr. Justice Holloway.

Q.—You said that the District Munsif rightly found that the saw-pits should not be paid for but on appeal the District Judge found that they should be paid for. You know that a tank constructed by the tenant worth over Rs. 1,000 was not found to be an improvement?

A.—Yes, because the court held that the tank was not constructed for agricultural improvements but was constructed by the tenant for bathing purposes.

Q.—Even though the water could be used for the paddy lands?

A.—That reminds me of the question put to me by the District Judge in that suit "Whether saw-pits could not even be used as privy"?

Q.—Do the janmis ask their tenants to vote for particular candidates in local and municipal elections?

A.—All the candidates canvass votes for themselves.

Q.—You know Anappa Madathil Kunhiraman?

A.—Yes, his son is my tenant.

Q.—You stood for election to the local municipal council from the "C" ward and you succeeded in that election?

A.—Yes.

Q.—One Karayi Kanari and this Kunhiraman were voters in your division?

A.—I believe so.

Q.—They were very old tenants of your family?

A.—Not very old tenants.

Q.—Did you send a registered notice to some of your tenants including Karayi Kanari immediately after your election to the municipal council?

A.—I might have sent notices to three or four people a few days after the election.

Q.—You said you have lands on kozhu cultivation in Thiruvangad. About six women who are cultivators in that land are voters in the "D" ward?

A.—I can't say. There are some coolies who are voters in the "D" ward.

Q.—In 1925 there was an election in that ward and these women went to vote and after recording their votes that day they were not permitted by you to return to their work in your paddy lands?

A.—I never thought that I will have to enumerate all these unpleasant stories and incidents. Anyway I shall try to explain the whole thing. In that "D" ward election I was supporting Mr. Kamaran Nayar's candidature and Mr. Kotieth Krishnan was supporting the rival candidate. Under a threat from Mr. Krishnan

the female voters were actually locked up the whole of previous night and the next morning they were taken to the polling booth and made to record their votes. When the coolies returned to our paddy lands at 10 a.m. my brother who is managing the tarwad told them—"Voting is a matter which you could have delayed. You cannot go away from our lands like this without asking our permission and demand wages for the whole day. So your case will have to be considered." My brother informed me of this but we did not know that all of them had conspired together. All of them struck work and we had to carry on the work in the paddy fields with the aid of other coolies. Almost the next day Mr. Krishnan started a Labour Union in Tellicherry. Mr. Krishnan worked very vigorously against me and other Nayar candidates in the matter of municipal elections and he thus made the matter entirely communal—Nayar versus Tiyya. If all those things are to be said in an enquiry like this I am prepared to say all that I have got to say in the matter. I was told—and I don't know how far it is true—that Mr. Krishnan got hold of some of these registered notices which I sent to my tenants (referred to above) and showed them to members in the Legislative Council to prove janmi oppression. I sent registered notices to my tenants because they were very much in arrears of rent and their leases had long before expired by efflux of time and not because of any ill-feeling or spite that I did so.

Mr. Krishnan:—I have never seen those registered letters nor have I shown them to members of Council.

Q.—You are for the janmis and against the tenants?

A.—I am for the existing law to continue without any kind of legislation.

Q.—So, you think there is a communal feeling in Tellicherry?

A.—If at all there is, I might say it is all your creation. I believe no man in Tellicherry will say that any Nayar is responsible for the communal feeling.

Mr. H. R. Pate:—Q.—The idea of giving fixity of tenure is to protect the tenant against competition.

A.—It really comes to that.

Q.—And the competition is more severe in the towns than in villages?

A.—I should think so.

Q.—But if you introduce any fixity of tenure you will tend to exempt urban areas?

A.—Yes.

Q.—Therefore where competition is most severe it will be left to take its own course?

A.—But there are different considerations to prevail in the case of lands within municipal limits and outside.

Q.—What is the minimum benefit that you expect to confer on the actual cultivator by giving him fixity of tenure?

A.—I said I am not for granting fixity of tenure, but then if that is to be granted the only advantage that you find is, the tenant feels quite comfortable and secure in regard to his position and greater attention will be paid to the land, if he knows that there has been legislative interference.

Q.—When you introduce fixity of tenure you have to introduce fixed rents and fixed renewal fees?

A.—Yes.

Q.—How do you propose fixing rent and renewal fees?

A.—It is very difficult to answer on account of very peculiar circumstances not only with regard to different amsams but also in regard to different holdings. For instance I might say that the Kadathanad Raja takes only a nominal rent. Supposing in a holding the rent is only Re. 1 and if it is stipulated that twice the rent shall be the renewal fee in case fixity of tenure is granted then he would get only Rs. 2. In such cases the landlord will suffer. In some localities, I think the renewal fee is looked upon as one year's rent. It will, therefore, be difficult to lay down any hard and fast rule.

Q.—Supposing we decide upon some formula and that becomes law of the land how can you ensure that the janmis shall receive no more?

A.—Once the law lays down the amount of rent that is to be paid, the tenant will not pay a pie more than that.

Q.—Will there not be some dispute?

A.—In such cases some authority will have to decide the point.

Q.—Rent could only be decided with reference to the estimated yield. Could it be decided in any other way?

A.—There also various considerations will come in. It will have to be arranged by looking into all circumstances.

Q.—But who is to decide what the actual net yield is. Do you think the janmi and the tenant will agree?

A.—They may not agree in several instances.

Q.—Do you think litigation will increase consequently?

A.—Certainly.

Q.—And do you believe that the present courts will not be in a position to cope with the additional work.

A.—I don't think the existing courts with their existing work will be able to cope with the work.

Q.—You have experience both as a landlord and a tenant and you must know some standard. Do you think that the tenant, as a rule, is made to pay an exceptionally high rate of rent?

A.—I have never come across an instance in which a tenant has not been able to find it profitable to cultivate and pay rent.

Q.—But what do you consider the probable margin of profit for the cultivating tenant would be, a man cultivating a couple of acres of paddy lands?

A.—He should get 50 per cent.

Q.—But does he get it?

A.—Ordinarily the lowest that a tenant would be getting will be about 30 per cent of the net yield.

Q.—Do you find constant turn-over of the tenants and replacements by others?

A.—I have not heard of any case where the tenants have run away because they are not able to work.

Q.—Who are these people who go to rubber and tea estates? Were they not cultivators once?

A.—They are only coolies and not cultivators of land.

Q.—You don't find that they are running off the land because they have to pay exceptionally high rent?

A.—I don't think so.

Q.—Have you tenants under you for paddy cultivation?

A.—Yes, there are.

Q.—Do you employ labour and keep your own cattle?

A.—Yes, we do everything. We employ coolies for work in the fields.

Q.—Does it pay you fairly well?

A.—We do make profit. It gives a decent return. I am able to make as much profit as any tenant is able to make.

Q.—What is the size of your holding? Is it bigger than the average size of the tenants' holding?

A.—I think so.

Q.—What is the average size of a holding which a tenant cultivates?

A.—There is no fixity about it. It may be even 10 acres sometimes.

Q.—Do you think that if you introduce all this apparatus of fixed rent, fixed renewal fees and the consequent litigation—which I personally can't see how you

are going to avoid—do you think that the relations between the landlord and the tenant will tend to be more cordial?

A.—On the other hand I think it will greatly increase the bad relationship between the landlord and the tenant.

Q.—It was suggested to you that if you put the actual cultivator in possession on a firm basis by giving him fixity of tenure, the man who is next above him will see the prospect of loss to him and consequently he will turn out the fellow below him and take the cultivation himself. You said that it is not likely to happen as the intermediaries will not cultivate the land themselves. Would you consider that, if it happens, an advantage from the point of view of the economic condition of the country?

A.—There is nothing which can be said to be disadvantageous.

Q.—If the cultivating tenant is turned out he will become an agricultural labourer. Do you think it an advantage?

A.—Such cases won't be very many.

Q.—Do you find that evictions are very frequent in paddy lands?

A.—I don't think there are very many evictions of the actual cultivator.

Q.—What about parambas?

A.—There may be three or four persons and below them the man in actual occupation of the garden. When a melcharth is granted though all these persons are put down as defendants the actual cultivator or the last man in 99 out of 100 cases is not disturbed.

Q.—And therefore a decree in eviction seldom means pushing a family out of their homes into the wilds.

A.—It almost never takes place.

Q.—Are there not other classes of suits that cannot end in ejectment?

A.—There may be other classes of suits also but rarely are they called ejectment suits.

Q.—Could you from your experience give examples?

A.—A man might institute a suit as though it is a suit for recovery of property, but it really may not be a suit for ejectment but to establish his right over the property?

The President:—Q.—What is the average size of a kozhu tenant's holding?

A.—Might be about an acre more or less.

Q.—Then that tenant cannot be a full-time tenant?

A.—No, it is impossible for him to live upon this. I don't think they will be holding less than 5 or 6 acres, but in the case of parambas the acreage will be less, say 2 or 3 acres.

Q.—From your experience could you tell the Committee what the economic position of these cultivating tenants are? You said they are people who are able to pay the rents properly. Do they live well. Are they in debts?

A.—I think the average tenants in the country parts live well. It is only in the towns that there is difficulty.

Q.—And he does not run into debts and there is not even a grumble, is it?

A.—I can't say that.

The President:—Q.—In our local economic enquiries we have come across cases where the tenants were reported to be in debts. Most of the tenants have told us that they are in debts.

A.—If we ask any tenant he will say that he is in debts every year. According to them not a year has brought them any profit ever since Kerala was reclaimed by Parasurama.

Q.—When definite questions were put to these tenants they furnished us detailed information, which if true, would show that they are in debts.

A.—There might be instances like that.

The President:—Thank you very much Mr. Marar. The Committee is very much obliged to you for the valuable evidence you have given.

Written statement of Mr. M. Anandan.

I (a) 1 to 7. Melcharths, unjustifiable evictions and social and political oppression of tenants by landlords are some of the disabilities.

(b) Yes; No. The peculiar caste system and social observances of Malabar and the fact that generally the landed classes belonged to the so-called higher castes make disabilities peculiar to Malabar.

(c) Except that social tyranny of the landlord is more in South Malabar than in North Malabar the disabilities mentioned are the same in North and South Malabar.

(d) I can't give a definite answer to this question as I am not familiar with the various parts of the South Malabar.

II (1) (a) Yes;

(i) Kottal is a very rich janmi tarwad in the Kottayam amsam of Kottayam taluk. A member of the tarwad wanted a tenant of theirs Cheruvary Kunhambu who had a decent position in life and who and whose karnavan were holding several parambas and lands under Kottal tarwad and the relations of Kottal tarwad, to assign a paramba to a nominee of that member. The tenant refused to do so unless consideration money was paid at once. This irritated the janmi and the result was series of civil and criminal action by and against the tenant and almost all the lands and parambas in the possession of the family of the tenant were recovered through court or otherwise and the once well-to-do tenant has been ruined.

(ii) Erinjal Karvanta Valappil Kunhi Mayan Haji is a big janmi of Punnat, a place in Kottayam taluk. He is the son of the present karnavan of Kottal tarwad and owns several properties in and around Kottayam amsam. A kariyastan of Kottal tarwad filed a money suit against a tenant Rayaroth Velandi Kelappan who held properties both under Kottal and Haji. The tenant contested the binding character of the debt against his tarwad and succeeded. This irritated the kariyastan at whose instigation both Kottal and Erinjal tarwad properties in the possession of the tenant were recovered by suits and there were other vexatious litigations also between these landlords and the tenant.

(iii) Ganapathiyatam Koran Nambiyar is a pretty big janmi in Kuthuparamba. He wanted enhancement of rent and high renewal fees on some paddy lands of his held by one Kakkoth Tala and Kummankotam Othenan. The lands were already rack-rented and the tenants refused to agree to pay enhanced rent and premium. Lands from both the tenants were recovered by suits and allowed to lie fallow than allow a tenant to cultivate.

(iv) The abovesaid Kottal tarwad evicted one Embroly Bappu and family from a paramba of theirs as a junior member of the tenant's tarwad helped the abovesaid Chevari Kunhambu in some litigations that the landlord had filed against him. The judgment of the District Munsif in this suit lucidly explains the oppressive nature of the claims made by Kottal tarwad against the tenant.

In my opinion such evictions are on the increase.

(b) Yes;

(i) The Kottayam kovilagam in the Kottayam amsam of Kottayam taluk is a very rich janmi. Mr. O. Narayanan Nayar is a second-grade pleader of the District Munsif's Court of Kuthuparamba. This latter holds a paramba and a paddy land under the kovilagam. The present Raja's son Ningilary Padmanabhan Nambiyar was a candidate for membership in the Kottayam Taluk Board. The pleader mentioned above is a voter in the Taluk Board Voter's list. Mr. Padmanabhan Nambiyar wanted Mr. Narayanan Nayar to vote for him. The latter refused to go and vote for any of the candidates. Within a week of the incident the pleader's land was given a melcharth of. It may also be stated here that this Mr. O. Narayanan Nayar was the then standing vakil of the kovilagam.

(ii) Randupurayil in Kottayam amsam is one of the richest Mappilla janmi tarwads in Kottayam taluk. One Olayikkara Pakkar, a poor cart-driver and his family were holding a paramba under this tarwad for over 40 years. A neighbour of this tenant one Eachal Nalakath Ahmed is a big merchant in Veerarajapet. He wanted Pakkar to drive a bullock-cart of his which for some reason was refused by the latter. To wreak vengeance on the bullock-cart driver this merchant paid a large sum as premium to the present karnavan of Randupura tarwad and got a melcharth of his property and ejected him from his holding.

(iii) Malikkaravata Kunhamayan is a pretty decent janmi of Kuthuparamba. Maroly tarwad is a well-to-do Tiyyan tarwad, also in Kuthuparamba. This latter tarwad has been holding a paramba under Kunhamayan's tarwad for a large number of years. The tenant being himself a man of decent position was not paying servile obeisance to his landlord and hence the landlord gave away the paramba on melcharth to a tenant of this Maroly tarwad and recovered the property through Court.

(iv) One Naroth Kunhimaman is a pretty well-to-do trader of Kottayam. Articles were purchased for use in the Kottayam kovilagam from his shop. For amounts due suits were filed and decree amounts realised by warrant of arrest.

This shopkeeper took transfer of a paramba from a kuzhikanam tenant of the kovilagam. At once the property was given melcharth of and suit for ejectment is pending.

(v) A property in the vicinity of Kuthuparamba is in the possession of one Maroly Puthukkayi Govindan under Randupura tarwad. It was waste paramba reclaimed and planted by the tenant. Tenant has a house in this in which he and his family are residing. A rich Mappilla merchant of Tellicherry has taken a melcharth of this. There is no reason for this except the fact that the merchant of Tellicherry was prepared to pay a fat sum as remuneration to the janmi.

(iv) Randupurayil Athilan is a junior member of Randupurayil tarwad mentioned above. One Kottayotan Govindan a poor trader in a bye-lane near Kuthuparamba was a tenant of Randupura tarwad in respect of a paramba which contained house wherein he and his family lived. The paramba was a waste reclaimed by the tenant. Govindan used to be sitting on the pial of his shop when Athilan passed in front of it. As the tenant was not standing up from his seat when the Anandaravan of this janmi was passing about, the Anandaravan took melcharth of this tenant's paramba and evicted him by suit.

(2) Yes;

(i) Puthur and Kalavallur are two desams in Kottayam taluk. There are now two parties among the Tiyyans there. One party for adopting certain reforms in their social observances and the other for keeping to the old conservative ideas. This latter party has the support of the landlords. On account of this support there are a large number of melcharths and evictions resulting out of the party strife.

This strife commenced some four years ago and is still going on.

(ii) A Tiyyan tenant of Panniyannor amsam has been severely assaulted by a number of Mappilla and Nayar janmis of the place, because he walked about wearing shoes, coat and turban and refused to pay obeisance to the janmi class passing about.

This incident took place only a month ago.

(iii) There is a movement among the Tiyyans of North Malabar to stop Tiyyans going to Kottiyor as pilgrims with tender coconuts. The Tiyyans are trying to divert the pilgrims to their own temple in Tellicherry. All the janmis both Nayar and Mappilla are opposed to this and pressure is brought on the tenants by threats of evictions and melcharth to follow the old custom.

This was begun some ten years ago and still continues.

(iv) The Tiyyans aspire to stop taking part in worship of deities with animal sacrifice. They organize into groups for better facility to carry out their objects. A strong party exists for this purpose in Kadachira, a place in Chirakkal taluk. The Nayar janmis have been trying to bring about dissensions among them by threats of melcharth and eviction and has to a certain extent succeeded in doing so.

This movement was started some three years ago and is still going on.

(v) One of the strongest advocates of reform in the Tiyya community is the well-known newspaper editor and Malayalam author Mr. Murkoth Kumaran of Tellicherry. On account of his enthusiastic advocacy for reform both in the press and on the platform his paramba which contained his residence has been recovered by suit. This took place within the last four years.

III (a) Absolute abolition of melcharth and doing away with of capricious evictions of tenants by landlords.

(b) Yes, No; Permanent occupancy rights should be granted to tenants where the holding is—

(i) a paramba, the tenant in actual possession of it and lives in the house contained in it;

(ii) a paddy land, the tenant who actually cultivates it;

(iii) where the holding consists of a forest tract or waste land which brought no sort of permanent income to the landlord before, but which brings regular rent after the tenant by his own exertions and expense of capital made into a garden or brought it under cultivation.

(c) Such rights as mentioned above should be given only to the class of tenants mentioned in answer (b) above; Yes.

(d) I should think that this suggestion should not be accepted as by doing so instead of giving relief to persons who actually deserve it a new class of landlords on inequitable basis would be created.

(e) I don't think that any new remedies need be provided for as the ordinary mode of realising rents and other dues by action in a civil court is sufficient.

(f) Permanent occupancy rights should not be granted to tenants in the following cases:—

(i) Where the tenant does not pay rent due on the holding for three years consecutively.

(ii) Where after the term is over he does not pay renewal fee or premium within two years.

(iii) Where the tenant commits active waste.

(iv) Where the tenant denies the landlord's title or does anything affecting his title injuriously to the whole or any part of the holding.

(v) Where land or paramba is required by the janmi bona fide for actual cultivation by himself or for the construction of a house for him to live.

IV (a) (1) They should be given permanent occupancy rights.

(2) I don't think that there is necessity to make any such distinction.

(b) It would be difficult and in practice unworkable to arbitrarily fix any extent to a holding whether urban or rural. Ordinarily a plot of ground with a homestead whatever may be the extent should be regarded as one holding.

(c) (1) Such tenant should be evicted from the entire holding paying of course any value due to him for his improvements after setting off the amounts due to the landlord.

(2) This is a dubious question difficult of an answer as no standard as to the size of a house necessary for the proper enjoyment of a holding can be fixed. An ordinary labourer may be satisfied with a mud-built house costing Rs. 25 for his enjoyment of the holding. Whereas a cultivator of decent position may require a house worth Rs. 2,000 or above for his proper enjoyment of the holding.

(3) The whole thing should be transferred.

(d) (1) I should think that the janmi having a right to continue as owner of his property no legislation should be undertaken to expropriate him of his rights.

(2) No.

V. The act certainly has helped the cause of tenants considerably and prevents to a very large extent eviction suits at the hands of the janmis; but this is worked on such arbitrary principles that in many cases unless the commissioner

appointed to value the improvements is very sympathetic towards the tenant, the tenant does not get full value for his improvements. As the actual working of the Act depends to a large extent on the whim and fancy of the commissioner appointed and no correct standard of valuation can be fixed, a further amendment of the Act or change in the method of its working cannot improve the present relations between the tenant and the janmi.

VI (a) I don't think the granting of permanent occupancy rights to the classes of tenants mentioned above require any compensation to be awarded as none of the ordinary rights of the janmi are taken away by the grant of such rights.

(b) In view of my answer to question (a) this requires no answer.

(c) Do. do.

VII (a) Where the improvements out of which any income is derived by the tenant belongs to the janmi two-thirds of the net yield may be fixed as janmi's rent and the remaining one-third as the tenant's share; but where the whole income is derived out of the improvements effected by the tenant one-third the net income may be fixed as janmi's rent and the balance two-thirds as tenant's share. This will not apply to cases in which a planted garden was given to a tenant but improvements have perished of age or other causes not within the power of the tenant to prevent and where the entire income at present is derived from improvements effected by the tenant. In such cases the rent originally fixed ought to be paid to the landlord.

It is not possible to fix any definite principle of calculation.

(b) Except in very rare instances the rents now being paid cannot be considered to be unjustifiably high.

(b) The amount is fixed according to the sweet will and pleasure of the janmi. Sometimes it varies from half a year's net income to the net income of a year and a half.

IX. In view of my answer to question III (b) no answer is necessary for this.

VIII (a) One year's net income may be fixed as renewal fees.

X (a) A system of that sort will afford no relief to the tenant. The evils to prevent which legislation is sought will only be on the increase.

In practice if such system is allowed fictitious and collusive melcharths would be got up and tenants compelled to purchase rights under them at any value fixed by landlords.

(b) All kinds of frauds and speculations would be rendered possible if such a system is adopted. In money matters it is very rarely that honest transactions will be met with and especially so when the landlord is in a position to dictate terms to the tenant.

(c) In view of my answer to question (a) and (b) above no answer is necessary for this.

Thursday, 17th November 1927.

FORENOON SITTING.

The Committee met again at 8 a.m. All the members except Sir T. Desika Achariyar, Raja Vasudeva Raja of Kollagode and Khan Bahadur Haji Abdulla Haji Kasim Sahib Bahadur were present.

The examination of Mr. M. Anandan was taken up.

Oral evidence of Mr. M. Anandan.

The President:—Q.—Mr. Anandan, you belong to the Kuttuparamba bar?
A.—Yes.

Q.—What is your standing?

A.—I have been practising there since January 1913.

Q.—You are a janmi or a tenant?

A.—I am a tenant.

Q.—What is the extent of your holding?

A.—I have about 17 acres of land.

Q.—Are they all parambas?

A.—Except 3 acres all are parambas. Those 3 acres were given to me as paddy lands for improving and I have improved half of it. Half still remains as paddy land.

Q.—You manage your lands yourself?

A.—Yes.

Q.—How do you do it?

A.—By hired labour.

Q.—You say you have 3 acres for conversion into garden lands. Is that conversion with the consent of the janmi?

A.—He has expressly leased it for that purpose.

Q.—The other garden lands are dry lands?

A.—About 2 acres were garden lands with full-grown trees when it came into my possession. I have taken about 12 acres of waste land for converting into garden lands.

Q.—Could you tell us the terms on which you got the lease of the full-grown coconut garden?

A.—One garden that is in my possession which contains also my house is about 1 acre in extent and for that I have to pay Rs. 55 annual rent.

Q.—And what is the manusham that you pay?

A.—I paid at the time of first lease Rs. 185. That was in 1914. There was a renewal year before last and then I had to pay Rs. 25 more than what I paid before. The house on the paramba was leased for 12 years and the paramba for 16 years. So, the whole was renewed by me in 1925. That is slightly less than 1 acre.

Then I have taken assignment of the tenant's interest in respect of another paramba which is even less than half an acre. There are only 10 coconut trees in it as improvement belonging to the janmi. Then there were some pepper vines which have all perished now. The rent for that is Rs. 5.

Q.—Have you paid any renewal fee for that?

A.—No, I have not renewed that property.

Q.—Have you planted any coconut trees in that paramba?

A.—Only some 15 or 16 trees.

Q.—Is there no understanding about the renewal fee which you have to pay?

A.—No.

Q.—The remaining lands are dry lands which have been taken for plantation?

A.—Yes.

Q.—What are the terms?

A.—That land was in the possession of four tenants. They raised only fugitive crops such as bananas, etc. They had the kuzhikanam leases but they effected no other improvements. I took assignment from all the tenants and then renewed with the janmi. It has been given to me as a proprietary lease by the janmi. I have to pay Rs. 5 rent and also the revenue on the land.

Q.—Being a proprietary lease there is no renewal fee?

A.—There is no renewal fee.

Q.—And what are the terms with regard to the wet lands that you have taken for conversion?

A.—There I have to pay Rs. 23 as rent and Rs. 13 as revenue.

Q.—Is it a proprietary lease?

A.—It is only a kuzhikanam lease for 12 years.

Q.—Is there any understanding about renewal fee?

A.—The lease was taken only two or three years ago.

Q.—Why has the janmi agreed to the conversion of the wet lands into gardens?

A.—It is a narrow strip of land bounded on two sides by parambas. Moreover paddy cultivation cannot be properly had there. Moreover the neighbouring janmis were big Mappilla janmis and they were going on annexing the land to their parambas and this particular landlord thought he could not resist the encroachment of those janmis. So it was given to me for conversion into garden land. Now there are mud walls all round and therefore encroachment is not possible.

Diwan Bahadur T. C. Narayana Kurup :—Q.—Mr. Anandan, you have instanced a number of cases of capricious evictions. I take it that you are satisfied that they are unjustifiable and unnecessary evictions.

A.—Yes.

Q.—I shall take it one by one. Now as regards Kottal tarwad.

A.—(Interrupting.) Before answering those questions I must make one request. I think I have made a mistake in answering those questions in the questionnaire because it has created a lot of ill-feeling between myself and the landlords who are my friends and janmis. I request I may not be pressed further on those things—not that I am not able to stand by the answers that I have given. Already I find that there was a lot of canvassing going on for the last three or four days at the hands of the kariyastans of some of the janmis whose names I have mentioned in my answer, trying to find out materials to facilitate my cross-examination. Anyhow I find a certain amount of bitterness has been already caused by these answers. I would therefore request that that bitterness may not be enhanced by your making me answer further cross-questions regarding those evictions.

The President :—Q.—If you had not specified instances we would not be cross-examining you on those points. Once you have pointed out particular instances we must find out whether they are true cases or not.

Mr. Narayana Kurup :—Q.—In very many cases you have been misinformed?

A.—If you press I would certainly answer.

Q.—Now, this Kottal is a rich tarwad in Kottayam?

A.—Yes.

Q.—There are very many English-educated people there?

A.—Not very many. There is Mr. Uppi Sahib and Mr. Pokker. Then there are persons who had a few years' education in some English institution.

Q.—The adhi kari of the amsam belongs to that tarwad?

A.—Yes.

Q.—You say 'A member of that tarwad wanted a tenant of theirs, one Cheruvari Kunhambu, who had a decent position in life, etc., to assign a paramba to a nominee of that member.'

A.—It was Cheruvari Raman, the karnavan of Kunhambu, but the karnavan and nephews were living together.

Q.—Cheruvari Raman was holding three parambas under Kottal tarwad and they are even now in his possession? The term of one of the leases expired in 1079 and he would not pay rent for ten years. I have got a printed copy here of the written statement. Ten years' rent was in arrears?

A.—Perhaps I am not remembering all the facts.

Q.—Don't you remember that case in which four commissions were issued? The rent was in arrears.

A.—(Looking into the written statement.) I find that the rent is only a nominal one, viz., two fanams. That is very rarely paid in time. It is generally paid once at the time of renewal or at the time of recovery. This nominal rent is not generally paid in time as in the case of ordinary leases where fair rents are fixed.

Q.—So, ten years' rent was not paid?

A.—It is just possible. It might not have been paid.

Q.—The paramba was leased out to him; and, after ten years since the garden has come into bearing, he would not renew?

A.—This tenant was a kariyastan of that tarwad and a dependent of that tarwad. Perhaps he was not even asked to renew. When they were master and kariyastan, the master would not ask him to renew and the kariyastan would not renew. It was not merely the position of landlord and tenant.

Q.—Would you say whether it was renewed or not? Would you say that it was not renewed because the landlord was not willing to do it?

A.—Seeing the position in which the parties were before the fight the inference that one would draw is that it is not possible to think that the landlord would ask him to renew.

Q.—Ultimately the landlord had to pay compensation of Rs. 779?

A.—Yes, sir, after a hard fight. The tenant had to fight up to the High Court.

Q.—And the present rent of the property is Rs. 35.

A.—I do not know.

Q.—The other two properties have not been recovered?

A.—There also they will have to pay compensation like that.

Q.—Were there any other lands recovered not through court?

A.—As regards paddy lands there was no question of value of improvements. So unless he surrendered the lands a suit will be instituted.

Q.—So the tenants surrendered all the other paddy lands?

A.—Not willingly surrendered—they were forced to surrender.

Q.—Then you make mention of criminal litigation. There was not a single case by Kottal tarwad against these people. On the other hand the tenants filed a complaint against the tarwad and it was dismissed?

A.—I shall give you the history of that. The tenant was forced to file a criminal complaint. The Kottal people sent twelve coolies once to cut away some banana bunches from the garden of the tenant. The land on which these banana plantations were raised was held by him under Kottal tarwad. The coolies went there and cut away the banana bunches. That was done in open daylight. At once the tenant went and reported the matter to the Police who at once registered a case and investigated it. Ten or eleven of the accused were caught red-handed. Almost all the bunches were recovered. I appeared in that case. Subsequently, on account of janmi influence, the case was chargesheeted the very next day; the second day from the date of offence, the accused were brought to trial. Finally the complaint was dismissed. The plea of one of the accused was that it was he that raised the bananas.

Q.—So, the case was finally dismissed?

A.—Yes.

Q.—Coolies who were getting two and three annas wages engaged Mr. Lemerle and Mr. Krishnan to defend them?

Q.—Then the second case you refer to is an interesting case. The Kelappan you refer to is the adhi kari of that amsam?

A.—Yes.

Q.—He exercises considerable influence among the Tiyya community there?

A.—Yes.

Q.—The suit brought against him was for recovery of three years' rent, and the paddy land was recovered from him after the suit?

A.—Yes.

Q.—About Rs. 700 and odd was claimed as arrears?

A.—Likely.

Q.—The tenant pleaded that portion of the rent has been paid and that he has on the other hand effected reclamation work to the value of Rs. 1,000?

A.—That was the plea.

Q.—Both the pleas were disallowed by the lower Court and the Appellate Court?

A.—Yes.

Q.—And the landlord recovered possession of the property?

A.—Yes.

Q.—Kelappan would not allow any other tenant of the locality to take a lease from the Kottal tarwad because he was an influential man? The janmi himself wanted to cultivate the property?

A.—Yes.

Q.—This property is in a place where saline water gets in and the janmi had to put up big embankments. The janmi put up these embankments?

A.—Yes.

Q.—Kelappan had these embankments cut?

A.—That was the janmi's case. Kelappan denied that.

Q.—The janmi petitioned to the revenue authorities?

A.—I think there was a petition and enquiry. Mr. Byru Nambiyar conducted some enquiry and it was reported that the revenue authorities had nothing to do with the matter and that the parties should seek remedy in a civil court.

Q.—The janmi brought a suit for cutting the embankments and he got a decree?

A.—Yes. The case of Kelappan was that on account of natural overflow and also on account of some insects in those tracts, small holes were caused and water rushed in and the whole thing was broken.

Q.—It was wonderful that the intelligent insect cut the embankments in the most vital parts?

A.—The matter has not been finally decided. It is pending in appeal.

Q.—You think that is an oppression by the landlord of his tenant?

A.—When once ill-feeling arises it is just possible that an influential tenant fights the landlord, sometimes. The whole thing arose through the machinations of the kariyastan.

Mr. Kotieth Krishnan:—Q.—Rather the kariyastan's wife.

Q.—Then another suit was for recovery of rent of nearly Rs. 400.

A.—Those cases were all filed in Tellicherry; I do not know the details about them. I only know that there were a number of cases—a series of litigations arising out of that one incident.

Q.—You don't know whether the rent was in arrears for three years and you have no information whether damage was decreed against the tenant?

A.—I do not know; I was not appearing in the case.

Q.—Then the other case you refer to is eviction by Ganapathiyatam Koran Nambiyar. That paddy land adjoins his paramba close to his house?

A.—Yes.

Q.—He is cultivating that himself now?

A.—No, I understand that some tenant was asked to take a lease of it at 10 seers of paddy less. It was lying fallow all the while after recovery.

Q.—Do you know whether there was any arrears of rent?

A.—No arrears of rent at all. I appeared in that suit. The janmi wanted to renew on terms for which the tenants would not agree. In that case there was no question of arrears. On the first hearing date on behalf of the tenants I put in a written statement tendering one year's rent. He would not receive the amount. It was not at all a case of arrears of rent.

Q.—Then the fourth instance is another eviction by Kottal tarwad of Embroly Bappu? I understand he is not a tenant of Kottal tarwad?

A.—Kottal tarwad has allotted properties to the various branches.

Q.—The suit was not brought against the original tenant? They said that they would not renew with the landlord?

A.—It was not a case of refusal to renew at all. It was for the particular reason that I have stated there. The janmi's land was outstanding in the possession of a particular tenant. Here the janmi was carrying on a fight with another tenant. That tenant helped the Cheruvaris with money. The result was the property in the possession of the particular tenant was recovered.

Q.—You know how many years' arrears of rent was claimed?

A.—I do not remember exactly. I think there was no question of rent at all.

Q.—(Looking into the judgment) I find that the value of improvements should be set off against arrears of rent?

A.—Rent from 1917 is due. The suit was brought in 1923. There was five years' arrears of rent.

Q.—Then you mention something about Randupura tarwad. Since the death of the late karnavan there have been disputes between four persons as to who should be the karnavan?

A.—Till 1923 the fight was among four persons. After that the fight is between the man who has been found to be the seniormost and the man who is the juniormost. The youngest of the lot, Kunhamath, is the present disputant. That is the finding of the court. The eldest executed a melcharth to Kunhu Muhammad. The youngest granted a renewal ignoring the claims of Kunhammi Haji subsequent to the registered notice issued for the surrender of the property by Kunhammi Haji. That was disputed in court but it was not upheld.

Q.—The No. 7 eviction by Malikkaravata Kunhimayan. There the term of the lease was over in 1095?

A.—Just possible.

Q.—That property was in the possession of two Pattanis?

A.—They were only living in the house under the tenant Maroly tarwad. There was a dispute about the house Maroly claiming it to be theirs and the Pattanis claiming it to be theirs.

Q.—Do you know what was the ultimate finding?

A.—I don't remember. The Mappilla janmi wanted the Marolys to renew the property to these Pattanis allowing them to continue?

A.—What I know about that is this. There was a proposal to renew the property. A certain amount also has been received by Kunhimayan, in the shape of premium. Then came some rub and he gave melcharth of the property to the sub-tenant. After the eviction suit was filed the Marolys raised this contention of part payment and filed a suit against Kunhimayan. He then compromised the suit.

Q.—As a matter of fact the melcharth was given to the persons who were living in the house?

A.—Yes.

Q.—Maroly wanted to eject them claiming the house as his?

A.—He did not want to eject them at all.

Q.—He claimed the house as his?

A.—When his sub-tenants took melcharth perhaps he raised a false contention.

Q.—Then he raised a false contention?

A.—That is just possible.

Q.—Then instance No. 8 (i.e., your No. IV). This Kunhi Mannan was the original tenant or the assignee?

A.—He is the assignee. Now the land is sought to be recovered in O.S. No. 785 of 1926. I appear for Kunhimaman.

Q.—Then we shall go to other instances. Instance No. V. The tenant is Puthukayi Govindan. At the time when there were disputes about the karnavan sthanam it was difficult for them to collect any rent?

A.—That was not the case in regard to this particular paramba alone. In the case of all Randupura properties there was difficulty in the collection of rent

There were several litigations. There were litigations for a succession certificate in the District Court. The District Judge found that Kunhamath Haji was the seniormost. Then the fourth man Kunhamath preferred a second appeal and I think it was rejected.

Q.—Do you know whether it was kanam or melcharth that was granted?

A.—I don't know. I think melcharth was granted to the well-known rice merchant Moosa of Tellicherry.

Q.—You don't know whether it was kanam or melcharth?

A.—I don't know.

Q.—Then in regard to item No. VI do you know whether there was any claim for arrears of rent?

A.—Of course I don't remember all that. There was no chance of much arrears.

Q.—Then we come to other instances. Please see at the beginning of page 5. You know that Kumaran was the editor of a paper called *Gajakesari* for a long time?

A.—Yes.

Q.—You know that at the time of the Mappilla rebellion he wrote a series of articles against the Mappillas and in one of those articles he had written that it was the fear of the tapping knife of the Tiyyas that compelled the Mappillas of North Malabar to keep aloof?

A.—He is likely to write all that.

Q.—Do you remember that particular fact was in the article?

A.—I do not exactly remember.

Q.—Do you know that the house and paramba has been hypothecated by Kumaran for Rs. 4,000 at 12 per cent interest?

A.—He has hypothecated it.

Q.—Has he any other source of income except by writing articles like these?

A.—He is also a schoolmaster.

Q.—He welcomed the suit rather than discharge the mortgage?

A.—I do not think that he would not have cared for the holding or that he would have welcomed the suit.

Q.—The amount was ordered to be paid to the mortgagee in the judgment. In fact, I assure you that the janmi is prepared to renew the property if he would accept it. Do you know whether he will accept a renewal?

A.—I have not asked Mr. Kumaran. He is still in possession of the property. If it is not recovered he would, I think, be willing to continue.

Q.—Then Mr. Anandan, you speak about animal sacrifice in very many temples. Are there very many temples where it is done?

A.—Ever so many temples, there are. In almost all the *kavos* it is done. There is one here near Tellicherry and there are other kavos near Kathirur. There is the Mannoly Kavu.

Q.—That is a Tiyya temple?

A.—Yes.

Q.—So animal sacrifice is done not only in the temples owned by Nayars but also in the temples owned by Tiyyas?

A.—Yes. But even where the Tiyyas have got ownership the neighbouring Nayars insist on the continuance of the old form of worship.

Q.—The main animal sacrifice you know is in the Cranganur temple. There are several movers against this. The prime mover of the movement is the *Paliath Achan*.

A.—There may be a few educated people feeling sympathy for the movement but there are ever so many other persons who have not got such view points and try to continue the old conservative way of doing things.

Q.—That conservative feeling is not confined to the Nayars alone?

A.—Uneducated Tiyyas also I would say come under that category.

- Q.—You cannot blame any one community for it.
 A.—I do not blame anybody. But when the more influential people try to support such things that causes greater hardship.
- Q.—You yourself admit that the Tiyyas are opposed to the taking of tender coconuts to Kottiyur but they are for taking it to the Jagannath temple?
 A.—Certainly.
- Q.—The Nayars do not get any profit by working against this tendency?
 A.—They have got their sympathy with the Oorallars of Kottiyur temple.
- Q.—Do Oorallars get any profit out of this.
 A.—I should think that in Kottiyur they must be getting between 20 and 30 thousand rupees annually.
- Q.—You say Nayar landlords compel them to go to Kottiyur?
 A.—Certainly.
- Q.—You won't compel the Tiyyas to go to Jagannath?
 A.—I do compel them to go to Jagannath temple.
- Q.—There is a fight between the Nayar and the Tiyya community regarding this matter?
 A.—I cannot say that there is a fight, but the janmi influence prevails. Those people want to drive them to Kottiyur.
- Q.—But there is no compulsion in that. It is only persuasion. I hear that he who goes to Kottiyur is ostracised by the Tiyyas?
 A.—That is not correct.
- Q.—You said that you have a kuzhikanam paramba for which you pay Rs. 185 renewal fee?
 A.—Yes.
- Q.—You took assignment of it?
 A.—I took an assignment of the tenant's interest. I was living in the house and the house continued to be in the possession of the landlord. Subsequently the landlord himself made the old tenant assign the paramba to me. He had no interest on the land except the three years' term. He was in arrears of rent and he had effected no improvements.
- Q.—That is the house in which you live?
 A.—Yes.
- Q.—You say you pay Rs. 55 rent. Do you pay any separate rent for the house?
 A.—I have also to thatch the building which requires Rs. 40 a year.
- Q.—This is very close to the Munsif's Court?
 A.—Yes.
- Q.—What is the yield from the paramba?
 A.—The paramba will yield Rs. 100. If the house is let out it will fetch Rs. 5 or 6. But in that case the landlord will have to thatch the house.
- Q.—So I take it, it will only fetch a net rent of Rs. 15.
 A.—It is somewhere about that.
- Q.—If that is the case in Kuthuparamba what will be the value of the house in Tellicherry?
 A.—It will be about Rs. 300 to Rs. 400.
- Q.—If that is the case in kuthuparamba in the villages it will be much worse?
 A.—But in the villages the janmi very rarely puts up houses. It is the tenants that put up the houses.
- Q.—Supposing there is a costly building it is not worth while to recouer that under the circumstances.
 A.—It is not worth while.
- Q.—Have you gone for any melcharth?
 A.—No.

- Q.—And your wife or nephew?
 A.—They have also not taken any melcharth.
- Q.—There is a paramba generally known as Anandan Vakil's paramba. Is that not Raja's property taken on melcharth?
 A.—Yes, melcharth was taken in December 1925.
- Q.—How many acres of land?
 A.—Three acres.
- Q.—You have now converted it into a coconut garden?
 A.—Yes.
- Q.—Have all the trees begun to bear?
 A.—Not yet. It is only two years since they were planted. As regards the melcharth. I have to say something. The old tenant of the Raja would not pay the rent properly. The man in actual possession was one Cheruvari Raman, a dependant of mine. The Raja wanted to give melcharth of the property. That Raman came and reported the matter to me. Then I said I would not go in for melcharth at all. I told them 'you had better bring the old tenant to me'. I took an assignment of the tenant's interest on the 8th October 1925 in the name of a distant relation of mine. Then I approached the Raja for the lease. The Raja, of course, necessarily gave me only melcharth and a few days afterwards I got the assignment from him in my own name.
- Q.—Why did you go in for all these benami transactions?
 A.—I wanted to avoid taking a melcharth.
- Q.—Ultimately you had to go in for a melcharth?
 A.—The document had to be a melcharth, that is all.
- Q.—Is not the kanam property that your wife holds under Keerath illam obtained through melcharth?
 A.—It is not quite correct to say that it was a melcharth to my wife. The paddy land that I have taken for 1,300 rupees kanam was held by a tenant for Rs. 450. Several times the janmi approached this man for a renewal; but the man would not renew or pay an enhanced kanam. I was approached and I paid Rs. 1,300 and odd and took the land which the tenant was holding for Rs. 450.
- Q.—In such cases you would allow melcharth?
 A.—Certainly there is no objection. It is something like a mortgage. Where there is a kanam to be raised and where the janmi is under difficult circumstances certainly there is no objection.
- Q.—You have said there should be 'Absolute abolition of melcharths'?
 A.—I mean only ordinary verumpattam and kozhu leases and kuzikanam leases. Absolute abolition does not mean that the janmi could not raise kanam when he is in debt.
- Q.—Has your brother Gopalan taken any property in Kuthuparamba on mortgage?
 A.—He has taken some properties on kanam from the Raja. The old kanam was for 1,000 rupees. He has taken that kanam for Rs. 1,700.
- Q.—The property that you mention is Eachal Vayal, Meethala amsam nilam?
 A.—It is Kinakkal property.
- Q.—Would I be justified in saying that the cry for legislation is by people who have come newly into possession of property either by melcharth or melkanam?
 A.—I do not think it can be said like that.
- Q.—Are all kuzhikanam tenants who really converted waste land into paramba in possession of those properties or are they in the possession of persons who have taken melcharth of those properties?
 A.—There are very many instances of melcharths granted. In those cases they have recovered possession of the property.
- There are ever so many other instances in which the old tenants continue in possession.
- Q.—Are 25 per cent of the old tenants now in possession?
 A.—I cannot say.

Q.—You would grant fixity of tenure to persons who have come into possession by means of melcharth?

A.—Once they are in actual cultivation of the land, and if it is garden land, also in actual possession of homesteads, whatever may be the mode by which they have come into possession I must say they should be protected.

Q.—What would be the average extent of a kuzhikanam holding?

A.—In Tellicherry it is small. Generally in Kuthuparamba I find it averages from half an acre to $2\frac{1}{4}$ or 3 acres.

Q.—Will it come to 5 acres sometimes?

A.—Very rarely.

Q.—What is the maximum gain that a tenant can make out of a kuzhikanam property?

A.—It all depends on the investment that the man has made on the property. In case the tenant has spent a good deal for improvements, interest on the outlay has to be deducted from the income. But I cannot answer that question unless there are particular concrete cases.

Q.—What is the maximum yield that one acre of garden land will give, with improvement, to whomsoever it may belong?

A.—I may say Rs. 100 to Rs. 125, provided it is a coconut garden. If it is an arecanut garden it will be much less. If it is a pepper garden sometimes it will be Rs. 500 and sometimes zero.

Q.—What would be the outturn of an acre of wet land?

A.—I would put it at about 600 bazaar (McLeod) seers of paddy.

Q.—And what would the cost of cultivation amount to?

A.—It may come to seers 75.

Q.—And the seed necessary?

A.—It may be put at 75 to 100.

Q.—So in all 150 to 175. So the balance would be some 400 seers. You have conducted a number of maintenance suits?

A.—I have conducted some.

Q.—You know the Ningaleri tarwad which is reputed to be a very rich Nayar tarwad. They have got many respectable relations in Nilambur. It is one of the few janmis who are never granting melcharth?

A.—Yes.

Q.—What was the rate of maintenance decreed in their recent maintenance case?

A.—I do not know. I did not conduct the case.

Q.—Would it come to Rs. 30?

A.—I cannot say.

Q.—It is only a very nominal sum?

A.—Not nominal.

Q.—If I tell you that the rate is not more than Rs. 30, would you call it nominal?

A.—There are many members in the tarwad.

Q.—So on account of the low income and there being numerous members they are not able to get much? In your experience what was the highest rate of maintenance that was given to a junior member of a tarwad?

A.—About Rs. 10 per mensem. It may be 6, or at the most 10 on the average.

Q.—The condition of a junior member of a Malabar tarwad is worse than a cultivating tenant's condition?

A.—They are all idle. If they depend on their tarwad alone, their position will be worse than the tenant's. The tenants are working hard. If they are fed in the tarwad they will not get even this sum. If they would at least cultivate their tarwad lands, they could make a better living.

Q.—In that case would you suggest any compensation to the tenant except the value of improvements?

A.—If the landlord wants it *bona fide* for his own cultivation, the land must be surrendered.

Q.—Then where is this fixity or continuity?

A.—It is only qualified fixity.

Q.—You have said there should be absolute abolition of melcharths and capricious evictions. Suppose we have to enact a law. How would you classify capricious evictions?

A.—In answer to question III (f) I have given a list of cases, in which permanent occupancy right should not be granted. In those cases eviction should be allowed.

Q.—In 'by himself' you would include the members of his family?

A.—Yes.

Q.—You would include wife and children also?

A.—In that way the circle can be extended. I would say 'to the actual members of the tarwad who are entitled to participate in the income'. Otherwise we would be extending the circle and ever so many persons can be brought under that classification.

The President :—Q.—Wife and children cannot be elastic. It is quite definite. Unless a man chooses to marry a number of wives, it is not very difficult to bring them under this classification.

A.—Sometimes that also happens. If there is any such provision, a loophole will be found and marriages will be made very easy.

Q.—In the case of educated men (the practice) it is dying out?

A.—Still there are ever so many uneducated men.

Q.—In answer to question III (b) you say 'a paramba the tenant in actual possession of it and living in the house contained in it.' Suppose a man gets a lease of two parambas. In one of the parambas he lives and the other he leases to a sub-tenant, and the sub-tenant lives there. Would you give permanency to the sub-tenant?

A.—Certainly I do include him for permanency.

Mr. Narayana Kurup :—Q.—In answer to question III (iii) you say 'Where the holding consists of forest tracts or waste land, etc., which brings regular rent by the tenant's own exertions and expense of capital, etc.,' permanency should be given? You mean the tenants who are in actual possession and who have reclaimed the land?

A.—So far as the tenant is concerned if he himself wants in his own way to become a landlord, he should not be given permanent occupancy. Otherwise the tenant in actual cultivation should be given.

Q.—Suppose there is a sub-tenant in actual cultivation? What about him?

A.—All my answers go to show that only that man who is the actual cultivator should be protected.

Q.—Suppose two parambas are leased out to A. A lives in one paramba and leases the other to B. Both are cultivating the parambas. To whom would you give permanent occupancy?

A.—Permanent occupancy should be given as regards the one paramba to A and as regards the other paramba to B.

Q.—Don't you think that would work complications?

A.—There may be complications.

Q.—You say speaking about rent in answer to question VII (a) 'this will not apply to cases in which a planted garden was given to a tenant but the improvements have perished of age or other causes, etc. In such cases the rent originally fixed ought to be paid?' You mean two-thirds should be paid?

A.—No. The rent agreed upon originally should be paid. Of course I would qualify that answer. Because when I wrote that answer, I had only coconut plantation in mind. On further consideration, I find that in the case of other

improvements such as arecanut trees, pepper vines, etc., the quantity of the yield fluctuates. So we cannot definitely fix it as in the case of coconut trees. In the case of coconut trees we can suppose that it will live up to 60 or 70 years.

Q.—Speaking of the Improvements Act you say 'it is worked on such arbitrary principles that in many cases unless the Commissioner appointed to value the improvements is very sympathetic towards the tenant, the tenant does not get full value for his improvements'. Could you suggest any reasonable amendment?

A.—I cannot think of any amendment. There is no standard of valuation. There are some vakil commissioners who have no sort of bad motive, but still I find tenants do not sometimes get value for all their improvements. Any honest man may differ as regards the age and *Meni*. It is something that nobody can imagine. Even an expert cannot think of the future and make a calculation correctly. A coconut tree may yield this year 50 nuts, next year sometimes more and sometimes less. It is all a haphazard matter.

Q.—You can strike the average?

A.—To strike the average for 30 years income is rather difficult. A man with agricultural experience will be a better man for work as commissioner than these vakils. I do not say it is the best arrangement. But it is better than employing ordinary commissioners.

Q.—In some cases the landlord has to pay in excess?

A.—I have never found a case so long where the landlord had to pay more than what the tenant deserved.

Rao Sahib V. Krishna Menon :—Q.—You said you paid Rs. 210 renewal fee. I think it is exorbitant?

A.—In my own case I do not find it is exorbitant because the property is close to the Munsif's Court in Koothuparamba and anybody would pay that amount.

Q.—You pay Rs. 55 to the landlord as rent and the net income you say will be only Rs. 15 after thatching charges and repairing charges of the house are deducted. So the renewal fee works out at a very high figure? It is three times the annual rent?

A.—Yes.

Mr. Kotieth Krishnan :—Q.—The renewal fee is Rs. 210 on account of the fact that all the improvements belong to the janmi?

A.—Yes.

Q.—It is on account of the fact that you are making a larger margin of profit out of the janmi's trees that the janmi at the time of renewal claimed a larger sum?

A.—Not exactly that. There is what is known as fancy price. This is more or less a fancy price.

Q.—You say in answer to the question about renewal fee that one year's net rental is the average that is being paid now.

A.—I have stated there that there is no standard and it all depends on the whim and fancy of the janmi. There is no hard and fast rule on the point. Generally the practice is from $\frac{1}{2}$ to $1\frac{1}{2}$ years' net income.

Q.—You were asked a number of questions about Kottal and Randupura tarwad. Who supplies the largest number of cases—eviction suits—in the Koothuparamba Munsif's Court?

A.—I cannot say.

Q.—Is it not more profitable to evict a tenant than grant melcharthi because the melcharthman's profit also can be taken by the janmi?

A.—It cannot be said like that. Because where a melcharth is given the value of improvements will be paid by the melcharthdar and the janmi gets his premium without any further investment.

Q.—But the melcharthman will also be looking to his profit, even if he pays the value of improvements. The janmi could get that profit also?

A.—I do not think generally janmis can get more profit by thus evicting tenants. They will generally only try to get as much in the shape of renewal fee as possible.

Q.—You said that in a certain case renewal fee was paid and that was denied. Are there many cases in which the tenants pay the renewal fees and then they are denied?

A.—The whole thing comes to a crisis when the term is to expire. The janmi wants renewal fee and the tenants won't pay it, as long as possible. There is a sort of conflicting interest. When the tenant pays no receipt is given because he cannot be forced to enter into a renewal. For that purpose receipt will not be passed to him and towards the end when the tenant wants renewal the amount paid is denied.

Q.—So I take it that even before the renewal period some janmis get renewal fees in advance promising to give renewal at the expiry of the term?

A.—Yes, at about the time when the term expires. Then there will be the question about renewal fee, the tenant pleading that he has paid and the janmi saying that he has not. Perhaps they only pay some money in advance. Subsequently they disagree about the terms of renewal and then the janmi denies the whole thing.

Q.—How many amsams are there within the jurisdiction of the Kuttuparamba Munsif's Court?

A.—About 18 or 20.

Q.—You have practice from clients of all those amsams?

A.—Yes, more or less.

Q.—In all eviction suits regarding garden lands, have you not found that there would be a house in that garden?

A.—In some cases.

Q.—And in all the eviction suits of that kind the tenant occupying the house is evicted?

A.—Yes.

Q.—So, in all cases where a landlord evicts a tenant it is a case in which he has turned him out of his house?

A.—Yes.

Q.—You have come across several such cases?

A.—Yes.

Q.—You mentioned something about maintenance suits in which very small sums are given to anandravans of the Marumakkattayam tarwad. Are those anandravans earning their own income or are they merely dependent upon the pittance that they get from the tarwad?

A.—I think in many cases they have got some other occupation.

The President :—Q.—What occupations?

A.—They may be employed under Government if they are educated; there are some people carrying on trade of some sort—in the case of Mappillas many of them are traders—some are employed as vakils' clerks.

Mr. Kotieth Krishnan :—Q.—In the case of the Ningaleri family most of the ladies of that family are well married?

A.—I cannot say all are well married. I can think of only one branch and that is the District Judge's wife's branch.

Q.—In the case of Marumakkattayam tarwards the karnavans always try to belittle the income of the tarwad?

A.—Certainly.

Q.—It is not possible for the anandaravans to get information regarding the real income of the family?

A.—It must depend upon the documents—the account books and other documents.

Q.—But those account books are not produced in courts and the District Munsifs are not in a position to decide accurately without accurate data?

A.—Without their being produced it is not possible.

Q.—May I take it then that it is one of the causes that contribute to the apportionment of a very low rate of maintenance to the anandravans?

A.—That may be one of the causes.

Q.—You have been just trying to make a coconut garden. Now, taking the expenditure for its planting, fencing, etc., up to the time when it comes to full bearing, in other words, taking the total expenditure necessary for its upkeep till it reaches the stage of bearing and the compound interest on the money spent up to that period, do you think it will be less than the amount that is now given by courts in the shape of value of improvements?

A.—I think it will be very much more.

Q.—You speak from experience?

A.—Yes.

Q.—You know the way in which revenue is fixed for properties in Mahe?

A.—I do not know.

Mr. H. R. Pate :—Q.—Have you lands in any other part of India except Malabar?

A.—No.

Q.—You have heard of caste dissensions in other parts of India as in Malabar?

A.—Nowadays I find from the papers that there is a lot of dissension going on between the Hindus and Muhammadans.

Q.—Between the different castes of Hindus?

A.—Outside Malabar I do not know whether there is much dissension between different castes of Hindus.

The President :—Q.—Is there not the Brahman and non-Brahman dissension?

A.—Yes, there is.

Mr. Pate :—Q.—Now the ill-feeling which you see in Malabar is due to caste rivalries or to the land system?

A.—To a certain extent the particular caste system is also helping it. There is the particular system of land tenure also contributing to it.

Q.—Generally the landlords are higher castes and the tenants, low castes?

A.—Generally it is so.

Q.—The Mappilla belongs to the high caste or low caste?

A.—It is supposed that they are also higher than the tenant class. But among the Muhammadans and Christians they have not got this sort of caste system.

Q.—You would put them as middle class?

A.—They can be classed as higher than ordinary tenantry. Most of the Mappillas here have got their bias towards the higher castes.

Q.—Then do you mean to say that there are no Tiyya janmis in Malabar?

A.—Only very few.

Q.—There are some?

A.—Yes.

Q.—There are many Nayar janmis and also tenants?

A.—Yes.

Q.—But the Nayars have the tenant interest as well as the janmi interest. Truly speaking, the Tiyyas are the tenantry?

A.—Yes.

Q.—You say that the Nayars are partly janmis and partly tenants. You also admit that there are some Tiyya janmis. You also say that the Nayars are oppressing the tenant class who are mostly Tiyyas. The statements do not go one with the other?

A.—The Nayar generally thinks himself to be a janmi whether he has got properties or not. If he has got one or two small properties that will make him a janmi. Even those Nayars who own 1 or 2 acres and sometimes those who are simple tenants think that they are janmis.

Q.—So it is not on account of their holding lands that they exercise pre-dominance. It is their pretension.

A.—It is only in very rare cases that a Nayar is a mere tenant. In 99 cases out of 100 a Nayar is both a landlord as well as a tenant. So he practically passes for a janmi.

Q.—Well, as a result of this disunion caused by the relation between the landlord and the tenant or the Nayar and the Tiyya as such, you say quarrels arise and the janmis fight the tenants by means of oppressive acts in regard to tenants' holdings?

A.—That is what happens owing to this ill-feeling.

Q.—The Nayar landlord oppresses the Tiyya tenant?

A.—Yes.

Q.—You would say that it is possible for the tenant to oppress the landlord or you would deny that?

A.—I do not think it is possible.

Q.—Is it possible for the tenant to bully the landlord?

A.—Perhaps there may be instances where the tenant is a rowdy. Generally we don't find it.

Q.—Is it not usual with tenants to try to wrest themselves from the landlord by any means?

A.—Generally speaking, rents are regularly paid in time and the landlord can recover the property if necessary. There may be very few instances in which the janmi being impecunious cannot recover the property.

Q.—Such instances are very rare?

A.—Yes, Sir.

Q.—You spoke of melkanam. It is simple usufructuary mortgage?

A.—Yes, Sir.

Q.—Interest on the mortgage amount is to be realized as rent?

A.—Yes.

Q.—Now in the case of a melcharth of a kuzhikanam property in which besides the tenant there is also a sub-tenant living in it, you would evict the sub-tenant also when you evict the tenant?

A.—Yes. It is very rarely that there is a sub-tenant. Generally my experience has been that these melcharths are taken just for the purpose of coming into actual possession of the property and so they have to be evicted.

Q.—Have you come across melcharths given in respect of wet lands?

A.—There are melcharths given in respect of wet lands also.

Q.—Amongst the instances that you have given regarding evictions has any person been evicted out of his house?

A.—Yes.

Q.—Which is that?

A.—That Kunhambu was evicted from his house. Soon after the quarrel began between himself and the landlord he quitted the house and went to a different place and there took assignment of a property from another tenant.

Q.—We do not attach much importance to that. He quitted the house. No. 2, is it a case of eviction from the house?

A.—No.

Q.—Then No. 3 is only paddy land. Then No. 4?

A.—I do not think that was eviction from the house.

Q.—Then (b) (i)?

A.—No.

Q.—Then (b) (ii)?

A.—Pakkar was actually living in the paramba and in fact after the decree for recovery was passed that man actually wept before me and I interceded in his behalf, but my client would not show any mercy. That was a case of actual eviction. In that particular tenant's case there was another hardship. He had a plot of ground in the heart of Kottayam. The previous karnavan of Randupura tarwad wanted to construct a house for his children. This man being a poor man,

that paramba was purchased from him and a house was put up there for his children by the karnavan. In return for that this paramba was given to this man and the present karnavan has again evicted him.

Q.—Then No. (iii)?

A.—There the tenant was not actually occupying the house.

Q.—Then No. (iv)?

A.—There also the tenant was not actually living.

Q.—No (v)?

A.—The eviction suit has not been filed.

Q.—He is in possession?

A.—Yes.

Q.—Then No. (vi)?

A.—There also that man was actually living there with his wife and children. He was turned out.

Q.—Where is he living now?

A.—He is living in another paramba in the neighbourhood.

Q.—That was also in his possession originally?

A.—I think he had it.

Q.—He put up a new house?

A.—There was an old house. That was slightly repaired.

Q.—Could you give me other examples of persons who have been turned out of their houses?

A.—I cannot exactly now remember. Every melcharth of a paramba means driving out of the house.

Q.—It is common?

A.—Yes.

Q.—You would give permanent right of occupancy to the tenant who is in actual occupation?

A.—Yes.

Q.—If we fix the standard of rent and renewal fee by law do you anticipate any difficulty?

A.—I do not think there will be any difficulty.

Q.—How would you fix the rent?

A.—Roughly a share of the net income.

Q.—And if the janmi and the tenant do not agree?

A.—They have certainly to take the matter to a court of law.

Q.—Do you think that under such circumstances they will agree?

A.—Generally they will agree.

Q.—You say one-third of the net income shall be the rent payable by the tenant?

A.—Generally they will agree for that.

Q.—Is there any difficulty in determining what the net income is?

A.—There may be some difficulty. The court will have to fix it.

Q.—You think that such a law will stimulate the good relations between the janmi and the tenant and put an end to all these oppressive acts?

A.—At any rate it may reduce them. I do not think it can be said that all quarrels would be ended by such a legislation.

Q.—You think it would be lessened?

A.—Perhaps in very many instances it may be lessened.

Q.—You do not think it would possibly increase?

A.—I do not think it will increase the ill-feeling.

Q.—You do not think it will increase litigation either?

A.—I do not think there will be any increase in litigation.

Q.—What item of suits will disappear?

A.—Eviction suits will disappear—suits based on melcharths.

Q.—Their place will be taken up by rent suits?

A.—Even rent suits will be very much minimized. One of the conditions on which occupancy right is given is that rent should be given in time to the janmi. So the tenants would be very prompt in the payment of rent and renewal fees.

The President :—Q.—What exactly do you mean by net income? Do you exclude assessment and cost of cultivation from the gross yield?

A.—Yes.

Q.—You are not quite definite as to whether the present ill-feeling would cease and better relations would prevail if any legislation of this sort is undertaken?

A.—There would certainly be a better feeling between the landlord and the tenant.

Q.—You think it will decrease ill-feeling?

A.—It is the fear of eviction that actually takes place that embitters the feeling between the landlord and the tenant. If that is put an end to the bitterness of feeling will go away.

Q.—That as also the present uncertainty attaching to the tenures, if both are put an end to?

A.—Yes.

Q.—You say rent and renewal fee should be fixed. You mean it should be fixed at the maxima?

A.—The landlord and tenant may be allowed to contract between themselves within that maximum.

Q.—If you fix this maximum you think the landlords and tenants would agree among themselves?

A.—In most cases they will agree.

Q.—You said in answer to question III (a) that there should be absolute prohibition of melcharth. And then you qualified your answer by saying that in the case of janmis who cannot afford to go to court an exception should be made. If such a loophole is created every janmi would pretend to be impecunious. The best solution perhaps is to make rent the first charge on the tenant's interest. For, then, the janmi can apply for sale of the tenant's interest if the tenant defaults paying rent and purchase the tenant's interest himself.

A.—Rent is always the first charge here. That is the practice.

Q.—That is not the law now?

A.—That will be said in the contract.

Q.—Supposing there are prior encumbrances how would you nullify those encumbrances?

A.—So far as the janmis and the tenantry are concerned, even if there is no charge created under the contract, it is made the first charge at the time of eviction. The charge created by the tenant will only be a subsequent charge. There is no fear of that. The janmi's rent will be the prior charge.

Q.—It is not the law? Only when there is an express understanding between the janmi and the tenant that rent should be the first charge on the tenant's interest, it will prevail.

A.—If there is a charge created under the contract it is certainly respected. Where there is no charge created under the contract even then, in the case of eviction suits, for all arrears of rent due to the janmi prior charge is given in spite of the fact that the tenant has created hypothecation of his interest in favour of a third party.

Q.—But if the janmi wants to raise money by mortgaging his property—?

A.—Of course the janmi right is always available to him. Of course, the highest right sought to be given to the tenant is that he should not be evicted except under certain conditions. The janmi certainly retains all the other powers.

Q.—That is, he can either hypothecate or sell?

A.—He can do anything.

Q.—You say in answer to question III (e) 'I do not think any new remedies need be provided for as the ordinary mode of realizing rents and other dues by action in the Civil Court is sufficient'. You are of opinion that rents are recovered satisfactorily and the present procedure is efficient?

A.—Yes.

Q.—We find that in most of the suits there is arrear of rent?

A.—When it is only a nominal rent of two or three fanams or four annas it is generally kept in arrears. In other cases it is promptly collected. There may be some recalcitrant tenants. But considering the number of leases to the tenants and the number of suits I think only a very small proportion comes to court.

Q.—You think no special law is necessary to speed up collection of rents?

A.—No. Especially when one of the conditions for permanent occupancy is prompt payment of rent, nobody will keep it in arrears.

Q.—You say in your answer to question IV that you don't see any necessity to distinguish between urban and rural kudiyruppus. You yourself said that you paid a fancy price because of the situation of your paramba. Then why do you say there is no necessity for distinction?

A.—Then all sorts of complications would arise. It is not possible to satisfy all parties.

Q.—I suppose you said they should be given permanent occupancy right. If you give occupancy right to tenants in kudiyruppus in urban areas then you are giving away a very valuable right to the tenant. I suppose in that case you would provide for compensation?

A.—I do not think there is any necessity for that. Even now the good sense of the janmi allows them to be in possession. Under such circumstances there is no special loss to the janmi by such a legislation. If the tenant is allowed to continue to enjoy a right that the good sense of the janmi has given him, I do not think the janmi is dispelled of any right to be compensated.

Q.—To-day a land may be worth Rs. 1,000 and to-morrow it may be worth Rs. 10,000. For that rise in the value which the tenant can permanently enjoy should not the janmi be compensated? Is it your intention that all the benefit should go to the tenant and the janmi should not participate in the rise in the value?

A.—There may be provision in the law for enhancement of rent, i.e., up to a certain limit. If the tenant gets more, the rent may also be increased.

Q.—Ordinarily if a janmi and tenant contract, during the contractual period they keep to what has been fixed in the document. You would adopt a different method in regard to holdings in towns. You would adopt the formula that the janmi should get a proportion of the rent the land would fetch in the market.

A.—That would be in alteration every year. Even now, in Tellicherry land is more valuable than in Koothuparamba. A contract is entered into between the janmi and the tenant and if there is any necessity for alteration certainly the janmi and the tenant can come to terms.

Q.—That is voluntary contract. If you introduce a law you cannot revise or raise the rent, within a certain period.

A.—After the expiry of the ordinary period that may be done. In the case of paddy lands four or five years and in the case of parambas twelve years.

Q.—You think that in the course of twelve years the value of the land would not increase by such rapid strides?

A.—I do not think so. All I can say is, it is opposed to the experience of many people.

Q.—You say in answer to question VI (a) that no compensation need be given to the janmi when you give fixity of tenure. If fixity of tenure is given would not the market value of the janm right fall?

A.—I do not think it will fall in any way.

Q.—Now you can eject the tenant at the end of the lease. If you give fixity of tenure, if the tenant pays the rent and renewal fee regularly you cannot eject him.

A.—Even then it is only qualified fixity. If the janmi wants the land for his own use he can eject him.

Q.—But it must be *bona fide*. You cannot recover the land simply saying that you want the land. You must satisfy the court first that you want it for your own cultivation or for the construction of a house for your family. You cannot recover it as you now do. Does it not make a difference?

A.—It won't diminish the value of the property.

Q.—Suppose the janmi wants to sell that land. Would he get the same value after fixity is given as he would now get?

A.—I do not think there will be any material alteration.

Q.—Will the tenant's right go up in value?

A.—Even there there will not be much difference.

The President :—Thank you very much, Mr. Anandan.

XXIII

Written statement of Mr. K. V. Krishnan Nayar, High Court Vakil, Taliparamba.

I am mainly acquainted with the conditions obtaining in North Malabar and so my answers to the questions relate only to the conditions there.

Disabilities.

I. (a) (1), (2), (3), (4), (5), (6) and (7) The North Malabar kanams are only mortgages with possession and the kanamdars in North Malabar are under no disability whatever. The laws relating to mortgages are sufficient to protect their interests. In my opinion there are no disabilities pressing hard on the tenants in question.

(b) There are no disabilities peculiar to the tenants in question. The disabilities, if any, are the natural results of the relationship of landlords and tenant.

(c) None in North Malabar. But in South Malabar the conditions are reported to be different, but I have no personal knowledge of the same.

(d) I have no information on the point.

Evictions.

II. (1) (a) Evictions are not generally made on unjustifiable grounds. In my opinion evictions are not on the increase.

(b) Generally melcharths are not made on unjustifiable grounds. In my experience melcharths are granted either when the tenant refuses to pay renewal fee and effect a renewal and the janmi is himself unable to evict the tenant or when the tenant systematically makes default in payment of rent and is unable to pay arrears of rent. The melcharthdar then agrees to pay arrears at his risk and takes an assignment of the arrears of rent also from the janmi. There are cases of melcharths when the tenant *misbehaves or otherwise proves to be an undesirable tenant*.

(2) I have not known any case in which a janmi has been able by his position as such to oppress a tenant socially. All janmis are not social heads and in the case of a few who are social heads, the particular community over whom they are said to have social supremacy have been able successfully to shake off the fetters and manage their social affairs independently of the janmis by strong combinations amongst themselves. Nowadays social questions are decided by the members of the communities themselves and the janmis' assistance is not generally resorted to or sought for. Janmis are severely left alone.

Remedies.

III. (a) No disabilities exist. If it is found that there are some, free grant of melcharths may be put a stop to. Melcharths may be allowed to be granted only on certain conditions.

(b) The grant of permanent occupancy right is not at all absolutely necessary. It might lead to complications and is to some extent unworkable.

(c) I am not for granting occupancy right to any of the tenure holders. The result of granting occupancy right to any of them will be great complications and instead of removing disabilities, if any, such grant will create discontent amongst the other tenure holders of the same holding.

(d) If permanent occupancy right is to be given to any class of tenants it is the kuzhikanam tenant who is best entitled to it. No other class is to be granted that right.

(e) I have no suggestions to make beyond this, i.e., the tenant must forfeit his right if he makes default in payment of rent for two consecutive years and in payment of other dues within one year after demand. I am against allowing the janmi to enter upon the property and collect the rent himself or otherwise penalise the tenant.

(f) The only case in which I can think of granting permanent occupancy right is the case of a kuzhikanam tenant as stated in (d) supra. But if the particular janmi wants the holding for residential purposes of the members of the family then the tenant must surrender.

IV. (a) (1) & (2) I am against giving permanent rights to kudiyruppu tenants both urban and rural.

(b) I am not able to answer this question.

(c) (1) He must be paid for.

(2) He must be given half the value or option to remove it.

(3) In view of my answer to (a) (1) & (2), no answer is necessary.

(d) (1) I am against it. It will be naturally unpopular.

(2) It is against the custom and is unsuitable to the conditions in Malabar.

V. In my opinion the Act is distinctly favourable to the tenants and is a sufficient guarantee against frivolous evictions. I expressed this opinion in an article in 27 M.L.J., p. 13, where I criticized the F.B. decision in 26 M.L.J. of 523 which fortunately has since been overruled. I am of opinion that the Act requires some modifications in the direction of creating more restrictions on over-plantations and modifying the definition of the word "improvement" so as to exclude dilapidated and half-finished buildings and chamayam which is in the nature of a luxury.

VI. (a) If permanent occupancy right is to be granted, I think one-third of the market value of the property should be given to the janmi by way of compensation.

(b) I am not able to answer this question.

(c) The Government should help the tenants.

Rent.

VII. (a) This varies with the nature of the holding. In the case of pepper gardens planted by the tenant the practice in these parts is to allow the janmi to take one-fifth of the produce. If the pepper vines belong to the janmi then the tenant is to pay two-thirds to the janmi. In the case of a coconut garden if the improvements belong to the tenant there is a practice—and sometimes it is stipulated in the rent deed itself—to allow the janmi to take half the net produce. In some cases the tenant only pays a nominal rent. If the improvements belong to the janmi the tenant takes only a small gain. One-fifth of the produce will satisfy the tenant, I think. In the case of paddy lands 30 per cent of the gross produce must go to the tenant.

(b) No. They are not at all high.

Renewal fee.

VIII. (a) & (b) This varies with different janmis. Many of the small janmis do not collect any renewal fee at all. In the case of paddy lands it is 4 to 6 rupees per 100 seers rent in the case of a lease for four or five years. In the case of parambas one year's rent and sometimes something more than that given for a term of seven to twelve years.

General.

IX. To secure fixity of tenure for the actual cultivator I would propose as follows:—

(i) Melcharths may be generally prohibited.

(ii) If a janmi sues to evict a tenant the suit should go if the tenant deposits in court the arrears of rent costs and the renewal fee as fixed by the court.

(iii) In case of dispute regarding the actual arrears the court should decide the point.

(iv) The decree should fix a date within which the tenant (defendant) should deposit the amount fixed by the court. In case of deposit the suit should stand dismissed and in case of failure the decree should become executable.

I may add in case of tenants who ordinarily pay rent and other dues regularly he is able to maintain very good relationship with the janmi and an eviction suit is never apprehended by him.

X. (a) There is no objection for that. There is no difficulty in working such a system.

(b) It is a very good suggestion and it may be given effect to in case melcharths are not strictly prohibited.

(c) In case the tenant suspects any collusion he may be given the right to have the renewal fee settled by a court of law.

Thursday, 17th November 1927.

Oral evidence of Mr. K. V. Krishnan Nayar.

At the conclusion of Mr. Anandan's evidence the examination of Mr. Krishnan Nayar was taken up.

The President:—Q.—Mr. Krishnan Nayar, you are a member of the Tali-paramba bar?

A.—Yes.

Q.—You are a High Court Vakil practising there?

A.—Yes.

Q.—May I know your standing at the bar?

A.—Twenty years.

Q.—Are you a janmi or a tenant?

A.—I am a janmi as well as a tenant.

Q.—You have kuzhikanam also?

A.—Yes.

Q.—In answer to question II (b) you say 'There are cases of melcharth when the tenant misbehaves or otherwise proves to be an undersirable tenant'. Would you kindly explain it?

A.—The particular instance I had in mind was of a tenant who produced receipts in a rent suit which were found to be forged. The janmi did not want him on the land and he gave melcharth of it to another. There was another case also. A tenant in possession of a particular land had in the adjoining field a relation of his. He allowed some portion of this property to be added on to the other property. That resulted in the granting of melcharth. In cases like that where the action of the tenant is detrimental to the title of the janmi melcharths are given.

Q.—In answer to question III (a) you say 'Melcharths may be allowed to be granted under certain conditions'. What are the conditions?

A.—If the tenant denies the title of the landlord, keeps rent in arrears, refuses to pay renewal fee in time, and does anything against the interests of the janmi—as I said before, producing false receipts, and adding a portion of land to another man's holding—in such cases, I say melcharths may be allowed. Ordinarily it may not be allowed.

Q.—You say "The grant of permanent occupancy right is not at all absolutely necessary. It might lead to complications and is to some extent unworkable". Would you kindly explain?

A.—I have not considered the whole thing fully. What I mean is there are several tenure holders now. The grant of occupancy right to all of them would certainly complicate matters and if it is only to one of them, it will create discontent.

Q.—Grant of occupancy right to more than one tenant in regard to a particular holding is a contradiction in terms. Could you not give fixity of their respective tenures from the tenant at the bottom to all the intermediaries?

A.—I do not think there is any necessity for that.

Q.—You think it could be given? You were talking of complications? It is not impracticable.

A.—If fixity of tenure is given to all the tenure holders, in the practical working of it, I expect some difficulties.

Q.—What is the difficulty you expect?

A.—A is a superior landlord, B is a tenant under him and C a tenant under B. What is the nature of fixity for B?

Q.—Fixity of his interest in the land?

A.—What is the interest that he has now?

Q.—He takes rent from C and pays a lesser amount as rent to A. He makes some profits out of it which represents his interest. He might have inherited this right or purchased it for value. Where is the difficulty in giving him fixity?

A.—Yes.

Q.—In answer to question III (e) you say "I am against allowing the janmi to enter upon the property and collect the rent himself or otherwise penalize the tenant." You mean distraint of the property or crop?

A.—Yes.

Q.—Why are you opposed to it?

A.—That will result in breach of the peace. They may come to blows.

Q.—In answer to question VI (a) you say "If permanent occupancy right is to be granted one-third of the market value of the property should be given to the janmi by way of compensation." Have you any reason for fixing this at one-third?

A.—That I thought would properly represent the diminution of the value of the janm right when occupancy right is given.

Q.—You do not anticipate diminution of the value of the janmi right to a larger extent than one-third?

A.—No.

Q.—You mean this diminution will occur if permanent occupancy right is given. If fixity alone is given, then what will be the diminution?

A.—It may not be one-third.

Q.—You cannot say how much?

A.—No.

Q.—In answer to question X you say 'It is a very good suggestion and it may be given effect to in case melcharths are not strictly prohibited. In case the tenant suspects any collusion, he may be given the right to have the renewal fee settled by a court of law'. How should the court fix the renewal fee? Can you give any formula which will enable the court to fix it?

A.—I think it is very difficult to give a formula generally. It is different in different places. It must be left to the court which has every means of knowing the practice in any particular locality.

Diwan Bahadur T. C. Narayana Kurup:—Q.—The best practice in Taliparamba is in your hands?

A.—To some extent.

Q.—You appear for landlords and tenants?

A.—Yes.

Q.—You have got janm lands, kanam lands, kuzhikanam lands and kozhu lands?

A.—Yes.

Q.—You are well versed in the conditions of the landholders of that locality, i.e., about 15 amsams?

A.—Yes, the amsams within the jurisdiction of the Taliparamba Munsif's Court.

Q.—If fixity of tenure is given you say that if the landlord wants it for residential purposes the tenant must surrender?

A.—Not only that. On further consideration I should say that the tenant should surrender the land when the landlord wants it for his own use or for cultivation or for construction of a building.

Q.—What is your suggestion if we have to fix the rent in regard to a kuzhikanam garden in which all the improvements belong to the tenant?

A.—Half the net produce must go to the janmi.

Q.—How do you find the net produce?

A.—By deducting the expenses of cultivation, the revenue and upkeep expenses from the gross yield.

Q.—How would you fix the rent in the case of a garden in which the improvements belong both to the landlord and the tenant?

A.—It is not possible to fix a proportionate rent for the tenant's improvements. Generally the rent is fixed for the janmi's improvements and a nominal rent for the tenant till the improvements effected by him come to bearing condition. After that readjustment will be necessary. I would say, net half, plus rent already fixed for the janmi's improvements.

Q.—What would you fix as renewal fee?

A.—It varies with different kinds of holdings. If fixity of tenure is given it must be more than the renewal fee that is now being collected. I think Rs. 10 per 100 seers of paddy would be quite sufficient for a term of five years. And for garden lands I think one year's net produce will be quite sufficient.

Q.—In fact you cannot say whether this one year's net yield would be enhancement or reduction of the present renewal fee?

A.—In some cases it will be enhancement and in some cases reduction.

Q.—What is your experience regarding the payment of rent by the tenants. Do the janmis deny payment or are the tenants pleading false payments?

A.—In most of the cases the pleas of the tenants are false. That is the finding of courts and that is also my experience.

Q.—As regards claims for the value of reclamation of paddy lands is that becoming very common?

A.—Whenever there is a suit for eviction there will be this reclamation value claimed and invariably it is found against the tenant.

Q.—Is the position of the junior member of a Marumakkathayam tarwad better than that of the cultivating tenant?

A.—I think it is worse except in cases where the junior members are educated and who are otherwise able to look after themselves. In the case of Mappilla families many of the junior members are able to carry on some trade.

The President:—Q.—In the case of the Mappilla families who gives them the capital?

A.—Without capital they start trade. Somehow or other they are able to get on.

Mr. Narayana Kurup:—Q.—Is there any communal split and ill-feeling between the Nayars and the Tiyyas?

A.—In my place there is very good feeling prevailing between the two communities. That is in the Chirakkal taluk.

Mr. Kotieth Krishnan:—Q.—Did you send any suggestions at the time when Mr. Krishnan Nayar's Bill was introduced?

A.—Not I. The Tenancy Committee which was in existence in Taliparamba at that time, of which I was one, sent some suggestions.

Q.—You generally supported the principles of that Bill?

A.—We said that if the Act is to be made applicable to North Malabar, then the suggestions that we sent may be considered.

Q.—You wanted to exclude North Malabar altogether. But if it was to be made applicable to North Malabar also, you said you had certain proposals with regard to renewal fee and other things?

A.—Yes.

Q.—What was the renewal fee that you suggested?

A.—I don't remember it now.

Q.—Was it more or less than what Mr. Krishnan Nayar's Bill suggested?

A.—I think it was less.

Q.—As regards the rent, which Mr. Krishnan Nayar fixed, had you any suggestion?

A.—I cannot remember whether we made any suggestion.

Q.—I take it then that you have since revised your opinion?

A.—That was not my opinion alone. It was the opinion of the Tenancy Committee.

Q.—To whom did you send that?

A.—It was circulated among the Legislative Council Members. I think we sent it to Sir C. P. Ramaswami Ayyar, to the Malabar Members, one to yourself, Mr. Krishnan.

Q.—So you have revised your opinion. Even then your opinion was against that?

A.—I was not quite in favour of those suggestions. But the majority formed an opinion and I joined them.

Q.—You did not send any dissenting minute?

A.—No.

Q.—When was it that you sent it?

A.—Some two or three years back.

Q.—You know that some Vanians of Chirakkal style themselves as 'Nayars'?

A.—Some do that, in Chirakkal.

Q.—Do you know that on that account there was unpleasantness between the Raja and these Vanians?

A.—I am not aware of any unpleasantness.

Q.—Do you know that a clerk of the Taluk Office, Cannanore, was evicted by the Raja from his holding on this account?

A.—I don't know.

Q.—Do you know of any such cases?

A.—No.

Q.—Very recently one of the members of your family was married to the Chirakkal Raja?

A.—My daughter was married to the son of the Chirakkal Raja. That was about a year and a half ago.

Q.—You know that the Chirakkal Raja is against any Tenancy law for Malabar?

A.—I do not think he is of that opinion. We had some discussion about the matter and he told me that in the form in which it was suggested he did not like it.

Q.—At any rate he is not for passing any law for North Malabar?

A.—That may be his opinion.

Q.—Do you hold paddy lands under the Chirakkal Raja?

A.—Yes.

Q.—Most of the lands are under the Raja?

A.—I hold under three janmis—Arakkal Raja, Chirakkal Raja and another janmi, Akkarakat Nambiyar.

Q.—Do you hold garden lands under any other janmis?

A.—Under Nambiyar I hold a coconut garden.

Q.—What is the amount you have to pay?

A.—Only a rent of Rs. 4 or so. All the improvements belong to me.

Q.—What is the total income that you get?

A.—Rs. 10 approximately as rent.

Q.—Out of it you pay Rs. 4 to the janmi and the janmi pays the revenue?

A.—Yes.

Q.—You got assignment of the tenant's right?

A.—I got melcharth from Nambiyar, but I did not disturb the tenant. allowed the original tenant to continue.

Q.—May I know what originally the tenant was paying to the janmi?

A.—I don't remember exactly now.

Q.—What had you to pay for taking the tenant's interest?

A.—There was some arrears of rent. I do not remember exactly the amount.

Q.—Will it be more than 100?

A.—I fear it is a little less than 200. Somewhere about that.

Q.—May I take it it is less than 150 and more than 100?

A.—Yes.

Q.—You know the assessment on that land?

A.—No.

Q.—In the case of coconut gardens if the improvements belong to the tenant you would allow the janmi to take half the net produce?

A.—That is so in the Chirakkal taluk, that is, in the amsams I referred to.

Q.—You do not know the practice in other places?

A.—No.

Q.—In making the calculation, do you know that the price of a coconut tree is put down at Rs. 20?

A.—I don't know how it is arrived at. I have only seen the recital in some rent deeds.

Q.—You say in some cases the tenant pays only a nominal rent?

A.—That is when lands are given on kuzhikanam some will be completely waste lands and so there will only be a rent of 4 or 5 annas.

Q.—There is a general impression that kovilakam tenants are getting a lot of gain out of their property. You say that in Chirakkal taluk the rate is half the net yield?

A.—The Raja takes a much smaller amount than half.

Q.—Will it be one-fifth?

A.—I have no idea about it.

Q.—You have no idea of the rate given to the Chirakkal Raja who owns extensive properties in the Chirakkal taluk?

A.—I cannot say.

Q.—Supposing there is a provision that the janmi can recover the land for his own use or cultivation by himself and supposing there is also a provision for fair rent and renewal fee; if the tenant undertakes to pay that rent and renewal fee at the expiry of the lease, then no janmi would object to his being given fixity of tenure?

A.—I do not think any janmi will object.

Q.—Is it on account of the fact that the janmi is unable to raise rent beyond the maximum that the value may fall?

A.—Not only that. He has not got the right to take back the land when he likes. The former reason may also be one of the reasons.

Q.—Supposing we are going to enact a law that in cases where fair rent and fair renewal fees are fixed the janmi must give the option to the tenant to renew on those terms and only if he refuses he can give melcharth, then you think no janmi will object to it?

A.—I do not think there will be any objection to that. In the interests of peace and good will I would suggest some kind of legislation on those lines.

Q.—In that case the janmi is not entitled to any compensation?

A.—There is this restriction. If the tenant chooses to remain the janmi must allow him to continue, unless it be that he requires it for his own use. Still it is not fixity. So no compensation need be paid to the janmi.

Mr. H. R. Pate :—Q.—You consider that if a restriction is imposed that the janmi should renew if the tenant wishes to continue, it is not fixity?

A.—I would submit it is only a privilege given to the tenant.

Q.—If that is not fixity what is your conception of fixity?

A.—My conception of fixity of tenure is that the tenant cannot be disturbed if he regularly pays the rent and other dues.

Q.—“If he regularly pays the rent and the renewal fees”, how does that situation differ from the one you say, viz., “At the expiry of the lease period the janmi must give the option to the tenant to renew.” Is there any difference at all?

A.—Probably there is not much difference.

Q.—It is rather surprising. Is there an atom of difference?

A.—No.

Q.—You realize that if you have to give fixity to the respective tenure holders you have to fix the rent and the renewal fee?

A.—Yes.

Q.—I have not heard till now that renewal fee should be regulated by law?

A.—Not exactly regulating. The renewal fee proposed in Mr. Krishnan Nayar's Bill was not correct.

Q.—You agree to a prescription like that? You have suggested a scale?

A.—Yes.

Q.—You propose the scale of renewal fee should be like that and that should be of general application? With regard to garden lands did you say anything about the scale of rents?

A.—No. Only with regard to renewal fee.

Q.—Is it possible to fix the renewal fee unless you fix the rent?

A.—It will be easier to fix the renewal fee than rent.

Q.—Unless you fix both there will be no fixity of tenure, is it not?

A.—Yes.

Q.—Do you think that the enforcement of a fair rent and fair renewal fee will meet with any practical difficulty?

A.—There will be some difficulty.

Q.—You say it should be one-third the net produce. But the net produce—quantity of net produce—will be disputed. Is it possible to adopt any other standard?

A.—I cannot suggest any other standard. But it will be easy for the court to decide that.

Q.—Do you think it will promote litigation?

A.—There will be some litigation also. I cannot say litigation will increase.

Q.—You think it will promote harmony between the tenant and the janmi?

A.—To some extent it will promote harmony.

Q.—At the same time you don't think any legislation is necessary?

A.—I do not say that. A scale of renewal fee, a scale of rent as well as fixing of conditions under which alone melcharth can be given, a legislation to that effect will promote some kind of harmony, and there will be some better feeling.

Q.—You say in your parts there is the best feeling possible?

A.—Yes, but in Kurumbranad and a few other places there is some ill-feeling. That is what I have read in the papers. I confine myself to Chirakkal taluk. My experience is only of Chirakkal taluk.

The President :—Q.—You said in answer to Mr. Narayanan Kurup that you would enhance the renewal fee to Rs. 10. That is if fixity is given?

A.—Yes.

Q.—That is with regard to paddy lands. You are not in a position to say to what extent renewal fee should be enhanced if fixity of tenure is given?

A.—I cannot say.

Q.—You said that if occupancy right is to be given one-third should be given as compensation to the janmi. You said if fixity of tenure is to be given some other compensation also will have to be given. What is that compensation?

A.—If it is fixity of tenure, it will be something less than one-third in addition to the enhancement of renewal fee.

Q.—How is that to be given—in a lump sum or in the shape of renewal fee?

A.—I have not thought over it.

The President :—Thank you very much, Mr. Krishnan Nayar.

The Committee rose at this stage to meet again in the afternoon.

XXIV

When the Committee re-assembled this afternoon at 2-30 p.m. an informal conference between the members of the Committee and Mr. Kidavu, Deputy Director of Agriculture, and Mr. Unnikrishna Menon, Assistant Director of Agriculture, was held.

Oral evidence of Messrs. Kidavu and Krishna Menon.

The President :—Q.—You know there is what is called kuzhikanam tenure in North Malabar when a waste land is given to a tenant on the condition that it should be planted up with coconut trees or other fruit trees. Now take, for instance, the coconut tree. What do you think will be the time required for the kuzhikanam tenant to fully get back all the capital and labour which he invests on a coconut plantation?

A.—If it is coconut it will begin to bear from 12 to 15 years after planting and the tenant in most cases will be able to recoup all his outlay in about 25 or 30 years on the average from the commencement of the lease.

Q.—In the calculation of this cost, we have to take the man's labour and the money which he has spent by way of purchasing seedlings and you have to take into account the interest on the money which he spends from time to time, the cost of maintenance of the garden from the commencement of the lease, etc.?

A.—I think 30 years would be enough to recoup all the money he spends on the garden.

Q.—In the case of pepper cultivation?

A.—Pepper begins to bear the maiden crop in the third or the fourth year and then the yield is gradually increased. To get back the whole money invested by the tenant it will take about twenty years.

Q.—Of course, jack trees, we need not take as a separate item.

A.—In South Malabar I have seen some exclusive cultivation of jack trees but not in North Malabar.

Q.—What time would you allow to the tenant in the case of jack plantations if he is to get back his investment together with interest?

A.—We have not studied the question, but I think it must take 20 or 25 years. There the expense is not much and the usufruct is not the same and also the yield will vary.

Q.—Then it has been represented to us pretty frequently that the maximum number of trees to the acre allowed under the Act (section 18 of the Tenants' Improvements Act) is far too high: 120 per acre in the case of coconuts, 720 per acre in the case of arecanuts and jack trees 60 per acre. Do you think that those maxima are correct?

A.—It cannot be said to be correct unless two generations of trees are taken together. In one generation you should plant only about 60 coconut trees, about 80 feet apart per acre, and the seedlings of the other 60 coconut trees can be planted in the interspaces only after a lapse of about 40 years. Within these 40 years the first generation of coconut trees would have completed their full-bearing period.

Q.—When so stated, the problem becomes somewhat complicated. Suppose there are 120 trees of which only 60 are bearing trees and the remaining are trees which have not come to bearing. Is that all right?

A.—Even then the rule is the same.

Q.—The coconut tree generally lives for 100 years?

A.—I have seen yielding trees which are 60 and 70 years old. They say they will live to 120 years. After 60 or 65 years we cannot count upon the older trees giving a good yield.

Q.—Could you suggest a formula about the number of bearing trees permissible to an acre?

A.—At any given time, I would allow 60 bearing trees irrespective of age. For the first 45 years after a garden has been planted there should not be more than 60 yielding trees.

Q.—In taking actual number of trees on a land in order to ascertain any excess over the maximum to be allowed under the Act, trees of what age would you take into consideration?

A.—If we have got more than 60 full bearing trees the other trees, if any, must be valued only at a nominal cost because they take away all the plant food and the sun light.

Q.—Then again there is another complication in the matter of fixing value under the Compensation Act. When you go to a paramba in order to find out whether the number of trees exceeds a certain maximum which you are going to fix or is less than that maximum, what age would you fix beyond which trees should not be taken into calculation?

A.—If I find 75 trees in an acre of land of the same age, I will say 15 are rotten. If they are of different ages, naturally they must be allowed. Therefore it is a question of the same age. I would say only 60 coconut trees should be planted.

Q.—Very often you come across a garden where the trees are of different ages?

A.—But if it is properly planted you will always find that the planting has been done on a certain principle.

Mr. H. R. Pate :—When you value each tree according to the estimated productivity do you make allowance for age?

A.—Yes, yield and age are the chief guides for valuation and the fact whether a tree is an improving or a declining tree should also be taken into consideration.

The President :—Q.—You say replanting a second time should commence about the 40th year, but then the first generation of trees will still be yielding?

A.—They will be yielding to some extent, but their value will be less.

Q.—But at no time there should be more than 120 trees half of which should be yielding and the other half should not be yielding? Is that a correct proposition?

A.—That cannot be said to be quite correct.

Q.—Will this formula be a correct one then? If the trees are in excess of 60 on an acre of land the total number of yielding trees on it which are under 60 years in age should not exceed 60.

A.—Yes, that will be alright. We can see no objection to that.

Q.—Then again it has been brought to our notice repeatedly that in valuing agricultural improvements under the Tenants' Improvements Act the methods adopted are defective especially in regard to the value attached to coconut trees which are about to bear but which have not actually come to bearing. This value is unduly low, i.e., taking 12 years as the average period required for the tree to come to bearing the compensation awarded for a tree eleven years old is far below what is awarded for a tree 13 years old.

A.—From the valuation statement they must find out the annual expenses of bringing up the tree and then fix its value. According to the Tenants' Improvements Act the present cost of a coconut tree is Rs. 4-2-0 till it comes to bearing.

Q.—You are not conversant with the working of this Act, I presume?

A.—No.

Q.—The next point on which we would like to have some information from you is: Could you establish any relation between the assessment of land and the yield of that land taking separately wet lands, dry lands used for fugitive cultivation and dry lands planted up with fruit bearing trees?

A.—In the case of garden lands which have been assessed after they have come to bearing the net yield may approximately be eight times the assessment.

Q.—What do you mean by the net yield?

A.—Gross income minus the expenses of the maintenance of the garden and the assessment, is the net income. If the assessment is Rs. 5 for a garden then about seven or eight times the assessment will be the net income.

Q.—Would it be a safe formula to work?

A.—I cannot make any definite statement, but that is my impression, speaking generally.

Q.—You cannot correlate yield to assessment I take it in the case of ordinary dry lands where commercial crops such as ginger and pepper are cultivated?

A.—No, you cannot expect ginger to pay every year. Therefore to fix a high rental on ginger would be disadvantageous.

Q.—What about wet lands where paddy is cultivated?

A.—The net yield will be very much less. It will be about three or four times the assessment. By net yield I mean the gross yield minus the cost of cultivation and assessment.

Q.—As a general formula would it be safe to say in the case of all paddy lands that the net yield is four times the assessment?

A.—That might be considered to be so.

Q.—Do you uniformly get two good crops from paddy lands?

A.—The second crop is generally less than the first crop. I will put it at two-thirds of the first crop, but if the north-east monsoon is good the second crop also will give a good yield. Supposing the first crop is heavy, the second crop will naturally be less. It is a truism.

Q.—Taking all these circumstances into consideration it won't be rash to say that the net income from wet lands is roughly four times the assessment?

A.—It won't be rash to say that the net income from wet lands would be four or five times the assessment.

Q.—Take an average single crop land. What will be the assessment for an acre of such land?

A.—The assessment on it may be taken at Rs. 4-8-0.

Q.—What will be the gross yield of that land?

A.—It can be taken at 600 Madras measures.

Q.—What will be the cost of cultivation including assessment?

A.—It will come to about 300 Madras measures of paddy. So the net yield from a single crop land will be about 300 Madras measures.

Q.—What will be the yield of the second crop?

A.—It will be only about 500 Madras measures.

Q.—And the cost of cultivation and assessment?

A.—About the same, 300 measures including assessment. Assessment is not much in the case of second crop. Three hundred measures will include that. We have not taken one particular field to arrive at these results. We have taken the average yield of many fields for the first crop and the second crop.

Q.—This is the average of how many fields, covering what area?

A.—This is an average of more than 100 fields situated all over the district.

Q.—So the net income is 500 Madras measures, 300 in the first crop and 200 in the second crop. What will be the average price of that?

A.—The price will be about Rs. 12 for every 100 Madras measures.

Q.—So what will be the average ratio of the assessment to the net yield?

A.—In many cases about 200 Madras measures will be the net profit from an acre which gives an assessment of Rs. 4. That will work to about six or seven times the assessment according to the present prices. That may be taken as an average for a single crop land, but for double crop land we shall work out figures and let you know.

Q.—Could you give us figures of comparative yields of paddy and coconut for South and North Malabar and other parts of the Presidency?

A.—These yields are given in the Season and Crop Report published by the Board of Revenue. The figures given therein compare fairly accurately with the

figures we have obtained of estimated normal yields. As mentioned in that report we find that in Malabar we get about 1,400 pounds of paddy per acre, but in the Godavari and the Tinnevely districts the maximum is about 2,000 pounds per acre. Two and a half pounds of paddy will work out to one Madras measure.

Q.—Have you got any figures for coconut yields? I should like to have an idea as to whether the average yield in Malabar is better than in other parts of the Presidency or less.

A.—It compares very favourably with Godavari which is considered to be the best coconut producing district in the Presidency.

Q.—So you cannot give us comparative yields of the other districts?

A.—No, we can't.

Mr. Krishnan:—Q.—Badagara copra is considered to be the best in the Presidency?

A.—Yes, it is so.

Q.—The next thing that we wish to know is whether the yield of paddy or coconut is capable of improvement in this district under better cultivation?

A.—Yes, it is capable of giving a better yield.

Q.—Have you any figures of the yield of coconut which obtains in the Straits Settlement and Ceylon compared with Malabar?

A.—From official reports we find that our outturns compare favourably with Ceylon. We are not a whit behind Ceylon. But about Straits Settlements we can't say.

Q.—How do you say that the yield is capable of improvement?

A.—There is no doubt that it is capable of improvement. Our farm figures show that quite clearly. In the Kasaragod farm we have got a net profit of Rs. 123 per acre of coconut farming and including the cost of cultivation which comes to about Rs. 42 the gross income per acre is Rs. 165. Of course we don't pay assessment.

Q.—What about Talipparamba farm?

A.—In Talipparamba we have no coconut farming.

Q.—What about paddy?

A.—We have increased the outturn of paddy at Talipparamba farm.

Q.—What is the yield there and what is the expense incurred?

A.—We have got on an average for the last six years at the rate of 760 Madras measures per acre.

Q.—What about the assessment and the cost of cultivation?

A.—Assessment may be taken as Rs. 4 and the cost of cultivation is Rs. 36-8-0 per acre. Thus, it leaves about Rs. 61 net profit per acre. It is single crop land.

Mr. H. R. Pate:—Q.—Do you hear as you go about much complaint about the uncertainty of the tenants' tenure?

A.—Yes, we do hear complaints like that from the tenants.

Q.—What form do the complaints take?

A.—When we agricultural officers go to paddy cultivators they say 'What is the use of our improving the land. If we improve it it will be given away to some other tenant.' Not only that; agricultural demonstrators also make reports like that.

Q.—Do you think their complaint is justified? That is to say, can a tenant not count on continuing on the land if he cultivates it properly and pays his rent regularly? We have tenants all the world over grumbling. Is their statement based on fact that if they improve the land they will be turned out?

A.—I don't think there is so much cause for alarm. So far as paddy cultivation is concerned the tenants will improve the land much better if they have a longer tenure. But as far as gardens are concerned it is just the reverse. Tenants have no complaint in regard to gardens. Garden tenants are not generally turned out because of their improvements.

Q.—Do they cultivate the coconut gardens as well according to your standard as they might?

A.—In some cases they do, but not generally. My opinion is that paddy lands are much neglected.

Q.—Speaking about coconut gardens it is difficult to say tenants don't cultivate them properly because they have no fixity of tenure, for as you say, they could get value of improvements?

A.—Therefore they pay better attention to the coconut gardens, but still they don't pay as much attention as they ought to.

Q.—Is it your opinion that a tenant would cultivate his lands much better if he is assured that he would not be disturbed out of his holding as long as he pays his rent regularly?

A.—I think that they will improve paddy lands if they could get some such assurance.

Q.—Have they got the capital to improve their cultivation?

A.—When they have got a longer lease even that becomes capital. If necessary they can borrow on the strength of their tenure in the land. In Palghat for instance some of the kanamdars who are actual cultivators are looking after their cultivation much better.

Q.—So you think from the point of view of agriculture kanamdar is much better?

A.—Yes, if he cultivates the land himself. For the matter of that if the janmi himself cultivates his lands it is even better. A man who has money must cultivate. That ought to be the principle.

Q.—If you assure fixity of tenure to the actual cultivating tenant so long as he pays his rent and renewal fees regularly, do you think he would then be able to improve his holding?

A.—I think he would do much better than at present as far as paddy goes.

Q.—Do you think that he will rather be inclined to use his improved tenure to raise money on it and leave the cultivation to some body else?

A.—I cannot say that. That will happen if it is a big holding, but if it is a small holding he may not sublet it at all.

Q.—The average kozhu holding in North Malabar is about 3 or 4 acres?

A.—There are lot of variations.

Q.—But there is a very large number of small holding also?

A.—Yes. In our tours on the other hand we find that in some cases small people have got large areas for cultivation, and so paddy cultivation suffers.

Q.—And in consequence they sub-let?

A.—Yes.

Mr. Kotieth Krishnan:—Q.—You remember a few years ago you advised an amsam Menon of Kuthuparamba to make some agricultural improvements in his paddy lands and the Raja (the janmi) gave a melcharth to some one else after the improvements were effected?

A.—It was not immediate. Several years later after the tenant had improved his lands according to my instructions that he was evicted.

Q.—How many years after?

A.—About six or seven years afterwards.

Q.—The Court Commissioner found the value of improvements to be Rs. 50 but on your intervention the Agricultural Supervisor found that the value of improvements was about Rs. 400 and odd?

A.—It was done departmentally under instructions from the Director of Agriculture.

Q.—At present in most of the gardens we have coconut, jack and mango trees planted indiscriminately?

A.—Yes.

Q.—Don't you think that the tenants under the existing conditions plant more trees than the actual stipulated number?

A.—Yes.

Q.—That is because of the fear of eviction before the trees come to bearing, so that they could at least claim the value of improvements?

A.—It is so in some cases.

Q.—Even though they know that if the trees are planted sufficiently far apart they will get better yield they over-plant the trees for fear of eviction.

A.—In some cases it is so, but it is not safe to presume like that in all cases.

Q.—In Malabar according to the old custom you should not plant coconut trees sufficiently near to enable a squirrel to jump from one tree to another?

A.—Yes.

Q.—And that theory is based upon the present methods you suggest?

A.—Yes.

Q.—In spite of the old sayings you find there is over-crowding nowadays?

A.—Yes.

Q.—Has your department reported to Government that some sort of fixity of tenure is necessary for the improvement of agriculture in Malabar?

A.—Some mention might have been made in the Demonstrators' Reports. I have not sent any special report to Government on this matter.

Q.—In the case of garden lands they yield only in alternate years?

A.—Yes. It is a fact, but if the season is all right there might not be much difference.

Q.—But there are some kinds of trees which bear only in alternate years?

A.—That is due to bad seed. We call them irregular bearers.

Q.—In the case of garden lands there is no complaint, but don't you think that the garden tenants when they are evicted feel the loss of their trees which they have reared. Is that not a sentimental loss?

A.—If I am to give my local experience, I should think it is just the other way about. It is very difficult to get rents out of the garden tenants. I myself suffer. It is quite a different affair as regards paddy lands.

Q.—Would not a tenant of garden land begin to neglect the land a couple of years before the term for the expiry of the demise comes up?

A.—That will be the case even if he is given a term 24 years.

Diwan Bahadur T. C. Narayana Kurup:—Q.—Don't you think that a tenant gets full compensation in the case of a coconut tree which has come to age?

A.—Even there, supposing a man takes a dry land in Kuttiyadi. Before he begins to plant coconut trees he will have to terrace the hilly land on which he will have to plant his coconuts. If he is lucky to get a flat place then the expenditure will be less. My experience is that till a coconut tree comes to bearing we will have to spend about Rs. 5 or Rs. 6 on every tree.

Q.—Whether terracing is to be done or not, is it not the custom to recoup the cost of labour by planting tapioca?

A.—Yes.

Q.—The tenant has therefore nothing to lose?

A.—It is unwise to plant tapioca, but it is generally done.

Q.—On an average your tenant has only one coconut garden, I suppose?

A.—Generally it is so.

Q.—If a man has paddy cultivation and also garden cultivation does not one suffer, i.e., does not one interfere with the other? Is it not one of the reasons for the failure of paddy cultivation in North Malabar?

A.—Garden requires very little attention. Generally, the manure which the tenant ought to put into the paddy land he puts into the garden. Hence paddy cultivation suffers.

The interview was then concluded.

XXV

Written statement of Mr. Kalliat Chathukutty Nambiyar Avargal, Landlord, Irukkur, P.O. (North Malabar).

I have the honor to forward herewith answers to the questionnaire framed by the Malabar Tenancy Committee.

I. (a) Tenants holding lands under janmis are in my opinion not suffering from disabilities.

The tenants holding under intermediate tenants may be exposed to some disabilities. For example, the rent that they have to pay may be pushed up to a level which may not be called fair; and to force up the rent, it is quite possible that such intermediate lessors may frequently resort to evictions and melcharths.

It is possible that small janmis may try to get high rents and that for that purpose, they might have recourse to melcharths and evictions. But I believe this cannot be said of the big janmis in North Malabar, and I fear it is the economic and financial interests that compel small janmis to have recourse to frequent evictions.

II. (1) (a) As a general proposition, I am not prepared to say that evictions are made on unjustifiable grounds. It is possible that sometimes for satisfaction of personal wrongs or enmity an ejection may be caused or a melcharth may be granted. Such evictions and melcharths are, I think, unjustifiable. But ordinarily, evictions and melcharths are the result of either non-agreement as to the terms of the renewal, due to bona fide difference between the landlord and the tenant, or continued neglect of the tenant in paying rent regularly and the consequent accumulation of arrears. There is a tendency on the part of the tenant to evade his obligations, and very often a true suit for arrears of rent is defended with a false plea of payment. I do not consider that evictions or melcharths consequent upon such state of things are unjustifiable. Nor do I think that unjustifiable evictions or melcharths are on the increase.

(2) I am of the opinion that the janmi is not using his position as janmi to oppress the tenants socially. The accusation of social oppression is made simply to support the agitation in favour of Tenancy Legislation.

III. (a) I think it will be admitted on all hands that it is necessary to enact a law to the effect that no melcharths before the expiry of the tenants' term should be granted. I do not think any other legislation is a pressing necessity. But if it is practicable, I have no objection to a new law being enacted to the effect that a tenant who meets his obligations properly that is to say, pays his rent regularly, renews at the proper time, does not commit waste or any other act injurious to the holding, and cultivates the land properly, or does not do any other act to defraud or to injure the landlord, should not be evicted. I think a landlord would only be very glad to continue a tenant who deals with him honestly and properly without ejecting him, and if a law can be framed embodying this suggestion I shall be glad.

(c) If there are more tenure-holders than one, and if it is necessary to grant occupancy, I would confine it to the actual tenants in cultivation.

(d) If occupancy rights are to be granted, it should be confined to old tenants, so as not to give the benefits of occupancy to recent melcharthdars who have evicted old tenants. Therefore I think it desirable to say that in case a legislation being enacted in favour of occupancy, it should be limited to tenants who have been in possession from 1852 onwards, which is the year mentioned in this question.

(e) If permanent occupancy rights are to be granted to any class or classes of tenants, some methods are to be devised for the speedy collection of rent. The chief, perhaps, the only source of income to Malabar janmi families is their janm rights in immovable properties, and, if while giving the benefit of occupancy rights to tenants, janmis are left to ordinary, dilatory and sometimes ineffective

remedies now provided by law, serious injury would result to the landlords. Therefore I think the landlord should be provided with the right of applying for attachment through civil courts with proper safeguards and checks.

IV. (a) (1) The proposal to give permanent rights to occupants of homesteads has my sympathy. But it will be found that a law intended to protect house-sites alone would lead to practical difficulties. It would be a very easy matter for the members constituting the tenants' family, to erect small and inexpensive houses throughout the holding and so claim occupancy for the whole holding. Secondly, it would be a very difficult and hard matter, particularly in North Malabar, to separate the kudiiruppus from a paramba. Therefore, I am of the opinion that a legislation in favour of house-sites is inexpedient, and I am convinced that the suggestion which I have put forward in my answer to question III (a) would sufficiently protect the occupants of houses also.

(2) I think in any event, house-sites in towns or urban areas should be excluded from the legislation granting occupancy.

(b) I consider that about 25 cents would be a fair minimum extent that should be considered essential as appurtenant to a kudiiruppu.

(c) (1) In the circumstances mentioned in the question I think the tenant should not have any occupancy rights.

(2) In the circumstances mentioned in the question if occupancy is to be granted to the house the same right might be extended to the house which is bigger than is necessary for the proper enjoyment of the holding. Because, if occupancy is granted, it does not matter to the landlord whether the house is small or big.

(3) If kudiiruppu is essential for the convenient and profitable enjoyment of the holding or if by reason of its situation or for other reasons it is necessary for the holding, the holder of the kudiiruppu should not have occupancy.

(d) (1) & (2) I am opposed to any suggestion which enables the karnavans of Malabar tarwads for the time being to receive the janm value in the kudiiruppu in cash, because there is the danger that bad managers of joint families might so act as to prejudice the rights of junior members and all future generations to be born in the tarwad.

V. I think owing to the heavy value under the Malabar compensation for the Tenants' Improvements Act, there is considerable dissatisfaction among the janmis. North Malabar is essentially a land of coconut gardens and other improvements, and at the same time it contains a very large proportion of poor janmis as compared with the janmis of South Malabar. They have been hit hard by the Act. It is because of this hardship that we find so many melcharths executed, which in its turn causes discontent among the tenants. The effect of the Act has been to induce tenants to convert the existing paddy lands into gardens, because the tenants would then be enabled to get value for improvements at the time of eviction.

VI. (a) If permanent occupancy rights are granted there is no doubt that there would be a general depreciation or fall in the janm value of immovable properties. If such a law is enacted, no body would purchase janm at its present market rate. For this loss, the tenant should fairly pay compensation to the janmi.

(c) Compensation may be made payable in instalments to meet the convenience of the tenant. But I have objection to money being paid over to the karnavans in cash, and therefore I would prefer the system under which the tenants should be asked to pay the interest on the value calculated as compensation payable by him.

VII. (a) When there are improvements owned by the landlord I think the tenant should pay over to the landlord two-thirds of the net produce of such improvements. The net income derived from the tenant's improvements should be divided and one-fourth should be the share of the landlord. Under the arrangement the tenant should pay the revenue. The above proportion is what the janmi ought to get, and if there is a kanamdar between the tenant and the janmi the kanamdar should get only interest on his kanam which may be fixed at 6 per cent per annum to be paid by the janmi.

(b) Having regard to the standard referred to above I do not think that the rents which tenants now pay are unjustifiable and high. In the case of pepper gardens in North Malabar the tenants pay only one-fifth of the produce.

VIII. I think one year's net income would be a fair rate of renewal fee.

(b) There are several rates now prevalent in my taluk as regards the renewal fees. It is difficult to say that there is any fixed standard. It depends on the circumstances of the tenant, the character of the property and the circumstances of the landlord.

IX. In answer to this question I have only to say that my answer is the answer as I have given to question III (a).

X. (a) (b) & (c) I think it may be made compulsory by law that before melcharths are given notice ought to be given to the tenant giving him option to renew on those terms. It might be said that there is a danger that the amount of renewal fee may be so high so as to defraud the tenant. But if you lay down the maximum amount of renewal fee as well as rent by law, there is no possibility for the landlord and melcharthdar to collude and demand unfairly high renewal fees. If the melcharth is granted, I do not see any reason why the tenant who did not exercise the option to renew, when notice so issued to him, should have a further option or right of purchasing the rights of the melcharthdar.

Thursday, the 17th November 1927.

When the Committee re-assembled this afternoon, Mr. Kalyat Chathukutty Nambiyar was examined. Mr. E. Govindan Nayar, High Court Vakil, Tellicherry, kindly acted as Interpreter.

Oral evidence of Kalliat Chathukutty Nambiyar.

The President:—Q.—Mr. Nambiyar, I take it that you are a big janmi?

A.—Yes, I am a janmi.

Q.—You were a member of the Madras Legislative Council?

A.—Yes.

Q.—You are the karnavan of your tarwad?

A.—Yes.

Q.—Kindly refer to your answer to question II (1) (a). There you say "As a general proposition I am not prepared to say that evictions are made on unjustifiable grounds. It is possible that sometimes for satisfaction of personal wrongs or enmity an ejectment may be caused or a melcharth may be granted." That is to say, a janmi does not generally evict a tenant for mere default in rent and he generally resorts to eviction only in the case of personal wrong or enmity. Should not that possibility be prevented by legislation?

A.—Yes, if there are such evictions.

Q.—My question is based upon your answer to II (1) (a).

A.—Such evictions may be put a stop to.

Q.—You say in answer to question III (a) "I think it will be admitted on all hands that it is necessary to enact a law to the effect that no melcharths before the expiry of the tenant's term should be granted." If that is to be done, if premature melcharths should be prevented, would it not cause practical inconvenience to the janmi if the melcharth is not granted sometime before the expiry of the lease. Should not sometime be allowed, say at least a year, to both the janmi and the tenant?

A.—Yes, inconvenience might be caused.

Q.—So you would modify your answer to that extent?

A.—Yes.

Q.—You go on to say "If it is practicable, I have no objection to a new law being enacted to the effect that a tenant who meets his obligations properly, that is to say, pays rent regularly, renews at the proper time, does not commit waste or any other act injurious to the holding, and cultivates the land properly,

and does not do any other act to defraud or to injure the landlord, should not be evicted." If such a law is to be passed would you fix rent and renewal fees?

A.—It is necessary to fix rent and renewal fee in such cases.

Q.—How would you fix fair rents?

A.—I have answered that in answer to question VII (a).

Q.—Your answer to question VII (a) is with reference to gardens, I suppose?

A.—Yes. If the improvements belong to the janmi the rent should be two-thirds of the net income. If the improvements belong to the tenant it should be half.

Q.—In your written memorandum you have stated it should be only one-fourth?

A.—I am sorry, it must be a mistake. I really mean that half should go to the janmi.

Q.—It applies to all lands?

A.—Yes, it applies to garden lands.

Q.—What about paddy lands?

A.—It depends upon the land.

Q.—Will you kindly develop your answer?

A.—If it is bad land it is four times the seed, but if it is good land it should be at the rate of eight, nine or ten times the seed.

Q.—How are we to distinguish between good and bad lands?

A.—You will have to fix it by examining the paddy land in question.

Q.—Could you give us any formula for the net yield of a land?

A.—Generally it might be 70 seers for 100 seers net income which should be paid to the landlord.

Q.—In arriving at the net income what are the items that you will deduct from the gross income?

A.—Vithu and valli. Revenue is not deducted.

Q.—Who is to pay the assessment?

A.—The janmi.

Q.—In the case of garden lands?

A.—The tenant has to pay the revenue.

Q.—In regard to renewal fees you say "I think one year's net income would be a fair rate of renewal fee." Is that with reference to garden land or wet land or both?

A.—With reference to garden lands.

Q.—Would you consider that to be a proper renewal fee if a new law is enacted preventing eviction excepting in circumstances detailed in answer to question III (b)?

A.—Yes. I think the renewal fee may fairly be one year's income if evictions are prevented.

Q.—Are they entitled to compensation if their rights are restricted?

A.—Yes, the janmis are entitled for compensation for the restriction of their rights.

Q.—What compensation would you give?

A.—Compensation will correspond to the janmam value. The grant of occupancy is almost equivalent of the janmam right itself. If you totally prohibit eviction then full compensation should be paid. Slightly lower compensation would be sufficient in case only restrictions are put upon the present rights.

Q.—Could you tell us how much less and at what rate?

A.—It may be calculated at one-fourth of the compensation that would be payable if occupancy is given.

Q.—Should it be paid in a lump or by enhanced renewal fee or rent?

A.—It may be paid by the enhancement of rent.

Q.—You have not stated what the renewal fee in regard to paddy land is. What do you say in regard to that?

A.—Ordinarily 65 rupees for 100 seers pattam for a lease of five years.

Q.—What would be the fair renewal fee according to you without placing any restriction on the janmi to evict the tenant?

A.—The same rate.

Q.—In answer to question III (d) you say "If occupancy rights are to be granted it should be confined to old tenants so as not to give the benefits of occupancy to recent melcharthdars who have evicted old tenants. Therefore, I think it desirable to say that in case a measure being enacted in favour of occupancy, it should be limited to tenants who have been in possession from 1852 onwards which is the year mentioned in this question." Is this not too high a qualification? Would not the benefit be confined to a few?

A.—That qualification would be confined to a smaller number.

Q.—And do you not penalise a good janmi who does not evict his tenant?

A.—It will be defective like that.

Q.—And it will also be a hardship to people who have acquired tenancy after that date by paying value for it?

A.—I would give the benefit to the assignees also.

Q.—In answer to question III (e) about recovery of rents you say "Therefore I think the landlord should be provided with the right of applying for attachment through civil courts with proper safeguards and checks." Don't you think that it would be better to entrust this work to some special officers like Special Deputy Collectors?

A.—It would be much better and the work would be done more expeditiously.

Q.—In answer to question V you have said "The effect of the Act has been to induce tenants to convert the existing paddy lands into gardens because the tenants would then be enabled to get value for improvements at the time of eviction." Do they do it with the permission of the janmi or not?

A.—Mostly without the consent of the janmi.

Q.—What remedy would you suggest? Would you make the consent of the janmi essential?

A.—It would be well if it is provided that consent of the janmi is essential.

Q.—Would the janmis agree readily to the conversion of paddy lands into garden lands?

A.—Generally the janmis won't give permission for converting paddy lands into gardens.

Q.—Even though they stand to get higher rent?

A.—There won't be such an inducement because, if the paddy lands are converted into garden lands, the janmis won't get any substantial rent for the following twelve years; so they won't agree to the proposal.

Q.—In regard to compensation you say "Compensation may be made payable in instalments to meet the convenience of the tenant. But I have no objection to money being paid over to the karnavans in cash, and therefore I would prefer the system under which the tenants should be asked to pay the interest on the value calculated as compensation payable by him." Under your proposal the value itself will never be repaid?

A.—Yes.

Q.—Would you prevent the janmi from suing for that or not?

A.—If it is for proper tarwad purposes the karnavan might be given permission to sue for the compensation money.

Q.—So the tenant will have to pay this compensation money in a lump sum if the karnavan finds it necessary for the tarwad purposes?

A.—Yes.

Q.—Would it be possible for the tenants to pay like that at an indefinite period when they are called upon to do so?

A.—It is enough if the court gives him a period of, say, six months' time to enable him to make the payment during that time.

Q.—Your idea is that this 6 per cent interest should ordinarily be added to the rent?

A.—Yes.

Mr. H. R. Pate :—Q.—What are the reasons for which you think that this legislation is necessary?

A.—I have not said that legislation is necessary. I only said if legislation is found to be necessary.

Q.—What is the minimum of legislation that you think is necessary?

A.—If there are any capricious or iniquitous melcharths they may be put an end to. That is the maximum legislation that I am agreeable to.

Q.—You don't recommend any legislation other than that?

A.—No.

Q.—But you do think it necessary pass a law restricting melcharths?

A.—Unnecessary melcharths should not be permitted.

Q.—Do you think it would be possible to define what melcharths are unnecessary in a written law. We shall be grateful if you could give a formula for that. It would be very helpful to us.

A.—It is not possible for me to define that. I can only say unnecessary and indiscriminate melcharths granted out of spite should be put a stop to.

Q.—You realize that if you say to a tenant that so long as he pays a fair rent and fair renewal fee he will not be evicted it is necessary to fix by law what that rent and renewal fee should be. Do you think that the tenant would be agreeable to this without much difficulty?

A.—Without considerable difficulty no legislation can be possible.

Q.—Do you think the tenant and the landlord would agree as a rule on this point?

A.—Mostly, I think there won't be much disagreement between the landlord and the tenant.

Q.—These stories told about the unfriendly relations between the landlord and the tenant. Are they true or not?

A.—Those stories are not generally true.

Q.—Is it your practice to evict tenants from your garden lands?

A.—No, I don't evict my tenants.

Q.—Could you give us an idea of how many evictions you have obtained?

A.—I don't remember having evicted any of my tenants.

Q.—Does any of your tenants make any complaint?

A.—I have never heard that they have any complaints or grievances.

Q.—Who do you think will gain if fixed rents are introduced?

A.—I think the tenant.

Q.—Barring putting some restriction on the giving of melcharths you don't think any legislation is necessary?

A.—That is my opinion.

Q.—Do you speak for Malabar as a whole or North Malabar alone?

A.—I speak for Chirakkal, Kottayam and Kurumbranad taluks in North Malabar.

Mr. Kotieth Krishnan :—Q.—Your tenants have been on your lands for several generations?

A.—Yes.

Q.—Have you raised the rents of those tenants or have they been paying the same rent which their ancestors were paying?

A.—In some cases rents have been enhanced. But mostly the old rents continue still.

Q.—And you have not evicted any one of those tenants?

A.—No.

Q.—And on that account you have not suffered any inconvenience till now from your tenants, because you and your tenants have been very friendly?

A.—I have not suffered any inconvenience.

Q.—If that is so you have no objection to give your tenants fixity of tenure with restrictions?

A.—If fixity of tenure is given complications will arise.

Q.—Do you mean to say that all the present state of friendly feelings will all disappear if once fixity of tenure is given?

A.—Yes, to some extent it will be so.

Q.—May I know what is your reason for anticipating such a calamity?

A.—If fixity is given the tenants will begin to think that they are real janmis of the property. That will induce them not to pay rent regularly.

Q.—Any other grounds?

A.—I believe that will be the main reason for strained feelings to begin.

Q.—Supposing the law requires that if a tenant defaults in payment of rent he would lose fixity. Is that not a sufficient safeguard?

A.—That won't be sufficient.

Q.—That will not be a sufficient check on the tenant. Is that what you mean?

A.—Yes.

Q.—At present they are paying their rents to you regularly and you are also good to them?

A.—Yes.

Q.—If fair rents and fair renewal fees are paid to you you will renew with them?

A.—Yes.

Q.—In such a case you would not demand any compensation from that tenant?

A.—No.

Q.—In the case of garden lands what proportion out of the net income are you getting in cases where the improvements belong to the tenant?

A.—In several cases I get one-third of the net income and there are also cases where I get half the net income.

Q.—Will you be able to mention any garden of yours in which all the improvements belong to the tenant where you get half the net income?

A.—Without looking into my records I cannot say.

Q.—Do you keep records which will show clearly the improvements that belong to the tenant and yourself in a particular garden?

A.—Yes, I do maintain records like that.

Q.—Do you get registered marupads in respect of garden lands?

A.—There are both classes of tenants.

Q.—Which will be the larger number?

A.—The majority of them are holding under registered marupads.

Q.—Are all the improvements of the tenants mentioned in them?

A.—I think they are.

Q.—And janmi's improvements also?

A.—I am sure janmi's improvements are enumerated.

Q.—You said you will give qualified fixity for tenants in possession from 1852 onwards if fixity is to be given to any?

A.—Yes.

Q.—You said that on account of the heavy value of the improvements melcharths are granted. Will it not afford greater scope for melcharth if value is reduced so that the melcharth man may have an inducement to speculate?

A.—Small janmis generally grant melcharths because they themselves are unable to pay the value of improvements. If they themselves are able to pay they won't give melcharths.

Q.—You say that in the case of improvements made by tenants you would expect half the income to be paid to the janmi and that the tenant should pay the assessment. Then what proportion of the net income would be reserved for the tenant making allowance for these? What share would it be of the net income?

A.—It might be one-third of the net yield sometimes.

Q.—You had not made any calculations regarding these when you made these statements?

A.—I did not accurately calculate.

Q.—Then may I take it that these are rough statements?

A.—These are rough figures.

Q.—Who pays the assessment?

A.—I collect assessment from my tenants separately and I pay it to Government.

Q.—So in all these cases there are two separate collections from your tenants, one for rent and the other for assessment.

A.—Yes.

Q.—Most of your lands are forest lands?

A.—Yes.

Q.—May I know approximately how many acres of wet lands you have and the assessment that you pay for those lands?

A.—I can't say the extent of my wet lands alone or the assessment that I pay for that alone.

Q.—What is the total assessment that you pay to Government?

A.—About Rs. 5,000 per annum.

Q.—You said your tenants are moving very freely with you. Was the same the case with your previous karnavan?

A.—From very ancient times the relationship has been very cordial.

Diwan Bahadur T. C. Narayana Kurup :—Q.—You said you pay Rs. 5,000 assessment on your garden and wet lands. Waste lands of yours include timber forest?

A.—Yes.

Q.—May I know how many square miles in extent will that be?

A.—About 16 miles long and 8 miles broad.

Q.—In fact the whole portion between Irutty and Kuthupuzha?

A.—Yes.

Q.—Your lands are in Chirakkal and Kottayam taluks and within municipal limits?

A.—Yes.

Q.—Some of your waste lands have been cleared every year either for coconut plantation or paddy cultivation?

A.—Yes.

Q.—Do your tenants refrain from doing so because they have no fixity of tenure at present?

A.—That does not deter them from doing so without getting my permission.

Q.—Your rents are generally low?

A.—Yes.

Q.—Would that be a safe test with regard to rents collected by other janmis?

A.—I cannot say it won't be a safe test.

Q.—You have seen very many of your wet lands being cultivated. Are those wet lands cultivated negligently because the tenants do not now enjoy fixity of tenure?

A.—There is no neglect at present.

Q.—Is the value of compensation paid to the tenant according to the Improvements Act high or low, generally?

A.—It is high.

Q.—Have you or any of your friends or relatives had any bitter experience yourself?

A.—Yes.

Q.—Will you kindly give one example where you had to pay heavy compensation to the tenant?

A.—I have had some experience of that in the case of my neighbour. A tenant of the Anakkai tarwad (who are distant dayadis of mine) having made vast improvements in the garden failed to pay the rent and used to say that he might be paid his value of the improvements and might be sent away. The karnavan of that tarwad was not in a position to pay the value of the improvements nor was he in a position to file a suit to evict the tenant. Such being the case that janmi came and represented the facts to me. I sent for the tenant and at my instance the tenant promised to pay the rent regularly.

Q.—And it was because the tenant was afraid that he would be evicted through your agency that he agreed to abide by your decision?

A.—Yes.

Q.—Even if fixity of tenure is given would you permit the janmi to recover possession of his property for the use of or cultivation by any member of his family?

A.—Yes.

Q.—You have read in the newspapers that there is a tenancy agitation?

A.—Yes.

Q.—Is that agitation carried on by the real tenants or people who pose themselves as exponents of the tenants?

A.—I don't think the tenants have any real grievances at all. The agitation is confined to others.

Q.—You have very many Tiyya tenants under you?

A.—Yes.

Q.—Does any landlord compel any of his Tiyya tenants to carry *ilanir* to Kottiyur?

A.—No.

Q.—On the other hand Tiyyas carry coconuts to Jagannath temple; if a Tiyya does not do it what do the other Tiyyas do?

A.—I have heard there is compulsion enforced by the other Tiyyas.

The President :—We are very thankful to you Mr. Nambiyar for your evidence.

With the examination of this witness the Committee rose for the day and the Tellicherry sittings of the Committee thus came to a conclusion.

WITNESSES EXAMINED AT CALICUT.

I

Written statement of Mr. T. A. Kalyanakrishna Ayyar, High Court Vakil, Calicut.

I. (a) (1) I have been holding at one time kanam lands under seven janmis and now I hold kanam lands under three janmis. I have not as yet felt any disability as a kanamdars. I don't think any kanam tenant in Malabar need be under any disability whatever who conducts himself according to the kanam and janmi mariyada by which I mean payment of the prescribed purapad at the proper time and place, taking renewals at the proper time, not creating disputes about the janmi's title, avoiding impudent and insulting behaviour towards the janmi, avoiding acting against the interest of the janmi in other respects, showing due regard for his position and prestige. I know several such kanam families who hold their kanam holdings undisturbed from generation to generation. I wish to say something on the alleged disabilities that are put forward by interested persons.

A. The kanamdars cannot tile their houses or padipuras. This is ancient history. One has only to take a bird's-eye view of any thara or village to be satisfied, by the actual evidence of tiled houses and padipuras, that this alleged disability is trotted out for the purpose of present agitation. Ninety per cent of the present-day kanamdars who can afford to have a tiled house and padipura have it now throughout South Malabar.

B. Young and respectable Nayar ladies are at the mercy of the janmi's fancy. I am sorry to find gentlemen who ought to know better allow this to be trotted out even for the sake of getting a legislation passed. As put forward by the tenant's party the plea is entirely false. Some janmis might have a fancy for young and good-looking girls. But are the janmis the only sinners in this respect? It must not be forgotten that Malabar was once a Polyandrous district. There are Nayar families both in North and South Malabar. We do not hear of such grievances from North Malabar at all events. Among kanam holders there are all castes of people such as Cherumas, Mappillas, Ezhuvas or Tiyyas, Tharakans, Nayars and Brahmans and I daresay there are good-looking girls among all castes of kanamdars. There must be black sheep among all castes but to say that that is the general feature in any particular caste is the reverse of truth. If it is the general feature probably the reason will be found not to consist entirely in the fancy of the janmi. The whole thing is a disgusting affair and I have no inclination to expose it further. Those who know Malabar and its history and visitors to Malabar can rightly judge the situation. The right to grant melcharth or to evict vests in the seniormost member in the family both in the case of Makkatayam and Marumakkattayam family; it is notorious that when they become karnavan they are so old as to cease to have any fancy for any woman young or old. It is the youngsters in all societies that sow wild oats. These youngsters have nothing to do with the land or its tenure.

C. Land is not improved on account of the fear of eviction. I have been a vakil for nearly 40 years and my experience tells me that this is an absolute falsehood. There is not a single redemption suit in which the question of value of improvements is not an item for settlement.

D. That the janmi grants melcharth and evicts vexatiously:—

(1) As a matter of fact taking the past dozen years it will be found that the majority of the big janmis are not in the habit of granting any melcharth at all.

(2) Those who grant are either impecunious janmis or stanamdars. This is due to their peculiar position.

(3) The right to grant melcharth is an incident of every kanam as the right of pre-emption is an incident of otti.

(4) A melcharth is only the exercise by the janmi of his inherent right of redemption.

E. If one cares to sift every melcharth or eviction it will be found that the reasons for the same range under one or other of the following heads:—

(1) Because the janmi being poor and having no other sources of income to meet his present wants, the tenant taking advantage of the situation either refuses to take a renewal or refuses to pay any reasonable fee.

(2) Because the tenant has created janm disputes.

(3) Because the janmi wants the land for his own use.

(4) Because the tenant is in large arrears and is either unwilling or unable to take a renewal.

(5) Because some flourishing vakils or officials want the land.

F. That the janmi realizes exorbitant renewal fees:—

I am not aware that any janmi in Malabar realizes by way of renewal fees anything over and above one year's income of the holding. I know several of the rich janmis who realize far less than this. The large majority of kanamdars realize annually after meeting all the outgoings much more than the kanam amount itself.

G. The janmi unduly raises the michavaram payable. Several big janmis do not enhance the michavaram at all and if some janmis do, it is because their necessity cannot be otherwise met and the enhanced michavaram forms only a small fraction of the large profit which the tenant is allowed to enjoy out of the holding. The above are the main grounds urged as disabilities of kanamdars. The area of cultivable land is limited. Population increases disproportionately. There is hardly as yet any occupation for the generality of people other than agriculture. There is no scope for investment for the money earned by hard labour by vakils, officials, traders, merchants and other professional men. Landed property is considered to be the only safe investment and hence the competition for lands becomes keen. With all these not one inch of cultivable land is allowed to lie fallow. It would matter very little whether A makes the land yield or B makes the land yield or C does so. Some people convert money into land, other people convert land into money. Unless and until other means of investment becomes practicable it would be inexpedient to restrict the right of alienation of land and the creation of subordinate interest in the same. For, if you restrict the right of the janmi by granting permanent right to kanamdars or others you cannot help restricting the right of kanamdars or others from parting with their interests in the land and if you do so landed property becomes valueless both for the janmi and the tenant.

I. (a) (2) & (3). So far as kuzhikanamdars and verumpattamdars holdings under the janmis it is difficult to see what disabilities they can possibly lie under. As for the kuzhikanamdars his only right is to make improvements and claim the value of the same. This the Improvement Act secures to him. The verumpattamdars under the janmi is in a lucky position. A janmi having large resources of income is in a position to help the tenant with money to purchase cattle or with seed paddy or paddy for wages, in some cases at nominal rate of interest and in other cases without any interest. He gets free and easy remission of rent on proper occasions and almost every verumpattamdars would prefer to hold under a janmi than under any person having a subordinate interest. His rent is invariably fair under the janmi. This answer applies equally to the case of verumpattakars under rich and well-to-do kanamdars.

I. (a) (4), (5) & (6). For obvious reasons the rent in the case of these people cannot be as fair as in the case under (2) and (3) neither would remissions be granted easily.

I. (a) (7). Such tenants would be holding under some expressed contract or other and unless the contract can be attacked on grounds of fraud, coercion or undue influences as indicted in the Contract Act it is difficult to see what special disabilities they can lie under.

I. (b) If the supposed grievances mentioned by me above and refused are proved to really exist they are peculiar to Malabar and they apply only to kanam tenures. In all other respects there is absolutely no difference between the relationship of landlord and tenant in Malabar and in other parts of India.

I. (c) It is said that there is no kanam tenure in the strict sense of the word in North Malabar, but they are all mortgages. Barring this I cannot conceive of any difference in the disabilities, if any, which the tenants are subjected to in North and South Malabar. It is not even alleged that the North Malabar janmis have an illegal fancy for young and fair girls.

I. (d) I don't think that there is any difference.

II. 1 (a) I do not think that evictions are made on unjustifiable grounds. Judgment of courts in eviction suits would show that primarily it was the fault of the tenant that led to eviction suit.

(b) I don't think that melcharths are granted on unjustifiable grounds. I have already given reasons for my opinion.

II. (2) I don't think the janmi uses his position as landlord to oppress his tenants socially. If this alleged social oppression relates to janmi's fancy for good-looking young girls I have already given my answer. If it refers to tiling of houses or padipura that also has been already dealt with by me. If it refers to prohibition of association by relations and service by washerman, barber, etc., it is ungenerous to lay it at the door of the janmi. Violation of social duties such as non-observance of pollution at births and deaths, polluting temple tanks and temple during pollution, etc., are reported generally by the friends and relations of the violator and complaint is taken to the janmi or Naduvazhi or Raja who is considered to be the social head of the particular locality and it is only then that the social head exercises his ecclesiastical jurisdiction. This exercise of his jurisdiction will have no moral force behind it unless it is approved by the public of the locality, most of whom may not be the tenants of the janmi. Owing to the party affected resorting to civil suits and criminal prosecution for defamation, etc., there is hardly any janmi in these days who cares to exercise this risky jurisdiction. The old social order has become revolutionized and even Nambudri and Raja janmis are allowing their children and other relations to go over to England and other places for education. I don't think that any other form of social oppression has been suggested as existing in Malabar. There is distance pollution. This is observed by the janmis in common with other high class Hindus inhabiting Malabar.

Remedies.

III. (a) I don't think that there are any disabilities.

(b) If there be any the grant of permanent occupancy right is by no means essential for its removal. If there are such disabilities and they can be removed by grant of permanent right it goes without saying that all those who suffer from disabilities must be given permanent right. It would be an invidious distinction for which no justification or reason could be found to remove the disabilities of one class and allow the rest to lie under the same disability. It may be possible to do so if we extinguished all the other classes.

(c) Unless it is shown that there is a particular tenure holder who alone is under disability and that the rest of the tenure holders have no grievances or disabilities whatever how in the first place can any particular tenure holder be chosen and choosing one and granting him permanent right how does this Act cure the disabilities of the rest under him. Supposing A, B, C and D are tenure holders each of them have his own grievances and disabilities. If A's disabilities are removed how will it benefit B, C or D having similar grievances. It is difficult to choose any particular or special kind of interest for special favour. If the kanamdars' disabilities are removed what guarantee is there that he will not oppress the sub-kanamdar and the sub-kanamdar his kanamdar and the latter his verumpattam tenant. If the kanamdar is chosen for special favour all the rest under him must go. If the verumpattakar is chosen for special favour all between him and the janmi must go. It is the existence of these intermediaries that creates all the trouble. If there be the janmi and the verumpattakar alone to deal with the matter is simple enough and no legislation would be called for.

(d) *Kuzhikanamdars*.—Kuzhikanam is a well-known tenure in Malabar and its incidents also are well defined. It is a lease for twelve years certain on an understanding that at the expiry of the period either the landlord will pay the value

of the improvements and get back his lands or the value of the improvements will be ascertained and made into a kanam and renewal granted for another period of twelve years. This is well known to both parties. What justification is there for the law to step in and allow one of the parties to repudiate his contract. For that is the result of making a kuzhikanam tenure a permanent tenure. It may be said that there is a chance of the man being turned out when his labours are just beginning to bear fruit. The tenant is not taken by surprise at this, for he knows it from the very beginning that this might happen and if the landlord knows that he will not be able to get back his land at this juncture no kuzhikanam lease would have come into existence. None at all events would come into existence in future. If turning a tenant out of a holding at a particular period of the tenure in spite of the contract between the parties which is in accordance with the custom of the country is considered a hardship, the remedy is certainly not to grant a permanent right over the soil. I should try to remedy this evil if it be one by amending the Improvement Act so as to adequately compensate the tenant or by allowing the tenant a further period of twelve years for enjoyment.

Verumpattakars.—What is the extent of time during which the verumpattakar should be continuously in possession to obtain the right of permanent occupancy? If a verumpattakar is found in possession of a holding continuously for a long time what is suggested to my mind is that the rent is fair, that he pays the rent punctually and regularly and that good relationship subsists between his lessor and himself, why try to disturb such peaceful relationship? His long continuance in the holding indicates that he has no particular grievance to be redressed. He would be a foolish lessor who would try to turn out such a tenant. For there is no guarantee that the incoming tenant would be as good as the outgoing tenant. Unless such a tenant has a specific grievance which could be remedied only by giving occupancy right it would be conferring upon him an unasked boon. What guarantee is there that he would be as good a tenant after the grant of occupancy right as he was before. It is the fear of the tail being twisted that makes the bullocks go forward and straight. As matters now stand the relationship between the lessor and the lessee is not entirely one of contract: there are thousand and one things for which each wants the assistance of the other. The lessee has to go to the lessor especially of the well-to-do class for money to purchase cattle, for paddy for seed and wages and in fact for many other things. Good behaviour in a tenant is an essential condition for such assistance. Now if you give him the occupancy right a sort of independence is given to them which is sure to be misused towards his lessor. The old relationship is broken and the relationship will come to be regarded purely as one of contract. To those who are well acquainted with the means and status of verumpattakars any change in their condition portends their ruin. To my knowledge no verumpattakar has up to now desired to possess occupancy right. The only justification to interfere in their case would be the fear that such a tenant may be turned out at any time without any fault on his part when there is a competitor prepared to pay a higher rent. Now this fear is groundless, whether the enhanced rent is a fair rent or a rack-rent. If it is a fair rent the lessor is entitled to get it. If it is a rack-rent the lessor will never get it. On the other hand the new tenant will throw up the holding as early as he can and both the lessor and the holding would become discredited among the tenant class. The verumpattakars are mostly illiterate and unless there exists some enmity or other between himself and the old tenant he never cares to take up a holding except for the old rent and the lessor who frequently changes his lessee can never find a steady and well-to-do tenant. To my knowledge this fear acts as a check upon the vexatious turning out of verumpattakars out of their holding. No lessor gets the chance of misbehaving towards the verumpattakars more than once. For the punishment is instant and the holding goes a begging for a good tenant. There was a time during the early part of the last century when lands suffered for want of cultivation and good cultivators. Things improved towards the end of the last century. Things were again reverting to the old state of things. Constant emigrations of a pretty large number of able-bodied workers has resulted in the undue rise of the wages of agricultural labour. Price of cattle, etc., and the other necessities required for agriculture

has also increased considerably, so that the number of hereditary agriculturalist with the necessary equipments such as cattle, seed and wages and money to purchase manure are becoming less and less in number. At such a time no lessor good or bad who cares for his own interest would care to turn out an average good tenant. Such a tenant is now wanted by everybody and everywhere. The holding goes after him and not he after the holding. An average good tenant has no fear of being turned out and the bad tenant deserves no protection through legislation.

Kanamdars.—If it is meant by the question that the law as to kanam tenures has changed since 1852 from what it was before that date, I deny the existence of any such change. All the written records prove the contrary. Mr. Logan, a late Collector of Malabar, charged the civil courts with having changed the law as to kanamdars in 1880-1881. Sir Charles Turner, the then Chief Justice of the High Court of Madras, one of the ablest Chief Justices the High Court ever had asked Mr. Logan to withdraw the charge and on his refusal to do so the Chief Justice wrote his minute on the Malabar Land Tenure which is a text-book and a classic on the subject. The refutation of the theory cannot be more complete and conclusive than what is contained in the Minute. It shows the law has remained the same both before and after 1852. There is no justification on that ground for the grant of permanent right on some class of kanam tenants alone. If it is on the ground of long continuous occupation, it would be penalizing good landlords for generous treatment of their tenants. As the good conduct of either was a guarantee of peaceful relation between them, why disturb it now by introducing an irritating element? If it is said that it is the long occupation that gives the right, what is the standard and how long should it be? The equitable rule is once a mortgage always a mortgage and it is the necessary incident of every mortgage that it should be redeemable. Why should the janmi once a debtor remain always a debtor even when he has the means of repaying the debt? It must be remembered that at the earliest stage of the British occupation of Malabar all the judges and vakils in the mufassal were Indians as they now are and they were also the kanamdars. Irredeemability of a kanam tenure was never mooted even by people who must have known the incidents of kanam tenure and who stood to suffer by omission to raise the necessary contention in suits. Mr. Prabhakaran Thampan has unearthed certain redemption decrees passed before 1852. It is unnecessary to pursue this matter further as it has been on previous occasion discussed threadbare. Malabar land tenure is so highly developed that it has not been possible to add to it in recent years. The number and variety of interests carved out of janm right is surprisingly so large and minute as to attract the admiration of every ancient enquirer into the land tenure of Malabar. In the gradation the kanam tenure is just above verumpattam. Over kanam there are a large number of superior mortgage tenures in which very large sums almost up to the janm value of the properties are advanced: no permanent right is claimed in favour of such tenures. Otti which is just above kanam in the gradation has only a right of pre-emption but not irredeemability. When irredeemable rights are granted there are appropriate names to denote such grants. It is granted to all sorts and conditions of persons. The grant is confined to a very small portion of property and in many cases it is confined to the rent alone without affecting the corpus of the property. It would be monstrous to attribute to such janmis who have the bulk of their lands under kanam tenure an intention to grant permanent right in the case of kanam tenures. Indeed the old rule about the renewal is based upon the self-redemption principle. Kana Anubhavam, Saswatha kanam are tenures known to Malabar. If kanam denotes either Anubhavam or Saswatham, why this tautology?

(e) Introduce provision similar to that contained in the Rent Recovery or the Revenue Recovery Act.

(f) No grant of permanent occupancy right should prevent a landlord from recovering the land if he or his family wants the same, if the grantee repudiates the title of the grantor; if there is a partition in the grantor's family and the allotment to branches or individuals do not enable them to maintain themselves without the full income of the property granted on permanent right; if the grantee alienates the holding either by mortgage or by sale; if the grantee is incapable of improving

the land and the grantor is able and wants to do so; if the grantee behaves disrespectfully or insultingly towards the grantor or his family; if the grantee fails to pay renewal fees and michavaram fixed by the landlord; if the grantee fails to pay the rent enhanced by the grantor; if the grantee fails to pay the existing and future revenue of the holding; if the grantee causes injury to the grantor or to any member of his family or causes loss to grantor and grantor's property by his direct or indirect misconduct.

IV. (a) 1 & 2. So far as the kudiyruppus in the rural area are concerned, they are almost invariably attached to some particular holding. The kudiyruppu holders in fact are the labourers in the holding. The tenure holder wants their services and the janmi equally so after the tenure holder is turned out. No such kudiyruppu holder, unless he wants to go away, is turned out of his kudiyruppu. A finished holding is one in which there are the requisite number of labourers living in the holding. Kudiyruppu sites are not only granted freely to labourers but the tenure holder and the janmi help them in the first instance to put up the kudiyruppu by granting timber and some money. Even when the tenure holder is turned out in 99 cases out of hundred, the kudiyruppu holders are not turned out, but allowed to remain in the holding. The tenure holder alone is turned out by payment of kanam and value of improvements which he has made. I don't think this class of kudiyruppu holders require the grant of any occupancy right. The grant of occupancy right would prove disastrous to the holding itself. For having the occupancy right over the kudiyruppu the kudiyruppu holders may snap their fingers at the tenure holder or the janmi and either refuse to work or go to distant places in search of work, if they have a chance of getting a few extra annas. This they very often do not get and when they get it is all spent in drink. The old and young and disabled are left in the kudiyruppu starving. The tenure holder or janmi has to bring in foreign labourers. These take their own time to come and go, thus the work which the kudiyruppu holders do in a day is done in two days, and the work is necessarily costly and inefficient. The tenure holder or the janmi cannot establish other kudiyruppu holders for they also get occupancy right and the new-comers might behave as badly as the old and it is not good to the holding to have all the available grounds occupied by kudiyruppus useful and useless. The tenure holders or janmis desire to command ready useful and efficient work which is a sufficient protection to this class of kudiyruppu holders. There may be here and there stray kudiyruppu holders such as on the road sides not attached to any holding. These carry on their occupation as petty traders, coffee shop-keepers, etc. They are neither sufficient in number to require special protection by legislation nor are their holdings interfered with by the tenure holder or the janmi and the existence of such people near or in the holding is considered an additional attraction for the kudiyruppu holders to induce them to remain at home. These are the only two classes of kudiyruppu holders in rural parts.

In the case of urban kudiyruppus if the building is put up by the tenure holder or by the janmi and hired out by the occupant, there is no more necessity to grant occupancy right in Malabar to such occupants than there is in the city of Madras. If, on the other hand, the building is put up by the person to whom the site is granted by the tenure holder or the janmi and hired out to occupants, to whom is the right of occupancy to be given? Is it to the person who puts up the building or to the person who pays rent and occupies it? Neither are entitled to it. It is purely a commercial concern. There remains then only the case of those who obtaining a site for a house, put up a house, and occupy the same. To such people if they are found necessary for the well-being of the town the Government might purchase the site and give them. If they are a nuisance to the town, the sooner they are turned out of their kudiyruppus the better would it be for all concerned. Anyhow they are so few in number and their condition is not as bad as it is in other parts of the presidency and no special legislation is called for in their case.

IV. (b) In the case of urban kudiyruppu the extent may range between 1 and 2 cents. In the case of rural kudiyruppu the extent need not be more than three cents.

(c) 1. If the building is necessary and suitable to the holding and can be occupied by the succeeding tenant the landlord must have the option of recovering

the site and building on payment of the value of improvements. If the building is unnecessary or unsuitable to the holding and was put up merely as a luxury or to spite the landlord, the landlord must have the option to compel the outgoing tenant to remove the building and give up the site vacant. An old tenant not concerned with the holding but occupying a house and compound within the holding would be a nuisance to the incoming tenant and to the landlord; it will be a source of constant quarrel between the old tenant and the new one or the janmi and if every new tenant were to repeat this sort of thing the landlord would really be in a fix. If the first tenant gets an occupancy right I cannot see any reason why the fifth or sixth should not. Between them they can make the landlord's position very irksome. In many cases if occupancy rights are given to such householders the value of the holding would diminish very much.

(c) 2. The Improvement Act says that it is not an improvement. So the tenant's act is unjustifiable. The grant of occupancy right to such people would offer a premium for such unjustifiable conduct.

(c) 3. It is quite clear that the landlord must be in a position to redeem on payment of value of improvements. From the question one has to gather that the choice of the site upon which the building is put up is entirely in the hands of the tenant. The landlord has no part or lot in the choice of the site. It must be expected that the tenant would select the best and profitable site for him. This he would certainly do if he gets occupancy right or some right over the building, so that a couple of tenants can make the holding wretched and unattractive. As he sows, so he must be made to reap. In all such cases when occupancy right is claimed or intended to be conferred the tenant must be able to prove beyond doubt not only that the landlord has consented in writing for the building in question to be put up, but also he has consented to have the building put up in that particular site. In almost every holding in Malabar there is attached to it a compound called kalam with a farm house, a cattle shed and a small house for the tenant to cook his meals. It is only in very rare cases that a whole family of tenants occupy a kalam and live by the side of the field they cultivate. Indeed, most of the kanam tenants let their lands on lease and are absentee landlords. It is only when he takes into his head the unjustifiable desire to deprive the landlord of his land that he tries to put up such costly buildings and tries to improve the landlord out of his land. Such tenants afterwards challenge the landlord to evict them by refusing to take renewals. A poor and impecunious landlord is really at the mercy of such tenants. Such tenants are more well-to-do, powerful and influential than their landlord. Justice demands that the weaker party should obtain protection at the hands of the law.

(d) 1 & 2. From what has been said above, it is quite clear that any such drastic remedy as suggested in these two questions are unnecessary and unsuited.

V. The Improvement Act I of 1900 has considerably reduced the number of vexatious evictions and melcharths. An industrious tenant who plants and reclaims every available area within the holding can successfully checkmate in all ordinary cases the mischievous propensities and vagaries of either landlords or melcharthdars. In North Malabar I am told it does not pay any janmi or melkanamdar to redeem a kuzhikanam holding owing to the heavy compensation awarded by the courts under the Act. In Calicut, Ponnani, Chowghat and Cochin and in places around the Pallipuram and Kuttipuram Railway stations where the tenants are mostly Mappilas whose industry and energy has brought into existence very fine coconut and arecanut gardens, neither melcharths nor eviction, I am told, is attempted in recent years owing chiefly to the prohibitive value of improvements which the Act enables the court to fix upon this class of improvements. In Palghat, parts of Walluvanad and Ernad taluks the reclamation value that the tenant is awarded is twice and thrice the cost of actual reclamation. There have been a few instances in South Malabar where neither the janmi nor the melkanamdar has thought it fit to execute the decree for redemption simply because it was not worth while to redeem at such a heavy cost. One or two cases like that has opened the eyes of the janmis and they now realize the position that there is a chance of their losing their janm right over the property. Some melkanamdars refuse to redeem after obtaining a decree. I think there have been a few instances in which the melkanamdar after obtaining

the decree finding it not profitable to redeem has sent notices to the janmi intimating to him that he gives up his costs, renewal fees and melcharth right, etc., and calling upon the janmi to redeem the property himself. The existing Improvement Act acts as a deterrent upon vexatious evictions. The Commissioners appointed under the Act to value the improvements and the first and second courts which deal with the question of improvements show sufficient sympathy towards the tenant. I think the Act may be allowed to work its way for some years more. The progressive commutation value of produce under the Act keeps pace with the rise in wages of labour.

VI. (a) If by the grant of permanent occupancy right the janmi's interest is affected he will have to be given the market value of the property less the kanam and value of improvements and if the occupancy right is to be given to verumpattakars the market value of the holding as an occupancy holding will have to be given.

(b) According to his interest in the land that is the kanam and value of improvements, if he is a sub-kanamdar or if he is a verumpattamdar the value of any improvement made by him must come out of the kanam and value of improvements found due to the person to whom the occupancy right is granted.

(c) I don't think that any special facility is necessary or practicable. He who wants the music must pay the piper if he is able to do so. It would be preposterous to suggest that the Government should do so out of public funds even if it can spare the requisite sum.

Rent.

VII (a) & (b). So far as this question is concerned, there is a good deal of misapprehension and misunderstanding. It is said that the actual cultivator is entitled to deduct out of the gross yield what he spends for *vithu*, i.e., seed and for wages, and that out of the remainder one-third goes to the tenant (*cherulabham*) and that the remaining two-thirds is the rent proper. This assertion is based upon a statement supposed to have been given by some of the janmis of Calicut to the Company's representative who was then deputed to settle the revenue which the Government was entitled to claim. A perusal of the revenue history from that date up to the last settlement would show that the Government was trying to get as much by way of revenue as possible and that the landlord was trying to reduce it as much as possible. A statement so made by a few of the janmis of a particular locality cannot be true in respect of all parts of the district nor can it be binding upon the janmis of other parts. As the Government attempted to realize their revenue out of the janmi's share of the income, the janmi naturally tried to make his income appear as less as possible. It is no doubt an admission on the part of certain janmis; even as such it is only a statement of their case not tested by any enquiry as to the truth or otherwise of the statement. A similar statement was made by Janmi Sabha at the time of the last settlement and when it was tested by Mr. Moberly, the Settlement Officer, the statement was found to reduce itself to an absurdity. Again the statement says that the cultivation expenses is as much as the seed; this obviously can never be and has never been the case. It is notorious that at the time when the statement was made by the janmis all their lands were as is even now the case under kanam tenures. They had nothing to do with the verumpattakars under the kanakars. In the early part of the last century when the statement is said to have been made not only was the bulk of the janmi's lands held by the kanamdars but they were also in actual possession and cultivation as is attested by the fact that the revenue registry of most of the lands stands in the name of kanamdars as actual occupants. Verumpattam tenure was very rare in those days so that the gratuitous assumption by the janmis to reduce their income as much as possible cannot be true or accord with facts. As a matter of fact in the history of Malabar Land Tenure the verumpattakar has never received one-third of the income as cultivator's profit. It is absurd on the face of it as I shall show presently. It is notorious that all verumpattam holdings are not of equal area and consequently their yield gross or net cannot be equal. But what is alleged to be allowed to verumpattakar is his *cherulabham* or cultivator's profits, that is, the remuneration for his labour. Now an agriculturalist follows a profession just as a banker, trader, merchant or any other person who follows a particular calling.

All of them devote their entire time, energy and capital in the carrying on of the profession. A banker is contented to receive for his labour and investment a reasonable rate of interest on the capital invested by him and for all the trouble that he takes; so is a trader or merchant or other professional man; so must be an agriculturist. He no doubt has to invest some capital and devote his entire attention to the cultivation of the land. His seed and wages paddy he is entitled to take first out of the produce of the land; besides the seed and wages paddy must necessarily carry some interest also. He must invest some money to purchase plough cattle and agricultural implements and he must get some return for these, which must be sufficiently high to cover a reasonable rate of interest for the money invested and something towards depreciation. Let us take a holding as an example; suppose a holding whose gross yield is between 6 or 7 thousand paras of paddy. We shall now omit the money portion of the rent. The seed and wages paddy required would be 1,500 paras of paddy, the investment on the purchase of cattle, etc., assuming the cultivator is a good and well-to-do fellow would be about Rs. 800. In all therefore he invests a capital of Rs. 800 plus Rs. 1,500 plus his labour and attention. What is the reasonable profit or remuneration which such a man can decently expect to earn; 12 per cent interest on Rs. 2,300 plus something towards depreciation of cattle plus something for his labour and attention must be considered to be a decent return (though the banker or trader does not expect anything special on account of the last item), i.e., Rs. 276 plus Rs. 80, that is, one-tenth of the value of cattle, etc., plus Rs. 144, in all Rs. 500. This is the utmost which any professional man with such small capital must be content with. But this is not what is suggested by the Government or the last legislature; it is one-third of the net income, i.e., 1,500 paras or 1,800 paras. It is monstrous that a man who invests Rs. 2,300 should expect to earn a profit of Rs. 1,500 or Rs. 1,800. Take another holding owned by a Hindu widow with minors whose net rent is only 120 paras; she has necessarily to let the land. The proposal of the Government is to cut off 40 paras out of 120, thereby creating two discontented and starving families instead of one. Instances can be multiplied, but it is unnecessary as it is obvious to any thinking mind that an allowance of one-third of the net income in all cases without regard to the size and income of the holding is a monstrous proposal. I know of a single holding which yields a rent of 15,000 paras of paddy held directly under the janmi. Under the proposal the janmi has to relinquish in favour of the tenant 5,000 paras of paddy. But there are not very many janmis or kanamdars who have on their own rights an annual income of 5,000 paras of paddy. The above calculation is based upon the supposition that a tenant is well-to-do and is really capable of investing Rs. 800 on purchase of cattle, etc., and 1,500 paras of paddy for seed and wages. The above example is taken of the verumpattam holding held directly under the cultivation of the janmi. There are very few verumpattam tenants who have got the necessary cattle, etc., and seed and wages paddy required for efficient cultivation of any respectable holding. Then again almost all the kanam or verumpattam holdings in Malabar have attached to them pretty large areas of parambas and a garden or two with coconut, arecanut, jack, mango, tamarind and other fruit-bearing trees with a pretty large number of palmyra trees (in the case of Palghat taluk). The chief item of rent for holding is paddy with a nominal money rent for what is called the melphalam. The profit that the tenant makes out of the straw, palmyra leaves, tamarind, mangoes, coconut and arecanut is not in these days an inconsiderable sum. During the past dozen years the market value of these articles has doubled in price and this price is still on the increase. The dry crop that the tenant raises on parambas, such as horsegram, peas of all sorts, cotton, sweet potato, ginger, gingelly and groundnut is of considerable value in the market. Indeed, measure for measure, the price of these articles is two and three times the price of paddy. The result is the cultivator makes a pretty round sum by the sale of that portion of these articles which is not required for his home consumption. He retains a sufficient part of the paddy rent for consumption and pays the landlord its competition price out of the money in hand. Luckily for him all the articles which he wants to dispose off could be sold long before the final settlement of rent with the lessor. I have gone somewhat elaborately into this matter because I was told by a high official when I told him about this state of affairs that in these days it

won't do for anyone to get up in the Legislative Council and say that the tenant maintains himself and family by straw and palmyra leaf. I was speaking out of personal knowledge and I had only wished that the gentleman with whom I had the conversation had gone somewhat deeply into the matter and investigated the facts. It is not a joke for a tenant of a decent holding to be able to dispose of its minor produce for six or seven hundred rupees having to pay only one-tenth or one-twentieth of such sum to the lessor. One or two hundred rupees would purchase in these days paddy to maintain decently any tenant's family in Malabar however numerous the members may be and there are very few tenants' families who can consume anything like such a large quantity of paddy. When I told him that the items of income above detailed are not taken into account in settling the rent of the holding his reply was that hereafter the lessor might do so, that is to say, hereafter the full rent of a holding would be paddy rent plus that which the garden, the fruit trees and the paramba cultivation is expected to yield. I should like to see the verumpattam tenant who would prefer such a change. I maintain that the existing verumpattam rents are fair rents. In testing whether the rents are fair or not you have not only to take into account the paddy yield of the holding but also every other item of income which the holding is capable of yielding under an efficient and industrious cultivator. If the lessee says that sufficient margin is not left for him out of paddy income, the lessor can very well retort that enough and more is provided for out of other income of the holding by fixing a nominal money rent. I understand that up to date it is the practice in the district of Mangalore for the lessee of a holding to supply almost every article of consumption to the lessor. I as a lessor would like the same system introduced in South Malabar even at the sacrifice of a portion of the existing paddy rent, but hardly any tenant would be found willing to accept the change. As I observed above, every verumpattam holding in Malabar has a settled and known rent so far as the paddy portion of it is concerned. If it is shown that such has been paid for a pretty large number of years, the reasonable presumption is that the rent is fair and leaves sufficient margin in favour of the tenant. If any tenant either old or new of such a holding now complains either that the rent is high or that it does not leave sufficient margin for him, the reason must be either that the land is not properly cultivated or the tenant has contracted extravagant habits. In either case there is no scope for interference with the existing rent. If, on the other hand, one finds the rent raised frequently without any addition of cultivable area and the tenants frequently changed the presumption must be that the holding is rack-rented provided there is nothing to justify such increase, having regard to the other sources of income from the holding. The question asked is, what proportion of the produce should be allowed in favour of the tenant. Is the proportion to be settled once for all or is it to be settled annually? In either case the thing is impracticable. If it is to be settled once for all, the tenant by bad cultivation would considerably reduce the income of the lessor. If by his industry and investment of capital he raises the income of the holding, the lessor makes an unmerited gain. The produce of a holding is an unsteady thing. It is very much in the hands of the cultivator. Before you fix the proportion for the tenant, you must fix the total produce of the holding which must be assumed to be steady whether the holding yields more or less in any particular year. To settle this matter you have to either take the existing rent payable to the lessor as his legitimate share out of the produce of the holding leaving all the rest of the produce whatever it is for the tenant's share or you have to estimate the produce of every holding afresh and fix the proportion. The other alternative, viz., of fixing the produce annually, I cannot think of, because it would make the life of both the lessor and the lessee miserable. All the above knotty questions can be avoided if you treat the existing rent as fair rent and assume that it leaves a sufficient margin for the tenant's share. For then we need only put some restriction upon the lessor's right of enhancement of rent. If the tenant complains about the unfairness of the existing rent, it must be left to him to show that without any fault on his part as a tenant the produce does not allow the payment of rent now fixed as the lessor's share. This is highly necessary in the existing state of things. For all sorts and conditions of people nowadays take to agricultural profession. There are among them—

(a) Hereditary cultivators.

(b) Bullock cartmen who take to agriculture simply to provide straw for their bullocks.

(c) Goldsmiths, blacksmiths, carpenters, stone-cutters and others simply because the profession of agriculture is supposed to add some dignity to their position. There are among them—

(1) Cultivators who have the necessary implements, cattle, seed and wages paddy.

(2) A pretty large portion of them are without either one or more and some without any of the above ingredients. Most of them have only the status of labourers in the holding. Agriculture in the proper sense of the word is not practised by 75 per cent of verumpattakars. Not only because they are ignorant of the art, but also because they have not the wherewithal to carry on the agricultural operation in any sense of the word. The land deteriorates, the yield becomes diminished, this state of things cannot last any longer. Before attempting to fix the share of all the produce, you must fix what would be a fair and standard total produce of any particular holding. No person who is unable, for whatever reason it may be, to make the holding yield this quantity of produce must be allowed to assume the roll of cultivator of the holding. That is to say, no person who is not a real or genuine agriculturist and who has the means of making a holding yield its standard produce ought to be allowed to cultivate such a holding. A proper cultivator, if there be any, is entitled to have his share of the produce fixed. No lessor need or would grudge the allotment of a share of the produce to such a tenant. To sum up, before we attempt to set apart a share of the produce to the cultivator we have first to settle what ought to be the total produce which a holding ought to be made to yield. In estimating this total yield, the elements to be taken into account are (1) the yield of paddy field; (2) the yield of fruit-bearing trees of the garden and its other produce and (3) the yield of the dry cultivation of the paramba. To do this we have to re-assess the yielding capacity of every holding in Malabar. No verumpattam tenant worth his salt would care to continue in the holding after such an assessment whatever may be the proportion allotted to him. No tenant who cannot guarantee the standard quantity of produce of a particular holding is entitled to have any share of the produce apportioned to him. A well-to-do and good tenant who is willing and able to make the holding yield as much as it can has now after paying the janmi's rent left to him much more than what he can expect on any apportionment of the produce. It is this class of tenants who will be found to occupy the same holding from year to year without interruption. If a restriction is put upon the lessor's power of unjustifiable enhancement of rent, all that is wanted would be secured thereby. It will induce the tenant to put forth all his energy and means to make the holding yield as much as it can; in fact agriculture would be carried on in a satisfactory manner.

Another reason for dealing with his matter in such detail is, it affects not only the janmi and the old kanamdar, but it affects also most injuriously modern purchasers and mortgagors who have purchased and took mortgages relying on the existing rent. In such cases interference with present rent not only affects their current income, but it cuts off a large slice out of their capital. There is not a single verumpattam holding in Malabar which has not a fixed and known rent attached to it. The present cultivator knows it and takes it up for that rent. The neighbouring cultivators know it and an incoming tenant does and easily ascertains the rent attached to the holding. No tenant if the rent is not fair would care to continue to cultivate a holding if he finds it not worth his while to do so, i.e., if it does not maintain his family and enable him to continue the cultivation. So that if a verumpattakaran is found to occupy the same holding from year to year, the reasonable presumption is that the rent is fair. If on the other hand it is found that a lessor whether he is the kanamdar or the janmi is driven to the necessity of changing the tenant from year to year, that is sufficient indication that the rent is not fair and in such cases the rent will adjust itself without the help of any legislation. The punishment inflicted upon a rack-renting lessor is somewhat severe. For if the tenant finds that the rent is not fair and that he cannot honestly discharge his obligations to his lessor, what in actual practice takes place is the tenant not only does not pay the rack-rent or excess rent but falls into arrears

to such an extent as to make a large inroad even upon what may be considered to be a fair rent. The avaricious lessor is punished instantly with the loss of a good portion of the fair rent even. Such a lessor doesn't play such a game more than once as prudence and his inability to dupe another tenant stand in his way.

An average well-cultivated holding will pay after deducting the seed and wages paddy, the lessor's rent by the first crop. The second crop is entirely at the disposal of the lessee. But as a convenient arrangement, payment is made in two instalments.

Renewal fees.

VIII. (a) & (b). Except in the case of some modern kanams the kanam amount in all old kanams is a nominal sum. Taking the present market price of the produce into consideration, it would be found that the kanam amount advanced is only half or one-third of the annual produce. Out of the rent of the holding the Government revenue and the interest on the kanam amount has to be deducted. A small portion of what remains is alone paid as purapad annually. Properly speaking, the janmi is entitled to the whole of the rent after deducting that which is set apart for Government revenue and interest. This he does not demand and receive annually. For, what he does is this: the total of this surplus for twelve years is calculated to be so much, half of it he makes the tenant to pay in a lump sum, the other half he relinquishes in favour of the tenant to compensate him for the advance payment that he makes and to cover all vicissitudes of season, etc. This is the primary principle of renewal fee. There are various modifications of it but the principle is all the same. The most up-to-date method is for the janmi to receive one year's rent after deducting all outgoings after the expiry of twelve years. There is no principle or standard by which this is regulated. It all depends upon what the janmi wants to receive in advance out of the surplus profit of the holding calculating the profit for twelve years. Some janmi might receive less; some more. It is a convenient arrangement both for the janmi and the tenant; otherwise the payment would have to be spread over a period of twelve years. If we try to regulate this fees on any principle, the result would be disastrous to the tenant. The one year's profit as renewal fees has, I think, been generally accepted by the janmis throughout Malabar, including Palghat taluk, and I think it is better to leave it at that.

General.

IX. I would ask the tenant who desires to continue in a holding from year to year to equip himself in the first instance with the requisite head of cattle and implements of husbandry, seed and wages paddy and some money to supplement the cattle manure and procure green manure. I would ask him to be industrious and make every available spot in the holding yield something or other, keep the holding neat and tidy. A verumpattam tenant who is able and willing to do this will never be turned out of his holding. Of course he must pay the janmi's share of the rent punctually without arrears. No lessor who is not an idiot would care to turn out such a tenant. The good feeling and mutual regard which such a conduct on the part of the tenant as is described above would create between the lessor and the lessee would be found to be fifty times more effective than any cut and dry rule which any legislature can erect. Men always act upon the give-and-take principle when there is no restraint or restriction. It is human nature also to try to circumvent all restraints and restrictions.

X. (a), (b) & (c). Melcharths, as I have observed above, are gradually becoming rare. There is a growing public opinion against it. No well-to-do and big janmi cares to defy the public opinion. The statistics which the community will collect about the melcharth will justify this remark. Would it not be better and safer to leave this matter to the good sense of the janmi? If a landlord makes up his mind to turn out a tenant out of his holding, melcharth is not the only recourse he has. There are some now and if we restrain the right of granting melcharths human ingenuity would devise five more means. A right of pre-emption if granted at all must extend as in the case of otti to making further advances and purchasing the property. I do not know whether the class of kanam tenants for whose protection this provision is apparently intended can really benefit by such a right. Most of this class of kanam tenants are steeped in debts. In the

case of well-to-do kanamdars such as vakils, merchants, etc., a class of absentee landlord, such a protection is uncalled for. They came in through a polluted gate and they have no reason to complain if they are made to re-cross the same gate. There is no method by which falsehood and fabrication would effectually be prevented. Almost every melcharth would lead to a protracted litigation. It will invariably end in the ruin of the tenant in possession and it is problematical whether the result of the ultimate decision would do justice between the parties. An offer of pre-emption can be made in paper without the tenant coming to know anything about it and if it comes to his knowledge it may be in a form which he is unable to accept. When a great Judge was asked to define fraud he is said to have asked first for a limit upon human ingenuity before he attempted to do so. My answer to question X (c) is similar. That is, it is an impossible task. The whole of the provision in question X is not calculated to do any good to anybody. It will lead to an additional class of litigation which will be of course good for the vakils. As I said above public opinion is against melcharth, the janmis are beginning to be enlightened and have begun to respect public opinion. I have already given various reasons why melcharths are becoming less and less. The present agitation has really terrified the janmis and would, I am sure, act as a check upon the avarice and vagaries of mischievous janmis. So far as this melcharth affair is concerned things have reached such a stage that the evil, if it is one, would be considerably mitigated if not totally extinguished by the various causes which are already in operation. This is eminently a matter in which the legislature can well afford to wait and watch. Such a state of things while it will not stiffen the neck of the tenant would make the janmi descend a step or two from his high pedestal. Who knows that the good old relationship of landlord and tenant would not be yet restored. The trial is at all events worth making.

Thursday, the 24th November (Forenoon).

The Malabar Tenancy Committee assembled to-day at 11 a.m. at the Collector's Office, Calicut, to record oral evidence.

The following members of the Committee were present:—

Diwan Bahadur T. Raghavayya, C.S.I. (President).

Members.

H. R. Pate, Esq., I.C.S.

Baja Sir Vasudeva Raja of Kollengode, C.I.E.

Kotieth Krishnan, Esq., M.L.C.

Rao Sahib V. Krishna Menon.

Rao Sahib C. V. Krishnaswami Ayyar (Secretary).

The following members of the Committee were absent:—

Diwan Bahadur Sir T. Desikachariar.

Khan Bahadur Haji Abdulla Haji Kasim Sahib Bahadur.

Diwan Bahadur T. C. Narayana Kurup.

Oral evidence of Mr. T. A. Kalyanakrishna Ayyar, High Court Vakil, Calicut.

Mr. T. A. Kalyanakrishna Ayyar, B.A., B.L., was the first witness examined.

The President:—Q.—Mr. Kalyanakrishna Ayyar, the Committee is obliged to you for the lengthy written statement which you have furnished it. You were the leader of the Calicut Bar for a pretty long time?

A.—Yes, I was practising for nearly 40 years in Calicut.

Q.—And you are a big landlord?

A.—Comparatively.

Q.—And you say you own kanam lands. Are all your kanam lands in the Malabar district?

A.—Yes.

Q.—May I know what assessment you pay for your lands in Malabar district?

A.—I pay about a Rs. 1,000.

Q.—And you hold your lands under three janmis?

A.—Yes.

Q.—Can you give us an idea of the kanam amount which you have advanced to the janmis?

A.—I took assignments of kanam in some cases while in others I purchased them. In the case of one holding held under the Zamorin, I had to purchase the kanam interest because I had advanced money on the property. The kanam amount on that is, I believe, Rs. 587.

Q.—What is the kanam amount that you have altogether advanced in British Malabar?

A.—About Rs. 3,000.

Q.—And the total amount of michavaram that you pay?

A.—About a thousand paras of paddy which may be taken roughly at Rs. 1,000.

Q.—I suppose you pay renewal fee on all these kanam lands periodically?

A.—Yes, once in twelve years.

Q.—What is the renewal fee that you have to pay?

A.—More or less it amounts to one year's rent.

Q.—You mean the net yield?

A.—Yes, after deducting the revenue and other expenses of cultivation.

Q.—Who pays the revenue to Government?

A.—I am paying the revenue.

Q.—And what will be the net rent that you receive on all these holdings?

A.—About 12,000 paras of paddy.

Q.—Do you cultivate the lands under your own supervision or have you sublet them?

A.—I have leased all my lands to verumpattamdars.

Q.—Will you kindly refer to your written memorandum? In the first paragraph in answer to question I (a) you say "I don't think any kanam tenant in Malabar need be under any disability whatever who conducts himself according to the kanam and janmi mariyada, by which I mean payment of the prescribed purapad at the proper time and place, taking renewals at the proper time, not creating disputes about the janmi's title, avoiding impudent and insulting behaviour towards the janmi, avoiding acting against the interests of the janmi in other respects, showing due regard for his position and prestige." What have you in mind exactly when you say "avoiding impudent and insulting behaviour"?

A.—Sometimes they abuse the janmis in their face and sometimes they abuse them behind their backs.

Q.—Of course, abusing one behind one's back is common. With regard to abusing in one's face, is it done without any provocation?

A.—It all depends upon the way in which the janmi takes it.

Q.—There must be a standard for the insolent behaviour. I assume the insult is offered without proper provocation. Is that what you mean?

A.—What I mean to say is this. If according to the ancient customs and manners the policy of give and take is prevalent, there can be no occasion for the insult. But conditions have completely altered not in the case of well-to-do kanam families and elderly people, but in the case of half-educated, good-for-nothing fellows of the school who create all the troubles in the country.

Q.—Have you any instances in mind when you say that?

A.—I should like to be excused from citing instances. In recent years this insolent behaviour is of very common occurrence. I don't make heads of well-to-do families responsible for that.

Q.—And you proceed to say "I know several such kanam families who hold their kanam holdings undisturbed from generation to generation." Could you kindly tell us how many families or what percentage of families have held kanam lands without disturbance?

A.—Percentage may be very small.

Q.—Then your generalisation is not quite correct?

A.—It will be small compared with the large bulk of lands held on kanam tenure.

Q.—And the reason for the non-continuity of such tenures is you say the insolent and impudent behaviour?

A.—That will be one of the contributing causes.

Q.—There are several causes which bring about discontinuity in these holdings?

A.—Yes. I have mentioned them below in my written answers when dealing with the reasons for the grant of melcharths and eviction suits.

Q.—In answer to question I (c) you say "Land is not improved on account of the fear of eviction. I have been a vakil for nearly 40 years and my experience tells me that this is an absolute falsehood". In answer to question VIII (a) and (b) you say in connexion with rents "If the tenant complains about the unfairness of the existing rent it must be left to him to show that without any fault on his part as a tenant the produce does not allow the payment of rent now fixed as the lessor's share. This is highly necessary in the existing state of things". You therefore contemplate the necessity for fixing fair rents as there is rack-renting in some cases?

A.—I have assumed that the existing rents are fair rents; so that if a tenant comes forward and says "I cannot pay this rent" it is for him to prove that the land will not bear that rent without any fault on his part. That is only a contingency which might happen if the tenant comes forward and complains.

Q.—If the tenant cannot pay the rent according to average standard and if the rent is too much with reference to the yield of the land, then you say that fair rents should be fixed?

A.—I say the burden of proof should be on the tenant to prove his statement. I presume that the existing rents are fair.

Q.—So, do you mean to say that there are no such cases where tenants are rack-rented?

A.—If there are such cases they will be self-detected. It is not necessary to fix rents. The rent will fix itself.

Q.—Is not bad cultivation, poor cultivation and indifferent cultivation attributable to fear of eviction or melcharth?

A.—Certainly not,—that is against my own experience.

Q.—Is not the fact that a man is likely to be turned out a factor which enters into the mind of the tenant and is it not likely to lead to indifferent cultivation?

A.—Not at all.

Q.—Then in answer to question I (c) you say in continuation "There is not a single redemption suit in which the question of value of improvements is not an item for settlement". What about wet lands?

A.—There may be reclamation in wet lands also, conversion of wet lands into parambas. There is not one redemption suit in which that question does not arise. That is my experience.

Q.—Tenants will always put up improvements and ask for the value?

A.—And legitimately too. He is entitled to the value of the improvements because the nature of the country is such that it affords facility for improvements of various kinds. Reclamation of forest lands into parambas, parambas into paddy-seed beds, paddy-seed beds into one crop lands and one crop lands into double crop lands and then they plant coconut gardens, etc.

Q.—I am not able to grasp the application of that proposition to wet lands in general. I can understand the conversion of dry land into garden land?

A.—You will seldom come across in South Malabar a holding which is purely of paddy land. Some paramba or other dry land will be attached to it and the tenant is sure to put his hand upon it and make some improvements. It is very seldom that double crop paddy lands alone are demised.

Q.—Have not the janmis in some cases at least, recently, at the termination of a lease separated parambas from wet lands and issued separate leases with a view to turn out the tenant without paying him any compensation?

A.—Even there he does not settle the value for reclamation of paddy lands.

Q.—When the new lease is given the value of improvements is not settled?

A.—No, it is not generally settled. Even in cases you suggest, where wet lands are separated from parambas and renewals are given separately for both, the value of improvements is still undecided.

Q.—In other words the tenant agrees to pay the old rent and the old renewal fee although he has made improvements?

A.—If he has made improvements, he certainly gets the benefit of them. He must be satisfied with the increased produce of the improvements. He cannot ask for any reduction in the rent or renewal fee.

Q.—In answer to question I (d) you say "That the janmi grants melcharths and evicts vexatiously" and you expand your idea in a few explanatory notes and say that the majority of the big janmis are not in the habit of granting any melcharth at all. We find from the figures that we have obtained that there is no diminution in the number of melcharths and eviction suits. On an average for the last ten years melcharths amounted to 3,000 a year and eviction suits to about 3,200 a year. This average figure is more or less the same for all the years and we see no tendency of a fall in figures. Then how are we to say that all big janmis don't grant any melcharths at all?

A.—I make an exception there. 3,000 and odd evictions and melcharths out of nearly 3 lakhs and 50 thousand holdings under kanamdars? I ask, is that a big figure?

Q.—That is a different point. The total number of melcharths compared with the number of holdings is different?

A.—In the case of at least half a dozen big janmis, for whom I was the legal adviser, I know that they don't grant melcharths and I also know some others don't grant melcharths.

Q.—The Committee wants to know on what experience that statement of yours is based?

A.—I can mention the names of the janmis if you want.

Q.—Excluding these janmis whom you know of personally you have no experience whether big or small janmis resort to melcharth or eviction suits?

A.—If they are granted at all they are by impecunious janmis and not by big or respectable janmis.

Q.—So your impression is that big janmis don't resort to melcharths?

A.—Several of them have come to believe that it is dishonourable to grant melcharths.

Q.—But, what about direct eviction suits including redemption? Is there no odium attached to them?

A.—I don't think there is any dishonour attached to them. No janmi goes to Court wantonly unless he is compelled to do so by the tenant owing to the latter's default. My experience is that janmis seldom come to Court, and when they do they have sufficient reasons for that.

Q.—Then you say that "The right to grant melcharth is an incident of every kanam as the right of pre-emption is an incident of otti. A melcharth is only the exercise by a janmi of his inherent right of redemption". But you say at the same time, and very rightly too, that melcharths are now given because some flourishing vakils or officials want the land. Would you grant the position that that is an abuse of this power which the janmi now possesses?

A.—I won't say that it is exactly an abuse. There may be instances in which there is sufficient cause for either eviction or grant of melcharth; then the vakil takes advantage of that. I won't charge the janmi with creating a necessity for the grant of melcharth of such a nature. Of course, there may be a very few instances which may be put down as an abuse also.

Q.—To prevent that abuse of power what will you do? Are you for any legislation to prohibit such melcharths?

A.—I am of opinion that the legislature need not take any notice of such stray instances, because I am of opinion that there is no crying need for any legislation on that matter.

Q.—Will you kindly refer to your answer to question I (f). You say: "I am not aware that any janmi in Malabar realizes by way of renewal fees anything over and above one year's income of the holding. I know of several janmis who realize far less than this. The large majority of the kanamdars realize annually after meeting all the outgoings much more than the kanam amount itself." By one year's income I trust you mean the net income?

A.—Yes.

Q.—Later on under 'renewal fees' in answer to question VIII (a) and (b) you say: "Out of the rent of the holding the Government revenue and the interest on the kanam amount has to be deducted. A small portion of what remains is alone paid as purapad annually. Properly speaking, the janmi is entitled to the whole of the rent after deducting that which is set apart for Government revenue and interest. This he does not demand and receive annually. For, what he does is this: the total of this surplus for twelve years is calculated to be so much, half of it he makes the tenant pay in a lump sum, the other half he relinquishes in favour of the tenant to compensate him for the advance payment that he makes and to cover all the vicissitudes of season, etc. This is the primary principle of renewal fee." Does this formula which you now state here roughly equal one year's net income?

A.—It has come to that now. What is stated is the principle and the origin of it. Formerly some of the janmis were realizing their renewal fees according to the formula. Now it has reduced itself to one year's net income of the holding.

Q.—But it won't be true to say generally that one year's net income of the holding is equivalent to the renewal fee which you explain under your formula?

A.—Some impecunious janmis take up to half the net according to the formula.

Q.—You say the janmis forego the remaining half in favour of the tenant because of the advance payment which he makes and to cover all the vicissitudes of season, etc. On advance payments do you allow interest?

A.—Supposing making all these allowances there is a balance of Rs. 50 we multiply it by 12 and dividing the product by 2 we get Rs. 300. Some janmis will be content by taking something below this amount, but others take this amount itself as their renewal fee.

Q.—It has been stated before us that the origin of this practice is that kanam tenures were originally granted over land which was not reclaimed and which was given to the tenant and that the tenant had to reclaim it and make it fit for wet cultivation and in consideration of that fact the janmi willingly relinquished a portion of the full rent and it is also said that the kanam tenant stood under feudal relations with the janmi by performing duties styled the *kana janma mariyada*, besides the payment of rent and had also to perform some duties to the janmi and the fixing of the low rent was a result of that. What is your opinion in regard to that theory?

A.—So far as the first part is concerned that kind of lease is known by a special class of tenure called kuzhikanam or vettukanam. By the expression that a land is leased on kanam I think the impression that is conveyed in my mind is that the land which is in a ready state is given to the kanam tenant for cultivation. Even before the Tenants' Improvements Act became law owing to the peculiar state of the Malabar law the tenant was getting the value for his improvements.

Q.—And so your answer is, so far as the kanam tenure is concerned, the first theory has no basis at all. What about the second theory, the feudal relationship between the landlord and the tenant?

A.—With regard to the second theory, it was so. I have dealt with the principle of the *kana janma mariyada* in the first part of my written answer. That consideration does not exist now. Now it is all a business proposition.

Q.—In that case why should the janmis be satisfied with half the rent while the whole is due to them?

A.—The reason may be this. Twelve years' time has to run. There are several vicissitudes of the season which the tenant should undergo. So he is given a margin to cover up all incidence of cultivation.

Q.—In taking the verumpattam rent do you take vicissitudes of season into consideration?

A.—Not so much. Taking good and bad years together the tenant will be able to make up the loss which he might have sustained in one year through the profit which he might make in another year.

Q.—Because the janmi is getting the sum in a lump instead of in dribblets, that might be one consideration, but it is not clear why the janmi should lose such a large sum of money?

A.—The reason might be the social functions which the tenant was performing. Moreover the janmi is not hard-hearted enough to exact every pie that is his due.

Q.—Will the janmi continue to be so lenient as that in future if he is assured of the half of the full income to which he may lay a claim?

A.—It is one thing for me to voluntarily pay Rs. 10 to somebody and quite another when a man is commanding me to pay Rs. 10.

Q.—For the last 75 years the law has recognized the redeemability of the kanam and the janmi's right to take full rent out of the land. For the last 25 or 30 years the tenant has ceased to do his part of the *kana janma mariyada*; still the janmi has continued to take only half the total rent. Why?

A.—Because of his generosity and his good nature. It is human nature to be generous also where he could afford to do so.

Q.—So you say that it is the generosity of the janmi that has stood in the way of his exacting the utmost to which he is entitled?

A.—Yes. But I may also mention that this sort of present-day behaviour towards the janmi by the tenant has not been so very prominent till very recently. I mean till six or seven years ago when the new Reforms were introduced.

Q.—In answer to question I in (g) you say "Unless and until other means of investment become practicable it would be inexpedient to restrict the right of alienation of land and the creation of subordinate interest in the same. For, if you restrict the right of the janmi by granting permanent right to kanamdars or others you cannot help restricting the right of kanamdars or others from parting with their interest in the land and if you do so landed property becomes valueless both for the janmi and the tenant." What do you mean by creating subordinate interests? Now there are quite a hierarchy of tenants. Do you mean the legal rights?

A.—All of the hierarchy of tenants have got legal rights.

Q.—I don't understand the full implication of your statement "It would be inexpedient to restrict the right of alienation of land and the creation of subordinate interest in the same"? You say there are subordinate interests now; where is the proposal to create new interest?

A.—When a janmi wants to take a loan and if his present kanamdar is unable to pay him the money required I may advance a loan to him in the position of a second mortgagee. I may renew with the janmi later and redeem the existing kanam interest if necessary.

Q.—It is virtually a melcharth. Is it not?

A.—You may call it so, but I call it second mortgage. So, the landlord must be free to borrow money from any number of people on pledging his interests.

Q.—What do you mean by saying that nothing should be done to reduce the janmam value of the land because it will handicap the janmi from raising the loan?

A.—One of the incidence of absolute property is unrestricted power of alienation and unrestricted power of enjoyment.

Q.—So your position is that that absolute right should not be curtailed in any way?

A.—Yes.

Q.—If the mouied man himself becomes cultivator then he will cultivate better than the man who does not cultivate?

A.—Yes, it follows.

Q.—In answer to question I (a) (2) and (3) you say "So far as kuzhikanamdar and verumpattamdar holdings under the janmis it is difficult to see what disability they can possibly lie under. As for kuzhikanamdar, his only right is to make improvements and claim the value of the same. This the Improvements Act secures to him." Is it not right to expect him to continue on the land?

A.—Yes, I have suggested the remedy lower down that it might be extended to 24 years. That is an exception, that is all. In some cases the tenant himself may like to go away after the period of the lease is over. I ask why should he not be turned away if he wants to go away. The tenant when he enters into a lease knows full well that if he plants such and such things he would be able to make such and such profits out of the land within twelve years and that he runs no risk. He enters into the contract with his eyes wide open.

Q.—You, yourself, have said that land is the only avenue of employment open to everybody in this country. Don't you think that is one reason why people go in for such tenures?

A.—That is a beneficent view to take. If there is such a prevalent mischief (which I deny) then only legislature can interfere.

Q.—You grant there are some cases?

A.—There may be a few cases. You may treat them separately.

Q.—How can the legislature differentiate that?

A.—Enquiries will have to be made. There is nothing peculiar to Malabar. I think in Ireland there is a Board sitting now to make economic enquiries into cases such as this.

Q.—In answer to question III (b) under Remedies, you say: "If there be any, the grant of permanent occupancy right is by no means essential for its removal. If there are such disabilities and they can be removed by grant of permanent right, it goes without saying that all those who suffer from disabilities must be given permanent right. It would be making an invidious distinction for which no justification or reason could be found to remove the disabilities of the one class and allow the rest to lie under the same disability. It may be possible to do so if we extinguished all the other classes." Well, your observation may be right if the proposal is to give permanent occupancy right to all the under-tenants. But where is the difficulty and objection to grant fixity of tenure to the existing tenants?

A.—I say, if you give permanency, give it to all, because similar disabilities exist. That is what I mean. In that case the kanamdar and all his sub-tenants get permanency in one piece of land.

Q.—Fixity of tenure and the grant of permanent occupancy right are different from each other. By the grant of fixity of tenure the janmi will be in a position to redeem his land if the tenant becomes a defaulter, but in the case of permanent occupancy right the janmi can't do that. That is the difference between the two.

A.—It is a modified form of permanent occupancy, that is all.

Q.—Do you find any legal difficulty to the grant of fixity of tenure if you fix fair rent in regard to the actual cultivator?

A.—I suppose law can create all sorts of things. I wonder if such a thing exists anywhere in the world except in Malabar?

Q.—Except in Malabar all these systems of tenure don't exist.

A.—Sub-tenants are far more in Bengal.

Q.—And there they have got fixity?

A.—For sufficient reasons.

Q.—Those reasons are not unknown?

A.—They are there.

Q.—In answer to question III (e) you say "Good behaviour in a tenant is an essential condition for such assistance. Now if you give him the occupancy right a sort of independence is given to him which is sure to be misused towards

his lessor. The old relationship is broken and the relationship will come to be regarded purely as one of contract". Well, it is very difficult to understand the implications very fully.

A.—Independence where it is liable to be abused and transformed into impertinence.

Q.—Is that not perpetuating a bad policy. A man may be independent but at the same time respectful?

A.—Independence which is liable to be abused and only used in that form, I don't approve of.

Q.—Do you mean to say, then, that with the grant of occupancy right independence which is tantamount to impertinence would result?

A.—In many cases it will be so.

Q.—Then you say "The only justification to interfere in their case would be the fear that such a tenant may be turned out at any time without any fault on his part, when there is a competitor prepared to pay a higher rent". You say that is a possibility and that especially when there are under-tenants who are prepared to pay a higher rent. May I take it that the trend of your answer is that it is to the interests of both the tenant and the landlord that the tenant should not be disturbed so long as he behaves properly by paying rent regularly and does not dispute the landlord's title?

A.—He is not now disturbed at all. There is no inclination on the part of the landlord to disturb such tenants except in a few cases.

Q.—Can you assert it safely?

A.—Yes, it is so.

Q.—The standard of life among the tenants may differ. Take, for instance, the Nayar, the Tiyya and the Mappilla. You will find that the Mappilla is the most sturdy, the Tiyya comes next and the Nayar last. Why is it so? Is the Nayar's and the Tiyya's standard of life lower than that of the Mappilla?

A.—Because a Nayar is idle and does not want to work, he is not quite so sturdy as the other two classes of people.

Q.—Do you mean to say that the holdings of Mappilla tenants are better cultivated than those of Tiyya and Nayar tenants?

A.—Yes, certainly. In the majority of cases it is so. I will put the Mappilla first, the Tiyya second and the Nayar third.

Q.—In answer to question III (d) you say "It would be monstrous to attribute to such janmis who have the bulk of their lands under kanam tenure an intention to grant permanent right in the case of kanam tenures. Indeed the old rule about the renewal is based upon the self-redemption principle". What do you mean by this? Do you mean to say that the kanam tenure disappears after a certain number of renewals?

A.—Yes. The kanam advance gets worked off.

Q.—Can you quote any instances where it has happened?

A.—That is the old theory about it. I have not known of any such thing myself.

Q.—Then in answer to question III (f) you say that no grant of permanent occupancy right should prevent a landlord from recovering the land if he or his family wants the same, and then you enumerate the details. May I know what you mean by family?

A.—I mean the family as a whole, the corporate body or the undivided unit.

Q.—I want to know whether you include wives and children of members of the Marumkattayam family also in that expression?

A.—As yet I don't think they are considered to be units of the Marumkattayam family though they are also supported. I don't think they could be legally included as the law now stands.

Q.—Would you include them also if the law is amended?

A.—Certainly. But as matters now stand they have no legal claims, that is the trouble. But there are families like that of the Mappillas and Tiyyas and Nambudiris who have the Makkattayam law of inheritance. In their case wife and children are included.

Q.—You say in answer to question IV (a) (1) and (2) "Even when the tenure holder is turned out in 99 cases out of 100, the kudiyruppu holders are not turned out, but allowed to remain in the holding. The tenure holder is alone turned out by payment of kanam and value of improvements which he has made." Is it not the case that the kanamdar has built his family house on the land and has lived in it for a long time? Is there no hardship to him if he is turned out?

A.—The kanamdar has built a house independently of his kalam. It is not on the kanam land that the kanamdar always builds his house.

Q.—You say that the kanam holder alone is turned out. I ask you whether his being turned out would not be a great hardship to him?

A.—In some cases it may be so. In other cases to retain him there would be far more injurious to the holding.

Q.—How injurious?

A.—He may be a veritable nuisance.

Q.—If there is justification for evicting him he may be evicted but your position is that the house should go with the holding?

A.—Yes. If good behaviour is guaranteed I do not insist upon his being turned out and it is not in the interest of the landlord to turn him out. For the mere pleasure of it a landlord would not turn out a tenant from a big building, and in rural parts these buildings fetch no rent at all.

Q.—Therefore your position is that unless the kudiyruppu could be conveniently detached from the holding and if the tenant is to be turned out of the holding he must also be turned out of the house, however long he might have lived in it?

A.—Yes.

Q.—In regard to urban kudiyruppus you first refer to buildings put up by the janmis and then buildings put up by tenants and hired out. There you say, if it is found necessary Government might purchase the site and give them. Would you advocate compulsory purchase of the house by the tenant from the janmi?

A.—If he is able to do so he might.

Q.—And would you permit him to purchase the janmam right from the janmi?

A.—Yes, in very few cases.

Q.—You say in the case of rural kudiyruppus the extent need not be more than three cents. For what classes of tenants do you suggest that area?

A.—I refer to the farm tenants.

Q.—You don't mean the kanam tenants?

A.—Of course three cents were not meant for well-to-do kanam tenants.

Q.—You say the Tenants' Improvements Act has considerably reduced the number of vexatious evictions and melcharths. With regard to melcharths we find that they have not gone down in number as a result of the Improvements Act. Your statement, therefore, may I take it, is not based on any statistics, but that is your impression?

A.—I have not referred to any statistics. All kanam holdings are not equally improved and the value of the improvements payable is not the same. If there are heavy improvements to be paid for, the janmi will not be able to pay for the cost of the improvements and hence he grants a melcharth.

Q.—What do you mean by vexatious evictions and melcharths?

A.—I mean whenever tenants are not at fault but still they are evicted or melcharths issued against them.

Q.—You say melcharths have not increased but on the other hand they are on the decrease. Have you any proof of that?

A.—I know of instances where eviction suits have been filed and decrees taken and allowed to become barred.

Q.—So, you infer that janmis are not now resorting to melcharths quite as frequently as formerly?

A.—Yes. If the number of melcharths are not reduced it may be due to the present agitation and consequently the landlord's desire to get his lands into his own hands.

Q.—Do you know of instances where the janmi has cultivated or is cultivating the lands himself after the lands have gone back to him?

A.—Yes, there are instances.

Q.—Has that become common?

A.—Well, I think it will become very common in future.

Q.—Could you give us any instances where the janmi has begun to cultivate the land himself or has entrusted the land to his own anandravans for their own cultivation under personal supervision?

A.—Our friend the Raja (pointing to Raja Sir Vasudeva Raja) himself is one. I know he cultivates nearly 50,000 paras yielding paddy fields through hired labour.

Q.—Can you give any more instances?

A.—The Kavalappara Nayar also does the same to some extent. I don't remember other instances just at present.

Q.—In answer to question VI (a) you say "If by the grant of permanent occupancy right the janmi's interest is affected he will have to be given the market value of the property less the kanam and value of improvements and if the occupancy right is to be given to verumpattakars the market value of the holding as an occupancy holding will have to be given." How will you fix the market value?

A.—Every holding as I said has a rent, we will have to work it on that basis.

Q.—Then you would adopt the procedure as in the case of the Land Acquisition Act?

A.—Yes, that is one method. The other method is as follows: If a particular land is capable of yielding 50 to 60 paras of paddy we pay Rs. 1,000.

Q.—With that as the basis you can work out the market value?

A.—Yes, that is the usual way in which purchases are made now.

Q.—You say in answer to question VIII (a) and (b) that the statement made by the Janmi Sabha at the time of the last settlement that "the cultivation expenses is as much as the seed; this obviously can never be and has never been the case." Do you mean to say that the cultivation expenses are more than the value of the seed?

A.—Yes.

Q.—How much more?

A.—The minimum is twice the seed.

Q.—So, they must have made an inconsistent statement because they had no idea of the actual cultivation expenses. Is that so?

A.—That is right.

Q.—You say in regard to verumpattam cultivation that one man cultivates a holding the rental of which is 15,000 paras of paddy. I take it that it is not one man who cultivates all this?

A.—No.

Q.—Referring to the rent which a tenant pays, you say the existing practice is that the verumpattamdar or the tenant who holds wet land does not pay any separate rent for the fruit trees in the paramba. If that is taken into account, if fair rents and fair renewal fees are fixed then you would fix rents not only for the wet lands but also for the fruit trees on the parambas, and the tenant will have to pay rent for all the income which he gets from the parambas also?

A.—That will break his back-bone.

Q.—If you fix fair rents then what injustice is there in his being asked to pay that also?

A.—There is no injustice from our point of view but in the case of the tenant he values it more than the paddy itself.

Q.—Then there is a remark which you have made in regard to the share which the tenant should get out of his holding. Well, this has been done by the Settlement Department. What is your opinion in regard to accepting the standard outturn of the Settlement Department as the total produce in the particular holding according to the taram of the soil. The standard outturn has been fixed after a series of crop experiments, i.e., the total yield which an average land would give. Have you any objection to that standard being fixed?

A.—Those experiments were not accepted as being satisfactory by the people in general and as a matter of experience I think it is not generally accurate also.

Q.—Have you investigated any cases and found it to be so?

A.—From my actual experience I find that the actual outturn adopted by the Settlement Officers is not correct. They are too inaccurate to be of any use.

Mr. H. R. Pate :—Q.—I understand that on the whole you are opposed to any legislation being undertaken?

A.—Yes.

Q.—Do you base that opinion on the theory that there are no serious grievances on the part of the tenants or it is impossible to legislate?

A.—Both. There may be a few cases of disabilities here and there but when legislation is attempted the evil must be so general that the public must be protected by the intervention of legislature. I deny the existence of such disabilities in Malabar at present.

Q.—You are familiar with the general cry that the most pronounced evils of the system are in the matter of eviction and melcharths, arbitrary exaction of renewal fees and the general insecurity of tenure. Let us take evictions first. Are you of opinion that the practice of evicting tenants (even though they perform their obligations regularly) is on the increase?

A.—No, it is not at all on the increase. Considering the number of holdings the number of evictions, for which statistics are produced, must be pronounced to be insignificant.

Q.—Supposing it were found that evictions were very frequent and that some remedy must be found, then what do you suggest?

A.—Evictions might take place for justifiable and unjustifiable reasons. If the evictions take place vexatiously and for unjustifiable causes and if the practice is generally prevalent and has become a nuisance in the district, by all means legislature could interfere then. Short of that it will be wanton interference by the legislature.

Q.—And in what form that legislation which you propose should be?

A.—By preventing vexatious eviction.

Q.—How can you find it out?

A.—It is no doubt impossible to find out what the vexatious suits are.

Q.—On the other hand you have suggested that evictions should be prevented except under certain number of conditions but do you contemplate the law to be passed?

A.—If there is to be a law there should be exceptions. I have already heard that those grounds are illusory. But I am prepared to hold that the landlord's position requires protection. That should always be the case in taking one man's right and giving it over to another man. In other words it is an impracticable thing. Kill one man to make the other survive—that is the only practical thing!

Q.—On the other hand what do you think of a system by which you should declare that subject to certain stipulations as the payment of fair rents and fair tenure? Do you think legislation on those lines would be satisfactory assuming for the moment that the janmi could be compensated some way and also bearing in mind that the janmi could at any time get back possession of the property whenever the tenant falls in arrears?

A.—It may be possible to do so in some cases, but it will not be possible to do so in all cases. I am of opinion that even that is capable of being abused and it will also lead to multiplicity of litigation.

Q.—I think the strongest out-cry probably might be the tenant is against renewal fee and melcharths. Do you think there is any method by which you could regulate renewal fees?

A.—The one logical way that I could think of is this: Allow every janmi to pay off the kanamdars retaining the tenants in possession of the property as verumpattamdars. That is the medicine which I could find for the disease.

Q.—But that medicine is in itself not new? Cannot a janmi do so under the present law?

A.—Yes, it could be done but that is not generally done. But in this case which I suggest I would give the verumpattamdar occupancy right on that condition. Under my scheme there will be no renewal fees, no increase of michavaram and other things.

Q.—Then what will happen to the actual cultivator—the verumpattamdar?

A.—He will also get his occupancy right.

Q.—Under the main verumpattamdar, the ex-kanamdar?

A.—Yes.

Q.—If that were done you think the new verumpattamdar should be given fixity of tenure?

A.—Certainly.

Q.—Then, are you not depriving the janmi of a certain power of increasing the value of his holding?

A.—Yes, but if the legislature decides upon that course then the janmi will perhaps consent to that.

Q.—You think the janmi in that case will not claim compensation?

A.—I don't think he will lose very much as he is getting full rent.

Q.—You are assuming the full rent of 1927, but the full rent in 1947 cannot be the same?

A.—We might take the present rents as a fair basis, subject to variations either way for stated causes.

Q.—Do you think that would be generally acceptable to the janmis?

A.—I suppose if the worst is going to happen this is the best that they could accept. Of course, I don't say that it will be acceptable to them.

Q.—In the case of garden lands your suggestions cannot be operative?

A.—The value of improvements is left untouched, the tenant enjoying his improvements. Rent may be fixed based on the old rent and the value of improvements, but the bulk of the latter will be enjoyed by the tenant himself.

Q.—Sometimes the improvements belong to the janmi. What will happen in that case?

A.—Then additional rent will have to be paid.

Q.—Do you think the kuzhikanamdar will appreciate that change?

A.—That is a very hard problem for me to say.

Q.—And what about the janmi?

A.—It will increase the janmi's income ten to fifty-fold. Are my friends (looking at Mr. Kotieth Krishnan and Rao Sahib V. Krishna Menon) agreeable to this proposal? (Laughter.)

Q.—The result of that process is that the janmi increases his rental and the kanamdar on the other hand will merely have tenants-at-will under him?

A.—As it is going on now.

Q.—What happens if the kanamdar is paid off and the land is taken under the direct management of the janmi?

A.—Sometimes, as I said, he cultivates himself but on some occasions the land is re-devised to some other person.

Q.—It is a new departure, is it not, this process of general redemption and consequent direct management by the janmi?

A.—It has been going on for a long time. Whenever the janmi finds that he is able to redeem his property from the kanamdar he does it.

Q.—Is it on the increase?

A.—It may be on the increase and if so I attribute that to the present day agitation. The old grievance was that redemption used to take place within the period of twelve years. Now only after twelve years an eviction is possible.

Q.—You have told us a good deal about the unpleasant relations between the janmi and the tenant. Have you any remedy for that?

A.—How can I suggest? I suppose good sense should prevail. If you leave the things as they are at present the janmi and the kanamdar will ultimately become closer friends as of olden times.

Q.—You don't think that there will be any use legislating?

A.—I should think on the other hand that even the existing state of friendly feeling between the janmi and the tenant will disappear.

Q.—I believe you will be prepared for legislation which would restrict the rents of the verumpattamdars?

A.—According to me if a verumpattam tenant comes to me and wants to take 10 acres of land telling me that he has got the wherewithal to cultivate properly—well, without demanding the interference of legislation I would be prepared to give him occupancy right. The land now requires verumpattamdars of that stamp and they don't require any legislation at all, because no wise landlord would turn out such a tenant.

Q.—Do you think that the existing rents in some cases paid by the verumpattamdars are in excess of what they could pay?

A.—Very seldom it is the case.

Q.—If it were found that that state of things exists would you agree to legislation and, if so, to what form of legislation?

A.—I could think of a severer punishment and that is afforded by force of circumstances itself, viz., the holding will become discredited in the public eye because the incoming tenant will go away after one year and that process will go on for ever.

Q.—Don't you think that the verumpattamdars would be benefited if fixity of tenure is given to them?

A.—I should think that he would be in a worse position. The first thing he will do will be to pledge this land. As matters now stand there is absolutely no love lost between the karnavan and his anandravans. On some excuse or other if he gets his fixity he would pledge his land on some pretext or other.

Q.—So your opinion is that if you grant fixity of tenure to the last tenant (the cultivator) you will be doing more harm than good?

A.—I think so and afterwards he will begin to eat on the rent due to the landlord.

Q.—But would it not be possible to legislate that these verumpattamdars who are given fixity of tenure should be prohibited from selling or otherwise disposing of the property to any other person other than an agriculturist?

A.—That will be an extreme step to take.

Q.—Do you think that it will be difficult to work it?

A.—I don't know if it is an approved form of legislation.

The President :—There is such a legislation in some other parts of India, I believe. There is the Punjab Tenancy Act.

Q.—How will that law operate in Malabar?

A.—I don't think it will operate well here because we have people here who are not hereditary cultivators, such as blacksmiths, carpenters and goldsmiths, etc., and who are now trying to cultivate the land and they will not bestow proper attention on the soil with the result that the yield will suffer.

Q.—With regard to kudiyruppus you said, provided the house is independent of the holding and the occupant of the house gives security for good behaviour you have no objection to give him fixity of tenure for that house?

A.—There is no objection, unless there is a large slice of paramba adjoining that.

Q.—If you are going to make that a law, do you think that it is possible to explain it in the form of words to define a house which can be said to be independent of the holding?

A.—There is trouble there also.

Q.—Don't you think it could be got over?

A.—Ultimately it will have to be decided by courts.

Q.—In your experience what proportion of the evictions which are actually carried out carry with it evictions from family houses?

A.—I think about 25 per cent will be family houses in cases of eviction of the kanamdars.

Q.—It amounts therefore to a considerable evil, these evictions from family houses?

A.—If it is considered to be considerable.

Q.—Do you think that it should be prevented?

A.—So far as my experience goes the real complaint is not on the part of the tenant but the janmi. The tenant's complaint is only for the purposes of agitation. What the tenant does is that he puts up a costly building to make the value of the house prohibitive and redeeming by the landlord almost impossible. They purposely put up these costly structures to make the janmi pay unnecessarily.

Q.—Do you think some legislation desirable under those conditions?

A.—Well, if the evil is considered to be widely felt.

After Mr. Pate had concluded his examination of the witness the Committee rose for lunch at 1-35 p.m.

The Committee met again after lunch at 2-30 p.m. and examination of Mr. Kalayanakrishna Ayyar was continued.

Mr. Kotieth Krishnan :—Q.—You say "I don't think any kanam tenant need be under any disability in Malabar who conducts himself according to the kanam and janmi mariatha by which I mean payment of the prescribed purapad at the proper time and place, taking renewals at the proper time not creating disputes about the janmi's title, avoiding impudent and insulting behaviour towards the janmi, and avoiding acting against the interests of the janmi in other respects showing due regard for his position and prestige." Now, supposing a law is enacted by which all these are secured to the janmi and a qualified fixity is given to the tenant on the understanding that he will remain in possession so long as he satisfies all these conditions, then you will certainly have no objection to granting such a fixity?

A.—Certainly I have objection. Legislation is not to be resorted to for nothing. There must be some grievance. Now here it will be a superfluity.

Q.—So even in such a case you would say that no legislation is necessary because there is no necessity?

A.—Yes.

Q.—Now, if the Committee thinks that some sort of legislation is necessary, then if these conditions are assured to the janmi then you will take it as the next best alternative?

A.—I don't think you are fair in putting that question. First I must see the whole body of the legislation—the main principles, then only I can answer that question.

Q.—I will just tell you the main principles. Now, supposing the Committee is able to find out some method by which we will be able to fix an economic rent—of course there may be some difficulty in fixing it—supposing we are able to apportion a fair share to the janmi and a fair share to the tenant as a sort of *via media*—I mean to say, supposing we agree about a certain principle as to the economic rent and prescribe also a fair renewal fee, will there be any objection to

giving qualified fixity to a tenant who undertakes to pay that economic rent and undertakes to renew at the expiry of the period on payment of the proper renewal fee?

A.—What is the necessity for such a legislation? Every legislation tends to increase of litigation and bitterness of feeling; that is my experience. If you take the 'Digest' for any year, you will find, under the head 'limitation', so much; under the head 'Estates Land Act' so much; 'North-West Province land tenure' so much; under the 'Improvements Act' so much.

Q.—In other parts of the Presidency it is the pattadar who cultivates; in Malabar on the other hand, the pattadar is not the cultivator, is it not so?

A.—Yes, more or less.

Q.—Do you think that the State has got the duty to see to the agricultural improvement of Malabar?

A.—I suppose it has got the duty.

Q.—So, when the janmi cannot cultivate the land himself, and the tenant cultivates it, you will not find fault with the Government, if the legislature affords, or if the State affords facilities to the tenant to have improved methods of cultivation?

A.—If I find that the janmi can better cultivate his land than the tenant I will certainly object to it.

Q.—You will then expect the janmi to cultivate the land himself?

A.—Yes. At all events I will not place any obstacles in his way.

Q.—Supposing the janmi is not able to cultivate it himself will it not be in the interests of the agriculture of this district that the tenant who cultivates is given every facility to cultivate the land in the best way possible?

A.—It is in the interests of the janmi to see that his land is well cultivated, and I think that prudence will suggest to him to select the best tenant.

Q.—You will therefore leave it to natural selection and not have any interference by the legislature?

A.—Yes.

Q.—Now the verumpattakaran is the actual cultivator of the soil?

A.—Yes.

Q.—Are there many kanam tenants who are the actual cultivators?

A.—There must be a proportion of the kanamdars who are the actual cultivators, especially in parts of the Ponnani taluk where there are small holdings. There is a small proportion of them engaged in actual cultivation.

Q.—You say the verumpattakaran is very poor, and cannot purchase the necessary implements, manure and seeds necessary for efficient cultivation and in such cases the janmis are helping them?

A.—I think so.

Q.—Now will it not be possible for a class of people between the janmi and the actual cultivator to do this financing business for the janmi if the janmi is not able to do so?

A.—Not at all. I would leave the verumpattakaran and the janmi alone. My view of the matter is, if there should be efficient cultivation and agricultural improvement, there should be on the land the proprietor of the estate and the verumpattakaran alone. All the others must go.

Q.—Do you think that the present day janmis will be able to give all the money necessary to these verumpattakars for efficient cultivation of their land?

A.—They can if they wish. If they are put to it, they will and they can.

Q.—May I take it then that the average class of janmis have got money for all these purposes?

A.—A very large percentage will have this.

Q.—All this money that they have, is I take it, earned from their holdings?

A.—Not necessarily.

Q.—Now, in III (d), you say 'If you give him this occupancy right, a sort of independence is given to them, etc.' Will you please explain that 'independence'? What is the apprehension?

A.—The apprehension is this—an unreasonably insulting attitude.

Q.—What is the cause of that? You say there has been very cordial relationship between the landlord and the tenant in the past. Why should the tenant be unreasonably insulting towards his janmi? As a class why should they do it?

A.—That is a very difficult question to answer. They need not be so. The reason may be, his stupidity. The reason may also be this. He may think 'all this time this man has not been treating me properly; now, when I have got a chance, let me return the same'.

Q.—You think that the tenant would probably think that formerly, before the grant of fixity, the janmi has not been treating him properly. So when he gets a chance he will have it out with him.

A.—Then, when he goes to the landlord, the landlord must provide him with a chair, must give him coffee, tea and all that, he must allow him to enter his building. These are the sorts of things which are now resented by certain classes of tenants.

Q.—So if the tenant gets fixity he would resent if he is not given a seat by the janmi?

A.—He will.

Q.—Also if he is not treated with a sort of respect?

A.—Yes.

Q.—If he does not do that, that will be taken as an occasion by the tenant to unreasonably insult the janmi?

A.—Yes.

Q.—And that feeling, you think will not be conducive to the best interests of this district?

A.—I should think so.

Q.—So, for the better well being of the people of this district you would expect all the tenantry to be deferential towards the janmi and show all respect towards him?

A.—As is the case with of all aristocratic landlords all over the world. The landed aristocracy all over the world commands some respect. The tenants under them or the farmers under them ought to behave respectfully towards them. That is not a case peculiar to Malabar. Take England for instance. Take the case of a Lord owning large acres of land.

Q.—You need not develop it further. What I want to know is, whether you think that one of the serious consequences of any tenancy legislation granting even qualified fixity of tenure would be that the deferential attitude of the tenant towards the janmi would be lost and on that account there would be considerable bitterness of feeling?

A.—It is one of the consequences; it will lead to many others. The friendly relationship between the landlord and tenant will cease to exist. The assistance that is now rendered will cease to be rendered.

Q.—The moment the tenant shows his independence or unreasonably insulting attitude?

A.—Yes, but it is not everybody who can wield this independence. The tenantry has not attained that stage.

Q.—You say that if there are any melcharths at present it is due to the alarm caused in the minds of the janmis that any tenancy legislation will take away their rights?

A.—If there is any increase, I say, it may be partly due to that.

Q.—Have the janmis, to your knowledge, been granting melcharths during the last four or five years?

A.—No.

Q.—Now, in the matter of calculating rent—of course you have a wide experience of Nambudiri clients and other janmis—in the matter of calculating michavaram, do you know whether there is any basis for calculation? I understand that it is half the verumpattam. Suppose the verumpattam is Rs. 1,000; you deduct half from it and out of that deduct the interest on the kanam and the balance represents the michavaram, is that not the usual practice?

A.—That is not the usual practice. The revenue is deducted and certain other allowances are made. Then only a nominal figure is fixed as michavaram.

Q.—Am I to understand that supposing 1,000 paras is the verumpattam rent, the revenue is deducted out of this and interest on the kanam amount is also deducted and a nominal sum goes to the janmi as michavaram?

A.—A very small proportion.

Q.—Can you fix it with reference to any figure, say, half or one-third?

A.—It may be even less than one-third.

Q.—The renewal fee is fixed with reference to the verumpattam rent or the michavaram rent?

A.—I think the modern practice is to fix it with reference to the verumpattam rent which the tenant is getting.

Q.—In cases where the kanam tenant himself is cultivating how do you find out the verumpattam rent?

A.—Every holding in Malabar has got a fixed verumpattam. If you go and ask a person, who is holding such and such a holding, what is the verumpattam rent, he will be able to tell you.

Q.—So I take it that it will be very easy to find out the verumpattam rents of wet lands in the whole of Malabar?

A.—Yes. I mean to say, in the generality of cases there will be no difficulty.

Q.—Supposing the verumpattam rent is 1,000 paras of paddy. What do you think the verumpattam tenant will get as his share out of the gross produce of the land?

A.—That will depend upon the nature of the cultivation that is carried on. If he is an efficient and good cultivator he will get a pretty large share, he may get about 50 per cent of the rent that he pays. That is, if he pays 1,000 paras, if he is an efficient cultivator he will get 500 paras as his share.

Q.—Now in the case of kuzhikanam land, suppose a waste land has been given to the tenant by the landlord for cultivation. The tenant cultivates and plants coconut trees. After twelve years all the improvements have come to bearing. Suppose the tenant is able to make Rs. 100. What share out of this will you give to the tenant?

A.—The bulk of it will go to him. In the case of kuzhikanam leases it is contemplated—it is the understanding—that at the expiry of twelve years improvements will be assessed and either the tenant will be paid the amount and the improvement made that of the landlord or it will be made a charge upon the property and converted into kanam.

Q.—So supposing there is any idea of fixing fair rents regarding kuzhikanam lands, you say that there is a practice at present of capitalising the value of all the improvements and treating that as kanam?

A.—I mean that is contemplated by the very definition of the lease.

Q.—What percentage of interest would you give on that kanam?

A.—The usual kanam interest in old days was 5 *idangalis* of paddy so far as paddy is concerned. So far as money is concerned I don't think it goes up to 12 per cent.

Q.—Would it be fair if it is fixed at 10 per cent?

A.—That will depend upon the market rate at which money can be borrowed.

Q.—The usual *Mariatha Palisa* is 12 per cent and if the tenant wants to effect improvements he must borrow at this rate. So is it not fair to allow him 12 per cent?

A.—It will only be fair to give him 12 per cent interest.

Q.—Now supposing there is a property the net income of which is Rs. 100 after defraying all expenditure and suppose all the improvements belong to the tenant. Now these improvements may probably be worth Rs. 500. And it is the usual practice, you say, of converting that into kanam in favour of the tenant. Now in fixing the interest on this kanam you would give 12 per cent?

A.—Could be given.

Q.—Out of the balance the janmi must be given a share. You would give two-thirds of the balance to the janmi?

A.—After deducting the rent, interest and the looking-after charges the rest of it must go to the janmi.

Q.—So you would calculate the supervision charges also as an item of expenditure?

A.—That has also to be calculated under the Improvements Act. After all this, the net will be Rs. 100. The rest must belong to the janmi.

Q.—Out of that the janmi must pay the revenue?

A.—Yes.

Q.—You would not give any portion of it to the tenant if the improvement belongs to the landlord?

A.—After paying 12 per cent interest, logically it follows that the rest belongs to the janmi.

Q.—Supposing the interest is only 8 per cent, then you would give something to the tenant?

A.—I do not know if he will be content with 8 per cent. Anyhow he must give the rest to the janmi.

Q.—So the share that is to be allowed to the tenant is not dependant upon the rate of interest?

A.—Not necessarily. That is purely a matter of contract.

Q.—Suppose the legislature fixes that 12 per cent interest should be given?

A.—It will not make any difference at all.

Q.—Suppose the legislature fixes it at 8 per cent?

A.—Then also there is no difference. The whole of the rest must go to the janmi. It will be bad luck for the tenant to have such a legislation.

Q.—You would not give any share to the tenant for looking-after charges?

A.—That has already been included in the expenses. I would value it under the Improvements Act. Then he will get other sundries which the garden produces.

Q.—In the case of paddy lands can you fix a rental with reference to the revenue of the property?

A.—No, it is not possible, in the case of even a single holding in Malabar.

Q.—You say that if kanam is converted into verumpattam then no question of renewal fee comes up. So if the legislature proposes that kanam may be made redeemable mortgage and if an economic rent is fixed then you will not insist upon getting renewal fees?

A.—My fundamental position is that every holding whether it is verumpattam or kanam, has got a fixed rent which is a fair rent and if that rent is assured to the janmi then he should not grudge.

Q.—That is he should not demand renewal fees?

A.—Yes.

Q.—Suppose a single crop land is converted into double crop land and the tenant invests Rs. 1,000 or 2,000. Now in fixing rent in respect of that land, you would take into consideration the interest on the investment made by him and give that share to him just as you would do in the case of kuzhikanam?

A.—Decidedly. But in practice it is not settled at the time of renewal. Except at the time of eviction, it is let alone.

Q.—Supposing a qualified fixity of tenure is given to the tenant improvements will have to be valued at the expiry of the term. What share will be given to the janmi out of that?

A.—Supposing the rent is 100 paras and the yield on account of the improvements has come up to 150 paras total and the interests on the amount spent is, say, 30 per cent I would fix 120 paras as rent due to the landlord, which is worse so far as the tenant is concerned. Now he gets much more than that.

Q.—By this arrangement the janmi will be the gainer and the tenant the loser?

A.—Yes.

Q.—You say that the condition of the actual cultivator is growing from bad to worse. Why is that?

A.—Because he has not got the wherewithal to properly and efficiently cultivate the land.

Q.—Is there any competition found for verumpattam generally?

A.—I think there is hardly any—not that I know of. I do not think there is any unhealthy competition.

Q.—But there is competition for kanam?

A.—I do not know.

Q.—Is it because the margin of profit the actual cultivator gets is so low that the competition is lower for verumpattam lands?

A.—That may be one of the reasons.

Q.—You said that good janmis are not in the habit of granting melcharths and they consider it improper to do so. Why do they consider it improper to do so?

A.—Because there are some agitators who cry down these things. They write all sorts of things in the newspapers, janmis are abused in season and out of season, and even while in the railway compartments. Therefore the janmis who are Rajas and Nambudiris and others who are very sensitive do not do this now.

Q.—That is the reason why they do not give melcharths now?

A.—That is one of the reasons.

Q.—Is there any other reason?

A.—The other reason is this. They think, 'if the old tenant behaves properly why should we turn him out'?

Q.—Do you think that it is on account of the generosity of the landlords that melcharth is not given?

A.—Partly on account of generosity and partly on account of the fact that there is no necessity to turn out the old tenant and introduce a new man. The old man may be an obedient man, the new-comer may be boisterous.

Q.—Do you know there is a tradition in the Paliath family that they should not give melcharths?

A.—I do not know whether there is any tradition. But generally they are not giving melcharths. Several other families in British Malabar also do not give melcharth.

Q.—Is it because that it is very hard to turn out a tenant that this system has been introduced in the Paliath family?

A.—There is no such system there at all. If the tenant misbehaves they turn him out.

Q.—Do they give melcharth?

A.—If it becomes necessary they do so. Very recently there was a complaint and I interceded. Paliath is my client. Very recently there was an instance.

Q.—Do you think that eviction except for proper reasons is justifiable?

A.—It is as much justifiable as for a creditor to demand his debt from his debtor.

Q.—You say that in the newspapers and while in the Railway stations janmis are insulted. All that is within the last dozen years?

A.—Quite so.

Q.—So before that why did these janmis not grant melcharth?

A.—They did not find it necessary to do so.

Q.—Is it because the tenants were very obedient?

A.—Not necessarily. They found no occasion to turn out a tenant. They were content with the old tenant.

Q.—So according to you melcharth is very much on the decrease within the last twelve years on account of the agitation of these tenants?

A.—For the last six years at all events I can say.

Q.—If the agitation is kept up more vigorously there will be no melcharth?

A.—Probably, yes.

Q.—I will take it that if the agitation is taken up more vigorously the chances are there will be no melcharths?

A.—There may be a reversion also, if you go too far.

Q.—You said the tenants are disobedient, impertinent and so on. Do you think the janmis as a class are very kind to the tenants?

A.—So far as I know, the majority of the janmis are very good.

Q.—Are the majority of the tenants very bad?

A.—I cannot say that the majority are bad.

Q.—Can you say half the total number are bad?

A.—That is a very difficult problem; I cannot say that. One thing I can say. A few anandaravans of kanam families who are either briefless vakils or failures in schools or who are newspaper-article-writers or editors of newspapers and a few pretended politicians keep up this agitation for their own purpose. I do not think the karanavans of those families are contaminated with this.

Q.—So when the present-day karanavans are replaced by these anandaravans you apprehend still more trouble?

A.—I don't know. Very probably, if the legislature is to say that the existing rights will be protected, I think the agitation will cease that moment.

Q.—May I take it then that if the Committee recommends to Government that no legislation is necessary for Malabar, and accepting the principle that the old rights should be protected, they put down the present agitation; then the relation between the landlord and the tenant would become very cordial and they will revert to the old system?

A.—That is my pious wish and that is my expectation.

Q.—You mean to say that this relation between the landlord and tenant has become so strained since the Reforms?

A.—Yes.

Q.—I take it then that it will become more acute if more powers are given to the Legislative Councils?

A.—I am not a politician myself. I don't know. It is a very difficult matter to answer being examined publicly. I have got my own views in the matter. I have got a proper answer also.

Q.—Do you anticipate more trouble hereafter?

A.—Class legislation of the kind that is now attempted in Malabar—if that is continued, you may expect a revolution in Malabar.

Q.—Otherwise there will be no revolution?

A.—No. If you attempt to take one man's property and give it over to another you may expect revolution in Malabar.

Q.—At the hands of the janmis, I suppose?

A.—The affected party. The legislation affects not only the janmis; there are modern purchasers, such as schoolmasters, magistrates and petty clerks among them.

Q.—The person who will be affected most would be the janmi?

A.—I don't know. The janmi can afford; he is a rich man. The schoolmaster or magistrate might have invested money on the property out of his poor earnings. He might be ruined.

Q.—You say in III (d) of your memorandum “ I should try to remedy this evil by amending the Improvements Act so as to adequately compensate the tenant or by allowing the tenant a further period of twelve years for enjoyment ”. You think that the value of improvements at present is not adequate?

A.—I mean to say there may be exceptions. In such exceptional cases the court must be empowered to deal with such cases when they arise, by amending the Improvements Act.

Q.—You mean to say, by giving the judge power to allow the tenant to remain for another period of twelve years or compensating him by paying a higher rate of compensation than is now awarded under the Act?

A.—That is in exceptional cases. That is to say, ordinarily I should expect that when the parties are made to fulfil their contract there will not be any grievance. But there may be circumstances which the parties did not contemplate either on account of the locality or on account of the yield or other circumstances. There may be such exceptional cases. If the court thinks it is a hard case the court must have power to relieve the tenant of such hardship.

Q.—You say “ It is the fear of the tail being twisted that makes the bullock go forward and straight ”. I take it then that you compare the verumpattamdars with bullocks?

A.—No, I do not give him any tail at all. It is only a simile; he knows that if he does not pay the rent properly and at the proper time the landlord would not allow him to remain on the land. I do not treat him as a bullock though he feeds bullocks. I only mean to say it is that fear that makes him work hard and pay the rent and renewal fees and helps him to continue on the land.

Q.—You say that there is some difficulty for getting labour now on account of emigration of people to distant places. Is it on account of the fact that they get very low wages here that they go outside?

A.—On the contrary it is on account of the fact that they are getting higher wages elsewhere.

Q.—You say that the wages have increased; you think that the wages that they were getting was a reasonable rate?

A.—It was sufficient at that time. Now the prices have gone up and wages have also increased, without anybody controlling it or having anything to do with it.

Q.—Do you think that we can prevent these people from going elsewhere if a small increase in their existing wages is given?

A.—Impossible. The wages that they are getting in other places are so high when compared to that we give here.

Q.—Do you know what they get in the Federated Malay States?

A.—I don't know; I must make a guess. Some of them I hear get as much as Rs. 2 a day and some Rs. 2½. They are making remittances of large sums.

Q.—Do you know that they are getting Rs. 2 and Rs. 2½? I believe that they get there between 10 and 12 annas—of course I speak subject to correction?

A.—Re. 1 is the minimum. Even in Wynad they get higher than that.

Q.—You say that the Mappillas are very regular in their payments?

A.—I think they are very punctual, more punctual than the rest.

Q.—They are a better class of labourers than the other people?

A.—Decidedly.

Q.—You say that Mappillas in Pallipuram and other places are not turned out. Is it because the janmis are afraid of the Mappillas?

A.—No. It does not pay the janmi to drive out such a good cultivator.

Q.—Have you ever heard of murder being committed as a result of melcharth?

A.—I am not quite sure of that. I have heard it said so.

Rao Sahib V. Krishna Menon :—Q.—You say that you are against any legislation at all?

A.—Yes.

Q.—Your reason is that private rights and private contracts should not be disturbed?

A.—That is one of the reasons.

Q.—Where did the janmis get their title from?

A.—It is not granted to them by any person who claims any interest in the property now. Their absolute proprietary right has been recognized at least so far as the records go, ever since 1792.

Q.—When Tippu invaded Malabar were the title of these janmis safe?

A.—I suppose it was as safe as it could be when an invasion takes place.

Q.—Will you accept the principle that the janmis get their title from the State?

A.—Not at all.

Q.—Suppose after the succession of the British rule the State did not recognize your title. Where is your title?

A.—It is one thing to say that the State recognizes your title and it is another thing to say that the State offers title. You must make a distinction between the two. I will tell you about it. In the case of zamindaris the State conferred by legislation title to landed property. Before the zamindars both in Northern India and in some parts of Southern India were given that, that system was sought to be introduced in Malabar, but the Court of Directors, I think, in 1812, discounted it. You will find it, Sir, referred to in 12, Bombay High Court Reports, and also in 3 Bombay, Indian Law Reports.

Q.—Is not the State the ultimate landlord?

A.—Not in Malabar except in one sense. It has got the *melkoimma*. The British Government did not confer the janm right on the janmis in Malabar. That is a great distinction, which has to be kept in mind, between the janmis in Malabar and the zamindars of the rest of India.

Q.—Wherever the British rule was established their first step was to recognize the existing customs and manners and to make arrangements for the collection of revenue in the easiest manner? That is what I understand from history?

A.—May be.

Q.—So, in the same manner the title of the existing persons were confirmed?

A.—No. They were recognized.

Q.—Without that recognition you would never have been janmis now?

A.—If to-morrow a conqueror comes and turns out the British, I must go along with them; that is all.

Q.—The State is always the landlord?

A.—No. Not in the sense that William the Conqueror was the overlord of all England and the lords derived their title from him.

Q.—Suppose we say that it is not necessary to have any legislation recognizing private property? Would you accept that?

A.—That is a step which, I think, the British Government is not likely, for centuries to come, to think even. That is a problem which does not require any solution.

Q.—That shows that mere operation of economic principles alone won't do in this world and the State has to interfere?

A.—The State has to interfere to protect the interests of all classes. Is the State to interfere to take a landed property from one party and hand it over to another?

Q.—Suppose the State considers that it is not safe to entrust the landlords with the safety of the tenants. Then you have no objection?

A.—What objection can I, poor fellow, have? What can I do? If the State were to say ‘ I am not the owner of the property which I purchased with my own money, what can I do? ’

Q.—Suppose the State considers it is not safe to allow the landlord to exploit the tenant?

A.—I mean to say, you are examining me as a witness. You are putting me so many problems. I may have counter-problems to put to you. Let us not go into these political problems, or economic problems. We are practical men trying to find out some solution for the trouble, if there be any, here. I may say in my turn 'Supposing the State considers the janmi's right has so firmly been rooted that it should not be interfered with without payment of proper compensation, would you accept that?' I may put that question to you. All that is not necessary for the proper solution of this question that is before us.

Q.—Now private property always means material property. Labour is a material property. Is it not to be protected as much as immovable property?

A.—Supposing it is.

Q.—What I am driving at is this. You said that legislation is not required if the State is convinced that it is not safe to entrust the tenant completely to the landlord. I say the State must interfere?

A.—It is all a truism. If the State is convinced that the landlords are a bad lot and their tails should be cut off, the consequence follows. Why do you want any statement for that from me?

Q.—You said that in Bengal State interference was necessary?

A.—You are mistaken. If you read the Bengal Regulation you will find that the zamindars are told in that legislation 'Subject to the right of the Government to protect the interests of the existing holders upon the land, we hereby confer upon you *Sannad* proprietary rights'.

Q.—I am not speaking about proprietary rights. I mean Government found it worth while to interfere and say 'we cannot leave the tenants entirely at the mercy of the landlords'?

A.—That is what I say. They got that right subject to this condition to interfere between them and the actual cultivators or the sub-tenants. It is only conditional right that they have got. The zamindars cannot complain. It is not so in Malabar.

Q.—The same necessity arose in Oudh, North-West Provinces, Punjab and Central Provinces and Berar and in the Madras Presidency also. In all these places the State had to interfere?

A.—You do not seem to have grasped my definition. In all these places proprietary right was given subject to the right of the Government to interfere and protect the interests of the actual cultivators so that when the Government interferes the proprietors cannot say 'No, No, do not interfere.'

The President:—Q.—Your point is that even in public interests the State need not interfere in the case of Malabar?

A.—If public interest requires it Government must interfere. If there is such a crying evil that interference is necessary on the part of the Government to deprive the proprietors of their proprietary right then the Government may have the right to interfere. But simply because an agitation is started for some selfish purpose by some disputants I do not think the State has power to interfere.

Rao Sahib V. Krishna Menon:—Q.—You have admitted that there are good janmis and bad janmis?

A.—I don't say there are bad janmis.

Q.—You don't think there are any bad janmis?

A.—No.

Q.—According to you has there been any unjust eviction in Malabar?

A.—Unjust in what sense?

Q.—You were telling us about *kanajanma mariatha*. In that sense?

A.—Do you mean to say that the janmi has been using the power of eviction as a pastime?

Q.—I shall give you an illustration. We all know the Madathil Moopan's family. Were there any unjust evictions by them?

A.—I really do not know. Up to the time of Perumoopan it was perfect.

Q.—In Mr. Logan's time he was considered as one of the typical janmis. Lately he has become the worst janmi? You must have come across their vagaries, I think?

A.—I don't mean to say that it is only in the case of landed property and in the case of eviction that they are misbehaving? Don't press me to say all that.

Q.—My point is that unjust evictions exist in Malabar?

A.—I don't admit that. One swallow does not make a summer. Even in that case, I cannot say it is unjust because, probably when they are arrested for realization of decree debts somebody offers money and they simply put in their signature. Those fellows have run into debts. When they go in a motor car the peon goes and arrests them. I cannot say that they are unjust on that score.

Q.—I very well understand what you say. The word 'unjust' is an elastic and indefinite term. Difference of opinion may take place about that term. I only ask when difference of opinion arises about that would you grant that a third party should decide that point?

A.—I do not grant the right to the tenant to dictate to the janmi all sorts of terms. The janmi is to be recognized as the absolute proprietor of the soil and other persons have only derived their title from him. I do not recognize that right on the part of anybody to put a restriction upon his power. I say the question does not arise. The janmi is entitled to eviction. Whether unjust or just it is to be decided by the court.

Q.—We shall leave that point. You said something about the physical features of Malabar. You admit that the conversion of these lands into paddy fields has involved laborious work?

A.—I do not know whether it was laborious work because the easiest portions were reclaimed first and the difficult portions later. The earlier the reclamation the easier it must have been.

Q.—Part of that work might have been done by the tenant?

A.—Yes, some by the verumpattamdar, some by the kanamdar, etc.

Q.—Were most of these paddy lands in this form some 100 years ago?

A.—Who can say that?

Q.—At least prior to 1886?

A.—If you simply mean to say that lands in Malabar—cultivable lands have increased and that increase is contributed partly by the janmi and partly by the tenants I am with you.

Q.—Before 1886, there was no Government agency to settle what portion of the labour was due to the kanamdar?

A.—The courts were settling that question.

Q.—Perhaps it was owing to the incessant complaint that justice was not done that a law was passed?

A.—No. Different courts were adopting different rates in different taluks. To standardize the rate a law was passed.

Q.—There was no other reason?

A.—The present cry was also raised on account of certain statements made by Mr. Logan, the late Collector of Malabar, who wrote the Malabar Manual. Then there was a Committee appointed similar to this presided over by Sir. T. Madhava Rao. They came to the conclusion that no legislation is possible, I think. That matter was referred to a Select Committee presided over by Mr. Master, who was then Executive Council Member, Sir S. Subramanya Ayyar and Mr. Justice Sheppard and one or two others. They also came to the conclusion that no legislation is possible, that is, affecting the rights of the janmi. They said, all that was required to ease the situation was to introduce an Improvement Act. The Improvements Act was introduced in 1886 by Mr. Subramanya Ayyar as a result of the final decision of the Select Committee. And they standardized the value of improvement, how it was to be valued and all that.

Q.—What is the reason for the statement that the kanam tenure is not so remunerative to the janmi as the verumpattam tenure?

A.—The janmi becomes a debtor in the one case; in the other he can do anything with the property.

Q.—We have elicited in North Malabar, that land is let out on a lower rate of rent on the understanding that the tenant will better cultivate it and improve the land. Whenever it is not in a fit condition for plantation a lower rental is fixed and it is increased when the land improves?

A.—In South Malabar also that is the case. When the land is bad the rent is low.

Mr. Kotieth Krishnan:—Q.—When waste lands are given it is only for a nominal rent?

A.—For the first twelve years it is so. The old rule was at the expiry of twelve years the janmi and tenant may settle the account. There are mediators and the value is settled and that value is put as kanam or if the janmi has got funds he pays the amount and makes the improvements his own.

Q.—Before the Registration Department came all these matters were done according to the kanajanma mariatha?

A.—Why? Even now, several portions of Malabar law are based upon custom.

Q.—Since what date were regular registration deeds executed?

A.—I think it is since 1041.

Q.—What I want to tell you is, supposing the kanamdar or tenant has improved the land prior to that period and now the janmi is going to say that he has not made any improvements, is it not unjust?

A.—I may tell you one thing. Old people were very honest. So honest were they that if a man sells curd he writes the account on the door post. Nobody interferes. They were so honest that a mere word was sufficient. Nowadays we have grown wiser.

Q.—You have said that the usual renewal fee is one year's net income. Is it excluding the cost of cultivation?

A.—Of course.

Q.—I think you have omitted a large number of items which have to be reckoned in that calculation. You have assumed five or six thousand paras as the verumpattam. Is it in the dry state?

A.—You may take it to be so.

Q.—You have not calculated for the vicissitudes of season?

A.—It is not so much there.

Q.—You have not calculated the proximity of the market?

A.—I have taken all that into consideration. It is in the heart of the town.

Q.—Then the tenant has to carry all these things to the janmi's house. There is the conveyance charge?

A.—There is the granary there. You can sift it there and the sale takes place there. In this particular estate you have got a commodious building.

Q.—Then there is the house in which the tenant lives, the cattle shed, all that you have not considered?

A.—I beg your pardon. You have got the farm house and everything there. We are not starting the tenure anew.

Q.—You say the verumpattam tenants as a class are worthless fellows and unable to cultivate efficiently. How are you to improve the holding?

A.—By turning him out. If he works efficiently, I say he will get 50 per cent of the produce.

Q.—Then you will have to go to cultivation?

A.—That is what we are going to do. This agitation is going to result in that. Janmis have taken a vow that they are going to actually cultivate. The verumpattamdars as a class will cease to exist. I know of one instance. A land which was yielding only 2,800 paras of paddy when it was in the hands of a

verumpattamdar, when it was cultivated by the owner himself, is now yielding a net, after meeting all expenses, of 4,500 paras of paddy. That is a living instance. I would allow the existing cultivator to make the land produce as much yield as possible by hard labour and efficient cultivation. Let him enjoy that. I do not interfere with that.

Q.—You have no objection to compel by legislation the kanamdar or the janmi to resort to cultivation?

A.—He will do it when you are going to give the verumpattamdar all these things. It is in his own interest to take up cultivation of his own land into his own hands.

Q.—How do you consider 12 per cent interest on the investment is a fair profit to the cultivating tenant?

A.—You are the Secretary of a Bank. Taking all vicissitudes into consideration I don't think any banker makes a profit of more than 12 per cent interest. The agriculturist is a professionalist and he must be content with the receiving of a net interest of 12 per cent. When 24 per cent or 36 per cent is claimed by a banker or a merchant you try to resort to the Usurious Loans Act.

Q.—Now, suppose a Doctor has spent Rs. 10,000 for his education?

A.—(Interrupting). The analogy is false. My father educated me at a cost of four to five thousand rupees. I have earned 15 lakhs worth of property. Do you mean to say I must leave away everything and take only 12 per cent interest on that Rs. 5,000?

Q.—In the case of an agriculturist 12 per cent is not sufficient rate of interest?

A.—If you are a landlord you will feel whether it is sufficient or not. As a landlord I am bound to say that it is sufficient and as a kanamdar I am bound to feel that it is sufficient.

Q.—Now in the event of legislation being resorted to I do not think there will be any difficulty in fixing the rental and renewal fees because, you say, that every field has got its particular pattam?

A.—If the existing rents are recognised there will be no difficulty at all. My chief objection is this. When you can manage your affair without difficulty why should you go and apply to the legislature? My experience of legislation I told you. They lay down one thing; put another in words; vakils interpret it in a third form and the court arrives at a fourth conclusion. You want independence to the tenants and at the same time you want the Government to treat them as so many babies who cannot take care of themselves. There must be consistency in what you say.

Q.—You think the existing rent is a fair rent and there is no necessity to raise it for years to come?

A.—Unless for sufficient reason.

Q.—You said that no person who is unable to make the holding pay must be the real cultivator? I think that involves that the lessor should not be allowed to give it to such cultivators?

A.—That is to say the lessor must be given the option. When you come and ask for a holding I take you at your word, I am not acquainted with your antecedents, but with one year's experience I can see what you are and if I find that you are a humbug I must be able to turn you out. It is in the interests of the State that agriculture must be improved and it can be improved only if a better class of people are put on the land. It is detrimental to the interests of the public to give the land to the worst fellow and make the land deteriorate from year to year.

Q.—Non-cultivating kanamdars have been increasing lately and the class of cultivating kanamdars is gradually disappearing. It is not a healthy sign I think?

A.—I do not know. Non-cultivating kamandars—their existence is not an evil by itself, because they may be in a position to become the actual cultivator. For instance, a vakil or magistrate might invest money on land and in his evening days it may be his ambition as it is my ambition—and I am carrying it out—to become the actual cultivator. If he gets an opportunity I suppose he must be allowed to invest.

Raja Sir Vasudeva Raja of Kollengode :—I have not got any questions to ask, but I should like to clear some doubts.

Q.—I should like to know whether there is any difference between granting of fixity of tenure and permanent occupancy right to kanam tenants, so far as the janmis are concerned?

A.—I do not think there is any difference at all except in words.

Q.—Now it has been suggested in certain quarters that a kanam tenant may be given occupancy right if the tenant pays renewal fee of twelve times half or two-thirds of the balance after deducting revenue and michavaram. Do you think that is sufficient compensation?

A.—Not at all. I will put an illustration. I know of a holding whose rental is 10,000 paras of paddy. The purapad that is now payable is 1,000 paras of paddy. That is michavaram. The renewal fee at the end of every twelve years is Rs. 8,000 and the Government revenue for it between Rs. 400 and Rs. 500. Now how much does that work out?

The President :—*Q.*—I shall tell you. The verumpattam rent is 10,000. The purapad is 1,000. Interest on the kanam is how much?

A.—Rs. 1,500.

The President :—*Q.*—Then the assessment is 500. These three things put together come to 3,000. Now the difference between 10,000 and 3,000 is 7,000. Divide it into two and you get 3,500. Multiply it by twelve; that comes to 42,000. Now his question is, if instead of Rs. 8,000 you get 42,000 every twelve years is that sufficient compensation if fixity of tenure is given?

Rao Sahib V. Krishnan Menon :—But we proceed on the assumption that all this calculation is possible. If not it is most dangerous.

The President :—*Q.*—Now what is your answer? Is that adequate compensation to the janmi?

A.—I do not think it will be sufficient compensation to the janmi. The market value of the property is two lakhs. Deducting the kanam and value of improvements Rs. 40,000. The janmi's interest is a lakh and sixty thousand rupees which at 5 per cent interest fetches Rs. 8,000 annually.

Mr. Krishna Menon :—*Q.*—You say as a matter of fact no janmi levies a renewal fee which is above half of the full economic rent?

A.—He has got the potential right of getting this 1,500 by payment of Rs. 500. I am simply drawing your attention to it.

Raja Sir Vasudeva Raja of Kollengode :—*Q.*—Will it be easy to find a purchaser of the janmi's interest in the kanam land if fixity of tenure is given to the kanam tenant?

A.—No.

Q.—And even if you get anybody the value will depreciate considerably?

A.—Yes.

Q.—Will there be any depreciation in the value of the janm right if fixity is given to the verumpattamdar?

A.—There will not be any material deterioration.

Q.—With regard to kuzhikanam there is a suggestion to extend the period to 24 years. If that is given then twice the renewal fee should also be given?

A.—It must be doubled. That is a necessary concomitant.

Q.—Do you think that renewal fee of 2 per 10 on kanam is universal or general in Malabar?

A.—Not at all.

Q.—I suppose also that some janmis, in calculating the renewal fees, adopt the present verumpattam rent and then deduct the Government assessment and the michavaram payable to the janmi and on the balance half the verumpattam rent for twelve years is collected.

A.—Some janmis have been doing that.

Mr. Kotieth Krishnan :—*Q.*—Now you said that half the total of the profits made between the verumpattam and michavaram is taken by some janmis as renewal fee. In commuting the value do they calculate at three paras per rupee?

A.—Not invariably. That was the old practice. That is to say when the price was prevailing like that.

Q.—You were one of the members of the janmi deputation at the Round Table Conference convened by His Excellency Lord Willingdon?

A.—Yes.

The President :—*Q.*—You said in answer to the Raja Sahib that there is no difference between occupancy right and fixity of tenure except in words. Certainly according to legal conceptions permanent occupancy right is bigger than qualified fixity of tenure? In the case of fixity of tenure if the tenant does not satisfy certain conditions that is payment of rent and renewal fee at the prescribed time and so on he is liable to eviction. But in the case of occupancy right you confer on him one portion of the bundle of rights which belong to the janmi. The janmi in that case becomes a mere rent receiver. So is there not any difference?

A.—The question was 'does it practically make any difference so far as depreciation of the proprietary right is concerned'?

Q.—Would it not make any difference?

A.—It won't for all practical purposes.

Q.—You concede that these two things are not identical in the eye of law?

A.—They are not identical. But in practical result it may come to the same thing.

Q.—That is your opinion?

A.—Yes.

Q.—You said in answer to Mr. Pate that the tenant puts up unnecessarily costly buildings on the holding with a view to compel the landlord to continue him on the holding as he sometimes finds it difficult to pay up the value of improvements, and that it was waste of money?

A.—Waste of the landlord's money.

Q.—The tenant also spends unnecessarily on building?

A.—It may be necessary for him but unnecessary to the landlord. Because he has got money he deliberately puts up costly buildings simply to prevent the landlord from approaching the land with a view to taking it back.

Q.—That is your view of the matter?

A.—Yes.

Q.—Then you say that the Mappillas of Kuttipuram and Pallipuram and places like that who raise coconut and arecanut gardens are not evicted. Are you quite sure of that?

A.—Yes.

Q.—There are no cases of eviction?

A.—Only very few. It is in the interests of the landlord not to approach them.

Q.—It is also in the interests of the landlord to oust that tenant when he gets a melcharthdar?

A.—No. Other Mappillas won't take it on melcharth.

Q.—There is *esprit de corps* among them?

A.—Yes.

Q.—The Mappilla will not allow himself to be evicted?

A.—He is very industrious and he makes the land very good.

Q.—Not only that; he would not allow himself to be evicted. We came across some cases in Walluvanad and adjoining places where the Mappilla has been on janmis' land without paying any rent to the landlord for a very long time. The landlord would be demanding the rent but the tenant would not be paying the rent.

A.—Sometimes there are such cases. They are afraid of them. There are terrible fellows even among other castes also. I know of many instances where the Ezhuvas have chopped off the head of a janmi. The Ezhuvas and Nayars have done it.

Q.—The Mappillas have done more?

A.—Not necessarily.

Q.—Supposing there is a provision to oust a tenant if he commits wilful waste or causes deterioration of the soil, what is the objection?

A.—It is not an easy problem. How can you say how much deterioration will be sufficient cause for eviction?

Q.—An agricultural expert can say that?

A.—You want an agricultural expert; and a medical man also.

Q.—I say when the question comes before the Court it is not impossible to verify if the land has deteriorated or not?

A.—If the landlord is an influential man then what will be the position of a poor tenant. Before this question is settled by the three courts, neither the verumpattam tenant will be there nor his son or grandson will be there.

Q.—When you give fixity of tenure to the verumpattam tenant he will be there?

A.—He will sell it. He will have to borrow money otherwise.

Q.—You should restrict his powers of alienation?

A.—Then it is valueless to him. He would not command so much credit in the market as he now commands.

Q.—So much the better for him?

A.—Then he won't be able to cultivate also.

Q.—He will get some credit?

A.—He will get no credit at all.

Q.—That is your opinion?

A.—Yes.

Q.—Now I want to draw your attention to the fact that of late there has been a tendency to separate wet lands from the premises of house-sites at the time of renewal? Is there not such a tendency?

A.—I will tell you. One or two janmis attempted it for one or two years and they found the folly of it. Since then the practice has ceased.

Q.—It is confined to one or two janmis?

A.—Yes.

Q.—You say one or two. May I know who those janmis are?

A.—One is Poomulli. Now they have ceased to practise that. Without a farmhouse and other appurtenances how can they cultivate?

Q.—You propose that if fixity of tenure is to be given no change or distinction should be made and you would confer that on the kanamdars and the verumpattamdars and make them pay full economic rent. Would that be welcomed by the kanamdar?

A.—It will remove at all events three grievances, viz., enhancement of michavaram, arbitrary collection of renewal fee and melcharth and eviction.

Q.—On the contrary it would impose payment of full economic rent on the kanamdar while he now pays a very small fraction of it to the janmi?

A.—We must choose the lesser of the two evils.

Q.—Logically you are right. Legally also the janmi is entitled to full economic rent?

A.—If the tenant complains of that then the grivances put forward are unreal.

Q.—You are not for treating the kanam tenure with any special consideration?

A.—They don't deserve it.

Q.—In your opinion they don't deserve any special treatment?

A.—That is my opinion.

Q.—You would give no special treatment for the reason that it is a peculiar tenure in Malabar?

A.—There are other peculiar tenures in Malabar such as saswatham and anubhavam.

Q.—Those tenures were created for special purposes for services to be rendered or rendered already?

A.—If I were to lend money on interest, if you are my dependant or servant, I would give it on as low rent as possible, because I expect in return that you would be serviceable to me. But when you cease to be of service to me or prove rather my enemy the case will be the reverse. We cannot restore now the old feudal relationship between the landlord and the tenant.

The President :—We understand your position, Mr. Kalayana Krishna Ayyar. The Committee is very thankful to you. (The Committee rose for the day.)

II

Written statement of Mr. Poomulli Manakkal Narayanan Nambudiripad.

I. (a) (1) *Kanamdars holding directly under the janmis.*—So far as I know, these tenants have not only no hardships but have various advantages. Although on their holdings they have paid only small kanams, most of them enjoy verumpattams. As a matter of fact most of the tenants are intermediaries who do not cultivate the land. It has been decided in several court judgments, etc., that these tenants have only a mortgage right on the property. Besides the present Tenants' Improvements Act is of great advantage to tenants.

(2) *Kuzhikanamdars directly under the janmis.*—So far as I know such tenants do not seem to exist in South Malabar.

(3) *Verumpattumdars directly under the janmis.*—These tenants too, have no disabilities whatever. They are very poor. They do not regularly pay their annual rent; hence suits have to be filed against them and decrees against them are obtained after two or three years. By the time the decree is executed and (the property) is taken in possession, it is not found possible to realize the decree amount. I have personal experience of several cases of this kind. During the adverse seasons, remissions are allowed according to the necessity of the case, or the balance of rent is collected in two or three years without interest. Tenants are generally helped by this. When the property suffers any damage it is either repaired by the janmi or if repaired by the tenant its cost is made good by the janmi.

(4) *Sub-kanamdars holding under kanamdars or kuzhikanamdars.*—This kind of tenants are rare. The views given above regarding kanamdars will also apply to these tenants. But these do not enjoy as much profit as the real kanamdars.

(5) *Verumpattamdars holding under kanamdars or kuzhikanamdars.*—I think that these tenants have real grievances. These are the people that actually cultivate. The intermediary kanamdars invest a small amount as kanam and try to get as much profit as they can from the property. Kanamdars have no intention to improve the land nor do they work for it. Those who improve the land by working on it are these verumpattamdars. As they do not get any profit they are poor and undergo hardships. Therefore it is these tenants that really deserve relief.

(6) *Sub-tenants of verumpattamdars.*—There are no such tenants in my estate.

(7) *Tenants other than those mentioned above.*—Besides the tenants referred to above, there are tenants with special rights such as, perpetual tenants, etc. They have no grievances. It is the janmis that suffer when the taxes, etc., are not paid.

(b) It has already been stated that these tenants have no disabilities. As I have no knowledge of the system of tenure in other parts of India, I cannot answer.

(c) There is a vast difference in the systems of tenure prevailing in North and South Malabar. The kanam in North Malabar will be almost equal to the janmam value of the property. But in South Malabar, it is a small amount. As regards other tenants it does not appear that any great difference exists between North and South Malabar.

(d) As regards different parts (of the country) it does not seem that there is any difference as far as wet lands (fields) are concerned. But as regards dry lands (parambas) there is difference. In all other taluks, except in the Palghat taluk where there are extensive fields, tenants raise the fields so as to convert them into parambas and make costly improvements thereon, and thus cause loss and trouble to

the janmis. These tenants do not pay even the small amount of rent agreed upon and the tax due on their holdings and thus vex the janmis. As a result of the benefits derived by the tenants from the Tenants' Improvements Act, janmis are unable to redeem the property paying the huge cost of improvements. Therefore, in most cases they have to pay the tax and make up the rent from their own pockets, and minor janmis have sometimes to forego their janman rights.

II. (1) (a) *Eviction*.—So far as I know, tenants have not been unjustly evicted. As required by this Committee, when statistics were taken, it was found that only 28 suits were filed from 1916 to 1926, inclusive. In all these, the cause was either disputes regarding janmam rights and the failure to pay renewal fees or such other matters.

(b) The practice of giving melcharths does not at all exist in my estate.

(2) So far as I know there has been no harassment whatever.

III. (a) *Remedies*.—It has been described in the answer to I (a) that except verumpattam tenants under kanamdars, no other tenants have any hardships.

(b) I do not think it necessary to confer permanent rights on any tenant. If this is done, the result will be to rob Paul to pay Peter. By that, the grievances which pro-tenant agitators allege to exist, will not be redressed. If it is decided that any tenants should be given such rights it must be to tenants who are actual cultivators. But in giving such rights specific conditions should be laid down so that janmis may not in any way or at any time be made to suffer loss. From the statistics taken recently from my estate, it is found that there are in all 1,973 verumpattam tenants of whom 490 have terms of tenure above ten years and 854 above 20 years. From this it is evident that tenants are not unjustly evicted. The intermediary kanamdar should never be given permanent rights. If the cultivating tenant is a kanamdar the janmi should have the right to pay the kanam amount and make it verumpattam. If this is done, in course of time, there will be left only the janmi and the verumpattamdar, and the harmony between the janmi and the tenant will be strengthened.

(c) The answer to this will be found in the answer to III (b).

(d) It has been pointed out in the answer to III (b) that it is not objectionable to confer permanent rights on actual cultivating tenants under special conditions. There is no necessity or reason for conferring permanent rights on the kanamdars who came into holding before 1852.

(e) If verumpattam tenants are given permanent rights they should give sufficient security for three years' rent, and payment of rent should be made the first charge on the produce of the property next only to payment of Government tax. To enforce collection of rent, a special Act for Malabar will be necessary. To collect rent as at present through civil courts, involves waste of energy, time and money.

(f) Permanent rights should not be conferred in the following cases:—

(1) When the property is near a temple, residence of Brahmans or tank used by high castes alone.

(2) When the property is meant for some special need of the janmi himself.

(3) In respect of sites on which janmi's buildings stand, though they are included in the lease.

IV. (a) (1) There is no necessity for giving permanent rights to occupants of kudiyruppus. Redeeming after paying high price of improvements according to the Tenants' Improvements Act, is not profitable to janmis. Most of the occupants of the kudiyruppus are those who pay a rent of one panam (i.e., Re. 0-4-7). The janmis are subjected to difficulties because they do not get this rent and the tax. There are several occupants of kudiyruppus still in occupation in my estate although they have not paid rent and taxes for 10 to 20 years. This is my experience.

(2) Kudiyruppus in towns should never be given permanent rights. It is the practice after securing a kudiyruppu, to put up costly buildings and to give them on rent for commercial and other purposes so as to get a good profit.

(b) It has been stated already that occupants of kudiyruppu need not be given permanent rights. If it is decided to give them permanent rights 25 cents in towns and 50 cents in rural parts may be allowed for a person to live with this

family. If the place is used not as a kudiyruppu but for other purposes—commercial, etc., permanent rights should cease. Before transferring their rights by demise or otherwise, occupants of kudiyruppus must get the written consent of the janmi. This must affect the demisees and others.

(c) (1) In these circumstances the tenants' right should, according to his need, be transferred to some one else or the house and the improvements should be removed. The janmi should in no case be made responsible for any compensation.

(2) In these circumstances, buildings constructed contrary to the original intention should be removed.

(3) In these circumstances, without considering about permanent rights, kudiyruppus should be surrendered.

(d) (1) In these cases janmam right should not be compulsorily purchased. If it is decided to do so, the price of janmam should be paid in a lump sum. It is not sufficient if it is paid in instalments.

(2) This system is contrary to the custom, traditions and practice of Malabar, as well as to equity.

V. As the present Tenants' Improvements Act is beneficial to the tenant and harmful to the janmi, it has greatly changed the relationship between the janmi and tenants. The tenants make several costly improvements and cause great trouble to minor janmis by not paying rent and tax. If a high compensation is paid and the property is redeemed in this manner, the janmi is not able to get proper interest for the amount he invests for the purpose. The Act compels that compensation should be paid for improvements that grow without any effort on the part of the tenant. The present scale of compensation fixed by the Act is too high and should be reduced and it should be provided also that improvements that grow of their own accord need not be compensated for.

VI. (a) In some of the sections described above, it has been stated that permanent rights should not be given. If verumpattamdars are given permanent rights and arrangements are made as described in the answer to III (e), the janmi need not be given any compensation. If for any cause it should be decided that kanamdars also should be given permanent rights, the janmi loses from his janmam value an amount equal to that which remains after deducting michavaram from the verumpattam of the properties. This amount which the janmi loses should be given as compensation. If it appears that it is not possible to enforce this, then after deducting the present tax, michavaram and kanam interest from the verumpattam, one-third of the remaining income should be added to the annual michavaram payable to the janmi and it should be laid down also that renewal fees should be paid every twelve years.

(b) The compensation which the janmi should receive should be fixed as described in VI (a). If there are sub-kanamdars under the kanamdars, the tenants should share the income proportionately to the income and their respective rights.

(c) The compensation to be paid to the janmi is proposed to be realized as an enhancement of the purapad, proportionately to the income. If that is done, it does not appear that tenants will have any hardship. In respect of the enhancement in the purapad, the tenants should come to an agreement among themselves.

VII. (a) *Rent*.—I think that this question relates only to verumpattamdars. Out of the verumpattam received for the property after deducting the costs, one-fifth may be given to the tenant. The rest should go to the janmi. If there are intermediaries, they must join together and apportion one share. But it is my view that the real cultivator should get the major part of the income. There are not many intermediary verumpattamdars in my estate.

(b) I do not think they are too high. It should not be enhanced in future beyond the above-mentioned scale. But the present rate should not be reduced.

VIII. (a) *Renewal fees*.—The renewal fees is now fixed by the janmi, according to the pattam. It was sometimes fixed also according to the kanam amount, in some cases according to the para scale and sometimes according to verumpattam. On a comparison of old and the present scales, no great difference is seen.

(b) As far as this estate is concerned, in Palghat and Walluvanad taluks, Rs. 1-8-0 per janma-pattam; in Kuttanad region of the Ponnani taluk 27 per cent of kanam; and in other parts one and half of the kanam-pattam is the rate of renewal fees collected.

General.

IX. It has already been pointed out that permanent rights and compulsory purchase are not necessary. Real cultivators may be given permanent rights if they give the security referred to in the answer to III (e).

X. (a) It has been stated already that the system of melcharths does not obtain in this estate. If for any reason when the tenant does not yield, melcharth has to be given, the tenant should be given a notice fixing a time and if the tenant does not come to terms within that time, the melcharth should take effect. To say that the previous tenant should be given the right of pre-emption after the melcharth is given, is not just.

(b) The answer will be found in X (a).

(c) It does appear that it will occur in such cases. If such things occur at all, it should be decided through courts. It does not appear that this can be done away with, by any special law.

C. R. PARAMESWARA AYYAR,
Manager.

[Note.—As since translated by the Malayalam Translator to Government.]

Friday, the 25th November 1927 (11 to 2 p.m.)

The Committee met again to-day at 11 a.m. in the Collector's Office. Of the members, Messrs. Krishna Menon, Haji Abdulla Haji Kasim Sahib, Sir T. Desikachari and Diwan Bahadur T. C. Narayana Kurup were absent. The examination of Mr. Parameswara Ayyar, Manager, Poomulli Mana, was taken up.

Oral evidence of Mr. C. R. Parameswara Ayyar.

*The President:—*Q.—Mr. Parameswara Ayyar, you are the present manager of Poomulli estate?

A.—Yes.

Q.—You were a Tahsildar in British Malabar?

A.—Yes.

Q.—For how long have you been managing this estate?

A.—For nearly two years. By December, I will complete two years.

Q.—Have you managed any other estate before this?

A.—I was managing the Naynar's estate in North Malabar. I was also in the Zamorin's estate as a Head clerk and a Deputy Tahsildar.

Q.—What service have you put in?

A.—Twenty-seven years.

Q.—Are you a native of Malabar?

A.—Yes.

Q.—You were in the Zamorin's estate under the Court of Wards?

A.—Yes.

Q.—What was your duty as Deputy Tahsildar?

A.—Inspection duty, visiting institutions, checking accounts, settling accounts with the ryots and collection of arrears of rent, renewal fee, etc.

Q.—Now the Poomulli Mana Nambudiripad has sent a written memorandum in reply to the questionnaire. I take it that you are come here on his behalf to be examined orally by the Committee?

A.—Yes.

Q.—I take it that you are acquainted with the reply sent?

A.—Yes.

Q.—This translation is obscure towards the end. But we will clear our doubts. Now in answer to question I (a) (1) you say 'There are many court decisions to the effect that they have only Panaya avakasam.' You mean mortgage right?

A.—Yes.

Q.—That is what the law says, that they have the mortgage right. The law also says further that the mortgage is redeemable?

A.—That is how I have understood it.

Q.—In practice, are they redeemed?

A.—Of course in a few cases they have been redeemed by the Mana.

Q.—Can you say the total number of tenants you have got?

A.—I have got under the Mana 2,131 kanam tenants.

Q.—How many kanams have been redeemed as a matter of fact to your knowledge?

A.—The Tahsildar asked me for certain statistics and I have furnished it in which I have found from 1916—1926 there were only 28 cases of eviction of kanam tenants.

Q.—You cannot say anything with regard to what took place prior to 1916?

A.—No. I have not taken any statistics for the period prior to that.

Q.—From your experience as an official in this district for the last 27 years, what is your opinion—is kanam tenure freely redeemed or is it done only in exceptional cases?

A.—Only in exceptional cases.

Q.—Can you tell me why it is so? The kanam amount is generally very small and the janmi won't find it difficult to pay up the kanam amount. Is it on account of the fact that there are very large improvements to be paid for or is it on account of any other consideration that these redemptions are rare?

A.—Of course so far as Poomulli is concerned, they are not very particular in redeeming these kanams because they are naturally very rich and these lands have been enjoyed by the tenants from days of old and they do not want to disturb them. They are not needy men also.

Q.—They do not want to do it; that is the reason so far as the Mana is concerned. You cannot speak about the general practice?

A.—No. Of course in the case of small janmis they freely redeem on account of their wants.

Q.—How do they satisfy their want by redeeming these kanams?

A.—By converting them into verumpattam.

Q.—Redemption of the kanam tenant involves payment of the kanam amount and compensation, if any?

A.—It depends upon the nature of the place. If it is in the Palghat taluk it is easily redeemable without the payment of much compensation. If it is in Ponnani and other coast taluks then we have to pay somewhat heavy compensation.

Q.—In cases where they can redeem without much cost, the poor janmis do resort to redemption because by giving it to verumpattamdars they will get an increase of rent?

A.—Yes.

Q.—You cannot from your experience say what percentage of poor janmis do that?

A.—I cannot say.

Q.—I suppose you can say that the poor janmis resort to it more than the big janmis?

A.—That is what I have understood.

Q.—Is there any outcry against this redemption? Do the kanamdars consider it a grievance?

A.—Naturally they must, because they are deprived of the large profit which they used to get.

Q.—What is the public opinion with regard to this redemption?

A.—Public opinion may differ. So far as the tenants are concerned they may say that it is a great grievance; from the janmi point of view those who know their condition do not consider it a grievance.

Q.—Public opinion is not against the poor janmi evicting the kanam tenant with a view to giving the land over to the verumpattamdars to derive a larger income?

A.—It cannot be.

Q.—Many witnesses tell us that there is a very strong public opinion against melcharth?

A.—I do not know what they say is correct or incorrect.

Q.—If there is such a public opinion against melcharth is there similar public opinion against eviction of kanam tenants?

A.—There cannot be so much grievance in the redemption of kanam.

Q.—I want to know whether to your knowledge there is such a public opinion against such eviction?

A.—I am not aware of it.

Q.—Now, in I (a) (5) you say 'The middle class kanamdars invest the smallest kanam on the land and try to squeeze out the maximum profit from it' and 'the kanamdars have practically no interest in the land'. Why is it that such a state of affairs exists?

A.—It is this. The kanams were given long ago, in good old days. At that time the price of paddy was very low and money was also very dear in those days and so amounts allowed for kanam interest and assessments were calculated at a very high rate. That is at the rate of 4 and 5 paras of paddy for every 100 fanams. That comes to $17\frac{1}{2}$ paras of paddy as interest on a kanam of Rs. 100.

Q.—What would 100 rupees of the present day be equivalent to in terms of fanams?

A.—350 fanams.

Q.—If 350 fanams was advanced as kanam what was the interest payable?

A.—Interest was allowed at $17\frac{1}{2}$ paras of paddy on 350 fanams. Of course for compensation also they make very liberal allowances.

Q.—So for Rs. 100 of the present day it comes to $17\frac{1}{2}$ paras. That is to say, interest has gone up three and a half times.

A.—No. The original rate was 5 paras per 100 fanams. That is still retained; nobody discards that interest.

Q.—Your point is money has gone down in value and 350 fanams cannot now fetch 100 paras of paddy?

A.—Yes.

Q.—The rate is not high. Although the original rate was 5 per cent it has now turned out to be $17\frac{1}{2}$ per cent on account of the depreciation of the rupee?

A.—Yes.

Q.—When interest on the kanam was fixed originally at 5 per cent on the kanam advanced and certain paddy rate was fixed for compensation, and renewal fee were and michavaram fixed, did the michavaram represent the full difference between the kanam interest and the michavaram on the one hand and the verumpattam rent on the other?

A.—There is also the kanappattam shown in all the documents. Generally we find the kanappattam is reduced to one-third or half the actual verumpattam amount.

Q.—What is kanappattam? Is it different from michavaram?

A.—It is from the kanappattam that the interest on the kanam and also the amount allowed for assessment is deducted and the balance represents the michavaram. Renewal fee is quite a different thing.

Q.—When you say that the kanappattam which is generally half and sometimes one-third of the verumpattam amount, is taken as the basis for fixing michavaram, after deducting Government assessment and interest on the kanam

there is still a balance of the other half or two-thirds of the verumpattam to be accounted for. Is it fully accounted for by the renewal fee which used to be imposed?

A.—So far as the renewal fee is concerned, the practice is different. Sometimes it is calculated on this kanappattam and sometimes they calculate it on the verumpattam amount.

Q.—It is stated in Mr. Logan's or in some Committee's report that the renewal fee is about 13 per cent of the kanappattam. What I want to know is this. Can you say from your acquaintance with the subject if the renewal fee represents the balance of the verumpattam which was left out from the kanappattam?

A.—I have not worked it out that way. The renewal fee is generally calculated on quite a different method in the Mana. In olden days it was calculated for some time on the verumpattam amount. Afterwards it was changed and it is now being calculated on the kanappattam.

Q.—But do they have any such thing as kanappattam now?

A.—I have taken kanappattam as the basis because I cannot get correct statistics of the verumpattam of all the leases. To verify that requires an elaborate enquiry. I thought it safe to work out renewal fee on the kanappattam.

Q.—Now, from what you say, we gather that with the exception of the interest on the kanam amount there has been no variation and no disturbing factor in the equation which decided the michavaram and the renewal fee?

A.—There has been no variation.

Q.—So the information before the Committee shows that even making allowances for this variation in the interest on the kanam amount the kanamdar does not still pay to the same extent to the janmi as the verumpattamdar does. That you yourself say. Is it not correct?

A.—This is the thing. The kanappattam generally varies between one-third and half. From the kanappattam interest on the kanam and also the assessment is deducted and only the balance is paid as michavaram or residue. The difference between the kanappattam and the verumpattam amount the tenant enjoys. For that difference that he enjoys the renewal fee is collected.

Q.—Does the renewal fee fully represent that difference?

A.—I have not worked it out.

Q.—Then in I (a) (7), speaking of saswatham and anubavam you say 'They have no sufferings; on the other hand, the janmis are put to immense trouble by their arrears of taxes, etc.' They have only a nominal rate to pay, is it not?

A.—Yes.

Q.—Even that nominal rent they do not pay?

A.—Yes. I myself had experience while I was in the Zamorin's estate. A permanent holder who had to pay only $1\frac{1}{2}$ paras of paddy had been keeping on arrears for years together and for that we had to file a suit for recovery of that because he could not be evicted. But see the trouble that the janmi is put to. For the sake of $1\frac{1}{2}$ paras of paddy he has to go to the Munsif's Court.

Q.—That is the case in the case of all tenures?

A.—I am only speaking of the trouble the janmi is put to.

Q.—The arrear is not due to any defect in the tenure?

A.—No.

Q.—I put the question with a view to know whether there are any extra difficulties that would arise in the collection of rent if fixity or permanency is given in addition to the difficulty of the landlord in the collection of rent?

A.—In that case of course sufficient protection should be given to the landlord for the realization of rent.

Q.—That is a different point. The present provisions of the law are sufficiently effective for recovery of rent by the landlord. That is your position.

Now please see I (d) you say 'Except in the Palghat taluk where dry lands are very few the janmis in all other taluks suffer much loss and trouble at the hands of the tenants due to their extravagant improvements on the property'. Improvements in what shape?

A.—That is by buildings, by planting of trees. By these improvements, if the janmi has to resort to eviction he has to pay a large sum.

Q.—These improvements are made only on dry lands?

A.—Yes. As in these parts dry lands preponderate, improvements are more numerous. In some places in the Ponnani taluk wet lands are also converted. There again there is difficulty, i.e., in coast taluks where they do not get much gain by raising paddy they convert the fields into gardens.

Q.—I suppose that prevails in North Malabar also?

A.—Yes, in some coast amsams.

Q.—In III (b) you say 'In giving such rights specific conditions should be laid down so that janmis may not in any way or at any time be made to suffer loss.' Now what is the exact implication of this sentence?

A.—What I mean in that is, if permanent occupancy right is to be given there must be sufficient protection given to the janmi for the realization of rent and the collection of renewal fees.

Q.—He should be given sufficient guarantee for prompt collection of rent and renewal fees?

A.—Yes.

Q.—No other conditions? Suppose the janmi wants the land for his own use or cultivation or for constructing a building for any member of the tarwad, if you give occupancy right to the actual cultivator what will you do?

A.—In that case the janmi must have the option to take back the land. In such cases permanent occupancy right should not be given.

Q.—When is the janmi to decide that? Should he be allowed to decide it at any time he likes or should he be asked to decide it within a certain period?

A.—How is he to decide it? Now he may be in affluent circumstances and he may not care to cultivate. Afterwards on account of indebtedness or other deterioration in his own tarwad he may have to resort to cultivation himself. So the fixity of tenure if given should be subject to that contingency.

Q.—Don't you think that is a very indefinite and uncertain contingency? It would be very disadvantageous to the tenant because no tenant can say when he will be turned out?

A.—There is no other way for the practical solution of it. One cannot say when the janmi requires the land.

Q.—Suppose you give this right to the tenant on payment of some compensation to the janmi. Then would it be equally necessary to give this discretion to the janmi at all time?

A.—I want to know whether you refer to the kanam or verumpattam tenants?

Q.—We are now dealing with verumpattam tenants. According to you if any occupancy right is to be given at all it should be given to the actual cultivator of the soil. If the kanam tenant is the real cultivator of the soil, then he comes within that definition?

A.—I do not think that the janmi will have to resort to taking up for his own cultivation land held by a verumpattamdar. I don't think he will be much benefited by it. He does not stand to gain by taking the land from the verumpattamdar and cultivating it himself.

Q.—But the case will be different if he recovers it from the kanamdar. So if fixity is given to the verumpattamdar, then the janmi need not have this unlimited discretion to take back the land whenever it suits him?

A.—That is my position.

Q.—You say the middle class kanamdars should at no time be given the right of permanent occupancy. That is to say the janmi should have no limit or restriction to redeem the kanam on his paying back the kanam advance alone to the kanamdar?

A.—Yes.

Q.—That is the legal position. That is because at the end of twelve years the kanam tenant can be turned out of the land. All that he is entitled to is the kanam amount and compensation for the improvements if any existing?

A.—Yes.

Q.—As a matter of fact, has not the kanam right acquired a certain market value in spite of the fact that it is terminable at the end of twelve years and in spite of the fact that the kanam amount can be repaid by the janmi?

A.—Of course it has got a certain market value.

Q.—One witness of Badagara told us that he purchased 60 acres of kanam in the Palghat taluk for 15,000 rupees recently. The market value goes on diminishing as the period advances?

A.—If it is a time-expired lease the land will not fetch more than the kanam and also the value of improvements on the land. The purchaser cannot be very sure whether the lease will be renewed or not.

Q.—Is it your inference or is it based on your experience?

A.—That is what is practically done also. In the case of time-expired leases we can get lands very cheap. We have only to pay a nominal sum of Rs. 100 or 200.

Q.—Therefore your position is, I take it, that the kanam tenant is not subjected to any unnecessary or extra hardship by his being turned out at the end of the lease period provided he gets his kanam amount back and also the value of improvements?

A.—I do not say that he does not suffer any hardship. He enjoyed a large profit and he is deprived of it though he is not legally entitled to it. There is some hardship.

Q.—Now please see III (e) You say 'Verumpattamdars can be granted the right of permanent occupancy provided they agree to give a security of the value of three years' pattam', etc. Is that not too high a limit to fix in the case of the generality of verumpattamdars?

A.—From my experience I find three years' limit is not very high. Generally the verumpattamdars are very impecunious and if they leave one year's rent in arrears and even though you take prompt steps and sue the second year, by some plea or other if he drags on the suit for another year and if he is evicted something like two years' rent will be in arrears.

Q.—So in the interests of the janmi you propose this?

A.—Yes.

Q.—But you have not taken into account the capacity of the verumpattamdar?

A.—I have not taken that into account. If he is to be given permanent occupancy he must deposit at least three years' rent.

Q.—I now want you to consider the question from the point of view of the capacity of the verumpattamdar. Suppose you expedite the machinery for recovering rents. Suppose instead of going to the civil courts we have special Deputy Collectors for instance whose sole business will be to dispose of such suits and attaching movable property and so on, then will you reduce the deposit?

A.—I will reduce it to two years.

Q.—You want this to be deposited in the shape of cash?

A.—Yes. Interest will be allowed on that.

Q.—If it be in the shape of some approved security will that not do?

A.—Yes. I would take also other lands as security.

Q.—Then you say 'For the easy and effective collection of this Malabar requires an immediate and special legislation'. What have you in mind, what kind of legislation?

A.—Of course, some sort of summary process for recovering rent. Moreover there is another thing. The crop on the land should also be made the first charge, arrears of rent, after Government revenue.

Q.—Then you say 'when it is for the personal or private use of the janmi permanent occupancy right should not be given'. What is the exact meaning of it?

A.—That is for his own cultivation or for building a house; That is all I mean.

Q.—Please see answer to Q. IV (2). You say permanency should not be given to the tenants in towns, etc. What about houses built by them for their own residence?

A.—If it is for their own residence permanency can be given.

Q.—What about rents in such cases? In towns the value of property is rapidly rising. Would you suggest any formula for the proportionate increase in rent if fixity or permanency is given?

A.—I have not considered that question, since the Mana does not possess much of lands in towns except two or three shops in the Palghat taluk.

Q.—Some provision will have to be made for correlating the rent to the increasing value of the land in towns? There should be some formula by which the janmi would be able to get a proper rent?

A.—We can base it on the tax—municipal tax.

Q.—Is not such a thing necessary?

A.—Yes. In the case of vacant grounds we can levy a proportion of the municipal land tax.

Q.—Then you say 'The tenant shall not assign his right without the written sanction of the janmi'. Does it apply to towns as well as rural parts? In towns I can understand it, because the janmi should not be deprived of the rise in values—the unearned increment. In towns also it requires the approval of the janmi, because it should be let to a desirable person.

A.—There are some undesirable persons who hold kudiyruppus even now under the Mana who won't pay rent and the janmi is put to trouble.

Q.—You will therefore make it a general condition, whether in country or town, that no alienation of a kudiyruppu for which permanent occupancy right is given should be made without the sanction of the janmi?

A.—Yes.

Q.—In answer to question V you say 'the rates are too high and they should be reduced'. That is rates for fruit trees?

A.—Yes, and also for trees that grow wild. The valuation is generally found to be high in all cases.

Q.—By what percentage is it high?

A.—I think generally it ranges between 25 and 30 per cent.

Q.—So you say the scheduled rates should be correspondingly reduced?

A.—It all depends more upon the whim and fancy of the Commissioner. There is not much fault in the schedule. The rates are published every year after due enquiry by the Revenue Department. The Commissioners err in calculating the age of the trees, the future productive capacity, etc.

Q.—So the rates themselves are not very high?

A.—No, the estimates made by the Commissioners are sometimes very high.

Q.—In answer to Question VI you say that if conditions on III (e) are satisfied verumpattamdars can be given occupancy right without paying any compensation to the janmi?

A.—If three years' rent is offered as security I do not think there is any necessity for any other compensation.

Q.—Are you willing to pay the tenant interest on the security?

A.—So far as the verumpattam tenant is concerned, we do not want any compensation; we want only that security.

Q.—So is it your case that your ability to collect a higher percentage of rent at the proper time and more promptly than now is sufficient compensation?

A.—Yes. I do not recommend any compensation in the case of verumpattam tenants.

Q.—From your experience of Poomulli Mana, can you say what percentage of rent and renewal fee you collect every year?

A.—As regards renewal fees, it is only periodical.

Q.—There may be arrears in your large estate. Every year there may be certain items of property in which renewal fees are due?

A.—Every year it is not taken.

Q.—You are not systematic?

A.—For the last six years there was no renewal fee collected.

Q.—In the Zamorin's estate they count up to 50 or 60 thousand rupees every year as renewal fee.

A.—In the case of Poomulli Mana they have not had renewal for the last seven years. I am now taking up institution after institution.

Q.—Now let us take an estate which has been managed properly. What is the percentage of rent that you are able to collect?

A.—In the Palghat taluk, I have been able to collect the whole.

Q.—Is it all kanam land or verumpattam?

A.—Both.

Q.—How much kanam and how much verumpattam?

A.—One lakh and three thousand paras of paddy of verumpattam land and for kanam lands we are to get a michavaram of nearly 49 thousand paras. I have been able to collect the whole of it. Unfortunately in the Ponnani taluk there is much arrear. I have got two institutions there and the arrear this year is something like 18,233 paras of paddy.

Q.—Why is the collection of rent not so easy in the Ponnani taluk?

A.—There the tenants are not so rich as in the Palghat taluk. Moreover there is a tendency always not to pay the janmi's dues.

Q.—In previous years also you have been able to collect cent per cent or nearly cent per cent in the Palghat taluk?

A.—Last year it was 92 per cent in the Palghat taluk. But in the Ponnani taluk last year there were heavy arrears.

Q.—Then, why do you want security from the verumpattamdar of the Palghat taluk?

A.—In one institution I found 6,000 paras in arrears and I found no means of collecting that rent. Then with great difficulty I had to ask for surrender of the land remitting all these arrears.

Q.—So generally there is not satisfactory collection, and good collection in your Mana is due to your special exertions?

A.—Yes. In some cases as soon as the paddy is harvested one of the karyas-thans and peons will have to go and wait there for some time.

Q.—So your proposition still holds good that the verumpattamdar should furnish security?

A.—Yes.

Q.—Please see answer to VI (c). I think the translation is wrong. 'The amount of purappad is to be fixed by the tenants.'

A.—What I mean is, I am not in favour of any money compensation and that question does not arise. If my proposal to add on to the rent by way of money compensation [in answer to VI (a)] is accepted, then this question does not arise. That is what I mean. Take the verumpattam rent. Add one-third of what remains according to my calculation to the michavaram. Then no money compensation is necessary.

Q.—In regard to that I want to ask you why you put it at one-third?

A.—It is the only sufficient compensation to the janmi for the right that is taken away from him.

Q.—It is not based on any sanction or authority. You fixed it on an equitable basis?

A.—Yes.

Q.—Then in regard to rent in answer to question VII you say 'I presume the question concerns only the verumpattamdars. One-fifth of the verumpattam must be given to the tenant'. By that you mean net income of the land?

A.—Yes.

Q.—Suppose we want to take a fraction of the gross yield instead of the net yield. Net yield is the balance left from the gross yield after you deduct cultivation expenses and Government assessment?

A.—I do not deduct assessment.

Q.—Now the gross income minus the cultivation expenses is the net income. In order to avoid the difficulty of ascertaining what the cultivation expenses will be, we might correlate the share that is due to the tenant to the gross produce instead of the net produce. What do you think would be the proper share of the gross produce which the tenant should get?

(The witness did not answer for some time.)

The President:—If that requires much time I won't trouble you about that.

Q.—You say one-fifth must be given to the tenant and four-fifths to the landlord and then you say "Still in my opinion the real cultivators ought to enjoy a larger portion of the profit." What is the force of that sentence?

A.—I mean if there are more tenants than one, then the bulk of the share, after giving the landlord's share, should go to the actual cultivator.

Q.—In question VIII (b) you refer to janmappattam. What is janmappattam?

A.—That is what I explained before. It is kanappattam which is shown in all the documents.

Raja Sir Vasudeva Raja of Kollengode:—Q.—In answer to a question by the President you said that you have no objection to giving fixity of tenure to the verumpattam tenants without any compensation. Do you include in that category the kovilagam verumpattam tenants?

A.—No. I speak only of ordinary verumpattam tenants. I know of instances in the Zamorin's estate where they hold it like kanam tenure on very favourable terms. The only thing is there is no kanam there.

Q.—You speak therefore only of year to year tenants. In regard to kovilagam verumpattam tenants what do you think?

A.—I would treat them under the same category as kanam tenants.

Q.—You said that kanappattam is shown in all documents. Is that shown in every case or only in a majority of cases?

A.—I have examined all the documents of the Mana and I find it. In the Zamorin's estate also in all the documents it is given.

Q.—What about the other janmis?

A.—That I don't know.

Q.—You do not know personally whether kanappattam is generally shown?

A.—I do not know.

Q.—Now you said that within the last eleven years some 28 suits for eviction were filed. Were they leased again on kanam tenure or on verumpattam?

A.—In two cases they were leased back to the same tenants.

Q.—You have not created any new kanams?

A.—In two cases they were leased back to them and in the other cases they were converted into verumpattam.

Q.—You mentioned one instance under the Zamorin's estate where you had to sue for arrears of $1\frac{1}{2}$ paras rent which was left in arrears for a long time. If it is ordinary tenure and not permanent tenure, do you think that would have happened?

A.—Certainly not.

Q.—So, if fixity of tenure is given there is chance of rent not being collected properly?

A.—Yes.

Q.—It is only on account of the fear of eviction that rents are paid regularly?

A.—Yes.

Q.—You made a suggestion with regard to kanam tenants, i.e., deducting assessment and rent, one-third of the balance may be added to the michavaram and the renewal fee also may be levied. Will all these items come to about half or two-thirds?

A.—It won't come to even half.

Q.—So you want to practically relinquish more than half of the janmi's profit in favour of the tenants. Do you think it will be accepted by the janmis? Do you think it is adequate compensation when permanent right is given?

A.—It is not adequate.

Q.—It is only an encroachment upon their rights?

A.—Yes.

Q.—Your rents are collected in kind or money?

A.—Mostly in kind. About 75 per cent in kind.

Q.—The major portion of the rent that you collect is spent in Oottupuras and temples?

A.—Yes.

Q.—If that is commuted into money rent, it will seriously affect many janmis?

A.—So far as Poomulli is concerned, it will seriously be affected.

Q.—In how many taluks have you got lands?

A.—In four taluks and also in the Cochin State and Travancore.

Q.—Do you adopt the same measure for receiving rents in all taluks?

A.—It will be different in different institutions.

Q.—Even in the case of the same janmi several kinds of measures are used?

A.—Yes.

Q.—If it is enacted that you should receive rent only by a particular measure, you stand to lose greatly? It is not because your paras are bigger than the standard one?

A.—No. The paras that we use are smaller.

Q.—So you stand to gain?

A.—In different places we have got different paras but they are smaller than the standard one. In Ottapalam we have got the 40 nazhi paras, in Kariplincheri we have got the 60 nazhi paras.

Q.—So you don't stand to lose?

A.—No.

Q.—In the case of kanam tenants if permanency or fixity is to be given, you were asked whether janmis would be able to make up their minds within a specified time whether they want to redeem any lands for their own use or not?

A.—I said it depends upon circumstances and it is difficult to decide that now.

Q.—It is impossible to forecast that?

A.—It is impossible. It is not practicable.

Mr. Kotieth Krishnan:—Q.—From your experience of North Malabar do you know that the rent paid by tenants for paddy lands is much more than the usual verumpattam rent in South Malabar?

A.—I have got some experience of Mr. Naynar's estate in North Malabar. There the rent was a little high and so I myself had to reduce it in many instances.

Q.—You were a Tahsildar as well as a Deputy Tahsildar in Malabar. So, may I take it, that the usual rent paid by the kozhu tenants in North Malabar is proportionately higher than that paid by the verumpattam tenants in South Malabar?

A.—I cannot say it is high in all cases. I was for some time in Taliparamba and there the rent is not very high. There the lands are also good.

Q.—Lands are good and labour is difficult?

A.—Labour is not very difficult. A little away from Taliparamba there is difficulty to some extent.

Q.—You say that the verumpattam tenant may be given fixity of tenure. I take it that it is on account of the fact that he is the cultivator of the soil. Would you extend the same privilege to the cultivating kanam tenant?

A.—I have no objection.

Q.—What proportion of the assessment is the michavaram in the Poomulli Mana estate?

A.—So far as my experience goes, we cannot fix either rent or michavaram with reference to assessment in Malabar.

Q.—Can you fix it with reference to kanappattam?

A.—Of course it is fixed in that way.

Q.—What proportion of the assessment is the kanappattam?

A.—I have not worked it out. If you want, I shall submit a statement.

Q.—We shall be glad if you will furnish us with that information.

The President:—What we want is a statement showing for each field the verumpattam rent, which you have collected and the assessment which that holding pays in parallel columns. If possible some 100 items in different places of both wet and dry lands may be supplied.

A.—I can give the survey number of each lease, the seed and the area of the land. From that you can work out the percentage.

Q.—You spoke of some 28 cases of eviction in your estate. In all these cases did the tenants claim vettukanam?

A.—In some cases it has been awarded by Courts.

Q.—That is in the case of paddy lands?

A.—Yes.

Q.—Now in answer to a question from the Raja Saheb you said that even if you fix half the produce between the michavaram and the verumpattam as the renewal fee the other half you are relinquishing in favour of the tenant?

A.—Yes.

Q.—You have not taken into account the interest on the reclamation, on the amount of capital invested by the kanam tenant in reclaiming that property, in coming to that figure?

The President:—That answer was with reference to compensation if fixity of tenure is given to kanamdars.

Mr. Krishnan:—You said 'half the balance'. That means verumpattam plus michavaram. You have not then taken into account the interest on vettukanam?

A.—No.

Q.—In some cases vettukanam charges are very heavy?

A.—In some cases.

Q.—That is one of the grievances of the janmis, is it not?

A.—At the time of eviction they are compelled to pay a large reclamation charge. No janmi will be aggrieved to pay compensation for vettukanam. He does not lose by it.

Q.—All the same in most cases that you refer to those improvements have been paid and it is only fair that in fixing the rent payable by the kanam tenant proportionate interest should be deducted on the investment made by him in the shape of reclamation?

A.—If it is to be based on the verumpattam that is now levied a fair rate of interest should be deducted for the amount spent for reclamation.

Q.—Would you fix it at 12 per cent? Suppose the tenant wants to borrow money for investment. He would get it only at 12 per cent?

A.—Of course when there is no security the *mariatha palisa* is 12 per cent. But in the case of security of land he won't get that. I would fix it only at 6 per cent. The janmi is not responsible for the tenant borrowing at a very high rate of interest.

Q.—But is it not fair that he should be paid what he has spent?

A.—He should be paid a fair rate of interest. I would only give 6 per cent in the case of reclamation charges, as the share due to the tenant, because if we calculate the yield that we will be getting it will only be at that rate.

Q.—In your estate, had you occasion to write off amounts due from the verumpattam tenants on account of the fact that you are not able to realise it?

A.—Yes.

Q.—I suppose some difficulty will be felt by the kanam tenants also in realising rent from the verumpattam tenants?

A.—Yes.

Q.—So should you not take into account the fact that the kanam tenant will not be able to recover the whole amount from the verumpattamdar and should you not make some allowance for that also when you fix the rate that you specified?

A.—He will have to meet it with the balance that is available.

Q.—May I know what the Poomulli Mana is getting out of kanam tenants?

A.—48,895 paras of paddy and Rs. 1,200.

Q.—What is the assessment on these lands?

A.—I have not worked it out. I shall do it now if necessary.

Q.—Have you any idea of the total extent of lands involved in the 28 suits of eviction that you mentioned?

A.—I can't say now.

Q.—Can you say from what date this rate of interest of 17½ paras for Rs. 100 is prevalent?

A.—I find it repeated from deeds to deeds. It is as old as the kanam lands. Even now, we do not meddle with that interest. In our documents, fanams and rupees are shown even now.

Q.—Now I want to know the renewal fee that you are now getting and what you would get in the shape of compensation if six years' difference between the verumpattam and michavaram is calculated. That is to say, half 12 years' gain of that kind and the present renewal fee in respect of a particular estate, when compared what will be the . . . ?

A.—I think the present renewal fee would be much cheaper.

Q.—Will it be about five times?

A.—The other will be only about one and a half times the present renewal fee.

The President:—Q.—Kindly work it out in respect of a particular estate?

A.—I shall work out a few cases and tell the Committee about it.

The President:—All that we want is the present verumpattam rent, michavaram and assessment and the interest on the renewal fee which he is now getting. That is all that we want.

Mr. Koteth Krishnan:—Q.—Now in answer to a question from the Raja Saheb you said that it is very difficult to decide within a specified time whether the janmi wants a particular land for his own cultivation or not. Now suppose a provision is made that at the time of renewal the janmi should decide whether he should take up any land for cultivation—I mean at the next renewal—will that satisfy the janmi?

A.—That will satisfy him.

Q.—Now before the expiry of the term suppose a janmi leases out the land for the next period and he wants to take it back for his own cultivation. Then if six months' time is given will that satisfy the janmi?

A.—As I said already so far as the verumpattamdars are concerned there will not be much necessity for the janmi to take back the land. But if permanency is to be given to the kanamdars the janmi must have the option to take back the land. That is my opinion.

Q.—Is it because the margin of profit that the verumpattam tenant gets is so low that it is not worth while for the janmi to take it back?

A.—Not because it is low, but it all depends upon the status of the janmi. If the janmi is a Nambudiri or a Brahman or some Sthani I do not think they will take up cultivation themselves.

Q.—You say that alienation should not be made by the tenant without the previous permission of the janmi. Is it in all cases?

A.—In all cases just as in the Cochin Tenancy Regulation.

Q.—Do the kanam tenants pay rent regularly?

A.—In 90 per cent of the cases.

Q.—Why is the kanam tenant paying regularly while the verumpattam tenant is not?

A.—The kanam tenant holds it on more favourable tenure and he enjoys much profit.

Q.—Are the verumpattam tenants of Poomulli Mana able to put by enough for any emergency from out of their cultivation?

A.—It all depends upon strength of the family. Ordinarily there will be some margin left; my estimate is they will be getting 20 per cent of the produce after deducting cultivation expenses.

Q.—They will be getting this after paying the verumpattam rent?

A.—Yes. Besides they have got the straw, etc.

Q.—Are all the verumpattam tenants of your Mana generally very poor?

A.—They are poor not in the sense that they are starving, but in the sense that they are unable to give proper security for the rent.

Raja Sir Vasudeva Raja of Kollengode:—Q.—You said in answer to a question from Mr. Krishnan that you have no objection to giving permanency to cultivating kanam tenants. I suppose you merely mean that they may have occupancy right as mere verumpattam tenants only?

A.—I think I have given it in the answer. That kanam tenant will hold it only as verumpattam.

Mr. H. R. Pate:—Q.—You voice the opinion of Poomulli Mana or your own opinion?

A.—What I have spoken so far is from my experience. It is the opinion of the Mana also.

Q.—Are you instructed by the Mana to give answers?

A.—Practically I have got an invitation from the Committee and I have attended; that is all. Of course, the Mana is aware that I am come here to represent it and give evidence in its behalf.

Q.—So these are your personal views?

A.—Yes. The written answers have been given in consultation with the Nambudiripad.

Q.—Will your views that you have expressed here differ from that of the Nambudiripad?

A.—Not likely.

Q.—These views are based on your experience as Manager of Poomulli Mana?

A.—On my experience as Manager of Poomulli Mana, as Manager of Naynars' and in the Zamorin's estate.

Q.—No other experience? As a Revenue officer, had you not experience?

A.—Yes.

Q.—I am not quite clear about your position. Am I right in understanding that you consider it is imperatively necessary to legislate in order to give fixity of tenure to the verumpattamdar?

A.—I am of opinion that no legislation is necessary because so far as Poomulli Mana is concerned, we have got 1,973 verumpattam tenants of whom 1,300 are holding these lands for over 10 and 20 years; there has been no grievance and there is no necessity for legislating for giving permanency of tenure to verumpattam tenants.

Q.—Poomulli Mana has a pretty large surplus in hand?

A.—Yes, in recent years.

Q.—The cost of redeeming all its kanams would come to 2 lakhs and 94 thousand?

A.—Yes.

Q.—If they want to redeem they can do it at least in two years?

A.—Yes.

Q.—If they can get a large profit by it, why don't they do it?

A.—They don't see any necessity to convert all these into verumpattam lands and increase their profits; they have got sufficient property and moreover they do not want to send away these men who had been holding them for so many years.

Q.—It is the instinct of man to get as much as he can within the limits of law?

A.—But the Mana does not want to disturb them this way.

Q.—So the janmi has some regard for the tenant?

A.—Yes.

Q.—By what percentage can it increase its income by redeeming all these kanam lands?

A.—I think it will be increasing at least eight times the present michavaram.

Q.—So it will come to nearly three lakhs. The present michavaram is, you said, 48,895 rupees?

A.—Yes. But he will lose the renewal fee.

Q.—Even allowing and making deductions for that loss there would be a gain in the end?

A.—Yes.

Q.—And yet there is something which prevents him doing it and that is regard for the tenant?

A.—Yes.

Q.—Would you be in favour of the introduction of permanent tenure without the introduction of special legislation for the speedy recovery of rents?

A.—No. It must go together.

Q.—Now if you give permanency of tenure that will be subject to the payment of rents regularly; if not their tenure will lapse. Now, will that position be different from their present position? What would be the essential difference?

A.—I do not think there will be much difference.

Q.—There will be some difference?

A.—Even now they are not evicted under those conditions.

Q.—Well, his interest in the holding will increase?

A.—Yes.

Q.—He will cultivate it better? Don't you think so?

A.—Yes.

Q.—He will be able to borrow money more easily because it will have some market value?

A.—Yes.

Q.—Do you think that increased power of borrowing will go to improve cultivation?

A.—If he spends it on cultivation it will improve it.

Q.—He may spend it in feasts such as the Cranganur feast or something like that?

A.—There is a likelihood of that also.

Q.—You think that he will be spending what he can borrow on the land?

A.—I cannot say that. Now I have begun a small scheme of advancing paddy to these tenants for cultivation purposes, because they have otherwise to borrow at very high rate of interest. I began it this year; I want to know how far it has been successfully working whether the tenants are paying the rents, regularly, and they have spent what I gave on cultivation or not. I have not enquired into it.

Q.—What security did you take?

A.—No security at all. I advanced paddy according to the nature of the holding, i.e., 20, 40, 60, 80 and 100 paras. I have advanced nearly 7,000 paras of paddy like that.

Q.—Can you be sure of their paying that back?

A.—The condition is that they should pay that back along with the Kanni rent.

Q.—Repayment has not yet begun?

A.—It has already begun. I have advanced that only in the month of Medom or Edavom. I don't know how far they have repaid. I have not yet got the accounts. I will get my demand, collection and balance only in the course of four days. I made an enquiry into the economic condition of those tenants and I was told they borrow money at an extraordinary rate of interest sometimes 24 and 36 per cent.

Q.—Do they repay in money?

A.—They repay in paddy and there also they lose much.

Q.—Can they not get on without borrowing?

A.—Only very few can do so.

Q.—What is the average size of the holding the verumpattamdar cultivates?

A.—The average will be 4 or 5 acres.

Q.—If a verumpattamdar has got a big holding does he sublet?

A.—No. He employs other persons.

Q.—What is the distinction that you make between kovilagam verumpattam and other verumpattams?

A.—In the former the rent is very low.

Q.—Where are those lands?

A.—Mostly in Kottakkal.

Q.—Some of those verumpattamdars have got sub-verumpattamdars?

A.—Yes.

Q.—You were asked whether the renewal fee represents the difference between the kanappattam and the verumpattam for the kanam demise of twelve years. You say the difference would be something like half the verumpattam and six times the verumpattam represents the renewal fee. Does the renewal fee ever amount to so much as that?

A.—I do not think it will amount to so much. In one period the Nambudripad has effected a renewal on that basis some 25 years ago. It was considered to be exorbitant and afterwards he changed that rate and reverted to another system.

Q.—Before you took charge how were they calculating the renewal fee?

A.—They were calculating it on the seed area. That is to say approximately Rs. 5 per para of seed. That seed area is usually shown in the document.

Q.—What is the usual verumpattam for a para of seed?

A.—The average will be 8 to 10 paras. There are instances of 16 also.

Q.—Is it your opinion that permanent tenure can be given for house-sites?

A.—There is no necessity for that. It is not only not profitable to evict, but it results in a loss by having to pay compensation.

Q.—We hear loud complaints that occupants of houses are sent out?

A.—There has not been a single case in which one has been turned out of his house.

Q.—You refer to the kanam tenant or the verumpattam tenant? When the verumpattamdar is ejected from his holding is he not turned out of his house?

A.—Generally these verumpattamdars hold lands.

Q.—I speak of houses.

A.—There will be separate lease for the house. When he is turned out of the land he is never disturbed from his house.

Q.—Could you say how many cases out of these 28 that you speak of are cases of eviction from house-sites?

A.—After I took charge there were some eviction suits and in one big eviction suit I had to deposit Rs. 35,000 in the Alattur Court. These kanam tenants were holders of house-sites and I have leased back those houses to them. The wet lands are leased to somebody else. But the tenants are not disturbed out of their houses. They are remaining in their own houses.

Q.—Then what is the meaning of this complaint that the people are making?

A.—It is absolutely without any foundation.

Q.—You have heard this complaint?

A.—Yes.

Q.—Is it not a nuisance to have a house let out to a person who does not own the property?

A.—But when the kanamdar is turned out in that way the property is taken up on verumpattam and in most cases the house is leased out to the verumpattamdar and the occupant of the house-site will be taking up the cultivation of the land.

Q.—In that way ejectment from houses is reduced to a minimum?

A.—Yes.

Q.—You said that when you were in Naynar's estate you had to reduce certain rents because they were high? How did you understand that they were high?

A.—There were a lot of arrears and there was also complaint.

Q.—If the Naynar had been aware of it he would have reduced it?

A.—Of course, he would also have done it. All this was done with his consent.

Mr. Kotieth Krishnan:—Q.—You said about the payment of rent by the kanam tenant that he pays a very small rent in proportion to the verumpattam. Suppose we take the net yield of the property and allow the tenant a percentage of interest on his kanam if he is a kanam tenant and reclamation charges at 6 or 12 per cent and the value of improvements which he has effected on the property. Deduct that out of the net yield and out of the balance give two-thirds to the janmi and one-third to the tenant. Will that be a fair distribution?

A.—I have not worked it out, but I think it would be advantageous to the janmi.

The President:—Q.—Now I do not think you answered Mr. Pate directly. What he wanted to know from you was if the house, in the case of a kanamdar, or kudiyruppu is so situated in the holding that it is essential for the proper enjoyment of the holding and if you happen to evict that kanamdar out of that holding then you cannot restore that house to the original kanamdar but you will have to give it to the kanamdar who succeeds him?

A.—Always when kanam land is evicted it is generally converted into verumpattam. So no kanamdar comes in again.

Q.—He gets it converted into verumpattam and stays there. Is that your point in all these 28 cases?

A.—In almost all these cases.

Q.—So kanamdars continue to live in the houses and verumpattamdars do not object to it?

A.—No.

Q.—You said you have distributed about 7,000 paras of paddy to the poorest tenants. To how many tenants have you distributed that?

A.—Some 60 or 70.

Q.—What percentage of your 1,900 and odd verumpattam tenants are fit to receive this sort of help?

A.—25 to 30 per cent.

Q.—Mr. Krishnan was asking you about the interest on vettukanam. Is it possible to determine the investment on those vettukanams? Who produces evidence as to the age of it, etc.?

A.—It is not the age. It is only the depth. A paramba may have been converted into a wet land. The cost of converting that you can satisfy yourself by inspection.

Q.—Supposing he has been manuring, improving ridges, etc.?

A.—Everything the tenant has to prove.

As regards conversion of single-crop lands into double-crop lands they produce old paimash accounts. Then it may be registered as a dry land and it might have been converted into a wet land.

Such evidence is produced.

Q.—Usually you settle all these things only at the time of eviction and not at the time of renewal?

A.—Yes.

Q.—Then how will you provide for the vettukanam?

A.—I take it as verumpattam. Vettukanam improvements will be reflected in the increased yield of the land, verumpattam also must be with reference to the yield.

Q.—So you determine it with reference to the yield. If on account of the tenant's improvements the yield increases the rent also will increase proportionately?

A.—Of course it does not increase in the case of kanam tenants.

Q.—Is it not disadvantageous to the tenant if you do not make any allowances?

A.—It is advantageous to the tenant.

Q.—You say that the interest on the investment is part of the profit which he is now deriving and you say the balance two-thirds would cover this also?

A.—Yes.

The President:—Thank you very much Mr. Parāmeswara Ayyar.

The Committee rose for lunch at 1-50 p.m.

III

Written statement of Mr. P. C. Unnikumaran Nayar, Chalapuram, Calicut.
Disabilities.

I (a) In this taluk tenants have no hardships whatever, as such.

(b) Vide answer to (a).

(c) In speaking of North and South Malabar separately, the Calicut taluk must be included in North Malabar for purposes of tenancy. If Calicut taluk is considered to be in North Malabar, there is a vast difference in the systems of tenure prevailing in North and South Malabar. The kanamdar in South Malabar receives a greater income as kanam interest from sub-kanamdars, verumpattamdars and other sub-lessees. In North Malabar inclusive of Calicut the rent obtained as kanam interest is very small.

For example: In South Malabar from a leasehold on which the kanam is Rs. 1,000, the kanamdar gets 700 to 800 paras of paddy per year. Out of this he has to pay a purappad of 20 to 30 paras of paddy to the janmi, exclusive of the tax. But in North Malabar including Calicut, from a leasehold of Rs. 1,000 kanam, the kanamdar will get only 60 to 70 paras of paddy. According to these differences, there will be vast difference in the rate of renewal fees, etc. Because in South Malabar there are extensive fields and few gardens having fruit-trees, tenants may feel aggrieved in having to surrender their holding. But in North Malabar inclusive of Calicut, there are more gardens and fewer fields, which again are less fertile than in the South. When gardens are surrendered, every kind of tenant gets more than he expects, in the shape of compensation for improvements under the Tenants' Improvements Act. So there is only cause for joy, and none for sorrow.

(d) In South Malabar some parts of Ponnani taluk differ from other taluks in some matters.

II (1) (a) No.

(b) No.

(2) No.

Remedies.

III (a) With reference to the answer to I (a) no reply is needed for this.

(b) I do not think that permanent rights are necessary. So far as North Malabar inclusive of Calicut is concerned, kuzhikanamdars get the necessary relief by the Tenants' Improvements Act as described above, but as the tenants who cultivate fields are not entitled to a similar relief, there will be no objection to grant permanent rights to them alone.

(c) The previous answer is sufficient.

(d) As mentioned in III (b) above, none except the tenants cultivating fields need be given permanent rights.

(e) If as mentioned in III (b) tenants cultivating fields are given permanent rights, a law should be made to easily recover from them the rent due annually. If relief is provided under the Rent Recovery Act it will be sufficient.

(f) In North Malabar inclusive of Calicut, I am of opinion that permanent rights are not necessary. But if such rights are to be conferred on the cultivating tenants only or on other tenants as well, it should never be done in cases where it will be possible for a tenant to transfer the property so as to interfere with the religion or customs of the land, and in cases where the property is wanted particularly by the janmi himself.

IV. (a) (1) To confer permanent rights on kudiyruppus will be a troublesome affair. For the safety of the occupants of kudiyruppus also, the Tenants' Improvements Act will do. By the amount which a tenant gets when he surrenders his property, he can get other property better and bigger in extent than the one he surrenders.

(c) In case it is given, differentiation has to be made.

(b) (1) & (2) In rural parts 30 cents and in towns 20 cents will be sufficient. If such a division is made and permanent rights are conferred for the bits, the janmi or other tenants concerned will in most cases find it difficult and troublesome to make proper use of the adjoining portions of the property.

(c) (1) & (2) No special relief is necessary. The answer to (a) (1) will do for this too.

(3) Should be surrendered.

(d) (1) Right to purchase kudiyruppu by compulsion, should in no circumstances be given.

2. If kudiyruppus are allowed to be purchased compulsorily, the managers for the time being of tarwads in Malabar are likely to get and to appropriate the amount of purchase money, and that will be detrimental to the other members of the tarwad and the recurring income of the tarwad will be reduced. This is, therefore, highly prejudicial to the nature, customs and rights of the Malayalee.

V. The Malabar Tenants' Improvements Act has reduced the cordiality between the janmis and the tenants. For, on the idea that it would be sufficient for them to get the compensation for improvements, tenants harass janmis or kanamdars or others, by refusing to pay the rent and to renew their leases, with the result that melcharths are sometimes given and eviction follows. The practice of giving melcharths has increased to the present extent, in North Malabar inclusive of Calicut, only after the advent of the present Tenants' Improvements Act. In the case of most properties thus redeemed, four or five times their janmam price has to be paid as the cost of improvements. Hence it is found impossible in some cases to redeem such properties. As the present Tenants' Improvements Act is prejudicial to the janmis as described above, the making of a law enabling the janmi to get from his tenants renewals with proper rent and renewal fees, will serve to improve the relations between the janmi and the tenant.

Compensation.

VI. (a) (b) & (c) This question is not clear. If any tenant pays the dues fixed by law and also increased rent and enhanced taxes and effects renewals and if such a tenant is given permanent rights, he should pay annually along with the rent, a certain fraction of it as an addition to it.

Rent.

VII. (a) & (b) In North Malabar including Calicut, no tenant should be allowed to legally compel a reduction in the rates of rent now settled.

Renewal fees.

VIII. (a) In North Malabar including Calicut, renewal fees are calculated on the basis of the rent and not of kanam or purappad. But in the kovilagams of North Malabar, renewal fees are not calculated on the rent or kanam or purappad. If it is a garden, one year's income is calculated and that amount is received as renewal fees. Renewal fees should be fixed separately for each taluk.

(b) In Calicut taluk, fees are received from all tenants at Rs. 1½ per rupee of rent which they have to pay, and at the rate of 8 annas per Calicut para (20 seers). In this taluk it is generally the janmi himself that pays the tax.

General.

IX. In North Malabar including Calicut, the tenant who actually cultivates garden land, gets more than enough relief under the Tenants' Improvements Act. As regards tenants cultivating fields, answer has been given under III (b).

X. (a) In the case of melcharths that appear to have been given before the law is passed, the previous tenant should not be given the right of pre-emption. In doing so there will be various difficulties.

(b) In the case of meloharths given after the law is passed, it is desirable that the grantor should consult the previous tenant.

(c) Rent and renewal fees should be demanded only according to scales current in each place and no one should be allowed to demand more.

[Note.—As since translated by the Malayalam Translator to Government.]

Friday, the 25th November 1927.

Oral evidence of Mr. P. C. Unnikumaran Nayar.

When the Committee reassembled after lunch at 2-30 p.m. Mr. P. C. Unnikumaran Nayar was examined. The following members were present:—

President.

Diwan Bahadur T. Raghavayya, C.S.I.

Members.

H. R. Pate, Esq., I.C.S.

Raja Sir Vasudeva Raja of Kollengode, C.I.E.

Mr. Kotieth Krishnan, M.L.C.

Khan Bahadur Haji Abdulla Haji Kasim Sahib Bahadur, M.L.A.

Mr. P. C. Unnikumaran Nayar was the first witness examined after lunch. Witness spoke in Malayalam and it was interpreted into English.

The President:—Q.—Mr. Unnikumaran Nayar, you are a District Board member?

A.—Yes.

Q.—Where do you reside?

A.—In Tamarasseri amsam in Calicut taluk, eight miles from here.

Q.—Are you a janmi or a kanamdar?

A.—My tarwad owns janmam properties and I personally own janmam and kanam properties.

Q.—Your tarwad owns only janmam properties?

A.—Yes, my tarwad owns only janmam properties.

Q.—Can you say how much land you hold on kanam or the michavaram that you pay?

A.—I pay only assessment to Government and not michavaram.

Q.—Do you hold kanam from your tarwad itself?

A.—Yes, tarwad as well as other properties.

Q.—In regard to other properties why don't you pay any michavaram?

A.—The stipulation is only to pay assessment according to the deed. I pay the assessment and the rest is covered by the interest on the kanam advance.

Q.—What is the renewal fee that you pay?

A.—At the rate of Re. 1 for Rs. 1½ of pattam in the case of gardens and 8 annas per para of paddy in the case of wet lands.

Q.—Do you mean to say that the kanam advances in Calicut are very heavy?

A.—I am not sure whether it is so.

Q.—In answer to question I (c) you say "For instance, in the case of a kanam lease for Rs. 1,000 in South Malabar the rate obtained by the kanamdar will be 700 or 800 paras of paddy; the rent due to the janmi after paying revenue

will be 20 or 30 paras only. But in North Malabar including Calicut taluk, a similar lease will fetch only 60 or 70 paras of paddy." So you say there is difference between the kanam leases in North and South Malabar?

A.—There is some difference. I want that Calicut taluk should be included in North Malabar.

Q.—What will be the renewal fee in that case?

A.—At the rate of 25 per cent on the kanam amount.

Q.—What will be the assessment payable on the land?

A.—I can't say even roughly, because I have no idea of that.

Q.—Can't you say roughly with regard to a land which yields a verumpattam rent of 700 or 800 paras, what assessment it bears?

A.—I can say that with regard to Calicut taluk alone. It is about Rs. 140.

Q.—What is the interest allowed on the thousand rupees kanam advance? We will include Calicut with North Malabar. We are now talking of the other taluks of South Malabar.

A.—I can't say. That is only the information which I have gathered from the kanam tenants.

Q.—From the knowledge which you have obtained from them, what do you understand is the rate of interest that they get on their kanam advance?

A.—There is no uniform rate of interest.

*Q.—Don't they recognize the *ner palisa* or proper *palisa*?*

A.—I don't know whether such a stipulation is made in South Malabar.

Q.—What about Calicut then?

A.—At the rate of 6 or 7 paras of paddy for 100 rupees.

Q.—What is the approximate price of 7 paras of paddy?

A.—Calculated at the rate of Re. 1½ per para we may take it at Rs. 8.

Q.—In answer to question III (b) you say "Permanent rights of occupancy are not considered necessary. As already explained the kuzhikanamdars of North Malabar including Calicut taluk are compensated under the Improvements Act and the tenants holding paddy flats are not entitled to such compensation; the right of occupancy may be allowed only in the case of the latter." Is that because they are liable to be evicted?

A.—Yes. Because the landlord has no value of improvements to pay.

Q.—You say permanent occupancy right should not be given in case the landlord requires the property for his special use. What do you mean by that?

A.—For purposes of personal cultivation under strict supervision of the janmi whenever it is found necessary.

Q.—Do you want that right to be reserved for ever?

A.—Yes, that is my view.

Q.—Would you extend that right to the wife and children of the janmi in the case of a Marumakkattayam family?

A.—Yes, that right has to be extended in the case of wife and children also.

Q.—In answer to question V you say "As the existing Improvements Act is detrimental to the janmis a revision of it with a provision to renew the lease on payment of adequate rent and compensation will only improve considerably the relation between landlord and tenant." Will you kindly explain that more clearly?

A.—Janmis should be given relief to resort to courts of law to compel the tenant to renew the demise on the kanam lands after paying proper rent and renewal fee.

Q.—What you mean is that the tenant should continue on the property even if he does not want to continue on it, because the janmi is unable to pay value of improvements?

A.—Yes, that is what I mean.

Q.—In answer to question VI you say with regard to compensation "If permanent rights of occupancy be given to such of the tenants as will renew the leases on payment of the stipulated consideration, increased rent and revenue, it

has to be laid down that they will have to pay a portion of the usual rent also in addition to the annual stipulated rent." Do you mean by it that by way of compensation an addition should be made to the rent otherwise usually payable?

A.—In necessary cases it should be increased.

Q.—You have not understood my question. You say under the head "Compensation" that if permanent occupancy right is to be given, then the tenant should pay a portion of the usual rent in addition to the annual stipulated rent?

A.—In certain cases janmi will have to invest some money in redeeming the land from the old tenants when trees have not come to bearing. After some time when the trees come into bearing then the janmi should have the right to enhance the rent.

Q.—So you are of opinion that rents that are now paid are not excessive?

A.—They are not excessive.

Mr. H. R. Pate :—Q.—Do I understand that by some means you could fix a scale of renewal fee for the Calicut taluk?

A.—I don't think it is possible to fix renewal fees for the whole of Malabar. I am, however, in favour of fixing a uniform rate of renewal fee for each taluk.

Q.—You would work that out on the basis of what, verumpattam?

A.—Yes.

Q.—And what about garden lands?

A.—In the case of garden lands also it should be fixed with regard to the pattam and not michavaram or the assessment of the land.

Q.—What is the object of fixing the renewal fee? Is it because renewal fees are at present excessive or because it is inadequate or what?

A.—Each man levies renewal fee in his own way. Therefore some stipulation might be made.

Q.—What is the objection to that system?

A.—I am for the present state of affairs to continue but if legislation is found to be necessary then I am for fixing the scale of renewal fee, that is all.

Q.—If you reduce the renewal fee, the janmi can raise the rent, cannot he?

A.—The enhancement of the rent will be objectionable and will mean greater hardship to the tenant.

Q.—If you reduce the renewal fee, you will reduce the income of the janmi?

A.—Yes.

Q.—Then the janmi will wish to make good that loss of income?

A.—Yes.

Q.—Can he not do that by enhancing the rent?

A.—Even the present rents are realized with much difficulty. Even in the case of the Zamorin's estates only about 60 per cent of the rents are collected, so there is no use of thinking about increasing the existing rents.

Q.—So that if you reduce the renewal fees you will consequently reduce the janmi's income?

A.—Yes.

Q.—Have you any proposals for preventing melcharths?

A.—It will not be possible for some impecunious janmis to be without that power, because they will not have enough funds to evict their tenants, when required.

Q.—When did you come in possession of your kanam lands?

A.—I have been in possession of kanam lands for the last 30 years or so.

Q.—How did you get them, by melcharths?

A.—Some were purchased by me and others were obtained by paying the kanam amount.

Q.—What happened to the people who were holding the lands on kanam before you?

A.—They are still in possession of the land under me now.

Q.—Were they turned out of their houses?

A.—No.

Q.—You don't live on your kanam land?

A.—No. I own janmam lands as well.

Q.—You said that much hardship will be caused to the tenants if they are turned out of the house held on kanam lands. What is your experience?

A.—No. There are absolutely no hardships because the Improvements Act provides ample recompense for them.

Q.—But are they feeling the hardship because they were turned out of the kanam land?

A.—No hardship is caused to the kanam tenant in the Calicut taluk.

Q.—Do I understand that you consider that no legislation is required at all?

A.—Yes, that is my view.

Q.—You are aware that there is a good deal of clamour for legislation?

A.—It is all artificial agitation. There are no reasons for this agitation.

Q.—What is your explanation for that?

A.—I believe so far as Calicut taluk is concerned there is no hardship whatsoever.

Q.—Then why do they say that there is hardship?

A.—A large majority of tenants in the Calicut taluk don't say that.

Q.—Then the tenants in the other taluks are not so well off as in the Calicut taluk. Is that what you mean?

A.—I can't explain it further.

Mr. Kotieth Krishnan :—Q.—Your experience of Calicut taluk is confined to Tamarasseri and 4 or 5 miles around it?

A.—I have experience of the taluk all outside of the municipality.

Q.—Do you know that near Korapuzha, Elathur and other places there is a practice of charging a few rupees 3, 4 or 5 as kanam in kuzhikanam leases?

A.—Yes, that is even the case in all parts of Calicut taluk.

Q.—And that is of recent origin, say, within the last 20 years?

A.—No. It is in vogue for several years now.

Q.—It will only be a very small proportion of the rent payable?

A.—Yes.

Q.—That you will treat as mere nominal kanam?

A.—Yes.

Q.—You know in such cases when suits are brought for eviction the party has to pay only court-fee on that kanam amount?

A.—Yes.

Q.—And that is a very great advantage to the janmi?

A.—To janmi as well as to kudiyan.

Q.—Only Government is a loser?

A.—Government is no loser but they don't gain much.

Q.—In the case of kanams which you mentioned in Calicut taluk they are more or less substantial kanams?

A.—I can't say.

Q.—Then the tenure in the Calicut taluk is more or less the same as in Walluvanad and Ernad taluks?

A.—No, it is not the same.

Q.—What is the difference in tenure between these taluks?

A.—Kanam tenants in Ernad and Walluvanad realize more rents than in the Calicut taluk.

Q.—You said that if the verumpattam tenants are given a sort of fixity of tenure, they would improve the paddy cultivation. Don't you think that the kuzhikanam tenants would also improve their lands if they are given fixity of tenure?

A.—Even now under the present Improvements Act they are at liberty to improve their lands as much as they could and claim compensation from the janmi if need be. They will only be able to do what they do now even though fixity of tenure is granted to them. I don't think they will cultivate better.

Q.—Are the janmis in the Calicut taluk in the habit of evicting their tenants very frequently?

A.—Very rarely.

Q.—Do they enhance their rents at every renewal?

A.—Yes, according to the increase in the yield.

Q.—And the tenants also consent to that increase?

A.—Yes.

Q.—Now if fair rents and fair renewal fees are fixed and if the janmi is told that he should give the first offer to the tenant in possession to renew on those terms, would that cause any hardship to the janmi?

A.—The tenant must also be prepared to enhance the kanam amount if the janmi wants it.

Q.—In that case you will have no objection?

A.—I don't think there will be any objection then.

Q.—That will not interfere with the existing rights of the janmi?

A.—I have already said that the question should be left to the landlord and the tenant to decide.

Q.—You said that where a janmi is unable to pay the value of the improvement there must be a provision to compel the tenant to remain in possession and pay the rent. Do you think that a similar rule where a tenant who has effected improvement and who is in possession of the property and who is prepared to pay the proper renewal fee and proper rent—in that case the landlord should give the land to him—is also equitable?

A.—Yes, provided the tenant is prepared to pay additional kanam amount to the janmi whenever required by the janmi.

Q.—In the case of most lands in the Calicut taluk they are held by Marumakkattayam families?

A.—Yes.

Q.—If the karnavan of a tarwad wants to raise additional kanam it is invariably the rule that the anandravans object to it?

A.—It depends on the circumstances of each case.

Q.—And the anandravan disputes it?

A.—Sometimes.

Q.—How does a tenant know whether the additional kanam which is raised is for the use of the tarwad or not?

A.—The tenant can know that in the same way as a stranger who advances the money.

Q.—But the stranger may or may not advance money as he chooses, but in the case of the tenant he is bound to give the loan on pain of losing his property. Don't you think that he is in a bad plight?

A.—He must enquire and if the demand is found to be satisfactory then he might advance the loan.

Q.—If the anandravans of the tarwad say that the tenant should not pay enhanced kanam?

A.—I cannot answer that question now.

Q.—Supposing we say in a case where the janmi wants to raise a loan on the property, a provision is made that a tenant in possession may pay the rent to the mortgagee who advances the amount to the janmi; would that not satisfy the mortgagee?

A.—I don't think there will be any objection.

Q.—Then you need not compel the tenant to pay the amount which you want?

A.—No, it is enough if the tenant is made to remain under the mortgagee as a tenant.

Q.—In the case of kuzhikanams where the improvements are all made by the tenant the rent that the janmis now get is only a very nominal sum?

A.—It is very rare that the tenant happens to be the owner of all the improvements.

Q.—Then you have no such experience of the lands where the improvements all belong to the tenant?

A.—No, I don't know whether there are such holdings.

Khan Bahadur Haji Abdulla Haji Kasim Sahib Bahadur:—Q.—Do you think any legislation is necessary for Malabar?

A.—No.

Q.—To adjust the relations between the landlord and the tenant?

A.—No. I don't think any legislation is necessary.

Raja Sir Vasudeva Raja:—Q.—Do you not think that the power of eviction that the janmi now enjoys is a very valuable right?

A.—Yes.

Q.—If that power is taken away or in any way curtailed will it not affect the janmis considerably?

A.—Yes. I think so.

Q.—If any occupancy right or fixity of tenure is given to a kanam tenant do you think that the janmi will find it easy to sell those lands if he wants?

A.—It will be very difficult.

Q.—You said that in South Malabar you heard that the renewal fee was 25 per cent of the kanam amount. You know it from personal experience?

A.—It is not my personal experience. I have only got the information from kanam tenants.

Q.—Do you know of any janmi who realizes the renewal fee like that?

A.—I am unable to say that.

Q.—So you have no knowledge of the correctness of that statement?

A.—No, I have no knowledge.

The President:—Q.—If the power of eviction is a valuable right to the janmi why should the janmis allow so many kanams to continue on the present tenure?

A.—Because janmis are unable to pay off the kanam amounts and redeem the land.

Q.—But in cases where there is no question of compensation for improvements?

A.—I am not aware of that. It may be out of charitable considerations and generosity.

Q.—You said if kanam tenants are turned out of their kudiyruppus there will be no grievance because the kanam amount which they advance is small. It is not quite clear to me.

A.—That is my experience. Because the compensation that is awarded to the tenant under the Tenants' Improvements Act is more than what he actually spends.

Q.—Do you mean to say that a tenant is anxious to go out of his kudiyruppu because he stands to get much more than the value of his kudiyruppu by way of compensation?

A.—Yes, that is my experience. The temperament of the tenants are like that.

Q.—And they are prepared to quit their family houses for the prospect of getting compensation?

A.—That is my opinion.

The President.—The Committee is thankful to you for your evidence.

IV

Written statement of Mr. V. V. Govindan Nayar, B.A., L.T.,
Member, Malabar District Board.

Before I attempt to answer seriatim the various questions proposed I think it is a part of my duty to make my own position sufficiently intelligible. I am only a middle class janmi holding about 35 acres of wet lands and 350 acres of dry lands

and gardens. I have only two classes of tenants with whom to deal. They are kuzhikanamdars and verumpattamdars. Unlike some janmis I am besides, not a holder of land as a tenant under another janmi. So the nature of my relations with the tenants is, as a janmi, directly, as I have no tenants of the classes 1 and 4 to 7 to deal with. Therefore my answers on points which are outside the scope of my relations with tenants are based more or less on what I have gathered from different sources as regards the nature and peculiarities appertaining to the classes and their relations outside the two with which I have to deal.

I shall now begin answering the questions as set forth below :—

Disabilities.

1. (a) Kanamdars may, broadly speaking, be divided into three classes: (1) Those who having first taken possession of areas of waste lands in unsettled times, such as the days of the East India Company, and begun cultivating them and improving the quality, accidentally found that the circumstances of the times required a certain amount of security which they could not themselves afford, and consequently as a measure of discretion, applied to some person of influence and authority to promise them the security they so badly needed on the understanding that such persons would be recognized by them as the janmi; (2) those who under similar circumstances occupied lands but, having subsequently been confronted by one who posed himself as the owner or the janmi of the land, found it necessary, no less than discreet, to recognise the person as their janmi on certain conditions which in those times were mostly favourable to themselves; and (3) those to whom a janmi, under stress of circumstances, leased or rather mortgaged areas of lands owned by him after receiving consideration and on certain conditions which were equally favourable to the kanamdars themselves.

With the progress of times, however, the harmonious relations between the janmi and the kanamdar became strained as circumstances arose in which either the janmi or the tenant made defaults in respect of the original terms of the leases. It cannot be said that the janmi was a tyrant or the kanamdar was the victim of the tyranny, for, the unscrupulousness was not confined to one or the other.

Though the janmis mostly continue as such even in the present day, it has to be said that the original kanamdars under the first two categories have practically ceased to be such, for instances are not few in which the possession has passed from one to another from time to time, so much so it becomes hard to decide the extent of the disabilities which any particular kanamdar suffers from as a result of any action from the janmi. I may, however, add that wherever there is not any change of possession it would be certainly hard on the part of a janmi to evict a kanamdar belonging to the said two categories or give a melcharth to another for the selfish end of getting a more favourable rental. As regards the third class of kanamdars, the relations assume the form of a mortgagor and a mortgagee who have to act strictly in accordance with the contract between them. Where the mortgagee has failed to take sufficient guarantees it will certainly be his own fault, and where such guarantee has been taken there can be no fear of eviction or other act of tyranny from the janmi as a court of law will adjudge according to the terms of the contract.

The interests of the kuzhikanamdars are, in my opinion, sufficiently safeguarded by the provisions of the Malabar Compensation for Tenants' Improvements Act (I of 1900) as they can get from a court of law adequate compensation for the improvements made by them in case a janmi wants to evict them. There are indeed cases very pathetic in their nature in which the janmi attempts to evict a house-owner from the janmi's land, for, whatever the compensation, it is nothing compared with the wrench to the feelings of the occupants which such eviction occasions as there is naturally a deep aversion to move away from a habitation with its environment, raised by one's own hands and which has been a home for many generations in the family.

In regard to the verumpattamdars, it appears to me that in the very nature of things he can really have no disabilities arising out of any action of the janmi,

for, in the first instance his possession being of a purely tentative kind and he being aware of it, his interest is naturally confined to whatever he can possibly do with the land in order to derive profit or earning from time to time as occasion may suggest to him, always remembering that his tenure is such as not to entitle him to any enduring profits or emoluments. Therefore, so long as he pays the rental regularly to the janmi no janmi will commit the folly of ousting him.

The case of the other four classes, namely, 4 to 7, are similar in character so far as their relations go with the kanamdar, kuzhikanamdar, or verumpattamdar under whom they hold the lands. The one point, however, which has to be emphasized, is, I think, in regard to the greater complexity of relations created, and possibly greater difficulties which the janmi has to face. It may also be stated here that any tyranny or oppression which these holders may have to undergo would, in most cases, be from the said kanamdars and others under whom they directly hold the lands.

(b) I cannot positively assert that in other parts of India the relations between landlords and tenants are exactly or almost the same. Perhaps, the kanamdar and his position as a landholder are peculiar to this district as, such a kind of tenure does not seem to prevail anywhere else in India to the best of my knowledge; the only parallel that I can discover is what belonged to the Feudal Age in Europe where there were tenants of the description corresponding to the kanamdar in Malabar.

(c) Generally speaking, the first two categories mentioned by me under the class kanamdars seldom exist in North Malabar and therefore the tenants in that part of the country have fewer disabilities or grievances than are found in South Malabar. I may add that in North Malabar other classes of tenants such as kuzhikanamdars predominate to a similar extent as the kanamdars do in South Malabar, and consequently the North Malabar tenants are much better off and securer in regard to safeguarding their interests as against those of the janmi than their compeers in South Malabar.

(d) To the best of my knowledge there can be little difference in this matter between the several parts of South Malabar except, perhaps, in respect of tenants holding lands in the littoral.

II. Evictions.

II. (1) (a) So long as human nature is what it is, it will not be a surprise to be told that there are unjust evictions as there are just ones. In the former, the fault or the blame may belong to the janmi as often as to the tenant. It is not convenient to point out individual cases as I have not had occasion to make a note of them. But I may fairly well vouch for the fact that such cases have come to my knowledge in the past. It is possible that due to the present agitation on behalf of tenancy legislation janmis naturally feel either vexed or aggrieved and have begun to lose faith in the integrity and bona-fides of their tenants, consequently giving rise to an increase in the number of evictions, whether just or unjust.

(b) My answer to II (a) above will hold good in regard to melcharths as well.

(2) Though I cannot cite individual cases of social oppression by landlords within the last 15 years I may, without fear of contradiction, affirm that where the janmi happens to be either a Nambudiri or Raja or Sthani, there have been such cases arising out of the position of social pre-eminence or authority which the janmi holds as the traditional head or the arbiter of the Malabar Social or Communal Organization. Conversely, such cases cannot have arisen in the case of janmis occupying a lower social status.

Remedies.

III. (a) Effective remedies in my opinion can be applied only if it can be arranged to do away with the complexity of relations arising out of the interest of the intermediary tenants. (1 and 4 to 7.) In such cases it has necessarily to be provided that those holdings which happen to be in their possession should be released to them, on such terms as may be fair and equitable to the janmi as well as to themselves. This will enable the formation of only two classes of tenants who

will be directly having relations with the owners themselves. It is hoped that much of the litigation and dissipation of money which now unhappily are associated now with these holdings will disappear.

(b) If the suggestion made in (a) be found impracticable it has to be considered whether how far it will be equitable to grant permanent occupancy right to any or all the classes concerned. I am of opinion that a janmi has a natural right either to redeem or to dispose of his land without, of course, causing any unreasonable hardship to the holder for the time being. This right being granted it follows that if permanent occupancy rights are to be granted or if the janm right to the land is to be surrendered, the janmi must be adequately compensated for such a concession or sale. I may add that, in the case of the first two categories of kanamdars already referred to, it would be justifiable to grant permanent occupancy rights or the total surrender of janm rights on more favourable terms than offered to the rest. As regards kuzhikanamdars, permanent occupancy rights in respect of house and the garden thereof may be granted to them on payment as rent of at least 10 per cent of the net income derivable from such holdings if the improvements thereon should entirely be due to that class of tenants. Were the improvements belong originally to the janmi the kuzhikanamdar should, in my opinion, pay to the janmi a share not less than 50 per cent of the net income from the produce of such holdings. For the reasons already stated in I (a) I decidedly think that it will be unsafe to grant permanent occupancy right to a verumpattamdar under existing circumstances, but a janmi, in my opinion, will not deem it objectionable to grant such rights provided some legislation is enacted requiring him to give adequate security to the janmi in respect of the due payment of pattam or rent and the janmi is given freedom to enhance the rent up to a maximum admissible in such cases which may approximately be such as to leave a margin of 20 per cent of the net produce to be enjoyed by the verumpattamdars.

(c) My opinion in regard to the subject matter of this question is, I should think, made sufficiently clear in the answers to (a) and (b) above.

(d) No separate answer seems to be called for, inasmuch as I have already given my individual opinion on the nature of rights, etc., of kuzhikanamdars, verumpattamdars, kanamdars.

(e) I have already given my opinion about verumpattamdars. In regard to the rest to whom permanent occupancy rights might be given, the provisions which are now being utilized for the recovery of land revenue must be applied to enable the janmi to recover his dues. If, however, such recovery for some reason or other is rendered impracticable, the permanent occupancy rights themselves must be held null and void and the janmi should have the right to enter upon the holding after compensating the tenant concerned to the extent that he may be legally entitled to.

(f) This has been already answered above.

IV. (a) (1) The case of occupants of kudiyruppus has, I think, to be treated on the same lines as that of the occupants who hold kuzhikanam right and to which reference in detail has been made by me in answer to question I (a). I think there can be no objection to the same rights to these occupants as stated in my answer to III (b).

(2) Certainly a distinction has to be made between the two classes of kudiyruppus. What I have recommended in my answer above (a) (1) would apply only to those of the rural areas. As regards the urban areas higher rates of rent will necessarily have to be charged in such manner as circumstances of life and the current rates of rental in urban areas would justify. It need hardly be stated that the rates of rental will naturally vary in accordance with the relative importance of the urban areas under consideration at a particular time.

(b) I would suggest the following minimum in each case:—(1) Urban areas—20 cents. (2) Rural areas—50 cents.

(c) (1) In cases contemplated in this the janmi, I think, should naturally have recourse to the law for enforcement of the renewal of the kanam. In regard to verumpattamdars, the janmi will have his remedy as already stated in my answer to question III. Besides, the permanent occupancy rights, if given to them, must be made liable to forfeiture at the discretion of the janmi.

(2) So long as the kanamdar regularly pays his dues the janmi can have no quarrel with him. But where there is default due to the non-payment of the michavaram or the renewal, the janmi may take legal steps either for the recovery of such dues or enforcement of the renewal or even eviction as a last resource, provided the janmi shall not be liable to pay compensation beyond that which would suffice for a house of reasonable extent that a kanamdar should have erected.

(3) I should think that in such cases the kudiyruppu ought to be transferred along with the holding after the payment of a reasonable compensation to the occupant.

(d) (1) In my opinion, there can be no harm in introducing a system of compulsory purchase of janm rights as regards kudiyruppu by the tenant on the conditions suggested, provided the janmi gets a reasonable value for the surrender of his full rights.

(2) Though the system will operate as an innovation in regard to land tenure in this district it may be fairly expected that people will get reconciled to it when they find it quite a reasonable one.

V. The Act referred to seems to be particularly liberal both in its spirit and working as regards the rights of tenants. If, at all, anybody's interests are not sufficiently safeguarded by it, they are, in my opinion, the janmi's. Nevertheless, the janmi in general is willing to abide by its provision and may not press for any amendment.

Compensation.

VI. (a) Of the persons who are likely to be adversely affected by the permanent occupancy rights being granted, it is certainly the janmi who deserves the foremost consideration in the matter of awarding compensation. I should think that the award should be fixed with due consideration so as to ensure to the janmi a reasonable return for the surrender of certain of his rights. The value thereof may be fixed as follows: A reasonable janm value for the whole minus the value of the tenants' interests, further reduced by an amount which will represent the janmi's claim to the annual rent, because in this last-mentioned condition the tenant will be obliged to pay to the janmi the rent even after the payment of the compensation.

(b) In such cases naturally, the apportionment of the compensation will be in accordance to the extent of interest which the several tenure holders have in the holding.

(c) Special facilities, of course, will have to be offered in many cases such as granting the concession of payments by instalments either by themselves or by Government security or by the Government themselves arranging to pay in a lump to the janmi and recovering from the tenant such amounts by instalments. Cases where the instalment system is adopted provision will, perforce, have to be made to pay interest as well on outstandings.

VII. (a) It will be impossible to fix any exact proportion to be allotted to the tenant and to the janmi or other superior tenure-holders inasmuch as there are many circumstances which are likely to vary in particular instances. In cases where the tenant happens to be one with no pecuniary interest such as in the case of a verumpattamdar, 80 per cent of the net produce should be apportioned in favour of the janmi and in other cases it will have to be apportioned with reference to the pecuniary and other interests of the holders.

(b) No. I don't believe that there is any good reason for considering that they are unduly high.

Renewal fees.

VIII. (a) At present there seems to be no principle governing the imposition of this fee. It is therefore very imperative to introduce some principles for regulating these and I am of opinion that the amount be fixed at a sum equivalent to a minimum of one year's michavaram and in exceptional cases two years in the case of first two categories of kanamdars referred to in my answer to I (a). In the case of the third category of kanamdars referred to in the same, the amount must be kept down at but a nominal rate.

(b) As already stated, the rate being an arbitrary one, no single rate could be considered as the prevailing one in my taluk. Cases are not wanting in which janmis have levied fees equivalent to the michavarams of about half a dozen years which means the almost total deprivation of the holder's profits during the whole term of the lease.

General.

IX. I have already referred to the reservations under which permanent occupancy rights or compulsory purchases may be granted. If, however, neither of these is admissible, I would suggest the following as an alternative:—The system of melcharths may totally be abolished. Renewal fees may be prescribed at certain fixed rates. The janmi may be allowed the option of redeeming the holding only for his own or family requirements and not otherwise.

X. (a) In case the suggestion made in my answer to IX to abolish melcharth altogether be accepted, there is no necessity to consider the question as regards the right of pre-emption to be granted to the tenants. Otherwise, I should think, it would be just and reasonable to grant such pre-emption.

(b) No separate answer called for.

(c) The question does not arise if rates are fixed as suggested above.

Oral evidence of Mr. V. V. Govindan Nayar, B.A., L.T.

The President:—Q.—Mr. Govinda Nayar, you are a schoolmaster?

A.—Yes. I am the Science Assistant in the Ganpat High School, Calicut.

Q.—Are you a District Board member?

A.—Yes.

Q.—You have been interesting yourself in the cause of the depressed classes?

A.—Yes.

Q.—Would you tell us what you have been doing in that direction?

A.—I have been working in the cause of the removal of untouchability.

Q.—You are not trying to stabilise the depressed classes on land. Are you doing that?

A.—No, I am not doing that.

Q.—You are very modest in describing yourself as a middle-class janmi when you own 35 acres of wet lands and 350 acres of dry lands and gardens. You are, therefore, a big janmi?

A.—I can't say.

Q.—In your written memorandum dealing with disabilities under question I (a) you have described three classes of kanamdars and you proceed to deal with these three classes separately. The first two classes you place under one category and the third class under another category. Would you be able to say at this day to which class of kanam according to you a particular kanam belongs?

A.—I think most of the kanams that we find to-day belong to the third class.

Q.—You say: "Though the janmis mostly continue as such even in the present day, it has to be said that the original kanamdars under the first two categories have practically ceased to be such, for, instances are not few in which the possession has passed from one to another from time to time, so much so it becomes hard to decide the extent of the disabilities which any particular kanamdar suffers from, as a result of any action from the janmi." Then I take it that what you mean is that although the origin of a certain kanam may be due to certain distinguishing characters, on account of successive changes in the holders of the tenure, no special consideration is necessary for classes 1 and 2. Is that your position?

A.—If such classes exist then there must be some consideration shown to them.

Q.—Are we to dive into the ancient history of kanams to discover and find out the different classifications?

A.—I don't think it will be very difficult to make out the difference if the village officers and amsam menons are asked to furnish details. I think it could be easily found out.

Q.—Those who hold kanams continuously since 1852, you say some special consideration should be shown to them?

A.—Yes.

Q.—In the case of such kanams where the tenants have held their holdings continuously you would class them under classes 1 and 2 and the others under class 3?

A.—Yes.

Q.—So kanam tenants falling under class 3 don't deserve any special consideration?

A.—I don't think so.

Q.—That is an understandable proposition. Then you go on to say "Where the mortgagee has failed to take sufficient guarantee it will certainly be his own fault, and where such guarantee has been taken there can be no fear of eviction or other act of tyranny from the janmi as a Court of law will adjudge according to the terms of the contract." Will you kindly explain that sentence? How can a mortgagee take sufficient guarantee?

A.—When he takes possession of the land he must have taken sufficient guarantee also.

Q.—Then what is the guarantee that you can demand from the janmi?

A.—The mortgagee's interest is only to that extent to which he had advanced loan to the landlord and he is entitled to only that.

Q.—Whether a mortgagee or not, a kanamdar who advances thousand rupees does not get merely a thousand rupees but gets much more than that. That is strictly the legal view of the matter?

A.—Twelve years' guarantee. That is all that he could claim. Nothing more than that.

Q.—Then you commiserate the fate of the kanamdar who is evicted from his house and say "There are indeed cases very pathetic in their nature in which the janmi attempts to evict a houseowner from the janmi's lands, for, whatever the compensation, it is nothing compared with the wrench of the feelings of the occupants which such eviction occasions as there is naturally a deep aversion to move away from a habitation with its environments raised by one's own hands and which has been a home for many generations in the family." We are often told that there are such evictions and to the contrary also. You say such evictions are very hard. What is your remedy for it? Do you allude to this hardship with reference both to kanam and verumpattam tenants?

A.—I have in mind both the kanam and the verumpattam tenants.

Q.—Have you any remedy to suggest to prevent this great hardship if it really exists?

A.—Only permanent occupancy rights for homesteads.

Q.—You have not answered this question; that is why I had to put you the question.

A.—I meant only homesteads.

Q.—Please refer to your answer under Evictions, question II (1) (a). Your answer is not definite. You say "So long as human nature is what it is, it will not be a surprise to be told that there are unjust evictions as there are just ones. In the former, the fault or the blame may belong to the janmi as often as to the tenant. It is not convenient to point out individual cases as I have not had occasion to make a note of them" but you say at the same time that you can fairly well vouch for the fact that such cases have come to your knowledge in the past?

A.—My knowledge is only hearsay. But in some cases I have believed the statements made to me.

Q.—In answer to question III (a) under Remedies you say "Effective remedies in my opinion can be applied only if it can be arranged to do away with the complexity of relations arising out of the interest of the intermediary tenants. In such cases it has necessarily to be provided that these holdings which happen to be in their possession should be released to them, on such terms as may be fair and equitable to the janmi as well as to themselves." I cannot understand how this can be done as regards intermediary tenants without paying them compensation. Is it practicable? Do you mean that their tenure should be terminated?

A.—They should be given sole proprietorship of the soil and the intermediaries should be dispensed with, by paying off their rights. Then only we will have two classes of people, the janmi and the verumpattamdar with regard to the wet lands and the kuzhikanamdars with regard to the garden lands who are actual cultivators of the soil.

Q.—What do you mean by "released to them"?

A.—Intermediaries might purchase the janmam right from the janmis if they want or the janmi should buy up the right of the intermediary and send him away.

Q.—How can all the long hierarchy of tenants purchase the same land?

A.—One of the tenants may purchase the land and the others may be paid off.

Q.—Then what is the object of killing the present janmi and creating another janmi?

A.—Either the kanamdar must be given the sole proprietorship or the janmi must get back all the rights from the tenants.

Q.—I don't understand the *modus operandi* which you suggest?

A.—I want all the sub-tenants should cease to exist.

Q.—Every man has got a right to be on the property. What is the objection to fixity of tenure being given to all these intermediaries for their respective rights and allow the economic laws to prevail when gradually these intermediaries will cease to function. Because when once fair rents and fair renewal-fees are fixed these sub-tenants, when they find that it is not to their benefit to stay on, will gradually go out?

A.—That is my pious wish.

Q.—So you don't mean to suggest that janmams should be compulsorily purchased by the kanamdars?

A.—No, that should not be done.

Q.—In answer to question III (b) you say "I decidedly think it will be unwise to grant permanent occupancy right to a verumpattamdar under existing circumstances, but a janmi, in my opinion, will not deem it objectionable to grant such rights provided some legislation is enacted requiring him to give adequate security to the janmi". What are the existing circumstances that you refer to?

A.—Because he has no pecuniary right in the land.

Q.—Do you mean to say that he has not got the wherewithal to cultivate the land properly? Is he impecunious?

A.—I cannot say he is impecunious. At the same time he may not be in a position to pay off the rent due to the landlord.

Q.—That is the reason why you don't propose to give him occupancy right?

A.—If he can give sufficient guarantee for the rent for one or two years then he may be given permanent occupancy right.

Q.—So you modify your original statement where you have made an unqualified statement that the verumpattamdars should not be given fixity of tenure or permanent occupancy right?

A.—That is my view even now but if it is found necessary I say proper guarantee for the rent should be given.

Q.—You contemplate the necessity to fix fair rents?

A.—If the legislature thinks it necessary that fair rents should be fixed then the tenant must get only one-fifth of the net profit and the rest must go to the janmi

Q.—What do you mean by net profit, you mean the net income I suppose?

A.—Yes.

Q.—So I take it that your intention is that when you give fixity of tenure to the verumpattamdar you must introduce legislation fixing rents, also fixing limits beyond which rents should not be raised?

A.—I don't consider it necessary.

Q.—But your written answer implies that.

A.—A sufficient margin of profit may be left to the tenant.

Q.—If the legislature wants to fix rents it may be done, but you don't see any connection between the grant of permanent occupancy rights and the fixation of fair rents?

A.—That is my view.

Q.—In answer to question IV (a) (2) you say "Certainly a distinction has to be made between the two classes of kudiyruppus. What I have recommended in my answer would apply only to those of the rural areas. As regards the urban areas higher rates of rent will necessarily have to be charged in such manner as circumstances of life and the current rates of rental in urban areas would justify. It need hardly be stated that the rates of rental will naturally vary in accordance with the relative importance of the urban areas under consideration at a particular time". Your answer is not quite clear.

A.—I made such a general statement because I could not give any definite answer to that question.

Q.—One witness suggested to us that the rents in regard to kudiyruppus in towns may be fixed with reference to the tax levied by Municipalities on vacant sites, and whenever the land tax is revised rent also should be revised correspondingly? What do you think of that suggestion?

A.—I think that is a reasonable suggestion.

Q.—And then you say that permanent occupancy right if given to kudiyruppu holders must be made liable to forfeiture at the discretion of the janmi. Is it a general proposition or do you refer to any particular case?

A.—I have made that statement with regard to the verumpattamdars. But with regard to the kanamdars if they do not take the renewal they are liable to forfeiture and full compensation need not be given to them in the building and the garden attached to it. That is my idea.

Q.—In answer to question VI (a) you say that the award should be fixed with due consideration so as to ensure to the janmi a reasonable return for the surrender of certain of his rights. I suppose what you mean is that the janmi is entitled to the full compensation that he can claim?

A.—Yes.

Q.—Then you would adopt the method which is adopted by the Land Acquisition Officers?

A.—Yes. I will give the full legal compensation to the janmi if permanent occupancy right is granted to the kanamdar or the kuzhikanamdar.

Q.—What about the verumpattamdars?

A.—Except in the case of verumpattamdars holding gardens the rule must be applied to them also.

Q.—That is to say verumpattamdar should not be allowed to have fixity of tenure unless he is prepared to pay full janmam value to the janmi?

A.—Yes. Except in the case of homesteads where no compensation need be paid.

Q.—Similarly in the case of wet lands both kanam, kuzhikanam and verumpattam?

A.—Yes. And the janmi should also be entitled to raise the rent according to the increase in the produce of the land.

Q.—Irrespective of the fact whether the existing rents are high or low?

A.—Yes. The rent may be increased according to the current rents of the locality.

Q.—In the case of kudiyruppus does it extend to the urban or is it confined to rural alone?

A.—It applies only to rural kudiyruppus.

Q.—Then you would ask for compensation for kudiyruppus which are situated in towns?

A.—Yes, full compensation.

Q.—Then what is the meaning of your saying that rents should be enhanced. You said, if you want continuity of tenure to the holders of urban kudiyruppus they must be liable to pay rent according to the values prevailing from time to time. Then I said that it may be based on the land tax and you agreed to that. When you provide for an increase in the rent with reference to the increase in the land value and give permanent occupancy right on that condition where is the necessity for giving a separate compensation to the janmi in the shape of a lump sum in addition to the increase of rent?

A.—I have not taken into consideration kudiyruppus in the towns. My answer is in connection only with the homesteads in the rural areas. Separate rule must be made with regard to kudiyruppus in the urban areas.

Q.—Am I to understand that in the rural areas permanent occupancy right should be given without paying any compensation to the janmi?

A.—Yes, excluding gardens attached to the house.

Q.—Supposing there is a house without a garden?

A.—That is very rarely the case in rural parts.

Q.—On what condition would you give occupancy right to them in such cases where there are gardens attached to a homestead?

A.—I would give them permanent occupancy right to such kudiyruppus if the tenant is agreeable to pay 10 per cent of the net income from the garden attached to the house.

Q.—You said full compensation should be paid to the janmi but you said that in the case of kanamdars you would let them off with a smaller compensation and you said in your answer at the beginning that all kanamdars who have held continuously since 1852 should be classed under that category. In the case of such kanamdars what is the compensation that you would propose as payable to the janmi in case they are given permanent occupancy rights?

A.—I think half of the full amount would be a reasonable compensation in the case of those kanamdars who have been in possession since 1852.

Q.—Would you include their assignees also who have come into possession by paying full value?

A.—No, I won't include them.

Q.—But if the same family has continued in possession you would reduce the compensation?

A.—Yes.

Q.—With regard to the renewal fee you say under the third category of kanamdars who are mortgagees the amount must be kept down at a nominal rate. What is the reason? Is it because the kanam advances are heavy?

A.—Because it is more or less a mortgage; it is not a real kanam at all.

Q.—You say "The system of melcharths may totally be abolished. Renewal fees may be prescribed at certain fixed rates. The janmi may be allowed the option of redeeming the holding only for his own or family requirements and not otherwise." So, if renewal fees are fixed, melcharths may be totally abolished and also eviction provided the janmi is allowed to redeem the holding if he wants it for his own cultivation or for the use of his family. If you legislate on those lines you are giving permanency. If you prohibit melcharths altogether and you imply evictions also be prohibited except under certain conditions then you are conferring fixity of tenure on the tenant without giving any compensation to the janmi?

A.—I would only abolish melcharths retaining the right of eviction to the janmi.

Q.—When you are restricting the right of eviction where is the necessity for fixing renewal fee at a certain figure beyond which it could not be raised?

A.—Now the present rates are levied arbitrarily by certain janmis and if legislation fixes a rate janmis will not go beyond that rate.

Q.—If he cannot increase the renewal fee then the janmi will extract more rent from the tenant secretly because you give him unrestricted right of eviction. Is it not?

A.—Yes, it might be done, but even then I don't find any reason why it should not also be included.

Q.—Have you any experience of verumpattamdars?

A.—I have only verumpattamdars under me.

Q.—Are you aware of their economic condition? Do they live only on the profits which they might get from cultivating the land? Are they able to have a proper standard of living? Are they able to educate their children? Are they able to put by anything for the rainy days?

A.—Though they don't educate their children, I think they are able to get sufficient out of the land for their livelihood. In most cases they are not able to lay by anything.

Q.—Do they get enough to cultivate the lands properly?

A.—If the janmis are not exorbitant in their demands.

Q.—That is a very good qualification! (Laughter.)

A.—My tenants are all getting on well. They have no complaints.

Q.—So you are a good janmi?

A.—I don't say that myself.

Q.—Then what about tenants under other janmis?

A.—I think the tenants cannot save anything by cultivation.

Q.—Can they properly manure their lands?

A.—Though not with the latest improved methods of cultivation they are generally able to cultivate the lands, fairly well.

Q.—Have they to borrow money for cultivation expenses?

A.—No, not in normal times. When crops fail they borrow sometimes.

Q.—Do you know the rate at which they borrow money?

A.—They pay 24 per cent interest sometimes.

Q.—And they borrow because they have nothing to lay by for the rainy day. For example, they will have to raise loans whenever their cattle die or are attacked by rinderpest and other diseases when they have got to renew cattle?

A.—Yes.

Q.—And you don't personally consider that by giving some fixity in the land for these people their economic condition would be improved? Will it not make their position better? Will they not be able to borrow loans on better credit?

A.—They have no pecuniary interest in the land.

Q.—If you give them fixity they will have pecuniary interest?

A.—The janmi's interest also must be safeguarded.

Q.—Then you say that some fixity of tenure could be given if the janmi's interests are also safeguarded?

A.—Yes.

Q.—So you modify your answer to that extent?

A.—Yes.

Q.—Do you think that they are more likely to apply their new found credit for improving their economic condition or will they misuse the new credit which is given to them?

A.—They must be taught that corporate spirit.

Q.—There is no question of corporate spirit at all?

A.—Generally they will use the credit for improving their cultivation. That is my opinion.

Raja Sir Vasudeva Raja:—Q.—You stated that melcharths should be totally prohibited. I suppose there are several janmis who are not able to eject their tenants by paying the value of their improvements?

A.—Yes.

Q.—In their case what are they to do?

A.—I think the janmi must find the means to evict the tenant if he is so recalcitrant.

Q.—There might be some extraordinary circumstances where they could not get enough money to pay off the compensation. In such cases would you not allow melcharths? Ordinarily I can very well understand the circumstances. But there may be very very poor janmis. What will you do in their case?

A.—In such cases if the tenant is of a very recalcitrant nature and if the janmi is really poor then he may have recourse to a melcharth. Only in such cases I am for melcharth. I am against all unjust melcharths.

Q.—How would you define just and unjust melcharths? You would leave that point for the court to decide, I suppose? You have actually no experience of several cases of evictions. You only draw instances from your imagination and you think there is hardship?

A.—I have only heard of such instances. I have no actual knowledge.

Khan Bahadur Haji Abdulla Haji Kasim Sahib Bahadur:—Q.—I understand you take some interest to better the condition of the depressed classes?

A.—Yes.

Q.—Supposing Government wants to give permanent occupancy right or some such thing to the tenants, to whom would you like to give that right, to the kanamdar or the verumpattamdar or both?

A.—First to the verumpattamdar because he has a better claim since he is the man who is actually the cultivator of the soil.

Q.—Why not the kanamdar?

A.—Because the verumpattamdars are the actual cultivators. If Government is going to make any legislation then the verumpattamdars must be given the first preference.

Q.—Do you think the condition of the district will be bettered if permanent occupancy right is given to the verumpattamdar?

A.—Yes. It may be bettered.

Q.—Do you think the present rate of verumpattam rent too high or low?

A.—I think it is normal.

Q.—Is there any scope for improvement?

A.—In certain cases there may be.

Q.—In South Malabar or North Malabar?

A.—In South Malabar I think there is scope.

Q.—Is there any scope for improving cultivation?

A.—Yes. I think so.

Mr. Kotieih Krishnan:—Q.—You said that you are taking some interest in the removal of untouchability. Don't you think that you would be making considerable headway in your attempt if you instil a sort of independence in these untouchables?

A.—Yes. That ought to be the principle.

Q.—And don't you think that they would be more independent if they are told that they will not be turned out of their holding if they paid their rents regularly? Don't you think their position would be considerably improved?

A.—Do you presume all the verumpattamdars are untouchables?

Q.—I only talk of those untouchable tenants?

A.—Yes, they would be in a far better position.

Q.—And that would considerably help you to solve this problem?

A.—Yes.

Q.—And certainly as a gentleman interested in that problem you would welcome such a change?

A.—Yes.

Q.—In the case of gardens the tenant has got a special affection for the trees which he has planted, is it not?

A.—It is all a matter of sentiment.

Q.—Yes, it is a matter of sentiment. Have you not got a greater love towards the plant which you have planted than the plants in the garden which is planted by your tenant?

A.—Yes. Just as I love my children much better than the children of others.

Q.—Of course, I take it, that the tenants who plant these trees will have similar love towards their plants?

A.—Yes.

Q.—And don't you think that there would be great hardship and heart-rending when these tenants are turned out of those improvements by the mere payment of money value?

A.—If the tenants love their plants the landlord also loves his land.

Q.—The landlord has got the love for his land and the tenant for his trees. They are wedded together and they cannot be separated. In such a case the kuzhikanam tenant has a greater claim to be told that in the interests of the country a law would be passed giving him a fixed tenure?

A.—He may be given permanent occupancy right for the homesteads provided he pays 10 per cent of the net income of the surrounding garden to the janmi.

Q.—Don't you think that seeing that these two are wedded together it will be necessary to have a law fixing the relations between these two?

A.—The tenant will get full value of compensation for all his improvements. I don't think he stands in need of anything else.

Q.—I take it then that the value that he gets would be sufficient compensation for all the loss which he undergoes?

A.—Compensation is more than sufficient. In several cases the Improvements Act is more lenient towards the tenant than the janmi.

Q.—You said that in the case of the tenants who are not able to pay renewal fees no compensation need be paid to them in the case of kudiyruppus?

A.—Yes.

Q.—Supposing the kudiyruppu is worth Rs. 3,000 and the karnavan of the tenant built it and the next succeeding anandrayan is not able to pay renewal fee. In such cases is he to forego the whole amount, the value of the house?

A.—Why should he forego this. The renewal fee will not be so much.

Q.—Would you penalise him?

A.—He can claim some compensation for the improvements and the house, but not full.

Q.—And not the improvements outside the house?

A.—To dupe the janmi he might have made greater improvements there and the janmi may not be able to pay off the full compensation.

The President:—The Committee is thankful to you for your evidence.

V

Saturday, the 26th November 1927.

The Committee assembled this morning at 11 a.m. with its full complement of members besides the President and the Secretary. Mr. C. A. Kunhunni Raja, M.L.C., Cochin, was examined in camera at the request of the witness.

Written statement of Mr. C. A. Kunhunni Raja.

Although my estate lies chiefly in the State of Cochin, in Ponnani taluk of the Malabar district my family pays an assessment of roughly Rs. 2,500 and I have roughly 500 kanam tenants and 100 verumpattam tenants under me in that

taluk. Most of the kanam tenants are non-cultivators. The kanam amount is too small and the michavaram is also very slight. Michavaram is generally kept in arrears on an average for twelve years and sometimes the Government tax has to be paid out of pocket. In settling accounts large sums are very often given on remission. No melcharth has hitherto been given by my family.

2. So far as the middle portion of the Ponnani taluk is concerned, I have some personal knowledge and all my observations are confined to my experience in that part of the district. At present in the order of importance the landlords mostly belong to one or other of the classes of Nambudiris, Nayars, old chiefs and devaswoms and the tenants are Tiyyas, Muhammadans, Nayars and a few Ambalavasies. The customary relations governed the parties till the establishment of the British Government and since then statutory enactments and judicial decisions formed the code of conduct. Courts gave legal sanction to customs. The important tenures of the district are kanam, verumpattam and sub-kanams and sub-verumpattams with derivative ramifications to a large extent in the form of under-tenures.

3. The tenant class especially the middleman in the form of the kanamdar has fully imbibed the spirit of modern education and democratic ideas and has all the influence of the lower officialdom at its command and is fully sensitive of its economic development and has begun to feel that the payments to be made to the landlords are irksome and wants to be made the full owner of the soil with the aid of the legislature and wants at the same time to be relieved of all liabilities. To be brief, a legalised plunder is attempted to be made by a legislative transfer of the proprietary interest to the middleman. The landlords are still a century behind the times and are unable and incompetent to manage their property and are entirely in the hands of kariyasthans' (agents) who are clever enough and are able to dupe their masters every hour. The landlords have not yet learnt the modern methods of successful agitation and have very little influence in the Government of the country and advantage is taken of their weak position to deprive them of their proprietary interest. The landlords fully depend upon the justice and fairness of the British rule especially the officials of the higher grade and unless the Government fully supports their legitimate claims the minority of landlords in Malabar will not be able to stand against the onslaught of the noisy political vote-catcher. I am thankful these aspects have been fully and prominently kept in view in all the pronouncements of the Government on the subject of the Malabar Tenancy.

4. With regard to the questionnaire which reached me only a few days ago I regret I am unable to give an exhaustive written answer within the short time available. To my knowledge there is nothing new to be said or written on the subject of Malabar Tenancy. All that has to be done is to collect the materials lying scattered in various reports of Committees, proceedings of the Government and judicial pronouncements. The statistics from registry offices and subordinate courts will reveal the real situation. In the solution of the problem only one fundamental principle has to be kept in the forefront, i.e., for the last 100 years and more, whatever might have been the state of affairs before, for which no reliable materials are forthcoming, *the landlord was treated as the full proprietor of the land and any interference with his rights must be fully compensated.* Any legislation is welcome provided full compensation is given for the interference of the existing proprietary rights. The supporters of the tenants whose disabilities, whether real or imaginary, are so widely advertised, forget this fundamental principle and complaints are raised against the landlords for exercising their legal rights. The strong hand of the political agitator is becoming a burden to the landlord whose wonted mercy and kindness will melt in the course of a few generations in the economic struggle in this transitional stage in India. In my view the non-cultivating tenant requires no protection and it is the cultivator of the soil who is really in need of some legislative aid. The non-cultivating kanam tenant is a worse rack-renter than his superior landlord.

5. Just as the Usurious Loans Act gives courts powers to give relief against usurious rates of interest, I would suggest a Usurious Rent Act may be passed fixing the definite proportion of the net yield of a land to be shared between the actual cultivator and the full proprietor and giving courts powers to give relief in cases where the landlords portion has exceeded the statutory limit. The existing

middlemen must be wiped out within a period to be fixed by the legislature. Within that period the landlords must be given first the option to buy the middleman's right through the revenue authorities and on their failure to do so the middleman may purchase the landlord's right through the revenue authorities. Provision should also be made for distraint of crops and movables through the revenue authorities for the easy and punctual realisation of rent. If any reduction has to be made in the existing rates of pattam sufficient compensation has to be given to the landlords by the beneficiary. In fixing the proportion of the produce to be shared between the cultivator and the landlord, different considerations ought to prevail in the case of nilams and of gardens.

6. Since a select committee of the Cochin Legislative Council is sitting to consider a Bill introduced by me to amend the existing Cochin Tenancy Regulation, my position in the Council as the representative of the landlord in Cochin precludes me from giving detailed answers to the questionnaire framed by the Committee. Suffice it to say that the Tenancy Regulation in Cochin has not improved its agriculture but has only created dual ownership in land by recognising the middleman as part-owner and the landlords in Cochin have lost the value of their lands without any compensation being paid for the same.

7. The history of the land legislation in Cochin is interesting. In Cochin the janm right vested in the Ruler in what are called 'Pandaravaka' lands and all lands belonging to private owners are 'Puravaka' lands. The Government out of the very nature of it was unable to be the actual cultivator and pandaravaka lands were held under various tenures such as verumpattam, kanam, etc., at the time of the revenue settlement in 1905. Half of the net produce was fixed as the Sirkar's share in the case of the pandaravaka verumpattam nilams and one-fourth of the net yield in the case of puravaka nilams and in the case of pandaravaka kanams one-third of the net yield was fixed as the Sirkar's share, the practice of renewal was abandoned and the kanam amount was confiscated and the proprietorship in the soil was vested in the kanamdar. In the case of pandaravaka gardens each jack tree, arecanut tree and coconut tree was taxed at 4 annas 4 pies and to 2 to 3½ annas, respectively. The Cochin sirkar as the uralan of what are called 'unincorporated' devaswoms was holding lands on janm and these lands were settled separately under the devaswom proclamation in 1910 on different principles. Two-thirds of the net yield was fixed as the Sirkar's share in the case of nilams and one and one-third of the settlement rates were adopted for gardens in the case of such lands, renewal was fixed to be once in fifteen years and certain minor changes were also made in the case of kanam holdings. When the position of the Sirkar was safely established with regard to all kinds of Sirkar lands, an attempt was made to regulate the relations of landlords and tenants in Cochin and the Cochin Tenancy Regulation of 1914 with its unworkable and confiscatory provisions is the result of the labours of the Darbar for well-nigh five long years. A draft of the regulation with my amending Bill is herewith submitted* for the information of the Committee. I regret I am unable to go into further details at this stage of my Bill. If my select committee finishes its labours soon, I shall send an exhaustive memorandum on the subject which is now in the course of preparation.

8. The compensation given to tenants for trees of spontaneous growth under Act I of 1900 is too high and the number of trees such as jack, arecanut and coconut to be planted for each acre under section 18 of the said Act is also too much for agricultural development.

9. The permanent solution of the land problem can only come when the landlords take to agricultural pursuits. The subdivisions of the holdings have become too small and the lands of the same landlord generally lie scattered. Some legislative provision is necessary for compulsory exchange of lands and for consolidation of holdings.

10. I thank the Committee for giving me an opportunity to give expression to my views in the matter. If the Committee so desires, I am prepared to give oral evidence to elaborate my proposals in paragraph 5 supra and to go into the details of the various disabilities under which people are labouring under the existing land laws.

* Not printed.

Oral evidence of Mr. C. A. Kunhunni Raja.

The President:—Q.—Mr. Kunhunni Raja, I understand you are a member of the Cochin Legislative Council?

A.—Yes.

Q.—You are a member of the Trichur Bar and a janmi both in Cochin and in British Malabar?

A.—Yes.

Q.—You have said in your written memorandum that you are promoting a Bill to amend the Cochin Tenancy Regulation in the Cochin Legislative Council and that your position in the Council as the representative of the landlords in the Cochin State precludes you from giving detailed answers to the questionnaire of this Committee. Would you, therefore, like to give your answers *in camera* so that Press Reporters may be excluded and only the Committee's Official Reporter will take down the evidence?

A.—The difficulty is that if I commit myself to any particular statements they may be objected to by the landlords as a whole. I may have some personal views in the matter which may not represent the opinion of the majority of the landlords. I have no objection if my written memorandum is published in the Press but I would desire that my oral evidence may be taken *in camera*.

(The hall was cleared of the visitors and Press Reporters and the examination of the witness was proceeded with.)

Q.—You say with reference to your estates in British Malabar in the first paragraph of your answer that you have roughly 500 kanam tenants and 100 verumpattam tenants under you in the Ponnani taluk and most of these kanam tenants are non-cultivators, that the kanam amount is too small and the michavaram is generally slight and that "Michavaram is generally kept in arrears on an average for twelve years," etc.

A.—There is evidently a mistake there. My answer should read as follows "Michavaram is generally kept in arrears on an average for half the period of twelve years, etc."

Q.—I was about to ask you that in connexion with this answer. Why don't you take steps to evict the kanam tenant? Is it because as the law now stands you cannot bring a suit for eviction for twelve years even though a tenant may be in default for the whole of the rent during that period? You say in settling accounts large sums of money are very often given on remission. We are told that generally kanamdars are regular in payments of michavaram and renewal fees. But your statement is not in accordance with those statements?

A.—I can produce accounts of my estate which will show that most of them don't pay their rents regularly especially in the case of arecanut gardens. If it is wet land they generally don't keep rents in arrears but in the case of parambas the rents are always kept in arrears even though they are kanam, because the tenants will get more value for improvements if they are evicted. It is that which emboldens these tenants to disobey the landlord's call for rent.

Q.—What is the renewal fee that you collect?

A.—I collect one year's verumpattam as renewal fee.

Q.—How do you fix the verumpattam?

A.—Generally I make a local inspection, otherwise I try to get at the old pattam chits. In difficult cases I make it a point to conduct a personal inspection and then decide the rent.

Q.—What will be the verumpattam rent for coconut gardens?

A.—It will be about one to two rupees for every coconut tree. Much will depend upon the locality and the nature of the yield.

Q.—In paragraph 4 of your answer you say "Any legislation is welcome provided full compensation is given for the interference of the existing proprietary rights. The supporters of tenants whose disabilities, whether real or imaginary,

are so widely advertised, forget this fundamental principle and complaints are raised against the landlords for exercising their legal rights." Will you kindly tell us how you calculate full compensation?

A.—The value that will be realised if the janmam land is sold in the market is the full compensation. But if the right of the landlord is retained to any extent, compensation need not be given to the value of that extent, the difference alone need be paid.

Q.—In calculating that market value do you take into account the value of the rights of other people on the land, say, the kanamdar and the other intermediaries, if any?

A.—The landlord is entitled to only the balance after deducting the kanam amount and the value of the improvements effected on the land by the intermediaries.

Q.—Then what about the kanam rights?

A.—So far as the janmi is concerned, he will get possession of kanam lands only after the period of the demise has expired. So provision has to be made for the unexpired period. If it is after the expiry of the period, you will allow only the kanam amount and the improvement value to the kanamdar. That is the practice at present.

Q.—That is to say the kanam right has no market value beyond what is conferred by the value of the twelve years' lease. Legally kanamdars have no higher rights. But in the open market they sometimes get more value?

A.—That will depend upon the value of the improvements, and the relations between the landlord and the tenant.

Q.—No kanam tenant can sell his property towards the end of his lease; it won't have any market value? Is that what you mean?

A.—The value of the kanam rights will be the kanam amount and the improvement value. There is nothing more to be protected. In my view the intermediary tenant requires no protection and it is the cultivator of the soil who is in need of legislative aid.

Q.—Is it your view then that the kanamdar is no more than a non-cultivating tenant?

A.—There may be some kanamdars who are cultivating tenants also.

Q.—Is he in no better position than a mere tenant-at-will?

A.—On the expiry of the period of the demise, he is in no better position. That is my view.

Q.—Then you say "The existing middlemen must be wiped out within a period to be fixed by the legislature. Within that period the landlords must be given first the option to buy the middleman's right through the Revenue authorities and on their failure to do so the middleman may purchase the landlord's right through the Revenue authorities." Do you think this is practicable?

A.—There may be slight difficulties. But if the ultimate aim of the Committee is to get at a workable solution of the agrarian problem then we will have to get rid of the middleman.

Q.—You said that the disappearance of the intermediary is necessary for the economic improvement of the land. Will you please explain that statement? How does the presence of the intermediary who is not a cultivator interfere with the prosperity of the actual cultivator provided you guarantee a proper share of the net yield and impose restrictions on rack-renting and give fixity to the actual cultivator of the soil. In that case how does the existence of one intermediary or a dozen intermediaries affect the position of the cultivating tenant?

A.—It is the position of the actual cultivator that requires protection. As it now stands generally the cultivator under the kanamdar seldom gets anything out of cultivation and that is because of the existence of these intermediaries who exact the maximum rent possible. Generally we find in the case of old landlords, their pattams are much less than the case of the rents exacted by these intermediaries from the cultivating tenants.

Q.—We can understand that position of the relative rents collected by the landlord and the kanam tenant. But I don't understand this position. There is

no connexion between the existing intermediaries being allowed to continue and the prospects of the cultivating tenants being interfered with if you give them fixity of tenure and a fixed share of the net yield?

A.—If the actual cultivator is protected and given a proper share of the produce then that is sufficient and in that case the intermediaries will not be able to rack-rent. This will not give relief to the cry of the intermediary against the superior landlords.

Q.—The question of the intermediary will solve itself then?

A.—But I still think that a cry will be raised that the superior landlord is rack-renting the intermediary tenant. This cry will be raised by the intermediaries who won't then be able to make any profit from the land, once for the actual cultivator fair rents are fixed. Supposing we fix one-third to the actual cultivator, the balance two-thirds will have to be shared between the intermediary and the landlord if the intermediary is allowed to exist. If you are going to fix the proportion in which the intermediaries are also to share this two-thirds, then there will be the complexity of the problem for probably there may be several intermediaries.

Q.—If the janmi takes less than what the kanamdar gets from the verumpattam then there cannot be any trouble? The position is this. Law will say that the cultivating tenant should get so much and not less than that. Then the law will not interfere with the arrangement between the janmi and the other intermediaries.

A.—Exactly. That is what I also propose. But if you allow the intermediary to exist, I feel the share that the landlord is to get as a fixed proportion of the yield as pattam, will be divided between the janmi and the kanam tenant and there will thus be trouble again between the janmi and the intermediary.

Q.—If you give an assurance to the actual cultivator that he will not be interfered with by the intermediaries and that he will have to pay only a fixed proportion of the produce as rent, then the intermediaries' position will be worse off and so they could be practically weeded out?

A.—That is what I want.

Q.—I don't put the question of the position of the kanam tenant to you because you don't concede that his position is peculiar and that he deserves separate consideration or protection.

Q.—In paragraph 5 of your written memorandum you say, "If any reduction has to be made in the existing rates of pattam sufficient compensation has to be given to the landlords by the beneficiary." I don't quite follow you there. Do you mean to say if rents are reduced below their present level, separate compensation should be paid to the landlord?

A.—My observation applies only to verumpattam holdings directly under janmis. Supposing an assignment of janm land is taken by a particular individual showing the pattam to be a certain amount. If you are going to reduce that pattam his capital also will be correspondingly reduced. Generally the janmam value is purchased at the rate of 60 paras of verumpattam rent for Rs. 1,000. If the rent is reduced to 50 paras then the purchaser loses his capital value to the extent of 10 paras.

Q.—If the existing rents are found to be rack-rents and they are reduced, I don't see why the landlord should be compensated for the loss?

A.—Because he will be a loser, for he would have purchased the land in consideration of the 60 paras rent.

Q.—Then he must thank himself for it!

A.—Because he has paid much higher value for the land, he has to be compensated. Otherwise it is confiscation.

Q.—Who is to compensate the landlord in those cases? Is it the tenant who is to compensate?

A.—Whoever that gets the benefit has to compensate. Let the Government pay if that is necessary for the improvement of agriculture. Why should the landlord pay gratis?

Raja Sir Vasudena Raja :—Q.—Why not the Tenants' Association pay?

The President :—Q.—You say "I would suggest a Usurious Rent Act may be passed fixing the definite proportion of the net yield of a land to be shared between the actual cultivator and the full proprietor and giving courts powers to give relief in cases where the landlord's portion has exceeded the statutory limit." Then what is the benefit that the actual cultivator gets? Nothing!

A.—The actual cultivator gets a fixed share of the yield.

Q.—You say "the compensation given to tenants for trees of spontaneous growth under Act I of 1900 is too high." Will you kindly say how it is too high and how you would reduce it?

A.—It is now three-fourths of the value that is given to the tenant and generally the landlords don't get any benefit by the growth of these trees because they will be cut and removed by the tenant. It is only when the trees are existing at the time of eviction they will be getting one-fourth. I should think three-fourths which is given to the tenant is too much because there is no labour or capital which the tenant spends for trees of spontaneous growth. I would therefore reduce that share of the tenant to half. The landlord must be given the right to cut and remove trees of spontaneous growth, in the matter of improvements, sufficient restriction with regard to the conversion of wet lands into gardens should be imposed. Buildings absolutely necessary for farm purposes should alone be allowed to be compensated.

Q.—I will now put to you a few questions with reference to the Cochin Tenancy Regulation and the amendments which you propose to that Regulation as some of them bear upon our work. Please see section 23 (1) (a) and (b) "If the holding or a portion thereof is required by the landlord for the bona fide purpose of extending his own residential house or building a new house for his residence. Provided that if the landlord fails to extend his residence or build a new house for his residence within a period of three years from the date of eviction the previous tenant shall be given the option to hold the same on the original tenure. (b) If the holding or a portion thereof is required by the landlord for bona fide agricultural improvement which requires capital outlay and which the tenant is not willing to undertake or is not capable of undertaking." In regard to buildings it may be either a new building or extension of an old building. In regard to a new building I would like to know from your experience of Cochin State whether the purpose of that clause will be achieved if a man puts up a temporary thatched building?

A.—I don't think the Cochin courts will give a decree for eviction in that case. To give an instance. The Punnathoor Raja has got properties in Trichur Taluk and he lives in Ponnani. When he wanted to get possession of a piece of land belonging to him in the Cochin State he filed a suit under this clause to evict the tenant. The lower courts found that because he possessed a motor-car it cannot be said that he wanted the holding for his bona fide purposes and so they decided against the landlord, but the Chief Court took a saner view of the matter and gave him a decree for surrender.

Q.—Well, you have not come across any decision where the expression "new house" was dealt with.

A.—In the case I referred to, it will be a new house, because he has no house in Trichur.

Q.—Bona fide purposes. That is a very wide term which the Court has to interpret in the favour of the tenant or the landlord?

A.—I admit it is a very wide term.

Q.—What do you mean by "bona fide agricultural improvement"?

A.—There has been no decision on this point. The section itself is, no doubt, very elusive.

Q.—Supposing a janmi wants to take back his land on the mere plea that he wants it for cultivating himself, in your opinion is he justified in doing so?

A.—I don't think the section covers a case like that.

Q.—And you are not aware of the abuse of these provisions?

A.—No, not in the Cochin State. There have been no decisions on the point.

Q.—Now under clause (d) of section 23 I find “ If the kanam tenant neglects or refuses to pay renewal fees and take a renewal within one year from the date of expiry of the lease, provided that the neglect or refusal is not due to bona fide difference between the kanam tenant and the landlord as to the terms of the renewal”. Well, that seems to be very vague?

A.—No doubt it is very vague.

Q.—What is meant by a bona fide dispute. Has there been any case in the Cochin courts bearing on that?

A.—There were cases under this clause. In all those cases the tenant was allowed to deposit the renewal fee in the court and the land was ordered to be renewed to the same tenant.

Q.—So the question of bona fides was not really decided?

A.—No. There are some other difficulties also. The Chief Court held that the cause of action for renewal would be barred by limitation if six years had passed after the period of one year is over if renewal was not taken in the meantime. Then the landlord could get only the existing michavaram for another twelve years and he will lose the renewal fee. That is why I have tried to amend the section by substituting the words ‘ a written demand ’ omitting the words ‘ expiry of the lease ’ and inserting the words ‘ arrears of michavaram, tax, cess or other dues ’ after the words ‘ renewal fees ’.

Q.—I am referring to the clause as it stands now. Clause (f) reads “ If the kanam tenant fails to pay michavaram during the currency of the lease for three years consecutively, notwithstanding an express demand in writing made at any time after the first year’s arrears shall have accrued ”. Then is he to wait for twelve years to evict him?

A.—Yes.

Q.—What is to happen during the interval? The provision as it stands is of no avail.

A.—This will only be a ground for eviction after the period of twelve years. It is only to solve that difficulty that I have sought to introduce another clause [clause (f)] in section 23 (2). That is if a tenant makes default, during the currency of the period he should be evicted. Further, after twelve years they say, it will not be during the currency of the lease. There will be time-expired kanams where the rent will accrue even after twelve years.

Q.—Then the landlord can sue to evict the tenant?

A.—Then he will deposit the renewal fee under clause (d) and can have the action stopped.

Q.—Then in clause (i) “ If the kanam tenant assigns his interest in the land permanently, or leases or mortgages it for temporary occupation without giving previous notice of such transfer, lease or mortgage to his landlord and against the valid objection of the landlord, if any, raised within one month after the receipt of the notice ”. How do you define valid objections there?

A.—There, what is meant by valid objection, nobody knows. No case has been decided on the point.

Q.—If the word ‘ valid ’ is removed then it might be all right. There is no meaning in having *valid* there. If the landlord objects then the tenant cannot assign. That will be creating difficulty for the tenant also?

A.—Supposing the tenant wants to assign his interest and the landlord without any reason objects to his proposal?

Q.—Then what will be the proper ground for objection?

A.—I can conceive of one or two cases. Supposing by the side of a temple there is a kanam land and it is to be assigned to a person who cannot approach the temple according to the customs of Malabar, then that will create difficulty. I believe that is the intention of the section. There is no decided case upon that section and it is for the court to say upon the circumstances of each case whether it is a valid objection or not. These are sections under which there is a wide scope for litigation.

Q.—Section 26 says “ The renewal fees payable by a kanam tenant on renewal of his demise shall be levied at the uniform rate of 27½ per cent of the kanam and 15 per cent of the puramkadam inclusive of customary dues, etc.” Is that not an unsatisfactory basis?

A.—It is. The greater the encumbrance on the land the greater will be the renewal fee which the tenant has to pay. Strictly speaking renewal fee ought to be the present worth of the income which the tenant will enjoy for twelve years. That will be the maximum. Even the Cochin Government was not adopting that method. In their settlement proclamation it has been found that renewal fee was collected at 20 per cent of the kanam amount plus half of the full pattam for one year plus a fee of 5 per cent on the kanam amount or Rs. 3-2-0 whichever was the greater.

Q.—But now the Cochin Government has abolished the whole thing?

A.—Yes. But even now in the case of unincorporated devaswoms, renewal fee will depend upon the usage of each particular institution.

Q.—Can the renewal fee be based on the kanam amount?

A.—It has to bear some relation to the profits enjoyed by the tenant. It is not to be based on the kanam amount.

Q.—In your amendment you define verumpattam as “ the average annual gross yield from the property minus the cost of seed and cultivation and a third of the profit to the actual cultivator of the soil, if any ”. By profit I suppose you mean the “ net produce ”?

A.—Yes.

Q.—Is it an easy matter to fix cultivation expenses and the gross produce of a piece land?

A.—It will not be difficult to find that out. Though it will not be quite accurate there will not be much difference also. I speak from experience.

Q.—And you are confident of estimating almost to a correct figure?

A.—Otherwise how is it possible for Settlement Officers to find out the rates. I am not quite familiar with the British Settlement operations.

Q.—In British India at the original Settlement they decided the outturn of the various classes into which lands are divided according to their fertility or chemical composition of the soil. They conducted a series of crop experiments ranging for about 35 years on the yields of the various classes of lands and it is on the results of those experiments that they have arrived at what they call the gross outturn of the land.

A.—In Cochin also I think they have almost accepted the same principle, but they have fixed half of the produce to be the share of the Government.

Q.—In British India it was more or less ascertained in a scientific manner, after the officer had satisfied himself that the crop was an average crop. That is how the outturn was determined.

A.—The same methods were adopted in Cochin. But I believe in the classification several mistakes are committed. But I believe that the Commissioners of courts who are deputed to fix the pattam also often assess the gross yield, etc., almost accurately, which for all practical purposes we may take to be correct.

Q.—How is the cost of cultivation generally calculated now?

A.—For every para of land they will allow one para of paddy as cultivation expenses including the cost of maintenance of cattle and all other incidental expenses such as vicissitudes of season, etc. In my opinion that is not sufficient.

Q.—Then what is the formula which you will lay down?

A.—Instead of one you will have to make it two paras for one para land, that is to say, cultivation expenses should be doubled.

Q.—So is it right to take it that cultivation expenses should be taken as double the seed sown on the land?

A.—Yes, that will be all right.

Q.—In some cases there will be difference in the measure of seed sown, some lands require less and some lands more?

A.—That is quite true.

Q.—I would point out a difficulty to you. The seed capacity is not a fixed quantity.

A.—It can be converted in terms of acres and cents. Generally in Cochin, it is taken as ten paras of seed to one acre. But in this commutation there may be variations.

Q.—We have very often been told by witnesses and also by people of the villages that they generally use only six paras for an acre and if the land is good, only four or five paras of paddy seed is required.

A.—If each individual land has to be taken in this way it is not possible to generalise in these matters.

Q.—So for every ten cents of land you will allow two paras for cultivation expenses irrespective of the seed sown?

A.—Yes, it is a rough calculation. That may be taken as correct.

Q.—And then I find in section 26 you attempt to correlate the renewal fee with the assessment. You say "One year's verumpattam or for every rupee of Pandaravaka rate of assessment fixed under the Settlement Proclamation, 14/3 paras of paddy in the case of nilams and twice the Pandaravaka assessment in the case of parambas."

A.—There is no difference between the two. It is the same thing which is converted in the terms of the Cochin Settlement. In Cochin they fixed the Pandaravaka verumpattam as half of the net produce and that was converted into money at 4 annas 7 pies per para. That means when the tax is 4 annas 7 pies, the yield will be two paras on that land. Since, if the net produce is two paras, then the Sircar share will be one para and that will be commuted at 4 annas 7 pies. That was the Settlement Proclamation of 1080, more than 25 years ago.

Q.—So what you can get for one panam or 4 annas 7 pies, i.e., one para of paddy now roughly costs one rupee. The price of paddy now is three and a half times what it was at the time of Cochin Settlement. The net yield is therefore seven times the assessment according to you. That is the formula which you lay down in this amendment?

A.—Settlement pattam has to be converted into money according to the present price. So when the assessment is one rupee, the yield will be 7 paras. So the verumpattam, according to my definition, will be two-thirds of 7, i.e., 14/3 paras.

Q.—You would not assign to the kanamdar any position superior to the verumpattamdar, but there is a passage in your reply paragraph 4 where you say "The supporters of tenants whose disabilities, whether real or imaginary, are so widely advertised, forget this fundamental principle and complaints are raised against the landlords for exercising their legal rights." Why don't they exercise their legal rights?

A.—They will be getting more by way of renewal fee sometimes.

Q.—So some people are lenient?

A.—That is the cause of that cry. Since these landlords don't exercise their legal rights there is some advantage gained by some tenants and there are others who exercise their rights fully. When there is some difference there is this agitation and cry that there is rack-renting, etc. That the kanam is no superior right will be evident from the circumstance that no mortgage or assignment of a time-expired kanam will be taken except for the kanam amount and the value of improvements, if any.

Raja Sir Vasudeva Raja:—Q.—Several people have purchased janmam lands recently. How is the value calculated in those cases?

A.—We will have to pay Rs. 1,000 for every fifty or sixty paras of verumpattam rent.

Q.—How is that done?

A.—By looking into the registered pattam chits and by inspection of the locality if necessary.

Q.—Most of these lands have recognized pattams and these pattam chits are contracts entered into between the janmis and the tenants and it is on that assurance that the new purchaser gets the recognized pattam and it is not on fancy prices that these lands are assessed?

A.—That is right. Fancy prices is not the method in vogue.

Q.—It is on the recognised verumpattam of the land and on the assurance that he will be able to get that rent that he advances a certain amount and if the legislature reduces that rent for no reason then it will be a very hard and serious loss to the purchaser?

A.—Yes, that will be a great loss to him if rents are reduced.

Q.—For the last fifteen years if a land has been paying a particular rent it must be considered to be a fair rent and if it is a fair rent there is no necessity to reduce that rent in favour of the tenant?

A.—So far as the landlord is concerned any reduction in his pattam will be very hard, but people on account of economic pressure are willing to give abnormal pattams. In the case of the actual cultivators under kanam tenants, the pattam is very often abnormal.

Q.—It is only on reasonable pattams that these janmam values are based? My questions do not relate to the kanam tenants at all.

A.—Not invariably. But in the majority of cases the existing pattam of landlords may be taken to be fair and reasonable.

Q.—Do you mean to say that on abnormal pattams value is calculated and paid?

A.—My idea is to give one-third of the net produce as the cultivator's share and the balance two-thirds should go to the janmi as his pattam. That being the case, there may be some cases where the pattams go beyond two-thirds of the net yield. Any reduction in such cases will be hard.

Q.—But what about lands purchased long ago?

A.—In that case it will be very hard if the pattam is to be reduced.

Q.—Is it not very difficult to find out the net income? Do you mean to say, any two persons will agree in regard to the cultivation expenses? Don't you think that by accepting your suggestion every case will have to be fought out in courts? Can you make any hard and fast rule in fixing rents like that?

A.—No two Commissioners may agree, but I think that for all practical purposes the cultivation expenses could be found out from which we could ascertain the net profit.

Q.—Can a Commissioner of the court suddenly go and inspect the land and fix the rent?

A.—I think they can do it reasonably enough, though, as I said, they may not be strictly correct to a point.

Q.—In regard to verumpattam land you said fixity of tenure may be given, but in cases where the janmi or the members of his family want to cultivate the land should they not be allowed to get back the land?

A.—If the landlord wants to cultivate, it must be given back, but it should not be a pretext for eviction. Safeguard has to be made for that.

Q.—If bona fide a janmi for his own cultivation or for his anandravans wants to redeem the verumpattam land there must be provision to the effect that he should be able to do so?

A.—Yes.

Q.—Do you propose any security to the janmi for granting fixity of tenure to the verumpattamdar?

A.—The general practice at present is to take one year's verumpattam rent in advance by way of security.

Q.—Now that you are giving him fixity of tenure how many years' rent you will ask him to give you as security?

A.—Two or three years' rent at the most may be sufficient.

Q.—You don't propose any compensation to the janmi so far as the verumpattamdar is concerned?

A.—My suggestion is to pass a Usurious Rent Act fixing that the actual cultivator's share of the produce should be one-third of the net yield.

Q.—If one-third is given to the tenant and two-thirds to the landlord it will practically work out to the present day verumpattam rents?

A.—In a few cases it will reduce the existing pattams. It is in such cases that I suggest compensation will have to be given to the landlord.

Q.—Do you think the present rents are fair rents, as a general rule?

A.—In the case of some of the old and respectable families my experience is that the existing rents are below fair rents, but in the case of these middlemen it is above fair. There are cases where fair rents are also in existence. I cannot make a more general statement than that. Each individual case will have to be dealt with separately. For instance, even verumpattam rights are sold in Cochin because the verumpattamdars are assured of their share of the net produce.

Rao Sahib V. Krishna Menon :—Q.—You said that no melcharths were given in your family in spite of the fact that the tenants defaulted rent. Is it due to the tradition in your family?

A.—It has not been the practice in our family to grant melcharths.

Q.—Is it due to inefficient management?

A.—If necessary we can give compensation for the tenant's improvements and evict him. Of course I must also say that our family management was rather inefficient. We ourselves can sue for arrears of rent without granting a melcharth. Melcharth is only an authority for another to do what you yourself are competent to do, but for which you have not the necessary facilities.

Q.—You said that most of the landlords are in the hands of the kariyastans. Does it indicate that there is something wrong in the management of the landlord's properties?

A.—Yes.

Q.—And don't you think that that management will be worked against the interest of the tenants?

A.—If you specify the kind of injustice then I might be able to explain details. The kariyastan of that type is a danger to the landlord. The tenant stands to gain by such kariyastans.

Q.—Now, take for instance, a kariyastan. He goes and tells the janmi that the tenant is an impertinent fellow and he never recognizes him (janmi) as the social head, etc., and the innocent janmi believes it and may issue orders to evict him or issue a melcharth. Is it not possible that the kariyastan may do that?

A.—Yes; it is possible. That condition is not peculiar to the land tenure alone. There are only a very few janmis who have got modern education and who are by themselves competent to manage their estates. In the majority of cases the estate is in deterioration.

Q.—But are you aware that more than one-fifth of the total revenue of this district is paid by not more than four or five big janmis?

A.—May be true.

Q.—This Tenancy Legislation in India is not a new thing?

A.—No.

Q.—It was started so far back as sixty or seventy years ago in Bengal, Oudh, North-West Provinces, the Punjab, Behar and other places?

A.—I don't think the conditions of tenure are much the same as we have here.

Q.—Whom do you mean by the word 'tenant'?

A.—Those who are under the landlord?

Q.—Soon after Lord Cornwallis assumed charge of his Governorship he passed a Tenancy Legislation.

The President :—I don't think we need enter into the historical aspect of the question.

A.—I want that the actual cultivator alone to be protected. Why legislation was introduced in other provinces and to protect whose interests I can't say unless I make a full study of the subject.

Q.—Do you admit that there is rack-renting in Malabar?

A.—Yes, in the majority of cases of cultivators under kanam tenants.

Q.—And the kanamdar is more responsible for this rack-renting than the janmi?

A.—Of course.

Q.—Therefore you want to eliminate the kanamdar?

A.—Yes.

Q.—How do you guarantee that the janmi will not rack-rent the tenant?

A.—That is why I fix the share of the cultivator to be one-third of the net yield and of the landlord two-thirds and I suggest the court be given powers to give relief in cases where the statutory limit is exceeded.

Q.—Now you want to eliminate the middleman and give a higher share of the pattam to the landlord. What is the idea underlying that?

A.—Not so. The landlord is not given anything higher. The landlord is entitled to his two-thirds share of the income in the produce because of his janmam right. So I don't want to give that right to anybody else. I want that the actual cultivator should be benefited. I want to prevent anybody else from enjoying the property. The kanamdar is a mere money-lender between the landlord and the tenant.

Q.—Does the janmi do any cultivation himself?

A.—He is at perfect liberty to do so if he pleases. He has the full proprietary interest in the soil and it has been recognized for more than 100 years.

Q.—There is a complaint that the janmis don't cultivate their lands properly?

A.—Yes. Some of them do not take to land at present. If all landlords take to land, the agrarian question is solved.

Q.—Do you suggest any method by which the janmi could be asked to cultivate his land much better?

A.—In another twenty-five years the janmis will go to cultivation of their lands by themselves, because they are gradually coming to realize their low position and the struggle for economic existence is slowly affecting them.

Q.—Yesterday Mr. Kalyanakrishna Ayyar told us that the kanamdar and the janmi will gradually begin to cultivate the lands themselves. So there is a necessity to protect the interests of the tenant in some way.

A.—That is why I want the actual cultivator to be protected. To prevent rack-renting by the kanamdar, some protection is necessary.

Q.—In the relationship between the tenant and the landlord, your powers are unlimited. Do you think there is a finality or a limit to your power?

A.—There is a limit. My powers are confined to the land and its produce. In other matters the one is quite independent of the other.

Q.—In the matter of your right of granting melcharths, have you got any limits for that?

A.—If the landlord is in an impecunious position which precludes him from evicting the tenants or paying off his improvements' value, I don't see why he should not be permitted to grant melcharth. To grant melcharth when the old tenant is willing to abide by the terms newly agreed to by the new comer is unnecessary.

Mr. H. R. Pate :—Q.—You consider it is necessary to protect the actual cultivator against excessive rents. Is it on that account that you want to give him fixity of tenure or because of his insecurity?

A.—It is due to excessive rents. By actual cultivation these people don't get any living wage after paying the dues.

Q.—You admit it will be difficult to assess the net produce of the land?

A.—There will be some difficulty, as I said, but for all practical purposes it will be possible to come to conclusions more or less accurate.

Q.—Have you any idea as a general rule what relation the rent bears to Government assessment in Malabar?

A.—I have not myself made a detailed study of this subject relating to Malabar. In the Cochin Settlement Proclamation they have given a comparison of the figures. They say in British India and Travancore the cultivator gets 5/15, janmi 5/15 and the Sirkar 5/15.

Q.—Does that agree with your experience?

A.—I have not compared the revenue figures with the pattam in Malabar.

Q.—To save from the charge of rack-renting and other troubles, does it occur to you it is essential to be accurate in these matters of fixing rent, etc.?

A.—Accuracy to a point may not be practicable but we can arrive at a working basis.

Q.—You propose to give one-third out of the net yield as the cultivating tenant's share. Once you ensure this rent to him you don't think a separate grant of fixity of tenure is necessary?

A.—I don't think separate fixity of tenure need be assured. There is a big family called *Paliyam*. They have verumpattamdars under them and they sell their verumpattam rights. So if a tenant is able to be assured of a portion of the net produce of the land, that itself is a sufficient guarantee and will fetch market value for that. In my estate too verumpattam is transferred for valuable consideration.

Q.—Who are these *Paliyam* people?

A.—There is a big family by that name in the Cochin State.

Q.—Do they hold lands in British Malabar?

A.—I think they have properties in Malabar too.

Q.—Supposing you proclaim by law that every cultivating tenant shall get one-third of the net yield without giving him fixity of tenure, do you think that law will secure its object?

A.—I think it will. If the tenant's share is assured, that itself is fixity and that right will have a market value.

Q.—If another tenant thinks that it will pay him even if the landlord takes more than two-thirds of the net yield, won't he take up the tenancy?

A.—The new tenant will refuse to pay more if the court will give relief. Such difficulties could be overcome by passing a Usurious Rent Act.

Q.—Well, the landlord might say, here is a man who is willing to pay a higher rent and so I must lease the land to him?

A.—Even if the tenant executes a pattam chit, he can be made liable only to pay according to the statute. He will go back on his contract with the janmi. If the tenant is evicted, the new tenant will pay only the statutory rent. So the landlord does not gain anything by eviction.

Q.—So, without giving the tenant fixity of tenure he won't be able to protest against the landlord's unjust demands?

A.—Fixity of tenure may be given. To protect him against unjust demands it is enough if a statutory limit is fixed for rent.

Q.—Do you think that all verumpattamdars should be allowed to continue in occupation so long as they paid their fixed share of rents regularly?

A.—All cultivating tenants might be given fixity of tenure subject to the conditions of security, etc., referred to already by me before.

Q.—You said that in the cases where existing rents are to be reduced compensation should be given to the janmi. Who is to pay him the compensation?

A.—The man who is benefited.

Q.—That means the verumpattamdar's condition is not improved?

A.—Well, he has to find money for the new right he gets. There may be difficulties. In those cases I would modify my answer and say that such tenants may even be given occupancy rights without rights of alienation, thereby assuring a share of the produce of their labour. Otherwise the Government will have to find funds to ameliorate their condition.

Mr. Kotieth Krishnan :—Q.—You say the question of land tenure was regulated by custom in Malabar, Cochin and Travancore. All the three countries at one time being under one Raja, manners and customs of the people being the same, don't you think that the customary relationship between the landlord and the tenant was also more or less the same at one time?

A.—They say there was once a king Cheraman Perumal who ruled over a large part of all the three States. At the most we have only to see what was the state of affairs for the last one century. Is it necessary to go to the history of Malabar? If so, my view is the kanam tenure is of a feudal origin. A favourable rent was fixed for the subsistence of the militia.

Q.—Relations between the landlord and the tenant were more or less the same?

A.—Yes, it was more or less the same in all the States.

Q.—Do you think that the condition of the kanamdar, at any rate the verumpattamdar, is not quite common between all the three countries?

A.—I think there is considerable difference and local variations too. I can't give all the details unless I make detailed enquiries in their case. So far as British Malabar is concerned, I have only personal experience of the middle parts of the Ponnani taluk.

Q.—There are several variations in the rights of these kanamdars?

A.—Yes. The Raja of Mankada has said that two years' rent is the standard renewal fee in his State. There are variations in the renewal fee throughout Malabar. There may be nominal or substantial kanams. The proportion of the pattam may also vary. The incidents of the tenure may vary.

Q.—Do you know the Travancore Maharaja in his Proclamation has said that kanam tenure was renewable at the instance of the tenant and that there was a sort of irredeemability attached to the kanam tenure? I only want to know whether it is customary.

A.—No. It was an inference by statute like the Cochin Regulation. It was as a sort of protection to the Nambudiri Brahmans who fled from Malabar on the invasion of Tipu that these lands were given to them from the State. I shall explain how the Regulation came to be passed.

Sir T. Desikachariar :—Q.—With the permission of the President may I ask one question? There is some difference made between the non-Malayalee Brahman landlord and the Malayalee landlord?

A.—Yes, some difference exists. It must be on this basis. These Nambudiri landlords, when they fled from Malabar to Travancore, got lands there, and after the troubles had settled down they returned to Malabar. So, the Government possibly thought that they would rather give fixity of tenure to their tenants there than give fixity to the absentee landlords. I gather this information from one of the criticisms to the Cochin Tenancy Regulation prepared by Mr. L. A. Govindaraghava Ayyar.

Sir T. Desikachariar :—Q.—I have been studying both the Regulations of Cochin and Travancore; there is a distinction made between the duration of the tenure between the non-Malayalee Brahman and the Malayali Brahman landlord. One gets permanent tenure and the other does not?

A.—The non-Malayali Brahman is not given the same concession as the indigenous Brahman there and the reason might be the one that I stated previously.

Q.—You said that in the case of garden lands where the tenants have effected improvement it will be difficult to collect rents if they fall in arrears; the longer the rent accumulates the greater is the risk for the janmi. May I know why it is so?

A.—Because the compensation allowed under the Improvements Act will be much higher than the market value of that property. That is why the tenants keep their rents in arrears purposely to get more value for their improvements.

Q.—Can you give any specific cases like that where the landlord has been compelled to pay heavy value for improvements?

A.—Yes. Recently for a paramba I had to pay for improvements Rs. 2,600 and I get only a rent of Rs. 60 per annum. In my own estate I had to give up arrears of rent to get a renewal of leases because the value of improvements was very heavy. These are cases of mostly arecanut gardens in the Chiravellore amsam, Ponnani taluk.

Q.—Did you get any renewal fee?

A.—Yes, I got one year's rent, but even that you sometimes don't get from the tenants of gardens. They will simply say, "you pay off my value of improvements and I will go away."

Q.—At the time of the first grant of lease in the case of parambas for conversion into gardens the rent charged is quite nominal?

A.—Yes.

Q.—Then at the next renewal the landlord increased the rent?

A.—Yes.

Q.—Is there any standard by which that rent is fixed in the case of kuzhikanam leases?

A.—I cannot answer that question because I have no personal experience of that tenure. In Ponnani I have not come across any instance of a kuzhikanam tenure.

Q.—In cases of renewal you said you will take one year's net income. How do you fix the value?

A.—I fix at 12 annas per para of paddy in the case of wet lands and in the case of gardens from one to Rs. 1½ per coconut tree according to the nature of the yield.

Q.—In a particular locality we can more or less say the particular *meni* which a wet land is capable of yielding?

A.—Yes.

Q.—Now, in the case of lands which you own in Ponnani taluk, have you been increasing the rent at the time of renewal?

A.—Yes, to some extent I have been increasing according to the increased output of the land.

Q.—In the case of garden lands which have all been reclaimed by the tenants, in fixing the rent supposing we say that all the improvements may be valued just as they do at the time of eviction, supposing we value all these improvements and give the tenant interest on that capitalised value then that represents his share of his investment on the land?

A.—Yes.

Q.—Then there is the further charge, that is, he looks after the garden and secures it from thieves and others, supposing for that he is given one-third of the produce and the rest two-thirds may go to the landlord. Will that work as a satisfactory basis for fixing the rent of a garden land?

A.—There must be three elements for the production of wealth, viz., land, labour and capital. The tenant contributes capital and labour and the landlord must get something for his land.

Q.—Supposing from the net yield of the property 12 per cent interest is calculated.

A.—You can't get more than 5 or 6 per cent on any capital investment on land. If 12 per cent interest is allowed, the landlord will have to pay pattam to the tenant because there will be no balance left in most cases after deducting 12 per cent interest. In Travancore they have fixed in the case of parambas one-fourth as the landlord's share. That would be fair.

Q.—You have already stated that if one-third of the net yield is secured to the tenant some law giving fixity should also be given?

A.—Yes. That will apply only to wet lands and to actual cultivators.

Q.—I am told after the passing of the Cochin Tenancy Regulation a large number of monied people have invested their monies in Cochin State on lands?

A.—It is not on kanam lands that they have invested. They have purchased Pandaravaka lands mostly. Sir Sankaran Nair, Mr. C. V. Ananthakrishna Ayyar, Mr. T. A. Kalyanakrishna Ayyar and others have done so.

Q.—They have invested their money all on Pandaravaka lands?

A.—Yes. It is almost like janmam property. At the time of the next settlement they may increase the assessment to a small extent, that is all. Permanency is given by the settlement proclamation.

Q.—Do you think that the present condition of the verumpattamdar is miserable and you consider his position must be improved and if some sort of fixity is given he would try to improve the fertility of the soil?

A.—Yes. The verumpattamdars are mostly under kanamdars. They should get fair rents; not so much fixity of tenure. That is why I said that I wanted my evidence to be taken in camera, because my evidence won't be liked by the other janmis whose verumpattam is above two-thirds of the yield. I am only giving expression to my personal views.

Raja Sir Vasudeva Raja:—Q.—You are more than a tenant yourself, in your views?

A.—Yes, so far as the actual cultivator is concerned.

Q.—Don't you think that if a tenant is told that if he did not pay his rent regularly he will forfeit his occupancy right, that would be a sufficient check?

A.—That is not a sufficient check, I think. In spite of such a condition, arrears will accrue and security for rent has to be provided for.

At this stage the Committee rose for lunch at 1-45 p.m.

The Committee met again after lunch and the examination of Mr. Kunhunni Raja was continued.

Diwan Bahadur T. C. Narayana Kurup:—Q.—Your final opinion is that occupancy right or fixity of tenure is to be given to the cultivating tenants?

A.—Yes.

Q.—And between the cultivating tenant and the janmi there should be no middleman?

A.—Yes. The best course will be to reduce the number of intermediaries as far as possible.

Q.—In the case of big janmis, such as devaswams and natuvazhies, between the janmi and the actual cultivator there are a number of intermediaries?

A.—Yes.

Q.—Some of them have money claim and some rent?

A.—Yes.

Q.—Most of them depend upon the income that they get from the land for their livelihood. Would it not be very hard if those people are turned out?

A.—There is no hardship. They are getting what they are entitled to. They will get the kanam amount and the value of improvements.

Q.—Now your proposal is this. A is the janmi and B the cultivating tenant. There should not be any one between A and B.

A.—There may be cases where the intermediaries exist but the attempt should be to eliminate the intermediaries as far as possible.

Q.—Suppose A is a janmi, B a kanamdar under him, C a tenant under him and D the actual cultivator. Now C has let D in possession of the property. C wants to cultivate the land after some time. Would you allow C to do so?

A.—I want only to legalise the rights of the actual cultivator and the ultimate landlord. To improve agriculture the position of the actual cultivator should be assured and to protect proprietary interest, the position of the landlord should be safeguarded.

Q.—You mean the present actual cultivator? Is that so?

A.—Yes.

Q.—He may have come in the land only very recently?

A.—He cannot be turned out. The period of his stay in the land is immaterial. "Who is in cultivation" that alone need be considered to improve agriculture.

Q.—You are thereby penalising the tenant above the actual cultivator?

A.—It is not penalising. What sympathy does the middleman deserve? If the superior landlord does not want him in the land he must pay the kanam amount and the value of improvements. The middleman does not contribute to the improvement of agriculture. His rights have been defined for the last 100 years and more.

Q.—What is the actual cultivator's right?

A.—He is toiling.

Q.—Suppose I am willing to toil?

A.—But the point is the man in actual possession should be protected.

Q.—That is to say irrespective of any consideration the man in actual possession should be protected?

A.—I am of that opinion.

Q.—You say one-third should be given to the actual cultivator and two-thirds to the landlord. I put it the other way. That is two-thirds should be secured to the landlord and one-third to the tenant. This is the old practice. Have you any objection?

A.—Am I to understand that this was the old practice so far as North Malabar is concerned—I do not know personally about North Malabar? So far as the landlord is concerned your suggestion is alright. If you cannot secure one-third to the cultivator, his position will be precarious.

Q.—I say, secure two-thirds to the landlord and take one-third between you tenants?

A.—Then there will be the question of rack-renting the actual cultivator.

Q.—Why should the janmi suffer?

A.—If you want to improve the land the actual cultivator has to be protected. The landlord may eliminate the intermediaries. If you do not want to eliminate the intermediaries you have to take the risk and there will be no end for the cry.

Q.—Suppose I am not in a position to pay for the value of improvements?

A.—Then you have to take the risk. The value of improvement has to be paid on any account.

Q.—Even though a middleman is put in without my consent I have to take the risk? I let you in possession of the property and you let it to another man instead of cultivating the land. Now you say you are not entitled to two-thirds because there is another man in the middle. Is that your point?

A.—The janmi is entitled to two-thirds and it is on that understanding and impression he let you in possession of the property. If the tenant puts another man in possession of the property this one-third must go to the cultivator. If this one-third is to be divided again, it is insufficient if you want to improve the condition of agriculture. The middleman has simply to be eliminated.

Q.—If it is deducted from the janmi's shares would not that be a hardship to the janmi? This B the tenant of A lets the land to C against the wishes of A. According to your proposal C is entitled to one-third.

A.—The janmi should not lose. He must get his two-thirds.

Q.—But according to your proposal C would be getting one-third?

A.—My idea is C should get one-third and A two-thirds and if he does not want to share his two-thirds he must eliminate the middleman.

Q.—Till I eliminate the middleman I am to suffer?

A.—I want one-third to be reserved to the actual cultivator, and the balance may be disbursed between the janmi and the middleman if the janmi wants to do it. The janmi may eliminate the middleman.

Q.—I say reserve two-thirds to the janmi and the balance you divide between the tenants? The old formula is one-third to the janmi, one-third to the State and one-third to the tenant. Reserve that two-thirds to the janmi according to the old custom. There is no formula that whatever may be the condition one-third should be given to the tenant?

A.—I think the actual cultivator must get one-third. Of course there may be cases of hardship but we can't provide for all hardships by legislation.

Q.—As regards garden lands, you have garden lands in Ponnani and you say that it is not paying to recover them after paying value of improvements?

A.—Yes.

Q.—In the case of bad kariyasthans, it is not only the tenants that suffer but the janmis suffer?

A.—Oh, yes. I can give several instances. The tenants gain by duping the landlords with the connivance of the kariyasthans.

Sir T. Desikachariar:—Q.—In your part of the country what is the Government assessment for an acre of paddy land?

A.—I cannot say exactly. It varies from Rs. 6 to Rs. 3.

The President.—According to the Settlement register the maximum is Rs. 6.

Sir T. Desikachariar:—Q.—Let us assume it is Rs. 6. What would be the income from that one acre of land?

A.—It will depend upon the soil and the locality. There are places where we get tenfold and twentyfold but on the average in the case of *punja* lands in my part of the country it won't be more than tenfold. So for an acre it would be 100 paras roughly.

Q.—What will be the value in rupees?

A.—The present market rate will be Rs. 80 to 90.

Q.—So one acre of land paying Rs. 6 assessment is likely to give Rs. 80 worth of gross produce?

A.—Yes.

Q.—Out of that what do you give to the person who actually cultivates as pattam? I want some concrete facts because I should like to have a formula?

A.—If you want concrete facts it is better that I gather figures from my accounts. I can speak from memory only now.

The President.—He will furnish you with a list, showing the extent, assessment, gross income, pattam, etc.

Sir T. Desikachariar.—I should like to know about it. What portion of it goes to the kanamdar?

A.—Major portion.

Q.—What would be the major portion out of these Rs. 80?

A.—Roughly Rs. 60 will go to him.

Q.—So a net gain of Rs. 20 will go to the person who actually cultivates?

A.—Yes.

Q.—Then he has to find the cattle, manure, cultivating expenses. I find in some of these reports that the actual cultivator does not get even the straw?

A.—It looks like that. In the case of verumpattamdars under kanam-holders, there will not be much left.

Q.—I want to ascertain from witnesses like you whether there are cases where the tenant gets only the straw?

A.—There are some such cases.

Q.—In such cases I suppose if the tenant's position is improved if you give fixity of tenure to him and if you give him one-third of the net produce, it won't work any hardship to the janmi or the kanamdar but on the other hand it will induce the tenant to take interest in the land and improve the land and give an adequate return to the janmi or the kanamdar?

A.—That is the correct proposal. It will work hardship in some cases because some may have purchased property on the basis of the existing high rent. The reasonable rent ought to be two-thirds but there may be cases where the properties might have been purchased on that higher basis. In such cases reduction of rent means loss of capital and confiscation follows.

Q.—How then could you legislate in such a manner as would not bring about the cry of confiscation?

A.—Compensation has to be given in such cases as where reduction of rent has to be made.

Q.—Who is to give compensation?

A.—The man who gets the benefit.

Q.—Is it the verumpattamdar who has no property and who gets only the straw?

A.—Some device has to be found out for easy payment. The verumpattamdar gets the benefit and the Government may advance loans.

Q.—So there would be that difficulty in fixing at one-third the net produce to the verumpattamdar?

A.—Yes.

Q.—Then with regard to the kanamdars, is it true that most of the present-day kanamdars are persons who have mainly invested money on land in order that they may get some benefit from it as an investment?

A.—Yes. Most of them are melcharth holders. The old kanamdars have disappeared to a large extent—there is a change of hands to a large extent.

Q.—There is a view that these kanamdars being persons who are mere mortgagees might as well take the mortgage money and walk out. What do you think of that view?

A.—That is the correct view.

Q.—You think that the kanamdar is a person who has merely invested money and there won't be any confiscation of vested interests if he gets back the money he invests. Is that your view?

A.—My view is that it is with the full knowledge of the fact that his rights are valid only till the expiry of the demise period that he entered into the transaction. So why should he have any more protection? Why should the right of the janmi be transferred to the kanamdar without any compensation?

Q.—Now there are two views. I should like to know from witnesses like yourself the pros and cons of the situation. One view is that you have expressed. There is the other view that for some reason or other, historical or otherwise, the kanamdar has always been treated as a person who has a definite interest in the land?

A.—My view of the original kanam is that it is a feudal tenure. So there was at no time any notion of permanency attached to it. All these stipulations of small payments of Aradiyantharams on recognized occasions in the landlord's family indicate the feudal nature of the tenure originally. I would say kanam is a feudal tenure in its origin but its necessity disappeared when the British Government was established. There is no necessity to protect kanam interest. The militia have to pay respects to the chief on important occasions. These Aradiyantharams are specially marked occasions of festivities such as marriage, death, birth, etc.

Q.—That again shows that they have always been on the land. In addition to the owning of the land they also paid due obeisance to the landlord. So what I want to point out to you is that this fact is not inconsistent with the view that they were more or less holding permanent tenures. Do verumpattamdars pay these things?

A.—The verumpattamdars do not generally pay. The feudal origin does not show that the kanamdar was always on the land.

Q.—They have not got fixity of tenure. The kanamdars pay because they have got fixity of tenure. Now in reading the terms of reference it is stated 'on the extent of unjustifiable evictions by janmis in particular and how far the kanamdar as such is in need of any protection.' This is a definite question to be solved. That is why I ask you about their case so as to help for us in the solution of this question. You think it would be expedient to wipe out the kanamdar altogether and say 'Go out; take your money or *kanartham*'?

A.—If you want to protect the middleman at any cost out of expediency then compensation has to be given to the landlord.

Q.—What is the loss of right?

A.—If the mortgage money and the value of improvements are given then what more is the kanamdar entitled to? If the period of the demise is subsisting then some amount has to be given on that account. The balance left belongs to the landlord. If his rights are affected by the legislation, so much compensation is to be given.

Q.—What is it that you exactly want? You say the verumpattamdar should be given some sort of permanent tenure. You admit the janmi's absolute proprietorship of the land. What about this unfortunate fellow, the kanamdar, in the middle?

A.—I do not think he requires protection. The middleman has simply to be eliminated.

Q.—The janmis are very small in number. The verumpattamdars are mere tenants-at-will. The kanamdars are persons who have been in the land for 40 years, 60 years and 80 years?

A.—There will be verumpattamdars also of such long duration. Most of the present-day kanamdars are newcomers to the soil. They want to exploit the

Q.—Anyhow they are tenants-at-will, but kanamdars are persons who are asked to pay renewal fee? This is a serious problem?

A.—Renewal fee is paid for the profits they enjoy.

Q.—Do you mean to say that compromise should not be made on the basis of expediency?

A.—I do not think any compromise necessary in the case of kanamdars. Compromise should not be by way of confiscation.

Q.—You want to confiscate the rights of the kanamdar and give it to the verumpattamdar?

A.—Kanamdars' rights are only till the expiry of the lease. If any higher right is given the landlord loses the land value and to that extent it is confiscation. The verumpattamdars are the actual cultivators of the soil. To improve agriculture their position has to be protected. Kanamdars' rights are not transferred to the cultivator.

Q.—We have got the views of a large number of people and preponderance of opinion is that the kanamdar notwithstanding the High Court decisions, has within the consciousness of the janmi himself been treated as a man who has a substantial interest in the property. So how will we eliminate him? He has been treated as having a substantial interest in the property. That is why pensioners, vakils and clerks and people who have made money in other walks of life invest money on kanams?

A.—May I suggest an instance by way of analogy? Suppose the Government allows an official to continue even after the 55th year. Is that a claim for all officers to say 'Why not apply that principle to my case also'?

Q.—I don't think the analogy is quite correct. Now, I have no objection to your giving occupancy right to the actual cultivator under section 6 of the Estates Land Act. But why should this kanamdar be chucked out?

A.—Why should the landlord be confiscated? Why should the right of redemption be taken away? Let us assume the kanamdar is a usufructuary mortgagee continuing on the land for a large number of years. Why should his rights be protected except to the extent of his mortgage and the value of improvements?

Q.—I put it just the other way. He is a man who has invested money there?

A.—You may as well take the mortgage money and the value of improvements.

Q.—He came there as a kanamdar thinking that there is some sort of magic in it?

A.—From 1852 it was clear that it was only a usufructuary mortgage right and most of the present-day kanamdars have come in possession of the land with open eyes after that. Therefore they stand in need of no protection.

Q.—That is your view?

A.—Yes.

The President.—Q.—Just one question. You said that in the Paliath Achen's estate as well as your own verumpattam rights are sold. Is it correct to say that there the verumpattam tenants are not evicted?

A.—As a rule they are not evicted.

Q.—Would not that be a reason for verumpattam right having a saleable value in that estate?

A.—The profits enjoyed by the verumpattamdars form the main basis for the saleable right.

Q.—And there is profit also?

A.—If there is no profit nobody will purchase. There is a margin of profit. Freedom from eviction without profits will have no saleable value.

The President.—The Committee is very thankful to you, Mr. Kunhunni Raja, for your evidence.

Written statement of M.R.Ry. K. C. Sreeveerayan Raja Avargal, Fourth Raja of Calicut.

I. (a) (1) I do not think that the kanamdars have any disabilities.

(2) Kuzhikanamdar has no disability whatever. When he surrenders the property he gets ample sum as compensation under the present Tenants' Improvements Act.

(3) Verumpattamdars directly under the janmis have no disability at all. During bad seasons, it is usual for big janmis either to remit a part of the rent according to the needs of the season, or to receive the balance of rent in small instalments without causing hardship to the tenants. Any damages to the property due to natural causes are repaired by janmis (specially big janmis). If the tenant repairs such damages, the janmi allows a deduction from the rent.

(4), (5) & (6) It is likely that tenants, under-kanamdars, kuzhikanamdars and verumpattamdars may have disabilities. The intermediaries referred to above wish to make the largest profit for themselves and seldom think of the benefit of their tenants. Hence they either enhance the rent or evict or give melcharth for increasing it. But I do not think that such hardship prevails generally in Malabar; perhaps in rare cases such things may occur.

(7) Tenants other than those referred to above are few. But it has to be inferred that the position of verumpattamdars under those in occupation by right of mortgage with possession, otti, etc., is likely to be similar to the position of verumpattamdars under kanamdars, kuzhikanamdars and verumpattamdars referred to above.

(b) Even if the alleged hardships really exist, they are not peculiar to Malabar. My information and opinion are that they affect this Presidency or rather the whole of India.

(c) If the tenants have hardships, I do not think that there is on the whole much difference between North and South Malabar in respect of those hardships.

(d) Tenants in Ponnani, Walluvanad and Calicut taluks, which have more of good parambas and gardens, will not be so sorry in surrendering their properties as the tenants in Palghat and other taluks which have more of fields under cultivation. This is because the tenants of Ponnani, etc., will get handsome amounts as compensation under the present Tenants' Improvements Act.

Eviction.

II. (1) (a) My information and experience are that unjust evictions do not exist to any noticeable extent. Janmis usually resort to eviction of rent, purappad and taxes are kept in arrears or if the tenants refuse to renew their leases. I know several cases of such evictions. It is usual also to redeem property from kanamdars after paying them the amount of kanam and ample compensation in order to convert it into verumpattam. My information is that kanamdars similarly redeem the property from sub-kanamdars and verumpattamdars under them. Such evictions do not appear to be on the increase.

(b) My information is that both janmis and kanamdars give melcharths. In some cases they may be unjust. But in some other cases there will be sufficient justification for the action. When the janmi is weak in resources but the kanamdar under him or the mortgagee in possession is strong, it is found that melcharths are given. Unless we go into the details of each melcharth case, it is not possible to say whether it is just or unjust. It is not correct to characterize them all as unjust. If melcharths are completely forbidden by law, several janmis may be put to trouble and hardship.

(2) It is utterly false to say that the janmi in his capacity as landlord oppresses his tenants. This is a false allegation made out by pro-tenant agitators; it is not true. Eviction on social grounds must be said to be almost non-existent. If at all, they are very rare. One or two may perhaps be found in a thousand cases. If even such rare cases are examined, other additional and sufficient reasons will be found for eviction.

III. (a) I am not convinced that hardships are in existence. Hence no answer is necessary.

(b) Even granting that there are hardships it is not necessary to grant permanent rights. The result will only be to rob Peter to pay Paul. And it will not redress the existing grievances if any. If permanent rights are to be conferred, it should be done only after receiving due compensation, and they should be conferred on those who cultivate and improve the properties. This alone will lead to the welfare of the country and the people. Considering this, it should be conferred on the cultivating verumpattamdars referred to in question I. The intermediary tenants should never be granted permanent right. If the person in possession is a kanamdar, the janmi should have the right to convert kanam into verumpattam after paying the kanam amount.

(c) Suppose there are (1) janmi, (2) kanamdar and (3) verumpattamdar having rights in a property. It is sufficient if the verumpattamdar is given perpetual right. The kanamdar who is only an intermediary and not a cultivator may be removed by the janmi. In course of time, the janmi and the verumpattamdar alone will remain.

(d) Kuzhikanamdars need not be given permanent rights. Kanamdars who are not cultivators but only intermediaries need not be given permanent rights. This is my view. I have already stated above that there is no objection to conferring permanent rights on cultivating verumpattamdars [Vide III (c)].

(e) It is absolutely necessary that the Rent Recovery Act or a corresponding measure should be in force in Malabar. It is very difficult to collect rent through civil courts and it causes great delay and expenditure to do so.

(f) Permanent rights should not be given in the following cases—

- (1) When the janmi requires the property for cultivating it himself.
- (2) When the janmi requires it to construct a house for himself.
- (3) When the title of the janmi is denied.
- (4) When two years rent is in arrears.
- (5) When the tenant does not agree to renew the lease paying proper renewal fees, etc.
- (6) When the tenant causes damage or deterioration to the property or uses it for purposes contrary to the lease.
- (7) When the tenant demises it without the written consent of the janmi.
- (8) Lands within a furlong of a temple, church, or tank used by high-caste Hindus, or residence of Brahmans.
- (9) Mountains, forests, etc. Lands included in the lease on which janmi's buildings stand.
- (10) As the ownership of the land used for cultivation belongs to the janmi, if the tenant refuses to enhance the rent proportionately to the annual income from it.

IV. (a) (1) Kudiyiruppus may be given permanent rights. But the area used for kudiyiruppu should be fixed as 10, 15 or 25 cents. If lands on which kudiyiruppus are made are included in a lease of more than one item of property, permanent rights should be given only in the case of the land on which the kudiyiruppu was allowed to be built. When it is used for purposes other than kudiyiruppu, such as commercial purposes, permanent rights should cease. When the occupant of kudiyiruppu alienates the land by assignment or otherwise, he should do so with the written consent of the janmi. This should apply to all assignees and transferees in succession. If a family has more than one kudiyiruppu lands in possession, permanent rights should be given only in the case of the kudiyiruppu where the family resides.

(2) There should be some differentiation in the matter of granting permanent rights to the kudiyruppus in towns and rural parts. In towns, it is usual to construct kudiyruppus and rent them to traders and others. Only such kudiyruppus as are used for one's own occupation (for the residence of members of the family) should be given permanent rights. For others it should not be conferred. In municipalities, permanent rights should not be given to kudiyruppus.

(b) I do not think that there need be much difference between kudiyruppu parambas in urban and rural parts. It may be put down as 25 cents in towns and 15 cents in rural parts.

(c) (1) In such cases the tenant should find out a person to take over the property with the consent of the janmi. If this be not feasible, the tenant should demolish and remove the house.

(2) There should be a condition for the removal of the house by the tenant.

(3) In the case referred to in this question, the janmi should have the right to redeem the kudiyruppu.

(d) (1) & (2) I am opposed to the compulsory purchase of the janmam right of the janmi of Malabar, for kudiyruppus or other purposes. Payment of janmam value by means of bonds is not right. If it is decided to give janmam rights to kudiyruppus, it is not necessary to do so by compulsion. To pay the compensation for the janmam rights to the managers for the time being, will involve material loss to the tarwad. This is opposed to the nature and customs of the Malayalis. Joint property is likely to go to ruin.

V. The Tenants Improvements Act generally causes several hardships to the janmis. As the costs of improvements have increased, it has become impossible for most janmis to evict tenants. Tenants are disinclined to renew their leases when they are aware that the janmi is in difficulties. As it is not possible to deposit the cost of the improvement, janmis have had in some cases even to forego their janmam right. The Act encourages tenants to make improvements beyond proper limits and of a kind not suitable to the property but with an eye only on compensation. Provision should be made to avoid such troubles.

Compensation.

VI. (a) Now the janmam value of a land in the possession of a verumpattamdar under a verumpattamdar is fixed according to the verumpattam received for it and not according to the michavaram. If the kanamdar is given permanent rights, the janmam value will in future have to be fixed according to michavaram. The difference thus caused is the loss to the janmi. The kanamdar should pay this amount as compensation for the permanent right he gets. If there are more than one tenant between the janmi and the actual holder, an amount proportionate to the rights of each tenant should be given to the sub-tenants out of this amount.

(b) & (c) Suppose from a field of one acre in extent, 100 paras of paddy is received as verumpattam. Half of it must be considered as kanapattam due to the janmi (there is such a practice), and after deducting 15 paras for kanam interest and taxes, the annual value of the remaining 35 paras will, at Rs. 100 per 5 paras, amount to Rs. 700. The tenant should pay to the janmi this amount, for getting permanent rights. Besides, he should also pay the former, michavaram and renewal fees. This amount may be paid to the janmi in a lump sum or it may be made the first charge on the permanent rights of the tenant, the interest at 5 per cent may be charged and the purappad may be enhanced by this amount.

VII. (a) In my opinion, out of the annual net produce, two-thirds should go to the janmi and one-third to the tenant. If there are more tenants than one, this one-third should be divided between them according to their respective rights.

(b) I am not prepared to say that generally the present rent is unjustly high. In some places, some kanamdars and janmis may be collecting rent from their sub-tenants at a rate higher than this scale. But I do not think that it is generally done. Except that it may be laid down that the rate should not be increased in future beyond the above-mentioned scale, I do not agree to any reduction of existing rates.

Renewal fees.

VIII. (a) In several places several janmis fix the renewal fees in different ways. But if a general law is to be made for the district, it should be laid down that out of the annual income from the property included in the lease, the expenses of cultivation may be deducted and twice the net income should be paid to the janmi by the kanamdar and the kuzhikanamdar once every 12 years.

(b) I am living in the Ernad taluk. In it there are a large number of janmis of different kinds. I have no definite information as to the scale under which they collect renewal fees. The Kizhake Kovilgam, i.e., my Kovilgam, collects according to the following scale (table is subjoined).

General.

IX. Though permanent right and compulsory purchase are not necessary, if it is decided that some other law is indispensable, my opinion is that a law prohibiting the eviction of the actual cultivating tenants except in cases referred to in III (f) will serve the purpose.

X. (a) & (b) I am not against a provision of law laying down that before giving melcharth, the existing tenant should be given notice showing the rent, renewal fees, etc. If he does not comply with this notice, it is not just that he should be given the right of pre-emption after the melcharth is given.

(c) The difficulty referred to in this question is likely to arise. But when there is a dispute between the parties similar frauds, etc., are decided by courts according to evidence. Hence the courts will not find it difficult to decide this matter also. Further if a melcharthdar and janmi act in collusion, it is in respect of renewal fees and rent that they can cheat the previous tenant. The limits of these can be easily fixed. I do not therefore think that a special law is necessary in this matter.

ENCLOSURE.

In the Palghat taluk.

Fees is calculated according to the extent (measured by the number of paras seed sown in the field) or rent or kanam. Fees is collected at the rate of Rs. 90 including 'aduthathu' for a land taking 25 paras seed, and at Rs. 60 including 'aduthathu' for a land yielding 100 paras of paddy as rent, and at Rs. 24 as above for Rs. 100 kanam. For 100 (paras) pattam, fees is also collected at the rate of one (panam) for 10 (paras), i.e., 10 panams or Rs. 2-13-9. Besides this, the stamp duty and registration fees for a lease and expenses at the rate of Rs. 28-8-0 for getting ready a lease of land carrying 100 pattam are also collected. When the pattam is above 100, the cost of preparing the lease will slightly increase.

In Calicut, Ponnani and Walluvanad taluks and in some parts of Ernad taluk, Rs. 60 for 100 paras of paddy rent, or Rs. 120 for Rs. 100 rent is being collected. Also one-tenth of the pattam and cost of the document as above. In some parts of the Ernad taluk, fees at the rate of Rs. 24 for Rs. 100 kanam, and other amounts as described above are collected.

Scale of renewal fees, etc., obtaining in Kizhakke Kovilagam.

Serial number and description.	Fees.	Aduthathu.	One-tenth of the rent.	Trikkal kanam.	Cost of writing.	Tirumal Kazhoha.	Kutti right.	Local expenses.	Muktiyar fees.	Total.
1. 25 paras seed	Rs. 75	Rs. 15	Rs. 2 13 9	Rs. 6	Rs. 1 1/2	Rs. 6	Rs. 6	Rs. 6	Rs. 3	Rs. 121 5 9
2. 100 paras paddy rent	50	10	2 13 9	6	1 1/2	6	6	6	3	91 5 9
3. 100 rupees rent	100	20	2 13 9	6	1 1/2	6	6	6	3	161 5 9
4. 100 rupees kanam	20	4	2 13 9	6	1 1/2	6	6	6	3	55 5 9

REMARKS.—If the rent exceeds 100 paras of paddy or is less than that, the cost of the lease will also be slightly more or less as the case may be.

The stamp duty on documents and registration fees are collected as extra charges.

[Note.—As since translated by the Malayalam Translator to Government.]

Monday, the 28th November 1927 (11 a.m. to 1-57 p.m.).

The Committee met again to-day in the Huzur office at 11 a.m. All the members of Committee except Diwan Bahadur T. C. Narayana Kurup were present.

Oral evidence of Mr. K. C. Sreeveerayan Raja.

The President:—Q.—Mr. Sreeveerayan Raja, you are the Fourth Raja of Calicut— you occupy the fourth sthanam in the Zamorin's estate?

A.—Yes.

Q.—You are the managing member of the Kottakkal family?

A.—Yes, I am the managing member of the Kizhakke kovilagam. There are three branches—the Kizhakke kovilagam, the Puthiakovilagam and the Patinjare kovilagam. I belong to the Kizhakke kovilagam and I am managing it on behalf of Manavedan Raja. He ought to be the Manager, but on account of indisposition or age he is not in a position to manage and so I manage the affairs.

Q.—You pay a very large amount as Government assessment?

A.—Some Rs. 50,000.

Q.—How much is the annual income of the Kizhakke kovilagam by way of michavaram?

A.—It will come to one lakh and forty thousand including Maligana, renewal fee and everything. The rent alone will come to one lakh and ten thousand. The renewal fee will come to between twelve and fifteen thousand.

Q.—How many kanamdars are there under the family?

A.—About 5,000 kanamdars.

Q.—How many verumpattamdars are there directly under the estate?

A.—1,086 verumpattamdars.

Q.—Are there any kuzhikanamdars?

A.—There are 1,112 kuzhikanamdars.

Q.—What is meant by kuzhikanam in your estate?

A.—Parambas in which coconut trees, arecanut trees and other trees have been planted.

Q.—Are there any vettukanams?

A.—There is no separate classification as vettukanams. It comes under improvements.

Q.—Now please refer to your written answers. In answer to question I (4), (5), (6), you say 'Therefore it is probable that they try to raise the rent by eviction or by giving melcharths, etc.,' and then 'in rare cases such a course is adopted'. Have you any personal knowledge of any case where the kanamdar or kuzhikanamdar tried to rack-rent the verumpattamdar?

A.—I have no personal knowledge. But that is my belief. I have heard that there are such cases.

Q.—Then under 'evictions' you say 'It is also usual to evict kanamdars paying their kanam amount and value of improvements with a view to give the land on verumpattam leases'. To what extent does this practice obtain?

A.—Yes, it is done as it is more profitable to the janmi.

Q.—It is not because the kanamdar makes any default?

A.—No. If it is given to the verumpattamdar, it is more profitable to the janmi.

Q.—I ask to what extent does this practice obtain?

A.—Sometimes kanam tenants are evicted from their lands paying off their kanam amount and value of improvements so that the janmi may profit himself.

Q.—Is that practice prevalent to a large extent?

A.—Only very rare cases. Sometimes some two or three are evicted in the course of a year and sometimes there may not be such cases at all.

Q.—When compared to the total number of evictions how does the number of these evictions stand?

A.—Only very few cases.

Q.—So your case is that in a large majority of cases evictions are resorted to on account of the default of the kanamdar in the payment of rent or renewal fee?

A.—Yes.

Q.—In the next paragraph you say 'In some cases they may be considered to be unjust'. That is a statement based upon information or your personal knowledge?

A.—It is based on information that I got. I have no personal knowledge. I say 'may be'.

Q.—What is it that you exactly mean by that?

A.—I say it 'may be considered'. It depends upon the nature of each case, i.e., whether it is just or unjust. Each case must be investigated on its merits. I am not in a position to say whether a particular melcharth is justifiable or not.

Q.—Is it a fact that there are unjustifiable melcharths?

A.—There are melcharths. Whether they are justifiable or not I cannot say. What I meant was those cases may be investigated. That is all.

Q.—Then you say 'Many janmis will be put to trouble if melcharth is forbidden by legislation'. What sort of trouble will they be put to?

A.—There may be some impecunious janmis; the tenants may be recalcitrant. They will neither pay the rent nor renew at the proper time paying the renewal fee, and the poor janmis will be very badly in need of money. Then they will have to find out some monied people who will advance some money and this they will do only if melcharths are granted to them. In such cases they must not be restricted from giving melcharths.

Q.—Now have you any objection to a legislation prohibiting melcharths except in cases where the janmis are really poor and they are certified as such by the Court?

A.—I cannot advance any reason against such a legislation.

Q.—In answer to question III (b) in the end you say 'the middlemen should not be given permanent occupancy right under any circumstances. The janmi should be empowered to redeem the mortgaged lands at any time to lease them out on verumpattam'. That is to say he must be empowered to redeem the kanam lands? Has not the kanamdar any interest in the land?

A.—The interest they have in the land is their investment.

Q.—Have they not certain rights which have to be compensated?

A.—They have the right of remaining in the land for twelve years on payment of rent and renewal fee regularly.

Q.—When a man purchases a kanam property does the price he pays represent only the twelve years' interest in the land?

A.—It must be so.

Q.—In actual practice is it not a larger amount than that? For some reason or other do they not pay as price of the kanam holding more money than mere twelve years' interest in the land? In other words what I want to know is whether the price paid by a man for the purchase of a kanam holding is equal to or less than or more than the value of his twelve years' enjoyment of the property?

A.—No one will pay in excess of that, ordinarily. But sometimes he may pay a little more.

Q.—So when you say that the janmi should have power to remove the middlemen who are not the actual cultivators you mean that they should have power to remove the kanamdars also by returning the kanam amount and the value of improvements, if any?

A.—Yes, that is my opinion. I mean the non-cultivating kanamdars.

Q.—You don't think that the intermediary kanamdar is entitled to anything more than that?

A.—That is my opinion. That is what is being given to him now. They get adequate compensation by the Improvements Act. Moreover, their kanam amount is returned and they enjoy the profit from the land all these twelve years. That is sufficient compensation in my opinion.

Q.—Please refer to IV (a) (V); you say 'Permanent rights should not be given in lands which are used for trade and other purposes. When the occupant of the house-site transfers it to another person he should obtain the written permission of the janmi.' What is the reason for that restriction?

A.—Sometimes the purchaser may be an insolvent. Then the janmi may find it difficult to collect rents. That is the reason.

Q.—How can an insolvent purchase the right?

A.—There may be such cases.

Q.—That is the reason for that restriction?

A.—That is one of the reasons.

Q.—Under question III (f) 10, you say 'When the tenant refuses to pay the janmi an increased rent proportionate to the yield of the land'. Is it your intention when you give occupancy right to the cultivating tenant to fix what is called a fair rent?

A.—Suppose a land is demised for 100 paras of paddy; after a few years the land is improved and it yields 50 paras of paddy more. In that case the janmi must get a proportionate share of the increased yield, because the proprietary right belongs to the janmi.

Q.—Now I would put it to you this way: When occupancy right is given to the tenant you would give a fixed share of the yield to the tenant; but if the yield increases, would the tenant be entitled to an increase in the share which is allotted to him? I shall make it clearer. You say the janmi should have a fixed share of the produce, and that when the yield in the land increases the janmi's share should also be correspondingly increased. So, I suppose, what you have in mind is, that the janmi should be entitled to a particular share of the produce; if the yield is less, he would get less, and if the yield is more he could receive more?

A.—No. It should never be reduced. It should be liable to be enhanced if the yield increases. That is all.

Q.—Do you want to fix any limit for the increase in the rent when the yield increases?

A.—The major portion may be set apart for the tenant as the improvements have all been effected by him.

Q.—My question is this: Do you concede that the kudiyan should be entitled to a particular share of the produce for his labour, for his supervision and for his interest in the land when you give him this permanency?

A.—Certainly. It is the kudiyan who improves the land.

Q.—What would you fix it at?

A.—One-fourth of the gross yield.

Q.—Will it cover the cost of cultivation and the cost of labour?

A.—Yes.

Q.—If the cost of labour and the cultivation expenses are deducted from one-fourth of the gross produce, then will a sufficient share be remaining to the tenant?

A.—I have no practical knowledge about cultivation. In any case it (kudiyan's share) should not be more than one-third.

Q.—You agree that some such share of the gross yield or the net yield should be fixed as the tenant's share?

A.—I have no objection.

Q.—You say in the same page under IV (a) 1, 'There should be some difference in the grant of house-sites in towns and villages; it is usual in towns to build houses and rent out for trade and other purposes. Permanent rights should be given only

to those actually used for dwelling purpose by the family. In other cases permanent rights should not be given. *In municipalities grant of permanent rights to house-sites should be forbidden?* There is some inconsistency there. You make some distinction between municipalities and towns?

A.—No. So far as kudiyruppus are concerned I make no distinction. All that I meant was this: In towns there is a greater demand for buildings and a tenant may have some four or five buildings and he may occupy only one building and rent out the other buildings. I say in all such cases, where the buildings are rented, permanent occupancy should not be given. There may be several houses owned by the same family. There is no objection to permanent occupancy being given to one homestead in which the family lives without distinction whether town or municipality or village.

Q.—In answer to question V you say 'This Act induces the tenants to make even unsuitable improvements on the lands as they think they will get the value of improvements at the time of eviction'. Do you know of any instance in which compensation has been obtained by the tenants for unsuitable improvements?

A.—I have experience of one case in which Rs. 33,000 had to be deposited in the Manjeri Munsif's Court by way of compensation for the improvements effected by the tenant. The arecanuts and coconuts were planted very near—they were so overplanted there was no hope of getting a fit return from those improvements for the money given as compensation.

Q.—Have you seen that?

A.—I have not seen that. I got the information through my agents. It is a fact.

Q.—Did they exceed the limit imposed by the Act?

A.—They say so.

Q.—If the number of trees in the compound exceeds the limit laid down in the Act, how can the Court award compensation, and even if the Court of first instance awards compensation, could you not take an appeal?

A.—An appeal is to be preferred. We are going to take it on appeal.

Q.—Do you mean to say that it is the fault of the Court, or do you mean to say that it is the fault of the Act?

A.—I cannot say that. The janmi had to pay; that I know.

Q.—Now you give an illustration in answer to question VI (a) & (c). And you say that in addition to half the gross yield 'the tenant has to pay the michavaram and the renewal fee'. When you get full half of the gross yield why should you get also the michavaram and the renewal fee?

A.—I do not think that statement is quite correct. Generally in all documents the janmapattam is given as half the verumpattam. That is my impression. So I do not think this is quite correct.

Q.—Then under 'renewal fee' you say 'if there should be a common law for Malabar the renewal fee should be fixed at two years' net profit on the land'. Is there any particular reason for your fixing two years' net profit as the renewal fee?

A.—There is no particular reason. That is, in my view, a fair share. That is my view of the matter.

Q.—In answer to question IX you say 'In my opinion if the permanent rights and compulsory transactions are not necessary and some other law is to be substituted, it is enough if a rule is made that the real tenant should not be evicted except for the reasons given in answer to III (f). There you have specified ten conditions. Except under those conditions eviction may be prohibited? You are agreeable to that?

A.—Yes.

Q.—Does that not in effect come to permanency?

A.—Yes.

Q.—Then should not any compensation be paid to the janmi?

A.—If he is a verumpattamdar no compensation need be given.

Q.—Why should you part with your right to the verumpattamdar without asking for any compensation?

A.—They give a fair rent?

Q.—You are now entitled to that rent. Why should you give this fixity of tenure to the verumpattamdar without any additional income?

A.—He is improving the land. The kanamdar does not improve the land. He will improve the land still more if you give him fixity of tenure.

Q.—Therefore, you don't want any compensation?

A.—Because he is a verumpattamdar, there is no necessity.

Raja Sir Vasudeva Raja of Kollengode :—Q.—You say that verumpattam tenants may be given fixity of tenure without compensation. But I suppose you would reserve the right to the janmi to take back the land when he wants the land for his own use?

A.—That is one of the conditions I have given.

Q.—Have you got any rough idea of the number of homesteads that you have under the kovilagam? It will be some ten or fifteen thousand?

A.—We have got lands in Palghat, Walluvanad, Calicut, Ponnani, Ernad and Kurumbranad. In Kurumbranad we have got only very little. The rest of the lands are in those five taluks. I cannot give the number of homesteads that are under the kovilagam.

Q.—When homesteads are given to the tenants, is it the practice to receive anything as a consideration from the occupants?

A.—Practically nothing. In Kottakkal when we give them we are not receiving anything. But the land is not much.

Q.—What is the usual rent?

A.—Some four annas or eight annas or one rupee. In Kottakkal it is not more than one rupee.

Q.—You have given these sites without compensation simply because as the law at present stands, you are able to take them back when you want them?

A.—Yes.

Q.—When you give permanent occupancy right, would you require any compensation?

A.—Certainly.

Q.—How will you regulate the compensation you would require in that case?

A.—That is according to the value of the land and according to the nature of necessity of the tenant.

Q.—Occupancy right should be valued in respect of each site and then either money may be given in a lump sum or in instalments or I suppose rent may be increased. Is that so?

A.—It does not matter much whether we received it in a lump sum or in instalments or in some other manner. Some compensation is necessary.

Q.—You will not give occupancy right on homesteads without accepting compensation?

A.—No. The compensation payable may be made a charge on the homestead or it may be paid in instalments or in a lump sum or the rent may be increased.

Q.—With regard to verumpattam tenants, you are prepared to give security of tenure without compensation. But do you want any security for the rent?

A.—Yes, at least for three years' rent.

Q.—If some easy way of recovering rent by a summary process is found out in the new legislation, then would you require security for three years' rent?

A.—Anyhow two years' security will be necessary.

Q.—Kanam tenants who are cultivating lands may be given fixity of tenure as verumpattam tenants by redeeming the kanams and reducing them to the position of verumpattam tenants?

A.—Yes.

Q.—Only on the condition that the janmi is given power to redeem the kanam by paying the kanam amount whenever he likes you are prepared to give the cultivating kanamdar fixity of tenure?

A.—Yes.

Q.—Suppose it is considered necessary to give some sort of occupancy right to the non-cultivating kanamdars. Will that seriously affect the janmi's position?

A.—The janmi suffers serious loss. The janm value will be greatly depreciated.

Q.—If a sort of qualified fixity of tenure is given to the non-cultivating kanamdar, you think there will be serious loss to the janmi by way of depreciation of the janm value of those lands?

A.—Not only that; he will find it very difficult to sell his janm right. There will be no one to purchase.

Sir T. Desika Achariyar :—Q.—Now, the result of your evidence is that you have no objection to verumpattamdars having some sort of fixity of tenure?

A.—Under certain conditions.

Q.—Your first proposition is that you are willing to give some sort of fixity of tenure to the verumpattamdar without any compensation being paid to the janmi subject to the conditions which you have mentioned in your memorandum?

A.—Yes.

Q.—The second proposition is you are willing to have some sort of fixity of tenure to the cultivating kanamdar?

A.—Yes.

Q.—It is subject however to your having the right of redeeming the kanam and converting it into verumpattam?

A.—Yes.

Q.—The third thing is you are averse to the granting of any fixity of tenure to the non-cultivating kanamdar?

A.—Yes; I am averse to it.

Q.—You are averse to it on the ground that the janm value would be completely lost, is that so?

A.—Yes.

Q.—With regard to rural homesteads, you have no objection to fixity of tenure being given for residential purposes of the lessees and not for any other purpose?

A.—Yes.

Q.—You make a distinction between homesteads in rural areas and urban areas?

A.—It is only with regard to the extent. The other things are the same.

Q.—You have indicated the extent which may be given in rural areas and that which may be given in urban areas?

A.—Yes.

Q.—To a question of the Raja of Kollengode you said that there must be some sort of compensation if fixity of tenure is to be given for homesteads. What is the compensation that you would have with reference to 1 cent, 2 cents or 3 cents or 10 cents of land given fixity of tenure in rural area?

A.—That is according to the nature and value of the soil.

Q.—That is to say, as in land acquisition cases?

A.—I do not know.

Q.—In land acquisition cases you generally value a land according to the value of the adjoining holding. Perhaps you have not read section 23 of the Land Acquisition Act. Under that section, all that you say is mentioned, the present value, the potential value and all these things are mentioned. Suppose the same test is adopted for fixing this as is done in land acquisition cases?

A.—I have no objection.

Q.—With regard to urban areas, do you think the municipal assessment might be made the basis for fixing the value? The municipal assessment of the neighbouring land may be taken as some sort of basis when a janm land has to be converted and compensation given?

A.—Why not apply the land acquisition principle here also? Anyhow I have no objection to what you have proposed.

Q.—Now why are you averse to granting fixity of tenure to the non-cultivating kanamdar?

A.—There will then be no difference between the cultivating and non-cultivating kanamdars. Moreover the present agitation is by the non-cultivating kanamdar.

Q.—He is the agitator?

A.—Yes, he is the man who has given all this trouble.

Q.—You see, Raja Sahab, there is no use of punishment for agitation.

A.—It is not punishing. I told you the state of affairs, that is all.

Q.—If the cultivating kanamdar is given fixity of tenure, why should you make a distinction between cultivating kanamdar and non-cultivating kanamdar?

A.—That makes all the difference. The one cultivates and the other does not cultivate.

Q.—You have experience of kanams yourself?

A.—I am a non-cultivating kanamdar.

Q.—Very good. What is the pattam that you get?

A.—1,392 paras of paddy.

Q.—With regard to that kanam, how much goes to the janmi?

A.—170 paras and 13 annas as michavaram. Then, I pay 150 paras assessment, Rs. 350 renewal fee, or Rs. 30 or 50 paras of paddy for one year. Then I pay a *Kana Palisa* (interest on the kanam) of 75 paras. In all I have to pay say 500 paras on all these items together.

Q.—So you get 1,392 paras of paddy on your kanam. For kist, for michavaram, for renewal fee on the average of each year and other things you have to pay 500 paras to the janmi, and the Government?

A.—Yes.

Q.—Out of 1,392 paras which you get 892 paras are still left. That is the rent that you get?

A.—Yes. I have distributed it between six verumpattamdars.

Q.—From the verumpattamdars you get 1,392 and out of that you pay 500 to the janmi and the Government and you get 892 paras?

A.—Yes.

Q.—That represents the interest on the money invested as kanam?

A.—I have invested Rs. 5,000.

Q.—What is the interest on that?

A.—Ordinarily Rs. 300 interest; that means 300 paras of paddy.

Q.—So out of the 892 paras of paddy left as pattam, 300 paras may be deducted as interest on the investment. Then you have still nearly 600 paras left. Why should the kanamdar who enjoys 592 paras net profit be deprived of the right of enjoying it? He gets a substantial interest in the land. Is that not a substantial interest?

A.—It is a substantial interest.

Q.—All this I say because you want to make a distinction between cultivating and non-cultivating kanamdars. A non-cultivating kanamdar like yourself, who gets a substantial interest of 500 paras every year, you say, should not be treated as a cultivating kanamdar?

A.—He does not do anything to improve the land.

Q.—Your point is if he has been getting this for nothing why should he continue to get. Why should I not deprive him of it. That is your argument?

A.—That is the state of affairs.

Q.—Does the janmi who gets the michavaram and all other things improve the land?

A.—No.

Q.—There is the janmi getting michavaram and doing nothing. The kanamdar also gets his share of interest and he also does nothing?

A.—They cannot be treated on the same footing. That is my opinion. The janmi has the proprietary right.

Q.—Now the kanamdar who is not cultivating but who invests money gets a large amount of interest. The janmi gets some 500 paras without cultivating the land. What does the verumpattamdar get? What is the gross yield of the property?

A.—I cannot say.

Q.—I am told that the verumpattamdar hardly gets 25 or 20 per cent. That includes his cultivation expenses, money for his seed, cattle, and for his living. Is that true?

A.—It is not 25 per cent at any rate. But I do not know anything about it.

Q.—Anyhow we shall leave the verumpattamdar. So far as I can see you are in favour of giving the verumpattamdar some sort of fixity of tenure. You are also in favour of giving the cultivating kanamdar some sort of fixity of tenure. Then there is the non-cultivating kanamdar. There must be some sort of uniformity of treatment. Supposing I suggest to you that out of the Rs. 500 which the kanamdar is enjoying for nothing half is to be given to the janmi and half to be retained by the kanamdar, on that condition can any fixity be given as a sort of expediency?

A.—If the Committee resolves like that what can be done. The janmis are neglecting this profit. This has been going on for ages. I myself would not have purchased this land but for this profit. If fixity of tenure is given the janmi would be loser. I am speaking on behalf of the janmi.

Q.—Now the janmi has been allowing this 500 paras of paddy to be enjoyed by the kanamdar for generations together?

A.—Yes.

Q.—You say this is a sort of sufferance due to the neglect of the janmi?

A.—Yes.

Q.—Your principle objection as far as I can understand you against giving fixity to the non-cultivating kanamdar is that he has been an agitator?

A.—No the janmi would be subjected to a loss. That is the prime reason. Whether they agitated or not is a different matter.

Q.—If the non-cultivating kanamdar be viewed with disfavour on account of agitation why should not the janmi be viewed with disfavour for neglect?

A.—I do not say that. Then I myself will be an agitator.

Q.—Your kanam has been in existence for more than 100 years?

A.—It is only 25 years since I got it.

Q.—You have not traced its previous history?

A.—I cannot say; I must refer to the records.

Q.—Anyhow the members of the family of the original kanam and afterwards their assignees were in possession?

A.—Yes.

Q.—Would it not be a hardship if you deprive a person of a right which has been in the possession of his family for a long time or which has been in possession of his family or his family's predecessors in-title for a long time?

A.—There will be grievance. Whether it is justifiable or not is the question.

Q.—If it is a case of hardship is it not one which requires remedy? Don't you think that some sort of certainty against unjustifiable eviction should be assured to them?

A.—It is very difficult to find which is justifiable and which is unjustifiable.

Q.—What is your opinion with regard to a provision for the prevention of melcharth altogether?

A.—I have no objection. But the poor janmis must be given some protection. They must be protected from getting into the hands of speculators.

Q.—Suppose with regard to melcharth we enact a law that no melcharth should be given in case the original kanamdar is willing to continue on the terms of a bona fide melcharth?

A.—There is no objection.

Q.—That is, you give the option to the existing kanamdar to continue on any terms which are bona fide and which, you say, are offered by another person?

A.—Yes.

Q.—You said something about the means of realizing rent. You mean that by way of distraint and eviction?

A.—I do not know. Something is necessary. I have no experience about it. There is no practice of distraint in this district. If distraint is resorted to there is a fear that there will be disturbance. Some means must be found out by the Committee. I do not know about it.

Khan Bahadur Haji Abdulla Haje Kasim Sahib Bahadur:—Q.—When you give a land to a verumpattamdar after redeeming it from a kanamdar, do you lease it on the same rent or do you raise the rent?

A.—There is no objection to rent being raised. Sometimes it is also reduced; in some cases it is given on the same rent.

Q.—The rent which the verumpattamdar was giving to the kanamdar will be received by the janmi instead of the kanamdar who will be paid his kanam amount?

A.—Yes.

Q.—You have no objection to giving fixity to the actual cultivator?

A.—No.

Q.—You are against the grant of occupancy right to the non-cultivating kanamdar?

A.—Yes.

Q.—Now, you give the actual cultivator fixity of tenure. By giving that you lose the right of evicting the tenant except under certain conditions. After 20 years the present actual cultivator goes to Bombay and he leaves the land to another man to cultivate and that man pays the rent regularly to you. Then is the man in Bombay the actual cultivator? Is his position not the same as that of the non-cultivating kanamdar?

A.—I do not mean by the term 'cultivating tenant' the actual tiller of the soil. He employs labourers or asks another man to do his business and so he is still the actual cultivator. The non-cultivating kanamdar does not employ coolies and get the land cultivated, directly; he gives it on lease to another man. That is the difference. Because the actual cultivator is absent for some time he employs another man to look after his business; that is all.

Q.—If that man does not cultivate, he will lose his right?

A.—It must go.

Q.—When you give him occupancy right do you fix the rent?

A.—Yes.

Q.—Do you retain the power of raising the rent?

A.—Yes.

Q.—Then to-day you give him occupancy right and to-morrow you will raise the rent by 150 paras. What will he do?

A.—It must be decided by the Court.

Sir T. Desika Achariyar:—Q.—I suppose when you want to enhance the rent you will have to do so through the Collector or some judicial tribunal? There must be some arbitrator?

A.—The Collector or a Judge must decide it.

Q.—You will not do it arbitrarily?

A.—No.

Rao Sahib V. Krishna Menon:—Q.—You said that there is some difficulty in determining which is unjustifiable eviction and which is not? Have you come across any instances of unjust eviction?

The President:—He has already said he has no knowledge.

Rao Sahib Krishna Menon:—Q.—Now in Calicut town, have you heard of any unjust eviction by the Madathi Moopan's family?

A.—I have not heard.

Q.—What is the usual rate of renewal fees in your kovilagam?

A.—For verumpattam no renewal fees are levied. In the case of kanam it depends upon the kanappattam that is written in the documents. It is fixed with reference to the kanappattam fixed in the kanam deeds.

Q.—Verumpattam is twice the janmappattam?

A.—Yes. We call it *adharappattam*.

Q.—Out of this janmappattam, land revenue and interest on the kanam are deducted and on the balance an amount equal to half a rupee or twelve annas is charged as renewal fee?

A.—Not on the balance. If the verumpattam is 100 the janmappattam is 50. It is on this 50 that we calculate at the rate of 8 annas or 12 annas and it will come to $12\frac{1}{2}$ or $17\frac{1}{2}$ rupees.

Q.—So at what percentage would it work out on the full rent? According to your calculation it comes to about $27\frac{1}{2}$ to 30 per cent? Then there are some other perquisites in addition to the renewal fee such as the *aduthavakasam* and *mudravila*. So roughly it is about 30 per cent of the verumpattam?

A.—Yes.

Q.—Sometimes this renewal fee is calculated on the kanam amount also?

A.—Yes.

Q.—Under what circumstances?

A.—When the kanam is more advantageous, it is calculated on the kanam amount.

Q.—It is admitted that the landlord has to get a share of the improvements in the land on account of the proprietorship or whatever you call it? Are you agreeable to have that increase made when the land revenue is increased?

A.—That will be after some 30 years.

Q.—There is the concession by the Government that the interval should be as long as possible. Can't you extend the same concession to the tenants?

A.—We are not so rich as the Government; the janmis are poor.

Q.—I suppose it is customary that around your palace the tenants build very big houses and most of them are unsuitable to the holdings?

A.—I do not know whether they are suitable or unsuitable. They are building such big houses.

Q.—You don't object to it?

A.—Certainly not.

Q.—You had no necessity to evict a tenant on account of the fact that the house is unsuitable to the holding?

A.—No, we never do it.

Q.—I think your practice is to allow the tenants to enjoy the holding as long as possible?

A.—In most cases that is so.

Q.—There are no instances of melcharth also?

A.—No.

Q.—Do you think that the value of your lands has depreciated because you have been very kind and your tenure long?

A.—We had no necessity to sell them. Then, how can I say whether they have gone down in value?

Q.—I suppose you are aware that the tenants try to get land under your kovilagam in preference to other kovilagams and they pay more value than the economic value for those lands?

A.—They may be paying. But I submit, if fixity is given the whole colour will change.

Q.—What is the difference then?

A.—Then they have only to pay rent. The value of the land will decrease.

Q.—Suppose no such permanency as is contemplated is given. Suppose we just copy what you do in kovilagam; you allow the tenants to continue under certain conditions. Suppose we give some such kind of fixity. Then your rights will not be affected?

A.—But now we have got the right of eviction. When that is lost the janm right loses its value. Moreover that prompts the tenants for the speedy payment of rents.

Q.—Then your position will be affected if your own suggestion of giving occupancy right to verumpattamdars is carried out?

A.—He must pay the pattam regularly. That is all that I want.

Q.—So you think the increase in rent you get from the verumpattamdar is sufficient compensation for the fixity you give?

A.—Not only that. The value of the land will increase and the difficulty of collecting rent will be lessened. If he is in want of money for the payment of rent he can easily transfer his right to somebody else for some value. That is the additional reason why fixity should be given to verumpattamdars.

The President:—Q.—You say his credit also will increase?

A.—Yes.

Rao Sahib Krishna Menon:—Q.—Suppose you want to purchase a kanam land. How do you purchase a kanam land?

A.—I cannot say. This is the only property that I have purchased—that is the one I referred to.

Q.—You pay only the kanam amount or anything more?

A.—Something more. In that case the kanam is only 500 but I paid 5,000.

Q.—You do not know what improvements have been made. You paid a fancy price?

A.—My family is the janmi.

Q.—Under the Zamorin there are several tavazhis who are all non-cultivating kanamdars. Will they not be affected by your arrangement?

A.—They will be affected and they must be affected.

The President:—Q.—Your position is all these kanamdars must go and there must be only the janmi and the verumpattamdar?

A.—Yes.

Rao Sahib Krishna Menon:—Q.—Under the kovilagam there is both verumpattam and kanam. When there is a chance of making profit why do you allow the kanams to continue?

A.—They were all given in olden days. Moreover we must have money and we did not care to redeem them.

Q.—Your kanam lands are older tenures than verumpattam?

A.—I cannot say without reference.

Q.—There is one term in Malayalam called 'Kanam ituka.' What is the meaning of it? I ask this special question for this reason. In Trichur there is a special custom that people who have deposited some money in the temple long ago have got a right of getting rice from the temple.

A.—It simply means 'paying advance' for enjoyment of the land for twelve years. It does not mean any permanency.

Mr. H. R. Pate:—Q.—You say that the position with regard to land tenure is the same in Malabar as in the rest of the Madras Presidency? Here you say 'If at all there are grievances they apply not to Malabar alone. They concern the whole of the Madras Presidency or even the whole of India.' You say there is no difference?

A.—I mean only about the grievances about eviction, etc. Such grievances exist in other districts also.

Q.—You mean then that if a legislation is required for Malabar it is required for the whole of the Madras Presidency?

A.—Yes.

Q.—You don't think there is anything special in Malabar to justify legislation?

A.—No.

Q.—I am not yet quite clear of what you recommend. You recommend that verumpattamdars should be given fixity of tenure?

A.—If anybody is to be given fixity of tenure it should be to the verumpattamdar.

Q.—Do you consider that some change is necessary in the system of land tenure in Malabar?

A.—I don't think any change is needed.

Q.—Don't you think that any class of tenants require any protection?

A.—Protection is necessary only when there is grievance. I have no objection to enact a law restricting melcharth.

Q.—Well, let us take that. What would you do about that?

A.—If a janmi is impecunious and if he is in urgent necessity for money and if the existing tenant refuses to pay an enhanced rent and another person says he is willing to pay a higher rent he may grant melcharth.

Q.—You would permit the janmi to raise further kanam for all purposes and under any condition?

A.—If the karnavan has the right he can raise it.

Q.—You won't forbid him to increase the kanam amount under any circumstances?

A.—No.

Q.—Is it usually to get a profit that you give a melcharth?

A.—It may be so.

Q.—It may be to benefit a friend or a tarwad?

A.—Yes.

Q.—It may be to send out some one he does not like and to give it to some one he likes?

A.—Yes.

Q.—Of these, which all are you going to forbid?

A.—If the karnavan wants to raise money on an urgent necessity, say, to deposit in Court then melcharth has to be resorted to.

Q.—Who is to prove that it is to the benefit of the tarwad?

A.—That is the difficulty. There may be some difficulty. The Court must decide.

Q.—Suppose the melcharthdar has to deposit the money in Court would that be a satisfactory arrangement?

A.—Yes.

Q.—Now, A is a janmi, B a kanamdar, and C a melcharthdar. B refuses to pay an increased amount. Then you say C may deposit in Court?

A.—Yes.

Q.—Suppose A wants to drive B out, and put C in. If they agree will not B be put to trouble? Is that not dangerous?

A.—It is dangerous.

Q.—Why do you want to give fixity of tenure to the verumpattamdar?

A.—Because he is the person who improves the land.

Q.—That is the case of tenants all over the world. Is it to improve the condition of the tenant or to improve the condition of agriculture or to ensure the janmi more security of rent, what is the object in giving this?

A.—If the Government thinks of giving fixity to anybody, it may be given to the verumpattamdar. My opinion is that the verumpattamdar deserves it.

Q.—The Government is quite indifferent to giving fixity to any one. What do you say then?

A.—The tenants say they have to be given fixity. The janmis say no one should be given fixity. There is agitation from both quarters. Then the Government must interfere.

Q.—You think that this is the smallest evil—that is giving fixity to the verumpattamdar?

A.—Yes.

Q.—You said that giving fixity of tenure would change the colour of things. What do you mean by that?

A.—The janmi will be put to considerable difficulties.

Q.—You said that, if fixity of tenure is given to the verumpattamdar, the collection of rent will be made easier?

A.—Because somebody else will finance him.

Q.—What is the present means of collecting rent?

A.—Sometimes they pay properly; sometimes we resort to Court.

Q.—If that is a facility for raising money he might or might not pay? He may raise a loan and make ducks and drakes of the whole thing.

A.—That will depend upon the nature of the tenant. If he is frugal, he will continue on the land.

Q.—Did you say that if fixity is to be given to the verumpattamdars the janmi should have the option to drive out all the kanamdars and convert those holdings into verumpattams?

A.—Yes. They must be given the option to redeem the land.

Q.—Then why don't they do it now. You have got a surplus. Why can't you redeem all your kanams and convert them into verumpattams?

A.—We fear the agitation will increase.

Q.—Is that the reason why you don't redeem the kanams now?

A.—That is one of the reasons. Moreover we cannot do it all on a sudden.

Q.—You can do it little by little? Why don't you do it?

A.—We do not do it.

Q.—Have you never done it?

A.—When the tenants do not come to terms they are evicted and then it is converted into verumpattam.

Q.—Generally when you evict a kanam tenant you convert it into verumpattam?

A.—Sometimes. Sometimes kanamdars themselves come to terms and they are retained.

Q.—Are people frequently turned out of their houses from your estate?

A.—In my estate, it is very rarely that we do it.

Q.—Even if they were turned out you might not know. Can they not be turned out without your knowing it?

A.—In most cases we know.

Q.—How many people are turned out of their holdings from your estate in a year?

A.—One or two cases.

Q.—What is the reason for their being turned out?

A.—They do not pay rent.

Q.—Have you come across any case in your estate where you had to evict a kanam tenant from his house?

A.—I spoke of a case in which I had to deposit 33,000 rupees in Court. That is a kanam holding in Ernad taluk near Mampatt. We had to redeem that kanam. Out of the 33,000 those who are occupying those holdings were given their improvements and in that way 17,000 has already been paid over. Only a nominal fee has been collected as renewal fee. There are some 150 defendants in the case. It is O.S. No. 126/1923 of the Manjeri Munsif's Court.

Q.—What is it that you call nominal fee?

A.—Some 2 or 3 rupees.

Q.—For what reason do you advocate fixity for houses?

A.—There is agitation that they are turned out of their houses. In order that there may not be such agitation I advocated this.

Q.—Is it not a fact that the tenants are frequently turned out of their houses?

A.—So far as we are concerned we do not do it.

Q.—If fixity is given to occupants of kudiyruppus, do you think that it will result in much good?

A.—They will be benefited.

Q.—Is there some other distrust which would justify this legislation?

A.—There is no distrust.

Q.—You cannot give me any concrete reason in support of this suggestion of giving fixity to occupants of kudiyruppus except this agitation?

A.—To my knowledge there is no other reason. I cannot give any other reason.

The examination of the witness by Mr. Pate was concluded and the Committee rose for lunch.

Monday, the 28th November 1927 (afternoon).

When the Committee re-assembled after lunch at 2-30 p.m., the examination of Mr. K. C. Sreeveerayan Raja was continued.

Mr. Kotieth Krishnan:—Q.—Do you think that the verumpattamdars under the kanam tenants are rack-rented?

A.—I can't say definitely. In some cases they may be rack-rented.

Q.—In your experience do you know of any such cases of rack-renting?

A.—I have no personal knowledge. I have only heard it said.

Q.—You have no personal knowledge of the cultivation of your property by the tenants?

A.—I have no direct knowledge.

Q.—So, you cannot say what proportion of the gross yield the verumpattamdar gets out of the property?

A.—I can't say definitely what it is because I have no personal experience. I believe if the janmi gets 100 paras as pattam then the verumpattamdar will be making about 150 paras of paddy.

Q.—And out of the 150 paras the tenant pays the revenue to Government?

A.—The janmi pays the assessment. I speak of the case of the verumpattamdar directly under the janmi.

Q.—You said that although you are entitled to redeem the kanam tenures in practice you are not doing so?

A.—Some janmis do so, but generally they are not redeemed.

Q.—Generally you don't do it. You do so only in cases where the tenant is in arrears or the tenant is doing something injurious to the estate?

A.—If I find any necessity to redeem the property I do so.

Q.—You said ordinarily you don't redeem kanams and one of the reasons you gave was that in the matter of redeeming them you had to pay very large compensation?

A.—Yes. In some cases we have to pay heavy compensation for the tenant's improvements.

Q.—Ordinarily, I think in your estate you have more paddy lands than gardens?

A.—I think so.

Q.—May I know what rents you get from the gardens?

A.—It cannot be said definitely. Both the garden and wet lands are given in single lease deeds together.

Q.—So, may I take it then that in redeeming any particular kanam tenant there will be garden lands and paddy together?

A.—Oh, yes.

Q.—Now why do you say that the Tenants' Improvements Act gives a very high value to the tenant? What do you mean by saying that a high value is given by the Tenants' Improvements Act?

A.—Comparatively speaking the present rate fixed by the Act is very high.

Q.—That is why you say that the Tenants' Improvements Act works hardship to the janmis?

A.—Yes.

Q.—You said that in one suit No. 126 of the Manjeri District Munsif's Court 150 tenants were involved?

A.—Yes.

Q.—And how many of them were living in your estate?

A.—All of them presumably.

Q.—If you had chosen to evict these tenants all these 150 people would have gone out of their holdings?

A.—Yes. They will have to go out. In that case the tenants disputed the janmam right.

Q.—So the statistics about the number of eviction suits will not give us any idea of the number of tenants evicted in Malabar?

A.—It cannot be said to be so generally. In this particular case it was so.

Q.—Some witnesses have suggested a certain mode of fixing renewal fees to be payable by the kanam tenant. Take the verumpattam rent of the property, deduct the michavaram and the Government revenue from it, and six times the balance will be a fair renewal fee. Some janmis have told us so. Do you think it is correct?

A.—I can't say definitely. At any rate in my kovilagam it is not the usual custom. We calculate it on the janma pattam.

Q.—May I know how you calculate the renewal fees when you demand it from the tenant?

A.—On the janma pattam eight annas to twelve annas per para will be the renewal fee that we take from the tenant.

Q.—In addition to that two per ten is also given, is it not?

A.—Yes.

Q.—So, for a property in respect of which the janma pattam is 100 paras, the renewal fee will be more than Rs. 100?

A.—Yes.

Q.—And if the janma pattam is 100 paras, what will be the verumpattam rent which a kanamdar would be able to collect?

A.—It will be more than double at any rate.

Q.—May I take it then that it is invariably on this basis that you renew with your tenants?

A.—Yes.

Q.—You don't claim anything more from your tenants?

A.—I don't think there is anything more.

Q.—And invariably you grant renewals to your tenants who are amenable to those conditions?

A.—Yes, as a general rule.

Q.—Supposing a janmi stands for a seat in the taluk board and the tenant supports the rival candidate of the janmi; will that be a justification for evicting the tenant?

A.—Certainly not.

Q.—The janmi will be offended?

A.—At any rate in my opinion that will not be a justifiable ground for eviction nor will I do it.

Q.—You never stood for any election?

A.—I have never stood nor will I ever stand for any election.

Q.—Have you seen any Kovilagam Raja cultivating land himself under his own supervision?

A.—No, I have never seen.

Q.—And I don't think they will take to cultivation hereafter also?

A.—Yes, I want to cultivate myself.

Q.—May I know why you are not doing it?

A.—Because I am getting old, I am 70 now.

Q.—Supposing the legislature decides to have some Tenancy Law for Malabar and we recommend the following:—Fix fair rents which the janmi is entitled to get out of the land, fix fair renewal fees and if a tenant is prepared to pay that fair rent and fair renewal fee he should not be evicted. The offer should be given to him first to renew his term on those conditions and if the tenant is willing to renew he should be given the land in preference to a stranger. Will the janmi like that?

A.—There are different classes of tenants, kanamdars, kuzhikanamdars and verumpattamdars. Which class of men do you mean? In my opinion, I am for those conditions in favour of the verumpattamdar and not for kanamdar.

Q.—Supposing the kanamdar is a cultivating tenant, then?

A.—In that case the janmi should be able to make the kanam tenant a verumpattam tenant, i.e., the verumpattam rent that is now paid to the kanamdar in such a case should be paid to the janmi.

Q.—What verumpattam rent would you fix?

A.—The same verumpattam rent which the kanam tenant would be able to realize.

Q.—So I take it then that according to you fair rents which the legislature should fix should not be below the verumpattam of any paddy field?

A.—I want the normal rent to be paid to the janmi.

Q.—In the case of the garden lands supposing all the improvements belong to the tenant, what renewal fee will you expect from him at the end of twelve years?

A.—In the same rate in which wet lands are calculated.

Q.—In the case of the garden lands what proportion of the produce you will expect if all the improvements belong to the tenant?

A.—I cannot say now what it is. It must be much more than 2 per 10.

The President:—Q.—You said that janma pattam is generally half the verumpattam. Is there any particular reason why it is so? What is the origin of that formula?

A.—That is the case with all our demises. I cannot say why it is so. All our old demises have only half or even less than half in the case of wet lands. Whether that is the same with regard to the garden lands I can't say.

Q.—In your chartas are included not only wet lands but parambas and gardens also?

A.—These gardens are made by tenants. In original leases no special mention of gardens will be made.

Q.—So you don't take into consideration the net income from the parambas and gardens.

A.—That will be the case in the Ponnani taluk.

Q.—What do you get in the Ponnani taluk?

A.—I believe it is half out of the net income.

Q.—So that is the general formula?

A.—I believe so.

Q.—All these leases where you say the janmapattam is less than half of the verumpattam are very old leases?

A.—Yes, they are records which are 60 or 70 years old.

Raja Sir Vasudeva Raja:—Q.—The Zamorin Maharaja was the ruler of this district, in times of old, and other chieftains were ruling under the Zamorin and the Zamorin had the necessity to keep a militia for the protection of his rights and power?

A.—Yes.

Q.—So you had to depend upon lot of people for the military service in Malabar?

A.—Yes.

Q.—And for that purpose I have also heard that this kanappattam on favourable terms has been given for the services that were rendered to the Zamorin by the several people of the district?

A.—I have heard it said like that.

Q.—Those services have now ceased to exist?

A.—Yes.

*The President:—*Mr. Sreeveerarayan Raja, we are very thankful to you for the very valuable evidence that you have given and for your having found time to give us the benefit of your valuable experience.

VII

Written statement of Mr. Kavil Panchu Nayar.

Disabilities.

I. (a) (1) *Kanamdars.*—(a) The principal obligation of the kanamdar when the kanam is in force is to pay the michavaram. In cases where it is to be paid in paddy, the tenant, has, after taking it to the appointed place, to wait there looking after it till it is convenient for the janmi or his agent to examine it and accept the measurement.

(b) Though paddy is not refused after examination on the ground that it is not good or properly dried, it has either to be dried again or sifted in the wind.

(c) In any case, a certain deduction is made on the ground that the paddy is not properly dry.

(d) The measure used for measuring it is not the one usually used in the place, but a measure holding 15 to 20 per cent more. It is called pattappara. The tenant has to suffer loss on this account too.

(e) By the practice of applying pressure in measuring, the tenant suffers a loss of at least 5 per cent. Thus as a result of several small items, a tenant who has to give 100 paras of paddy has actually to give 125 paras.

(f) After the michavaram is paid in kind or in cash, the tenant meets with difficulties in getting a receipt for the same. Except certain janmis, who conduct business like estate administration, other janmis do not regularly give receipts. And it is considered presumptuous on the part of a tenant to demand a receipt.

(g) If the janmi is displeased with the tenant, or at times even without any such special cause, the michavaram already paid is shown as arrears, a suit is filed for its recovery. Though the tenant contends that he has already given the michavaram, the suit is decreed in favour of the janmi, as the tenant is not able to support his contention by producing a receipt.

(h) Interest at 20 per cent is calculated for a long time on arrears of michavaram and when the amount becomes huge and the price is high, a suit is filed for its recovery. The suit is decreed in favour of the janmi. The facts referred to above reduce very poor tenants to serious trouble.

(i) On various occasions, the janmis compel the tenants to pay them amounts and articles not stipulated in the kachit. The tenant has to pay a share for the ceremonies of the janmis and for their special expenditure and has to pay for kathiakali performances, etc.

(j) It is often decided (by the janmi) that the tenant should not directly pay in cash in the village office the tax on the kanam property, but that he should give the janmi a large quantity of paddy in its place, and that such paddy should be given long before the tax is due, and it is thus collected.

(k) Besides, the tenant suffers much on account of collection of varam, plantain bunches for onam, etc.

(l) During the period of lease, the tenant cannot fell for his own use without the consent of the janmi, trees like teak, rosewood, etc., which he himself has planted. Besides, he has to pay in advance as kuttikkanam for each tree a certain amount fixed by the janmi. This amount will at times be half the value of the tree. If any of the trees of a tenant is stealthily felled by others, the janmi will impose a fine on him on the ground that he himself felled it without the consent of the janmi. Some janmis add a clause in the kanam lease-deed that trees cannot be felled without paying kuttikkanam. In a case which originated in the Court of the District Munsif of Alatur regarding this question, the Madras High Court has held that such an agreement is valid in law.

(m) It is usual with janmis to remove the trees of the tenants either without paying anything or after paying a very small amount.

(n) When the period of the kanam lease expires, if the janmi is prepared to renew it, the tenant has no other way but to pay the amount named by the janmi as renewal fees. As there is no fixed scale the tenants of most janmis are not able to know beforehand what amount they have to pay. Several janmis collect a higher amount than will accord with past usage. Hence the tenants become involved in debt.

(o) Michavaram is unjustly enhanced when renewals are effected.

(p) Tenants are compelled to take separate leases for fields and parambas. This is a great hardship. When the period of such lease expires, the janmis redeem such portions as bring income to the tenant and allow non-remunerative portions which are not needed by them and for which they may have to pay the cost of improvements to remain in the hands of the tenant. And the tenant has no right to claim the kanam amount and the cost of improvements.

(q) When a lease (renewal) is given, the description of the land is given as is seen on that day, which means that the changes and improvements effected by the tenant are included in the lease, without mentioning therein that the improvements belong to the tenant or that they have not been ascertained. The result is that it becomes impossible for the tenant to get the costs of his improvements.

(r) In some rare cases, the janmis compel the inclusion of the tenant's own property in the lease.

(s) Similarly the lands of other janmis too are included in the lease and the tenant is made to execute a kachit for that.

(t) Even if there are improvements in the land included in the previous lease, the tenant is compelled to surrender a portion of it without compensation. Valuable planted forests have to be surrendered without any compensation.

(u) A kanam lease is, without any reason whatever, changed into mortgage.

(v) If a tenant agrees to effect a renewal agreeing to all the conditions imposed by the janmi and pays the renewal fees, no receipt is granted for it. According to opportunity a suit will be launched for eviction. In such cases, the tenant will have to file a suit for effecting renewal and he finds it difficult to prove that he has paid the renewal fees as he has no receipt.

(w) In cases where the lands held under lease from olden times are redeemed, it is found difficult to prove the improvements effected in the land.

(x) The cost of improvements decreed in the suit is never an adequate compensation.

(y) Whatever the price obtained, it is deplorable that one has to give up the land which he and his ancestors have been cultivating from times of old and the house where he was born and brought up.

(a) Even though the tenant agrees that he would surrender the land, and agrees to receive payment of the kanam amount and the cost of improvements fixed by arbitrators and prays that no legal proceedings should be instituted, the janmi, if he is not willing to effect a renewal, launches a suit against the tenant without agreeing to his proposal so as to cause him unnecessary expenditure.

(aa) As there is no permanent right and as there is harassment and because adequate compensation cannot be secured and for other causes, old tenants have lost their old interest in cultivation. It has become impossible to accept cultivation as a respectable permanent calling. Kanam lands have to be given on verumpattam tenure. As verumpattamdars have no interest whatever in land, the land itself and cultivation have begun to deteriorate.

(bb) Besides the financial hardships described above there are social disabilities also. The janmi has not hesitated to interfere in any social matter. They used to interdict tenants in various matters like temple entry, etc. Their authority has now decreased a little. But even now there are places where the tenants are prohibited from tiling their houses, constructing wooden ceiling, constructing gate-sheds and using a pulley to draw water from the well.

(cc) Even in political matters the janmi uses his power. The tenants have to obey the behests of the janmi in elections to the local boards, Legislative Council, and panchayat courts and in giving evidence in a court of law.

(2) Of the above hardships, kuzhikanam tenants suffer most in the matter of their improvements. No small hardship is caused when they are evicted just at the time when the trees and the vines which they planted are about to bear fruit.

(3) The hardship caused in the matter of measuring out the pattam, applies in the case of verumpattamdars also. Though the janmi makes use of his authority in their case also, it is not to the same extent as he does in the case of kanamdars.

(4), (5) & (6) These people have no special disabilities.

(7) Some janmis are trying their best to cut down or to take away the rights of tenants other than those described above, i.e., of those who hold under 'sāswatam,' 'anubhavam,' 'adimayavana,' 'kāraṅkari' and 'kārayma' and they also launch unjust suits.

(b) Most of the disabilities described above are peculiar to the Malabar tenants. The reasons for thinking thus are:—

(1) that out of countries where kanam right is prevalent, in Malabar alone possession has no permanency.

(2) In most parts of India, except in British Malabar, tenants who have been holding land in possession for a very long time have secured permanent rights.

(3) Such a large number of tenants who have to depend on private janmis even for a kudiyruppu, will not be found in any other part of India, as in British Malabar.

(4) It is in British Malabar alone, that the landlord, as the social and religious head, is able to harass tenants in every way.

(5) The majority of the tenants in Malabar depend on cultivation, and from ancient times their lands, kudiyruppus, themselves and the janmis have been interrelated.

(6) Most of the tenants of Malabar are not accustomed to live in towns or in streets, but have been living in the rural parts in separate compounds with tank, well and other conveniences.

(7) The houses of most of the fairly well-to-do tenants have been constructed at great cost to suit the convenience of the family, with places of worship, serpent kavus, etc., and it is very difficult indeed on surrendering such a homestead to secure another place and to make it suitable for occupation.

(8) There will not be so many members in a family, in any other part of India, as there are in a Marumakkattayam tarwad of Malabar. And most of the Hindu tenants of Malabar follow Marumakkattayam. Most of the kanam leases are in the name of families. The disabilities connected with the lease holds and the

inconvenience and hardship caused when they have to be surrendered affect large numbers of people. In no other part will it affect to such an extent.

(9) Each family is strongly bound to a locality and desam by ties of caste, clan, kith and kin, society, rights and relations, domestic deity, etc. The eviction of a family from a kanam holding is almost like its deportation from the country.

(10) Instead of the village name and the father's name of a person in any other part of India, a man under Marumakkattayam is known as member of a particular house in a particular desam. The mental pain which a Marumakkattayam tenant suffers when he has to leave that desam and house will not be experienced by tenants in any other part of India.

(c) The disabilities of tenants in North and South Malabar are generally the same. But I understand that most of the kanams of North Malabar are mortgages. Kanams similar to those in South Malabar do not exist in North Malabar, nor are kuzhikanams similar to those in North Malabar found in South Malabar.

(d) In South Malabar, in the Palghat and Walluvanad taluks, there are more paddy fields and fewer gardens, while in the other taluks gardens preponderate. Difference consequential to this will be found. But both in North Malabar and in South Malabar—in fact everywhere—the disabilities depend on the character of the janmi and of the tenant.

Eviction.

II. (1) (a) Tenants are unjustly evicted. There are several instances. As statistics are not kept and as the time allowed is not sufficient to enter the names, number, etc., it will be sent in due course, if more time is allowed. I too possess kanam lands under janmis. A land which was in the possession of my tarwad from of old was unjustly redeemed from us by a Suit No. 48 of 1926 in the District Munsif's Court at Pattambi, without any cause whatever, except that it should not be leased to us, though the tax and michavaram were regularly paid and we were ready to renew the lease. No purappad was in arrears.

The plaint states: "The 1st defendant was personally requested several times to surrender the land receiving back the kanam amount, and a registered notice to the same effect was served on him on the 7th January 1925. But he has not done so." The Judge ordered, under the Civil Procedure Code, that the land should be relinquished as agreed in the kachit. But having in view the injustice of the demand, the Court ordered that the plaintiff should bear Court costs. Original suit No. 242 of 1924 in the Pattambi District Munsif's court relates to an even more unjust transaction. The suit was for the redemption of property held from of old and containing the tarwad house. There also michavaram was not in arrears. The tenant was ready to renew the lease, and was in a position and also ready to pay the renewal fees whether the demand was just or even a bit unjust. The details regarding this case and others will be sent in due course. The eviction without any reason of a tenant who conducts himself properly is unjust eviction. Such evictions are now on the increase.

(b) Melcharths are given unjustly. Examples will be furnished in due course.

(2) To describe with examples the oppression by the janmis in social matters may lead to defamation suits. The case of constructing houses is comparatively a lighter affair. The putting up of a wooden ceiling to a tenant's house without the consent of the janmi was considered as an offence on the part of the tenant, and it was decided that he should annually perform a 'varam' in the temple of the janmi as a penalty for it. This was published in a paper called *Kudiyan*. Immediately, a notice was sent to its editor calling upon him to withdraw the publication in question and informing him that a suit for defamation would be filed against him if he failed to do so. The editor replied that he was prepared to defend the suit. The suit has not been launched. Even now there are desams where not even a single house has a gate-shed. I am prepared to point them out.

*Remedies.*III. (a) *Effective remedies for the disabilities :*

- (1) Make the tenant's right permanent.
- (2) Fix the scales of rent, michavaram and renewal fees.
- (3) Fix the size of measures like para, seer, etc., and put on them the Government seal.

(b) It is absolutely necessary to confer permanent rights in order to remove the disabilities. To all kanamdars and kuzhikanam tenants, and to verumpattamdars who pay one year's rent in advance, and to kovilagam verumpattamdars whose lease is for twelve years and to tenants who hold under such right as 'sāswatam', 'anubhavam', 'kāraukari', permanent rights should be given. Tenants who have taken buildings or gardens on rent or pattam should not be given permanent rights.

(c) To all the tenants described above who have rights on the same property permanent rights should be given.

(d) I think that those who contend that kuzhikanam tenants, verumpattamdars who have been holding the property for a long time, and kanamdars who have been holding property without interruption since before 1852, alone should be given permanent rights, have in view the welfare of a few tenants only, and not the commonweal of the country and the improvement of agriculture in the country.

(e) The courts may be given summary jurisdiction to collect pattam, etc.

(f) If a janmi or a kanamdar or a verumpattamdar owns or holds less than 10 acres, I do not think that the tenants under them should be given permanent rights. But even such tenants should not be evicted without reasonable cause.

(2) A tenant may not be given such permanent right in a janmi's property near the latter's house or place of worship as might enable the tenant to do anything therein contrary to the religious observances of the janmi.

IV. (a) (1) Tenants who have only kudiyruppus should be given permanent right in respect of them.

(2) It should be the same in towns and rural parts.

(b) Permanent rights should be given for the actual extent of the kudiyruppu as it is.

(c) (1) From the tenant who is not able to renew the lease or to continue the verumpattam, the amount due to the janmi should be realized by means of a suit.

(2) If the tenant constructs a house too big for the proper enjoyment of the holding, steps as described above should be taken. He need not be evicted from the house. A house is constructed with a view to live in comfort and not merely for enjoying the property.

(3) The possibility of a kudiyruppu having to be surrendered along with the holding, should never occur at all. When the holding as well as the kudiyruppu is leased out or given on verumpattam, the holding should not be redeemed leaving the kudiyruppu alone in the possession of the tenant. It is like hanging a burden on the neck of the tenant. If he is evicted from the holding, the tenant should have the right to demand that the kudiyruppu too should be redeemed along with it.

(d) (1) This system will not be suited to Malabar.

(2) Compulsory purchase will be contrary to the nature and usage of janmis.

But if the Government are not prepared to do anything else in the matter of the tenancy question, I am not of the view that a law should not be made at least to do this much if the tenant wants it.

V. The Malabar Tenants' Improvements Act has not materially improved the relation between the janmi and the tenant. The mental pain caused to the janmi by the fact that he has to pay the costs of improvements when a tenant is evicted, induces the janmi to contend that even when there are actual improvements, there are no improvements at all or that they are not improvements. They thus cause loss and hardship to the tenant. The tenant does not generally put in such false

pleas. The tenant has cause to fear that he will have to bear the whole costs if the court thinks that his plea is false. The Tenants' Improvements Act has to be modified in various ways. But in whatever way it may be modified, it will not serve to secure harmony between the janmi and the tenant. The janmis will be ready to pay the costs of improvements however high they may be.

Compensation.

VI. (a) The amount of compensation to be paid to those adversely affected by the grant of permanent rights can be determined only after calculating the loss in each case. It will not be reasonable nor possible to prescribe a general scale applicable in every case. If this question must be answered, I have to state only that those who suffer loss should be compensated to the extent of the loss which they suffer. But I do not think that anyone will suffer loss by the grant of permanent rights. If the janmi continues to get michavaram and his usual dues regularly, the janmi will suffer no loss. The conferring of permanent rights will only mean that the usage of the long past will continue at the same scale for the future. The law that is required is only to the effect that as long as the tenant conducts himself without depriving the janmi of any of his dues, he should not be evicted. If renewal fees has been paid for 12 years, janmis will not contend that any fresh compensation is necessary for not evicting the tenant within those 12 years. If it is laid down by law that on the expiry of the 12 years, the obligation imposed upon the janmi to receive renewal fees again, is an obligation for which compensation should be paid, such a law is not necessary. Because what is elegantly called 'compensation' in this case is really what is known as 'soujanya'. Most janmis do renew the lease, if when the period of the lease expires, sufficient soujanya is paid. Some of the old respectable janmis renew the lease receiving the renewal fees alone without ever demanding soujanya. And the people believe that they will do so in future also. In their case, they themselves do not want compensation. Some other janmis will sometimes effect renewals without receiving soujanya. If soujanya is paid, in most cases, renewals will be granted. If soujanya has to be paid at all, the amount will be fixed by the janmi and the tenant, on the basis of their ability and their relation between themselves, no law is required for that purpose. What the law should do is to compel compliance with justice and established usage. Its function should not be that of a country arbitrator who brings about a settlement of some sort or other in the disputes between the janmi and the tenant. This is my view.

(b) If the janmi suffers loss as a result of granting permanent rights, that loss should appear as a gain to the tenant. If that gain is shared by another tenant besides the one that pays compensation, it should be distributed, proportionately to the gain accruing to each of them.

(c) If, however, it is decided that compensation should be paid, tenants should be given special facilities for the same. Arrangement should be made for the payment of the compensation due from them, in small instalments.

If it is finally decided that compensation should be given, it should be fixed at such an amount that there may be no obligation in future for the payment of michavaram or renewal fees. I think that it will be conducive to the future welfare of the country.

Rent.

VII. (a) It is not an easy affair to decide the apportionment of the net produce between the janmi and the tenant. The old principles regarding this matter are not suited to the present times. To make an effort (to fix the ratio) will cause troubles and contentions and bring about unnecessary loss. In the first place, this arrangement need not be thought of at all, except in the case of paddy fields. It cannot be made applicable to gardens. Suppose three bare parambas, each an acre in extent, are given to three tenants, and suppose the rent for each is one rupee exclusive of the tax—even bare parambas will not be leased out without fixing a rent. One of the tenants makes a well in his paramba and plants coconuts which will bear fruit only after a long time. Another tenant cultivates sweet-potato creeper which will produce an income in three months. The third tenant plants cashewnuts. When can

the income from these three properties and the cost therefor be calculated? Can it be done every year? And is the rent to be revised every year? Suppose all the three are bearing fruits. If the share due to the janmi is fixed to-day, how can the rent be changed when there is a change in the income of the property to-morrow? Moreover, when it is laid down that the janmi should get a share of the produce, which is the sole result of the tenant's labour, the latter's desire to make the garden more fruitful will be reduced by half. Even in the case of paddy fields, it is not an easy task to fix a certain proportion of the produce. In the case of lands leased out as fields to tenants and in the case of lands which the tenant by his own labour has converted into fields and cultivates, it is not just to fix the same proportion. It must be admitted at least that the tenant's labour should be estimated and interest allowed on its cost. This principle of a fixed proportion cannot be introduced without first examining what extent of the lands, now in the hands of tenants, was leased out to them as fields and the extent to which the rent of such lands has increased as a result of the tenant's labour, also the total produce from all the fields in Malabar, and without spending much time in taking evidence. The existing rent and michavaram should be followed as the basis. It is not expedient to change them. If any particular rent or michavaram is found to be excessive, relief in that matter will come by itself.

(b) Though it may be said that in some rare cases, rent and michavaram are excessive, the proper relief in the matter is grant of permanent rights.

Renewal fees.

VIII. (a) The former rate of renewal fees was 2 per 10. Recently it has been increased to $2\frac{1}{2}$ and $2\frac{3}{4}$ per 10. Some janmis base it on verumpattam. I think that it will not be prejudicial to either of the parties if, agreeably to the old usage, it is fixed at 2 per 10 of the kanam amount, but not exceeding one year's verumpattam.

(b) The rate of renewal fees does not depend upon each taluk. In whichever taluk the lands of a janmi may be situated, the rate of renewal fees will be the same.

General.

IX. I do not think that (the giving of) permanent rights is unnecessary. If, however, it should be decided that permanent rights should not be conferred, there should at least be a law that a tenant should not be evicted except on specified grounds.

X. (a) A right of pre-emption against melcharthdars is useless.

(b) & (c) Without granting permanent right or without laying down that eviction can be resorted to only on specified grounds as stated in the answer to question IX, any effort made to prevent melcharths will be abortive.

[Note.—As since translated by the Malayalam Translator to Government.]

Monday, the 28th November 1927 (Afternoon).

At the conclusion of the examination of Mr. K. C. Sreeveerarayan Rajah, Mr. Kavil Panchu Nayar was examined.

Oral evidence of Mr. Kavil Panchu Nayar.

The President:—Q.—Mr. Panchu Nayar, you come from which amsam?

A.—I come from Kuttipala amsam, Ponnani taluk.

Q.—You are, I believe, a kanamdar?

A.—Yes, I am a kanamdar also.

Q.—What is the total extent of your holding?

A.—About 50 acres of kanam and about 300 acres of janmam lands.

Q.—The kanam you hold under janmis and you have got kanamdars under you in regard to your janmam lands?

A.—Yes.

Q.—Have you got janmam lands directly leased out to verumpattamdars?

A.—Yes.

Q.—In regard to lands which you have demised on kanam, how much land have you demised on kanam?

A.—About 10 or 15 acres I have demised on kanam, wet lands and gardens. Gardens are all planted up with coconuts and arecanuts.

Q.—As a janmi what michavaram do you get?

A.—Some Rs. 15 to 20 on this 10 to 15 acres leased out.

Q.—And how much renewal fee do you get?

A.—I can't say definitely.

Q.—What is the verumpattam rent which your kanamdar gets out of those 15 or 20 acres?

A.—The kanamdars themselves cultivate the lands.

Q.—Now the kanam lands which you hold under janmis (about 50 acres), are they garden lands or wet lands?

A.—Both. I can't say definitely how much they are separately.

Q.—What is the kanam amount which you have advanced on those 50 acres?

A.—About Rs. 5,000.

Q.—How did you acquire those kanams, by assignment, or are they kanams held for a long time?

A.—They are very old kanams held from generation to generation.

Q.—What is the michavaram that you pay?

A.—Little more than 300 paras and some money also about Rs. 40.

Q.—What is the rate of interest which you get on the kanam advance from the janmi?

A.—At the rate of 12 to $17\frac{1}{2}$ paras of paddy for Rs. 100 kanam investment.

Q.—What is the total renewal fee which you had to pay on all these kanam lands at the last renewal?

A.—I paid about Rs. 1,000 as renewal fee.

Q.—Now, please tell us, as nearly as you can, the total gross income which you get out of these 50 acres of land every year. Don't exaggerate, don't minimise.

A.—About 2,000 paras of paddy from wet lands and about Rs. 1,500 from the gardens.

Q.—Under how many janmis do you hold?

A.—Five or six janmis.

Q.—And under all these janmis you have been holding kanam lands from generation to generation?

A.—Yes.

Q.—None of these janmis has sought to evict you?

A.—Only one.

Q.—And that is the case which you have mentioned in your answer?

A.—Yes.

Q.—None of these janmis have tried to grant a melcharth over you?

A.—No.

Q.—You said you own 300 acres in janmam. Have you sought to evict any of your kanamdars?

A.—Out of these 300 acres more than 200 acres are forest lands.

Q.—Out of the remaining 100 you said 15 acres are held by the kanamdars?

A.—Yes.

Q.—And the balance about 85 acres you have let on verumpattam?

A.—I am also cultivating some of the lands myself.

Q.—How much do you cultivate?

A.—Land covering about 1,000 para seed. In the Ponnani taluk yielding capacity on wet lands is very poor. We have to sow about 7 paras of seed per acre.

Q.—Have you tried to evict any of your kanam tenants or granted melcharths?

A.—No. I have not done so.

Q.—Have you evicted any of your verumpattam tenants, if you have any?

A.—No, I have not evicted any of my verumpattam tenants.

Q.—How long have your verumpattamdars been on your land?

A.—I became karnavan in 1075. Up to this time (1102) I have not evicted a single verumpattam tenant from my lands, and I did not get any melcharths from any janmis also.

Q.—Will you please refer to your written answers? You have explained the several disabilities of tenants. I won't take you over them, but I will only ask you to explain one or two things there. You say "The improvement in the shape of teak, blackwood and jack fruit trees at the time of the lease, cannot be cut without the permission of the janmi. Then the janmi fixes a certain rate of fees for each tree which at times comes to half the value of the tree itself. If the trees are cut by others without the knowledge of the tenant, the janmi finds fault with the tenant and fines him. Certain janmis make it a condition in the lease itself that no trees could be cut without fees (kuttikanam)." Are those trees fruit trees or trees of spontaneous growth for which the janmi levies kuttikanam?

A.—Fruit trees also.

Q.—Why does the tenant want to cut down fruit trees?

A.—The jack trees are generally cut down even now for house construction.

Q.—In such a case when you cut down a jack tree, even though the tree might have been planted by the tenant, the tenant has to pay kuttikanam to the janmi, i.e., half the value of the tree you say?

A.—The tenant has to pay 1, 2 or 3 rupees to the janmi.

Q.—What will be the price of a tree?

A.—It may be even Rs. 40 or Rs. 50.

Q.—So, it is nothing like half the value of the trees cut?

A.—If the janmi compels the tenant to pay half the rate then the tenant has to pay. He has no other go.

Q.—Do you know personally of cases where kuttikanam has been paid at that rate?

A.—Yes. When I examined the Poomulli mana records to assess profession tax I saw an item showing kuttikanam receipt.

Q.—Do you know it was for cutting down fruit trees.

A.—When I enquired I was told that even fruit trees when cut were charged kuttikanam in the neighbourhood of Poomulli mana.

Q.—But you know this much that the kutikanam was levied for the cutting down of jack trees and this you were able to find out from the account books?

A.—No, not from the account books.

Q.—Kuttikanam as an item of revenue you found there. It may be income from fruit trees or jungle trees of spontaneous growth, you can't say which it was?

A.—It is not jungle trees. Kuttikanam is of two kinds. Strictly the word 'kuttikanam' is the right of felling trees in the forest. What I refer to is the right of cutting fruit trees in the kanam holdings.

Q.—Lower down you say "The tenant has no right to demand the kanam amount and the value of improvements." The tenant cannot sue of his own accord for the return of the kanam amount or for the value of improvements? Is that what you mean?

A.—A kanam tenant is precluded from suing the janmi.

Q.—Then you say under (v) "Even if renewals are paid no receipt is passed, and awaiting an opportunity a suit is filed by the janmi for eviction. In these cases the tenants have to file a suit to effect a renewal". I think the translation is not quite correct. Will you please explain what you mean by that answer?

A.—Sometimes some janmis don't fulfil the oral terms of the contract, in such cases the tenant is put to the necessity of suing the janmi for effecting a renewal.

Q.—Is it done now?

A.—Yes. It is being done now.

Q.—Then you say "Of the above difficulties, the kuzhikanam tenant suffers most in the matter of improvements. The oppression by eviction at the time when the trees and the vines are about to bear fruit is very great". Can you give us some instances of such oppression?

A.—I have not got instances just at present, but I will be able to furnish instances later on. I can't say it from memory now.

Q.—Now under "Evictions" you say you are giving some instances. You have quoted a few suits. You say "Some lands which were in the possession of my family for a pretty long time on which there was no due outstanding was without any reason evicted by a decree of the District Munsif at Pattambi in O.S. No. 48 of 1926 even though we agreed for renewal". Have you got a copy of the decree of the District Munsif?

A.—I have got a certified copy of the plaint, but I have not got a copy of the judgment in that suit.

Q.—What was your defence in that case?

A.—I pleaded that I was prepared to renew or surrender. A decree was given ordering me to surrender the property which I did.

Q.—What has become of that land now?

A.—Last year I surrendered the property. I don't know who is in possession of that property now. The janmi is the Odiyannur mana. The janmi is not cultivating the land himself and he must have leased it out to somebody.

Q.—Then you say "There are unjustifiable melcharths. Particulars will be supplied later on". Have you brought any plaint or judgment to substantiate your statement?

A.—I might be permitted to state the facts of one case. Mr. P. K. Ramunni Menon, District Munsif, was a tenant of Poomulli mana. Mr. Menon's aged mother, aged 70, was anxious to remain in the house and die there. When I went to the house (I am a friend of Mr. Ramunni Menon), the old lady made a request to me to speak to Mr. Ramunni Menon and pay any renewal fee which the janmi wanted just to enable her to die in peace in the house where she was living. In the meanwhile the suit had already been filed. The value of improvements came to Rs. 20,000 and the judgment has not yet been delivered. The suit was in the Pattambi Munsif's Court. I went to Mr. C. R. Parameswara Ayyar, Manager of Poomulli Mana Estate, and made representations to him. I told him that Ramunni Menon was willing to receive one or two thousand rupees less than the amount found due on account of improvements and that the suit might be withdrawn, or he might be permitted to pay any renewal fee which the janmi wants. Mr. Parameswara Ayyar promised to consider the matter and let me know. Two weeks later I again went to Mr. Parameswara Ayyar. He said that he was not in a position to bring about a settlement and that the litigation must go on. The suit was decreed for Rs. 18,000. Now an appeal against that decision is pending, the Mana people saying that the cost of improvements decreed is too much.

Q.—Have you got the plaint in that suit?

A.—Yes. (Witness filed copy of the plaint.)

Q.—Under "Remedies" in answer to question III (a) (3) you want to "Introduce sealed measures". What do you mean by that?

A.—I mean the *Mudra para*. I want the measure to be standardised.

Q.—Then you say under question III (b) "For the removal of the disabilities permanent occupancy must be granted. All kanam and kuzhikanam tenants, those

verumpattamdars who pay rent for a year in advance, those kovilagam verumpattamdars who have leases for 12 years and those who have saswatham, anubhavam, and karamkari rights should be granted permanent occupancy". What about the non-cultivating kanamdar? Do you include in the term "kanamdar" non-cultivating kanamdar also?

A.—Yes, I mean both the cultivating and non-cultivating kanamdars.

Q.—You say further, "Different classes of tenants who have right on the same land are to be granted permanent occupancy right". Could you give permanent occupancy right to all the tenants. Supposing besides the janmi and the verumpattamdar there are several sub-tenants? In that case how can you give permanent occupancy right to all the tenants?

A.—If the kanamdar gets his permanent right of occupancy then he should give permanent occupancy right to the verumpattamdars under him also. All the existing interests of all classes of tenants must be safeguarded. That is what I want.

Q.—What do you mean by saying "I do not think sub-tenants of the kanamdar and verumpattamdar who have less than 10 acres of land should be granted occupancy right, but they should not be evicted without sufficient grounds"?

A.—I want to exclude janmis owning 10 acres or below 10 acres from this rule of granting permanent occupancy right.

Q.—What do you mean by saying "If the janmi cannot evict the tenant without sufficient ground". In such cases would you not exclude those lands from the category of lands to which permanent occupancy right is applied?

A.—What I mean by permanent occupancy right is that as long as the tenant fulfils the terms and conditions of the contract he should not be ousted.

Q.—That is a general observation. It does not apply to people possessing 10 acres of land alone?

A.—The tenant should not be put to any hardship. So even when a janmi has 10 acres or less he should not evict a tenant on unjust grounds if he is going to cause hardship to the tenant.

Q.—If the janmi wants to cultivate the lands himself can he do it?

A.—Yes.

Q.—Then why do you want the 10 acres limit?

A.—Because the smaller janmis will have fewer tenants than the bigger janmis. I suggest that to minimise the hardship to tenants.

Q.—You say in answer to question IV (1) (a) "Those tenants who have holdings should be given occupancy right". Is that correctly translated?

A.—If the Committee is not going to recommend anything else then I suggest that at least occupancy right should be given to the kudiyruppus. They at least would not suffer.

Q.—You said the Improvement Act should be amended. What do you mean?

A.—According to the present Act except in cases where there are big houses it is very easy to evict the tenants out of gardens.

Q.—Why?

A.—Those janmis who have money will be benefited by paying the existing value of the improvements.

Q.—If the janmis will get such large profits cannot a janmi borrow money and evict, if the eviction of the tenant would fetch him a large profit?

A.—When there are enough paddy lands under him and when he finds that he could more profitably evict a tenant from the paddy lands than gardens, he prefers the former.

Q.—So eviction of a tenant from the garden is less profitable than evicting a tenant from the paddy land?

A.—Yes.

Q.—With reference to your answer to question VI (a), I am not able to appreciate your position. You say "There should be a legislation that the tenant should not be evicted when he does not injure the right of the janmi and pays his dues. The janmis will not also claim compensation for 12 years when once the lands are renewed. There should be no legislation empowering the janmi to claim compensation at the end of 12 years because what we call compensation is only sowjanya". Even now the janmi cannot evict a tenant within the period of renewal—12 years. If a compensation is required for renewal after the period, how can the tenant complain?

A.—If the tenant is given a right to demand renewal after 12 years only on payment of compensation then the tenant will not be benefited.

Q.—Why not? Is it not a benefit to him? If he is not to pay any additional compensation, why should he be granted permanent occupancy right?

A.—I want the tenant not to be disturbed except for proper or justifiable reasons.

Q.—Supposing that practice is converted into law. Then should not the tenant pay compensation?

A.—My opinion is that it will be better to be without permanent occupancy right than to pay compensation.

Q.—Won't the janmi's right in the property diminish when this right is given to the tenant?

A.—No, it won't be reduced.

Q.—For the last 50 years and more it has been decided that kanam tenure is redeemable after 12 years?

A.—It is only after the law of 1852 that evictions have begun to take place. Not even one document of the olden times showed that at the expiry of 12 years the kanam tenant should or could be evicted.

Q.—In regard to rent, your position is that no formula should be laid down defining fair rents. In each case you want the rent to be determined separately. Is that your position? I gather that from your answer to question VII (a)?

A.—Yes, that is my position. Some lands are generally very good and quite close to them the lands will be very bad. That being the case, rents cannot be generally fixed according to the acreage in a particular locality even.

Q.—But what is your objection to having a formula like this. Start with the assumption that the existing rents are fair. If the janmi says the rent is too low or the tenant that the rent is too high, fix a certain share of the produce which a tenant should pay to the janmi. What is your objection to that formula?

A.—If the janmis and the tenants would agree then there won't be any trouble. It is only when they don't agree there will be trouble and consequent litigation.

Sir T. Desikachariyar:—Q.—Apparently you presume the existing rents are fair rents. Is there any harm in taking that as a general basis?

A.—The existing rents may be taken as fair rents. That is the easiest way.

Raja Sir Vasudeva Raja:—Q.—How long have you been adhigari of your amsam?

A.—For more than 10 or 12 years.

Q.—You have given in your written statement a number of grievances of the tenants. Do they relate to the tenants of your amsam, or do they relate to the Ponnani taluk or the whole of Malabar?

A.—I have referred to the general grievances in South Malabar.

Q.—Do you find all these grievances in your amsam?

A.—I don't say they do not exist.

Q.—What opportunities had you to know the other parts of your district. You are an adhigari and as such you are expected to be in your amsam? Do you take leave for investigating the existence of these disabilities in other parts of the taluk and district? What personal knowledge have you got?

A.—For the last three years I have been a Taluk Board and a District Board member and as such I had opportunities of going to all the places in the district.

Q.—Whenever you go out you make it a point to enquire about the relationship between the landlord and the tenant?

A.—Wherever I went I have heard about the grievances of the tenants. I don't deny the existence of good janmis also.

Q.—Is your experience confined to the two cases that you gave or have you got other specific instances of oppression?

A.—Yes, I have got more instances of such oppression by the janmis. I have got a High Court Judgment, Second Appeal No. 145 of 1924, from the Subordinate Judge of Calicut before Mr. Justice Odgers. (Witness filed the copy of the judgment.)

Q.—What is the purpose of your filing this judgment?

A.—The question that was put to me was whether there were unjust evictions. The case referred to in this judgment, I say, is a case of unjust eviction.

Q.—Have you got any more specific instances like that?

A.—I can quote the number of suits in some seven or eight other cases. I have not got the documents in my possession just at present.

Mr. Kotieth Krishnan:—Q.—Can you file a list so that we could investigate into the matter?

A.—Yes.

Raja Sir Vasudeva Raja:—Q.—Even though paddy is well dried, if it is dried again will it get still more reduced in quantity?

A.—When once paddy is well dried I don't think it will be further reduced in quantity.

Q.—If in the pattam chit it is stipulated that dried paddy should be given then there is no grievance for the tenant at all?

A.—We cannot make any stipulation like that. I think that is another opportunity for giving trouble. There are good janmis and bad janmis. I am afraid to give their names.

Q.—You made a complaint about the *patta para*. You know in the documents, it is generally stipulated that pattam is to be measured out by a particular para. So there is no grievance at all?

A.—The size of the para is not generally mentioned in the document. I have heard of 40 nazhi paras, 60 nazhi paras and to-day I have seen a 43 nazhi para. Although these stipulations are mentioned in some cases the para which the janmi will ask the tenant to measure with will not be the same. It will be a much bigger one. And if the tenant refuses to measure out the pattam with that para the janmi who will naturally be infuriated will evict the tenant or grant a melcharth. Out of fear the tenant has to simply submit to whatever the janmi says.

Q.—You only say that it is a possibility?

A.—I myself have got into such trouble. I could not bear sight of this oppression and therefore I mentioned but a few instances of them. Some of these troubles are very small indeed. They may even be styled small pin-pricks when compared to the oppression the tenants undergo at the hands of some unscrupulous landlords.

Q.—You have said "Over and above the provisions in the contract much in kind and coin is taken from the tenant". What are you referring to?

A.—I can only refer to instances which have happened near my place. Some janmis levy certain fees for ceremonies while others are not satisfied with anything that is given.

Q.—You refer to "There are also other dues." What are they?

A.—Possibly my reference to the payment towards expenses for *Kathakali* and other plays have been translated as "other dues".

Q.—Do you think that no kuttikanam at all should be collected from tenants?

A.—In some cases there may be only one jack tree in the whole compound and it will be very hard for the tenant if the janmi were to cut the same and remove it.

Q.—But the trees are grown in the janmi's land and will not the land deteriorate if in the case of a big garden many trees are cut and removed. If the trees

are cut there will remain only stumps there and the janmi will have additional trouble of removing all these stumps. If only stumps are there will they not deteriorate the land of the janmi. Should he not get anything for that?

A.—Why the janmi can get more trees out of these stumps.

Q.—Jack trees won't sprout out of the stumps, will they?

A.—No, but in the case of other trees it is not so. Generally if a janmi wants a tree it is given at a very low rate. It is not customary to levy big amounts if the janmi wants it for himself. In the case in which an outsider would pay Rs. 10 for a tree the janmi will only pay, say, Rs. 2. The tenant must be satisfied with that.

Sir T. Desikachariyar:—Q.—So the tenant does it willingly?

A.—No, he does not do so willingly. Out of fear for the janmi he agrees to what the janmi says, and pays.

Raja Sir Vasudeva Raja:—Q.—Does your janmi give you receipts for the payment of michavaram?

A.—No, I don't get them.

Q.—Is it your fault or the janmi's fault?

A.—In my case it is the fault on both sides, more on my side.

Q.—Is that general statement made that janmis won't grant receipts for michavaram paid to them based on your own experience?

A.—It is not hearsay evidence at all. I know it myself.

Q.—Receipts are not granted generally?

A.—Some janmis don't grant receipts.

Q.—And then they disown also having received michavaram?

A.—In some cases that is done.

Q.—It is your own fault that you have not obtained receipts from your janmis for the payment of michavaram?

A.—Yes, it is partly my fault.

Q.—And do the janmis claim the same rent over again?

A.—I know of some cases where it has been claimed and decreed.

Sir T. Desikachariyar:—Q.—Why should you want permanent occupancy right in order to remedy these trivial disabilities. These things can be set right if you insist upon proper vouchers being given?

A.—It is on account of the fear of eviction that the tenants have to submit to all these troubles. Once fixity of tenure is granted tenants won't heed the improper demands of the janmis.

Raja Sir Vasudeva Raja:—Q.—Do you know that all improvements made should be suitable to the holding?

A.—Yes.

Q.—That is one of the substantial questions involved in the Poomulli mana case which you referred to? The mana holds that the improvements made were not quite suited to the holding and before the suit is finally disposed of we cannot say one way or the other whether the suit is justifiable or not?

A.—Unless the final decision is given it may not be right to say one way or the other in the matter. But the Poomulli mana can carry on the suit even to the Privy Council and by that time the poor tenant will be impoverished.

Q.—You have said in your written memorandum that your kanam advance was Rs. 5,000 and you paid Rs. 1,000 as renewal fees. You have yourselves advocated that 20 per cent of the kanam amount may be the proper renewal fee. So the renewal fee which you paid was only quite normal? So, personally you have no grievance? If the kanam is high the renewal fee must be small and if the kanam is low renewal fee must be high?

A.—Renewal fee must be based on verumpattam and not on kanam.

Q.—You say "Except in British Malabar, all who have possession of lands have got permanent occupancy right". Is that a correct statement?

A.—I am referring to the zamindari areas.

Q.—In Cochin the verumpattamdars have not got occupancy right?

A.—No.

Q.—Then you say in another place “Nowhere in India except in British Malabar a tenant has to get into the good graces of a janmi for a homestead”. What do you mean by that?

A.—In no other place is it possible for such a thing to go on. In Malabar there is such a dearth of lands not owned by janmis and there is an increase of population.

Q.—What is your experience with regard to homesteads? Are they not given free? When a person goes to a janmi and requests him to grant him some place for his habitation does the janmi ask for any compensation at the time he gives the land?

A.—No, he does not receive any compensation at the time when any land is given to a person for a homestead.

Q.—So if a man can get land like that free is there any harm in trying to get into the janmi's good graces?

A.—There is no objection to a request being made.

Q.—With regard to kanam tenants you said if occupancy right or fixity of tenure is given to them the janmi does not stand to lose anything. Is that what you said?

A.—Janmis suffer no loss as matters stand at present.

Q.—Suppose some land is wanted under the Land Acquisition Act and the tenant is to part with the land, how is the janmam value divided between the janmi and the tenant now?

A.—Janmam value minus the improvement value is given now to the janmi.

Q.—Whenever a janmi wants to sell his land, he will only get a lesser value for his land if fixity of tenure is given to the tenant?

A.—If the janmi is obliged to sell his property on account of debt or other reason then the janmi should suffer equally with the tenant. The tenant's occupancy right should be given up and the property may be sold free of occupancy right.

Q.—Supposing fixity of tenure is given to a tenant and the tenant goes on fulfilling his duties quite regularly, and supposing the janmi or the other members of his family want to cultivate the land then would you allow them to get back the land from the tenant?

A.—Yes, it may be done.

Q.—In such cases provision must be made that they can recover possession of the land?

A.—Yes.

Q.—You say “No portion of the profit should go to the janmi where the tenant has made cultivable lands out of dry ones”. If a land is given for reclamation and if the tenant reclaims is it your case that the janmi should not get any rent for it?

A.—Then no portion of the increased yield should go to the janmi. If the tenant had not reclaimed the land it would have remained a waste land under the janmi.

Sir T. Desikachariyar:—Q.—If the land had not been given the tenant would not have effected any reclamation at all!

Raja Sir Vasudeva Raja:—Q.—In answer to question X you say “If the janmi loses by granting occupancy right, it should be a gain to the tenants. If that gain goes also to the tenant who does not pay compensation, this should be apportioned according to the condition”. Will you make it clear?

A.—If compensation is to be given then I am of opinion that it should be given pro-rata by all those who are benefited by the grant of fixity of tenure.

Q.—If fixity of tenure is given for homesteads are you for the grant of compensation to the janmi or not?

A.—It is much better to have no fixity than to be asked to pay compensation. If fixity can be got without the payment of compensation then only that concession should be made as regards the homesteads. I am for giving fixity for all kanamdars also. At least kudiyrrippus should be given fixity of tenure without compensation.

Sir T. Desikachariyar:—Q.—Would you like to give fixity of tenure to your verumpattamdars without compensation?

A.—Yes.

Q.—I suppose that is applicable also to the kanamdars under you?

A.—Yes.

Mr. Kotieth Krishnan:—Q.—You have got considerable experience of the people in the four taluks of South Malabar, Palghat, Ponnani, Walluvanad and Ernad?

A.—Yes.

Q.—And may I take it that there is a strong feeling among the tenants that a law giving fixity of tenure to the tenants is essential for Malabar?

A.—Yes.

Q.—It is not merely the voice of a few agitators but it is the considered opinion of the majority of the tenants and others who are interested in the general welfare of this district?

A.—That is right.

Q.—You said if compensation is to be paid then fixity of tenure is not necessary. Then I ask you, is it because that there will hardly be any margin of profit left for the tenant?

A.—Yes.

Q.—Your janmis are all in your amsam?

A.—Yes.

Q.—May I take it that you were able to satisfy them with a smaller amount as renewal fee on account of the attachment that they have towards you?

A.—(Witness did not answer this question.)

Q.—In the matter of Municipal and Local Board elections is it within your own experience that janmis have interfered and have asked their tenants to vote for their own candidate?

A.—Yes.

Raja Sir Vasudeva Raja:—Q.—Have you been an agent of any candidate at any of the elections?

A.—Being an amsam adhikari myself I must be at the polling booth.

Q.—Do you know from the votes recorded for whom a particular voter recorded his vote? Do they tell you for whom they vote and all that?

A.—I am not willing to answer that question.

Q.—So the voting is not done properly?

A.—May be.

The President:—Thank you very much Mr. Panchu Nayar for your valuable evidence.

The Committee then rose for the day at 5-50 p.m.

VIII

Written statement of Mr. T. Manavedan Tirumalpad, Nilambur.

I. (a) (1) The chief cause is, in Malabar, the janmis do not spend money in making improvements like other districts. And the kanamdars find it necessary that they should be in good terms with the janmis if they wanted to keep the land in their possession beyond the kanam period of twelve years. The cultivation of coconut, pepper, etc., requires more than twelve years to enjoy the profits of their labour. Thus the uncertainty of the renewals might press hard on the tenants in making costly improvements in their holdings.

(2) By the corruption of the kariatthans of the janmis the tenants sometimes have to vacate their lands.

(3) The tenants sometimes have to vacate their houses suddenly and for a tenant with a big family to vacate their home is very hard. Such cases are not many.

(b) The tenants of the classes (1), (2) and (4) in (a) are peculiar to Malabar. In other districts the kanam or kuzhikanam tenure does not exist.

In other districts the janmis spend money to keep the land in good condition. Here it is not so. The janmi leases out the lands generally for twelve years for a small rent and he cannot get the usual profit from his land unless he gets back the lands leased out to his kanam tenants. A janmi cannot invest his capital in his own land and get his profit like any other man if he cannot get back his land from his kanam tenant after the expiry of the lease terms.

(c) There is not much of kanam tenure in North Malabar and the janmis still command great influence in respect of their land. In South Malabar it is not so. Here the kanamdars are the most influential people. All the lawyers, Government officers and merchants belong to the kanamdar class. Thus the janmi influence is not strong. That is the only difference in North and South Malabar.

Evictions.

II. (1) (a) I cannot deny that there were no evictions on unjustifiable grounds. But such cases are rare. Such evictions are on the decrease now.

(b) I do not deny the unjustifiable melcharths, but I do not know any special case to quote.

(2) The janmis generally do not oppress their tenants socially and I do not know if any one does such mischief in some corner. Anyhow I do not remember to have known of such cases during the last fifteen years.

Remedies.

III. (a) The following remedies may be suggested:—

(1) Government may allot a larger amount for agricultural loan and better arrangements for distribution and recovery of the same.

(2) Janmis may be allowed to recover the rent from their tenants without going to court by enacting Rent Recovery Act like other districts.

(3) The janmis should not evict their tenants except under some specified conditions. For his own use, for improving the land, etc., and should renew the lease if the tenant pays his rent and other dues properly and pays his renewal fees *which may be fixed*, and willing to enhance the annual rent to a reasonable extent every twelve years.

(b) I do not think that for the removal of the disabilities, the granting of permanent occupancy right is necessary, and I do not believe that by granting such rights the disabilities will be removed.

(c) If I grant at all, the verumpattam tenant alone may be given the occupancy right. This would not remove the disabilities. But this will indirectly help the tenant a little.

(d) I do not agree with the suggestion. There is no meaning in saying that the janmi who allowed his tenant to keep the land under him for a number of years paying the rent and other dues to his landlord gives the tenant the right of permanent occupancy. If the tenant, kanamdar or otherwise continues to give the rent and other dues and satisfies the landlords' reasonable demand the tenants need not be sent away from their lands. And no janmi usually does such things.

(e) In this case I suggest that other dues should be defined clearly and the landlords should be given power to collect their rents and the other dues without going to court (Rent Recovery Act).

(f) I do not find any reason for granting permanent occupancy right to any class of tenants. How could you give the property of one to another without giving compensation.

IV. (a) (1) A tenant occupying a homestead for more than thirty years continuously may be granted the right of occupancy.

(2) Yes. Instead of thirty years' holding I suggest forty-eight years continuous holding.

(b) 10·25 cents in urban area and 1 to 5 acres in rural areas according to the status of the man.

(c) (1) If the house has been built *bona fide* for the tenant's own occupation.

(i) He may claim half the value from the landlord in case he leaves it for his own good. If the landlord requires the tenant to quit he may claim the whole value, or,

(ii) the tenant should keep the kudiyruppu with the necessary premises on a small rent.

(2) He should be allowed to remove the same or keep the kudiyruppu with a small rent.

(3) Either the tenant may be allowed to remove the house or he might claim half the value from the landlord.

(d) (1) This may be advantageous to the kanam and kuzhikanam tenants. But among verumpattam tenants they may not be advantageous.

(2) Yes.

V. It is more than sufficient protection for the tenant in case of eviction.

Since the passing of this Act the janmi does not go in for evicting his tenant unless he is compelled by the action of the tenant.

It has some disadvantage to the tenants also. So, for the good of both the Act should be amended.

Compensation.

VI. (a) The compensation should be twenty times the annual rent yield of the land.

(b) The above principle may be applied to all (should be calculated according to the profit each gets).

(c) All reasonable facilities should be given to pay the amount—from fifteen to thirty years may be allowed at 5 per cent interest.

Rent.

VII (a) After deducting the actual expenses of cultivation one-third share must go to the tenant and two-thirds should go to the landlord who should pay all Government dues. Here landlord and his tenants are only taken into consideration. With regard to the intermediate tenants their profit one-third must be shared according to the money interest each holds.

(b) The usual rent now janmi gets from his land will not be above the rates above specified but will be less. Suppose 10 acres of land have been leased out on verumpattam. The annual yield will be, say, 900 paras. The cultivation charge will be 240 paras at the most, the yield being 660 paras, of these the janmi is to get 440.

In a kanam lease the janmi pattam is generally shown much less than the above rate leaving a margin for renewal fees, etc. Say, for instance, 220 paras (in the above case of 10 acres of land) and out of these 220, deductions will be made for paying rent and interest for the kanam amount and the balance will be shown as *michavaram* payable to the janmi. Here the kanam tenant gets one-third of profits, 320 paras plus the margin allowed, 220 paras plus his interest for the kanam amount out of which he can very well pay a good share to the cultivating tenant and reserve an amount for renewal fee, etc.

Renewal fees.

VIII (a) Now there is no fixed rate for demanding renewal fees. A very fair demand will be one year's rent (i.e., two-thirds of the net produce) for every twelve years.

(b) The rates vary greatly with different janmis. I have enclosed my usual rate with this (not printed).

General.

IX. Neither permanent occupancy right nor compulsory purchase is desirable. Generally the verumpattam tenants or the actual cultivators are not evicted from their holdings. More than 75 per cent of such tenants or their families still enjoy their holdings continuously without break. A janmi will never evict such tenants unless he is compelled to do so by non-payment of rents. This may be remedied if the janmis were given power to recover the rent without going to Court. Now when any tenant fails to pay the rent the janmi keeps quiet thinking the trouble of going to Court and the effect will be to continue the default to pay.

After a few years the janmi when he could no longer wait will go to Court for recovery of rent and the tenant will be ruined for ever as it is impossible for him to pay the accumulated arrears of rent with interest. If the annual rents are recovered from the tenants regularly there will be no more poor tenants in Malabar. So the real benefit I can think of in favour of the cultivating tenants is to give the *janmis power to recover the rent annually* from their tenants. And I have no objection to make laws to check the janmis from evicting a verumpattam tenant without sufficient reason and I believe that every janmi will agree to this.

X. (a) This is very reasonable, and I do not find much difficulty in working out such a system.

(b) The suggestion is good.

(c) If some arrangements are made with regard to the fixing of rates for renewal fee and some rules for the system of increasing the rent this question will not arise.

Tuesday, the 29th November 1927.

Oral evidence of Mr. T. Manavedan Tirumulpad.

The Committee met again in the Huzur office to-day at 11 a.m., all the members of the Committee except Messrs. Narayana Kurup and Haji Abdulla Hyi Kasim Sahib Bahadur were present.

The examination of Mr. T. Manavedan Tirumulpad, Senior Raja of Nilambur, was taken up.

The President:—Q.—Raja Saheb, you are the Senior Raja of Nilambur?

A.—Yes.

Q.—Yours is one of the biggest estates in the Malabar district?

A.—Yes.

Q.—May I know what will be the approximate yearly income from the lands in your estate?

A.—That will be about a lakh and fifty thousand rupees.

Q.—You get an additional income from your forest lands which is not included in this estimate?

A.—Yes.

Q.—Your estate is managed, I understand, by a retired Deputy Collector?

A.—Yes.

Q.—You have kanamdars as well as verumpattamdars under you?

A.—Yes.

Q.—Have you got any kovilagam verumpattamdars under you, that is those who hold land for twelve years without paying kanam?

A.—No.

Q.—Have you got kuzhikanamdars under you?

A.—Not many.

Q.—Do you lease out waste lands to the kuzhikanamdar or to anybody for being reclaimed and converted into vettukanam; or do you lease wet lands for being converted into gardens?

A.—As regards wet lands there will be some old cases of vettukanam—none now-a-days.

Q.—There will be old cases?

A.—Yes.

Q.—How do you deal with those old cases? Do you give those cases any special treatment? How do you distinguish between kanam holdings where there has been no vettukanam and kanam holdings where there has been vettukanam? Is there any difference either in regard to the michavaram or the renewal fee?

A.—There is not much difference in calculating rent, etc. It will be stated in the lease deed itself whether the land had been reclaimed.

Q.—So in regard to the vettukanams carried out at the cost of the tenant you say a recital is made about it in the lease deed when the renewal is effected?

A.—Yes. The value of improvements will be fixed and a portion of the improvements will be paid at once and the balance is treated as kanam. That is what is done.

Q.—Is it fixed at the time of renewal or at the time of eviction?

A.—Generally it will be fixed after six or twelve years. But in practice, in some cases, this has been settled after 40 or 50 years and an ordinary kanam deed has been executed.

Q.—When reclamation is finished, and a new settlement is made, the cost of reclamation is taken into consideration, it is treated either as a kanam advance or a portion is paid to the tenant or the whole is paid to the tenant and then an ordinary kanam lease is given. Is that what you mean?

A.—Yes.

Q.—But you cannot say under what terms the lands were granted?

A.—During the last 55 years I have experience of only two cases. In one of the cases, I remember, for some years there was no rent and after that I believe it was levied at Rs. 5 an acre.

Q.—For how long did it continue without rent?

A.—Till the time of renewal. That is for 36 years in that particular case.

Q.—That is a peculiar case? Now, will you kindly refer to your written answers? You say under disabilities "The chief cause is, in Malabar, the janmis do not spend money in making improvements like other districts, etc." What is that due to? Is it due to the fact that the lands are not in their possession?

A.—They are not prepared to spend, that is all.

Q.—Why should they not be prepared to spend? If at all, anybody can command the necessary money it is the janmi?

A.—They are satisfied with their present income.

Q.—They are not inclined to improve the land?

A.—Yes.

Q.—Can they improve the land if they want to do so?

A.—Certainly.

Q.—The land is not in their possession?

A.—The lands were in their possession before they were leased and even after they were leased they can get them back at any time they please?

Q.—When you made that statement what was exactly at the back of your mind?

A.—Well I understand that in other districts the landholders spend money and make improvements and the tenants simply cultivate the lands and take the produce, that also for a short period of one or two years. But here it is not so. The best of lands are given on lease.

Q.—But what was the object with which you made this statement?

A.—I simply made that statement, that is all; it is a fact.

Q.—Then you say "and the kanamdars find it necessary that they should be in good terms with the janmis if they want to keep the land in their possession beyond the kanam period of twelve years." What do you mean by that?

A.—If he invests large capital for making improvements he must be assured of his being allowed to continue in the land.

Q.—Then you say "Thus the uncertainty of the renewal might press hard on the tenants in making costly improvements in their holdings."

A.—Those are all recent ideas. Formerly there were no such ideas. There was no idea of turning out a tenant except under certain contingencies.

Sir T. Desika Achariyar :—The whole thing means, the janmi does not want to spend money, the kanamdar has to spend money, and yet he hesitates to spend money. These are the three ideas contained in that paragraph.

The President :—*Q.*—Is this uncertainty hanging over their heads?

A.—I never meant that they hesitate in fact but there is always this possibility.

Q.—Does it deter them from making improvements?

A.—Certainly not.

Sir T. Desika Achariyar :—*Q.*—May I with the permission of the President put to you one question? You yourself say, Raja Saheb, towards the end of the paragraph "Thus the uncertainty of the renewals might press hard on the tenants in making costly improvements in their holdings". That is what you mean? That is the conclusion?

A.—Yes.

The President :—*Q.*—So, it does deter them to some extent?

A.—Yes.

Q.—Your idea is that this uncertainty should disappear?

A.—Yes. I made mention of the present day disabilities, that is all. You did not find such disabilities some twenty years back.

Q.—Will you kindly tell us whether twenty years back there was no question of turning out the tenant?

A.—Only under certain contingencies.

Q.—What were the contingencies?

A.—When they did not pay rent regularly, when they disputed the janmis' title and when the janmis required the land for their own purpose. These were the important contingencies.

Q.—What do you mean by 'for their own purpose'?

A.—That is when they wanted to cultivate themselves, or build a house, etc.

Q.—In the old days the tenant was disturbed only under such contingencies?

A.—Yes.

Q.—When you say the tenant was not disturbed, do you mean the kanam tenant only or the verumpattam tenant as well?

A.—All tenants.

Q.—Then what is the distinction between the kanam tenant and the verumpattam tenant. I gather from what you say that the treatment accorded to both these classes of tenants was exactly the same in the old days. I suppose I need not tell you that the rent paid by the verumpattam tenant directly under the janmi was the full rent while the kanam tenant paid only a light rent or michavaram. Why this difference between these two classes of tenants in this respect?

A.—Some janmis wanted to give some lands to tenants on favourable terms. In such cases they let out land on a very nominal amount.

Q.—That is to say it was a piece of favouritism?

A.—Yes. That is one reason. The other is this. When the janmi required money a kanam tenure was created.

Q.—But we find the money which the janmi took from the kanam tenant was a very small amount and the interest on that advance does not correspond in any way to the profit which the kanamdar makes?

A.—That is favouritism, I say. Moreover after the creation of the tenure which was done long long ago they did not want a change. Modern kanams are very few.

Q.—Now, I will put another thing before you. You say that the kanams were created in some cases because the janmi wanted money. We are also told that with the money which the janmi then got the quantity of paddy that could be purchased was very much more than what could be got for a corresponding amount now. Therefore now, in terms of money if you calculate the interest which that amount covers it is very much less than the income of the kanamdar. But in the old days when the tenure

was created the interest on the kanam advance was equal to the profit which the kanamdar made. Is that correct?

A.—I do not believe that. In appearance that may be correct but actually it is not so. Generally the janmapattam is calculated at about one-third or one-fourth the verumpattam. It is on the janmapattam that the michavaram, polichezhuthavakasam and all other things are calculated.

Q.—You say the janmapattam is generally one-third or one-fourth the verumpattam?

A.—Yes.

Q.—Janmapattam is a term which applies only to kanam tenure?

A.—Yes.

Q.—So in regard to kanam tenants, the janmi took the janmapattam as his share and calculated the interest and michavaram and renewal fee and Government assessment from that janmapattam. You mean the janmi limited his entire demand to that janmapattam whatever the verumpattam was and adjusted the other dues within that janmapattam. That is what you want to say?

A.—Yes.

Q.—You say the janmi wanted to do some favour and so gave lands on kanam to some tenants. Why did he do that?

A.—In those days they wanted the service of these tenants. They wanted them for domestic service, social service.

Q.—And military service?

A.—Yes, military service also.

Q.—That is why they were given on a nominal rent?

A.—Yes.

Q.—Then you say under question I (9) "The tenants sometimes have to vacate their houses suddenly and for a tenant with a big family to vacate their house is very hard. Such cases are not many." Have you come across a few cases of that sort?

A.—I have seen one case very recently.

Q.—Will you kindly tell us what caused this?

A.—Near Pookkattur side there was a case. I got a decree. They failed to pay the rent for several years. I tried every year to get rent from them and afterwards I had to go to Court. The family consists of about 30 or 35 members. They had to vacate the house. Even after getting the decree, I kept it in abeyance without executing it and it was very recently that I had to execute it and send them out.

Q.—You consider it a hard case?

A.—A very hard case. There was no other go. Of course, the only other course is to give the land to them gratis.

Q.—If occupancy right is given then what could you do?

A.—The janmi will get a little consideration if this permanent occupancy is given. That will be sold and something will be received by the janmi from the new bidder, and he can recover some portion of the arrear of rent that way. Occupancy right indirectly helps the janmi in that case.

Q.—Under 'Remedies' you say "Government may allot a larger amount for agricultural loans and better arrangement for distribution and recovery of the same." What is that suggestion for?

A.—I believe there is an Act to help the tenants by giving loans.

Q.—The Land Improvement Loans Act?

A.—Yes. If you go into the interior you will understand that the people have not understood that there is such a provision existing and even those who have understood such things do not know whom to approach for it.

Q.—That is a matter with which we are not now concerned?

A.—Yes. But that is the only remedy to alleviate the tenants' difficulties. The tenants are becoming poorer and poorer every day simply because of this. There is no chance for the janmi to get rent annually and when you allow it to accumulate the next year the tenant will find it unable to pay.

Q.—In answer to question III (a) (2) you favour a Rent Recovery Act. I suppose you mean very probably the procedure laid down in the Estates Land Act or something like that?

A.—Yes.

Q.—Some special officer such as a Deputy Collector may be appointed to whom applications for attachment of crops and other movables may be sent and who should take action on the receipt of these applications, and collect the rent and pay the janmi. That is what you mean?

A.—Yes. Or some other provision may be enacted and the Government may collect rent as they collect land revenue. The janmis will undertake to pay commission.

The President :—That will be an ideal arrangement. But I don't know whether the Government would undertake that task.

Q.—Then under question III (a) (3) you say "and willing to enhance the annual rent to a reasonable extent every twelve years." Do you contemplate that every twelve years the rent should be enhanced?

A.—It ought to be enhanced.

Q.—What you mean is that the respective share of the janmi and the tenant should be fixed—I mean the share of the yield—so that if there is an increase in the yield of the land both of them may be getting the benefit of it?

A.—Yes.

Q.—Then you say "I do not think that for the removal of the disabilities the granting of permanent occupancy right is necessary and I do not believe that by granting such rights the disabilities will be removed," and "if it is granted at all the verumpattam tenant alone may be given that occupancy right. This would not remove the disabilities. But this will indirectly help the tenant a little." I suppose you mean that eviction should be prohibited except for the few purposes you have mentioned?

A.—Yes. In olden days it was not in writing. Now you can lay down the conditions under which alone the landlord can take back the land from the tenant.

Q.—You are also for prohibiting melcharths? Then you are virtually giving fixity of tenure to the tenants?

A.—Yes.

Q.—I think you have understood that permanent occupancy right is higher than fixity of tenure?

A.—Yes. The janmi will stand to lose more by giving permanent occupancy to the tenant.

Q.—So you do not mean giving him permanent occupancy? That is your position?

A.—Yes.

Q.—In answer to question IV (a) you say "tenant occupying a homestead for more than 30 years continuously may be granted the right of occupancy." Why did you fix 30 years? As a matter of sentiment you think the tenant would become attached to the house?

A.—I put some limit, that is all.

Q.—For urban and rural kudiyruppus you fix different periods. You fix 48 and 30 years, respectively. Why do you want a longer period in the case of those in towns than those in the country?

A.—The value of holdings in towns will always rise.

Q.—You have fixed the extent at 5 acres in rural areas. Is that not too high a limit?

A.—It is a very high limit. But in some cases unless you give them 5 acres of land for a kudiyruppu it won't be sufficient for them. Sometimes the family may consist of some fifteen members and they may want half a dozen detached houses, then they may want the *sarpakkavu*, the cattle-shed, a spot for burying the dead, an arecanut garden and a coconut garden and such other things for enjoying all the amenities of life.

Q.—Is that what you mean?

A.—Yes. In rural areas they will have to cultivate all these things as they will not be able to get all these things from the town. I have given the highest margin, that is all. For all ordinary purposes one acre is quite enough.

Q.—Now we come to compensation. You say "The compensation should be twenty times the annual net yield of the land." That answer is based upon the presumption that occupancy right is to be given to the tenant?

A.—Yes.

Q.—Even then twenty times annual net yield would be high because the janmi will be getting the michavaram and renewal fee in the case of kanam lands?

Sir T. Desika Achariyar :—The question is, if permanent occupancy right is to be granted what is the nature and extent of compensation you would award to persons affected thereby?

The President :—Q.—You refer to the kanamdar here, is it not?

A.—Yes.

Q.—You say the compensation which the kanamdar should give is twenty times the janmapattam.

A.—Yes.

Q.—From that you will deduct the kanam advance and value of improvements?

A.—Yes.

Q.—So by the annual rent you mean only the janmapattam which is either one-third or one-fourth the verumpattam?

A.—Yes. This is the minimum that I propose should be given to the janmi.

Q.—Why do you propose the minimum? Why not propose the maximum? What would be your maximum?

A.—Not less than thirty-five times the janmapattam.

Q.—You will include in this the michavaram also and the value of improvements?

A.—There is no value of improvements.

Q.—I shall re-state it for the sake of clearness. The minimum compensation in the case of kanam tenure will be twenty times and the maximum compensation thirty-five times the janmapattam which is either one-third or one-fourth the verumpattam. From this amount should be deducted the kanam advance and the capitalized value of the michavaram. The janmi would continue to receive michavaram but will not get any renewal fee. Now have I stated your view correctly?

A.—Yes.

Q.—You would have this compensation in view of the fact that you calculate the income due to the janmi on the janmapattam?

A.—Yes.

Q.—Now, I shall put a formula before you as regards this kanamdar. Let us proceed on the terms that the janmi should get the lump amount. It will be either 20 times or 35 times this janmapattam, minus those two items. The kanamdar will however continue to get the difference between the janmapattam and the verumpattam?

A.—Yes.

Q.—If you give him fixity of tenure, that is, if you remove uncertainty of his being continued on the land, supposing he foregoes half of that gain which he now gets and the remaining half is added on to the existing renewal fee. Suppose now the verumpattam rent is Rs. 100 and the janmapattam is Rs. 40. There is a difference of Rs. 60. Supposing the kanamdar also agrees to pay half of this difference between the janmapattam and the verumpattam, viz., Rs. 30 I mean, suppose he agrees to add to the existing renewal fee of, say, Rs. 50, 12 times that difference, viz., Rupees 360. Then would you give him fixity of tenure?

A.—It is not quite clear to me.

Q.—Now your position is this. Suppose the janmapattam is Rs. 40. Now 20 times 40 means Rs. 800. From that Rs. 800 deduct the kanam advance of Rs. 100. Then there is Rs. 700. Suppose the michavaram is Rs. 5 a year. Capitalise that

michavaram. That is, 20 times 5 comes to Rs. 100. Deduct this Rs. 100 from Rs. 700 and then you have Rs. 600 remaining for the kanamdar. The kanamdar is to pay that lump sum as compensation. That is your proposal. Very good. Instead of that, suppose we say the verumpattam being Rs. 100 and the janmapattam Rs. 40, the kanamdar gets a profit of Rs. 60; out of the profit that he now makes, if he agrees to pay twelve times half of it in addition to the existing renewal fee of Rs. 50 that is Rs. 360 every 12 years—then have you any objection to continue him on the land subject to the contingencies that you mentioned? In this case I put to you, you get Rs. 360 every 12 years instead of Rs. 600 once for all, and also the usual renewal fee. These Rs. 360 every 12 years is in addition to the renewal fee which would continue and the michavaram would continue as it is now. In the other case you would get only Rs. 600 once for all. Then have you any objection?

A.—I have no objection.

Q.—That is more favourable to you also. In the other case after receiving this Rs. 600 you get nothing?

A.—I have no objection.

Q.—Now with regard to the verumpattamdar also you say he should be allowed to continue on the land without being disturbed?

A.—Yes.

Q.—In that case do you require any compensation from the verumpattamdar?

A.—I do not want any compensation. I do not see how the question of compensation arises.

Q.—It arises this way. Now even though a tenant may be a cultivating tenant paying his rent regularly, you may tell him "I do not want you; go away; it is my will and pleasure to take another man." That is the law now. But hereafter you cannot say that?

A.—I do not want that right. I do not want any compensation if the janmi's case for speedy and prompt collection of rent is looked into.

Raja Sir Vasudeva Raja of Kollengode:—Q.—There was an extension of railway to Nilambur during the last year?

A.—Yes.

Q.—Some of your lands were acquired for that purpose?

A.—Yes.

Q.—Have you any idea as to how much dry lands and how much wet lands have been taken?

A.—About 100 acres in all.

Q.—How much have you received altogether as compensation for the lands taken from the Railway authorities?

A.—I believe it is about Rs. 65,000.

Q.—Were these lands under your own cultivation or under tenants?

A.—Under tenants.

Q.—Were they all verumpattam or kanam tenants?

A.—Verumpattam tenants and a few kanam tenants.

Q.—The Rs. 65,000 is your share after giving the share due to the tenants?

A.—Yes.

Q.—Can you tell us how this division was made? In regard to kanam lands how was it divided and in regard to verumpattam lands how it was divided?

A.—I am sorry. I am not able to say that exactly now.

Q.—Will you kindly furnish the Committee with some typical cases of awards in regard to (1) kanam lands, (2) verumpattam lands and (3) homesteads showing how the compensation was divided between the janmi and the tenant?

A.—Yes.

Q.—As the Committee will have to send their report soon will you be able to send up that list within three or four days?

The President:—I believe there are records about that in the Collector's office.

Raja Sir Vasudeva Raja of Kollengode:—Q.—In regard to kanam lands is the janmapattam mentioned in all the documents of your estate?

A.—In almost all documents.

Q.—Are there not documents in which kanappattam is not shown?

A.—Yes.

Q.—I suppose you are aware of the fact that in the case of many of the janmis in Malabar kanappattam is not mentioned in the documents?

A.—I cannot say.

Q.—Then you say janmapattam represents one-third or one-fourth the verumpattam. Is that only in your estate or do you think it is general?

A.—I mentioned it generally.

Q.—Without personal knowledge you cannot say generally. Have you got personal knowledge?

A.—No. I have never seen it over one-third.

Q.—Yesterday, the fourth Raja of Calicut said that in the Zamorin's estate it was about half. That disproves your statement that there are no cases above one-third.

The President:—Q.—He said it was never more than half. It may be half or less than half?

Witness.—I do not believe there will be half.

Raja Sir Vasudeva Raja of Kollengode:—Q.—In your estate it is never more than one-third and never less than one-fourth.

A.—Between one-third and one-fourth.

Q.—You say the janmapattam is only one-third or one-fourth the full rent and in order to give fixity of tenure you say you should get 20 times the value of this janmapattam which is only one-fourth the verumpattam? Will you be satisfied with that?

A.—Yes.

Q.—Do you think the other members of your family will be satisfied?

A.—I do not believe they will be satisfied. I do not believe even 5 per cent of the janmis will allow this. I am rather very liberal.

Q.—Do you think it is proper for any karnavan or manager to suggest that two-thirds may be given away without any compensation for the family?

A.—But you ought to take into consideration the tenant's position. They have been serving us for several years and they have been enjoying their lands for so many years without any break. So we ought to be satisfied with that.

Q.—That is your personal view. It does not represent the views of other tarwads or janmis?

A.—If you are pointedly asking me, I must say that is my own opinion.

Q.—Do you think it is injurious to the interests of the janmis?

A.—I cannot say it is injurious. That is my opinion. The janmis ought to be generous enough.

Q.—You say, in rural areas, for a homestead you must give five acres of land because there will be 15 members?

A.—Not only the number of members but the status of the family must also be taken into consideration.

Q.—Do you propose any compensation for giving occupancy right for those five acres?

A.—No.

Q.—How many thousands of homesteads have you got?

A.—Several thousands.

Q.—Is it possible to give them all five acres each?

A.—All of them do not require that extent. Some 30 per cent of them should be given five acres each.

Q.—Still it will come to several thousands of acres?

A.—If there are so many tenants, you ought to provide.

Q.—With regard to verumpattam tenants you are agreeable to giving fixity of tenure. Do you want any security for their rent?

A.—Yes. There must be security given for three years' rent.

Q.—In olden days all the kanam tenants were actual cultivators, is it not?

A.—Yes.

Q.—They also rendered services, even military service, to the landlord?

A.—Yes.

Q.—All those services have now disappeared?

A.—For the last 25 years it is almost gone. Even now in some rural parts they are doing such services.

Q.—The present kanam tenants are not cultivating the lands and they are mostly professional men?

A.—Yes.

Q.—Is there any essential difference between the old kanamdar and the present day kanamdar?

A.—There is a great deal of difference.

Sir T. Desika Achariyar:—Q.—You think 'the janmis do not want to spend money in making improvements on lands'?

A.—I made a mistake. It is about olden days. I mean they were not spending.

Q.—What is your present idea about them?

A.—Every janmi will be prepared to invest money in his own land. They were not doing so, in kanam days.

Q.—They were not doing so, and you say they will be prepared to do so. I wish to know what is the practice now? Are they spending money in improving the land?

A.—Now several janmis are spending money.

Q.—So instead of 'the janmis do not spend money in making improvements' it should be 'the janmis were not spending money etc.'

A.—Yes.

Q.—Then you say 'kanamdars find it necessary that they should be in good terms with the janmis if they want to keep the land in their possession beyond the kanam period of twelve years'. I therefore take it that as the janmis were not inclined to spend money and the kanamdars spent money they want to keep themselves on good terms with the janmis. Is that so?

A.—Yes. All that I have stated in that paragraph refers to the state of things before this time.

Q.—Then you say "Thus the uncertainty of the renewals might press hard on the tenants in making costly improvements on their holdings."

A.—That is so; if you look into their position from the standpoint of tenants you may expect such a contingency.

Q.—I want to look at it from an impartial standpoint, i.e., neither from the standpoint of the janmi nor of the tenant. Even then you will make such a statement?

A.—Yes.

Q.—So the fact remains that, owing to uncertainty of their tenure the kanam holders are not making costly improvements in their lands?

A.—It need not be a fact.

Q.—It continues at the present moment?

A.—It might.

Q.—I do not want to force you to make a statement. Any how this statement is correct?

A.—That is one of the possibilities.

Q.—It is not a possibility. You may modify your statement if necessary.

A.—That is one point.

Q.—That is a point to be borne in mind in connexion with the work of this Committee?

A.—Yes.

Q.—You therefore advocate that certainty of renewals may be provided for?

A.—If you are not going to do anything else you can do this.

Q.—Even if nothing else is done, this may be done, is that so? There is some trouble in understanding your ideas. First and foremost you think there is a certain amount of uncertainty?

A.—I will give 5 per cent for it.

Q.—So in 95 per cent of the cases there is no such uncertainty?

A.—No.

Q.—What would you do in order to remove this uncertainty in the 5 per cent cases?

A.—I have not thought about it.

Q.—Well, you say 'By the corruption of the kariasthans of janmis the tenants sometimes have to vacate their lands.' That will be what percentage?

A.—7 to 10 per cent.

Q.—The remaining 90 per cent of the people have no grievances?

A.—No.

Q.—Then you say the tenants have sometimes to vacate their houses all on a sudden owing to eviction proceedings. In what percentage of the cases it is so?

A.—It is not possible to give any percentage. But it won't be much. It will only be very little.

Q.—Under 'disabilities' you say 'in other districts the janmis spend money to keep the land in good condition. Here it is not so, etc., etc.,' and then 'A janmi cannot invest his capital in his own land and get his profit like any other man if he cannot get back his land from his kanam tenant after the expiry of the lease term.' It is quite natural. What is the grievance you are referring to there?

A.—That is not a grievance.

Q.—It is a general observation of yours?

A.—Yes.

Q.—Taking all your observations in answer to question I, you mean to say that there is a small percentage of individuals who are unable to spend money because of the uncertainty of renewals, a small percentage of individuals who are turned out suddenly and a small percentage of people who are suffering from the corruption of kariasthans. These are the only three disabilities?

A.—Yes.

Q.—You are one of the biggest janmis. Have you turned out anybody unlawfully or hastily?

A.—No.

Q.—Have you given any melcharth?

A.—No.

Q.—What would be the number of kanamdars in your estate?

A.—Between 500 and 1,000.

Q.—What would be the total number of verumpattamdars under you?

A.—Between 5,000 and 8,000.

Q.—Have you turned out any verumpattamdars unnecessarily?

A.—No.

Q.—Have you evicted any of them?

A.—There may be eviction cases. I have mentioned one case.

Q.—Why do you evict them?

A.—There is no other go.

Q.—What do you mean. Is it for continued non-payment of rent?

A.—Yes.

Q.—Have you raised renewal fee exorbitantly in the case of kanamdars?

A.—No.

- Q.—Have you raised the renewal fee?
 A.—I have lowered it, in the last six years.
- Q.—You belong to the class of Tirumalpad?
 A.—Yes.
- Q.—Your social position in the social hierarchy is high?
 A.—Yes.
- Q.—Have you used your social position in order to get anything which you ought not to get from any of your tenants?
 A.—No.
- Q.—Was there any complaint on that account?
 A.—I have not heard of any such complaint. Instead of doing these things I have always been helping the tenants.
- Q.—Well then, what is your position, do you want to give permanent occupancy to anybody?
 A.—No, certainly not.
- Q.—Why not?
 A.—Their condition is not materially improved by it.
- Q.—You believe that the grant of permanent occupancy right coupled with the liability to pay compensation would not improve matters?
 A.—Yes. There is no necessity also for it. I do not find any necessity.
- Q.—Now, I come to another point of view. Your kanamdars have been in their holdings from generation to generation?
 A.—Yes.
- Q.—They have been sticking to the land for a long time?
 A.—Yes.
- Q.—They have their families living there and they count it as part and parcel of their existence?
 A.—Yes.
- Q.—It would be hard to ask them to go away from those places?
 A.—It would be very hard.
- Q.—It will be felt by a kanamdar in Malabar as a great hardship if he is asked to go away from his place of birth and infant nurture?
 A.—Yes. That is true. But sometimes there is no other go.
- Q.—What is the meaning of 'there is no other go'?
 A.—They will have to be evicted.
- Q.—What is the meaning of 'they will have to be evicted'?
 A.—If they do not pay rent and if they do not comply with the conditions of the kanam they will have to be evicted.
- Q.—Then the question of hardship need not be taken into consideration. You will have to view it as a purely contractual relation?
 A.—Yes.
- Q.—Now with regard to verumpattamdars, there are those who are directly under you and those under the kanamdars. I shall take the case of those directly under you. What do you think they get out of the gross yield for themselves if they are in wet lands?
 A.—They may get not less than one-third. The major portion of my wet lands are near the hill corner. There they get more profit. My tenants get more than ordinary tenants.
- Q.—I want to know the condition of the verumpattam tenants. I may tell you why I put these questions. I hope you will not be surprised when I tell you that it is stated that the verumpattam tenants here are rack-rented and they do not get even the straw?
 A.—I do not deny that. There are such cases.
- Q.—Such cases will come to what percentage?
 A.—Say about 5 per cent.

- Q.—95 per cent you say are not in such a condition?
 A.—Yes.
- Q.—With regard to verumpattam lands suppose 10 acres are given on verumpattam. What would be the gross yield of that land?
 A.—Here the acreage is not generally mentioned. The seed area is mentioned.
- Q.—Let us proceed upon that. Suppose 100 paras of land is the seed area. What will be the gross yield?
 A.—2,500 paras.
- Q.—Well, how much do you get as verumpattam?
 A.—About 1,500.
- Q.—Then the margin to the verumpattamdar is 1,000. Who furnishes the seeds?
 A.—That he has to purchase. The usual rate is three times the seed that can be sown.
- Q.—That is 700 paras. He has to pay nothing else?
 A.—No.
- Q.—So, here he is well off. They get more than one-fourth?
 A.—I am sure my tenants get more than this.
- Q.—Therefore so far as your tenants are concerned they are well off and there is no trouble?
 A.—There is no trouble.
- Q.—So, so far as your estate is concerned and so far as your case goes, there is no necessity for any legislation?
 A.—No. I do not believe even 10 per cent of my tenants will say that they want legislation. During these agitation times, about 1,000 tenants of Nilambur gathered together and they passed resolutions to the effect that no tenancy legislation is required. They are rather afraid of such a legislation. They wanted to be left alone. Now they can move freely with the janmi and get necessary help from him. When such a legislation comes both parties' rights are settled and there will not be the mutual help that was existing.
- Q.—It is disadvantageous to the tenants if such a legislation comes in?
 A.—Yes. The janmi will simply say "I have nothing to say; I want my rent; I don't care whether you get a good crop or not".
- Q.—Now what do the janmis say?
 A.—I look to my tenants' welfare. Now much arrears are being remitted every year.
- Q.—How much arrears have you remitted?
 A.—During the last three years not less than 150,000 paras.
- Q.—What percentage is it of the total verumpattam due?
 A.—Some 35 per cent.
- Q.—So 35 per cent of the verumpattam rent had to be written off as irrecoverable during the last three years?
 A.—Yes.
- Q.—So it looks as though several of the verumpattamdars are not as comfortable as you say?
 A.—He is unable to pay rent. With regard to their economic position, I admit that they are very poor. That is why I say unless you recover the rent annually, whatever legislation you may make, they won't be getting any practical relief. If you want the tenant's condition to be ameliorated you must make some legislation whereby the janmis should recover rent annually.
- Q.—I put it the other way. If you want the janmis' condition to be bettered he must have his rents collected every year?
 A.—I do not want to say that.
- Q.—The verumpattamdars are—that is what I gather from your last answer—in an awful condition economically?
 A.—Not in a very good condition.

Q.—The majority of them are like that?

A.—Yes.

Q.—It seems that they are not in a position to have a single satisfactory meal a day?

A.—I do not go so far; I say they are very poor.

Q.—This is notwithstanding the generous treatment given by you to them?

A.—Every day the population is increasing, the yield is not increasing and the janmis are becoming poorer and poorer.

Q.—If the janmis are becoming poorer then where is the money to come from for investment?

A.—That is why tenants are suffering.

Q.—So with regard to most of them it can be said that they go with a scanty meal?

A.—Yes.

Q.—Is it not necessary to rectify such a state of affairs in the interests of the land and in the interests of the janmi? The land would be benefited and the janmis would be benefited if some means are devised to improve the condition of these tenants?

A.—Yes.

Q.—Well, how are you going to do it? The remedy suggested is that they should be in a position to command credit and that credit would be commanded when they have some sort of self-respect and permanent occupancy right is given?

A.—I don't think it will give them even 3 per cent relief.

Q.—Giving them occupancy right is enabling them to improve their moral stature?

A.—I do not believe so.

Rao Sahib V. Krishna Menon:—Q.—You have been alluding in the course of your evidence to some changes in the matter of evictions and melcharths during the last 25 years?

A.—Fifteen years.

Q.—I suppose what you mean is that the old harmonious relationship between the landlord and the tenant does not exist now?

A.—I cannot say it does not exist. But you notice a change.

Q.—Is it in the matter of evictions and melcharths?

A.—During the last 15 years they are becoming less and less.

Q.—Evictions were more common before 15 years?

A.—Yes.

Q.—Then why do you recommend fixity under certain conditions?

A.—I never recommended. I said I have no objection. I only spoke of some uncertainties to be removed.

Q.—Is unjust eviction a legitimate right?

A.—I do not think so.

Q.—So the janmis lose no legitimate right by your suggestion and therefore you recommend no compensation?

A.—Yes.

Q.—Now I give you two classes of landholders. The non-cultivating kanamdar and the non-cultivating janmi. In the interests of the country who is more important? When economic questions are considered for the prosperity of the country who is more important?

A.—I don't understand that.

Q.—I shall put it to you more directly. The complaint is that the non-cultivating kanamdar does not take real interest in the land. You think he is not an important element?

A.—No.

Q.—There are others who say that the non-cultivating janmis are a drag on the people?

A.—I do not know about it.

Q.—Before the Tenants' Improvements Act was introduced what was the agency that decided the value of vettukanams?

A.—There were local *Pramanies*.

Q.—So the janmis decided?

A.—They need not be janmis. Persons of influence and position in the locality.

Q.—Afterwards when courts were established the existing practice was found defective and enactments were introduced?

A.—Yes.

Q.—You say the renewal fee should be two-thirds of the annual net produce?

A.—I made a mistake. What I meant to say was one year's net produce.

Q.—As regards kanam tenure and verumpattam tenure which is older in origin?

A.—Both are equally old.

Q.—Is not kanam older? Were they not given for services to be done?

A.—That might be older.

Q.—If permanent occupancy right is given to holdings—or if you give them a right to continue in the holding subject to certain conditions do you think the landlord will suffer?

A.—The landlords lose by it. The loss will be apparent when you sell the property.

Q.—So long as you do not sell the property there will be no loss?

A.—No.

Q.—In your experience have you come across any family being ruined by borrowing for the payment of renewal fee?

A.—I do not know. I have seen several families going to ruin. But I have not gone into the economic position and causes.

Q.—I understand that most of these kanam holders have been ruined by borrowing a lump sum for renewal fee. When such a difficulty exists you think it is desirable to add another lump sum amount by way of compensation?

A.—I can only say that not even 3 per cent of the present tenants will be able to pay compensation.

Q.—Is the difficulty in collecting rent increasing or decreasing?

A.—It is increasing every year. Some 25 years ago the conditions were better.

Q.—What does it indicate?

A.—The poverty of the people.

Q.—You said that you have been reducing the renewal fee. Does that mean that your predecessor had been increasing it?

A.—No. Certainly not. In his time also it was very reasonable and I have not heard of any complaint against him.

Mr. H. R. Pate:—Q.—Have you Mappilla tenants under you?

A.—Yes.

Q.—What proportion of your tenants are Mappillas?

A.—Two-thirds are Mappillas.

Q.—Will that two-thirds include the verumpattam tenants as well as the kanam tenants?

A.—Of the kanam tenants, one-third are Mappillas and two-thirds are Hindus.

Q.—You find difficulty in collecting rent as a general rule?

A.—Yes.

Q.—Is the difficulty greater in the case of Mappillas?

A.—I do not find any difference.

Q.—What kind of relation exists between you and the Mappilla tenants?

A.—We are moving very amicably.

Q.—Do you personally know any Mappilla tenant?

A.—Yes.

Q.—Any verumpattamdar?

A.—I can boast that I know my tenants more than one under such circumstances would be able to do ordinarily.

Q.—Do they come freely to the kovilagam?

A.—Yes.

Q.—I am not quite clear what your position is; do you recommend that in the interests of the tenants, all verumpattamdars should be given fixity of tenure?

A.—I never recommended. I said if there is such a proposal I have no objection.

Q.—You say the disabilities to which you have referred are not peculiar to the tenants of Malabar?

A.—No. They are just like ordinary tenants of other districts. Their greatest grievance is their poverty.

Q.—Can you not improve the condition of the verumpattam tenant by some legislation—say by giving him some form of fixity?

A.—I do not believe so.

Q.—Can he not then raise money by borrowing?

A.—Of course it gives him a little advantage. But you must find out some remedy to remove his poverty. I do not think we can find any remedy by legislation. The only suggestion I can make is to find out some means for the proper recovery of rent from the tenant. It will be effective only if there is some legislation whereby the janmi can collect his rents every year without accumulating them—keeping them in arrears.

Q.—You want to secure punctual payment of the janmis' dues?

A.—I know a little bit of the condition of the people of the locality in which I live. I have been enquiring into their condition during the last so many years. As soon as the harvest is over, the tenant will only be able to keep paddy for a few months' meals. The rest will be taken away by the money-lender.

Q.—If you give him fixity of tenure, you give him a stronger position?

A.—I do not believe in it. Of course it will give him a little bit of an advantage; that is all.

Q.—You say that you have no objection to giving them fixity but that at the same time some remedy should be devised to enable the janmi to collect the rent. Do you put those two proposals as mutually essential to one another or would you have one without the other?

A.—They must go together.

Q.—Your idea is that the janmi or the kanamdar to whom the rent is due should obtain, on application to court, an award of his right?

A.—Yes.

Q.—Do you think that it might excite some ill-feeling between the landlord and the tenant?

A.—Of course, when suddenly a change is introduced, that is quite possible. For the first one or two years they may find it rather hard. That is all. Afterwards they will realize its benefit. I can go and speak to the tenants about these things. They will understand these things nowadays. They themselves know that it is from non-recovery of rent they are suffering most.

Q.—You do not find the same state of affairs in regard to kanam tenants?

A.—That is different.

Q.—You do not find any necessity to give them the same kind of tenure?

A.—I do not find any necessity.

Q.—You said that there are some kanamdars in your estate. Are all of them old kanamdars?

A.—Some are new and some old.

Q.—New kanamdars come in as a result of eviction or as a result of purchase from previous holders?

A.—Yes. A fair number come by purchase.

Q.—Has not a fair number come by eviction?

A.—With regard to my family I may say that evictions are very few.

Q.—What happens to the kanamdar when you evict him?

A.—If his house also is included in the land he will have to go out. In that case he gets very good price.

Q.—Would that price be sufficient compensation for leaving his own home? Is that not a hard case?

A.—Such cases are hard. But he can take it back.

Q.—In what capacity?

A.—The janmi never requires the house. He will always be prepared to rent it.

Q.—That is on his own terms?

A.—Yes.

Q.—Are people very often turned out of their houses in your estate?

A.—There was one case very recently in which a family consisting of 30 or 35 members had to be evicted. I got a decree three years ago. I did my best to help them by agreeing to receive a portion of the decree amount. I kept the decree in abeyance for three years and still they could not pay and I had to evict them.

Q.—They have been occupying that house for so many generations?

A.—Yes, for the last so many years.

Q.—Have that family any other house?

A.—No.

Q.—It is a very serious case?

A.—Yes. Even now I feel it.

Q.—What was the special circumstance which made you do it? Did they decline to pay renewal fee?

A.—There were arrears of rent.

Q.—Have they gone?

A.—They are still there.

Q.—I dare say they may still continue there. Therefore you don't think in the matter of kanam tenure any change is called for?

A.—I do not believe there is any necessity for it.

Mr. Kotieth Krishnan :—Q.—You said that within the last 20 or 25 years the old cordial relationship between the landlord and tenant has ceased to exist?

A.—I did not say that.

Q.—Do you say the cordial relations continue as they were?

A.—Of course with slight changes the old relations still exist in the country parts. I cannot say they have altogether ceased to exist.

Q.—Do you think that the kanam tenants are as a class asserting their rights at present and are clamouring for more?

A.—Yes, they are agitating for more.

Q.—And what do you attribute that feeling to? What is the reason for the present agitation?

A.—I can't attribute it to any particular factor. People don't generally sit quiet.

Q.—You can't ascribe that to any particular reason?

A.—I have not gone into the question to see the causes of it. I have not been able to solve the problem.

Q.—Do you think that the lands are not yielding as much produce as they used to do before?

A.—Yes they are yielding more and more.

Q.—Has the *meni* increased?

A.—I can't say that, but I can say that generally speaking there is increase in the produce. There has been no decline.

Q.—Do you think that the tenants are putting in more manure than before and are looking after the conditions of cultivation better than before?

A.—I don't find any appreciable difference in the methods of cultivation.

Q.—Is that condition brought about by the improvements of the verumpattamdars?

A.—It must be due to that.

Q.—You say in the case of lands that are leased out by the janmi the reclamations made by the tenant are mentioned in the lease deed. Is that the practice in your family?

A.—I cannot say that in all cases it will be mentioned, but I think it will be mentioned in most cases. I myself have seen two or three documents containing those particulars.

Q.—In the case of lands reclaimed by the tenants will there be considerable difference between the old rent and the new rent?

A.—Yes.

Q.—And that is one of the questions that will have to be decided. Otherwise the old rents continue?

A.—Yes.

Q.—Now you said that the relationship between the janmi and his tenant has been cordial. Supposing there is difference between the karnavan of a tarwad and his anandravans and the tenant takes up the cause of the landlord; naturally the anandravans will get offended with the tenant?

A.—It follows.

Q.—And in that case if the anandravans come to power they will give trouble to the tenant?

A.—It is quite likely.

Q.—You said that janmis have not been investing money on the land?

A.—Yes, in previous times.

Q.—I put it to you is it not on account of the fact that the karnavan of the tarwad who is in management wants as much as is possible to be given to his wife and children against the tarwad interests?

A.—How can I say it is true in every case? I can't make a general statement. It may be true in some cases.

Q.—The generality of the karnavans do take the income out of the family estate to benefit their wives and children. Is that a correct statement?

A.—I myself am a karnavan.

Q.—I don't say you are doing so, but I want to have an answer to my question?

A.—I can't say unless I am certain about it.

Q.—In the olden days when kanam tenants were investing money on the land on improvements they did it in the belief that they can reap its benefits for a long number of years?

A.—They might have done so in that belief.

Q.—This the kanamdar does with the full consciousness that at the expiry of the lease he would be granted a renewal?

A.—I can't say whether it is in that belief they make improvements, but certainly they ought to understand that they will have to surrender the property on receipt of the value of improvements.

Q.—So it is not in the belief that he will not be turned out?

A.—I don't think anybody will do such things.

Q.—Some janmis have been converting their kanam tenure into verumpattam. Is that considered to be a right thing to do by the janmis in general?

A.—It is a right thing for the janmi to do if he could find sufficient means to redeem the kanam tenure and give it on verumpattam.

Q.—Is there such a practice of converting kanam tenure into verumpattam now in vogue?

A.—Whenever the janmi wanted the lands for himself he will redeem the kanam and recover possession.

Q.—Is there a general tendency for the janmis to convert kanam into verumpattam?

A.—I cannot admit such a state of things.

Q.—You say that the janmis have been expecting service from the kanam tenants?

A.—It was so in olden days. Nowadays they don't do it.

Q.—Do they expect service from the verumpattam tenants also?

A.—Yes, to some extent they were expecting service from the verumpattam tenants also.

Q.—You said that some of your properties have been acquired for Railway extension by Government?

A.—Yes.

Q.—You know there is a rule that the acquisition value is 16½ times the verumpattam rent on the property. Do you know whether that is the practice?

A.—I have no idea about that.

Q.—You say that in the case of verumpattam tenants you will not expect any compensation for giving any qualified fixity of tenure?

A.—Well, I am prepared to give fixity of tenure provided I get my rent regularly every year.

Q.—Is there any tendency for the kanam tenant to erect costly buildings in the holding to prevent the janmi from redeeming it?

A.—Well, I know there are some cases like that.

Q.—Is it on account of this fact that these investments are made to enable the janmi not to evict the tenants?

A.—Yes, it follows.

Q.—In most eviction suits houses are also included and if the decrees are to be put into execution the tenants will have to get out of the homesteads?

A.—Yes, naturally, if the decree is executed.

Q.—Do you find it difficult to get labour in your forests?

A.—Yes.

Q.—I have been told about this and I don't know whether it is true or not. One of your anandravans, it would appear, got a search warrant against a Mappilla for the recovery of a gun or something, in Nilambur, and that is said to be the first starting point in the Malabar Rebellion. Is that true?

The President.—Q.—How can the witness say that? Even if a search warrant had been issued, the court would have satisfied itself first about the bona fides of the information. There is no good trying to elicit an answer on such a matter from the witness. That has nothing to do with the work of the Committee.

Witness.—I have not heard of any such thing.

Q.—Why do you say that the verumpattam tenants are generally poor. What is the cause of their poverty? Is it because they are not able to get sufficient yield out of the land and are unable to meet their expenses after paying the rent to the janmi?

A.—Certainly not, the yield of the land is quite sufficient but sometimes they find it impossible to meet all the exigencies of cultivation owing to failure of monsoon, etc.

Q.—You said that you wanted a Rent Recovery Act by which rents may be speedily collected?

A.—I only want some means by which the janmis will get their rents without going to court.

Q.—Supposing this Committee recommends some such provisions, are you prepared to say that no other law is required for protecting the interests of landlord and tenants in Malabar?

A.—My belief is that more than 75 per cent of the existing disabilities will disappear if such a provision is made.

Q.—Then what about the other 25 per cent of the tenants. What is your remedy?

A.—Government must set apart some money to grant them loans.

Q.—Then you are of opinion that if Government would help the tenants by extending loans to them and a Rent Recovery Act is passed, you don't want any Tenancy Regulation for Malabar?

A.—Yes, that is my view.

The President:—Q.—I just want to ask you one or two questions to make clear the answers which you have given. In answer to Mr. Pate you said that the grievances of tenants in Malabar and other parts of the Presidency are the same. May I take it that you have experience of the conditions prevailing in the other districts of the Presidency?

A.—No, I have not got any personal experience of the conditions in the other districts.

Q.—Then you said with regard to the formula which I placed before you, you said janmapattam is some fraction of the verumpattam and you said the present michavaram and the interest on the kanam and the Government assessment will be covered by that fraction. Then there is the other portion which now goes to the kanamdar and I understand you to say that he pays a portion of it as renewal fee now. Is it not?

A.—Yes.

Q.—Then I understood you to say that the renewal fee is smaller than this balance which is left to the tenant multiplied by twelve. Am I right in saying that the renewal fee is generally smaller than the balance multiplied by twelve?

A.—Yes, certainly.

Q.—Now you say that if you give the janmi compensation by giving him the capitalized value of the janmapattam deducting from it the kanam advance, then that will be an adequate compensation for the grant of permanent occupancy right to the tenant. My proposition is this: janmi will continue to get the michavaram, janmi will get also half of the difference between the janmapattam and the verumpattam. He may get it either in a lump sum by multiplying the difference by twelve or he may get it as an addition to michavaram.

A.—Yes, that is quite enough.

Q.—You won't be a loser thereby?

A.—On the other hand I will be a gainer.

The President:—Q.—The Committee is very thankful to you Raja Saheb for giving the benefit of your experience and for your valuable evidence.

The examination of the witness then concluded.

IX

Written statement of Mr. R. Suryanarayana Rao, Chalapuram, Calicut, dated 18th October 1927.

I. (a) (1) Kanamdars holding land directly under the janmi generally complain of

- (i) raising of rents by the janmis on a competitive basis;
- (ii) exaction of heavy renewal fees and exorbitant perquisites on threat of eviction;
- (iii) eviction from farm lands and home-steads;
- (iv) eviction from garden lands just when the plantations and other improvements effected are about to bear fruit;
- (v) the system of melcharths;
- (vi) conversion of kanam leases into verumpattam leases;
- (vii) tendency on the part of the janmis to stipulate a period less than twelve years or surrender on demand;
- (viii) tendency to restrain tenants from effecting improvements by specific mention of terms in the lease deeds withholding such liberties.

(2) As the kuzhikanam tenure is similar to kanam tenure the disabilities are almost the same as those of (1). Perhaps the position of the kuzhikanamdar is much more precarious as alleged failure to reclaim land, plant trees, etc., which may not be possible to carry out to the satisfaction of the janmi as stipulated in the lease deed within the period fixed will render the tenant absolutely helpless. Moreover if no renewal is granted his position is much more precarious, for before he is able to enjoy the fruits of his labour he is turned out. The fact that he is entitled to compensation or that he entered into this contract fully aware of its implications cannot be advanced in favour of the janmi at least in the interests of the future development of waste land in Malabar. Ninety-nine year leases are common in such cases elsewhere.

(3) Verumpattam tenant does not get his due share of the produce to which he is entitled both on grounds of justice and equity and according to the ancient and well recognized customs of the land. He does not share the benefits that the janmi derives in case of remission of assessment owing to bad seasons. Nor does the janmi allow the tenant to enjoy even a portion of the allowances allowed by the Settlement Officer in fixing the assessment. The verumpattam tenants holding wet lands suffer most.

(4), (5) & (6) Tenants coming under these classes suffer from disabilities which those above them impose on them. They are equally severe and exacting. Moreover the greater the number of people that have to share the produce of the land, the less the actual cultivator belonging to any of these classes gets. All these are being rack-rented. In fact the kanamdars and verumpattamdars that sub-lease are only acting as middlemen. Nothing but their elimination will restore to those that are entitled to a just share of produce, their rights.

(b) The disabilities referred to are to some extent common to all parts of the country. But there are some circumstances which are peculiar to Malabar making the problem much more difficult to solve—

- (1) Concentration of land in the hands of a few.
- (2) Density of population is the highest in the Presidency.
- (3) Scope for extension of cultivation is limited.
- (4) Lack of communal house-sites.
- (5) Habit of living in gardens and farm lands.
- (6) The Law of inheritance.

(c) The disabilities of tenants in North Malabar may not be so hard as those of South Malabar as the kanam transactions amount almost to mortgages. But no one can foresee what will happen if in the case of fresh kanam leases the conditions prevailing in South Malabar are brought into existence. In the case of verumpattam generally and kuzhikanam tenants in some cases, the conditions are the same as in South Malabar.

(d) I am not aware of any serious differences. Difference between Walluvanad and Palghat on the one hand and Ernad and Ponnani on the other is that of garden lands versus wet lands.

Evictions.

II. (1) (a) It is rather difficult to assert with any degree of certainty that the evictions are always made on unjustifiable grounds. When conditions of land tenure are such that with impunity the stronger can deal as they like with the weaker, even when there is one case of eviction on unjustifiable grounds, a case for interference must be deemed to have been made out.

I doubt if even statistics from Civil Courts can show whether they are on the increase or decrease, unless figures are compiled specially to serve the purpose of enquiry.

(b) Answer for (a) holds good in the case of melcharths also. Even if figures are not giving the number of melcharths they are of doubtful value unless an enquiry into the circumstances under which melcharth was given, is made in the case of each and every melcharth.

(2) The system of land tenure and the peculiar social system prevailing in Malabar both place the janmis, especially the Nambudiris and the Rajas, in a position of great advantage. It is too much to expect them not to use their position to oppress the tenants as long as human nature is what it is.

Remedies.

III. (a) The only solution for the disabilities of tenants is to give them fixity of tenure, fixity of fair rent and freedom of sale subject to certain restrictions.

(b) Grant of permanent occupancy rights alone is the panacea for the disabilities from which the tenants suffer.

I am not in favour of giving occupancy rights to all tenants. I would confer only on cultivating tenants be they kanamdars, kuzhikanamdars or verumpattamdars.

(c) If there are more tenure holders than one in respect of any holding, I would confer occupancy rights on one who is actually cultivating the soil.

That the grant of occupancy rights to the cultivating tenants alone would put an end to the disabilities of the class of tenants who really need protection is a substantial measure, there is no doubt. But some method must be found to eliminate the classes of tenants, that exist now between the janmi and the cultivators. Their existence is a real source of annoyance at any rate to the cultivator who is deprived of his due share of produce.

(d) The classes of tenants mentioned here require separate treatment. It is presumed that all of them are non-cultivators.

Kuzhikanamdars.—In view of the part they are playing in the agricultural industry by increasing the extent of cultivable land, it may be deemed right that they should be allowed the right of unrestricted enjoyment. But if they are given permanent occupancy right it may be we are again creating the same problems as we have now for solution at some other time. The only extenuating circumstance may be that the kuzhikanamdars have taken the trouble to bring waste land under cultivation. But the conferring of occupancy rights on non-cultivating kuzhikanamdars will lead to land monopoly.

To insist on occupation for a certain period as a condition precedent for the grant of occupancy rights to verumpattamdars will render any such grant ineffective. The verumpattam tenure is an annual lease and it is likely that very few cases exist satisfying even the provision in Diwan Bahadur Krishnan Nayar's Bill, viz., continuous occupation for a period of six years. It is possible, nay even probable, that the janmis have taken every care to make verumpattam leases real annual leases by changing tenants since Mr. Krishnan Nayar's Bill was introduced in the Council. So it is necessary to confer occupancy rights on all cultivating tenants in respect of lands cultivated by them at least at the commencement of any legislation that may be passed.

As regards the kanam holders who came into possession before 1852 and have been continuously in possession thereof since then, their case does demand consideration even if we do not accept the theory that the kanam holders once held or believed to hold co-proprietorship with the janmis till the decisions of the Courts after 1852 unsettled such claims. The Government have in their communication set at rest all doubts on this point by declaring the janmis proprietors of the soil. But the fact that till 1852 the kanam holders believed that they were co-proprietors with the janmis needs some consideration in their favour. On grounds of equity they should be granted the right of purchase. These kanamdars may be given the right of purchase of ownership of their holdings on payment of compensation which shall vary in inverse ratio to the length of time the holdings have been in continuous possession of their families. If statistics are obtained such kanamdars will be very few as the janmis must have naturally taken care to get rid of them unless they have been specially good and have been either in the good graces of the janmi or improved the land to such an extent that it is impossible to oust them.

(e) If the janmis are to be treated like ordinary ryotwari landholders, it is not understood at all why any special provision in law should be made to enable them to collect rents and other dues from the tenants. No special provisions are enacted in the case of mulgeni tenure in South Kanara.

IV. (a) & (b) All occupants of kudiiruppus should be granted occupancy rights. Of course right of purchase as an alternative may be usefully considered. There is no need either to make a distinction in the case of rural and urban areas or any restriction regarding the extent of land.

(c) (1) In this case the landlord must have the right of pre-emption. If he is not in a position to take advantage of his right, the kudiiruppu with the holding may be sold and the relations between the purchaser and the landlord will be the same as those that existed before the termination of the former lease.

(2) It is understood always that any improvements made are carried out with the knowledge and implied consent of the janmi. If the kanamdar is not able to satisfy the provisions of law that may be passed in respect of occupancy rights, the janmi shall have the right of pre-emption. In the case of failure to exercise the right of pre-emption, suggestions made for (1) may also be applicable to this case. If improvements are made after notice in order to spite the janmi, the tenant shall not be entitled to compensation.

(3) Always kudiiruppu and the holding should go together in Malabar. To separate them is neither possible nor advisable.

(d) (1) The suggestion contained in this question is the best solution for the housing problem and the tenancy problem in Malabar in respect of kudiiruppus. But the price fixed shall vary in inverse ratio to the length of time the holdings have been in continuous possession of the families of tenants.

(2) So many changes are taking place in Malabar which may be considered by the conservative section of the people as against the genius of the people of Malabar. That need not trouble any one when radical treatment is necessary for serious diseases.

V. There is no doubt it has been a sort of check on the evil propensities of unscrupulous janmis, in the matter of evictions. But it must also be admitted that over-planting in garden lands and the consequent impoverishment of the soil have been the results. It would be better if some restrictions placed in regard to planting especially coconuts are strictly enforced. Injunctions should be ordinarily granted against making improvements after notice.

In the matter of award of compensation, the present system of appointing Commissioners with no knowledge of agriculture to value improvements is neither fair to the janmi nor to the tenant. It has also been a source of litigation and protracted hearing of suits. The Act does not protect the tenants in respect of wet lands. As the extent of wet lands is very large, a considerable number of wet land tenants are unprotected. Except in regard to reclamations which will be very few no compensation can be secured. As the area of wet lands has not increased to any appreciable extent for various reasons, competition for these lands is very keen. It is said that most of these are held on verumpattam tenure and so the consequent evils are noticed in a glaring degree.

It is also complained that the tenant does not get the market value for his improvements as the value of compensations is based on the average prices of the preceding ten years. While in the case of land acquisition present market value is taken into consideration it is not understood why the average prices of preceding ten years should be considered in fixing compensation. Moreover the moneyed classes who find in land the best investment for their savings do not hesitate to take melcharths especially as the value of compensation fixed is less than the present market value of the improvements. So competition for melcharths must necessarily be on the increase in the case of garden lands as well.

The case of kuzhikanam tenant who is evicted just when he is about to reap the fruits of his labour is very hard. Such labour as he invests cannot and should not be considered in terms of money.

In this country, especially in Malabar, cultivation being the main occupation attachment to land is very great. Sentiment also plays a great part. Attachment and sentiment cannot be gauged in terms of money. The tenant would often prefer to submit to the exactions of the landlord to parting with the land and thus tearing himself away from these associations to which he has become attached during the period of tenancy.

So I consider the Act does not solve the tenancy problem in Malabar except, as I have stated, as some check on the evil propensities of unscrupulous landlords.

VI. There is no doubt it is the janmi's rights that are reduced by the conferment of occupancy rights on cultivating tenants. So the tenants shall acquire occupancy rights on payment of say two and half times the fair rent or Government assessment. The compensation awarded may bear some relation to the assessment as it is based on some principle.

(b) The fact that there are more tenure holders need not necessarily affect the amount of compensation. The janmi gets the compensation, the kanamdar will get back his kanam amount and the value of improvements if any from the janmi. If there are other intermediaries between the kanamdar and the cultivator, they will get back their amounts which they are entitled to get. There is no question of attachment and sentiment in the case of lands held by non-cultivating tenants.

(c) It will be no doubt helpful if the cultivator is allowed to pay the compensation in instalments along with the rent. But as the janmi will in most cases be required to return the kanam amount and also pay compensation for improvements in certain cases, this method of payment may involve the janmi in difficulties. Perhaps the State may have to advance monies to janmis to pay off the amounts due to non-cultivating tenants. This may not be a feasible proposition. So in such cases either the janmi or the cultivating tenant should be enabled to secure loans on easy terms. I prefer the tenant to obtain loan from co-operative society on the security of his present and prospective interest in the land.

Rent.

VII. Unlike in other ryotwari areas, there are three claimants to the produce of the land: (1) Government, (2) janmi and (3) cultivator. The net produce is to be shared by these three in the proportion of 6 : 4 : 5 in the case of wet lands and 5 : 5 : 5 in the case of dry and garden lands. There is no denying the fact that at present the rents are higher than Government assessment. Instead of fixing rents arbitrarily it is better the rent bears some relation to assessment. It is better to recognize the ancient custom of the land and fix it at one-third of the net produce or equal to Government assessment. As the tenant does not now get the benefits of various allowances given by Government, perhaps it would be better to make the cultivator responsible for the payment of assessment also. By this arrangement the interests of all parties are safeguarded the State gets the assessment, the janmi gets his rent and the cultivator his due share of the produce.

(b) Now there is disproportion between the rent and the assessment. The cultivator does not get the benefit of any allowances granted by the Government. So it virtually means the tenant is now being rack-rented.

Renewal Fees.

VIII. Questions relating to renewal fees do not arise in view of the answers given for questions already answered.

General.

IX. The question does not arise.

X. (a), (b) & (c) These questions imply that the system of melcharths may be tolerated if some method can be found to remove its rigours. There is no place for melcharths if occupancy rights are conferred. Melcharths are vexatious and unnecessary.

Tuesday, the 29th November 1927 (Afternoon).

At the conclusion of the examination of Mr. T. Manavedan Tirumulpad, Raja of Nilambur, Mr. R. Suryanarayana Rao of the Servants of India Society, was examined this afternoon.

Oral evidence of Mr. R. Suryanarayana Rao.

The President:—Q.—Mr. Suryanarayana Rao, you are a member of the Servants of India Society and you are working in Malabar?
A.—Yes.

Q.—How long have you been in Malabar?

A.—I was here for about a year and a half during the late Mappilla Rebellion and after a break of a few years I have been here ever since September 1925.

Q.—I take it that you don't own any lands in Malabar?

A.—No.

Q.—Have you studied the question of the Malabar land tenures and the relationship between the landlord and tenant in this district?

A.—The Society deputed Mr. P. Kodanda Rao to study this problem. Two or three other members also interested themselves in the study of this problem in Malabar. So, when I came to Malabar again in 1925 I began to pursue the work done by Mr. Kodanda Rao from my own point of view.

Q.—So you have studied this question during the one and a half years that you were here during the Rebellion and also ever since 1925?

A.—Yes.

Q.—And may I take it that you have moved freely among the janmis, kanamdars, verumpattamdars and other classes of tenants in Malabar?

A.—Yes. I have moved freely with all sorts of people interested in the land tenure problem of this district.

Q.—Will you kindly refer to your written answers. You refer to certain disabilities of the kanamdars, and you very rightly refer to them as disabilities about which the kanamdars, 'generally complain.' I take it that you have catalogued these disabilities on the basis of the information which you have received?

A.—These are all the results of the conversations that I have had with leading kanamdars and others interested in the land tenure. I have also based some of those on the investigations made by and information obtained by Mr. Kodanda Rao.

Q.—Have you been able to verify any of the cases which were brought to your notice to test the accuracy of the information?

A.—We have had very great difficulties in getting detailed information. Even when Mr. Kodanda Rao was studying this problem we prepared a questionnaire, but we were not able to get the necessary information. That is why I have said 'generally complained of.' Friends like Mr. Kotieth Krishnan kindly gave us some information and on the basis of such information we have formed our opinion.

Q.—Possibly you went on the assumption that 'there is no smoke without fire'?

A.—During the time of the Rebellion we were told that the real cause of it was more or less ill-feeling between the landlord and the tenant. After the Rebellion we pursued the subject.

Q.—In any case you were not able to go down to the bottom of a case and ascertain whether a particular eviction was justifiable or unjustifiable, whether the janmi evicted the tenant wilfully when the plantations and other improvements effected by the tenant were about to bear fruit?

A.—But it is a clear question. According to the present law a man can be turned out at the expiry of his lease of twelve years; there is no legal difficulty about it.

Q.—Of course the legal position is alright, but the question is whether in practice a tenant is turned out before he is able to benefit by the fruits of his labour and if so, to what extent?

A.—From the figures supplied by Government about the eviction suits we thought it to be so. That is why we tried to investigate the problem still further.

Q.—It is quite possible to say that in 99 per cent of the eviction suits, the suit was occasioned by the tenant himself, owing to his default in the payment of rent?

A.—That is why I say it is not possible to make a definite statement.

Q.—But you presume on account of the insistence of the complaint that there must be a wide prevalence of unjustifiable evictions and grant of melcharths?

A.—Yes, that is my position.

Q.—In your answer to question I (a) (7) and (8) you say “Tendency on the part of the janmis to stipulate a period less than twelve years or surrender on demand” and “Tendency to restrain tenants from effecting improvements by specific mention of terms in the lease deeds withholding such liberties”. I don’t think these are enforceable under the present law. Have they been enforced in any case which you know of?

A.—I am told the addition of ‘Surrender on demand’ is of recent origin.

Q.—I too have seen one or two documents with those expressions, but I don’t know whether they are enforceable in law?

A.—I am told if the terms ‘Surrender and demand’ is mentioned in the lease deed then they are enforceable under the present law.

Q.—Do you know of any particular case where that condition was enforced in law?

A.—No, I am not aware of any. This is all information which we have gathered. We have no personal knowledge of anything concerning these matters.

Q.—We don’t want to discredit you but we only want to know where we exactly stand. We are only desirous of knowing whether any part of your information is based upon actual facts. That is the sort of information that we want to have?

Q.—In the following sentence you say “Perhaps the position of the kuzhi-kanamdar is much more precarious as alleged failure to reclaim land, plant trees, etc., which may not be possible to carry out to the satisfaction of the janmi as stipulated in the lease deed within the period fixed will render the tenant absolutely helpless.” That is also an inference?

A.—In our own case Government alienated a piece of land to us on condition that we should do a certain work for the depressed classes within a certain period. We were not able to do it within the period and so they threatened us that we would be turned out of the land. The janmi also may do so likewise. That experience of ours has made us draw this conclusion.

Q.—Then you say “The fact that he is entitled to compensation or that he entered into this contract fully aware of its implications cannot be advanced in favour of the janmi at least in the interests of the future development of waste land in Malabar.” Has this state of affairs deterred development of land in Malabar compared with the condition of affairs twenty years before?

A.—I have not got figures to show it one way or the other. I think Government can supply figures. I am not in a position to say either way.

Q.—I wanted to know something about that because of your statement ‘in the interests of the future development of waste land in Malabar’?

A.—For the matter of that if I were a tenant and if I had to hand over my land at the end of twelve years, certainly I will hesitate to develop it.

Q.—My question is this. Do you find such retardation, as a matter of fact. For the Committee or any Government to say any legislation is necessary there must be some justification. But if in spite of the fact that there are all these handicaps you find improvements on the land; if you find such a state of affairs exists, then certainly Government would think twice before it launches on any legislation. We want to have your opinion whether you know as a matter of fact that there has been retardation of development on this account?

A.—Perhaps only the quinquennial report of Government would be able to give us details.

Q.—Under question I (4), (5) and (6) your answer is not quite clear. You say “Tenants coming under these classes suffer from disabilities which those above them impose on them. They are equally severe and exacting. Moreover, the greater the number of people that have to share the produce of the land, the less the actual cultivator belonging to any of these classes gets.”

A.—I mean the cultivating tenants alone.

Sir T. Desika Achariyar:—Q.—So you want the middle man to be eliminated altogether?

A.—Yes, that is my view.

The President:—Q.—How to eliminate the middle man without compensating him for his present interest in the land. That is an important question to which we will refer later on. Then you say “The disabilities referred to are to some extent common to all parts of the country. But there are some circumstances which are peculiar to Malabar making the problem much more difficult to solve.” We know that half of Malabar is held by a number of big janmis but don’t you find more or less wide distribution of lands among the small janmi classes in the whole of Malabar?

A.—The figures given in the pamphlet ‘Malabar Tenancy Problem’ by Mr. P. Kodanda Rao at pages 25 and 26 are quite clear. We also obtained some information from the ‘A’ registers of certain amsams in the Ernad taluk. We found that generally the land is in the hands of a few big janmis. Those who pay more assessment own more lands.

Q.—Comparing the rent roll of the other districts you will find the same state of affairs there also. It is not peculiar to Malabar?

A.—I think Mr. Innes in his report has also given a comparative list. In fact there is a complaint that the non-cultivating classes are increasing. Of course, that is not a desirable feature.

Q.—But that is not a peculiarity to Malabar alone?

A.—Mr. Kodanda Rao says at page 26 of his pamphlet “It will be seen from the above figures that 43 per cent of the total number of workers—as opposed to dependents—in the Presidency, 55 per cent in Coimbatore, 18.6 per cent in South Kanara, and only 5.6 per cent in Malabar were returned as land owners, both cultivating and non-cultivating.”

Q.—You will find in Malabar cultivating land owners are only 3.2 but in other parts of the Presidency it is 38 per cent of the agricultural population. Mr. Innes says that one-fifth of the total assessment payable in the Malabar district is paid by 86 big landholders.

A.—And so every body who wants to cultivate a land must be at the mercy of a janmi. This tendency is just beginning to be noticed in the other districts. But here it already existed long ago.

Q.—Disparity in ownership is an old thing in other districts also?

A.—Might be.

Q.—Kindly refer to your answers. In answer to question II (1) you say “It is rather difficult to assert with any degree of certainty that the evictions are always made on ‘unjustifiable grounds’. When conditions of land tenure are such that with impunity the stronger can deal as they like with the weaker, even when there is one case of eviction on unjustifiable grounds, a case for interference must be deemed to have made out.” Is this a sound principle of legislation? Can any legislation prevent any social tyranny?

A.—Don’t we legislate even if there is a single crime? Here we are dealing with human beings. If one man is unjustifiably evicted I think it is as good as any other crime. I put this on an equal footing with crime.

Q.—If there is a solitary instance of a crime no case is made out for any special legislation?

A.—But my view is that there should be legislative interference. Take for instance rape or adultery. There are only a very few cases of this nature but still the legislature has provided measures.

Sir T. Desika Achariyar:—You are mistaken. Even reported cases, cases which have come to the notice of the magistracy are innumerable in the case of rape and adultery. There is no good comparing them with unjustifiable eviction.

Q.—Similarly with regard to social oppression. Even if any law is passed the bad janmi will still oppress his tenant. No law can prevent that. Take the case of the Money Lender’s Act. Does it prevent the usurious rate being collected by money lenders?

A.—No, but still Government has found it necessary to pass such a legislation. I want this law to be passed in favour of Malabar tenants only to improve their economic condition to create a spirit of independence and manliness in them. So also by improving the condition of the depressed classes we will make them more self-reliant and make them command more self-respect.

Q.—Now we will go to the more important subject under 'Remedies.' You say "the only solution for the disabilities of tenants is to give them fixity of tenure, fixity and fair rent and freedom of sale subject to certain restrictions. Grant of permanent occupancy rights alone is the panacea for the disabilities from which the tenants suffer". Don't you recognize that these two terms are different?

A.—Fixity of tenure and fixity of rent and freedom of sale and transfer go together. I cannot think of any difference between the grant of permanent occupancy right and the granting of fixity of tenure. I thought both the expressions meant the same.

Q.—The difference is this. In one case you say the tenant must be allowed to continue on the land provided he pays his renewal fee and michavaram to the landlord and provided he does not dispute the janmi's title. That is in the case of the kanamdar. In the case of the verumpattamdar he should be allowed to continue on the land provided he paid the rent properly and on some other conditions which might be necessary. This is fixity of tenure. If the tenant makes any default the landlord has got the right to take the land back and cultivate it himself or give it to another tenant. But in the case of permanent occupancy right even for default of rent the landlord cannot evict the tenant, he can only attach his interest and sell it and if the property is sold in public auction he can only bid for the land as anybody else. Don't you think that the grant of fixity of tenure is better, so that the landlord may be more sure of getting the land back; of course, as I have already said, he cannot evict the tenant so long as the latter pays his rent regularly?

A.—We are anxious that the land should be well cultivated and that the agricultural prosperity of the country should be increased.

Q.—If the existing tenant makes any default, then the landlord will have the option to evict him and let in a tenant of his own choice.

A.—But what is the objection of the landlord to the grant of occupancy right?

Q.—In that case the janmi has got to part with a bigger right and should be given a bigger compensation because if permanent occupancy right is granted janmam value will decrease and the value of the tenant's interest will be increased? In the case of the grant of permanent occupancy right it is a definite deduction from the janmi's right, whereas here if you tell the janmi, 'you cannot increase the rent and you cannot turn the tenant out provided he fulfils his part of the contract, namely, payment of rent at the proper time, etc., and only in the case of default by the tenant you could evict him'—the two things are different. In the case of grant of fixity of tenure the compensation that will have to be paid will be much less than if you transfer occupancy right to the tenant outright.

A.—I understand the point now.

Q.—Don't you think fixity of tenure creates the least disturbance in the existing system?

A.—I have no objection to the proposal if it is a better arrangement than the grant of occupancy right.

Q.—I don't want you to give a hasty answer. You may consider over the question thoroughly and tell us whether this is not a better alternative?

A.—That is a point which I would certainly like to think over, because it is a question which cannot be answered with an 'Yes' or 'No'. Before I change my ideas in the matter I would like to think over the matter.

Q.—Will you kindly give us your considered opinion in the matter to-morrow?

A.—Yes.

Q.—Will you please refer to your answers? In answer to question III (d) you say "As regards the kanam holders who came into possession before 1852 and have been continuously in possession thereof since then, their case does demand consideration even if we do not accept the theory that the kanam holders once held or believed to hold co-proprietorship with the janmis till the decisions of the courts after 1852 unsettled such claims. The Government have in their communique set at rest all doubts on this point by declaring the janmis proprietors of the soil. But the fact that till 1852 the kanam holders believed that they were

co-proprietors with the janmis needs some consideration in their favour. On grounds of equity they should be granted the right of purchase. These kanamdars may be given the right of purchase of ownership of their holdings on payment of compensation which shall vary in inverse ratio to the length of time the holdings have been in continuous possession of their families." Will you kindly explain your idea clearly?

A.—In making that proposal I had in my mind the same case as that which arose in the city of Madras in connexion with the Madras City Tenants' Protection Act. The argument of the tenants was that they occupied the land and made improvements and built houses thereon in the belief that they would not be (those were the words of the late Sir K. Srinivasa Ayyangar) disturbed so long as they paid fair or reasonable rent. So I want the same rule to be applied here. Because till 1852 the kanamdars were under the belief that they would not be disturbed, I want a provision like section 9 (1) of the Madras City Tenants' Protection Act as amended recently to be introduced into Malabar, so that those tenants who may wish to avail themselves of this provision may also do so.

Q.—Now what do you think is the percentage of kanamdars that will be benefited by a measure of this kind?

A.—No doubt it may be very few.

Q.—I have heard it said that it will benefit only about 3 per cent of the existing kanamdars.

A.—It might be so.

Q.—Even though the law laid down in 1852 or thereabouts that a kanam was terminable at the expiry of the twelve years, is it a fact that even now the kanamdars believe that they will not be turned out provided they continue to pay their renewal fee and michavaram at the proper time as demanded by the janmi? You have had a good deal of experience of Malabar and moreover you have made a special study of the Malabar land tenure problems.

A.—All kanamdars who have come into possession have known what the law is. They are fully aware when they come into occupation that their lease is liable to terminate at the end of twelve years' lease.

Q.—But as a matter of fact they are rarely evicted?

A.—Even for that statistics alone would furnish correct answers?

Q.—Is it common for the janmi to evict the kanamdar?

A.—In the case of old janmis it is not common to evict them. By old janmis I mean janmis who follow old traditions.

Q.—All that we want to know is this: Is eviction at the end of a kanam term at all common?

A.—On that point I think my hearsay evidence would be of little avail.

Q.—But how would you solve the difficulty of kanamdars who have come into possession since 1852 by purchase for full value?

A.—That is also an important point for consideration. It must be said, of course, that the case of the assignees is not so strong as that of those who have held kanams continuously since 1852.

Q.—Your solution to purchase, would it be popular? Would you not be extinguishing the existing janmi altogether and creating a new class of janmis? Outright purchase need not be the only solution of the difficulty? Don't you think there could be alternatives other than outright purchase?

A.—If there is any other alternative I am prepared to consider that point.

Q.—Why should you not allow the kanamdar to have fixity of tenure if he discharges all his usual obligations and pays certain reasonable fraction of the profit which he now gets to the janmi?

A.—If the cultivator's share of profit is assured and no higher rent would be exacted from him, then I have no objection even if there are ten intermediaries. I have no objection to the proposal so long as the actual cultivator is given a fixed tenure and a fixed share in the profit. My own idea is that the kanamdar should be eliminated and there should be only two classes of people on the land, janmi and the cultivating tenant. It is only as an alternative I suggested the outright purchase of janmam right.

Q.—Thereby you will only kill the present janmi and convert the existing kanamdar into a new class of janmi?

A.—It cannot be so. Some consideration should be shown to them.

Q.—Let us assume that the present michavaram is less than the full rent. The kanamdar cannot exist if the michavaram is equivalent to the verumpattam which he gets from the cultivating tenant. Unless the michavaram plus the interest which the janmi pays to him, the sum total of these things, is less than the verumpattam rent which he is able to get from the cultivating tenant, the kanamdar will be a loser.

A.—Yes, that might be true.

Q.—So the cry that the michavaram is high is an absurd cry. Is it not so?

A.—It may not be true in all cases.

Q.—Suppose we take a case where the verumpattam is Rs. 100 and the michavaram is Rs. 40, the kanamdar gets a profit of Rs. 60. Out of the profit that he now makes, if he is made to pay half of it as renewal fee, i.e., 12 times 30 or Rs. 360 every twelve years for getting fixity of tenure. Have you any objection to that?

A.—These Rs. 360 which you consider as compensation for the janmi is for giving fixity of tenure to the kanamdar. What about the actual cultivator?

Q.—In fixing verumpattam rent, the rent which the cultivator is to pay, we must fix a proper share for him. It has been proposed that two-fifths of the gross yield may be set apart as the share of the verumpattam tenant from which he should meet the cultivation expenses and his own profit. You cannot expect the verumpattamdar to pay any large compensation and most of the janmis whom we have examined don't hope to get any big compensation from him. Some of those janmis whom we have examined have told us that they don't want any compensation from the verumpattamdar if regular payment of rent is secured. They say as a security for regular payment the tenant should deposit either two or three years' rent in advance with the janmi or give any other security and that interest payable to the verumpattamdar might be deducted from the rent. They only want that the verumpattam rent should be paid to them without any default.

A.—The whole scheme requires some consideration, because this is a suggestion which I did not comprehend or think of.

Q.—We will continue your examination to-morrow also. The Committee will be obliged if you will kindly consider over these matters and give us your considered opinion in the matter?

A.—Yes, I will do so.

Q.—In answer to question IV (a) and (b) you say "There is no need either to make a distinction in the case of rural and urban areas or any restriction regarding the extent of land." Would you kindly explain this further?

A.—To decide the question it will lead to all sorts of complications. Here also I have suggested the right of purchase.

Q.—In regard to kudiyruppus it might be practicable to do so, but in the case of kudiyruppus also don't you think that this fixity of tenure could be given provided you regulate rents and make the kudiyruppu holders responsible for the rise in value of kudiyruppus in urban limits?

A.—As in the case of the Madras City Tenants Protection Act the landlord can go to court and ask for an increase in the rent and the tenant can also do so to get the rent reduced.

Q.—In regard to the question of rural kudiyruppus don't you think the question could be solved very largely by giving fixity of tenure to the holding?

A.—Yes.

Q.—But in the case of urban areas can't you give fixity of tenure subject to payment of fair rents. In fixing fair rents if the landlord and tenant could not agree, both can go to court and have their rents fixed?

A.—Then I have no objection to the proposal.

Q.—Please see your answer to question V. About Compensation for Tenants' Improvements Act you say "There is no doubt it has been a sort of check on the evil propensities of unscrupulous janmis, in the matter of evictions. But it

must also be admitted that over-planting in garden lands and the consequent impoverishment of the soil have been the results. It would be better if the restrictions placed in regard to planting especially coconuts are strictly enforced?"

A.—I am told that certain restrictions are not strictly enforced.

Q.—You may take it for granted that the restrictions are enforced. Have you any advice to give us in regard to over-planting? We have consulted the Agricultural Department, the Deputy Director of Agriculture and the Assistant Director of Agriculture, and they have told us that there should not be more than 60 fully yielding coconut trees in one acre of garden at any one time?

A.—We are just trying to construct a farm. When we consulted the Agricultural Demonstrator he said about 80 trees or so could be planted in one acre at one time.

Q.—But what I mentioned was the considered opinion of the Deputy Director of Agriculture. He said that not more than 60 fully bearing coconut trees should exist in a garden of one acre. After about 50 years the yield begins to diminish and the shade of these trees will also diminish, then they say that you can plant 60 more trees in the inter-spaces. I just wanted to know whether you have any knowledge about this?

A.—No, I have no personal knowledge.

Q.—Then you say "In the matter of award of compensation, the present system of appointing commissioners with no knowledge of agriculture to value improvements is neither fair to the janmi nor to the tenant". What improvement do you suggest over the existing method?

A.—A panel of commissioners may be settled with the help of the Bar Association and the Court may choose from among them. Personally I would prefer a man with agricultural experience to go and inspect these improvements and decide the cost.

Q.—Similarly in the case of buildings you will have a man with training in the valuation of buildings?

A.—Yes.

Q.—Then you say "It is also complained that the tenant does not get the market value for his improvements as the value of compensation is based on the average prices of the preceding ten years." There is no such provision in the Act?

A.—This I took from Mr. Innes' report and under section 15 of the Act they will have to notify and it is only the price of ten preceding years that is taken into account.

Q.—In answer to question VI you say "There is no doubt that the janmi's rights are reduced by the conferment of occupancy rights on cultivating tenants. So the tenants shall acquire occupancy rights on payment of say two and a half times the fair rent or Government assessment. The compensation awarded may bear some relation to the assessment as it is based on some principle". Here you refer to the verumpattamdars?

A.—Yes. Only to cultivating tenants.

Q.—I was wondering whether it should be applied to compensation by the kanamdar?

A.—No.

Q.—Under Rent in answer to question VII you say "The net produce is to be shared by these three in the proportion of 6 : 4 : 5 in the case of wet lands and 5 : 5 : 5 in the case of dry and garden lands." May I know on what principle is this based?

A.—I am told these are Settlement figures. I don't know why and how they arrived at those figures?

Q.—The prices were calculated over 30 years ago and they were naturally much below the present prices. You yourself say that the present assessment is not certainly one-third of the money value of the net yield of the land. In

fixing your rent you may take the vicissitudes of the season into account but the tenant is not certainly entitled to other deductions, for instance, deduction for carrying the paddy to distant markets and selling it there?

A.—Anyhow he has to find a market if he is to pay his rent in money to the landlord. That is an accepted principle. The only point for consideration is that the janmi will suffer, if his rent is to be equal only to the present assessment.

Q.—But why should the janmi suffer on that account?

A.—But this is a principle which anybody could understand.

Q.—That is your opinion?

A.—Yes.

Q.—Instead of net produce you would like to take gross produce into account. You would give two-fifths of the gross produce to the cultivating tenant including his cost of cultivation and the balance three-fifths to the landlord. Is it not?

A.—Yes.

Raja Sir Vasudeva Raja:—Q.—Your idea is that rent should be equal to the assessment. Is it the verumpattam rent?

A.—I am only dealing with verumpattamdars or cultivators.

Q.—May I just draw your attention to the effect of your statement? Supposing a kanam tenant now gets 10,000 paras of paddy, which is equal to Rs. 10,000, as rent from his verumpattamdars after meeting all the expenses of cultivation. The assessment on that land is about Rs. 300. So according to you the existing rent will have to be reduced by more 300 per cent. Is that what you mean?

A.—I would say that either the present rent is not fair rent or the Government assessment is wrong.

Q.—You may take it from me that your assumption is wrong. Generally Government assessment is not more than one-eighth of the net yield of the land. And there is a rule that the assessment should not be increased by more than 18½ per cent?

A.—Everybody has now recognized that one-third of the net produce should go to the tenant, one-third as assessment to Government and the balance one-third to the janmi.

Q.—You are aware that several janmis have purchased lands on the basis of present rents and if you reduce the rents by 300 per cent, then it will be creating a revolution in this district?

A.—Possibly.

Sir T. Desika Achariyar:—Q.—You ought to know that Government assessment is never one-third of the net income. It is very much less than that?

A.—I was possibly mistaken.

Raja Sir Vasudeva Raja:—Q.—You admit that for good relationship between the landlord and the tenant these intermediaries should go?

A.—Yes, if it is possible.

Q.—If that be so, why did you include 'the conversion of kanam leases into verumpattam leases' as one of the grievances of the kanamdars?

A.—I have only said that the kanamdars 'generally complain' of that.

Q.—You don't think it is a grievance at all?

A.—It is natural that after Mr. Krishnan Nayar's Bill had been introduced which laid down that six years' continuous occupation was necessary in the case of verumpattam tenants and the kanamdar should be given occupancy right, janmis have been converting their kanam lands into verumpattam. If I were a janmi, I for one would do the same to safeguard my interests.

Q.—You say 'verumpattam tenant does not get his due share of the produce to which he is entitled both on grounds of justice and equity and according to the ancient and well-recognized customs of the land'?

A.—I have ascertained the tenant's share should be one-third and in the majority of cases he does not get that now.

Q.—Do you think no remissions have been granted by janmis?

A.—I have not heard of that at all.

Q.—Last year I had to give away 16,000 paras as outright remission?

A.—Might be so.

Q.—I only wanted to contradict your statement that no remissions are granted. Do you think that the condition of Malabar tenants is worse than that of the tenants in the other districts of the Presidency?

A.—My experience of the Ceded districts and this district is this. In the Ceded districts even though there is a famine the tenants will recover soon from its effects, but here in Malabar in spite of copious rainfall it is very difficult for the tenant to get out of poverty. I mean that the cultivating tenant does not get enough to fall back upon in case of vicissitudes of season.

Sir T. Desika Achariyar:—Q.—So it means there is rack-renting of the cultivating tenants?

A.—Yes.

The President:—Q.—Where do you come from?

A.—I belong to the Bellary district.

Raja Sir Vasudeva Raja:—Q.—Do the tenants there get any improvement value when they are ousted from their holdings?

A.—No, they don't get anything.

Q.—But you are aware that here in Malabar they get value of improvements according to the Tenants' Improvements Act?

A.—Yes, he will get it only when he is evicted.

Q.—That is quite advantageous to the tenant so far as Malabar is concerned?

A.—I can't deny it. It is a fact.

Q.—To that extent they are better off?

A.—Yes, when they are evicted.

Q.—You say 'Lack of communal house-sites' in Malabar. The remedy is to secure land under the Land Acquisition Act. What can the janmis do for that?

A.—I only mentioned it for information.

Q.—But you can't put it against the janmi?

A.—No.

Q.—You also say that the 'Law of Inheritance' is a disadvantage?

A.—I want the present law of inheritance to be changed.

Q.—You said that some effort should be made to eliminate the intermediary. Have you got any suggestion with regard to that?

A.—As regards kanams which existed prior to 1852, the right of purchase may be given to the kanamdar. In the case of kudiyruppus I have also suggested the right of purchase.

Q.—You said that fixity of tenure may be given to the kanamdar in that case. Are you for compensating the janmi for the loss of his partial proprietorship in the land?

A.—I am in favour of compensation being given.

Q.—And in the case of purchasers after 1852 you are not in favour of giving them fixity?

A.—I said that it is a debatable point.

Rao Sahib V. Krishna Menon:—Q.—You stated there were several disabilities for the tenants and you have enumerated them in your written memorandum. Do you think they are worth remedying?

A.—Certainly.

Q.—I suppose these grievances may arise as a result of the legal or illegal exercise of his rights by the janmi?

A.—As the President suggested social oppression is not a legal right. There may be other rights.

Q.—Even if it is an exercise of legal right we have so far curtailed many legal rights. Have we not?

A.—Yes, in the interests of the community we are at perfect liberty to do so.

Q.—If so, why should we give compensation to the landlords?

A.—I think it is recognized that a certain amount of compensation should be given. So we have to give it to the landlord.

Q.—In the case of a money-lender, the court says you can get only 6 per cent interest after the date of the decree. Why?

A.—That is the law of the court. If it is in the interest of the community, of course, individual rights will have to be sacrificed. In the case of vested rights it is recognized that some compensation should be given to the extent you deprive the people of the rights held by them, which they would have otherwise enjoyed.

Sir T. Desika Achariyar :—Q.—Legislation should not be confiscatory in nature?

A.—It should not be.

Q.—You have some knowledge of the Land Alienation Act in the Punjab?

A.—Yes.

Q.—Is there any vested right affected by that law?

A.—I think there were no vested rights there at all.

Q.—Don't you think that in the interests of agricultural improvement of the country some change is required?

A.—Yes.

Q.—Such a change will benefit the janmi also?

A.—Yes, if he would get his rent much more easily.

Q.—So all your proposals are designed for the benefit of all holders of land above the verumpattamdars if they exist?

A.—If they exist they will all be benefited.

Q.—You wanted to squeeze out the middleman the kanamdar. How will you do it?

A.—I want to secure the right of the cultivating tenant and I feel that the presence of the kanamdar is in a way injurious to the cultivating tenant. I am not personally against any kanamdar.

Q.—According to your suggestion some sort of fixity should be given to the verumpattamdar and he gives security for the due discharge of his duties such as payment of rent?

A.—Yes.

Q.—Then practically it will mean that you are converting him into a cultivating kanamdar?

A.—I don't want any deposit to be made as security, but that is a suggestion which is made to me about which I will consider and give you an answer to-morrow.

Q.—Suppose some old kanamdar whose holding existed prior to 1852 assigned his right to a practising vakil for the latter's own cultivation after retirement. How will you deal with his case?

A.—As I have said, the question of assignment is a difficult question which requires deep study. In the particular case which you refer to it is worth while safeguarding his interest, but there may be others who simply buy and become non-cultivating middleman. I want to avoid this.

Q.—You have had some special facility for gaining knowledge in the interior of the district as a co-operative worker. I suppose these societies have many dealings with cultivating tenants, and they find it difficult to advance loans to these people because they have no fixity of tenure and there is no knowing whether they will be able to return the money advanced or not. Is it not so?

A.—Yes. The co-operative societies find it very difficult to advance loans to these cultivating tenants.

Q.—So there is a real difficulty in actually going to the rescue of a cultivating tenant?

A.—Yes.

Q.—Supposing by some sort of legislation we are able to give some sort of fixity, would it not improve his position a little bit?

A.—Certainly, a man with fixity of tenure has got a status and some credit in the market. So even co-operative societies would be willing to advance loans to such a man.

Q.—In the case of verumpattamdars the question of compensation can be ignored, I think, if fixity of tenure is given to them?

A.—There is no possibility of getting anything from him. He must be made to feel that these rights have accrued to him and that it gives him a certain position which will give him credit in the market. To that extent there will be some deduction from the janmis' rights and a small amount of compensation should be paid. We can distribute the compensation payable over a number of years payable along with the rent every year.

Q.—It is stated that arrears of rent due to the landlord is higher in Malabar than in any other district of the Presidency?

The President :—Nobody said it. No comparison was sought to be made.

Q.—Then why is the rent largely kept in arrears in Malabar?

A.—It is because the cultivating tenant does not find enough means to maintain himself and pay rent.

Mr. Kotieth Krishnan :—Q.—Janmis don't cultivate their lands themselves generally?

A.—No.

Q.—So when the verumpattamdar is given fixity of tenure the janmi does not lose anything?

A.—He does not lose.

Q.—So there is no loss of vested rights of the janmi?

A.—I don't put it at that.

Q.—Do tenants effect improvements on the land of the janmi in other parts of the Presidency?

A.—Both the landlord and the tenant make improvements. Tenant makes improvements for which the landlord pays in the other districts of the Presidency.

Q.—You have travelled throughout Malabar and you have found in North Malabar more garden lands than paddy lands?

A.—Yes.

Q.—And the grievance of the tenants who have planted coconut trees and other garden produce, when evicted, is more there than when they are evicted out of paddy lands?

A.—Yes. Tenants feel the grievance more when they are turned out of garden lands than when they are turned out of paddy lands.

The examination of this witness had not concluded when the Committee rose for the day at 5-5 p.m.

Wednesday, the 30th November 1927.

The President :—Q.—Mr. Suryanarayana Rao, I suppose you have considered the two points in regard to which you promised to express your opinion to-day?

A.—If it is permanent occupancy right, I believe fixity of tenure, fixity of rent, freedom of sale and freedom of transfer, all will go together.

Q.—We need not necessarily give freedom of sale or transfer. We can impose restrictions?

A.—Then it will depend upon what would conduce to the best interests of the tenant. If fixity of tenure is given and a fair rent is fixed, then I do not think any compensation is necessary. If on the other hand it is a case of permanent occupancy right then, as I said, the tenant must pay two and a half times the fair rent. That is the difference that I would draw between those two.

Q.—Why do you say that no compensation is necessary? Do you mean to say that the value of the janm right would not diminish?

A.—It won't diminish to the extent it would diminish if permanent occupancy right is given.

Q.—That was what I pointed out yesterday. So, to a certain extent it will diminish?

A.—Yes, to some extent. But it does not in any way affect the janmi's interest.

Q.—Suppose the janmi wants to sell the janm right. Would he get the same price? Will there not be difference between the price he would now get and the price he might get if fixity is given?

A.—He may not be able to get as much. But the rent is assured.

Q.—Even now, the rent is assured. If the tenant does not pay the rent you can recover the rent through Court?

A.—We are interfering to that extent with the freedom of the janmi in the interests of the tenant who we think requires some protection.

Q.—I ask whether the janmi's right does not suffer in value when you give fixity to the tenant, and if it does, why is it you say that no compensation is necessary?

A.—But that is a suffering in the interests of cultivation of the land and in the interests of the agricultural population.

Q.—But you are interfering with the right of the janmi—you are encroaching upon a vested right of the janmi?

A.—There is not so much interference with vested interests of the janmi if you give fixity, as there would be if permanent occupancy is given.

Q.—You think it is too insignificant to be compensated?

A.—Yes.

Q.—Then what about the other point?

A.—Then with regard to the question of setting apart two-fifths of the gross produce as the share of the verumpattam tenant.

The President :—Q.—I simply gave you an illustration, that is all?

A.—Yes, I shall tell you. In the first place if you ask the verumpattam tenant to deposit a certain number of years' rent with the janmi, he will find it impossible. Because, as it is, the janmi is not even getting the fair rent that is due to him. It would be impossible to deposit two or three years' rent with the janmi and that provision would not be effective at all, in protecting the interests of the cultivating tenant.

Q.—Why do you think so?

A.—Because he is not in a position to pay off even the rent. The janmis say, there is so much arrears.

Q.—But don't you perceive that that may be due to the fact that the tenant is rack-rented or that the janmi is neglecting to collect rent properly? I don't see the connection between the tenant's inability to deposit two years' rent or three years' rent and his keeping rent in arrears. His inability to pay the rent may be due to the rent being excessive or it may be due to his being unmethodical or neglectful.

A.—I say that it is impossible for the same reason that prompted me to say that it will not be possible for him to pay two and a half times rent as compensation all at once and that it should be distributed through a number of years.

Q.—That is on account of his poverty?

A.—To deposit two or three years' rent or to give personal or other security is not possible for the cultivating tenant at present; he gets now barely his expenses of cultivation. That is my view, I may be wrong.

Q.—But you overlook the fact that fair rents are going to be fixed? When you fix a fair rent and give fixity to the tenant then his credit would rise in the market.

A.—But not to the extent of depositing three years' rent.

Q.—Could it be two years?

A.—I cannot say; it depends upon the land, the nature of the man, his character and everything.

Q.—Could it be one year?

A.—I think one year's rent he will be able to pay if fair rents are fixed. Then about the suggestion that you made, i.e., paying two-fifths the gross produce, I would say it should be half as in the Ceded districts. There the cultivator only gives labour. The seed and everything else is furnished by the landlord.

The President :—The practice varies from place to place.

Sir T. Desika Achariyar :—According to the system prevalent there, if you give half then the cultivator must find everything.

The President :—Q.—Half and half system has also been considered by us. If you give half and assume that the cost of cultivation is one-fourth of the gross produce then the tenant will get one-third net produce as his share?

A.—I prefer that it should be based on the net produce for this reason, viz., that the vicissitudes of season should be taken into consideration. If you can get at the gross produce I don't think it will be difficult to get at the net produce.

Q.—If you adopt my formula about cost of cultivation it would be easy. One-fourth gross produce would be equivalent to cultivation expenses?

A.—I should like to have it fixed with reference to the net produce. Those are the two points.

Q.—Then what is your opinion with regard to the formula which was put to you as regards the kanamdar? If you are not ready with the answer you need not bother.

A.—You mean the compensation to be paid by the kanamdar to the janmi. I do not know what the renewal fee now is and how it will compare with the existing renewal fee if worked out according to your illustration. I have not worked out the figures.

Q.—But you cannot compare it in that way. There is no uniformity about the present renewal fee. But this much I can say. The renewal fee according to the formula would be heavier than it is now. It will be two or three times the present renewal fee.

A.—If we can only fix it with relation to the present renewal fee it would work well.

Q.—But there is no uniformity about the present renewal fee?

A.—I think it should not exceed much. Though my object is to get rid of the kanamdar, it is not fair to drive him out by this means. I only say that it should be a fair rate. This, I think, is too much.

Rao Sahib V. Krishna Menon :—Q.—You think that unlike occupancy right, the grant of fixity of tenure deprives the janmi only of a small measure of his privileges?

A.—Yes

Q.—Now, in the case of kanams as in ordinary mortgages, both parties have got equal rights, is it not? I want legal opinion. Suppose I borrow 100 rupees and I pledge landed property to a certain party. I think the borrower has got the right to pay back and the lender to demand. Both have got equal rights.

Sir T. Desika Achariyar :—Q.—The lender has got the right to recover and the borrower to repay.

Mr. Krishna Menon :—In the case of kanam tenure the lender cannot claim his money. He cannot say 'Take back your property, and give me my money'. So there is this difference and the janmi has got the advantage in that respect.

Raja Sir Vasudeva Raja of Kollengode :—If you keep the rent in arrears you can court eviction and get back the kanam.

Mr. Krishna Menon :—I am speaking about the legal aspect. Both are not on the same footing, is it not?

Sir T. Desika Achariyar :—Kanam is not really a simple mortgage. It is said to be an anomalous mortgage though it has some incidence of mortgage.

Mr. H. R. Pate :—Q.—You are in favour of giving fixity of tenure to all cultivating tenants and along with the grant of fixity of tenure you want fixity of rent also?

A.—Yes.

Q.—You should prefer the rent to be a fixed fraction of the net produce?

A.—Yes.

Q.—Now, will that be applicable to the whole of Malabar?

A.—Yes.

Q.—Will that be applicable to wet lands, dry lands, etc., as a general formula?

A.—I have said that the net produce should be shared between the Government, the janmi and the cultivator in the proportion of 6 : 4 : 5 in the case of wet lands and in the proportion of 5 : 5 : 5 in the case of dry and garden lands. That is the distinction that I would make.

Q.—So you are for fixing it on the assessment?

A.—It may be so.

Q.—Well, any way, you have a formula for fixing rents and it is of general application to the whole of Malabar?

A.—Yes.

Q.—You seem to think that the present rents are rackrents?

A.—Yes. The estimates of net produce at the next Government settlement operation may be made admissible as evidence of net produce. Till then the present rate may be allowed to continue. Otherwise it means a lot of inconvenience. I think the settlement period is nearing; there are only two or three years more. At that time the net produce taken by Government for settlement may be taken as the correct net produce and proper rents may be fixed on that basis.

Q.—You cannot expect that the Government will get at the net produce for each holding?

A.—But you can take such information as is available and settle the net produce of each holding. If the tenant really feels aggrieved even after your estimation and fixing of rate he can apply to the Collector for reduction according to the provisions of the Estates Land Act.

Q.—Whether the tenant feels aggrieved that he has to pay more or the janmi feels aggrieved that he is paid less, both can seek remedy before the revenue court?

A.—Yes.

Q.—Do you think that would mean much litigation?

A.—There may be some litigation, because people have to ask for protection. Under the Estates Land Act where the Collector is given the power it has not led to much litigation.

Q.—But is there not a difference between the two cases? There you have one zamindar and one tenant. There you have plots of land of similar quality. As against that you recognize that one field in Malabar may differ from the field next to it in value very greatly. One land may yield more while the neighbouring land will yield much less.

A.—That may be so.

Q.—Therefore it will be a very difficult business to determine the rent?

A.—But it is worth while.

Q.—Don't you realize it is difficult?

A.—Yes.

Q.—For fixity of tenure you fix no compensation?

A.—No.

Q.—That is, if fair rents are fixed. Is it on the ground that the janmi will get, even without compensation, either directly or from the kanamdar, as much income as in the public interests he is entitled to?

A.—Yes.

Q.—Do you consider he will suffer some loss now and then?

A.—He will not suffer because his rent is assured.

Q.—But will they not grant remissions during bad seasons?

A.—That is purely a question of relationship between the janmi and the tenant. They are not bound to give.

Q.—You think that in future no remission would be given as some good janmis do now?

A.—No.

Q.—Even if fixity is given the tenant is to pay as much rent as he now does, for a period of, say, ten years. Therefore what is the benefit to the tenant?

A.—If fair rents are fixed he is assured of the outturn in his land which would otherwise have gone to the janmi as the janmi could now dictate his own terms.

Q.—Then am I to understand that the landlord is to get less rent?

A.—If the tenant goes and applies to the court or any competent authority and if it finds that owing to certain factors the rent should be reduced, the landlord will receive less rent. If the landlord goes to court, it shows that he is entitled to more rent.

Q.—But the result of this would be that the janmi will probably get less rent?

A.—May be.

Q.—But on the other hand in some cases he may get more?

A.—Yes.

Q.—Therefore, for the janmi whose rent is to be reduced or for the kanamdar whose rent is to be reduced you do not propose any compensation?

A.—No. If the janmis get less it is because they are now receiving more than their legitimate due, that is, what is due to them in the public interests.

Q.—I think that if the tenant is given power to apply for reduction of rent there are some factors to be taken into consideration. Do you contemplate that in any year, owing to bad season or any other cause, the tenant may go to the court for remission or the janmi may go to the court for increase?

A.—No. Not for a particular year. Because a clause will have to be enacted that no enhancement shall take place for a period of less than five years or three years.

Q.—You are for eliminating the middleman—the kanamdar?

A.—Yes.

Q.—The object is to increase the profits of the actual cultivator?

A.—Yes. Now the profits have to be divided between so many people and in the end the cultivating tenant gets very little.

Q.—Who gets less—the verumpattamdar under the janmi or the verumpattamdar under the kanamdar?

A.—The verumpattamdar under the kanamdar gets less as he has to share his profits with the kanamdar also. The kanamdar also must get something out of the transaction. If there is a sub-kanamdar above the cultivating tenant he has also to be given his share. Naturally the man at the bottom suffers.

Q.—The janmi gets less from the verumpattamdar if there is a kanamdar in the middle, than if there is only the janmi and the verumpattamdar?

A.—Yes. In that case the cultivating tenant also gets less because he is at the mercy of the intermediaries for his cultivation of the land.

Q.—There are of course a great many acres leased by the janmis direct to the verumpattamdars?

A.—Yes.

Q.—Is it true that these verumpattamdars get greater income than the verumpattamdars under the kanamdars?

A.—If he is not under a poor janmi he must get more, because he can have better conditions than he can get with the intermediaries.

Q.—Is it from actual experience that you say that?

A.—In one or two cases when I had to deal with the janmi direct I got better terms. Perhaps they may be special cases. That is why I say if the janmi is poor he may not get better terms.

Q.—You would call the janmi a more merciful man than the kanamdar?

A.—It all depends upon the character of the person. If he is a generous minded man you may get better terms. In the other case, the kanamdars are at the mercy of the janmis and therefore you can't expect better terms.

Q.—What is the remedy that you would suggest for this disability of the kanamdars who have come into possession since 1852?

A.—I would give them the right of purchase.

Q.—Why this invidious distinction between those who were in possession prior to 1852 and who have continued to be in possession ever since and the other people?

A.—It cannot be helped. Otherwise it would be penalising the good janmis for allowing them to be in possession for a long time. That principle was considered, as I suggested yesterday, in connexion with the Madras City Tenants' Protection Act. I took that analogy and I suggest that they may be given the right of purchase.

Q.—But there is no analogy between an agricultural area like this and the City of Madras. In the case of kudiyruppus as you suggested, the analogy may be correct. But in the case of agricultural land it is not quite correct. Even in the case of kudiyruppu, could you say it is equally difficult to get a house-site in Malabar as in the City of Madras?

A.—Approximately it is as difficult. I cannot say it is equally difficult or more difficult.

Q.—How would you compare the condition of the tenants on those house-sites and the condition under which they live in Malabar? Which do you think is more favourable?

A.—It is quite different. Here the agriculturist lives in a holding with a house in the midst of it, whereas there the land may be elsewhere and he may live in a house in the midst of a contiguous row of houses.

Q.—From the sanitary point of view which would you prefer? Would you prefer to live in Madras?

A.—I would prefer to live in Malabar.

Q.—You are not a Malayalee?

A.—No.

Q.—Do you think there is a crying need for acquisition of house-sites by Government in Malabar?

A.—In the case of the depressed classes the Government do that. But that is scarcely a tenancy problem. Here the land and the house go together. That is why I mentioned only about the land.

Q.—Are the depressed classes that you speak of generally agricultural labourers?

A.—Yes. I mean the Pulayas and the Pariahs.

Q.—They have difficulty in obtaining a house?

A.—I think so. They are at the mercy of the landlord or the tenant under whom they cultivate. The conditions under which they live are so abominable that unless they are able to live in their own houses they won't be able to improve their condition. I won't call them slaves, but they are.

Q.—Under which class of tenants will they come? Are they cultivating tenants?

A.—Some of them are cultivating tenants. Most of them are agricultural labourers.

Q.—Will their case be met by your proposal?

A.—My proposals would help them if those that are tenants get some right of fixity of tenure and if they are enabled to live in their holding, if they have a holding.

Q.—But most of them are labourers and they would not be benefited by this legislation?

A.—Some of them are verumpattam tenants. I think with the spread of education they may rise.

Q.—But the present generation would not be benefited by this legislation?

A.—Only a few cases.

Q.—Then you speak about the evil of big estates. What is the positive evil of that?

A.—It is only a few people that control the land. The tenants cannot deal with as many people as they would like in order to get the best terms. They are at the mercy of a few people.

Q.—It reduces competition?

A.—Yes.

Q.—Now suppose you are offered a tenancy. You are told that you can hold it under a big janmi or under a small janmi. Which would you prefer?

A.—That depends upon the character of the janmi.

Q.—You would get better terms from whom?

A.—Generally the big janmi.

Q.—Do you think that the tenant under the big janmi gets a worse treatment than the tenant under the small janmi?

A.—The janmi may not know many things. They will have kariasthans or agents.

Q.—You think the tenant will get worse terms from the big janmi than under the small janmi? Then why does he suffer that?

A.—It is the lack of competition that makes the tenant yield to whatever terms they give.

Q.—I do not know how many janmis there are in Malabar, but let us assume for the sake of argument it is something like 10,000 or let it be thousands. Do you think it right to say that there is no competition when there are thousands and thousands of janmis?

A.—But considering the conditions that are prevailing elsewhere and the fact that there is a high density of population here and there is no other means of livelihood except cultivation, I say that. It is because there is competition between the tenants that rents are raised.

Q.—But the fact remains that because there is competition he gets good terms.

A.—Competition between the janmis is useful to the extent that the tenant is in a position to leave one man and go and work for another man. But when he is not prepared, when he wants to cling to his place owing to sentiment, naturally he is at the mercy of the landlord. When the tenant is not prepared to migrate he is at the mercy of the small janmi and has to accept his terms.

Q.—So it is not want of competition; there is competition between janmis to get tenants and between tenants to get lands?

A.—Yes.

The President:—The Committee is very thankful to you, Mr. Suryanarayana Rao, for taking the trouble to come before it and give evidence.

X

Written statement of Mr. V. Kunhi Moyi Haji Sahib Bahadur, President of the Ernad Taluk Board, Manjeri.

Disabilities.

I. (a) All classes of tenants alike suffer from the following disabilities:—

- (1) Unjust and unreasonable evictions;
- (2) enhancement of rent or michavaram, as the case may be;
- (3) eviction of gardens before the fruit trees planted by the tenants begin to bear or their productive capacity begins to increase;
- (4) eviction of lands reclaimed by tenants before they are enabled to enjoy the benefit of their labour; and other similar hardships.

The following disabilities are special to kanamdars:—

- (1) Making certain unjust stipulations in the renewed documents;
- (2) compulsion to convert kanam holdings into panayam or verumpattam;
- (3) refusal to accept the michavaram tendered by the tenant, when the idea of eviction gets into the brains of the janmis;
- (4) unjust collections of money, rice and other sundry articles from the tenants for marriages and other feasts;

(5) compelling the tenants to split the kanam in respect of lands and parambas held under a single kanam demise and making them accept separate kanam demises for land and parambas in order to defeat the provisions of the Transfer of Property Act regarding partial redemptions and the Malabar Compensation for Tenants' Improvements Act (I of 1900) favourable to the tenants;

(6) compulsion on the part of the janmis to describe the tenants' improvements as those belonging to the janmi in the renewed kanam documents at the time of renewals;

(7) grant of melcharths;

(8) levying unjust and unreasonable renewal fees; and

(9) refusal to grant renewals notwithstanding the tenants' willingness to pay the requisite renewal fees.

I. (b) Yes. They are not common to the relationship of landlord and tenant in all parts of India. The system of land tenure in Malabar is peculiar and unlike that prevailing in the other parts of India.

I. (c) I think there is some difference between the tenants' disabilities in North Malabar and South Malabar. When compared to North Malabar, kudiyruppus and gardens are proportionately less and paddy lands more in South Malabar. Consequently, for evictions the janmis have to pay more compensation for improvements in North Malabar. The facilities for unjust evictions are therefore a little less in North Malabar. Further, the number of kudiyruppus belonging to the occupants themselves in janm is proportionately much more in North Malabar than in South.

I. (d) I think there are some slight differences between the several parts of South Malabar itself.

Evictions.

II. (1) (a) Yes. But I do not wish to specify any particular instance, as it would create or rather increase the unfriendly relations between landlords and tenants. A reference to the records and registers of civil courts and sub-registry offices would prove that there are many such cases. I consider the eviction of a tenant unjust, when he pays or is willing and ready to pay the janmis' dues regularly and is willing to take a renewal on payment of just and reasonable renewal fees. I understand some janmis have, after the presentation of the late Tenancy Bill by Diwan Bahadur Mr. M. Krishnan Nayar, tried to lessen the number of unjust evictions in order to make a show and make it appear to the Government that there are not many such instances. So, it may not now seem to be on the increase, but they are sure to be on the increase if no legislation is made regulating the rights and liabilities of the landlord and tenant in Malabar and prohibiting unjust evictions.

II. (1) (b) Yes. I do not wish to specify any particular instance as it would tend to increase the unfriendly relations between landlords and tenants. A reference to the records and registers of civil courts and sub-registry offices would prove that there are many such instances. Melcharth plays much havoc among the tenants who form the vast bulk of the population. It creates various disturbances among the people. Melcharth deprives the tenant of his opportunity to effect a compromise with the janmi, as the hands of both the landlord and the tenant are tied by it. It may be urged by those who support melcharths that when the janmi has no funds for eviction, he has no other means but to take recourse to the grant of melcharths. This difficulty is only seeming and unreal, for the janmi can very well raise funds, by mortgaging his right over the properties without falling himself a victim to the tricks and treacheries of greedy tale-bearers and sycophants and his own kariasthans and relatives and thus causing the ruin of many an innocent tenant.

II. (2) Yes. But, I do not wish to specify any particular instance as it would increase the unfriendly relations between landlords and tenants.

Remedies.

III. (a) A legislation which would safeguard the interest of both the landlord and tenant, regulate their rights and liabilities, give greater facilities to the janmi for easy recovery of michavaram, renewal fees, etc., payable to him, prohibit the

eviction of tenants who pay the janmis' dues regularly, safeguard the interests of the simple lessees who regularly pay the rent due by them and prevent the enhancement of rent is the only effective remedy. Such a measure would promote the peace and welfare of the people of this district, make them prosperous and improve their loyalty to the throne, especially in the turbulent taluks of Ernad and Walluvanad.

III. (b) Yes. To all classes of tenants specified in question I with the exception of the kanamdars and lessees who are not prepared to pay or give security for one year's michavaram or rent as the case may be, payable by him and keep it with the janmi, kanamdar or others under whom they hold always as an advance payment and the kanamdars who are not prepared to take renewals on the expiry of the term of their kanam demises, paying just and reasonable renewal fees that should be regulated and fixed by legislation.

III. (c) To all of them alike. If the grant is limited to any one of them, such grant will not put an end to the disabilities of the tenants as a whole.

III. (d) This will not serve the purpose. All classes of tenants alike should be given fixity of tenure with the exceptions noted in my answer to question III (b). No time-limit is to be fixed with regard to the origin or beginning of the kanam tenure. Practically, the cultivation of the soil is in the hands of the kanam tenant. It is he who spends for the cultivation. His rights are therefore to be safeguarded without imposing any such restrictions. There are thousands of families in Malabar who hold and possess kanam properties from time immemorial under the belief that they would not be redeemed. It is on account of this belief that kanam holdings are generally purchased and sold for much larger prices than the kanam amount secured. I may also point out in this connexion that the janmi's association of the district in its memorial submitted to His Highness the Maharaja of Cochin in 1913 has admitted that the system of land tenure in Malabar and Cochin is the same and that His Highness' Government enacted the tenancy law giving permanency of occupancy to the kanam tenants of the State in spite of the joint protests made by the janmis of Cochin and British Malabar as the measure was found essential for the welfare of the people. The Government of His Highness the Maharaja of Travancore was also pleased to grant permanent occupancy rights to tenants. I believe all these facts would have come to the notice of the Government and I do not therefore wish to dilate. Generally, there are three different classes of people who depend on the produce of land. They are janmis, kanam tenants and simple lessees. Most of the janmis own large extent of properties and it is difficult for them to cultivate all their lands themselves. Most of their properties are therefore demised on kanam. Most of the janmis have not even a correct knowledge of their lands. The kanamdar cultivates the lands but when he finds it difficult to cultivate the lands, he leases them out to simple lessees who are mostly men of no property. The kanamdars have to keep their lessees by giving them seed, paying them the expenses of cultivation and helping them with cattle for ploughing, etc. When any loss occurs or when any damage is sustained on account of floods, drought or other accidents, it is the kanamdar who suffers all such loss. Whatever loss the kanamdar may sustain, he is liable to the janmi for the michavaram and to the Government for revenue. It is true that the janmi is primarily liable to the Government for revenue; but it is not to be forgotten that the kanamdar is liable to the janmi. In short, it is the kanam tenant who carries on the cultivation of the land and pays the Government and the janmi whether he be cultivating himself or gets the land cultivated through his lessees. It is the kanam tenant who digs tanks and wells and opens canals for irrigating the lands. It is the kanam tenant who makes pavements to prevent breaches in bunds and accumulation of silt. An ordinary simple lessee is only somewhat like a day labourer who works and depends upon his work for his daily bread. Most of them have no means to spend for the cultivation of the land. They depend upon their lessors, the janmi or the kanam tenant, as the case may be, for everything connected with the cultivation. In these circumstances every kanam tenant just like other tenants, should be given fixity of tenure, if he is prepared to pay or give security for one year's michavaram and keep it with the janmi always as an advance payment and to take a renewal on the expiry of the term of the kanam demise paying a just and reasonable renewal fee that should be regulated and fixed by legislation.

III. (e) A legislation giving greater facilities for the easy recovery of michavaram, renewal fee, etc., is necessary. Suits for such sums may be allowed to be disposed of by civil courts and panchayat courts in a summary manner and a reduction in the court-fees is also necessary in respect of such suits. Such a legislation would serve a useful purpose in this matter.

III. (f) Fixity of tenure need not be given to such tenants as are excepted in my answer to question III (b)

IV. (a) (1) Permanent occupancy right is to be granted to them.

IV. (a) (2) No.

IV. (b) Permanent tenure is to be granted for all kudiyruppus whatever be the extent thereof.

IV. (c) (1) In such cases, the kanam may be redeemed on payment of the kanam and value of improvements payable to the kanamdar.

IV. (c) (2) & (3) Nothing special has to be done with regard to these tenants, as fixity of tenure is to be granted to them also.

IV. (d) (1) Not necessary.

IV. (d) (2) No.

V. Act I of 1900 has been of some help to the tenants with respect to kudi-ruppus and gardens. But ever since the agitation by the people for such an Act, the kanamis have been compelling the tenants to split the kanam in respect of lands and parambas held under a single kanam demise and making them accept separate demises for lands and parambas in order to defeat the provisions of the Transfer of Property Act regarding partial redemptions and the Malabar Compensation for Tenants' Improvements Act (I of 1900) favourable to the tenants. No amendment of the Act or change in the method of its working would serve any useful purpose to improve the relations between the landlord and the tenant without granting fixity of tenure to the tenant.

Compensation.

VI. (a) The grant of permanent occupancy right would strengthen the cordial relations between the landlord and tenant and promote the welfare of both the landlord and the tenant. Nobody suffers any loss thereby and no compensation is therefore to be awarded.

VI. (b) & (c) It follows from the answer to question VI (a) that no answer is necessary to these questions.

Rent.

VII. (a) It would be sufficient if the existing rent and michavaram are fixed without any change being made. In the matter of the holdings that would come into existence hereafter, the rent and michavaram may be fixed in accordance with the rates that would be fixed by the landlord and tenant in each case and that may be given a fixity without being allowed to be enhanced afterwards.

VII. (b) In majority of cases the rents now paid by tenants are unjustifiably high. But if permanent occupancy right is to be granted to the tenants, they may be able to improve the land and make good the loss in course of time. To reduce the present rents will lead to unnecessary complications and litigations. No relief is therefore necessary to be granted to tenants in such cases other than granting them a fixity of tenure.

Renewal fees.

VIII. (a) The renewal fee may be fixed in accordance with the rates levied by important janmis of this taluk more than 25 years ago. It would be sufficient if their accounts of those days are examined by the Government and the rates fixed accordingly or 25 per cent of the kanam amount may be fixed as the renewal fee payable to the janmi.

VIII. (b) There is no uniformity in the rates of renewal fees in this taluk. Each janmi claims according to his own will in each case.

General.

IX. Compulsory purchases are not necessary. Permanent occupancy right is essential and no other relief is necessary.

X. (a), (b) & (c) When permanent occupancy right is granted to the tenant, there is no room for the grant of melcharths. No useful purpose can be achieved by granting the right of pre-emption as against melcharthdars. The bona fide agreements between the melcharthdar and the grantor cannot come out when there is collusion between them and it is impossible to prevent such collusions.

Wednesday, the 30th November 1927.

Oral evidence of V. Kunhi Moyi Haji Sahib Bahadur.

The President:—Q.—Mr. Kunhi Moyi Haji Sahib Bahadur, you are the President of the Ernad Taluk Board?

A.—Yes.

Q.—You live in Manjeri?

A.—Yes.

Q.—You have been permanently residing there?

A.—Yes. I was born and brought up there.

Q.—Are you a janmi or a tenant?

A.—Both.

Q.—What is the extent of your janm property?

A.—Only a little. I cannot say how much.

Q.—Roughly?

A.—Some 30 acres.

Q.—Are they all garden lands or wet lands?

A.—Both.

Q.—What is the extent of land that you hold as a tenant?

A.—Some 30 acres.

Q.—You hold them directly under the janmi?

A.—Yes.

Q.—Are they kanam or verumpattam?

A.—Some are kanam lands and some are verumpattam lands.

Q.—Under how many janmis do you hold these kanam lands?

A.—Some 3 or 4 janmis.

Q.—Have you got any kanamdars under you?

A.—Yes. I have only one kanamdar and about 25 or 30 verumpattam tenants under me.

Q.—You have got a copy of your written memorandum? In answer to question I (a) you mention a large number of disabilities from which tenants are suffering. Have you suffered any of these disabilities yourself?

A.—There are cases in which my family has suffered.

Q.—Can you give details of the sufferings that your family had to undergo?

A.—If I give out all that the janmis will be offended. If necessary I shall speak about it confidentially to the President or the Collector.

Q.—If you like you can give evidence *in camera*?

A.—There are both janmis and tenants in this Committee. My informants may not like my disclosing all these things before the Committee.

Q.—Are you prepared to give those instances in the presence of the whole Committee? There is no use in your mentioning it to the President or the Collector exclusively.

A.—I have already stated in my reply that if I disclose the several instances it would embitter the feelings between landlord and tenant. All the records are in the civil courts and in the Sub-Registry offices. The Committee can easily get access to those papers. If I disclose all that, it would only aggravate the present ill-feeling.

Q.—How will the records in the Registry offices show that a particular eviction is just or unjust?

A.—We can see whether a melkanam was granted owing to arrears of rent or not.

Q.—Whether the arrear was due to the neglect of the janmi or the tenant cannot be understood by a mere perusal of the documents?

A.—If the Committee is not already convinced of these things and if a private enquiry is made by a responsible officer these grievances will easily be brought to light.

Sir T. Desika Achariyar:—Q.—May I ask one question? Don't you know that the Committee cannot come to a conclusion without evidence?

A.—What I mean to say is that several people in the rural parts have not come to know of the existence of such a Committee as this and if an inquiry is instituted all their grievances can be ventilated.

The President:—Q.—Why can't they place their grievances before the Committee when they are invited as you have been?

A.—I do not know whether invitations have been sent to all persons. My understanding is that the questionnaire has been sent to only a few persons and out of them only a very few number has been invited.

Q.—Well, all the people whom we have invited have not turned up to give evidence?

A.—It may be due to some inconvenience.

Q.—You are the Taluk Board President and you are a representative of the people?

A.—Since you insist I shall give one or two instances.

Q.—You are at perfect liberty to give instances or not. If you are aware personally of any instances you may give them if you are willing? Or you may give instances about which you think you have been informed by reliable persons. Anyhow the whole thing is left to your choice. Have you got any instances of unjust or unreasonable evictions?

A.—I shall send a list of them in due course.

Q.—May I tell you that the list would be useless unless you tell us that a particular instance is one of unreasonable or unjustifiable eviction?

A.—I have not gathered statistics from the courts or Sub-Registry offices. I shall mention a few instances which I recollect. In Tiruvali amsam the properties of a Nayar tarwad have been ordered to be evicted. The Calicut Puthia kovilagam is the janmi and they filed suits and several lands and homesteads had to be evicted.

Q.—How do you say that they are unjust?

A.—Eviction of homesteads and lands are unjust.

Q.—Assuming that eviction is the result of default made by the tenants, how is it unjust?

A.—If the tenants are ready and willing to deposit the money and then they are evicted it is unjust.

Q.—Do you mean to say that in this particular case the tenants were ready and willing to deposit money and the janmi did not accept that with a view to getting them evicted?

A.—In this particular case the kovilagam granted melcharth to a member of the kovilagam and he gave sub-kanam to another man and it was the latter that sued for eviction. That is my information.

Q.—The question which I put was whether the tenants were prepared to deposit the arrears and the landlord did not accept that with a view to evicting them?

A.—In cases of this nature the tenants are always prepared to pay off the arrears. If the janmi has the intention of evicting them he will keep the rent in arrears, that is, he will not try to receive the rent and in the end he will sue for eviction.

Q.—Is that what happened in this case?

A.—I shall inquire and then inform the Committee about that.

Q.—You have made no inquiries in regard to this particular suit? And so you are not in a position to say whether the statement you made is correct or not?

A.—Certain reliable persons gave me this information. I made no personal inquiries. If the Government were to make a detailed inquiry these things will be brought to light.

Q.—The Committee is come here to inquire?

A.—I humbly beg to state that many people in the interior have not understood that there is such a Committee.

Q.—You are the President of a Taluk Board. The questionnaire was sent to you some months ago. And you say that several people are not aware of the existence of such a Committee, it is not understandable. Secondly, the Committee is quite willing to examine you *in camera* if you have anything else to say in regard to such unjustifiable evictions?

A.—My informants are afraid of it and they would not like my giving the information before the whole Committee.

Q.—But you are prepared to give the information to the President and the Collector?

A.—For that I have got permission.

Mr. Kotieth Krishnan and Rao Sahib V. Krishna Menon:—Q.—We have no objection.

The President:—No. If such a responsible man is not prepared to give his evidence before the whole Committee then we do not want it.

Q.—Then you say, 'the number of kudiyruppus belonging to the occupants themselves in janm is proportionately much more in North Malabar than in South.' You base that statement on information or actual experience?

A.—It is heresay information.

Q.—Then you propose to give universal occupancy right? Is that not what it means your answer to question III (b)?

A.—Yes.

Q.—How can you give occupancy right for the same land to more than one person at the same time?

A.—I mean fixity of their respective tenures.

Q.—Do you realize when all these tenures are given permanency, the janmi stands to lose? Do you realize that the janm value of the property will go down considerably?

A.—According to custom, the janmi is entitled only to michavaram and that he will get even after permanency is given.

Q.—Your position is that the janmi has always been entitled only to the capitalized value of the michavaram?

A.—That is my opinion.

Q.—The janmi is now getting renewal fee in the case of kanam lands?

A.—The janmi will continue to receive renewal fee under my proposal even if permanency is given.

Q.—What about the right of the janmi to redeem the property at the expiry of the lease which he now possesses and which he will then lose?

A.—Good janmis do not evict tenants even now. Only few janmis evict. Now the request of the tenants is that they should be protected from such eviction.

Q.—That is just as good janmis do?

A.—Yes.

Q.—Good janmis as well as bad janmis have the right to evict if they want to exercise it?

A.—Yes. But good janmis do not abuse their powers.

Q.—You want to deprive the janmis of that right without paying compensation?

A.—The principle adopted by the Cochin and Travancore Governments should be followed.

Q.—Will you enhance the renewal fee as some compensation for depriving the janmi of his right?

A.—That would be very hard. But there is no objection for regular payment of rent and renewal fee being enforced by legislation—I mean a legislation for speedy collection of rent and renewal fee.

Q.—You say 'it is on account of this belief that kanam holdings are generally purchased and sold for much larger prices than the kanam amount secured'. Now, when a kanam holding is purchased by a man he may enjoy it for twelve years or less than twelve years according to the lease. The kanamdar is entitled to the value of improvements and also the income which he would still derive during the unexpired portion of the lease from the time of sale. Can you give instances where kanam holdings are purchased for more than the aggregate of these three amounts, viz., kanam advance, value of improvements, and the income that he might derive during the unexpired portion of the kanam lease?

A.—I do not clearly understand.

Q.—I will give you an illustration. Suppose the kanam advance is Rs. 100 and Rs. 10 is the michavaram; the verumpattam rent which the kanamdar gets is Rs. 50; he is paying a renewal fee of Rs. 60. That means Rs. 5 per year. The interest on the kanam amount is Rs. 15, the michavaram is Rs. 10, and the renewal fee Rs. 5; in all, it comes to Rs. 30. The verumpattam he gets is Rs. 50 and he is making a gain of Rs. 20 a year. Suppose he sells that holding in the sixth year of the demise. Then there are six more years for tenant for the enjoyment of his holding. That means the tenant will get Rs. 120 more till the expiry of the lease as his profit. I want to know whether a tenant who sells the kanam holding under those circumstances gets only this profit of Rs. 120 plus kanam amount of Rs. 100 amounting in all to Rs. 220 or whether he will get more?

A.—In such cases the price is paid with reference to the michavaram and assessment payable. For 100 paras of paddy suppose 10 paras is the rent and 10 land revenue assessment. Then calculating 16 paras as interest on 100 rupees the land will fetch a price of Rs. 500, but there may be a kanam of only Rs. 20 or even less.

Q.—That is the ratio and it has no reference to the period of the lease?

A.—It is based on the gain which the kanamdar gets and not on the length of the demise. If it is a new renewal then there will be a slight difference, that is all.

Q.—Then the price will be a little higher?

A.—Yes.

Q.—What will be the difference between the purchase money in the case of a sale just a year after the renewal and a sale towards the end of the lease period?

A.—There will be, say, a difference of Rs. 200. That is all.

Q.—Can you give some instances of such cases which could be verified in the Sub-Registry offices?

A.—To-morrow if you want I shall give you copies of documents in some cases. If you give me some time, I shall send any number.

Q.—We shall give you three days' time? Can you produce some 20 sale-deeds?

A.—I shall see. If more time is given, I shall produce more.

Q.—You say in answer to question VII (a) the rents paid by the tenants are unjustifiably high in a majority of cases?

A.—Yes.

Q.—Can you give us some concrete cases?

A.—That is not possible. It can be done only by inspection of the land and ascertaining the rate.

Raja Sir Vasudeva Raja of Kollangode:—Q.—You have got about 30 acres of janm land and 30 acres of kanam. How much of it is cultivated by yourself and how much by the tenants?

A.—One-third is cultivated by myself and two-thirds by tenants.

Q.—Do you consider that the rents which you now get from those lands are unjustifiable?

A.—Yes, I consider some are excessive.

Q.—So your rents must be reduced?

A.—The rents were fixed by my ancestors. If rents are reduced generally I have no objection.

Q.—If you are convinced that the rent which you get is unjustifiably high, why can't you reduce it?

A.—I have already reduced it in some cases. I give remissions in some cases when there are bad years.

Q.—Do you think that the rents ought to be reduced?

A.—I never said that the rent should be reduced. I said they are high. If they are reduced all on a sudden, then there will be litigation. The present rents should be accepted as fair rents everywhere. The michavaram should be fixed.

Q.—No tenant should be allowed to reduce that?

A.—No attempt should be made to reduce the rent if fixity is given. The present rents should be considered as fair rents.

Q.—You say in some cases high rents are received. Is it your experience with reference to your own place or other parts also?

A.—I have friends in various parts and I have understood from them.

Q.—But it is only heresay?

A.—Yes, so far as North Malabar is concerned.

Q.—Do you know about it with regard to the Palghat taluk?

A.—Some persons of that place have told me. I do not own lands there. But the information that I have got is reliable.

Q.—Do you know that there are lands held on saswatham tenure in other parts of the country?

A.—I have heard and I have read in books.

Q.—Will saswatham lands fetch more value than lands held under kanam tenure?

A.—There is no reason why it should be the same. In one of the cases you have to pay the renewal fee.

Q.—There are saswatham lands where you have to pay renewal fee?

A.—I have not heard of that.

Q.—You think saswatham lands will fetch more price?

A.—Yes.

Q.—So, there will be an increase of price if there is longer tenure. So, if the present kanam tenure is extended, will it not fetch more value?

A.—You will get an increase with reference to the renewal fee. In the case of some janmis there will be difference.

Q.—In the case of some such janmis will there not be loss if the tenure is extended?

A.—Good janmis care only for the michavaram and renewal fee. That is my knowledge.

Q.—You referred to the Cochin Regulation. You want provisions as in the Cochin Regulation, is that so?

A.—Yes, so far as the kanamdars are concerned. Moreover, besides that, I request that the British Government will be kind enough to benefit the verumpattamdars also.

Q.—You do not want any compensation?

A.—Some arrangement should be made for the speedy collection of rent.

Q.—You said you have a kanamdar under you. What is the renewal fee that you get?

A.—Only a nominal amount. It is a waste land. I generously gave it to the tenant to cultivate.

Q.—Are there very many Mappilla janmis in your part?

A.—Out of two lakhs of Mappillas there are not even five janmis.

Q.—What is the renewal fee that you pay to the janmi?

A.—It differs between different janmis. Some base it on janmapattam and some on kanappattam.

Q.—How does it work out when it is based on kanappattam?

A.—I cannot say now.

Q.—After all you have got only 30 acres?

A.—But I cannot say now.

Q.—In regard to kudiiruppus you say that occupancy right should be given?

A.—Yes, for the existing kudiiruppus.

Q.—And there is to be no compensation to the janmi?

A.—No.

Q.—As regards kudiiruppus that will have to come into existence in the future it must be based on contracts. Is it not in the hope of taking back whenever they like that these kudiiruppus have been given by the janmis?

A.—Extensive lands are owned by one janmi and there are several persons wanting kudiiruppus and they will have to submit to this one man's terms.

Q.—But you say that in future contracts should be respected?

A.—Otherwise the janmi will not give.

Q.—So the contracts entered into in the past must be considered null and void?

A.—A legislation should be made to enable the janmi to recover the amount of patta payable by the tenant.

Q.—Hereafter, you think, the janmis will not give land for house-sites if permanent occupancy is given?

A.—Yes. Only in rare cases will they give. They will give it only for a proper consideration. Otherwise they will lease the lands for cultivation purposes.

Q.—Then how do you say that in regard to old kudiiruppus no compensation is necessary?

A.—The request of the public is that they should be given occupancy right. As a protection to the poor tenants they must be given this right without compensation.

Q.—You say the relationship between the landlord and tenant in Malabar and in other parts of India is not similar. In what respect?

A.—I understood that from the Malabar Gazetteer. Here the disabilities are more.

Q.—Do you know that no compensation is given to the tenant when he is evicted from lands in other districts?

A.—I do not know.

Q.—If that be so, are not the tenants better off here?

A.—I cannot say anything about it. I have only a general knowledge about this. I do not know the exact relations.

Q.—Are evictions on the increase or decrease during recent years?

A.—I have said that they are not on the increase, but I do not say that they are on the decrease.

Q.—You say that janmis compel tenants to split the kanam in respect of lands and parambas held under a single kanam demise. Are there very many instances like that?

A.—I have myself experienced such a case but I am not prepared to give out the names of the janmis.

Q.—The mere assertion that there is such a thing won't do? It is to find out what the grievances are that we are come here.

A.—It is a case in which my own family has suffered. I shall send particulars of that to-morrow.

The President :—Q.—Yes, with the number of the document, and showing all other particulars?

A.—But in that case the lands were subsequently clubbed on payment of additional renewal fee.

Q.—Be that as it may, please produce the document?

A.—Yes.

Rao Sahib V. Krishna Menon :—Q.—What are the janmis' rights?

A.—The janmis' rights are renewal fee, michavaram, assessment if the tenant has not paid it already and verumpattam if that is payable by the tenant.

Q.—In addition to that, I suppose the janmi has got the right to take back the land?

A.—Yes.

Q.—Now that right of taking back the land can be used justly as well as unjustly?

A.—Yes.

Q.—When do you consider a redemption unjust?

A.—All cases except when the tenant fails to pay michavaram and other dues that the janmi is entitled to.

Q.—Similarly in the exercise of the other rights also there is justice as well as injustice?

A.—Yes.

Q.—The only request that the tenants make is that unjust eviction must be stopped?

A.—Yes.

Q.—No loss will result to the janmi if unjust eviction is stopped?

A.—No.

Q.—You have referred to some janmis who have been good to their tenants. Could you give a list of good janmis whose example may be followed?

A.—Some I shall give (1) Kariakkat Devaswam close to Manjeri, (2) Kottakkal Kizhakke Kovilagam. I can only say these two now.

Q.—Your request is that the example of good janmis may be followed. They may be taken as models for any legislation. Your request is that the Government should institute inquiries and prepare a scale of fees similar to those levied by good janmis?

A.—Yes.

Q.—The value of the holding—economic value also depends upon the nature of the janmi? If the holding is owned by a good janmi then it will fetch higher value?

A.—Yes in the expectation that the tenant can continue in the holding undisturbed.

Q.—After the purchase of a kanam land the tenants sometimes find that the successor of a good janmi is a bad janmi?

A.—Yes.

Q.—So the man who purchases the kanam right loses by the change in the janmi?

A.—Yes.

Q.—You have been telling us that there are several instances of unjust eviction and your idea is that the duty of finding out the truth of the assertion rests on the Committee?

A.—Yes. Either the Committee or a responsible Government officer will do.

Q.—When you give instances believing it to be true the Committee has to verify the truth of it?

A.—Yes.

Q.—You have spoken something about the mischief done by kariasthans and tale-bearers. Is it your opinion that a good deal of harm has been done to tenants by these intermediaries?

A.—Yes.

Mr. Kotieth Krishnan :—Q.—In your taluk are the kanam tenants paying their rents regularly or is there a complaint that they are keeping their rents in arrears?

A.—The majority of them are paying rents regularly. On account of poverty sometimes if they are not able to pay their dues regularly they try to pay it in successive years.

Q.—I remember having read in the papers, I am only speaking from recollection, that about six years ago the Manjeri Mappilla tenants presented a memorial to His Excellency Lord Willingdon in which they pleaded for fixity of tenure being given to the tenants?

A.—Yes. From 1896 onwards the Manjeri Mappillas have presented memorials till 1924 to successive Governors pleading for the grant of fixity of tenure for the tenants in Malabar.

Q.—And in Manjeri the majority of the tenants are Mappillas?

A.—Yes.

Q.—Does the Manjeri Sabha represent the interests of the Mappillas of the whole of the Ernad taluk.

A.—Yes, it was on behalf of the Ernad Mappilla tenants that the memorials were submitted.

Q.—Most of the tenants in Ernad, Ponnani and Walluvanad taluks are Mappillas?

A.—Yes.

Q.—How many janmis are there in the Ernad taluk, among the Mappillas, approximately?

A.—There are only one or two big janmis who have kanam tenants under them near Parappanangadi.

Q.—You have no personal knowledge of North Malabar?

A.—No.

Q.—Have you at least heard that there are very many rich Mappilla janmis in North Malabar?

A.—Yes.

Q.—Such big Mappilla janmis you don't have in South Malabar?

A.—No.

Q.—You said in answer to question III (a) under 'Remedies' "People of this district, make them prosperous and improve their loyalty to the throne, especially in the turbulent taluks of Ernad and Walluvanad". What has the Malabar tenure or the relationship between the landlord and the tenant, what has that got to do with the loyalty of the people?

A.—People have been expecting some relief since the days of Mr. Logan. As their expectations have not become fruitful people are sorry and also dissatisfied against the janmis and also Government for not taking proper measures.

Q.—That is why you say the loyalty of the Muhammadan community would improve if the condition of the tenantry of the Ernad taluk is improved?

A.—Yes.

Raja Sir Vasudeva Raja :—Q.—If Government assessment is reduced will loyalty to Government also increase proportionately?

A.—There is no dissatisfaction about the payment of land revenue to Government, and it is enough if the present rates are not enhanced.

The President :—Q.—You said that you are not prepared to tell the Committee about specific instances of grievances from which tenants have suffered but you said that you would give the Committee a list of specific instances. Will you furnish the Committee with a list of such grievances together with references to original documents like judgments of courts quoting against each case how the suit was decided?

A.—I can quote instances like that but it is not possible to verify them as regards the facts because records in the Manjeri courts were destroyed during the rebellion and in some cases records will have to be got from the District Court.

Q.—I am asking you whether it is possible to give a list of cases to enable the Committee to verify those instances. Please understand that the Committee will do its utmost to verify the cases?

A.—There are thousands of such instances. I shall give instances relating to a particular janmi or a particular village.

Q.—It will do if you could kindly give us all available information on the matter for our verification and investigation, if necessary?

A.—Yes, I shall furnish such a list.

The President :—The Committee is thankful to you for your evidence.

XI

Written statement of Mr. K. V. Manisseri Kunhammad, Member, Malabar District Board.

I. (a) The disabilities are :—Eviction or giving of melcharths by the time that the barren lands converted into fields, or parambas converted into gardens by planting of coconuts, begin to yield, and the houses constructed by the tenants as kudiyruppus are fit for habitation; the collection of renewal fees without any proper scale or limit; the conversion of kanam into mortgage and the forcing of agreements by which the janmi may evict the tenant regardless of the term of lease; the enhancement of michavaram and rent on every occasion when kanam, and the kanam converted into mortgage are renewed; the compulsory execution of kachits by tenants, making over their hard-earned improvements to janmis, the compulsory levy of money and other things by the tenants on occasions of kathakali or marriage in the house of the janmi or his relatives, and social oppression in various ways.

(b) So far as I know, the system of tenure in Malabar is different from that in other parts of India. I think that the reason is that the right over the land varies.

(c) In Malabar itself the tenants in South Malabar have more disabilities than the tenants of North Malabar, because, I think, the janmis of North Malabar are more gentlemanly and more considerate than those of South Malabar. There may be difference in their rights too.

(d) In South Malabar, the tenants of Ernad and Walluvanad taluks have more disabilities. The majority of the janmis of those places are very cruel.

Eviction.

II. (1) (a) Yes.

(b) Yes. I shall quote an instance from my own experience. I had a lease of 'valiyattu padinilam' and some other lands in Melmuri amsam of the Ernad taluk from the Manjeri Karnamalapad. The agent of the Karnamalapad was Andameenpat Govindan Nayar. No tax or michavaram was in arrears. Further, when there was one year more for the expiry of the lease, the said Govindan Nayar told me that I too, like all other tenants, should pay for a kathakali performance by the kathakali yogam established by the Karnamalapad and that the cost of it would be Rs. 25. As I am a Mussalman, I informed him that kathakali was not approved by my religion and that the demand should be reduced. After my repeated requests, he informed me that he would as a special favour reduce my amount to Rs. 12-8-0 by the payment of which I could escape the displeasure of the Karnamalapad. I paid that amount accordingly. At that time I consulted the agent about the renewal of my lease. He told me that if the matter was brought to the notice of the Karnamalapad at that time, I might be asked to renew my lease at once giving up the unexpired period; but if I waited till the expiry of the term, I could avoid the loss of the unexpired portion and that he would do the needful in the matter. The very same agent, immediately after, gave a melcharth of the lands, without informing me, to Pukkot Sankaran Nayar one of his relatives, and evicted me. There are several other instances. But they are not quoted for want of time. Evictions are increasing day by day.

(2) Yes. As the reply has to be prepared all on a sudden, and as there is no time to gather instances, I am not able to describe them here.

Remedies.

III (a) Give permanent rights to all tenants who regularly pay the janmis' just dues.

(b) Yes. Besides giving permanent rights to all kanamdars and to pattamdars who constructed houses and gardens and to all tenants whose kanams have been converted into mortgage and pattam, cultivating verumpattamdars who have been holding possession of lands for not less than six years without any arrears of rent and who give as security either in cash or in property an amount equal to one year's rent, if the janmi makes such a demand, should be given permanent rights.

(c) Kanamdars referred to in the answer to question III-(b) sub-kanamdars holding directly under kanamdars and cultivating verumpattamdars should be given permanent rights. The grievances will be redressed only if all these tenants are given permanent rights, and the granting of such rights to one kind of tenant will not be productive of any good.

(d) In olden days kanam was a right from which one was never evicted. Even now there are a few janmis who do not evict old tenants except for sufficient fault (on the part of the kanamdar).

The case of old tenants, i.e., of tenants who have been continually in occupation for at least 50 years, should be specially considered.

(e) The court-fee should be reduced for suits filed for the collection of rent and michavaram, and provision should be made for the summary disposal of such suits as well as for the easy execution of such decrees.

(f) Permanent rights need not be conferred on those who rent houses for occupation or occupy them without rent and on those who take lands for an year at a time for dry cultivation of a temporary kind.

IV (a) (1) Occupants of kudiyruppus should certainly be given permanent rights.

(2) No distinction need be made.

(b) (1) and (2). In towns, the land on which the house stands and surrounding place absolutely necessary for the people living in it. In rural parts, the house and the whole of the compound or paramba in which it stands. The area cannot be fixed.

(c) (1) A tenant who is unable to renew his lease or hold the land in possession may be evicted after adequate compensation is paid to him.

(2) It is not likely that excessive expenditure would be incurred for a house too big for one's needs. The tenant should be free to construct any kind of house he likes.

(3) The house which the tenant constructs for his own occupation should never be redeemed.

(d) (1) If a tenant wishes to acquire the janmam right of his kudiyruppu, it is necessary to make provision for it.

(2) The system referred to in question (d) (1) is not prevalent amongst Malayalis, but it will not be in opposition to their nature and practice.

V. Tenants who are in possession of wet lands and in most cases tenants who are in possession of gardens and kudiyruppus do not get adequate relief from the Tenants' Improvements Act. The law should be modified so as to give compensation to the tenants when wet lands are redeemed, if it is not proved that the janmi had first made the lands cultivable before giving a direct lease of it, and provision should be made to give a higher rate of compensation than at present, to tenants for their improvements.

Compensation.

VI. (a) In olden days janmis collected renewal fees, michavaram and pattam and no other compensation. So the tenant need not pay any special compensation for permanent rights.

(b) & (c) From the answer to question VI (a) no answer is required for these.

Rent.

VII. (a) Rent and michavaram enhanced within the last 24 years should be reduced and in cases where they have not been enhanced they should be left as they are.

(b) In most cases the present michavaram is unduly high. There are many instances. It will be clear from records of Sub-Registrars' offices. I shall cite one instance from my experience. I hold certain lands under a kanam lease from the Tamarasseri Illom. Originally the kanam of those lands was Rs. 400, and then the michavaram was 14 paras of paddy. Besides paying the renewal fees, I paid Rs. 500 more as kanam, which was thus increased to Rs. 900, and yet the michavaram was increased to 18 paras of paddy. In the subsequent lease, which is now in force, I paid besides the renewal fees Rs. 600 more as kanam which was thus raised to Rs. 1,500. In spite of my giving such a big amount to the janmi as kanam, the michavaram was enhanced to 24 paras of paddy and Rs. 2. Several other instances may be cited, but I refrain from doing so for want of time.

VIII. Out of the annual income from the property the lease of which is to be renewed, after deducting the tax, michavaram and interest on kanam, the kanamdar should pay half the remainder to the janmi once in twelve years as renewal fees.

General.

IX. In view of the above answers, this requires no answer.

X. (a) It is necessary to give the right of pre-emption to the old tenant. But the giving of it to the old tenant from the melcharthdar, there is the objection of collusion between the janmi and the melcharthdar for the purpose of exaggerating the fee of melcharth.

(b) The janmi who intends giving melcharth should certainly inform the tenant in writing that he should take renewal on payment of proper renewal fees and should give the tenant six months' time from the date of the notice.

(c) By limiting the right of granting lease, this danger may be avoided.

Remarks.

The customary relationship between janmi and tenant in Travancore and Cochin is similar to that in British Malabar. The rulers there are natives of the land who know the conditions prevailing in the country. It is some years since a law conferring permanent rights was brought into force in those States. That one fact proves that permanent right is essential in British Malabar also.

*Supplemental written statement of Mr. Kunhammad.**Eviction.*

In the last part of the answer to question II (1) (b), which I sent on 19th September 1927, I stated 'Evictions are increasing day by day'. But, so far as my enquiries in the Ernad and Walluvanad taluks go, some amongst the janmis who were prudent and clever, knowing that Diwan Bahadur Krishnan Nayar was taking an active interest in the Malabar Tenancy question, held a conference and decided that an increase in the suits for eviction, at this juncture, would form one of the causes for passing the Tenancy Law and that such suits must therefore be put off till the final decision of the Government in the matter, and communicated this decision to all the janmis. Hence, I understand that most of the janmis have now reduced the filing of such suits. But from the nature of the janmis it is evident that they are cruel towards tenants and that they will have the arrogance to wield their authority against the tenants as much as possible as soon as the Government cease to consider the matter.

Instances.

II (2) I shall just now cite two instances which took place during the last fifteen years as I have come to know in the course of my enquiry.

1. In the Mankada Pallipuram amsam of the Walluvanad taluk, there is a janmi known as Kadakkotil Nambudiri. That janmi evicted Parappurath Check Hajee and his brother from his lands under their occupation. On account of the influence of the Nambudiri, Check Hajee and others did not get proper compensation in that eviction. Then Check Hajee and others, who were not absolutely respectable, unlawfully destroyed the produce of two lands and the Nambudiri suffered loss thereby. As a result, the Nambudiri had a grudge against Check Hajee. In the meanwhile, marriage of the daughter of Check Hajee with another tenant and dependant of the Nambudiri was fixed. Hearing this, the Nambudiri sent for that man and threatened him with eviction and other harassments if he married Check Hajee's daughter, with the result that the proposal fell through. Check Hajee felt insulted and his anger increased. He therefore thought of murdering the Nambudiri and waited for an opportunity. As this Kadakkotil Nambudiri was at that time observing deeksha, he was not getting shaved. Another Nambudiri of Modapilappalli Mana was also observing deeksha at that time. Check Hajee mistaking the latter for his janmi, brutally murdered him near the bathing tank just before sunrise one day and he finally fell a prey to the bullets of the British army at Nenmini.

2. In the Kadannamanna amsam of the Walluvanad taluk a Mappilla named Mokari lived near the Kadannamanna kovilagam. He married a low-caste Hindu convert to Islam. The Tamburans of the kovilagam and others insisted that even after embracing Islam she should act according to the usage of the low-caste Hindus. Mokari, her husband, took exception to this. This displeased the janmi who made arrangements to evict him; and a Tamburan of the said kovilagam insulted the woman. Her husband whose ire was roused, brutally murdered the said Tamburan and absconded. Nothing more was heard of him.

Remedies.

III.—(d) In the answer to this question, 'old tenants' should be read as 'old kanamdars'.

III.—(e) At the end of the answer to this question the following must be added and read with it:—

'If the immovable property of the tenant is sold in auction according to the said summary decrees, provision should be made to cancel the sale if the decree amount is deposited within one year, and to restore the property to the former owner'.

Rent.

VII.—(b) To the instance cited in the answer to this question I forgot to add another instance from my own experience. I hold possession of a garden called 'Kodalakkod' in the Malapuram amsam under a kanam. I got possession of it from my father in $\frac{1899}{1074 \text{ M.E.}}$ The michavaram for it at that time was Rs. 3, and one chothana of coconut oil. When in 1083 M. E. I renewed its lease, though I paid an increased amount as renewal fees, soujanya, etc., the michavaram was increased to Rs. 6 besides coconut oil. When in 1096 M.E I again renewed the lease, besides collecting increased renewal fees, the michavaram was increased from Rs. 6 to Rs. 9.

Renewal fees.

VIII.—(a) Besides what I stated before, the tenant may give to the janmi as fees every 12 years, in the case of lands not having any productive improvements the amount that will remain after deducting the kanam interest from five times the tax, and in the case of lands containing improvements made by the tenant half of it. In case there is no balance after deducting the kanam interest because the kanam is so high, the janmi should not be entitled to any fees.

[Note.—As since translated by the Malayalam Translator to Government.]

Wednesday, the 30th November 1927 (afternoon).

Oral evidence of Mr. K. V. Manisseri Kunhi Ahmad.

The President :—Q.—Mr. Kunhi Ahmad, I find your answers are more or less the same as the answers given by Mr. Kunhi Moyi Haji Sahib. I take it you are not able to quote specific instances?

A.—I have given a few instances.

Q.—Well, we will take them up. In answer to question II (1) (a) and (b) you say, "I shall give my own experience. I had a lease in Melmuri amsam of Ernad taluk from the Manjeri Karnamalapad. His agent was Mr. Adameenpat Govindan Nayar. There was no arrear of rent or michavaram. Besides, a year before the lease I was asked by the agent to spend Rs. 25 for kathakali, which I said was against the sentiments of my religion and requested him to get the amount decreased. After my repeated requests he said that as a special case he would fix the amount as Rs. 12-8-0 which will not offend the Karnamalapad. I paid the amount. I also consulted the agent about the renewal of my lease when he said that if I approach Karnamalapad then he may require me to renew it at once without taking into consideration the unexpired time of one year and that it was enough if I approached him at the end of the lease period and that he would then do the needful. Immediately after this the same agent gave a melcharth of the lands to one of his relations (P. Sankaran Nayar) without my knowledge and I was evicted." Subsequently Govindan Nayar has obtained an assignment of the property from Sankaran Nayar.

Q.—Have you got any records in proof of this?

A.—I have not got them here now.

Q.—Then how are we to know whether there were any arrears of rent, michavaram, etc.? Have you got the plaint in that case?

A.—I will furnish these details later on. These things took place some ten years ago.

Q.—Then you say that there are very many other instances and for want of time you have not mentioned them. Can you give us any other instances now?

A.—I can't give any now.

Q.—Can you give us a list like the one promised by the previous witness Mr. Haji with full available particulars of all suits that have come to your knowledge?

A.—Yes.

Q.—You must understand that the Committee has to conclude its deliberations soon and therefore you will furnish details as soon as possible?

A.—Yes, I will do so.

Q.—You say under 'Remedies' in answer to question III (d) that "kanam was a right from which no one was evicted. Even now, only a very few janmis evict without justifiable grounds; the case of old tenants who enjoy the lands for over 50 years should be specially considered." What distinction would you draw between the tenants who have enjoyed lands for over 50 years and tenants who have enjoyed lands for a shorter period?

A.—If it is not proposed to grant permanent tenure, at least fixity of tenure may be given to those who have been in possession of land for over 50 years.

Q.—And what about compensation?

A.—No compensation need be paid except renewal fees and michavaram.

Q.—But under question IV (d) you say, "It is necessary that all facilities should be provided for a tenant to buy the janmam right of his kudiyruppu". Why should they pay compensation to the janmi by purchasing the kudiyruppu right from the janmi and paying value for that? If you are going to give permanent occupancy right to all the tenants without compensation to the landlord, why should the kudiyruppu-holder alone pay compensation for purchasing his rights?

A.—I do not know whether the Government would agree to all my proposals, that is why I have made such a modest request in the case of kudiyruppus.

Q.—If Government is not prepared to give occupancy right to holdings you would recommend that at least kudiyruppu-holders should be enabled to buy those kudiyruppus by paying compensation to the janmi? Is that what you mean?

A.—Yes.

Q.—How will the tenant find money to pay compensation to the janmi?

A.—Only those who can afford to buy these kudiyruppus may do so.

Q.—You say that the Tenants' Improvements Act does not provide adequate relief in almost all cases where there are gardens and kudiyruppus. Why?

A.—A house which will fetch Rs. 100 on actual sale will, according to the Act, be valued only at Rs. 50.

Q.—Can you give instances?

A.—It is not possible to give instances.

Q.—Then how can you complain?

A.—I shall quote an instance which occurred in our own family. A janmi had filed an eviction suit against me. If I had sold my rights in the open market I would have got Rs. 20,000 for the value of improvements. According to the Improvements Act the improvements were valued at Rs. 12,000 and according to the agreement between the janmi and myself I got only Rs. 6,000. The agreement was entered into prior to 1885, i.e., in 1884 November or so.

Q.—Did you contest in the court that that condition in the agreement was not enforceable?

A.—Yes, I did contest, but the court did not agree as the agreement was made prior to 1885.

Q.—But when you expressly agreed in the lease-deed to receive only half the value of the improvements, why should you complain now that only half the value was decreed by the court?

A.—Fearing that the janmi will not give the land I did agree then. My intention was not bona fide.

Q.—It is not a good instance. What can the court do if there was such an express stipulation in the deed?

A.—My point is that even if the whole value of improvements (Rs. 12,000) had been paid to me I would still be a loser to an extent of about Rs. 8,000.

Q.—Do you think that it is due to defect in the Act or the corruption of the Commissioner?

A.—I believe it is due to the defects in the Act which does not enable the Commissioner to value the improvements properly.

Q.—What are those defects? Can you mention them?

A.—According to the Act the life of a coconut tree is only about 60 years. I know of trees which have survived for 100 years and yielded all along.

Q.—What are the other defects in the Act?

A.—I can only say that the Act should be so amended to give the tenant higher value of improvements.

Q.—You say in answer to question V "If it is proved that the janmi has not made lands cultivable, adequate value is to be given to the wet lands." How is it to be proved?

A.—Waste lands are assigned to the tenant and he reclaims them for cultivation. When the lease is renewed they are mentioned as wet lands and the tenant is not entitled to any value of the improvements.

Q.—Is not the tenant given favourable terms during the time the land is being reclaimed?

A.—That is no adequate compensation to the tenant.

Q.—Then how will you prove that the tenant converted waste land into wet land and not the janmi?

A.—The burden of proof should be on the janmi.

Q.—You say no compensation is necessary for giving occupancy right to the tenant. Don't you realize that the janmi will suffer loss by that?

A.—Under the old conditions the janmi will not be a loser but under the present conditions the janmi will be a loser.

Q.—Were not janmis selling lands in olden days?

A.—Yes, the janmi sold and also received michavaram and renewal fee.

Q.—Can you prove it with reference to documents?

A.—No, it is not possible.

Q.—Paddy worth one rupee then is worth four rupees now. Then what is the advantage in our taking the old sale value and comparing it with the present yield?

A.—The price that was fetched then was not even one-fourth of what would be received now.

Q.—Can you quote instances?

A.—I am unable to give any now.

Q.—Can you furnish details?

A.—We will have to go through cadjan documents.

Q.—Never mind we will go through them?

A.—Yes, I shall try to furnish documents.

Q.—You say in almost all cases michavaram is unduly high. Why do you say so?

A.—Because at the time of every renewal michavaram is being raised.

Q.—But the michavaram is nevertheless less than the verumpattam?

A.—Yes, certainly.

Q.—In answer to question VII (b) you say 'I am giving out my experience. I have some lands leased out from Tamarasseri Mana. The kanam was Rs. 400. Michavaram was 14 paras. At the time of renewal though I paid Rs. 500 more making the whole Rs. 900 the michavaram was raised to 18 paras. In the next lease the kanam amount was raised to Rs. 1,500 and michavaram to 24 paras and Rs. 2' What about the renewal fee?

A.—It was about Rs. 180 and odd.

Q.—And what is the interest that you got on the kanam advance of Rs. 1,500?

A.—Roughly, it will be about 7 paras per Rs. 100.

Q.—And still you make a profit?

A.—I am not able to make any profit.

Q.—Then why do you keep the holding at a loss?

A.—Because it is an ancient property and so I don't want to leave it.

Q.—I think you will be getting about 30 paras of paddy as profit?

A.—I have borrowed some money for payment of renewal fees and also enhanced kanam amount at 10 paras per 100 rupees.

Q.—And you keep this land on account of your attachment to it?

A.—Yes.

(When the President remarked that he had finished his examination the witness remarked that he had sent in a supplementary statement to the questionnaire wherein he had mentioned a few instances of social oppression by Nambudiris and other high class janmis which resulted in murders.)

The President:—That supplementary statement has, however, been not received by the Committee.

The witness then produced a copy * and added—

"The janmis are now saying, that if the Government drops the idea of helping the tenants, they could then oppress the tenants with redoubled force."

The President:—Q.—Is it your contention that there should be some regulation, some sort of formula for the payment of renewal fee, fair rents and michavaram?

A.—Yes, that is what I want.

Q.—Supposing the existing michavaram and the existing renewal fees are too low you will have no objection to raise them to a reasonable limit?

A.—I have no objection.

Q.—Your first reply was that the renewal fee should be half of the profit from the land after deducting the land revenue, michavaram and the interest on the kanam advance?

A.—Yes, that is what I said.

Q.—Do you modify that statement now? Do you apply this renewal fee formula to all kinds of lands?

A.—That formula is applicable to improvements effected by the tenants or planted by them.

Q.—Then how would you fix the formula in the case of lands where all the improvements are made by the landlord?

A.—Half of the total income less michavaram in the case where all the improvements belong to the janmi and one-fourth of the total income in case all the improvements belong to the tenant.

Raja Sir Vasudeva Raja :—Q.—What is the total extent of your land?

A.—About 200 to 300 acres of wet lands and parambas. One hundred acres are paddy lands, the rest are waste lands.

Q.—Are they all janmam lands or kanam?

A.—About 50 acres kanam and the rest are janmam lands.

Q.—Under how many janmis do you hold lands?

A.—About seven or eight janmis.

Q.—These 50 acres are held under them?

A.—Yes.

Q.—What interest will a person expect if he invests his money on a holding which is held on kuzhikanam?

A.—Anybody investing money like that will be getting about 10 per cent interest.

Q.—If several instances are seen where the janmi does not get even 2 per cent on the value of improvements deposited in court at the time of eviction then it shows that the Improvements Act is defective and is more in favour of tenants. Is it not?

A.—There are no houses in our parts. My formula refers only to trees, etc.

Q.—You have mentioned two cases of murders said to have occurred as a result of social oppression by janmis some twelve years ago. Within the last twelve years you have not heard of any such cases on account of agrarian troubles?

A.—I cannot say there have been murders except during the last rebellion, but one case has come to my notice and that is this: I have heard that the Mondambalath Moosad evicted a peon of the Manjeri District Munsif's Court (who was his tenant) for having walked in front of the Moosad with shoes on.

The President :—Q.—Are there any records concerning that case which you could furnish?

A.—I read about it in the newspapers and I believe it was O.S. No. 616 of 1923.

Q.—Have you got any more instances?

A.—What more do you want? There have been very many instances like that which have not been brought to light.

Q.—Which do you consider more excessive, the michavaram or the Government assessment?

A.—Government don't increase their assessment arbitrarily as the janmi does. Compared to michavaram, Government assessment is far better.

Q.—What about the rent collected from the verumpattam tenant? Is that also too high?

A.—I think it is fair so far as I am aware.

Q.—So, if any legislation is contemplated the present verumpattam rents may be taken as fair rents?

A.—I think so, so far as my knowledge goes, in the Ernad taluk.

Q.—So reduction is only wanted under michavaram and not verumpattam?

A.—Michavaram and renewal fees should be stabilised and reduced.

Q.—You are not a verumpattam tenant under any janmi or any other tenant?

A.—No.

Q.—You stated that in the present documents the nature of the improvements whether they are made by the tenant or the janmi will not be mentioned and therefore a tenant is not able to claim any compensation?

A.—Yes.

Q.—The very first original demise will show what the state of the land then was?

A.—Yes.

Q.—And if the land had remained continually in possession of the tenant, will not the last document show the nature of the improvements effected and the position of the holding then?

A.—No, it will not be seen. The original document will show that the plot was leased out as a paramba and it will now be seen that that paramba has been converted into, say, a 100 para land.

Q.—Will it not be seen that the tenant has improved the land to that extent?

A.—No, the old document will be taken back by the janmi. At the time of every renewal the old document will have to be given back to the janmi.

Q.—If what you say is true, copies of these documents could be got from the Registrars' offices?

A.—These were mainly ancient documents which were drawn up even prior to the institution of registration offices. Registration offices were, I believe, established only about 60 years ago.

Q.—Are you aware that courts have decided that the janmi has got the right to redeem his land by evicting his tenant and that since 1852 it has been legally recognized?

A.—Yes, that is the practice.

Q.—And do you know that the right of eviction possesses some value?

A.—Yes, it is now considered so.

Q.—If a valuable right is taken away from one, is it not necessary to compensate the man from whom the right is being taken away?

A.—My belief is that it is a right which did not exist before and they have got that right now; that is all. That is why I say no compensation need be paid.

Rao Sahib V. Krishna Menon :—Q.—You said in answer to the last question of the Raja Sahib that the janmi has no right to claim any compensation?

A.—Yes.

Q.—When a tenant plants some trees in the janmi's land the tenant gets a right also?

A.—Yes.

Q.—The janmi has got a right over his land and the tenant over his trees; is it not so?

A.—Yes.

Q.—Both of them have got vested interests and the whole concern has to be considered as a joint partnership?

A.—Yes.

Q.—In Ernad taluk there are good janmis, I think?

A.—So far as I am aware, Kizhakke kovilagam are the good janmis there.

Q.—You think that if the example of the Kizhakke kovilagam is followed no injustice will be done to the tenants?

A.—I have heard that the Kizhakke kovilagam people have raised rents in and around Kottakkal but the rates of rent which they collect from other parts of their lands may be considered very fair.

Q.—You said that the renewal fee should be 2 per 10 or 20 per cent on the kanam amount. Is that a fair renewal fee?

A.—In the case of the Kizhakke kovilagam people it might be fair because they have only small kanam amounts. But in the case of other janmis that rate is not reasonable.

Q.—It is said that janmis stand to lose if they evict tenants from gardens?
A.—It is said so.

Q.—Do you think that a janmi can make as much profit out of a garden as a tenant can?

A.—If the janmi cultivates it himself, he can do so.

Q.—Supposing a coconut garden owned by a tenant is taken by a janmi, what he does generally is that he appoints a kariyastan to look after the garden?

A.—Small janmis may themselves cultivate the garden, but in the case of big janmis they may not cultivate themselves.

Q.—In the case of a big janmi, supposing he keeps a kariyastan, will the return be increased or decreased?

A.—The kariyastan also will make a profit out of the garden; so I don't think the janmi will stand to gain by so doing: on the other hand he stands to lose.

Q.—Under any circumstances the janmi cannot make more than what the cultivating tenant makes?

A.—No.

Q.—It is said that the janmis pay the assessment?

A.—No, in our parts the tenants pay the assessment in the name of the janmi.

Q.—Even if the tenant pays on behalf of the janmi it is literally the tenant who pays and if there is an increase in the assessment, in that case who is to pay it?

A.—The tenant himself pays it. There is usually a special clause in the document that all increases in the assessment should be borne by the tenant.

Mr. Kotieth Krishnan:—Q.—You plant coconut trees yourself?

A.—Yes.

Q.—Now in the case of planting coconut trees, take for instance, the first time that you plant a waste land, you first put up a bund all round, then you dig pits and plant trees. Take the usual cost from the very beginning right up to the time when the tree begins to bear sufficiently well for you to get an income. Supposing you take the capitalized cost from the very beginning and taking compound interest on all expenditure till the tree yields, you get a certain figure for every tree. Compare with this amount with the value decreed according to the Improvements Act, which will be greater?

A.—The value that we get under the Act will be far less than the actual expenditure.

Q.—And in the beginning very many trees often perish?

A.—Yes, we will have to plant some again. And these young trees will have to be watered for three years after planting during dry weather.

Q.—Supposing reclamation is effected by the tenant, will the janmi allow that to be mentioned in the lease deed at the time of the renewal?

A.—In most cases big janmis don't allow that to be mentioned, but in the case of small janmis they do allow those things to be mentioned.

Q.—I suppose if the janmis are in needy circumstances they will agree to the reasonable suggestions of the tenants?

A.—Yes.

Q.—You have in Malappuram a land for which you pay Rs. 9 michavaram?

A.—Yes.

Q.—What is the verumpattam rent that you are able to collect?

A.—About 125 paras of paddy.

Q.—What will be the value of the improvements on that property?

A.—It may be worth about Rs. 1,250 according to the present Act.

Q.—Are there any improvements belonging to the janmi in that plot?

A.—None.

Q.—You say you have got some verumpattam tenants under you, cultivating paddy fields?

A.—Yes.

Q.—Do they get half the gross income as their share out of which they pay expenses of cultivation?

A.—Yes, I believe he will get half the gross.

Q.—May I take it that is the case throughout Ernad taluk?

A.—I think it is almost so.

Q.—What fraction of the gross yield will be the cost of cultivation including the cost of the seed?

A.—If we spend about 500 paras we will get about 2,000 paras of paddy gross yield. So, I believe the cost of cultivation expenses will roughly amount to 25 per cent of the gross yield.

Q.—It is alleged by some of the janmis that in Malabar the tenants have no grievances and that the present agitation is all the work of a few interested persons, some vakils and others. Is that your opinion?

A.—I don't agree with that. It is far from the truth. Their grievances are really genuine.

Q.—May I take it that the tenants are looking forward to the Government to see that their condition is improved?

A.—Yes, they are eagerly looking forward to the Government to have their grievances redressed.

The President:—Thank you, Mr. Kunhi Ahmad, for your evidence.

XII

Written statement of Mr. K. C. Alavi, District Board Member, Malabar.

Disabilities.

I. (a) Eviction or giving of melcharths by the time the gardens planted by and houses erected by the tenants become useful.

Collection of renewal fees without any fixed scale.

Conversion of kanam into mortgage.

Enhancement of rent and michavaram, on renewal of kanam.

Forcing (the tenant) to write that improvements made by him belong to the janmi. Forcing the tenants to spend money for kattakali, etc., and imposition of various social harassments, etc.

(b) So far as I know, the tenancy system prevailing in Malabar is different from that of other districts.

(c) Even in Malabar itself, there is difference in the system of tenancy in South and North Malabar.

(d) Even in South Malabar, maximum hardships are in Ernad and Walluvanad taluks.

Eviction.

II. (1) (a) Yes.

(b) Yes.

(2) Yes.

The causes and details will be seen if the records of the courts and Registrars' offices in Ernad and Walluvanad taluks are examined.

Remedies.

III. (a) To make a law conferring permanent rights on those tenants who regularly pay the janmi's dues.

(b) & (c) Besides conferring permanent rights on all kanamdars and on pattamdars who have constructed houses and planted gardens, and on tenants whose kanam has been changed into mortgage or pattam or whose pattam has been changed into mortgage, cultivating verumpattamdars who have been in possession for not less than six years and have given security either in cash or by means of property for the rent, should have permanent rights.

(d) As the people generally enjoy kanam property in the belief that it can in no way be redeemed by the janmis, all kanamdars should be given permanent rights irrespective of their having been in occupation before or after 1852.

(e) Panchayat courts as well as summary courts with reduced court fees should be empowered to collect rents.

(f) Those who hire houses or gardens on rent, and those who have taken lease of lands for ginger and other temporary cultivation, should not be given permanent rights.

IV. (a) (1) Permanent rights should be granted.

(2) No distinction need be made.

(b) (1) & (2). No necessity to fix the extent.

(c) (1), (2) & (3). (1) Tenants who are not able to pay up a reasonable amount, should be evicted after paying them reasonable compensation.

[(2) The tenant should be free to construct a house (according to his own wish).

[(3) Houses in no case should be redeemed.

(d) (1) & (2.) It is not necessary to compel the tenant, as it is contrary to the usage here.

V. By the Tenants' Improvements Act, tenants do not get relief in respect of wet lands and in most cases in respect of gardens also.

Compensation.

VI. (a) As, in former times, janmis were collecting from tenants michavaram and renewal fees and nothing else, they should be given facilities to realize those amounts even now. No other compensation need be given.

(b) & (c) Vide the answer to (a).

Rent.

VII. (a) & (b) Rent and michavaram enhanced within the last ten years should be reduced. In other cases (as changes are likely to increase the volume of litigation) it should be allowed to remain as it is at present.

Renewal fees.

VIII. (a) Twenty-five per cent of the kanam amount may be taken as renewal fees.

(b) The rates of fees in the taluk vary.

General.

IX. Compulsory purchase is unnecessary, but permanent rights are absolutely necessary.

X. (a) Melcharths should never be given.

(b) If the janmi himself files a suit to evict a tenant who does not yield, they may come to terms subsequently, but melcharths will preclude such chances. Hence melcharths should never be allowed.

(c) In the light of the above answers, no answer is required. And besides, such collusion cannot be avoided.

[Note.—As since translated by the Malayalam Translator to Government.]

Wednesday, the 30th November 1927 (Afternoon).

Oral evidence of Mr. K. C. Alavi.

The President :—Q.—Where do you come from?

A.—From Manjeri, Ernad taluk.

Q.—Are you a janmi or a tenant and, if so, how much janmam lands and how much kanam lands do you possess?

A.—I am both a janmi and a tenant, but more a tenant than a janmi. I have got about three acres of janmam land and about six acres of kanam lands and also about three or four acres on mortgage. I hold lands on verumpattam also which I have sublet to cultivating verumpattam tenants. My verumpattam lands yield about 200 paras of paddy. Some of these lands are held by me jointly with my brother.

Q.—So jointly you have about twelve acres of land?

A.—Yes.

Q.—I find your answers are almost similar to those of Messrs. Kunhi Ahmad and Kunhi Moyi Haji, witnesses who were examined before you, so I need not detain you long?

A.—We three did not make up these answers after joint consultation. We met together now here and I find that our answers are almost on similar lines.

Q.—I don't want to put you any question except where your written answers are not quite clear. You say under 'Rent,' 'Rent and michavaram' except those that have been increased during the past ten years should be fixed as such?

A.—If the rent and michavaram have been raised during the last ten years, they should be reduced to the old level. That is what I mean. In all other cases the existing rent should be taken as proper rent.

Raja Sir Vasudeva Raja :—Q.—You said you have got about 10 or 12 acres of land. How much of it do you cultivate yourself?

A.—I only cultivate one acre as an experimental measure (wet paddy land) and the rest has been leased out to cultivating tenants.

Q.—Is there any difference in the verumpattam and the yield that you get from direct cultivation and, if so, will you say how much it is?

A.—As I said, I am cultivating this one acre only as an experimental measure as the tenants say that the rents are high. I have not yet known the result, and I have realized only one crop till now as a result of experimental cultivation.

Q.—Under whom do you hold your kanam lands?

A.—I own kanam lands under the Karikkat devaswom.

Q.—What is the renewal fee that you pay?

A.—We have been holding under the devaswom for the last 65 years. They have been dealing with me very fairly. Five years have now passed after the renewal period of twelve years and no renewal has yet been made. The present kariyastan is now demanding increased renewal fee which I consider unjust.

Q.—So you have been higgling for the last five years about this renewal fee?

A.—When the renewal period came round five years ago the janmi himself said that there was no hurry and that he could wait till the Government passed some legislation in the matter of land tenure for Malabar. There were many ooralars for the devaswom. One of them who looks after the management of the devaswom told me so. The old man said, 'You may continue paying the michavaram, but there is no hurry to make the renewal now'. Thus four years passed away. Last year the managing ooralar was changed. He gave me a list regarding the renewal fee which I found to be excessive.

Q.—So at least one year according to you has elapsed without determining what renewal fee is to be payable?

A.—That manager has gone away and a new man has come in now. He has not yet asked me for the renewal fee.

Q.—So even now the renewal fee remains unsettled?

A.—No, they have not yet demanded it from me.

Q.—You said the previous renewal fees were all fair. What was the rate then?

A.—It was 25 per cent of the kanam amount.

Q.—On large or small kanam amounts?

A.—Small kanam amounts.

Q.—If occupancy right is given to the kanam tenants, can they get more value if they sell their interest in the lands?

A.—Even now they are getting value for it.

Q.—But if occupancy right is granted to them, will they not get more value?

A.—I don't think so.

Q.—If you won't get any additional value, why do you want occupancy right?

A.—Because they will get more value if occupancy right is given.

Q.—So if they get more value if occupancy right is given, then should not the janmis be compensated for it?

A.—No. The janmi is entitled only to michavaram and the renewal fee.

Q.—Has he not got the right of eviction?

A.—He ought not to have that right. Anyhow evictions are taking place now.

Q.—You say kanam is a right which is not evictable. How many years ago was it so?

A.—It was so several years ago.

Q.—How many years is it since eviction has been allowed according to law?

A.—Some janmis don't evict even now.

Q.—For the last 70 or 75 years the janmi's power of eviction has been recognized by law, is it not?

A.—Evictions began 50 years ago and they have been on the increase for the last 25 years.

Q.—If the janmi leases his land for a period of twelve years, you say that he can't get back possession of the land at the end of the period?

A.—People say that kanam lands are irredeemable. For the last ten years janmis have begun to separate wet lands from parambas.

Q.—Can you give instances where such things have happened?

A.—I can't say that now.

Q.—But can you specify instances which have come to your knowledge and send the information to the Committee within a week?

A.—Yes, I shall give the information required.

Mr. Kotieth Krishnan:—Q.—What is the verumpattam rent which you are getting for the holding which you have under the Karikkat devaswom?

A.—It was 66 paras but now it has been raised to 70 paras. (Witness filed the renewal deed in connexion with this property.)

Q.—And you have to pay to the dewaswom Rs. 10-2-0?

A.—I have to pay much more than that. I have to pay 20 paras of paddy or its equivalent in money. The present market value of paddy is about Rs. 16 or Rs. 17 for 20 paras. I will give the michavaram to the dewaswom when paddy is selling at a reasonable price.

Q.—And the dewaswom has to be paid two annas for oil?

A.—Yes.

Q.—That is all you have to pay?

A.—Yes.

Q.—What was the original renewal fee paid on this property, do you know?

A.—It was my brother who took the last renewal. I don't know how much he paid for that.

Q.—What does the present ooralar, who is managing the affairs of the tarwad, demand from you as the renewal fee?

A.—He demands Rs. 57-11-0.

Q.—And you consider that too high?

A.—Yes.

Q.—The kanam amount on this property is Rs. 6-4-0 and you have no further interest in this land?

A.—We purchased this kanam in 1057 for Rs. 200. So Rs. 6-4-0 is not my only right in the property.

Q.—Supposing the janmi evicts you from this property you will get only Rs. 6 and odd?

A.—Yes.

Q.—Then why was it that your father paid Rs. 200 and odd for the assignment right?

A.—In the belief that we will not be evicted from the land.

Q.—What is the janmam value now in the Ernad taluk for a property which fetches about 70 paras of paddy?

A.—About Rs. 1,000.

Q.—What would have been its price in 1057?

A.—It would have been only about Rs. 250 or Rs. 300.

Q.—You said that you have just started your experiment as a cultivator and you said you have got the first crop. Does that first crop fetch you the verumpattam rent on that land after deducting your expenses of cultivation including the seed value?

A.—No.

Q.—What portion of the verumpattam did you get?

A.—I got only about one-third of the verumpattam rent and that was because of sand accumulation in the fields. That was the special reason why I had a loss. Otherwise I would have realized the full verumpattam rent by the first crop alone.

Q.—The first crop is fairly good in the Ernad taluk?

A.—Yes.

Q.—You are very intimately acquainted with your co-religionists in the Ernad taluk who are tenants because you have been born and bred up at Manjeri?

A.—Yes, I am fairly acquainted with the conditions obtaining in the Ernad taluk.

Q.—Do you know that they are all anxious to have fixity of tenure and a tenancy law for Malabar regulating the relationship between the landlord and the tenant?

A.—Yes.

Raja Sir Vasudeva Raja of Kollengode:—Q.—In what year did you take the assignment you referred to?

A.—1057.

Q.—How much is the michavaram and how much is the interest payable?

A.—Including interest it is 20 plus 6 or 26 paras of paddy.

Q.—When was the next renewal after the purchase of the assignment rights?

A.—That was in 1064.

Q.—So out of 70 paras which you get as verumpattam the outgoings will come to 26 and the balance is 44 paras; you took the renewal after seven years?

A.—Yes.

Q.—So within seven years you made 308 paras or 7 times 44 paras?

A.—Yes.

Q.—You have paid Rs. 200 for the assignment right and you have thus got back your advance of Rs. 200 and you have a balance of 108 paras which is your profit?

A.—But in those days paddy was selling at 3 or 4 paras per rupee.

Q.—Do you say that all the balance that you get is paid as the renewal fee?

A.—Not the whole of it of course.

Witness filed another certified copy of assignment deed which he had obtained. Dealing with it the witness said: "In the other case where I got an assignment the kanam rights were purchased for Rs. 350 while the actual kanam amount is only Rs. 9-2-0, the rent payable being 17 paras of paddy and 2 annas. That holding consists of three wet lands and one paramba. I get 80 paras as verumpattiam on this land".

Q.—What is the renewal fee that you have to pay?

A.—I don't know the old renewal fee; but now Rs. 53-4-0 is claimed.

The President:—Thank you, Mr. Alavi, for your evidence.

XIII

Written statement of Mr. Punmasseri Neelakanda Sarma.

I (a) What are the disabilities of the Malabar tenants? This question must necessarily refer to the disabilities regarding the tenancy. The disabilities of the kanamdars, kuzhikanamdars and the verumpattamdars who hold under janmis, are only that they have to pay the michavaram, etc., agreed upon. But the tenants do not pay it in time and leave it in arrears. While the janmis through generosity will not compel them to pay up the dues every year without arrears nor will they sue for it. Even those who are responsible to pay it, without fail, will be reluctant to pay the amount without coercion. The tax is the first charge on the property. The adhkaries find it difficult even to collect that tax and they have to make extensive use of warrants, distraint, etc., for the purpose. Such being the case, rent, taxes, etc., for several years will be in arrears. And subsequently that will have to be collected with interest and costs, by means of a suit. Such are the disabilities which the tenants have to suffer from the janmis. The hardships of the janmis resulting from it are not a whit less. Rent, tax, etc., will not be collected from the tenants in time. The janmis will be served with a distraint notice for the collection of the tax, and of course, the janmis have to see to their usual expenditure as well; thus the janmis are put to great difficulties. For this, their negligence due to a want of the sense of responsibility as well as the misplaced generosity of the janmi is equally responsible. Even in the case of the payment of renewal fees and effecting renewal, the same procedure obtains for the most part. Besides these, in former days there used to be some control exercised by janmis over tenants in social matters. For the most part, this control related to moral conduct. Those who were ignorant of morality and did not want it, would naturally look upon this control as a hardship. But those who were aware of the benefit of moral conduct and wished to acquire it considered it a boon rather than a hardship even in those days. Such control has gradually disappeared. By humble opinion is that this has become a source of harm to the tenants. The condition of the tenants who are not directly under the janmis but under kanamdars, etc., is also practically the same. But the rent, michavaram, etc., which they have to pay will be higher than the amount due from those who are directly under the janmis. Hence their hardships too are greater.

(b) I am not able to say definitely whether these disabilities exist in other parts of the country. But this mutual relationship and the consequences resulting therefrom are not peculiar to Malabar. I think that they will exist in other parts of the country with slight modifications. The natural generosity shown by the aristocrats and the negligence of the other party cannot but exist in all parts. The disabilities

resulting therefrom will have to be undergone. There may be a few people who are by nature endowed with a sense of duty and the determination to carry it out properly. Some will have such a sense as a result of education, while others by association, while some others as a result of both. Such people too are to be met with. Similarly there may be a few who may not misplace their generosity. In the case of such the disabilities will be fewer. This will apply equally to Malabar as well as to other parts of the country.

(c) Both in North Malabar and South Malabar.

(d) Between the several parts of South, there is no difference in the above matters worth mentioning. And it need not be said that they are peculiar to the tenants. In recent times all people in general have begun to suffer hardships, as a result of increase in the number of members in families, increased expenditure due to the new system of education, new civilization, the craze for imitation, excessive freedom for self-willed action without any respect to old traditions. This has already affected and is affecting both the tenants and the janmis as well as other people. Several tarwads have been reduced to misery, as a result of partition due to internal dissensions. This will be found more amongst tenants than amongst janmis. Besides, as a result of the activities of pro-tenant agitators during the last few years both janmis and tenants have had to suffer alike. Tenants have become more negligent in the payment of their dues. And janmis are gradually reducing their generosity. Thus the old cordiality between them is gradually disappearing and consequently also their mutual benefit. In former times, janmis used to get much physical help from tenants and they in their turn used to get pecuniary and other help from the janmis. Both the parties considered this mutual help as dignified and useful. Now, as a result of the activities of tenancy agitators, such mutual help is practically non-existing. It is in South Malabar that the traditional relationship between janmis and tenants, piety, and respect for teachers and elders have been undermined more than in North Malabar. The leadership of the people has not fallen on youngsters in North Malabar to the same extent as in South Malabar. It is in South Malabar that tenancy agitators have been most active. I do not think that anything more need be said about disabilities at present.

II. 1 (a) In deciding whether the grounds are just or unjust, there will be great difference of opinion. Grounds which are justifiable in one's view may be unjustifiable in the view of another. If a property is handed over to a tenant, the owner of the property has naturally the right to redeem it, on the expiry of the period agreed upon or the customary period. Then no special reason need be shown to do so. So it is not necessary for the owner then to decide whether it is just or unjust. But people who stand as arbitrators are in the habit of considering whether it is just or unjust. Pro-tenants will always contend that it is unjust, and the other party (pro-janmis) will always say that it is just. So far as I know, I do not think that tenants are evicted on unjustifiable grounds. An examination of the estate of any janmi will show that only 2 or 4 per cent of the tenants are evicted. For this there will be proper grounds also. So far as the writer of this answer knows, in no case has a tenant been evicted except on just grounds, such as the failure of the tenant to pay in time the rent and tax fixed, failure to effect renewal and pay the renewal fees at the time for renewal, the refusal of the tenant to effect renewal with the enhanced rent fixed by the janmi having regard to the income from the property and the enhanced expenditure which the janmi has incidentally had to incur, doing anything so as to injure the janmam right of the janmi on that property, refusal to co-operate with the janmi like other people in just and useful matters undertaken by the janmi, the existence of some reasonable necessity for the janmi to redeem the property, doing wilfully anything to vex or to cause disgust to the janmi and such other matters. Nay even on just grounds, evictions by janmis are rare. The reason for this is the severity of the Tenants' Improvements Act, the natural generosity, and the neglect of the janmi and the excessive Court fees.

(b) Now, melcharths are rare; they are resorted to only when there is no other way out. Melcharths are now generally given when the property has to be redeemed for some special reason and the tenant does not yield and surrender the property and the janmi is unable to go to the Court for evicting the tenant. When delay is anticipated for eviction by a suit, and when the janmi has misgivings

about the property being used according to his intentions by his successor in title, melcharths are sometimes given. When land is to be redeemed on grounds referred to in II (a) and the janmi is unable to do it, some melcharths are given. Such melcharths cannot be said to be unjust. Melcharth itself means to hand over one's right to redeem a property to another and to fix by means of an agreement the relations between the janmi and the new tenant for a limited period. Similarly it is usual to give a mortgage of the property already mortgaged to another. This is done both as hypothecation and as mortgage with possession. This is not considered to be unjust by any one and there is no reason to deem it so. Several janmis do not give melcharths at all, thinking that collusion between the melcharthdar and previous tenant might be harmful to the janmi.

(2) The answer to this is given to a certain extent in the answer to the first question. It is used for the benefit of the tenants and not to harass them. Karnavans try to improve the conduct of anandiravans by advice and compulsion. This is done also by teachers in the case of students. When they do not obey, they are punished. Some of them will think that this is harassing them. Some tenants also may think like that. But since the tenancy agitation started vigorously, Janmis do not do even that. The janmis do not now interfere in social matters, as they think that such tenants as do not wish to enjoy the benefit of interference in such matters may reap the fruit of their own follies. The responsibility for the harm that will come to the tenants, rests on tenancy agitators. If any body makes the statement that janmis harass tenants in social matters, it is hoped that the explanation of those who are alleged to be harassing will also be taken. As on the contrary, the tenants do not observe the customary tradition in social matters and the tenants put obstacles in the way of janmis trying to secure such observance, it is to be regretted that the question whether the janmis are harassed by the tenants does not find a place in the Questionnaire.

III. (a) This question deals with the remedies in the case of these disabilities. It has been pointed out in the answer to question I that no disabilities are caused by janmis. But in former days the relationship between janmis and tenants was of mutual benefit, and the cordiality between them was permanent. Then, the condition of Malabar was prosperous. Steps should be taken to maintain that state of affairs in future. To attain this object, it must be announced that the long-standing usages of the present day will not be changed, and instructions should be given advising continuance of the approved usages as of old. This I think is all that is necessary.

(b) I do not think that permanent rights should be given. But it is necessary that tenants who properly cultivate and improve the land, pay their dues, such as rent, tax, etc., in time, without arrears, and conduct themselves properly in accordance with old customs, should not be evicted. If they are to be evicted, he who evicts should have some material benefit or tenants should have some serious faults. Kanamdars are persons who have lent money to the landowner. The borrower should always have the right to discharge that debt. Kuzhikanamdars are persons who hold the property with a view to make improvements thereon. If they transfer the property to another their relation with the holding may be severed. Verumpattamdars are generally cultivators. Sub-kanamdars and some sub-verumpattamdars mentioned as Nos. 4 and 5 are, while they hold and enjoy the property, in the same position as actual cultivators. When we think of sub-tenants under verumpattamdars mentioned as No. 6, verumpattamdars may be deemed to be included among kanamdars. They are like kanamdars who, standing between the janmi and the real cultivators, enjoy profit. They (kanamdars) have lent money but these have not. This is all the difference.

(c) The answer to this is included in the answer to (b).

(d) It has been already pointed out that kanamdars need not be given permanent rights. Hence it is not necessary to consider how long they have been in continuous possession. If they are to be given permanent rights, they should have held all the properties included in a lease, in their own possession, without alienating any of them, should have paid michavaram, etc., every year without arrears, and should have been holding the property continuously from before 1852 up to this day, and even then, only as long as none of the grounds for eviction

mentioned already exists in their case. It should not be given to any others or in any other way.

(e) Whether permanent rights be given or not, provision should be made that if rent, tax and other dues are in arrears, a decree may be obtained for the amount from the panchayat court, or by summary procedure by the Munsif Court or the Sub-Court, and further that the decree amount should be collected by the Revenue department as if it were arrears of revenue and paid at once to the janmi. Permanent rights should not be given in the following cases:—

(1) When the property is near a temple, or a tank used by high caste Hindus, or the residence of Brahmins.

(2) When it is between the temple, temple tank, or the residences of those connected with the temple.

(3) When a particular portion of the income from the property handed over to the tenant, is being used for some religious ceremonies.

(4) When either from usage or agreement there is the special condition that the property given is to be used for some special cultivation.

(5) When any religious purpose is likely to be obstructed if the property should go into the hands of some people belonging to a different caste or religion.

IV. (a) (1) No law giving permanent rights to kudiyruppu is necessary. If a kudiyruppu is to be redeemed, cost of improvements has to be paid and when on redemption it comes into one's possession, one has still to spend money to maintain it. On account of these circumstances, it is not usual now to redeem kudiyruppus. If quite a few are redeemed at all, it will only be on account of some special need which cannot be otherwise provided for. If wet lands and kudiyruppus are held under one and the same lease, it may so happen that on account of the desire to redeem the wet lands and since that cannot be claimed separately, the kudiyruppus may be redeemed also, or it may be the case that wet lands cannot be cultivated without getting possession of the kudiyruppus as well. In cases, where there are several kudiyruppus under one and the same kanamdar and they are held by several tenants under the kanamdar, it is usual to hand them back to the previous occupants under new conditions, even if they are evicted with the kanamdar. Such people only rejoice that they have become tenants directly under the janmi. So no new legislation is necessary for this.

(2) If in this matter it is decided to give permanent rights to kudiyruppus, the case of towns and rural areas should be differentiated. In rural areas, in most of the kudiyruppus, tenants will be permanently residing with their families. There, those families may have special serpent kavus, karanavan mandapams, shrines for the family deity, wells and tanks. But this is not the case in towns. Most of the kudiyruppus will be held for purposes of trade or for temporary residence during employment or otherwise. So the question of granting permanent rights need be considered only in respect of rural areas and not at all in the case of towns. I think it will meet the needs of the case, if it is only laid down that one year's notice in the case of rural kudiyruppus and one month's notice in the case of urban kudiyruppus should be given before redeeming them.

(b) I find it difficult to fix the area of kudiyruppus on which permanent rights should be conferred. The area of the kudiyruppus occupied by labourers like cherumas, etc., in rural parts will be at least 2 cents. But that area will not be sufficient for the kudiyruppus of highly placed people. The area required will depend upon the number of members of the family of the holder, as well as on their level of wealth. But anything less than 8 cents will not do.

(c) (1) Though a house has been constructed on the land after entering it on kanam or verumpattam right, if a tenant does not wish to renew the lease or to hold it as a verumpattamdar, or if it is not possible for him to do so, he should surrender the property with the kudiyruppu on it.

(2) If a tenant constructs a house larger than is necessary for the proper enjoyment of the holding leased out to him, permanent rights should cease.

(3) If a kudiyruppu on account of its situation or other causes should be transferred with the holding, for the convenient and profitable enjoyment of the property, such a kudiyruppu should be surrendered along with such property.

(d) (1) I do not know of the existence of a practice anywhere in Malabar under which a tenant may in any way purchase janmam right of a janmi in a kudi-yiruppu by compulsion.

(2) Such a system of compulsory purchase will not be consistent with the traditions, customs, and nature of Malabar. Except that a person's right in a property may be purchased for a public purpose, to give the right of compulsory purchase to a private individual, even if he pays for it, will be contrary to justice, reason and the usage of the country.

V. In my opinion, the Malabar Tenants' Improvements Act has brought about a great change in the relation between janmis and tenants. As the cost of the improvements has to be paid for according to that Act, the janmi suffers great loss without getting proper interest on the amount invested on the property. This amounts to compelling a man to buy a thing which he does not require and at a price named by the seller. It comes to this that if one should get back the property which he gave to another, he has to buy another thing made by that other person and for a price fixed by the latter, though that thing is not required by him. Such compulsion is against reason and justice. Moreover, improvements are of two kinds: (1) Improvements really made by the tenant such as coconut trees, arecanut trees, jack trees, etc.; (2) things that grow spontaneously including various kinds of wild trees, etc. This Act compels payment for both. This is against old usage and is unjust. The land of the janmi and the money of the tenant are used for making improvements, which cannot be made either by money alone or by land alone. Out of these two factors, prominence should be given to land. Hence the janmi has an equal or greater right with the tenant for the value of the improvements. The Act does not recognize this. Further, any person has a right by nature to enter into a contract with another by mutual consent. Unless that right is grossly abused, nobody has the authority to deny that right. This Act has done away with that right. It is quite contrary to the Contract Act. There are several janmis who have suffered loss and hardship in consequence of their having paid the cost of improvements under this Act. Several estates which were under the Court of Wards have suffered great loss as a result of it. Hence it is absolutely necessary to modify at once that Act so as to remove these flaws and defects.

VI. (a) If permanent right is given, those who receive the right must be made to compensate those who are deprived of their rights. There is no reason whatever why this should not be done. The amount should be fixed by deducting from the value of the janmam right, the kanam amount already received from the tenant. In calculating the value of the janmam right, the annual rent paid to the janmi by the tenant and a third of the balance reserved to the tenant should be deducted, and the computation should be made only on the balance.

(b) If besides the person paying compensation, there are other tenants to that property, each of them should take what is due to him. The janmi has leased out a land of 100 pattam, fixing 10 michavaram, and has received Rs. 100 as kanam. Then after deducting 10 michavaram from 100 rent and also deducting 30, i.e., one-third of the remaining 90 as the reserved value of the janmi-tenant relationship, janmam value can be calculated only on 60. Out of the value so calculated, the kanamdar should take 100 and the janmi should get the balance. But if the kanam lease period has not expired, the kanamdar has a right to get interest on the amount for the unexpired period. If there are more than one tenant between the janmi and the person in possession, the share of each should be apportioned according to this scale.

(c) The amount necessary for paying such compensation should be advanced by the Government as a loan to the tenants, as is done for agricultural purposes. Or if janmis like to give it to the tenants on such conditions and facilities as the Government allows in such circumstances that may be done. Or again, it may be decided that the tenant should pay to the janmi annually like michavaram, the interest on the amount of compensation, at the same rate as that on which the compensation was computed.

VII. (a) The rent to be derived from a property should be fixed according to conditions of time and place. It is found difficult to fix a rate of rent for general application. If at times, on account of seasonal and local conditions, there is nobody forthcoming to cultivate the land, the property may have to be leased for a very small rent. On the contrary, a very high rent may at times be realized from some lands. Generally, cultivating tenants take from the produce the quantity of seed sown by them and as much again for labour. They enjoy one-third of the balance as *cherulabham* and give the remaining two-thirds to the landlord as rent. This is at present the usual practice in the case of wet lands. But such is not the case with parambas. In the case of crops like sesam (*gingili*), maize, etc., one-half of the total produce is given to the landlord and one-half is taken by the cultivator without making any deduction for seed, labour, etc. In some places one-third is given to the landlord and two-thirds is taken by the tenant. The Government tax is paid out of the portion of the tenant. Sweet potato cultivation has recently become very common. A rent of one rupee or one and-a-half is fixed for an area taking seed. All these rents are fixed, in each case taking into consideration seasonal and local conditions prevailing at the time. It will be difficult to fix it as a general rate. If there is an intermediary tenant, till his kanam, etc. are completely paid up, the produce should be apportioned as shown in the answer to VI (b).

(b) The rent which the tenants pay at present is according to the scale mentioned in the answer to question VII (a). In some cases it will be less and in a few cases it may be more. Specially in the case of coconut and arecanut gardens, though the improvements may belong to the tenant the janmi has a right to get a rent according to the income from them. In some places they still get it, while in other parts they do not. According to the scale shown in the answer to question V from the net produce of gardens, half should be paid to the landlords.

VIII. (a) The renewal fees is fixed in various ways. In some places it will be based on the kanam, as a certain percentage of it. Some janmis fix it, basing it on the janmi pattam. Some others fix it, calculating the area in paras of the cultivable land. Yet others base it on verumpattam. Some fix it, basing it on the difference between the janmipattam and verumpattam. The underlying principle of all the above is the same. All base it on the income for 12 years during which the property is held in possession by the tenant. The janmi receives a portion of it as renewal fees and the other is taken by the tenant. Some janmis receive as renewal fees half of twelve years' income, some one-third, some one-fourth, some one-fifth while a few big janmis one-sixth. For enjoying the balance after deducting the renewal fees from the twelve years' income the tenant was grateful to the janmi and the janmi was grateful to the tenant for the income he derived through the effort of the tenant. And they used to help each other with a sense of mutual obligation. The tenancy agitators have already destroyed nearly half of this cordiality.

(b) In this taluk itself, the scale of renewal fees is not uniform but different. Not only that, even in this Perumudiyur amsam, each janmi calculates it in a different way. Small janmis as well as those who are hard-pressed for money will take a high amount as renewal fees. Big janmis as well as those who are fairly well off will fix a lower scale. The principle on which all these scales are based will not be different from what is described in the answer to question VIII (a).

IX. The giving of permanent rights and the system of compulsory purchase are both unnecessary. They are not conducive to the welfare of the country. Though at first sight, it may appear to conduce to the maximum benefit for the maximum number, on a careful examination, it will be found to be dangerous. Actual cultivating tenants, as long as they are well behaved, do enjoy the right of retaining the property in possession. If correct statistics be taken of the number of cases filed in Malabar to evict actual cultivating tenants, the number of such cases withdrawn, the number of cases compromised, the number of cases in which eviction was decreed, the number of such cases in which by mutual consent the decree was not executed, the number of cases in which the decree was executed, and the number of cases in which after executing the decree for eviction the property has been handed back to the previous tenants themselves, and if it is also examined in how many cases the

rent was in arrears, it will be realized that no remedies need be sought to secure for tenants the right to retain the property in their possession without eviction, as long as the tenants make regular payment of the rent due from them.

X. (a) The melcharthdar comes into the position of the previous kanamdar, and the actual cultivator holding under the previous kanamdar must be now supposed to hold under the melcharthdar. If he is willing to remain under the melcharthdar and the melcharthdar is willing to keep him so, or if both of them are unwilling to do so, in either case, a law cannot help them in the matter. But if the actual cultivator is willing to hold under the melcharthdar but the latter is unwilling to keep him so, the general rules regarding actual cultivators will apply in their case. In the absence of any such general rule, to make a rule affecting this matter alone, will amount to deprivation of the freedom of contract. Such action will be against justice and uncalled for.

(b) I do not think that it will be unjust to provide that before giving melcharth, either the person who gives it or the person that takes it should ask the previous tenant whether he wishes to renew the lease on the conditions that are bona fide agreed to between the giver and the taker of melcharth, and that melcharth should be given only if he does not agree to do so.

(c) There may be an intention to raise the rent, as well as the renewal fees referred to in the question. Steps should be taken to defeat any such collusion. If found to be ineffective, such collusions will disappear of themselves. This matter may be left alone in the hope that, in any case, the court will after taking evidence be able to decide whether such arrangements were fraudulent or bona fide.

[Note.—As since translated by the Malayalam Translator to Government.]

Thursday, the 1st December 1927.

Oral evidence of Mr. Punnasseri Nambi Neelakanda Sarma.

The President:—Q.—You are a janmi?

A.—Yes.

Q.—Will you kindly tell us what the extent of your property is?

A.—About 1,300 acres of janmam lands.

Q.—Are they wet lands or garden lands or both?

A.—All together.

Q.—Are you a tenant?

A.—Not in my tarwad capacity; but I own some kanam lands.

Q.—How much kanam lands are you holding and under how many janmis?

A.—I hold about 70 acres under six janmis.

Q.—You have kanam and verumpattam tenants under you in your private capacity and under your tarwad?

A.—Yes.

Q.—Have you been doing cultivation yourself?

A.—Not in my private capacity, but my tarwad does cultivation directly.

Q.—Are you the karnavan of your tarwad?

A.—No, I am the second member in my family.

Q.—So you have no personal experience of cultivation of wet lands and garden lands?

A.—Yes, I have personal knowledge. As a member of my family I have made enquiries and have acquainted myself with details.

Q.—In answer to question II (1) (a) you say "There will be sufficient reasons for evictions for example, insulting the janmis and defying them in their activities for public welfare." What do you mean exactly by that?

A.—Not co-operating with the janmi in all his useful activities for the benefit of the public.

Q.—Can you kindly tell us what you have in mind; whether you have any particular instances in mind when you gave it as one of the reasons for eviction?

A.—If the tenant does not help the janmi in his activities for public welfare then it is a proper ground for eviction.

Q.—Can you not carry on your activities without the help of the tenant? There may be honest differences of opinion between the janmi and the tenant. Why should not the tenant have the privilege of thinking for himself?

A.—In all useful public activities the general public or anybody for the matter of that would help the janmi in all possible ways and if the janmi's own man, the tenant, won't do so and would keep aloof, then I think it is clear that the tenant has no longer a right to hold under the janmi. That is my opinion.

Q.—One man may be inclined to do *Lokopakaram* but another man may not be able to do that or not willing to do that. Then why should you compel such a man to do a particular thing?

A.—When even strangers help the janmi it is the bounden duty of every tenant to help his janmi. If one does not do it, in his case the janmi will be entitled to turn him out and not only that he should be competent to do something more.

Q.—Then you want social tyranny to be legalised?

A.—I don't say that these things should be legalised. I simply mentioned it.

Q.—What you may consider a piece of meritorious work may not be considered necessary by another? Is it not possible to have honest differences of opinion?

A.—Yes, but if several persons consider that a particular thing is for the public good one particular person alone cannot say that it is not for public good.

Q.—What is your idea of public opinion? Do you mean an amsam, a desam, a taluk or a district? What do you mean by your word *pothujanam*?

A.—Some activities may be really confined to a village, others to a taluk and others to the whole district. I cannot say how exactly public opinion is to be defined.

Q.—In answer to question II (1) (b) you say "melcharth is not so very attractive to the janmi. There is every possibility of the melcharthdar and the original tenant working in collusion against the janmi." Will you explain that statement?

A.—Supposing I have a kanam tenant under me and I grant a melcharth against that tenant. The melcharthdar files a suit against the original tenant for eviction and the tenant advances janmam right against the janmi. If the melcharthdar fails to adduce proper evidence to substantiate the janmi's title then the janmi will lose his janmam right over the property because of the failure of the melcharthdar.

Q.—Is it not the case that in such cases the janmi should be made a party?

A.—The burden of proof is on the melcharthdar.

Q.—If the janmi is made a party, then he can prove his janmam right?

A.—By granting a melcharth the janmi thinks that all necessary action will be taken by the melcharthdar to safeguard the interests of the janmi and so he will remain silent. But if the melcharthdar fails to do so, having colluded with the previous tenant, then the janmi stands to lose his janmam right. In these cases the janmi remains *ex parte* generally.

Q.—But if the janmam title is disputed, certainly the court should add the janmi as a party?

A.—Janmis do not generally take active part in the suit whether as co-plaintiffs or as defendants.

Q.—Any way it is the fault of the janmi?

A.—If he is in a position to go to court and contest the suit he would not have granted a melcharth at all. It was only because of his pecuniary circumstances that he had to grant a melcharth. There is difference between the janmi going to court and allowing a third party to sue the tenant after granting a melcharth.

Q.—The one is much more costly and more onerous than the other?

A.—Yes. The janmi believes that the melcharthdar will look after everything

Q.—In answer to question II (2) you say "Is the janmi using his influence to oppress the tenant socially? This question is already answered in question 1. The janmis use their influence only for the good of the tenant and not for harming them. The karnavans instruct their nephews to conduct themselves well and where instructions fail they use compulsion. Similar is the case between the teachers and the taught. And in both the cases disobedience is met by punishment which the punished party sometimes misrepresents as hideous and wilful injury meant for their destruction. So also is the case with the tenant." So your idea is that if a tenant does not behave in the way in which the janmi wants him to behave the tenant should be punished? Is it for the janmi to decide what is good for the tenant?

A.—The janmi does it for the good of the tenant.

Q.—The janmi must have the final say as to what is good in the matter for the tenant and what is bad for him?

A.—The janmi will do whatever is good for the tenant.

Q.—Don't you see the possibility of the janmi being mistaken?

A.—If the janmi is under a misunderstanding it is the duty of the tenant to clear that misunderstanding.

Q.—So the burden of proof whether a particular thing is bad rests with the tenant?

A.—Yes. If the janmi says "Don't steal, don't tell a lie," and if the tenant thinks that he is right in so doing, then what is to be done?

Q.—There is the criminal law to look after that. So according to you if a tenant does not take the advice of the janmi then the janmi will say, "Go and hang yourself?"

A.—Janmis used to advise their tenants and teachers used to teach their pupils, but we don't do that now.

Q.—In answer to question III (a) you say "It is highly desirable that the happy and harmonious relation between the parties based on ancient and immemorial customs and practice should be restored." What are the immemorial customs and practices and the harmonious relation that you refer to?

A.—I want that a campaign should be started for preaching to the tenants to adhere to the old customs and traditions and to behave better towards their janmis. The old traditions should not in any way be disturbed. Government should bring these people round.

Q.—So you want a proclamation to be issued by Government?

A.—Yes, then the old relationship between the janmis and tenants will continue unhampered.

Q.—What were the old relations between the janmi and the tenant?

A.—I have some where answered all that in the written reply that I have submitted.

Q.—You say that kanamdars should not be given occupancy right but so long as tenants do behave well and are never in arrears they should not be evicted?

A.—I don't consider the grant of permanent occupancy right is necessary and desirable. Good tenants should not be evicted but I don't support any legislation for that.

Q.—Then why not a law be enacted like that?

A.—It will result in harm to the janmi. That is my opinion.

Q.—Do you mean to say that every janmi is a good janmi. Won't there be cases where a janmi may evict his tenant for no fault of the latter? Won't you like to put a stop to such evictions?

A.—There may be other reasons for such an eviction. Probably the janmi might require the land for his own private cultivation.

Q.—That is not an improper eviction. Do you concede that there are at least some cases where the janmis evict their tenants improperly?

A.—I don't agree. It is not my experience.

Q.—So, no janmi evicts a tenant who behaves properly and discharges all his obligations without default unless the janmi wants the land for his own cultivation?

A.—Yes. My belief is that there are no such people who would evict tenants for no fault of theirs.

Q.—Then your position is that so far as the kanamdar is concerned the janmi could evict him at the expiry of the period of the lease if he so chooses?

A.—Yes.

Q.—Is it done generally?

A.—Not always, sometimes renewals are also given.

Q.—Do you concede that the michavaram paid by the kanamdar to the janmi is always in every case less than the verumpattam collected by the kanamdar from the verumpattamdar?

A.—Yes.

Q.—So no janmi gets the whole of the net income from the land?

A.—No, not even the poorest janmi will demand that.

Q.—If that is not the case why should the janmi keep the kanamdar on the land?

A.—I have explained it elsewhere. The relationship between the janmi and the kanamdar does not end with the payment of michavaram and renewal fees, but there are other things which the kanamdar is obliged to do for the janmi.

Q.—So the relationship between the janmi and the kanamdar is indeterminate and you want to perpetuate that over and above the payment of rent, renewal fees, michavaram, etc.

A.—Yes, I have mentioned that in my written memorandum.

Q.—Will you please explain what you mean by other obligations?

A.—These are all social obligations. Janmis used to pay some presents to their tenants on the occasion of festivities or marriages in the tenant's house; also give presents on occasions like Onam, Vishu, etc. Similarly, if there is a feast or ceremony in the house of the janmi it is the duty of the tenants to look after the proper working of the ceremonies. The janmi has only to spend some money and simply doze in his seat while the tenants would look after every work themselves. Similarly in the case of any death in the janmi's family it is the duty of the tenants to attend the funeral and help in cremation, etc. Generally, for all *thalikettu* ceremonies in the house of the tenant janmis should pay five paras of paddy or rice. There are several social obligations like these which should be attended to both by the janmi and the tenant.

Q.—Do you mean to say that those *kana janma mariadas* cover the profit which the kanam tenant now enjoys?

A.—These are all generally done to keep up the dignity of the janmi and if the kanamdar does not do it he will forfeit that concession.

Q.—You say in answer to III (d) "It is already said kanamdars should not be granted occupancy right. Even those in long possession should not be exempted. But if all kanamdars are granted permanency, it should be to those of them who have not transferred a single holding in their possession or left a single year's rent in arrears since 1852". Why should you make a difference like that?

A.—I only suggest that alternative if the Committee thinks that something should be done for these people.

Q.—By so doing are you not penalising the good janmi?

A.—That is why I hold that no legislation is necessary.

Q.—But assuming that legislation is made why should not it be made applicable to all kanamdars who have come into possession by justifiable methods?

A.—I think occupancy right, should be given if at all, only to tenants who have been in continuous possession since 1852 without assigning their lands to others. That only shows that those who are continuously in possession and who have never kept their rent in arrears have taken a deep interest in the land and therefore they deserve some special consideration.

Q.—So, you think they have much more attachment to the land than other tenants?

A.—By their action it has been proved that it is so.

Q.—But there might be some who have been in possession for the last 30 or 35 years and at the same time they might have been looking after the land exceptionally well and be not in arrears. Will you not treat their case also favourably?

A.—I don't think they need any special consideration.

Mr. Kotieth Krishnan :—Q.—Supposing a tenant disobeys any order given to him by a landlord, it would in your opinion be a justifying cause for eviction?

A.—I don't think so.

Q.—Then may I know what are the justifying causes for evicting the tenant?

A.—I have answered that question in answer to question II (1) (a).

Q.—May I take it then that the five causes which you have formulated in your written answers would be the justifying causes for eviction?

A.—Yes.

Q.—And you will not evict a tenant except for these five reasons?

A.—The following sentence in the written statement may also be considered. I have mentioned 'these and other similar causes'.

Q.—You have taken some time to consider that question. Do you want to provide against any other contingency by which you may evict a tenant for 'other causes'?

A.—I have not thought over that. I cannot now say what the 'other causes' are.

Q.—So you cannot evict a tenant for any reason other than the five which you have stipulated?

A.—I can't think of any now.

Q.—Would you specify any particular activity of the janmi, the non-co-operation in respect of which would be a justifying cause for eviction?

A.—I cannot add anything further to what I have already said.

Q.—You said the lower rate of michavaram is given on account of various services which the kanamdar does for the janmi?

A.—Yes, out of the inherent generosity of the janmi.

The President :—Q.—For the moment forget the maryada and all that. What is the money value which you would put upon such service on the part of the kanam tenant. From the pure money point of view is it equal to the net profit which the tenant makes?

A.—No such comparison can be made. I, however, believe that the twelve years' profit which the kanamdar enjoys will be in excess in terms of money value compared with the services rendered by him to the janmi.

Q.—What proportion will it be, half or two-thirds or what?

A.—It cannot be said to be in any proportion.

Mr. Krishnan :—Q.—May I take it then that the system of Malabar land tenure is intimately connected with the social customs of the Hindus?

A.—Yes, that is my view.

Q.—You will admit that within the last 25 or 30 years there has been a considerable awakening among the Nayar and other Non-Brahman Hindus in Malabar which orthodox gentlemen like you would resent?

A.—Originally it was a matter of resentment but now there is nothing to resent at all (Laughter). Why I used to abhor people who appeared before me with only the face shaved. I even never cared to look at their face. There are several wrong things done by people like that.

Q.—So, supposing in those days when you used to resent these things, when one of your tenants appeared before you with half-shaved face you would have found it a proper reason to evict him. Is it not?

A.—Not only that, if I had the power in me I would have even shot him dead. (Laughter.)

Q.—So you say face-shaving alone would have been a sufficient cause for eviction?

A.—Yes.

Q.—Then, why did you not evict such tenants under you then?

A.—I did not want to do injury to the tenant's tarwad because one member behaved in that fashion.

The President :—Q.—Now, you don't consider that a sufficient ground for eviction, do you?

A.—No. What is the good of my thinking like that when the vast majority of people have begun to do like that.

Mr. Krishnan :—Q.—What in your opinion would be adequate cause for feeling resentment now?

A.—I can't say what it is. As occasion arises, we will have to determine.

Q.—There are certain actions which are punishable by law, for instance, theft which you mentioned. Then there may be certain things which may be morally wrong but may not be punishable, for instance, lying. Will that also be a justifying cause for eviction, or will you make a distinction between offences punishable by the State and not so punishable as a cause for eviction? Some of those things will also cause resentment to you?

A.—If all the members of the tarwad will do anything like that then it may be justifiable cause for eviction.

Q.—Supposing the karnavan of the tenant's tarwad does it, then will that be a justifiable cause for eviction?

A.—I can't say. It depends upon each tarwad.

Q.—You said that if the tenants do not co-operate with you that would be a justifying cause for eviction. Supposing they do not render any assistance for your Sanskrit College then that would be a sufficient cause for eviction?

A.—There is no good in feeling resentment at that nowadays.

Q.—You said you are a kanam tenant under six janmis. Can you mention the name of one janmi under whom you hold?

A.—The Zamorin Maharaja.

Q.—How many acres are you holding under him?

A.—I can't say exactly but I think it yields me about 11 or 12 paras of paddy.

Q.—How much renewal fee do you pay?

A.—2 per 10 on the kanam amount.

Q.—What is the kanam amount on that property?

A.—About 10 fanams.

Q.—Then the renewal fee will be only 2 fanams?

A.—I can't say. I have not renewed recently.

Q.—What is the verumpattam rent which you get for that?

A.—About 11 or 12 paras. That is what I already said.

Q.—What is it that you pay to the Zamorin?

A.—About one para as michavaram.

Q.—Is that more or less the rate at which you collect your michavaram from your tenants also?

A.—Some on equal terms, some in excess and some in lower terms also.

Q.—Then is there any standard for collecting michavaram from tenants by the janmis?

A.—No, there is no standard.

Q.—You said your tarwad has been cultivating some lands. Are they garden lands?

A.—No, garden lands are not cultivated by my tarwad.

Q.—Have you any experience of cultivation of coconut gardens?

A.—I have only one coconut garden, where there are about fifty or sixty trees.

Q.—Can you tell us approximately the cost of cultivation of those trees till they came to bearing?

A.—I can't say what amount was spent.

Q.—In your parts, what will be the approximate janmam value of one acre of waste land?

A.—I have neither sold nor purchased, so I have no idea.

Q.—May I take it that when wet lands are given on kanam some dry lands in the neighbourhood which you own are also added on without any rent being fixed on the dry land. Is that the practice?

A.—There has been no practice like that recently.

Q.—At any rate lands like that have been leased in the past?

A.—Yes.

Q.—Dry waste land in your part of the country has no independent value?

A.—I can't say.

Q.—Do you consider melcharth a sin?

A.—I don't consider it to be so.

Q.—Have you cultivated any wet land yourself?

A.—Yes, now we are cultivating.

Q.—Have you your own buffaloes, bulls, etc., sufficient for cultivation purposes?

A.—Yes, we have our own cattle. It is not the practice to hire cattle in our parts.

Q.—So the verumpattam tenants who cultivate lands have to maintain their own cattle?

A.—Yes, they have their own cattle for cultivation purposes.

Q.—For cultivating one para seed area of wet land take into consideration the cost of maintaining a pair of bulls for the whole year, the labour and the cost of manure and everything else; do you think that the cost would be about the same as the seed sown in the land?

A.—Wages generally paid to the coolie do not represent the wages paid for cultivation purposes alone; they cover the cost of supplying fuel and other manual labour in the janmi's house.

Q.—However, such verumpattamdars are obliged to maintain some Cherumas in the farm for ploughing, etc. Is it not?

A.—We have got Cherumas called Janma-Cherumas who are my own subordinates. When I lease my land to a verumpattamdar I hand over these Cherumakals to the verumpattamdar, and for the period which the verumpattamdar holds the lease under me these Cherumas will be made to work in the field and will be paid their wages by the verumpattamdar.

Q.—Is that a peculiar custom prevailing only in your part of the district?

A.—It is not the custom prevailing all over Malabar.

Q.—Do you know there are other places in Malabar where you don't get Cherumas for cultivation?

A.—Yes, I have heard so.

Q.—Wages paid there are much higher than the wages given for these Cherumas?

A.—It may be so in other parts of the district.

Q.—So for one para of seed one para will be required as wages for these Cherumas?

A.—Yes, it may be so. I cannot definitely say that the wages and the quantity of seed required would be the same.

Q.—So you can't say what exactly the expenses of cultivation are?

A.—No, I cannot say.

Q.—Some janmi witnesses have told us that in fixing the renewal fee payable by a kanam tenant to the janmi, the profits which a kanam tenant makes after paying michavaram and other dues may be taken. Such profits for six years is said to be a proper renewal fee by some of the janmis. Is that correct?

A.—It may be true in some cases. As I have already said, renewal fees vary.

Q.—Will one year's verumpattam be a fair renewal fee?

A.—I can't say.

Q.—Have you any idea of the actual working of the Tenants' Improvements Act in Malabar?

A.—Yes.

Q.—You have said that the Act works hardship to the janmis. Can you say how?

A.—I can't say. I have known of cases where janmis have been unable to realize interest at 9 per cent on the amount invested by them on account of the heavy value of the improvements according to the Act.

Q.—That includes chamayam also?

A.—Value of trees and not the value of houses.

Rao Sahib V. Krishna Menon:—Q.—You have said that there must be substantial and convincing reasons for evicting a tenant. Who is to decide the point?

A.—Only janmis can decide whether it is substantial or not.

Q.—In answer to question V you have said that land is the principal thing and labour and money spent upon the land are only secondary?

A.—Yes.

Q.—Supposing a tenant makes improvements on the land and then he (tenant) is evicted. Then how can you say that it does not pay you?

A.—Because you cannot get sometimes even the value of improvements. I want the Compensation Act to be so amended as to give the janmi also a fair share in the value of improvements because land is an important factor in making improvements.

Q.—According to the Tenants' Improvements Act, when the calculation is made half of the value of improvements alone is given to the tenant. Then where is the grievance for the janmi?

A.—Not only no interest is realized on the amount invested by paying up value of improvements but also the value paid is not realized by selling improvements.

The President:—Q.—So your complaint is against the Commissioners and not the Act itself?

A.—My complaint is against the amount ordered to be paid by janmis to the tenants. I don't care whether it is the defect in the Act or it is a defect on the part of the Commissioner.

Rao Sahib V. Krishna Menon:—Q.—According to the Improvements Act the tenants by themselves cannot claim value of the improvements from the janmi?

A.—I am not aware. It may be so.

Q.—Is it not an injustice?

A.—No, it is not.

Q.—Suppose you give a land for cultivation and cultivation includes raising paddy, planting coconuts, etc., and making other improvements. When you give land you know that the tenant will do all the necessary improvements, etc.?

A.—Yes.

Q.—As long as you have got the right to demand your land back he has got the right to ask for the value of the improvements?

A.—The janmi leases the land on the distinct understanding that he will not have to pay the value of improvements to the tenant whenever demanded by him.

Q.—When we concede that land and labour are equally important both should be treated equally under the Improvements Act. Is it not?

A.—Improvements should be made. Only there should be an express contract in all cases in regard to the nature of the improvements to be made. No improvements should be made without express understanding and therefore the terms of the contract should be enforced.

Q.—Do you think that there has been no unjust eviction in Malabar?

A.—Not to my knowledge.

Q.—Any eviction by a janmi must be justifiable?

A.—I don't believe the contrary.

Q.—Suppose the Committee thinks that there is unjust eviction. Have you any objection to legislate against that?

A.—What is the good of my objection? It will not be of any avail.

Q.—You don't evict your tenants unjustly?

A.—No.

Q.—So the law won't touch you if any legislation is passed?

A.—I will be affected if any legislation is made.

Q.—When there is a difference of opinion between the janmi and the tenant, don't you think that a third party should decide that question?

A.—I cannot say.

Q.—So, the landlord has got the absolute right in regard to the matter whether eviction can be made after the expiry of the lease or not?

A.—The question whether eviction can be made or not at the expiry of the period of the lease does not arise, for it is an inherent right of the landlord.

Q.—You said that favourable terms of kanam leases are given in repayment or in recognition of the services to be rendered by the tenant?

A.—Yes.

Q.—Why did you give twelve years; why did you give such a long lease. You could have made it an annual lease.

A.—There have been one year's leases also. It all depends upon contract. It may be for any number of years, even 20 or 30 as the case may be.

Q.—If we take a few respectable janmis as models, would you allow their customs to be imitated?

The President:—Q.—For example, janmis like the Raja of Nilambur.

A.—Is there anything to be settled now?

Mr. Kotiah Krishnan:—Q.—Was Rao Sahib P. A. Krishnan Menon your tenant?

A.—Yes, he was.

Q.—Did you evict him?

A.—Yes.

Q.—Was there any rent or michavaram in arrears?

A.—There were no arrears of michavaram.

Q.—And did he deny the title of the landlord?

A.—There was a strong denial of janmam title.

Q.—May I know what it was?

A.—He had obtained kanam demises from other janmis in respect of my lands.

Q.—So that was the ground for evicting him?

A.—There were other reasons also, such as refusal to renew the lease at an enhanced payment.

Q.—Did you send any registered notice demanding increased michavaram?

A.—I had asked him personally.

Q.—Why did you ask for an increased michavaram?

A.—Because I wanted it. (Laughter.)

Q.—For a series of years he had been paying regularly without increase of michavaram?

A.—Yes, for some years.

Q.—And there were renewals in which the same michavaram continued?

A.—There were no renewals at the previous rate of michavaram.

Q.—Now, as regards the janman title which he disputed, was it the subject matter of the land in dispute?

A.—Janmam dispute was in respect of the lands from which he was evicted.

Q.—Did he set up the title in himself or in another janmi?

A.—He set up the title in another man.

Q.—What was the last michavaram which you claimed, approximately?

A.—No, I can't say.

Q.—Can you produce the judgment in that case?

A.—No, it is not here now, but I can produce it after going back to my house in Pattambi.

Q.—Don't you remember the number of the suit?

A.—He held lands under six *kachits*. Eviction was made only under two *kachits*.

Q.—Can you send us the number of those suits?

A.—Yes.

Q.—You said you renewed four other *kachits*. Was it after the suit was decreed or before that?

A.—After the suit was decreed.

Q.—What have you done with the lands that have been recovered now?

A.—We are cultivating it ourselves. In the case which was decided Mr. Krishna Menon had put in a false claim for reclamation charges unnecessarily. About Rs. 12,000 was ordered to be paid by us in the original court, but on appeal that decree was set aside and we got back nearly Rs. 9,000 out of the amount deposited for improvements and also the cost of the suit.

Raja Sir Vasudeva Raja:—Q.—In answer to the President's question regarding melcharth you said that janmis don't grant melcharths unless they are driven to the necessity of giving them and also that there is the danger to the janmi himself in giving melcharth.

A.—Yes.

Q.—One of the dangers you said was the melcharthdar failing to contest the suit properly when there was janmam dispute?

A.—Yes.

Q.—I think there is also one more danger. In the suits instituted by melcharthdars the janmis are not necessarily parties?

A.—I don't know that. I have not granted melcharths myself.

Q.—If the janmis are not added as parties to the suit and if the melcharthdar colluding with the old tenant makes default of payment of the value of improvements, etc., ordered by the court within the stipulated period, then the janmi will lose his janmam right unless he himself deposits the money in court during the period?

A.—Yes, it is possible.

Q.—So that it is a very serious loss which the janmi will be put to?

A.—Yes.

Q.—So, unless, he is driven actually to the necessity of granting a melcharth, he will not do so?

A.—No, it is not the usual practice.

Q.—You were answering some questions regarding Mr. P. A. Krishna Menon. When did the period of kanam lease expire?

A.—The suit was instituted about 20 years after the expiry of the renewal period.

Q.—So you did not institute the suit soon after the expiry of the time?

A.—No.

Q.—All these years he was negotiating for a renewal?

A.—Yes.

Q.—And he did not come to terms?

A.—No.

Q.—And you have lost the renewal fee for all these twenty years?

A.—Yes.

Q.—And when was that suit instituted?

A.—In 1090.

Q.—So it is another twelve years since the suit was instituted?

A.—Yes.

Q.—How long was the suit pending?

A.—For over twelve years.

Q.—So you had to litigate for twelve years for getting back the land?

A.—Yes.

Q.—During these twenty years was he paying the michavaram?

A.—Yes.

Q.—And for the last twelve years during the pendency of the suit was he paying the michavaram?

A.—Yes, he was paying by depositing it in court and by sending money orders, etc.

Q.—So for the last 32 years you have not got any renewal fee?

A.—No.

Q.—When such is the case, is it reasonable to think that janmis rush to courts for evictions?

A.—Janmis won't go to court at all.

Q.—So the obvious inference is that they go to court only in cases of dire necessity?

A.—Yes.

Q.—In regard to verumpattam land, suppose it is intended to give some sort of fixity of tenure, is it necessary to secure the payment of rent in any way or can it be given without any security or compensation?

A.—Yes. I want some security for the grant of fixity of tenure. Otherwise janmis will be put to much trouble. At least three years' rent should be secured.

Q.—And if they give three years' security they need not give anything more?

A.—No.

Q.—You have said that one-third of the net yield may be given to the tenant. If that works out to something less than what the tenants are now getting, would you contemplate reducing it in any way?

A.—No reduction should be made in the existing rents. Existing rents cannot be reduced under any circumstances.

Q.—Then, what do you mean by saying one-third. Is it for future engagements?

A.—I say that only in regard to future engagements. I want the existing rents not to be affected.

Q.—You said that you have janma Cherumas under you. It only means that there are permanent coolies residing there as coolies?

A.—Yes.

The President:—Not as coolies but as slaves. (Laughter.)

Raja Sir Vasudeva Raja:—Q.—I suppose they are at perfect liberty to go away from you whenever they like?

A.—More than half of such people have gone to Wynaad already. They are at absolute liberty to go wherever they like.

Q.—It is in consideration of the fact that you have to maintain the Cherumas throughout the year that they are paid something less than the ordinary coolies. Is it not?

A.—Yes. They are also given clothes and umbrellas. Some presents have to be given for Vishu, Onam and other festival occasions. From birth to death for all their ceremonies they will have to be paid.

Q.—And that is why there is this difference in wages?

A.—Yes.

Q.—You are known to most of the janmis in Malabar rather intimately?

A.—Yes. I know several janmis in Malabar and some intimately.

Q.—It is alleged by some people that on account of the superiority of the janmis over the tenants, ladies of the tenants' families are exposed to danger, and that there have been several instances of social tyranny like that. Have you heard of any such thing in the case of any janmi anywhere?

A.—I believe that it is a pure concoction. It may have been true in the older days.

Q.—What is your age now?

A.—I am 70 years old.

Q.—You must have known the conditions for at least 50 years and you know most of the Rajas and janmis in Malabar?

A.—Yes.

Q.—And in your experience no such instances have come to your notice?

A.—No.

The President:—Thank you very much, Mr. Neelakanda Sarma, for your evidence.

XIV

Written statement of Mr. P. V. Aghoram Ayyar, B.A., B.L., Vakil, Palghat.

I beg to submit answers to the questionnaire sent to me as follows:—

I. (a) *Kanamdars*.—In my humble opinion a kanam holding is subject to the following disabilities:—

(1) Renewal fees and michavaram are now almost arbitrarily levied in most cases; except where the personal goodness of the landlord prevails in a very few cases, generally the hardship to the kanam tenant resulting from such arbitrary levy is very great. Other customary dues are also collected at the time of renewal, and I fear that the kanam tenant is very nearly fleeced by the levy of renewal fees, perquisites and customary dues and bakshish to the agents of the landlord.

(2) Parambas and wet lands are separated at renewals and constituted into different holdings, the object being to compel redemption of the holdings on easy terms. By far the most substantial of the kanam holdings in South Malabar have been separated, and the kanam tenure has in consequence deteriorated in value.

(3) Kanam holdings have been converted into karipanyams in many cases under threat of eviction, and these have been so converted against impending tenancy legislation.

(4) In some cases an original saswatam kanam tenure is compelled to be surrendered to the landlord by some clear device, and an ordinary kanam holding is substituted in its stead; once the landlord gets the advantage in this fashion, he drives his bargain hard with the kanam tenant by requiring prohibitive renewal fee, etc.

(5) Melcharths and assignments are made sometimes of parts of a kanam holding, and the existing law allows redemption of those parts alone. It becomes useless to the tenant to keep the rest,—sometimes, the parambas with the huge structures thereon, and the trees fruit-bearing and otherwise, planted on them, being the only part left unredeemed.

(6) Renewals of unexpired kanam demises are on the increase. Sometimes, to avoid an attack on them by the junior members of the tarwad of the janmi, the kanam tenant has to give up the period yet to run out under the subsisting demise, and take the renewal with effect from the date it is executed. The loss to the kanam tenant is considerable. He pays the renewal fee, as for twelve years, but must go without twelve years. In the case of other renewals, he is between the devil and the deep sea. The renewal cannot be made except for necessity. The burden of establishing necessity, when impugned, is on the kanam tenant. Refusal to renew is an invitation to grant a melcharth; and submission to renewal is an invitation to an attack on it by the junior members of the janmi's tarwad. Where the lands are not held in janm right by tarwads, but by stanis, Nambudris, devaswams, kovilagams, etc., other representatives make the attack. It must be pointed out that these renewals are generally effected on very unconscionable terms. The amount of money which the kanam tenant has to part with in lieu of renewal fee, etc., is very considerable, and he has the misfortune of not getting a true and satisfactory record for the payment he makes, so that in the event of the renewal being successfully attacked, he could at least claim to be restored the money he gave the landlord. Some of the lands are owned by tarwads with very large families to support them. The number of members goes over a hundred in some cases. The karnavan gets to his sthanam at advanced years. During his anandravanship he could do nothing for his wife and children. When he becomes a karnavan, therefore, he makes the most of his position by threatening eviction of kanam tenants who have taken renewals from the previous karnavan of unexpired demises, and compelling them to make another payment to him. He in his turn compels renewal of unexpired demises or if kanam tenants do not submit to the renewal, grants melcharths before expiry of the prior kanam. The melcharth evil is due not merely to the impecunious, or the axe-grinding janmi. It is due quite as much to the craze for land investment among the newly risen monied classes.

like the lawyers, merchants, etc. Almost all lawyers who make outcry against melcharths have either taken them themselves or encouraged others to take them. Sometimes these melcharths are resorted to as a sort of traffic in litigation. A man without the means to redeem a kanam holding, but with potency for mischief takes a melcharth, and is most often benefited by it by the kanam tenant buying him out on a fat fee.

(7) Arbitrary evictions have resulted from the participation of kanam tenants in Legislative Council elections, and refusal to support the janmi's nominee. The amount of lying it has encouraged in many cases is a sad commentary on Malabar social life. Literate kanam tenants who have been obliged to openly vote for the janmi's nominee on account of the landlord's want of confidence in him are many indeed. Kanam tenants who have openly agitated for fixity of tenure have suffered great hardships.

(8) In one case almost all the big kanam holdings have been converted into verumpattam by a systematic redemption of them carried on through many years, and I understand that even those verumpattam holdings have to-day ceased to be, the lands being in the actual occupation of the landlord, and agents under him supervising the cultivation. I am told that the kanam tenants of these holdings were a very docile lot and would behave quite well with the landlord if they were kept on.

(9) Some evictions have resulted too from the assertion of an attitude of self-respect and manliness on the part of the kanam tenant or some member of the tenant's tarwad. That democracy which the people and the Government are anxious to establish on this land, would have poor chance on this soil, if the ownership of land depends on the continuance of such feudal usages.

(10) Some of the peculiar social customs of Malabar have indirectly promoted the hardships of kanam tenants. Among the Nambudiris, most of whom are owners of vast lands in Malabar, the anandravans don't marry in their caste. They generally contract a concubinage with Nayars, Ambalavasis and so on. These communities have bestirred themselves in these times, and sometimes adopt drastic action in the interests of social purity. The penalty for such honest and courageous action in some cases has been the loss of their holdings.

(11) The kanam tenant who makes vast teak and other plantations on waste lands in his holding is asked either to surrender that area without compensation at all or on payment of trifling compensation or to pay kuttikanam at forbidding rates, and is compelled in many cases to give up the holding before the trees have reached their age of maturity and the tenant could be adequately compensated for the improvements.

(12) There are a few cases of eviction by the janmi of kanam tenants on the ground that they have prevented the janmi from buying cheap at execution sales, the kanam interest of any judgment-debtor. The janmi is acting in self-interest with extreme vigilance in such cases.

I. (a) (ii) *Kuzhikanamdars*.—From what little I know of these tenants some of the disabilities of the kanamdars are also the disabilities of the kuzhikanamdars. I should think that the eviction in their cases, before the trees, fruit-bearing or otherwise, have reached their full growth is doubly serious, as the tenure is expressly granted for the sake of converting waste land into garden, and the tenant is asked to quit the soil before the first fruits have been even enjoyed by him, as sometimes happens.

I. (a) (iii) *Verumpattamdars*.—There seem to be very few verumpattamdars directly under the janmi. Where they exist, their condition is very nearly similar to that of the verumpattamdars under the kanamdars or kuzhikanamdars. A particular class of these verumpattamdars often met with are the kudiyruppu-holders. A good many of them are very poor fellows. They always run the risk of eviction by the janmi for any small displeasure caused to him. The eviction of these people from their holdings is very disquieting and is certainly not humane. If a good teak tree has grown in the kudiyruppu and is asked for by the janmi for nothing, and the

verumpattamdar did not give it, he may be asked to quit. Another class of verumpattamdars are those who hold lands under the Cochin Sirkar or religious institutions of the Sirkar in British Malabar or verumpattamdars under the kovilagams of the Zamorin, Calicut. They hold the lands for the customary period of twelve years and renew from time to time. Sometimes melcharths of these tenures are also given. But the verumpattamdars under the Cochin Sirkar are generally undisturbed in their enjoyment.

I. (a) iv & (v). *Sub-kanamdars and verumpattamdars under kanamdars and kuzhikanamdars*.—These may be considered together; only the sub-kanamdar has substantial interest on the land and the verumpattamdar has not. The sub-kanamdar sometimes advances money on the security of the kanam, almost equal to the kanam. The disabilities of the kanamdars are generally transferred to the sub-kanamdars. The verumpattamdars under kanamdars suffer a real hardship by having their value of improvements set off against the arrears of michavaram and revenue payable by the kanamdar on the mesne holder. This is clearly wrong in principle. I see nothing in the Malabar Compensation Act to sanction such set-off. No decided case of the Madras High Court has so far dealt with the matter though the observations in 25 Madras, 588, are merely obiter. But as a matter of practice, the value of their improvements is invariably set off.

I. (a) (vi) *Sub-lessees under verumpattamdars*.—These too have their value of improvements liable to be set off against the arrears of rent and revenue that may have to be paid by the verumpattamdar. Sometimes a kattakanam paid by the sub-lessee to the lessee is in danger of being lost by him as that is no charge on the land.

I. (a) (vii) *Tenants other than those specified above*—(1) *Reclamation lessees*.—These are by far the largest tenure holders of the Palghat Raja, of the Vatasseri Mannadiar and the Puhakkal edom. Extensive tracts of jungle land have been brought under cultivation by enormous expenditure of money and at great personal sacrifice. They have paid no kanam on these holdings; but their interests are no less substantial than the kanaris. In earlier generations, some of these tracts were let out to them on perpetual tenure, to give the tenants an inducement for reclamation. The grants were made on cadjan. But in these hard days many of these tenants have been harassed by eviction suits. The ordinary reclamation lessees too are capriciously evicted, and have almost the disabilities of the kanamdars. The cases of cowle-holders too are similar.

(2) *Perpetual kanamdars*.—I mean kanamdars, or ubhayapattamdars who have secured by their demises the right of perpetual enjoyment by the insertion of clauses like—*എന്നൊന്നും ഒഴിയാതെയും ഒഴിച്ചുകൊണ്ടും നടന്നുകൊള്ളുകയും വേണം*. Even the tenants have had little peace. They too are harassed by redemption suits. The Madras High Court upheld such grants on the footing that kanams are anomalous mortgages. The ground of decision would appear to be taken away by a statement of principle made by the Privy Council in 44 All., 185 (P. C.) on the redeemability of all anomalous mortgages. I would respectfully invite the attention of the Committee to a perusal of my article on the perpetual kanams of Malabar, which appeared in April 1926, *Travancore Law Journal*.

(3) There are tenures like adimayavana santhathi brahmaswam, anubhavam, etc. The law as to whether such tenures are liable to be forfeited on alienation is still unsettled and causes great hardship to such tenants.

I. (b) I think that the disabilities are peculiar to the tenants in Malabar, some of them at any rate, though a few are everywhere. They are due to the ownership of land by a handful of landlords alone, to the almost feudal usages that prevail in Malabar, to the social peculiarities of many communities, particularly the Nambudiri and the Nayars (including every other Marumakkattayee except the West Coast Mussalman) and to the steady rise in these modern times of monied classes from the followers of independent professions, like law, trade, etc., who are always on the look-out for profitable investments on land, and to the over-population of the district.

I (c) I have no knowledge of North Malabar conditions. I am assured that there are more kuzhikanams and more small holdings in North Malabar than in the South. If so, they have obvious special disabilities.

I (d) I do not think that there is very much difference between the several parts of South Malabar, except that in my opinion, the tenants are generally able to deal more tactfully and resourcefully with the landlords in Palghat taluk, and that the Mappilla tenants in Walluvanad and Ernad taluks deal more rashly and threateningly with their landlords, while the Hindu tenants there have to be more obsequious in their behaviour to the landlords than their brethren in Palghat taluk. All the large holdings of wet lands are in the Palghat taluk and in the southern portion of Walluvanad.

Evictions.

II (i) (a) I think that many evictions are made on unjustifiable grounds. The answer is involved in the answer to question I already submitted. I am unable to give offhand instances with details, of unjustifiable evictions. In the Palghat taluk these evictions are on the increase. But in Walluvanad, I am assured that they have not, during the last decade.

II (i) (b) Melcharths are often granted on unjustifiable grounds. The answer to this is involved in the answer to question I. I cannot give offhand the instances with details of the grant of such unjustifiable melcharths.

II (ii) Social oppression of the janmi in many cases is a fact. The question has already been answered above. It is impossible to give the instances.

Remedies.

III (a), (b) & (c) These three may be dealt with together. I do not think all classes of tenants require ameliorative legislation securing fixity of tenure. I would put the kanamdars, the kuzhikanamdars, the sub-kanamdars, the reclamation lessees and the verumpattamdars under the Cochin Sirkar and the kovilagams of the Zamorin, fairly together. I would secure fixity of tenure to them not by an immediate grant of permanent occupancy right to them, but by making it obligatory upon the janmi or the kanari as the case may be, to grant a renewal at the end of every term, and the tenant mentioned above to take a renewal on terms that may be fixed. I am of opinion that the granting of a fixity of tenure on the lines suggested by me is a desirable and effective remedy for the existing disabilities. I would secure fixity of tenure to all kudiyruppu holders who live in houses built by themselves, and would not subject them even to the liability of taking renewals every twelve years. Permanency of right must be secured to them forthwith, irrespective of the length of time they have been in enjoyment of the sites. I think that, on the lines suggested above, and to the class of tenants I have referred to, the granting of fixity of tenure is essential to remove the existing disabilities. If in a holding there are kanamdars, sub-kanamdars and verumpattamdars, I would make it obligatory on the janmi to grant fixity of tenure to the kanamdar and the kanamdar to renew the sub-kanam from time to time. The verumpattamdar would not get the benefit of fixity of tenure, except if a portion of the holding is also his kudiyruppu, in which case he must have immediate grant of fixity of tenure over it. The measures I advocate do not remove the disabilities of tenants as a whole. The verumpattamdars have the hardships I have already indicated in answer to I (a) (i) and are also liable to be troubled by rack-renting.

III (d) I don't approve of the suggestion detailed in this question wholly. I would certainly secure fixity of tenure to the kuzhikanamdars, and to certain classes of verumpattamdars whom I have dealt with in the preceding answers; but I would not give it to all classes of verumpattamdars who have been continuously on the holding for a long time. Though they may have been faithfully paying the rent in most cases to the kanamdar, and in some cases to the janmi under whom they directly hold, they have spent so little on the soil as a rule that there is no hardship in evicting them when occasion arises. In most cases they are evicted for non-payment of rent. They may be relieved against forfeiture, in every case, if at the first hearing of a suit for eviction they pay all the dues and the full costs of suit to merit relief. If there be verumpattamdars who secure the landlord the payment of rent by a kattakanam

on a two years rent basis, such verumpattamdars may be given a term of six years to be in possession of the holding. Confining the permanent occupancy right to the kanamdars who came into the holding before 1852 is very inadequate relief and does not solve at all the social and agrarian problems of Malabar. The number of such tenures is a mere handful, and there are no special reasons for marking them out for preferential treatment. It is one of the misfortunes in the land law of Malabar established by judicial precedent that kanam holdings became liable to be redeemed and simply because the current of decisions started from the year 1852 I am not prepared to select for preferential treatment the kanam holders who have been on the holding even prior to 1852 and continued ever since. If any preferential treatment is to be given at all to them, I would, following the Travancore State legislation, exempt such kanam holders from the liability to redemption of their holdings in the event of their inability or refusal to renew, leaving the landlord the right only of recovering such renewal fee by a suit the decree in which may order a sale of the kanam holding as a charge. The reclamation lessees too are in my opinion to be secured fixity of tenure.

III. (e) Those who get the benefit of fixity of tenure must be content to have the rents and other dues due to the superior landlord made a charge on their holdings. Following the Cochin and Travancore legislations, I would also enforce such claims through courts by a kind of summary procedure. Possibly the revenue courts too may be invested with jurisdiction to enforce such claims. The other advantages of non-payment of court-fee for such suits, applications, etc., secured by the Cochin and Travancore legislations may be secured to the landlord.

IV. (a) (1) I desire to give permanent occupancy rights to kudiyruppu holders as I have already shown.

IV. (a) (2) The only distinction I would make between urban and rural kudiyruppus is that the rent payable for urban kudiyruppus may be more often varied than for the rural to enable the landlord to get the benefit of the high values that competition in cities creates. But in the rural tracts too it may be varied not earlier than twelve years if the productivity of the holding has increased during the interval by the growth of trees, and the enhancement must be made only by a decree of court.

IV. (b) I would not disturb the extent of land in the possession of kudiyruppu holders now. But in regard to grants to be made in future, I would give a minimum extent of 10 cents in the towns and half an acre in the rural areas to the kudiyruppu holders.

IV. (c) (1) I would meet this case by giving the tenant the option of surrendering the land if the janmi would not redeem him at all, and making it obligatory on the landlord to pay the tenant the value of improvements on the holding. But as the tenant is forcing a surrender on the landlord, I would deprive him of one-fourth of the ascertained value of improvements, if he does not choose to remove the improvements he has made. If he is a mere kudiyruppu holder I would not subject him to a renewal.

IV. (c) (2) The kanamdar in this case must have the option to remove that portion of the house which is excessive and has made the improvement unsuitable to the holding, where such separation is reasonable and possible; and if the landlord redeems him he may be compelled to pay the value of improvements for the suitable portion. The question however will not arise for consideration at all if the kanamdar regularly renews the demise and safeguards the fixity of tenure which legislation may confer upon him. If in this case too the kanamdar has only a house-site and built a very large house thereon, I would only subject him to the payment of higher rent to the janmi, but not to evictions or customary renewals every twelve years.

IV. (c) (3) I understand this question to mean that a kudiyruppu which is only part of a larger holding, but which is nevertheless necessary for the beneficial enjoyment of the holding, has to be adequately provided for even though the holding may have to be evicted for any reasons. The kudiyruppu in question may be that of the actual kanamdar or other tenure-holder of the entire holding or it may be that

of a sub-tenant under the kanamdar. If it is the former, he may not be protected in the enjoyment of it as it is not the only item demised. If it is the latter, the kudiyruppu holder may be protected, if in the very suit he offers to pay the rent required to the janmi and would execute the necessary kaichit to the janmi.

IV. (d) (1) & (2) I would consider the two questions together. I don't desire to entangle the kudiyruppu holders, most of whom are poor folks, and go without occupation for nearly three months in the year, with obligations of this character. It would be a big burden on them. I think it is not suited too to the genius and the customs of the people of Malabar, as it will lead to endless litigation. In most cases the money would remain unpaid.

V. The relations between janmis and tenants have not materially improved, notwithstanding the Tenants' Improvements Act. The tenant has always a lurking consciousness that he is not paid enough for his labours, and the landlord equally grumbles that he has to pay so much for getting back the land which is his. Landlords enter into special contracts with tenants on the question of payment of value of improvements and at renewals compel tenants to insert that the existing improvements have been valued and trifling sums inserted in them. The tenants on their part on account of the heart burning of having to give up the soil have sometimes raised very false pleas of reclamation; numerous commissions were for a few years issued in quick succession to value the improvements on the same property, until the High Court checked the practice by making it illegal to issue so many commissions without setting aside the earlier commissions. Sometimes the tenants started making improvements after decree, apparently without good faith. I have indicated the changes to be introduced in the working of the Act, in the earlier answers. Some new improvements like rubber, coffee, tea and graft mango plantations are not satisfactorily valued at all to-day. They should be valued as fruit trees.

Compensation.

VI. (a), (b) & (c) I would consider these questions together. I do not think any compensation need be paid to the landlord for conferring the kind of fixity of tenure I have in view. The renewal fee, wherever it has to be paid, is the only compensation I would give. I would take away the numerous customary dues, perquisites, etc., and fix the renewal fee on a rough and ready scale at 50 per cent of the extent of the kanam. The question of apportionment of compensation therefore does not arise in my view. If ever a compensation is resolved upon, it has to be apportioned between the different tenure holders in the proportion of the market value of their interests, which is extremely difficult to fix; but only those tenure holders who will enjoy the benefit of a fixity of tenure need pay. The special facilities that may be offered for payment of compensation may be summed up in one word—instalments.

Rent.

VII. (a) & (b) The present rent and michavaram may not be disturbed at all. It is possible that real hardships may result to some tenants if we adopted that rule, while some others may have the benefit of rather easy terms. Looking to the extremely litigious character of the people of this district, I would suggest the retention of the existing rents, in the interests of the people at large. These rents are of course liable to variation. If tenants have reclaimed more areas, the landlord must get his share of the increased produce. The landlord may have 15 paras more per acre of newly reclaimed double crop land and half as much per acre of newly reclaimed single crop land. The trees on the tenant's garden may cease to be fruitful, the tenant in such cases is entitled to a diminution of rent. But it is safer for both enhancement and diminution to be made only by decrees of Court. Here too, summary procedure as pointed out above may be adopted.

Renewal fees.

VIII. (a) As already stated above, I would fix the renewal fee in the case of kanam holdings on the rough and ready scale of 50 per cent of the kanam, and one year's net rent in the case of those verumpattams and reclamation leases which I propose to invest with fixity of tenure.

VIII. (b) All sorts of rates prevail in my taluk: so many janmis, so many rates would appear to be the rule. The standard of the Cochin sirkar is fairly good; so too of the Paliyath Achan as I understand.

General.

IX. I have not to answer this question as I do not think that the grant of fixity of tenure is not desirable to certain classes of tenants, although I don't approve of the compulsory purchase of the janmi's rights. But, at the same time, I don't think that the cultivation of the soil, meaning by it the verumpattamdar under the janmi or the kanam, requires any higher protection than I have indicated already. The condition of the verumpattamdar is bad enough. But it is due to his poverty, to his thriftlessness and vicious habits like drink, etc., and the enforced idleness of nearly four months when he falls into the hands of the money changer and borrows from him at exorbitant rates. His condition is one of chronic poverty. Rural credit banks must help him to borrow money at favourable terms; social reform must enable him to get rid of the drink and allied habits, and cottage industry must be organized to give him supplementary occupation during enforced idleness.

X (a), (b) & (c) I would consider these questions together. I would get rid of the melcharths altogether. The right of pre-emption as against melcharths would not work properly in practice. It would encourage a lot of lying. The suit will be resisted by the melcharthdar on the ground that the option was not availed of by the kanamdar. The janmi would discover the importance of his position suddenly. He would be the tongue in the balance. Looking to the average character of Malabar humanity, I would not exclude the janmi from the category, I have no doubt that the janmi will play off the one against the other. The question covered by X (b) should not also arise for consideration at all. There must be no room for private treaty between landlord and another as to the terms of renewal, and making such treaty a basis for an offer to be made to the kanamdar as against an impending melcharth. Moreover, an intending melcharthdar will sometimes advance the money for a redemption suit and payment of redemption price and afterwards directly take the demise from the janmi. The evil of melcharths is not successfully tackled at all in such cases; only we have changed the form.

It is impossible to prevent collusions between the janmi and the melcharthdar. I would therefore most earnestly plead for the abolition of melcharths altogether, for carrying ameliorative legislation in this matter as far as the one in the sister State of Travancore.

As question III (f) was inadvertently missed by me I would subjoin the answer for it below.

III (f) I understand this question to mean in which cases could the landlord redeem the land from the kanam tenant or any other tenant who has otherwise fixity of tenure.

Under the following conditions he may do so:—

- (a) When the tenant keeps the rent in arrears for twelve years.
- (b) When the tenant denies the landlord's title.
- (c) When the tenant makes such waste on the land as cannot be adequately compensated in money.
- (d) When the landlord bona fide requires the holding for purposes of residence or the maintenance of the members of his family, or for constructing a water reservoir or creating other irrigation facilities, only so much of the land as is absolutely required for the object in view, with a right of reverter to the tenant, if, within six years of resumption, the changes required have not been made by the landlord.
- (e) When the tenant refuses or neglects to take a renewal whenever a renewal is required.

In cases (a) and (e) if the tenant makes amends by depositing at the first hearing full costs, arrears of rent and revenue and renewal fee, he is entitled to hold the land as if no forfeiture has occurred.

Thursday, the 1st December 1927.

The Committee met again after lunch and the examination of Mr. P. V. Aghoram Ayyar was taken up.

Oral evidence of Mr. P. V. Aghoram Ayyar.

The President:—Q.—Mr. Aghoram Ayyar, you are a member of the Palghat bar?

A.—Yes.

Q.—What is your standing at the bar?

A.—I am completing the 10th year this month since I began to practise.

Q.—Are you a janmi or a tenant?

A.—Neither.

Q.—You own no lands?

A.—No.

Q.—Your knowledge of the Malabar land tenure is derived from your profession as a lawyer?

A.—Yes; also from the study of the literature relating to tenancy almost from the time of Farmer's Commission in 1793. Moreover, I have had talks with people acquainted with and interested in this question, such as, my clients and other members at the bar.

Q.—Will you kindly refer to your written answers? You say in answer to question I (a) (1), "Renewal fees and michavaram are now almost arbitrarily levied in most cases except where the personal goodness of the landlord prevails in a very few cases, generally the hardship to the kanam tenant resulting from such arbitrary levy is very great". Is this statement based upon information or your own personal knowledge?

A.—It is based on information given to me.

Q.—Is it based on information which you have derived from the exercise of your profession?

A.—Partly from the exercise of my profession and also in my extra professional capacity, off and on I have heard of such instances.

Q.—You have heard of such instances, but you have not been in a position to verify the statements made to you?

A.—I have not had opportunities to conduct an investigation regarding them. I mean to say, if verification is to be made, I must know the janmi's side of the matter also, because I have heard these instances mostly from tenants. I have conducted no such investigation.

Q.—But in the exercise of your profession you say you have come across cases, where there have been arbitrary demands of renewal fees and michavarams, frequently?

A.—Yes.

Q.—Why do you consider them arbitrary?

A.—I used the word arbitrary only in this sense. It goes beyond the ordinary customary rate in many cases.

Q.—Does not custom differ from place to place and between janmi and janmi?

A.—I have taken it broadly. You may use the word 'custom' in that loose sense too, if you like.

Q.—When you say arbitrary do you mean to say it is unreasonable?

A.—Yes; in so far as it is against customary levy I consider it unreasonable.

Q.—There again we are coming back to the point of 'custom'?

A.—I had in my mind the ratio of 2 per 10 or $2\frac{3}{4}$ per 10 of the kanam known as the customary rate for renewal fees. In many cases it exceeds that. In the case of michavaram I had in my mind the balance payable to the landlord after deducting the revenue, kanappattam, and also the interest on the kanam amount. I use kanappattam to mean half of the verumpattam which is considered to be the

customary share to the kanamdar on the footing that he has a substantial interest in the soil. Half the verumpattam is the kanappattam. That is deducted; then we take the other half, we find out the interest on the kanam amount and then the revenue, and deducting those two items we get the michavaram. There are many cases in which it exceeds this rate. The original michavaram has been greatly enhanced. Then in the case of kanam holdings, which have not been evicted from the tenant, in the succeeding renewals in the course of a generation, if it was originally 30 paras, it has been enhanced to 450 or 500 paras, as the case may be. I had such cases in my mind when I referred to the arbitrary enhancement of renewal fee and michavaram.

Q.—You have given us the old rate of michavaram. I should like to know what the renewal fee was according to old custom?

A.—I do not know the history of the renewal fee. In fact, from the literature I studied I did not find any materials from which I can find out for myself the history of this 2 per 10 or $2\frac{3}{4}$ per 10 rate of renewal fee.

Q.—All that I want to know is whether the renewal fee comes out of the remaining half, which is according to you exclusively the kanamdar's share, or from the verumpattam?

A.—I have not been able to find out that it comes out of the produce.

Q.—So it is possible that it was coming out of the half share which remained after the kanappattam is deducted from the verumpattam?

A.—I cannot say anything about it. From the books that I studied I have not been able to come across any theory about it.

Q.—Then please refer to the answer to question I (a) (4). "In some cases an original saswatham kanam tenure is compelled to be surrendered to the landlord by some clever device and an ordinary kanam holding is substituted in its stead, etc." I suppose it is not a grievance; it is a fraud. It is not a grievance which is peculiar to the tenure, but it is a fraud to convert saswatham tenure into kanam tenure by some sort of device. That sort of fraud can be committed under any system?

A.—It is not a grievance peculiar to the tenure.

Q.—Have you come across any such cases?

A.—One case has been reported to me, and I wish to place it before the Committee also. A week ago, I got a note from one who was a kanam tenant of the Kavalappara Moopil Nayar. He has sent a memorandum to me and he mentions one instance of a saswatham tenure which was cut down to a kanam tenure at the time of renewal.

Q.—You have not investigated it?

A.—Yes, I made some investigations about this, as in the neighbourhood of that man, there lives a member of my Bar. I asked him about this and he told me that that was a fact. That is all the investigation I have made about it. I had no time also to make a more detailed investigation into the matter.

Q.—Do you wish to place that before the Committee?

A.—I do wish. (The letter was filed.) There was a covering letter also and he has given several instances of arbitrary and unjustifiable evictions.

Raja Sir Vasudeva Raja of Kollengode:—Q.—In which year was it?

A.—I think the year is not given.

The President:—Q.—That is not quite relevant to the question before us. Please refer to I (a) (5). You say "Melcharths and assignments are made some times of parts of a kanam holding and the existing law allows redemption of those parts alone, etc." Will you kindly explain it? The Committee has not been able to appreciate fully the legal point involved in it.

A.—All that the law prevents is the partial redemption of a mortgage. The kanam is now understood to be an anomalous mortgage. So for our purpose we shall say, the law prevents partial redemption of kanam; the only restriction is the person who seeks to redeem a mortgage is not allowed to pay less than the actual mortgage money.

Q.—You mean the melcharthdar?

A.—He may be the melcharthdar or the actual landlord. He is not given a decree for redemption by an offer made by him to pay only a portion of the kanam amount. He will have to pay the entire mortgage money. The law then does not stand in his way at all. But the kanam holding may consist of wet lands and parambas and buildings and structures and other appurtenances and trees that have been made there. Supposing the landlord grants a melkanam of the wet lands alone, the melkanamdar, on the strength of his melcharth files a suit for redemption of the wet land by offering to pay the entire kanam amount due to the original kanam holder. In that suit he has to pay only the value of improvements on the wet lands because he does not seek redemption, i.e., possession of the other portion.

Q.—But cannot the tenant set up a plea in that suit that the suit is bad for partial redemption?

A.—He cannot. All that the law requires is that the person who seeks redemption must be willing to pay the entire mortgage money. In fact it comes to this. You can look at the melcharthdar's position as that of a subsequent mortgagee, or one who has taken an assignment of the right of redemption from the janmi for the limited period of twelve years. You may take it in any view. The melkanamdar gets possession of the wet land by paying the entire kanam price and the value of improvements on the wet lands alone. So it comes to this. The melkanamdar has his kanam made security only on the wet lands. That is the point. The law prevents partial redemption only to the extent that I said. The rule as to partial redemption is embodied in section 60 of the Transfer of Property Act. The person who offers to redeem has no right to say, as the original kanam is split up in a particular proportion between wet lands and parambas, "I have got the right to offer you only that proportion; you kindly give me back those lands." He has no right to say that. Suppose I offer to pay the entire mortgage money and the value of improvements payable under the Tenants' Improvements Act, on the portion whose recovery I want. There is no rule under the Tenants' Improvements Act preventing partial redemption in this sense. That was the very question that was considered by the Full Bench in 42 Madras, 603, viz., whether the Tenants' Improvements Act contained any provision which prevented piecemeal redemption of a portion of a holding. They said it did not contain any such provision.

Raja Sir Vasudeva Raja of Kollengode:—Q.—Suppose the tenant does not pay for the portion which has not been redeemed?

A.—He is not bound to pay rent as the relation of mortgagor and mortgagee has been brought to an end by redemption.

Q.—Without paying anything to the janmi, is the tenant to be in possession?

A.—Yes. He is to be in possession. On parambas these buildings and other structures are made and trees are planted; only when there are wet lands close to them the two together make a useful holding for the tenant. But when one is taken away it is just like cutting an important portion of the body which is one entire single organism. When we give away an important portion it is just like a man who has to walk without feet.

Q.—Is it possible to conceive instances where the janmi will be willing to forego his property?

A.—Therefore it is that the janmis circumvent the law by giving melcharths. Otherwise the advantage to the janmi probably ceases. Once a wet land is reduced to possession by a melkanamdar, the janmis will be under the expectation in many cases that the kanamdar will find it not to his advantage and he will come to terms or surrender it, which will be to the detriment of the kanamdar. In the last resort, the janmi can of course sue on title to recover the property left out.

The President:—Q.—Why should he surrender it?

A.—Keeping it is not paying to him. The two together alone will be valuable.

Q.—It will be paying to him to some extent? Instead of getting nothing he will be getting something. Your position is that the paramba without the wet land

is useless and vice versa the wet land without the paramba is useless from an agricultural point of view?

A.—I shall also point out the position from the in-coming tenant's point of view. It may so happen that the melkanam may be taken by a man in the adjacent holding. Seedlings may be planted in the paramba of the other holding so that it will serve the purpose of both the holdings—wet lands—together.

Raja Sir Vasudeva Raja of Kollengode:—Q.—Can you mention any particular instance in which such a thing has been done or are you speaking simply of the possibility?

A.—I am told by a kanam tenant of Olappanna mana that there are several such cases.

The President:—Q.—Can you give the name of the kanam tenant?

A.—I had better not give; he has now a holding under the janmi. We do not know what will be the upshot of all this. He fears very much. It is better that I do not give his name so that he may not get into trouble.

Q.—Then in answer to question I (a) (6) you say "Renewals of unexpired kanam demises are on the increase, etc". The Committee would like to know how many such cases you know personally?

A.—Personally I know one case, which involved the renewal of two kanam holdings.

Q.—When was it?

A.—I think it was made about fifteen years ago. There was the original kanam for twelve years. Before six years had run out the janmi insisted on renewal and necessarily he had to consent to it. The renewal was effected. The renewal fee was paid for the succeeding twelve years. But he lost six years' income which had to run out for the expiry of the first lease period.

Q.—Could you give us some particulars about that case?

A.—I think we will find it reported. It is probably reported in 36 M.L.J., page 680. There was another case also of that kind. That is reported in 45 M.L.J., page 258.

Q.—Then please refer to I (a) (8). There you say: "In one case almost all the big holdings have been converted into verumpattam by a systematic redemption of them carried on through many years and I understand that even those verumpattam holdings have to-day ceased to be so, the lands being in the actual occupation of the landlord, etc." Is it not strictly according to law?

A.—I was not looking at it merely from the point of view of law. The point to be borne in mind by every jurist and every legislator is to promote the greatest happiness of the greatest number.

Q.—You mean it tends to monopolizing?

A.—In the direction of monopolizing. Let me use guarded words.

Q.—Please see I (a) (10). "These communities have bestirred themselves in these times and sometimes adopt drastic action in the interests of social purity." What do you mean by social purity? You mean they are attempting to change marriage customs?

A.—They think that admixture of blood between caste and caste is not a desirable thing. At any rate that is their view.

Q.—Then you say "The penalty of such drastic and courageous action has been the loss of their holdings." We would very much like to know if that statement is based upon any information.

A.—Yes. This morning I was travelling with Mr. Koman Nayar, a member of the Palghat Bar; he got down at Tirur for some meeting or something; he gave me one or two instances. But I was not able to carry those particular instances in my head. He gave me one or two instances about this. I do not mean to say that they are so widely prevalent.

Q.—Then in answer to question 1 (a) (ii), you say, dealing with kuzhikanam-dars: "I should think that the eviction in their cases, before the trees have reached their full growth, is doubly serious, etc." There also I should like to know if you have any particular cases in mind.

Q.—That is you speak about the possibility of tenants being turned out?

A.—I have been given that information. I have no particular case in my mind.

Q.—Occasionally you get information of such evictions?

A.—Yes. In the first place we have no kuzhikanams at all in the Palghat taluk. This form of tenure is largely prevalent in North Malabar. We read from reported cases sometimes.

Q.—Are there reported cases of this sort?

A.—I cannot now recollect any. By the study of the literature on the subject and also from Mr. Innes' report, I have come to understand this.

Q.—The report of Mr. Innes is based upon information which he collected by sporadic enquiry. Have you come across any reported cases?

A.—I don't think that Mr. Innes' enquiry was sporadic. As for the cases, I will have to be given some time. I don't recollect it now.

Q.—Please refer to I (a) (iv) and (v). You say "The disabilities of the kanamdars are generally transferred to the sub-kanamdars. The verumpattamdars under kanamdars suffer a real hardship by having their value of improvements set-off against the arrears of michavaram and revenue payable by the kanamdar or the meene holder."

Now, the verumpattamdar derives his title from the kanamdar subject to the disadvantages to which the kanamdar is subject?

A.—Certainly not.

Q.—But is he not liable to pay rent?

A.—His liability to pay rent is determined by the Transfer of Property Act. He has not privity of estate with the janmi. He is therefore not liable to pay rent to the janmi.

Q.—What is the set-off of the value of improvements against arrears of michavaram and renewal fee?

A.—The set-off is really the compulsory payment by process of law of the arrears of revenue and michavaram.

Q.—Who is the man liable to pay revenue and michavaram?

A.—The kanamdar. But under the law, because there is no privity of estate between the original kanamdar, and the mortgagee under the kanamdar who is in possession of the property or the verumpattamdar under the kanamdar who is in possession of the property, the verumpattamdar is in the position of a sub-lessee, so to say. Neither of them has privity of estate with the original landlord and where there is no privity of estate there is no liability to pay rent. That is the general law.

I shall state my position more clearly. There is only one case about this so far as I have seen reported. That is in 25 Mad., 568. That was a suit for redemption by the janmi. The kanamdar and the verumpattamdar both were made parties in that suit. The arrears of michavaram payable came to a large sum. The amount payable by the kanamdar was set-off against the improvement made by the verumpattamdar. The verumpattamdar then put in an application for amendment of the decree before Mr. V. Venkatramana Pai, the then Sub-Judge of Palghat; he allowed the amendment. In that amendment application the petitioner had not impleaded the kanamdar, but he had impleaded the janmi. He wanted to get the order for set-off quashed. The order for set-off for value of verumpattamdar's improvements was disallowed and the amendment was allowed. Then there was an appeal, preferred to the High Court. In appeal, they did not go into this question. But on another ground, namely, under section 86 of the Transfer of Property Act, since in the amendment proceedings the kanamdar had not been impleaded the order passed by the lower court was held to be wrong. On that ground they allowed the appeal. But they did not decide the question of set-off leaving the matter in doubt, but giving it by way of *Obiter* as it were that the improvements may be set-off. Two cases 7 Mad., 545, and 8 Mad., 381, were cases of set-off of kanamdar's improvements against arrears of michavaram payable by the kanamdar. They decided it on the broad footing that it is a matter of accounting between the mortgagor and the mortgagee in a redemption suit and so all barred arrears may be set-off. Then we come to a later case, 1917 Madras Weekly

Notes. I think it is reported at page 275. This is a case where the verumpattamdar was holding the land under his landlord and there was no mesne holder between the two. On the question whether the improvements are liable to be set-off against arrears of rent payable by the verumpattamdar to the landlord they said the principle on which the kanamdar's improvements are liable to be set-off would again apply to this. In that way, we have got two decided cases dealing with the kanamdar directly under the janmi and the verumpattamdar directly under the landlord. My point is the verumpattamdar under the kanamdar stands on a different footing, for this reason. There is no liability on the part of the sub-lessee or mortgagee from a tenant to pay rent under the general law, to the ultimate landlord. This is clear settled law. What is a set-off? My idea about it is that it is the compulsory payment of the arrears of michavaram or rent. In the case of the verumpattamdar it will be rent and in the case of the kanamdar it will be michavaram. When you allow set-off against value of improvements you make the tenant in effect pay. That is compulsory payment. Now when the law in one breath wants to say the sub-lessee or a mere mortgagee from a kanamdar is not liable to pay rent, it cannot in another breath compel him to pay that rent which the law said he is not liable to pay. This is the point I argued in a recent case and I have succeeded too. It is devoid of case law, I admit.

Q.—That is your view of the law and it has been upheld by the court of first instance?

A.—There is no case law in the matter; but the view I have submitted is, I venture to state, correct. I would submit one more word also. Section 6 of the Tenants' Improvements Act is the section which deals with the question of set-off. This is the only reasonable construction to be put upon that section.

In that particular case I argued before the court, the improvement value to the verumpattamdars came to Rs. 8,000. The kanamdar's arrears of michavaram and revenue came to about Rs. 2,000. Then there were the improvements made by the kanamdar. The original kanamdar died and the property was set apart for some religious purpose and so on. The actual value of improvements payable to the kanamdar was about Rs. 800, the kanam amount was Rs. 300. The janmi was not able to fully recover the entire amount out of it by a set-off. So he had necessarily to catch the verumpattamdar.

Q.—Then under I (b) you say "I think the disabilities are peculiar to the tenants in Malabar. Some of them at any rate though a few are everywhere", etc. Do you mean to say that such big holdings do not exist in other districts such as Tanjore and Trichinopoly? There are landlords paying assessments of Rs. 50,000 and Rs. 60,000 there?

A.—One distinction is drawn between the landlords over there and those in Malabar. There the cultivating landlords are more. I find from a report the figure for the year 1912. It is said that 65 per cent. of them are actually cultivating landlords. Here, it is said in the report, there is only a very small percentage about 7 per cent I think. From that Mr. Innes who is responsible for the report has deduced the bigger proposition that the landlords here take little interest in the land; He calls them mere "rent receivers".

Q.—That may be correct?

A.—He draws a distinction also between the Malabar landed proprietor and the English landed proprietor. The English landed proprietor also owns very extensive acres, but they are in contiguous blocks, while the Malabar landed proprietor has his estates scattered over many villages, and he instances the Zamorin as the biggest landlord, with lands in 540 desams. From that circumstance, he says, has started the practice of employing kariatthans who according to him in very many cases are very bad and ill-treat people, almost heartless and unscrupulous.

Q.—Do you mean to say that these big pattadars in other districts who own extensive property cultivate all their lands themselves?

A.—They perhaps would employ kariatthans and tenants-at-will.

Q.—So far as that matter is concerned there is not much difference between the conditions prevalent here and there?

A.—The properties would in many cases be close to them, I think. But I have personally no knowledge of the agricultural conditions outside this district though I have travelled in those parts.

Q.—In the same paragraph you say 'the steady rise in these modern times of the monied classes, etc. ?

A.—That affects the kanam holdings.

Q.—You mean they take melcharths?

A.—Certainly.

Q.—Perhaps also they rack-rent the verumpattamdars?

A.—I had not that in my mind. Kanam holdings were disturbed. I do not say the monied classes and the professionals are the only people who take melcharths.

Q.—They are the main agitators now?

A.—In the first place I do not like the word agitation to be used as it has a bad odour about it. I suppose it is common knowledge that it is people like lawyers who are now ventilating the grievances of the kanamdars. It does not mean that other people have not grievances or do not feel them. It requires some intelligence and some capacity to put things together so as to suit the modern age, to make for the required educative value in agitation. So the ordinary dumb-driven people are not able to do it. I suppose in a country like ours it must be doubly so, because modern education has not spread widely. But it does not mean that the agitation of these professional classes has to be looked down upon. They speak not merely for themselves but also for the rest of the people. That is point number 1. Then point number 2 is this. I am personally aware that even if you call it an agitation, it is not merely the melcharth-takers who are ventilating their grievances from platforms and conferences and in the press, but it is also the kanam holders, who have remained in undisturbed possession. It is also other people who have no kanam holdings at all but who have other landed properties that do it. For instance they may have janm lands which they have purchased in the Cochin State finding it of no use to buy lands here. The Pandaravaka verumpattam there is equal to the janm land here. What I mean to say is we need not impute a personal interest in the agitation to the melcharth-takers alone. I do not mean to say that they do not agitate; they also agitate. Not only these two classes but almost all these ordinary rank and file of the people, almost every one will agitate, as these disadvantages are real.

Q.—Please refer to II (1) (a) under 'evictions'. You say 'I think that many evictions are made on unjustifiable grounds'. You say you are unable to give instances. Could you furnish the Committee with a list of these cases, which could be investigated?

A.—In the memorandum that I filed to-day there is a list of such evictions. But I will mention one or two now. There was a case in which I had something to do not on behalf of the actual tenant sought to be ousted but on behalf of the rival kanam tenant, who has come in in that suit on account of boundary disputes between the actual kanam tenant who is sought to be ousted and himself. I am appearing for the rival kanam tenant. It is a big holding under Olappanna mana. That eviction I am almost convinced, is really unjustifiable. The holding is very old. Documents have been produced in that suit by the janmi himself which go to show that the holding commenced as early as 1000 M.E. It is a very ancient holding and it has been renewed from time to time very regularly and renewal fees have been paid very regularly. I have personally conducted some investigation about the reason for this eviction. Three reasons have been given to me for evicting that holding. The first reason is, the predecessor-in-interest of the kanam holding, became embarrassed in circumstances and then his affairs were managed by a private trust and the trustees sold this estate to the present kanam tenant who is sought to be evicted. He was a minor then. His natural father—he was given in adoption to another family—purchased the estate for him. The janmi wanted to prevent the purchase of this estate. But he purchased the estate from the trustees of the previous kanam tenant whose affairs became embarrassed. To convince the people of the locality, there was a sort of bid, but there was no public auction really, I think. The janmi had his own kariasthans there. He wanted to prevent the purchase of this estate by the present kanam tenant, on behalf of the minor. The tenant's father did not heed his words and he purchased it.

Then, the second reason is that the karnavan for the time being of that mana visited that locality some time before the eviction suit. That is what I am told by the vakil for the kanam tenant—I do not think that it is an idle statement. There

is a beautiful garden there. He seems to have almost fallen in love with the garden. That is reason No. 2.

Reason No. 3 is—I am told by my client, the rival kanamdar, and he is also a member of my Bar. This janmi has effected separation of wet lands from parambas in most of his holdings. Every kanam tenant has submitted to this process of disintegration with regard to their estates. But this particular tenant after his assignment would appear not to have submitted to it. That was the third reason.

The suit was filed in 1921. My client came in in 1922. They were valuing the disputed portion. So he intervened. The suit was pending in the Additional Subordinate Judge's Court for some time. A few witnesses were examined there. From there as the Court was taken away it has again been sent to the Principal Subordinate Court and it is still pending. Most points have been argued. It strikes me that there was really no justification for redeeming that holding.

Q.—That is a case which has come personally to your notice. Can you give any other instances?

A.—I cannot give off-hand.

Q.—Will you please send us a list?

A.—I shall try.

Q.—Also a list of melcharths granted on unjustifiable grounds?

A.—Yes.

I can give one instance of a melcharth granted on unjustifiable grounds. I think it was a typically bad case. That was conducted by me for the kanam tenant, with Mr. Gayatri Vallaba Ayyar. That was a very old holding; we can personally vouch for the fact that the tenant was of a very docile character and a very decent man. From my recollection now, I can say—the case was conducted some six years ago—there was no rent in arrears. I think the janmi was Panampilli Achen. The suit number is O.S. 179 of 1918 or 1919 in the Additional Munsif's Court, Palghat. We produced all the old kanam documents of over 80 or 90 years. We have personally inspected the land in order to really understand the case for ourselves. There are janmi's admissions in earlier renewal documents that a place which was nearly wild and virgin land was converted into wet land by the family of my client. Melkanam was granted of this to some one who was an adventurer; in this case he did not happen to be a big professional man. He belongs to the class of Servais, people who play on the nagaswaram—piper. I think he had given up that work long ago and he had developed into a clever litigant and so on. He took melkanam and filed the suit.

Of course many instances can be given in the Ekkanath tarwad in the Palghat taluk which is a very rich janmi tarwad. A good many melkanams given by them are unjustifiable.

Q.—The Committee would be very thankful to you if you send a list of all that?

A.—Yes, I shall try.

Q.—Under 'Remedies' you have mentioned all the cases in which fixity of tenure should be given. You have excluded only the verumpattamdar, i.e., the year to year tenant?

A.—Yes.

Q.—In answer to question IX you say that his condition is one of chronic poverty. Is that the only reason for excluding him from the grant of this concession?

A.—I think I have stated also in some places that he has so far spent little on the land by way of improvements.

Q.—But you recognize that to keep land in a good and husband-like condition requires constant vigilance and constant application of time and labour?

A.—Yes. But the improvement of land and its increased outturn depends on two considerations. Of course let us leave the land out of account—unless we have the land it is impossible to improve it. First you have to do permanent works of improvement on the land. That is generally done only by one who has got the means to do it. A man who has not got the money necessary for it cannot attend to it. Then, after it has been brought into a cultivable stage, the annual work of

cultivation has to be carefully attended to. More manure has to be used, scientific methods of cultivation may be adopted. Whatever has to be done to keep it in a husband-like condition has to be done from year to year. Looking to the immense outlay of capital that has been mostly made by the kanam tenants, speaking as a class—I am not speaking of tenants who own kanam holdings and look to it merely as an investment—taking the whole body of kanamdars as a class, they have made a good lot of outlay by way of capital upon these holdings, i.e., to improve them from their virgin and wild state.

Q.—But you assume that it is the kanamdar that has invested all the money?

A.—It is not an assumption, but a substantially true fact. We should include among those who have spent large capital, not only the kanamdars, but also, the cowle-holder, the kuzhikanamdar, the reclamation lessee under the Palghat Raja and the Puzhakkal idom, the vettukanamdar and so on. For instance the Palghat Raja has got about 3,000 acres of land in Akamalavaram about six miles from Palghat town. The reclamation there was not done by the kanamdar; it was done by the reclamation lessees. We come across such leases in Bengal, Nagpur and the Central Provinces. So also the Wadasserri tarwad has granted saswatham right in some cases and also vettukanam right in some cases. I will include also the kovilagam lessees in this. I would treat such people as have done permanent works of improvement on a higher footing than the verumpattamdars. I believe my statement would be substantially true. I do not mean to say that the class of tenants I mentioned above entered straightway one fine day when lands were in a very wild virgin state and by the labour of their hands and outlay of their capital, all these lands, changed as by a magic. What I mean to say is, my statement would be substantially true when compared to the work done by the verumpattamdars. It is by comparisons and contrasts that we study different things.

Q.—It is a matter of belief or inference or presumption or something like that?

A.—I think it is inference from the study of general conditions.

Q.—In the case of old kanams you must also remember that the kanam tenant has always enjoyed a great concession. The rent he has been paying to the landlord has generally been favourable, nothing like the full rent which the verumpattamdar pays to the janmi. I draw your attention to this fact and ask you to consider whether the concession enjoyed by the kanamdar for ever so many generations is not sufficient return for the original outlay which was required for bringing these lands into a cultivable condition?

A.—I do not consider that sufficient recompense assuming it is correct to say that kanamdars had a concession. It seems to me something like putting the janmi in the position of Shylock and enabling him to have his pound of flesh. I think it is too inhumane. I do not moreover believe that the kanam tenant enjoyed any concession.

Q.—You say that the verumpattamdar should be put on a somewhat lower status than the kanamdar?

A.—He is now in that position.

Q.—How does it prevent you from giving him fixity of tenure? You yourself admit that his function is a very important function?

A.—I want to put the man who has made permanent works of improvement on the soil on a better footing than the other. He is the man who is more likely here after to spend more on the soil and make permanent works of improvement; the kanamdars are as a class, a monied class, more resourceful and they are likely to spend more if fixity of tenure is given to them because that would be giving to them an assurance that they won't be turned out of the soil.

Q. In short you say they have better claims for fixity of tenure?

A.—I won't put it only on the ground of claim. I put it too on the ground of national economy. The land would yield more and from the State down to the last man who is in touch with the soil, everybody may have a share of it. This giving of fixity of tenure would enable the middleman—I am sorry that that obnoxious term has to be used—with a better assurance, to spend more on the soil. I do

not say that it is the only solution. I admit the land will deteriorate in its quality if its cultivation is not properly attended to. But I am not concerned with persons. I am concerned with the broad question of national economy. The verumpattamdar does not require to be immediately treated on the same terms.

Q.—Could not the same argument hold good in the case of the verumpattamdar who cultivates the land from year to year?

A.—I am afraid that if we straightway grant fixity to him he may get more than he may fitly make use of. We shall keep it as the final goal. I have really nothing to say against it. I have stated his chronic state of indebtedness. Let us try to raise him from his present economic position first. Do not disturb him always from his holding.

Q.—You would give him qualified fixity for six years?

A.—I find in Raja Madhava Rao's proposal the ten years' basis. I have no objection to putting it at ten years.

Q.—But the disadvantage about that period is this. Humanly speaking the interest in the property would wane in him towards the end of the term. So you could not achieve the object you have in mind?

A.—I think it is rightly suggested by the Raja Saheb in his book that if you give straightway fixity to these verumpattamdars, it is possible the value of those tenures alone may increase and shortly these people will lose their holdings. It is possible they may go into the hands of more monied classes.

Q.—But we can restrict his powers of alienation?

A.—If you restrict his powers of borrowing then he would not be able to attend to cultivation. The trouble is this. It very often happens that in the months of scarcity—in Malabar there is scarcity for two months, Mithunam and Karkitagam and it is only when the next harvest is reaped that people are able to breathe a little free air—in those months if they have to attend to the work of cultivation they have to borrow. If he borrows some 10 or 15 rupees he will execute a bond by which he agrees to pay 35 paras in the month of Kanni, that is three months after, when the harvest has been reaped. The man who has lent him this is at the harvest field to get his 35 or 40 paras of paddy. He is more shrewd than all of us. The result is the rent will fall into arrears. It is not by giving fixity of tenure to the verumpattamdar that he may overcome this trouble. My remarks apply to the general class of verumpattamdars.

Q.—If you restrict his powers of alienation the market value of his interest would not rise to the same extent? Secondly if you make the rent the first charge upon the produce of the land his produce would not be liable to be taken away by the moneylender? Such provisions could certainly be made to meet these dangers? The fundamental fact to be borne in mind is this. You are giving him only a conditional fixity, that is subject to the condition that he pays the rent regularly and that he does not dispute the landlord's title. You may insist on a security for two years' rent. You would give fixity only to such tenants as could furnish that security. In the beginning it is possible that only a small percentage of verumpattamdars would be in a position to pay. But as time goes on when they find that deposit of security gives them fixity of tenure, they would endeavour as far as possible to find out money for that security. And when they find that security and when you make fixity conditional on the regular payment of rent and when you speed up the machinery for collection of these rents and when you make the rent the first charge upon the land, and when you restrict his powers of alienation to the necessary extent, don't you think that you are meeting all the evils and risks that you foresee. Don't you think that after adopting all these precautions the conferment of fixity to the verumpattamdar would be the more effective way of increasing his interest in the land and improving cultivation?

A.—Because such a proposal has been made to me I would like to reconsider the question and make one suggestion. It would be desirable to pick out some verumpattamdars for the conferment of fixity in this manner. I think Mr. Innes put down in his tentative proposal that fixity of tenure may be given to verumpattamdars who have been in the holding—we need not adopt his figure; we are entitled to alter it—for 15 years and have been regularly paying the rent for that period.

Possibly, the landlord will have to be armed with powers of distraining for rent, except in Ernad and Walluvanad.

Q.—The immediate result of that would be that all the good verumpattamdars will be turned out of the land?

A.—Why should they be turned out?

Q.—There will be a regular reshuffle of the verumpattamdars?

A.—I can't think of a better method.

Q.—Please see *III (d)*—There you say "If any preferential treatment is to be given at all to them, I would, following the Travancore State legislation, exempt such kanamdars from the liability to redemption of their holdings in the event of their inability or refusal to renew, leaving the landlord the right only of such renewal fee by a suit the decree in which may order a sale of kanam holdings as a charge." What is the advantage in this to the tenant? If he makes default, you say his rights are liable to be sold. What is the material distinction?

A.—The reference to the Travancore legislation is a slip and may be overlooked. After all there is not much distinction. But in the eye of law I humbly submit there is a difference. Looking at the consequences there is not much difference. Some small distinction has to be borne in mind between the liability to ejectment for failure to renew and the recovery of renewal fee by enforcement. Really there is not much difference, if you look at the consequence.

Q.—In the next paragraph you say speaking about summary proceedings to be instituted "the other advantages of non-payment of court-fee for such suits, applications, etc., secured by the Cochin and Travancore Regulations may be secured to the landlord". Our idea is that all suits instituted and applications made by landlords for recovery of rent or renewal fee should be exempted from court-fee?

A.—I do not say 'all suits'. Suits up to a certain limit.

Q.—Is it your idea that the present scale of fees payable in the civil courts is too high and that there should be a reduction?

A.—I do not say anything with regard to this particular matter. But as a general statement I may say that it is my belief that there should be a general reduction in court-fee.

Q.—But here you want all these applications and suits for the recovery of rent and renewal fee to be practically exempted from court-fee?

A.—I have put that forward as a tentative proposal.

Q.—I believe some court-fee would be necessary in order to finance the cost of establishment and so on?

A.—But looking to the summary character of the procedure that may be adopted, the court-fee may be made less at any 'rate.'

Q.—Then in the next paragraph you say "The only distinction I would make between urban and rural kudiyruppus is that the rent payable for urban kudiyruppus may be often more varied than for a rural to enable the landlord to get the benefit of the high values that competition in cities create," etc. I think that is a principle which is capable of being accepted. That is to say you say, on account of the rapid rise in land value in the town you will have rents revised oftener than in rural kudiyruppus?

A.—Yes.

Q.—But you do not provide for a share to the janmi in the rapidly rising values of sites in towns? Suppose you give fixity or permanency to the kudiyruppu holder in the town to-day; a year or two hence, when there is a boom in land value then the tenant stands to gain the entire unearned increment?

A.—I have not contemplated that possibility. I do not object on principle to allowing the janmi his share in such cases.

Q.—I suppose you would agree, for instance, to giving the janmi pre-emption to purchase the land in such cases, that is, when the tenant tries to sell the land, at the price which prevailed at the time when permanent occupancy was given?

A.—I think it is better not to give that right for the simple reason that after all the janmi may not require it in many cases.

Q.—The better alternative would be to give the janmi a share in the unearned increment?

A.—Yes, because the site will be fit for use for some other middle-class man. Suppose the janmi wants to put up a big building in the town. When he so wants it it is very reasonable that he must be given the right of pre-emption, i.e., when he wants it for his bona fide residential purposes. In other cases they are likely to be required by men of the kudiyruppu holders' class.

Q.—Here you have made a suggestion which I think deserves consideration. You say that you won't disturb the extent of land in the possession of kudiyruppu holders now. Then you have laid down a proportion in regard to future kudiyruppu holders. You say you would give a minimum extent of 10 cents. I think it is the maximum, in towns.

A.—I don't think I meant the maximum.

Q.—But are you not losing sight of the janmi's interests. Suppose a tenant is agreeable to taking 5 cents in the town and 25 cents in the country, subject to sanitary conditions. Why should he be allowed to take more? Why should the janmi be compelled to give occupancy right on a larger area than is actually necessary from the health view-point?

A.—I thought 10 cents reasonable.

Q.—In towns would it not be rather too much?

A.—Not very much. You have seen our aghaharam quarters, house-sites with backyards; I think every average house would be more than 10 cents.

Q.—Not more than 2 or 3 cents?

A.—I believe it will certainly not be less than 10 cents.

Q.—I am not sure. According to you 10 cents should be the minimum?

A.—I thought that would also answer the general sanitary considerations.

Q.—Anything below that would be objectionable?

A.—It will create other difficulties, from the health point of view and so on.

Q.—We will now come to the question of compensation. You say "I would take away the numerous customary dues, perquisites, etc., and fix the renewal fee on a rough and ready scale at 30 per cent of the amount of the kanam." You will realize, I dare say, that the value of the janmi property would detract in terms of money. I mean to say after giving this fixity to the kanamdar, the janmi stands to suffer from loss of value of his right.

A.—Probably somewhat for the first few years. Then things may right themselves. I mean in the public estimation there may be an idea that the grant of fixity of tenure that I have in view would necessarily enhance the value of kanam holdings and so on; and appreciably to that extent the janm value will go down. But I don't expect janmi's rights to come into the market for sale. I think after some time things will settle down. Unless there is a general rise in the value of the land, how can the appreciation of one interest be accompanied by the depreciation of another interest? That is why I said that after some time things will settle down. I feel that it will be a temporary appreciation. The kind of fixity that I have advocated is the one involving the smallest interference with the existing state of affairs; so I say there may be a temporary appreciation, after some time things will settle down. I may explain myself more clearly. From what little I have been able to study about the doctrine of compensation, as enunciated by political economists it struck me that when a state advocates an interference with the rights of individual citizens in order to promote the general happiness and contentment of the people as a whole, which leads to an unjust deprivation of the rights exercised by a section of the community so that others may have the benefit of it, then it is a fit case for grant of compensation. After a great deal of consideration I have been able to give to this question, I feel the kind of interference that I advocate does not, if properly looked at, result in an unjust deprivation of any legitimate rights of the janmi. I am seeking to restrict the power of the janmi to evict only in so far as it turns out to be a capricious exercise of it. I am not very much in sympathy with the landlord seeking to exercise that right simply because it pleases him to exercise that right.

Q.—You may not be in sympathy. Suppose I own a property. I may keep it or throw it into the river.

A.—I take it that every progressive state which seeks to legislate would also like to look upon the right from the reasonable point of view and not to bolster up the right simply because of the fact that such and such people alone have that right.

Q.—Having those considerations in view you could probably reduce the amount of compensation. But how could you abolish compensation altogether? How could you say that no compensation at all is necessary?

A.—My idea is, if I check a wrong-doing am I to pay for it?

Q.—What is the wrong-doing. Are you talking of the moral wrong-doing or the legal wrong-doing?

A.—There again I have to go back to the point from which I started regarding legal notions. I speak about legal notions which have to be understood as rational and moral men would understand.

Q.—We must take the law as it is. We must suppose law is based upon morality.

A.—I take the law as it is and as a lawyer I have to understand what the law is. All I mean is if we interfere in the manner I advocate we are not really unjustly depriving the landlord of any legitimate right. I remember the principles that political economists advocate with regard to this doctrine of compensation.

Q.—That principle which you enunciate does not contemplate compensation.

A.—That is a question of appreciation of facts. As I appreciate the facts, I am unable to feel that for the kind of fixity that I advocate, compensation is necessary, because there is no unjust deprivation of the rights of the landlord.

Q.—But *there is* a deprivation, that you must grant?

A.—There is deprivation in the sense that he may not evict after such legislation is passed, whenever he chose and whatever be the motive. If we take the broad principle that men would behave themselves like rational men, my belief is that the kind of fixity of tenure that I advocate does not really curtail the just rights of the landlord. But if we want to secure to him that right, looking at him not in the light that I referred to but in the sense that he can do anything he likes, and if we will not remember that all society is built upon inter-dependence and the adjustment of mutual relations between people and so on, we can do it. I say the proposals that I advocate do not deprive the landlord of any right so that he may be compensated. I shall illustrate my point. Suppose according to my proposals the janmi is not to get the renewal fee. Then I would certainly say it is a very fit case for compensation. Suppose I deprive him altogether of the power of eviction. Then I practically buy out his rights and I am to pay him compensation for that. What I mean to say is my proposals cause the smallest amount of disturbance.

Q.—There is no doubt that all just and legitimate rights which can be exercised and which are being exercised by the landlord will continue to be exercised by him.

A.—If that main proposition is right, at any rate, I feel and it is my sincere belief, that the rest are, as I said, a question of appreciation of facts.

Q.—And also whether we should mix moral considerations with legal considerations?

A.—I do not mix ultra-moral or ethical considerations.

Q.—Coming to a smaller matter, you say renewal fee can be fixed at 30 per cent of the extent of kanam. Do you think it will be a satisfactory formula?

A.—After writing that answer I have been obliged to bestow further thought upon it. I am now ready to suggest another formula. I do not offer it as a thoroughly satisfactory solution; but I thought that was certainly an improvement upon what I had suggested before. The proposal which I formerly made may work hardship in the case of certain kanam tenures and it may work hardship to janmis sometimes. Very probably in the case of old tenures, 30 per cent will not be very satisfactory from the janmi's point of view and with regard to modern kanams, that is, of the last 15 or 20 years, it is possible that it may be a little excessive also to the tenant. After further thought, I thought that the mesne between 30 per cent

of the kanam and one year's net rent—verumpattam rent may be adopted approximately and it may work satisfactorily, for all concerned. There will be cases of kanam tenures where the kanam is small and the janmi would not be getting much. There may be cases where the kanam is a great deal and the kanam tenants' return in the shape of profits is not satisfactory.

Q.—So you propose the mesne between 30 per cent of the kanam advance and one year's verumpattam?

A.—Yes. That is the only improvement I have been able to suggest.

Q.—Kindly refer to VII. You begin by saying that the present rent and michavaram may not be disturbed at all, etc., and in the last paragraph you say 'It is safer for enhancement and diminution to be made only by decrees of court.' Your position is that unless there has been improvement or deterioration no change should be made in the existing rents?

A.—I am willing to add something more now. It is possible the rent is mostly payable in money. When the price in the market rises—

Q.—You are talking of money rents?

A.—Change in the market conditions may inflate the price of articles of produce. So whenever they are raised or diminished that must be an occasion for the landlord or the tenant for enhancement or diminution.

Q.—Money rent should be raised and lowered according to the rise or fall in prices?

A.—That follows, I believe. My idea is to secure in the general interests of the district simplicity and homogeneity in the administration of land law by taking the present rent as the basis. Otherwise I thought something like settlement operations which had to be carried on for five or six years in 1899 and 1900 will have to be also done in order to really arrive at the rent.

Q.—Even then I am not sure you can arrive at the correct rent. When you undertake calculations on so large a scale you have to fix the rent of each field?

A.—It may be really difficult. I am supported in my view by the high authority of Sir Charles Innes. He discusses this question of rackrenting and as a practical ameliorative measure he suggests this, that is, you may take the existing rent as the basis.

Q.—You may start with the existing rent as the fair rent. But do you stop there or do you go further and say that if in any particular case it is proved to the satisfaction of the court or any authority competent to decide the matter, that the existing rent is too high or too low, proper rent should be fixed in that case?

A.—It would flood all these courts with these rent assessment litigations. That is possible. In any case it will promote litigation which will pauperise the tenant class.

Q.—You say in the same paragraph 'If tenants have reclaimed more areas the landlord must get his share of the increased produce'. Why do you give the landlord a share in the increased produce? Is it because he is the owner of the soil?

A.—Yes. He is the ultimate owner and so he should get it.

Q.—You say here 'the landlord may have 15 paras more per acre of newly reclaimed single crop land'?

A.—I think it is a mistake. In the original I think I have written 15 paras per acre for newly reclaimed double crop land and half as much per acre for newly reclaimed single crop land.

Q.—You say in answer to Q. IX 'The condition of the verumpattamdar is bad enough. It is due to his poverty, to his thriftlessness and vicious habits like drink, etc., and enforced idleness of nearly four months when he falls into the hands of the money changer and borrows from him at exorbitant rates,' etc. I wish to put you this question. Is an honest and good verumpattamdar given an adequate share of the produce?

A.—I can only give you the information given to me by a cultivating kanamdar who had also been a verumpattamdar for some time. He had taken between 50 and 60 paras of seed area on verumpattam. He is also a cultivating kanamdar.

This verumpattam was under a kanamdar and the rent payable by him was 550 paras. Before he took the land on verumpattam some Eshuvas and Muhammadans were cultivating it for the same rent. He told me that after deducting the seed, cost of cultivation, etc.,—these were normal years and not years of failure of rainfall—during the three years he was cultivating the land he got between 300 and 400 paras net 'profit'. But he told me one thing. He got some heads of cattle belonging to other people penned in his estate and the manure was used by him. He was getting manure of about 100 heads of cattle. He had to pay one and a half cart-loads of paddy for it.

Q.—Out of this profit?

A.—He has included that in the cost of cultivation that is one thing. Another thing is this, 'he had given his present kanam holding on verumpattam tenure and he was getting 2,000 paras of paddy'. But he tells me that ever since he himself began to directly cultivate the land, he gets not less than 3,000 during normal years after deducting seed, cost of cultivation, etc. One thing is certain; even in the worst cases it is not correct to say that the verumpattamdar is grievously rack-rented and that he gets only the straw. But he is hit hard when the monsoon fails. Generally he has to live from hand to mouth from year to year and when the crops fail through the failure of monsoons, there is not sufficient remission of rent by his landlord whoever he may be. If rents are not sufficiently moderated in those bad years dislocations may arise. I may mention too that owing to pressure from above, though ultimately the verumpattamdar class have been obliged to pay more, the janmis' ill-treatment of the kanamdar has as a rule been more harsh, than the latter's ill-treatment of the verumpattamdar.

Mr. H. R. Pate:—Q.—You say that the verumpattamdar is in poverty and therefore he is not in a fit position to be given permanent tenure?

A.—Yes.

Q.—Why should it not be an equally right argument for giving him permanent tenure? It would increase the value of his holding?

A.—It may increase the value of the holding. My point is the grant of permanency immediately to him in the absence of other conditions which would improve his material condition is not proper.

Q.—Do you mean that he cannot improve his economic condition to some extent if you give him immediately fixity of tenure?

A.—Not in the desired direction. It might enable him to borrow money on the security of his holding.

Q.—Is it not desirable in his own interests? Will it not enable him to borrow?

A.—Yes; it will enable him to borrow, though ultimately he may lose his holding.

Q.—Well, then, the grant of permanent occupancy would be of some advantage to the cultivator?

A.—Yes. But I should like to improve his condition not by immediately giving him fixity of tenure, but by establishing rural credit banks, etc. I am willing also to give him a reasonable measure of fixity. In my proposals I have put it at six years and I am willing to make it ten years.

Q.—What is your proposal?

A.—That, on his readiness to advance two years' rent to the landlord, he may be given ten years to hold the property.

Q.—After ten years he may be turned out?

A.—The landlord should have the right to turn him out but ordinarily if he is keeping on well he may be allowed to continue. But it should be left to the option of the landlord even here, other ameliorative provisions I have indicated may be enforced.

Q.—We are talking of legislation. You say the landlord should be given the power to evict him at the end of ten years?

A.—Yes.

Q.—But in regard to the kanamdar you propose to give him fixity subject to certain conditions?

A.—Yes.

Q.—And the dues that he should pay to the landlord would consist as at present of michavaram and renewal fees?

A.—Yes.

Q.—Do I understand you right that the michavaram is to undergo no change?

A.—It is to undergo a change on the lines I have indicated in my answers.

Q.—That is in the event of the property being improved or spoiled?

A.—Yes.

Q.—That is, so far as the kanam lands and kuzhikanam lands are concerned the Compensation Act will cease to operate?

A.—Except when the tenant does not do his part of the contract, by renewing when eviction takes place.

Q.—In spite of the fact that a kanam tenant has been paying enhanced rent in view of the improvements effected, as per orders of the court, you would have the Compensation Act come into force at the time of eviction?

A.—Yes, I would give him the value of improvements at the time of eviction.

Q.—No set-off would be allowed on account of that enhanced rent?

A.—I won't have it taken into account.

Q.—Well, the tenant would then surely lose?

A.—That is for his failure to fulfil the terms of the contract, by renewing.

Q.—It is a little arbitrary, is it not?

A.—It is not possible to provide for all conceivable cases.

Q.—But there is some difficulty about it to the tenant?

A.—Yes.

Q.—You say the michavaram and renewal fee is to be fixed subject to those conditions. I suppose it is open to the kanamdar to go to the court and say that he is rack-rented, or that he has to pay a high rent and that his rent should be reduced?

A.—It is not open to him. I would take the present rents and michavaram as satisfactory.

Q.—Do you think the court should decide that on general principles or you think the law should lay down some definite formula?

A.—According to me the janmi or the tenant will not have to go to court for assessment of fair rent. Only for the purpose of enhancement or reduction as the case may be, I have secured that right.

Q.—You assume the existing rents are fair?

A.—Yes; on the whole; as a practical policy, I would accept it.

Q.—You say then that you don't think that the kanamdar pays too much or too low in any case? You are prepared to leave the matter as it is?

A.—Yes; I do so, because I would not have these people flood the courts with rent assessment suits leaving their agricultural occupations.

Q.—You propose to regulate the renewal fees?

A.—Yes; I do.

Q.—According to that, sometimes the janmi will be getting more and sometimes the janmi will be getting less? Do you think any compensation is due to the other party for the loss on account of enhancement or reduction of renewal fee?

A.—I do not think any compensation is necessary.

Q.—But for total deprivation of renewal fee you think compensation is necessary?

A.—Yes, I would give compensation in such a case.

Q.—In the case of rent also you do not propose any compensation for taking away the right of the landlord of getting a better offer for his property?

A.—No, if I prevent rack-renting, I should not pay compensation.

Q.—And the reason why you say no compensation is necessary is that the appreciation of the kanamdar's interest is only temporary?

A.—Yes, that is one of the reasons.

Q.—What is the use of undertaking a legislation which would give only a temporary advantage?

A.—I am not concerned merely with the appreciation in money value of the kanam holding. I propose legislation more from the broader point of view of national economy. I think that if you give this kind of fixity there will be improvement of the land and the tenants will attend to cultivation better. I am not very much concerned with the profit and loss of individuals or classes. I am concerned with the broad consideration which legislatures keep in view, i.e., the broad question of national economy.

Q.—Because you are taking away one man's property and giving it over to another, you must decide what the necessity is?

A.—If I do that, then it is necessary.

Q.—You don't admit you are doing that?

A.—No. I submitted a little while ago that the legislation which I advocate does not result in the deprivation of the rights of the landlord and it is nothing new.

Q.—I also take it that even if it involves deprivation, your further argument is that deprivation is justified by the public interest and public considerations involved?

A.—I do not admit the first proposition that it involves any unjust deprivation.

Q.—Assuming that to be so, that is the next step in the argument?

A.—Yes. But if the State takes a view that the kind of proposal which I advocate involves any unjust deprivation of the legitimate rights of the landlord, certainly compensation has to be given. I accept the principle as regards compensation then. But as I said it is a question of appreciation of facts.

Q.—Now what are the grounds on which you think that fixity is required? I mean is it due to insecurity of tenure and the consequent deterioration of the soil?

A.—I would rest it broadly on economic grounds.

Q.—Can you give us an idea as to the proportion of kanamdars who attend to cultivation?

A.—I have not got the figures.

Q.—Can you say anything from impression?

A.—I believe, in the rural tracts there are more cultivating kanamdars than non-cultivating kanamdars.

Q.—Is the greater part cultivated by kanamdars or is it by tenants under kanamdars?

A.—I think the tendency for the kanamdars belonging to higher classes is to leave the cultivation to tenants, i.e., for the kanamdars to become non-cultivating kanamdars.

Q.—Sometimes they take to other occupations and this is due to that?

A.—Partly it is due to that.

Q.—So that, if you give these non-cultivating kanamdars fixity, do you think they will improve the condition of agriculture taking interest in the same?

A.—They may execute permanent works of improvement. I shall try to illustrate my idea. There is wet land cultivation in the Palghat taluk. It is very common in every big holding to have an aeri. That is a water reservoir. It may not be sufficiently deep to supply water. If in the present state of insecurity of tenure the kanamdar is to improve the aeri he is sure not to get any value of improvements for the same, not because he has not improved it, but because in a court of law it is next to impossible to prove the same. In the original demise you will see that there is an aeri, and even though the kanamdar has deepened it, one of the effective pleas which is usually set up by the janmi or melcharthdar is that in the original demise the aeri has been mentioned and very often the kanamdar will find it difficult to prove his deepening.

Q.—There are a fair number of lands held on saswatham tenure?

A.—Yes. They are known by various designations such as adimayavans, perpetual tenure, karamkari, santhathi-brahmaswam, etc.

Q.—Do you know, or have you been brought into contact with any of them and do you know the particular circumstances under which they came into existence?

A.—In many cases these grants of saswatham tenure are made for some service done in the past.

Q.—Apart from agricultural improvement you do not find any crying need for giving fixity of tenure to kanam holders?

A.—I do find. But I would particularly rest it on economic grounds.

Q.—Are there any other grounds on which you base this?

A.—On political grounds. I think giving fixity of tenure in a reasonable measure would enable the kanam holder to feel that he could treat with his landlord with a stiffer backbone. Under existing conditions they are almost pulling on through the pleasure of the landlord.

Q.—You would eliminate that and you would give fixity of tenure?

A.—Eliminate what I would call for want of a better word "feudal usage".

That is one thing. Secondly, I feel, at the elections there would be honest voting and more independent voting on the part of the tenants.

Q.—Because they are now handicapped in this way they experience difficulty in the Legislative Council?

A.—Their cause is not receiving the fullest support.

The third reason, I believe, is the necessity for keeping on the Statute Book, drastic codes like the Malabar Mappilla Outrages Act. I feel the Mappillas may turn into more peaceful and more useful citizens if you try fixity of tenure. In all these matters one can only make a probable conjecture of the future; one cannot be a prophet.

Q.—Those are the main grounds? You do not mention the hardships of evictions?

A.—That comes under economic grounds.

Q.—But you don't think it will be possible to save the verumpattamdar from the disabilities from which he suffers?

A.—I don't think that it will be right to do it immediately. But that is the final thing to be done to him. I keep that in view.

Q.—You don't think at this stage it is necessary?

A.—No, not at this stage.

Q.—You suggested a formula for the increase of rent in case improvement is made of a wet land. That formula is based on experience, information or calculation?

A.—I had a discussion on the matter with one or two kanam tenants whom I consider to be somewhat reasonable and I came to this conclusion. That is all. I did not work out any figures.

Q.—Do you think the legislation which you have proposed will stimulate litigation?

A.—I think it will lessen litigation. If we leave the ascertainment of rent and renewal fee to the landlord, then, of course, it will produce a very rich crop of litigations. That is why in the interests of simplicity and homogeneity of conditions I prefer to take the existing rents as fair rents. There may be hardships here and there. But on the whole it would work well.

Q.—You don't think that on the average the rate of rent paid by the kanamdars is excessive?

A.—No. In recent kanams in a very few cases it may be very high. On the whole it is not high or excessive.

Q.—You think it is quite fair to leave it at the present amount?

A.—Yes.

Q.—Subject to the proper payment of renewal fees?

A.—Yes.

Q.—Though in some cases the kanamdars may suffer and in some cases the janmis may suffer, you think it will lead to the regeneration of Malabar economically?

A.—I do not catch the question?

Q.—Although the kanamdars may suffer and the janmis may suffer in individual cases, you think they will pay part of the price for the economic regeneration of Malabar?

A.—I do not join with you and say that it is part of the price. Such individual cases of hardship may be left alone.

Q.—You think that by this sort of legislation the condition of Malabar will on the whole improve?

A.—Yes.

Mr. Kotieth Krishnan :—Q.—You said in answer to a question from the President regarding compensation that if there is confiscation there should be compensation and that will depend upon the appreciation of facts and in your view there is no confiscation and so no compensation is necessary?

A.—Yes.

Q.—You say that for the general good of the country it is better to have a tenancy law regulating the relationship between landlord and tenant?

A.—Yes. That is what almost every man who knows anything of the question says too.

Q.—You put it on the ground that legislation has got the right to interfere where courts may not and that any legislation should secure the largest good to the largest number?

A.—That is one of my principles.

Q.—Looking to the number of janmis, kanam tenants and verumpattamdars—looking to the number of persons who have any interest in the land, who form the bulk?

A.—In numbers I believe the verumpattamdars form the largest.

Q.—If legislation is to be passed for the greatest good of the greatest number apart from other considerations then the verumpattamdars have got a better claim than other persons.

A.—As a hypothetical proposition it is a sound one.

Q.—One of your clients told you that by putting more manure and cultivating the land himself he was able to get one and a half times the yield that he used to get from the verumpattamdar? If the verumpattamdar is helped by co-operative societies to buy more manure the contingency that you suggest may be avoided?

A.—Yes.

Q.—And there would be no harm in giving a sort of fixity of tenure to the verumpattamdar provided the co-operative societies work hand-in-hand with the legislature in improving their economic condition?

A.—No. There is no harm.

Q.—If that is made possible with the assistance of co-operative societies a larger number of people would be benefited by giving a sort of fixity of tenure to the verumpattamdars?

A.—Nothing would be more pleasing to me. If I had the matter in my own hands I would give the verumpattamdar fixity under proper conditions and with adequate guarantees as to rent.

Q.—The only thing that lurked in your mind and made you stand in the way is that on account of his chronic indebtedness he would not be able to make a proper and effective use of this large right?

A.—Yes.

Q.—If fixity is given to him and he pays the rent regularly and he successfully improves the land then you will be very happy?

A.—Certainly. I want the land should produce more, so that every one from the top-dog to the bottom-dog may be benefited by it.

Q.—Now, some of the janmis have stated that six times the profit which the kanam tenant makes after paying the michavaram and the revenue and deducting the interest on the kanam, would be a fair renewal fee. Don't you think it will be far higher than one year's yield?

A.—It would be a great deal higher.

Q.—In that case may I take it that it would be 3 or 4 times the usual renewal fee?

A.—Probably some janmis are even now exacting that. After all nobody knows what they are doing! A good part of what they are doing is done *sub-rosa*. I wonder whether God himself can find out their secrets! (Laughter).

Q.—You will not be able to say whether it will be 3, or 4 or 6 times the present renewal fee?

A.—It will be a great deal more than one year's net rent.

Q.—You said that in the matter of voting for elections there would be better independence if fixity is given. You have been following the elections of the Legislative Council—I mean the results?

A.—I have not been a very active student of politics. As a citizen I have watched the results.

Q.—Every time a janmi candidate stood for election he has succeeded?

A.—Yes, I believe.

Q.—You say that you are not an active student of politics. Have you been canvassing votes for any person at any time?

A.—In 1923 election I acted as agent for Mr. K. P. Raman Menon, as I was asked to do so by my friend Mr. Koman Nayar, at the booth nearest my residence. If the success of the janmi candidate had been all, that would have been something; but I know of a case where a man, whose eyes were all right, was asked to say that he was blind, so that he may declare his vote in favour of the janmi's candidate, openly, to the assurance of the janmi's agent.

Q.—You have heard of several such cases?

A.—Yes, heard.

Rao Sahib V. Krishna Menon :—Q.—In the case of cultivated land is there not a conflict of interest—interest of the tenant and that of the janmi in their own ways?

A.—There is a conflict.

Q.—It is quite possible that the exercise of the one without regard to the other may cause injustice?

A.—Yes.

Q.—It is only to prevent that injustice that this legislation is sought for?

A.—Yes.

Q.—Stopping of injustice is not a loss?

A.—I will go only by the doctrine of the economists.

Q.—As it is, difference of opinion arises whether an injustice has been done?

A.—It might arise.

Q.—Whether a case is unjust or not is to be decided between the janmi and the tenant?

A.—Yes.

Q.—In that case it is necessary for us to define what is unjust in the case of eviction?

A.—That will depend upon the finding of the Committee.

Q.—You think that there was uniformity in the method of collecting renewal fee in Malabar a hundred years ago or about fifty years ago? And that it has become more irregular during recent times?

A.—I am led to think by my study of the history of Malabar land law that things are getting more and more into a mess in recent times. In olden days these things were more simple and more definite than to-day.

Q.—After the tenancy legislation was introduced in Cochin and Travancore do you think the price of janm lands has gone down there?

A.—I feel that things have settled down there generally.

Q.—You know that the verumpattamdar is the actual cultivator of the soil and you also admit that he belongs to a very large class. Why should he not be given fixity like the kanamdar?

A.—I may illustrate it this way. Suppose a mother has two or three children and one of the children is weak in digestion. Should the mother, in the name of

equality of treatment stuff the bellies of all the children with the same quality and quantity of food? I do not want to fub you off by this illustration.

Q.—But the mother will be more fond of the weak child?

A.—In the name of fondness she should not injure the child!

Q.—You said that the renewal fee should be the mesne between 30 per cent of the kanam and the net rent. Was there any uniformity of this renewal fee and rent?

A.—In one of the reports I find that there were only two interests in the land, viz., the janmi and the kudiyan and their profits should be half and half. When I come to the late Mr. K. R. Krishna Menon's memorandum on Mr. Logan's report I find the ratios one-third and two-thirds. When I refer to Mr. Innes' report I find two-thirds and one-third. When you go to Mr. Srinivasa Ayyangar's Book of 40 years in the Madras Presidency you find half and half. When we look to all these things one is really left at sea as it were.

Q.—If you do not proceed to give the basis, how do you say that the landlord's rent is excessive?

A.—I will only answer it in this manner. Before custom became replaced by contract we may take it that the custom was a due recognition of the rights that we then enjoyed—I mean the actualities of the situation. Since then there has been an encroachment and that encroachment has generally been in the direction of kanamdars rent and renewal fee being enhanced. It looks like that.

Q.—Then you say that the existing rents should be taken as the basis?

A.—I give that in a spirit of compromise. Then regularize the renewal fee. I say so because we know fully well the litigious tendency of the average man.

Q.—If fixity is given to kanamdars, will the present day non-cultivating kanamdars take to land?

A.—Some may and some may not. But that is not merely on account of this legislation. There is the unemployment problem and some people may turn to agriculture.

Raja Sir Vasudeva Raja of Kollengode :—Q.—I think you have already said that you are neither a janmi nor a kanamdar and I suppose I may also take it that you have no personal experience of verumpattam lands?

A.—I am not a janmi or a kanamdar and I have no personal experience of verumpattam lands.

Q.—Any knowledge that you have derived is from your reading the literature on the subject and also from what you have heard?

A.—Yes, from the literature I have read and other investigations I have already referred to.

Q.—As you are neither a janmi nor a kanamdar, you have read all that with a feeling of disinterestedness and detachment?

A.—I am very zealous about my reputation for being disinterested in this affair; as to my disinterestedness the matter does not rest with my opinion of it. It is for the Committee and other people to say.

Q.—I find that you have also noted the disabilities of the janmis. Now it is attempted to legislate for all people and not for tenants alone and so in such a legislation it will be also necessary to note what disabilities the janmis have. I find several disabilities of the kanamdars mentioned by you. I should like to know whether you think that the janmis have any disabilities?

A.—The questions served upon me related to disabilities of tenants alone and not of the janmis.

Q.—I take it that you have not studied that branch at any rate?

A.—I have directed my attention to the questions before me.

Q.—But can you now tell us whether they have any disability?

A.—Comparatively they are in a position of very great advantage.

Q.—That may be. But have they any disabilities, can you say that?

A.—I have not directed my attention towards that.

Q.—You have directed your attention only to one side of the question?

A.—To that side of the question which was put before me.

Q.—You say the most substantial of the kanam holdings in South Malabar have been separated and the kanam tenure has deteriorated in value, etc. Can you give any instances of such cases?

A.—I can say a good many holdings held under the Kurur Mana and the Krangatt Mana and the Olappanna Mana have been separated. That is all I am able to recollect now.

Q.—You say that under the Kavalappara Moopil Nayar a saswatham tenure was converted into ordinary kanam?

A.—That was what I gathered from the memorandum sent to me and now filed by me.

Q.—We hear of janm lands being bought by people. Similarly saswatham right also can be bought. I should like to know whether it was for sufficient consideration or for no consideration?

A.—I do not know.

Q.—You have not verified whether the information given to you is true or not?

A.—I understood from a member of my bar who lives close to this land that such a thing has happened.

Q.—So the statement is made on the strength of what others stated? You say in regard to arrears of rent or michavaram due to the janmi improvements made by the sub-lessees should not be made liable? Suppose reclamations are made by the sub-lessee and the middleman refuses to pay rent. How is the janmi to get any rent?

A.—If you give fixity of tenure to the lessee the lessee's holding will have some value and it may be sold. The janmi need not wait for arrears of rent. He can file a suit direct. It is very clear law that the janmi is to look to his lessee for rent and not to his sub-lessee. If it be correct law to say that the sub-lessee is not liable because there is no privity of estate between the original lessor and himself, the corollary I would deduce from that is this that his improvements should not be made liable to set-off. The present Tenants' Improvements Act also does not give any room for such a thing. In a case like the one presented by you it is better for the janmi to turn him out.

Q.—In the case of big janmis it is difficult to find out to whom he has transferred his rights?

A.—It will not be very difficult for them having their eagle-eyed kariasthans all round.

Q.—You say that from national economical point of view the kanamdar has got a better right for fixity than the verumpattamdar because he has got more resources at his command for making improvements in the land.

A.—Not only that; he has spent more money in the past, and in future also he is likely to spend more.

Q.—If the janmi has more capacity to spend money, does it not follow that he should have preference to do so?

A.—His past history has been altogether against him. I find from many administration reports that they have not even spent an anna on the soil.

Q.—If the interest of a tenant is increased to some extent, then will not the janmi's interest diminish to that extent?

A.—I am afraid it will. It is only when you straightway give fixity to the verumpattamdar that the position will be like that.

Q.—For that decrease should not some compensation be paid?

A.—But the verumpattamdar should pay it.

Q.—Whoever it may be?

A.—Among verumpattamdars, he who wants to benefit by the right must pay for it.

Q.—There are two classes of verumpattamdars—those under the janmi and those under the kanamdar. The rule will apply to both cases?

A.—Yes; it will.

Q.—Has not the kanamdar who has only less rent to pay the janmi than the verumpattamdar *a fortiori* to pay compensation to the janmi?

A.—In the case of the kanamdar, I pointed out that it is not an unjust deprivation of the janmi's right I propose. The kanamdar's holding has even now a great value in the market. The appreciation, if any, resulting from legislation, will be temporary and not much. The verumpattam holding has absolutely no market value now.

Q.—Has not the verumpattam holding a market value like the kanam tenure?

A.—It has none. In my ten years of experience at the bar I do not know of a single verumpattam holding which came up for sale.

Q.—In regard to michavaram you said that the assessment and interest on the kanam is deducted and the balance represents the michavaram. But you can't say anything about renewal fee?

A.—I said, after setting apart half of the verumpattam as kanappattam for the kanamdar's customary share, from out of the other half the deductions mentioned above are made to find out the michavaram; and that was the just share of the landlord. But about renewal fee, I have not been able to find out, from the literature, the history of it. I find from earlier literature it is based on kanam. It is a fraction of the kanam, say, 10 per cent, 20 per cent, 27½ per cent and so on.

Q.—In future what would be the rate of interest you would allow on kanam?

A.—I have already stated that with regard to michavaram, or interest on kanam, etc., in the existing kanams I am not for interference at all. If a totally new grant of kanam (and not a renewal, etc.) is hereafter to be made, under a legislation securing fixity of tenure to the kanamdar, under existing economic conditions, the interest on kanam below Rs. 1,000 may be not more than 9 per cent and not less than 7½ per cent, and for kanams above Rs. 1,000 it may be not less than 6 per cent and not more than 7½ per cent.

Q.—In regard to renewal fee, you suggest the mesne between 3 per cent of the kanam and one year's rent. I think it will work out like this. The more kanam, the greater renewal fee.

The President:—Q.—I find in some cases it will work hard.

A.—I think in the case of larger kanams of recent years the tenant would be hit hard by fixing the renewal on 30 per cent of the kanam. In most cases there the mesne between 30 per cent of the kanam and one year's net rent will be less than 30 per cent of the kanam. In old kanams the kanam amount is very small, but the net rent will be a good deal. A mesne between the two will secure to the janmi more than 30 per cent of the kanam, but not quite as much as one year's net rent. The value of the moderation would be that more cases of hardships both ways may be mitigated.

The President:—Q.—Anyhow this formula is defective. The only logical formula would be one based on verumpattam from which you can deduct the various interests.

A.—That formula ignores wholly the undoubted practice that existed of fixing the renewal fee on the basis of the kanam.

The President:—Q.—Don't you think that a compromise is the best solution under the circumstances?

A.—I should say it is a fit case for compromise. In the long run the solution in that way will tend to more satisfactory results. It will leave no bitterness behind. After all, it is better for the tenant and the landlord to feel that each cannot do without the other. There is no use employing very exaggerated language about these things. I do not want to shut the door out for compromise.

The President again:—Q.—You think it is a very desirable case for compromise.

A.—For the pre-eminent reason that it will leave no bitterness behind.

Raja Sir Vasudeva Raja of Kollengode:—Q.—Do the Nambudri anandravans generally marry only the tenants' daughters or do they marry in other places too?

A.—I have not heard that they exclude the tenants' daughters. What I meant was it was a hardship to deprive tenants of their holdings, if they get crossed in love. Such a practice would be really disquieting to the social and agrarian life of the

country. That is all I mean. I don't want it to be understood that I based it as a stricture on the entire class. But one thing I can say. You cannot prove any more than you can prove adultery.

Q.—You say you would advocate fixity on the ground of freedom of voting; even after permanency is granted, some tenants who are serving under certain masters will be guided by their masters, don't you think that some legislation is required to secure complete freedom of voting?

A.—I don't think. I do not advocate tenancy legislation for this one reason. That is only a link in the chain of events.

The President:—Q.—Do you think that saswatham land fetches more value than kanam land? Have you come across any such cases.

A.—Recently there was a judicial sale of a santhathi-brahmaswam holding. It has been bought by a client of mine. I will be able by looking into the document to know the price for which he purchased it.

Q.—But in court sales lands will fetch a lower value generally?

A.—Sometimes they will fetch a higher price.

Q.—Generally it is lower than private sale?

A.—Yes.

Q.—There are some saswatham lands to which rents are attached. Have you come across any such instances?

A.—Yes. A fixed share of the produce is to be taken by the tenant. The rest should be given to the landlord. That will be stipulated in the document. The revenue has to be paid by the tenant.

Q.—The tenant enjoys this land so long as he continues to pay like this?

A.—Yes.

Q.—Does this land fetch a greater market value than kanam land?

A.—It has a slightly greater value. I have given the instance of the santhathi-brahmaswam holding sold in court auction. I will be able to inform the Committee at what price it was sold by a reference to the document.

The President:—The Committee is very thankful to you Mr. Aghoram Ayyar for your very valuable evidence.

Mr. Aghoram Ayyar:—I express my grateful thanks to every member of the Committee and to the President, in particular, for all the kindness and courtesy they have shown to me.

The Committee then rose for lunch.

XV

Written statement of Mr. P. K. Karunakara Menon, Kulattur.

I. (a) (1) Unreasonable melcharth, unreasonable demand of renewal fees and disproportionate enhancement of michavaram or rent.

(2) Not prevalent in South Malabar.

(3) Unreasonable evictions and constant raising of rent.

(4) Same as No. 1.

(5) Same as No. 3.

(6) Constant evictions.

(b) Yes. These disabilities are peculiar to Malabar. Owing to the peculiar system of land tenure prevailing here, there exists a number of types of tenants who have interests common to the holding. Excepting the janmi who is the virtual owner of the holding all the tenants suffer from the disabilities noted in I (a). But these so-called grievances are rather exaggerated.

(c) I cannot say.

(d) Yes. In certain taluks of South Malabar, say in Ponnani and Walluvanad, tenants appear to suffer from even social oppression at the hands of the Nambudiri janmis.

II. (1) (a) Yes. In certain isolated cases. But such evictions are on the decrease.

(b) Unjustifiable melcharths are rare now.

(2) In some taluks, yes.

III. (a) Prevention of melcharths and evictions without proper reason, fixing of renewal fees and rent according to the productive capacity, other local circumstances and the location of the land. Enhancement or reduction from the present rent to be absolutely gradual.

(b) If frivolous evictions are stopped, permanent occupancy right is not a necessity.

(c) Permanency of tenure is not going to allay the disabilities. What is needed is the remedy noted in III (a).

(d) This suggestion to my mind is ridiculous. It is immaterial how or when a kanamdar or verumpattamdar came into possession of the property. If permanency is to be given, no differentiation need be made between the kind of tenant or the period of the occupancy.

(e) If permanency is to be given, facilities for the timely collection of rent and other dues becomes a necessity to the superior title-holders without having recourse to civil courts. As it is, there is a fear that the tenant would be evicted in case the rent is kept in arrears. This timely recovery of rent can best be done by some Act akin to the Revenue Recovery Act.

(f) If permanent occupancy is to be given, the following should be exceptions:—

(1) Whoever disputes janmi's title; (2) Tenant keeping rent in arrears for two consecutive years; (3) Where the owner needs lands for his own legitimate cultivation; (4) For the purpose of extending janmi's dwelling premises; (5) Where the tenant transfers his right without the consent of the owner; (6) Near the janmi's temples or other places of worship, etc.,—

IV. (a) (1) Permanent occupancy rights may be given in the case of kudi-yiruppu.

(2) Yes. In the case of urban kudi-yiruppu smaller extent only need be given than in rural tracts.

(b) In urban area a maximum of 50 cents; in rural area a maximum of one acre according to the size of the building needed.

(c) (1) If such rare occasion arises, give permission to the tenant to remove the building and relinquish the land to the janmi.

(2) Better sell the building to the janmi for his offer or give permission to the tenant for the removal of the building.

(3) The kudi-yiruppu should be transferred with the rest of the holding provided the janmi gives another plot of ground for a kudi-yiruppu.

(d) (1) The janmi should not be compelled to part with his janmi right.

(2) Quite uninvited.

V. The Malabar Tenants' Improvements Act safeguards the interests of the tenants and the relationship between the janmi and the tenant has not become strained on this account. No amendment is necessary.

VI. (a) If permanent occupancy right is to be given, the janmi should be paid 35 times the income in hard cash.

(b) The same rate should be applied to all.

(c) No need.

VII. (a) Out of the net income a third should go to the actual cultivator, one-third of the share less the interest on the kanam should go to the janmi and the remainder to be divided between the intermediate tenants.

(b) No. In most cases the janmi's dues are less than one-third of the net income.

VIII. (a) One year's net income roughly.

(b) About this.

IX. Fixity of tenure to the actual cultivation alone cannot be given without safeguarding the interests of kanamdars as well.

X. (a) The system is good. But in practice it will be seen that melcharths are due to the want of understanding between the janmi and the tenant and not to the difference in the rental or renewal fee claimed by the janmi.

(b) If the janmi decides to give a melcharth, he can give a notice to the tenant to the effect that X has decided to take the melcharth paying a populous amount. So it will not work in practice.

(c) If the renewal fee and rental are fixed, there will not be any occasion for a collusion between the janmi and the melcharthdar.

Friday, the 2nd December 1927.

When the Committee re-assembled this afternoon after lunch Mr. P. K. Karunakara Menon of Nilambur was examined.

Oral evidence of Mr. P. K. Karunakara Menon.

The President:—Q.—Mr. Karunakara Menon, I understand you are the son of the late Raja of Nilambur?

A.—Yes.

Q.—I suppose you own lands in Nilambur?

A.—Yes, kanam lands in Nilambur and janmam lands in other parts of Ernad.

Q.—May we know the extent of your holdings?

A.—Roughly about 250 acres—150 acres of janmam and the rest kanam.

Q.—Are you cultivating any land yourself?

A.—Yes, a portion of the kanam land. Over and above that I have just taken over for improved cultivation some lands on ordinary yearly lease—about 100 paras seed area or about 20 acres of land.

Q.—Have you taken that land from a janmi direct?

A.—I have taken it from a verumpattamdar. I am a sub-verumpattamdar in that respect.

Q.—That is a lease for how many years?

A.—From year to year so long as my verumpattamdar has no objection.

Q.—Why did you take that verumpattam land?

A.—That was close to my habitation. So I wanted to cultivate it. Both wet lands and dry lands are attached to it.

Q.—How much dry land?

A.—About 5 acres of dry land.

Q.—You have commenced carrying on improved methods of cultivation?

A.—Yes, I have started it this year.

Q.—I suppose you have taken one crop out of the land?

A.—We are just taking one crop out of the land.

Q.—You said that you are cultivating the land on improved methods?

A.—Yes, this year.

Q.—Have you had any special training in the Agricultural College or elsewhere?

A.—No. I have been trying to get information from the Agricultural Demonstrator.

Q.—You don't cultivate your kanam lands or janmam lands yourself?

A.—Janmam lands are all cultivated by me excepting a few parambas and coconut gardens.

Q.—Have you raised any new coconut plantations?

A.—Yes, I am raising every year.

Q.—None of your gardens have come to bearing?

A.—Yes, they are all bearing.

Q.—Did you reclaim the lands and plant coconut gardens?

A.—When I got possession a very small area was planted, and I planted the full garden about eight years ago. I have got about 800 plants bearing now out of about 3,000 which I planted.

Q.—When do you expect the full yield?

A.—In another five years all the trees will be bearing.

Q.—Could you give us any idea of the cost per coconut tree, the actual cost which you had to incur in bringing a tree to bearing? Have you made any calculations per tree?

A.—For the first year, if you do cultivation on scientific methods, it will come to about 12 annas per plant excluding the value of terracing of the land. We generally give the land for fugitive cultivation, say for one crop of modan, and then they will work at the land for a couple of years and will give us the land back. First ginger, then modan and then gingelly are raised. The tenant gives a small sum of money, roughly about Rs. 2½ per acre for the first 1½ years. It never takes full three years for raising all these crops. At the expiry of three years the land is given back to us.

Q.—Up to that stage you don't incur any expenditure?

A.—We do not incur. Then as we start planting, we also little by little begin terracing. It will take a number of years to terrace the whole garden.

Q.—So taking all that into account, subsequent watering, etc., up to a stage when the tree comes to yield, what will be the total cost?

A.—I have not calculated the figure.

Q.—Now with regard to your janmam lands (wet lands), how long have you been cultivating?

A.—For the last two years.

Q.—What was the yield that you got from one para of paddy land for both the crops together?

A.—For the first crop I got about 22 times the seed. And the second crop slightly more than that. I cannot exactly tell what it was. Both the crops put together, it will be about 45 times.

Q.—So, for one para of seed you got 45 paras?

A.—Yes. I personally think that it was an exceptionally high figure. In the locality where I am doing cultivation the average is about 25 times for both the crops put together.

Q.—By average, you mean land where cultivation has been conducted in the usual manner?

A.—Yes.

Q.—On the same land if you adopt improved methods of cultivation, will you get a better yield?

A.—Yes, I think so. If you manure it according to the average method of the locality you will get only a poor crop.

Q.—Take ten years' cultivation into account. What do you think would be the average yield in the case of double-crop wet land and in the case of single-crop wet land in your locality, firstly, and then the average in South Malabar generally, taking good and bad years into consideration?

A.—In some of the places in Ernad taluk the soil is really poor, and both the crops together would give perhaps much less than 20 times the seed. There are some other places which will easily yield about 40 times the seed, but those are very very rare in the Ernad taluk. I can say the average will be about 20 times.

Q.—What will be the cost of cultivation for both the crops assuming it is cultivated in the usual husbandlike manner?

A.—Two and a half times the quantity of the seed will be required for cultivation expenses. Supposing we take 25 paras seed area, 60 to 70 paras of paddy would be the rough expenditure required excluding the seed.

Q.—That has been your experience for some years?

A.—It may vary. I apply chemical manure.

The President:—I would suggest the soil be analysed at the laboratory in the Coimbatore Agricultural College. If you send sample of the soil to the Agricultural Demonstrator he will have the same sent to the Agricultural College, Coimbatore, for necessary analysis, and you will be informed later what sort of manure would be suited to the soil, etc.

Q.—I gather from your evidence that you are not for drastic changes other than the "prevention of melcharths and evictions without proper reason, fixing of renewal fees and rent according to the productive capacity, other local circumstances and the location of the land. Enhancement or reduction from the present rent to be absolutely gradual." Now what would be the *modus operandi*. Prevention of melcharth and eviction without proper reason. You would allow melcharch or eviction if the tenant disputes the janmi's right of property, if the tenant keeps the rent in arrears or if the tenant transfers his right to another without the consent of the janmi, etc. Why do you impose this restriction about the transfer of the land by the tenant without the consent of the owner. What is the objection to that?

A.—Our country is not sufficiently advanced to allow any sort of people to settle down near any place, and the owner may find it objectionable. I am against any tenant getting permanent occupancy right. He should give back the land in case the janmi wants it for his legitimate purpose whatever it is, whether it be for cultivation or for his own use, etc.

Q.—I cannot still understand why you should insist upon the tenant getting permission from the landlord to transfer his title?

A.—Supposing a transfer is given to a person who is obnoxious to the landlord

Q.—Don't you think you are giving a very large power to the landlord? The landlord might say, without assigning any reason, that the man is obnoxious?

A.—Till now the janmis had power to evict tenants in case of persons who transferred land to objectionable people.

Q.—The difficulty is, who is to decide which is objectionable and which is not?

A.—It is for the janmi to decide the matter.

Q.—Coming back to this question of fixing renewal fees, and rent according to the productivity or other local circumstances how would you fix the rent? First of all take the case of the cultivating verumpattandar, the tenant at will. You say that he should be entitled to one-third of the net income from the land. That would be your formula?

A.—Yes, roughly.

Q.—What do you mean by the net income?

A.—Gross yield minus expenses of cultivation and the seed.

Q.—And you also say that one-third should go to the landlord minus the interest on kanam and the balance should go to the intermediaries. Do you think that it will work well in practical application?

A.—Roughly it would work fairly well. We cannot make any hard and fast rule like that.

Q.—So starting from the cultivator you would reserve one-third to the cultivator out of the net income, the remaining two-thirds being divided among the kanamdar, the janmi and other intermediaries. You find that the remaining two-thirds is not divided into half and half between the janmi and the kanamdar. Very often the janmi gets much less and the kanamdar gets much more?

A.—I don't think that the kanamdars should lose. It must be roughly equal. The kanamdar takes the responsibility to pay the janmi whether he is able to collect his dues from the verumpattandar or not and as such he must always be entitled to his third of the share.

Q.—But supposing he gets more than a third. How would you divide it? As a matter of fact we find that the kanamdar gets much more than one-third while the janmi gets less. You will find the michavaram plus the interest on the kanam amount and the annuity of the renewal fee put together will be much less than one-third of the income generally. What would you do in such cases?

A.—I don't think that the janmi should demand a sudden increase in the rental. Of course they go on increasing michavaram as renewals go on.

Q.—But you must regulate all those things. Otherwise they may go on increasing and under that process the whole of the kanamdar's profit may be wiped out?

A.—As I have already said it is not possible to fix any hard and fast rule with regard to these matters as conditions and circumstances vary in different places. Even if a decrease or increase is made in my formula of one-third I suggest that it be only gradual.

Q.—Similarly if a janmi gets less than one-third then he must be enabled to reach that stage gradually?

A.—Yes, that is what I mean.

Q.—Do you consider this enhancement of rent which you contemplate up to your formula of one-third net, constitutes the compensation for the qualified fixity which you propose?

A.—Yes. I think a certain amount of compensation ought to be paid to the janmi and that compensation may take the form of an increase in the rent up to the limits which I have imposed. If it is unqualified fixity or permanent occupancy right, then the compensation should take some concrete form.

Q.—But if it is restricted fixity you say the power given to the janmi to raise the rent and renewal fee to a reasonable limit would be enough compensation?

A.—Yes.

Q.—You are for giving fixity of tenure to all the existing intermediaries?

A.—Yes, if at all fixity is given, I am for giving it to the verumpattamdar, kanamdar and other intermediaries.

Mr. Kotieth Krishnan:—Q.—May I know on what you base the right of the kanam tenant who is not in possession of the property for any special claim? If the actual cultivator is given fixity of tenure then he may improve the fertility of the soil by improving methods of cultivation.

A.—You can't say that the kanam tenant is not in possession of the soil. As for the matter of that, there are several verumpattamdars who are not actual cultivators. Another factor is the very fact that the kanamdar has been given his tenure by the janmi himself.

Q.—In the kanam deed he is given 12 years' time and after that period let him surrender that property? Why not?

A.—He is as much a tenant to the janmi as the verumpattamdar is to the kanamdar. And as I have already said it is the kanamdar who takes all the risks, whether he is able to collect rent from his tenant or not, he pays his dues to the janmi regularly.

Q.—If the janmi says, 'I don't want this man. I will get the rent from the cultivator himself and I take the risk whether the verumpattamdar is paying me or not.' Then what is there to prevent the janmi from saying so when there is a kanam tenant as an intermediary?

The President:—He has already answered the question. He says that because the kanam tenants exist now their rights should be preserved.

A.—The janmi has a right. Similarly there are rights which have existed from time immemorial and continued as such. I want those rights defined and they should not be capriciously evicted by the janmi.

Q.—Improved methods of cultivation which you referred to now—Do you know that a land has to get acclimatised to the improved method of cultivation before the land begins to yield. You cannot reduce the seed in one year. You will have to do so gradually?

A.—Yes.

Q.—Therefore, for trying improved methods of agriculture a longer term is necessary for the tenant and he should be permitted to continue to experiment properly?

A.—Yes.

Q.—You say there is social oppression?

A.—I think I have said in my written answers that there is no social oppression in Ernad but there may be rare cases in Ponnani and Walluvanad.

Q.—Who are the big janmis in the Ernad taluk?

A.—Zamerin, Nilambur Kovilagam, etc.

Q.—Do the Nambudiris in Ernad marry Nayar women, except of course the first member of a Nambudiri family?

A.—Yes.

Q.—So far as your experience goes, Ernad is the most fertile land in the whole of Malabar?

A.—I don't think so. There are some places in the Palghat taluk where you can get 50 fold.

Q.—Do you find difficulty in getting labour at Nilambur for cultivation purposes?

A.—We have not much difficulty at present but we hope to have some difficulty in the future.

Q.—What is the apprehension due to?

A.—The place is rising in importance and till now we have been paying the wages in kind (paddy) to *paniahs* who work in the fields. Hereafter they may demand money wages.

Q.—Are these labourers paid less than the ordinary coolies?

A.—Certainly less than the *raki* given to Mappillas. I think it may be little more than half but certainly less than the whole wage given to a Mappilla.

Q.—You have mentioned that in case permanent occupancy right is to be granted 35 times the net income should be paid to the landlord as compensation in hard cash. In such cases do you expect the rents to be paid regularly? Do you know that janmam properties could be purchased for 20 or 25 times the net yield value?

A.—It may be so in some cases, but I have known of places where they fetch more than 45 times the net yield.

Rao Sahib V. Krishna Menon:—Q.—There is an argument put forward by janmis that even qualified fixity will not promote intensive cultivation?

The President:—Janmis are not a cultivating class.

Rao Sahib V. Krishna Menon:—Q.—What is your object in giving fixity then?

A.—My opinion is that in 90 per cent of cases they will try to improve the land if fixity of tenure is given.

Q.—You were speaking about the one-third ratio to the landlord, intermediary and the cultivating tenant. In arriving at this one-third some deductions have to be made. The whole of this calculation will depend upon your ability to make all the deductions in the calculation. Suppose 100 paras is the yield of paddy in a particular field. If you are not able to calculate exactly what the cost of cultivation is the result will be uncertain? It will be a misleading figure?

A.—You cannot arrive at an exact figure but roughly you can gauge what it will be.

Q.—Are you for allowing to the actual cultivator all the elements of deduction allowed by Government in fixing assessment or are you going to give him only particular items which the Government have fixed as items of reduction for arriving at the actual net yield. For example, the average yield of the land for 20 years is taken, proximity of the market for sale, cost of taking the seed to the market, uncertainty of season, etc., are all taken into account in fixing the Government assessment?

A.—Yes, all these things ought to be considered.

Q.—And you are for defining all these items very carefully?

A.—Yes, they have to be defined.

Q.—From the whole discussion on this tenancy question, I find that the non-cultivating kanamdar is the person attacked from all quarters. Now I begin to feel that there are a class among those who deserve to be preserved. What is your opinion about them?

A.—I have already answered the question. I want the existing conditions to be preserved.

The President :—Q.—In answer to Mr. Krishna Menon you said that in arriving at the net income which should be distributed between the cultivating tenant, the kanamdar and the janmi, you should deduct from the gross income not only the Government assessment and the actual cost of cultivation but also make deductions for the vicissitudes of the season?

A.—Certainly, I don't think I meant vicissitudes of the season also to be included. That should be applicable to all other persons also. Supposing there is a difference of the wet cultivation and the yield is a thousand paras. The janmi is to get 300 paras of paddy and the kanamdar a like amount and the other balance is the actual cultivator's quantity. Where is then the necessity for considering the marketing of the produce? The present michavaram does not even come to one-third net.

The President :—Q.—I want to know what items you would allow and what items you would not allow. Would you allow the expenditure incurred by the tenant in carrying paddy?

A.—Distance is not very much in many places. Rich janmis always have *kalams* close by.

Q.—What about the vicissitudes of the season? I think it is a good ground for deduction because the tenant will pay the same rent for all years?

A.—But what happens when the tenant gets a splendid yield, a bumper crop?

Q.—He is giving that increased yield. To me it appears that some deduction should be made on account of the vicissitudes of the season because you are not going to give remission to the tenant where the years are good or bad?

A.—Yes, I quite agree with you.

The President.—Well, thank you very much Mr. Karunakara Menon for the valuable evidence which you have given.

XVI

Written statement of Mr. C. Seshayya, Palghat.

Disabilities.

I. (a) (1) *Kanamdars* are suffering from arbitrary melcharths and evictions. Having no fixity of tenure they have no desire or inclination to improve the land. Their social independence also is at stake as they could be easily punished through their janmis for any imaginary wrong done to any one of the janmi class.

(2) *Kuzhikanamdars* are on the same footing as kanamdars.

(3) *Verumpattamdars* under the janmi have the same disabilities as the kanamdars but I think their position is better, for kanamdars stand to lose much more than verumpattamdars.

(4) to (7) These classes have more or less the same disabilities as the kanamdars and verumpattamdars under the janmi.

(b) These disabilities are peculiar to Malabar to a great extent as kanam tenure is peculiar to Malabar. The kanamdar is not a mere mortgagee as elsewhere in India, for in majority of cases janm lands belonging to the kanamdar had been accepted as the janm of a neighbouring janmi, the real owner being satisfied with the position of a dependent tenure holder. The reasons for such a step were many. The feudal chieftains became the janmis and the neighbouring owners were satisfied with a position under them which was effected by acknowledging the chieftain as the janmi and themselves as kanam holders. So the kanamdar of Malabar cannot be estimated in terms of landlord and tenant. His case is peculiar to Malabar and has to be specially dealt with.

(c) The difference is only one of degree.

(d) No difference in this matter except that Palghat taluk breathes a bit more freer atmosphere as most of the janmis are residents of Walluvanad taluk.

Evictions.

II. (1) (a) Ninety-nine per cent of the kanam evictions are brought about by the janmis either out of spite towards the kanamdar or to oblige some sycophant dependent on the janmi. Verumpattamdars are generally evicted only when they do not properly pay the rent. Spite does not play any part in this case and the janmi or the landlord, as the case may be, is not anxious to evict him as he himself cannot cultivate the land, and he is too poor and submissive to offend the janmi.

(b) Melcharths are given in 95 per cent cases for unjustifiable reasons. Only in 5 per cent cases where the janmi wants additional kanam for proper necessity which the kanamdar refuses or is unable to pay, melcharths are given for proper and justifiable reasons. Since almost every melcharth that has come to my knowledge has either spite or desire to profit somebody depending on the janmi at the bottom, no special instance need be given here.

(2) It cannot but be so. Legislative Council elections will amply prove how far the janmis are able to coerce the tenants. The fact that janmi candidates are returned by the general constituency consisting of 95 per cent of tenants clearly demonstrates how far the janmi's oppression is dreaded by the tenants of Malabar.

Remedies.

III. (a), (b) & (c) The effective remedy would be to grant—

(i) Permanent occupancy right to kudiyruppu holders.

(ii) To stop by legislation arbitrary evictions and melcharths.

(iii) To fix a certain rate of renewal fee and michavaram and legislate that so long as the kanamdar is prepared to pay the michavaram and renewal fee no eviction or melcharth is legal and valid.

(iv) To give fixity of tenure to those verumpattamdars who desire it and who can afford to give reasonable security to the landlord for rent.

(d) The granting of permanent occupancy right to kanamdars of kanams before 1852 is too unsatisfactory. At least kanams thirty-six years old must be given fixity. Kuzhikanamdars and verumpattamdars do not stand in need of fixity as they are not generally evicted so long as they pay the rent and discharge their obligations.

(e) If kanamdars are given fixity, the renewal fee and michavaram must be fixed and they must be given six months' time by the janmi by written notice for paying the renewal fee and arrears of michavaram, if any, with interest and on failure lands could be evicted. If verumpattamdars are given fixity, they must give security at least for one year's rent and if they keep more than 50 per cent of the rent in arrears any year or when the arrears eat away the security they furnish, surrender the land.

(f) When the janmi himself wants the holding for his maintenance or residence bona fide.

IV. (a) (1) They must be given.

(2) No distinction.

(b) Twenty-five cents in urban areas, 30 to 50 cents in rural areas.

(c) (1) The janmi may be made to pay 50 per cent of the value of the improvements and evict the tenant.

(2) If the house is built bona fide for residential purposes, it must be taken as an improvement in spite of its size; but, if for any other purpose inconsistent with the holding, it must be removed by the tenant.

(3) The full market value of the kudiyruppu must be given to the tenant to enable him to purchase a compound in the neighbourhood or elsewhere.

(d) (1) The better method is to give them permanent occupancy right rather than make them purchase. In many cases they are too poor and may not be able to repay the loans which will entail the selling of the kudiyruppu.

(2) It is not suited and in a few years time they would be out of the holding being unable to pay the debt, whatever be the reason.

V. The Malabar Compensation for Tenants Improvements Act, I of 1900, is quite fair. The only addition that would be required is that residential buildings bona fide made for the residence of the tenant must be taken as an improvement apart from other

considerations. The effect of the Act is not satisfactory as the judges are not giving effect to it according to the intention of the legislature. The judges are only subconscious that there is such an Act and they award compensation only when they find that the evidence is irresistible. The angle of view of the judiciary has to be changed before the intended effect could be produced.

VI. (a) When kanam is given permanency no provision need be made as there is already provision for michavaram and renewal fee and as janmi can evict in case the tenant fails to renew. In the case of verumpattamdars the landlord must have security for the rent and facilities for immediate eviction when rent falls in arrears. In the case of kudiyruppu-holders the landlord may be made to pay one-fourth of the value of the kuzhikanams in all cases and one-half of the value of the house if the house is the landlord's. That is what the landlord now gets when he evicts as he has to pay the full value of the house if tenant has made it and three-fourths value of the kuzhikurs also.

(b) According to the rights *inter se* between the parties governed by the contract between them and if there is no contract equally between them.

(c) The tenants may be given three years' time to pay the amount in twelve equal instalments.

VII. (a) & (b) In the case of kanam, anubhavam and other tenures the existing rate must be maintained. It is very difficult to fix any proportion regarding those tenures. Because they have a peculiar origin and history. Further any disturbance would affect the vested rights already created such as those of the mortgagees, etc. As regards verumpattam tenant they are only paying now to the landlords a fair amount deducting interest on their capital, wages for the labour and their profits. And the landlords remit a good portion of the rent ranging from two-tenths to four-tenths when there is drought for the second crop. No proportion can be fixed as the yield of the land cannot be ascertained. That will vary from year to year and depends on many circumstances. Rack-renting exists only in a few cases and in such cases the landlord finds it difficult to get solvent tenants and very soon normal rent will again be resorted to.

VIII. *Renewal fee.*—(a) The only safe principle would be to fix a certain amount per acre of ~~single~~ land according to its quality. Rupees 20 to Rs. 25 per acre of double crop land and Rs. 10 to Rs. 15 for single crop land is fair and equitable. Any other principle would not be uniform.

(b) The rate of renewal fee now realized ranges from Rs. 20 to Rs. 300 and more per acre according to the avarice of the janmi in question.

IX. The remedy would be to legislate, that the verumpattamdar should not be evicted so long as he pays the rent regularly and so long his security for rent continues. If fixity is given without any safeguards the kanamdars who form the middle class of the district would soon disappear. Their kanam properties are already heavily encumbered and if, in any year they cannot realize the rent, the interest on the mortgages would be kept in arrears and the mortgagee would take away the property. If fixity is given to verumpattamdars who are as a class very poor, they can join hands with the mortgagees of the kanamdars and exterminate that class in the course of half-a-dozen years. They themselves would not suffer as they could continue under the new landlord, the mortgagee.

X. (a), (b) This system would be giving a premium to melcharth. Every janmi would try to give a melcharth simply for the purpose of raising the renewal fee which the previous kanamdar will have to give to enforce his right of pre-emption. The better method will be to give notice to the existing kanamdar giving him six months' time to pay the renewal fee failing which the janmi may give melcharth or directly evict. If, on the other hand, right of pre-emption is given the janmi and melcharthdar may fix any amount, which could not be controlled and thereby defeat the kanamdar. The whole janm value even can be fixed as the amount. The janmi has only to find a namelender to defeat the kanamdar of his rights.

(c) The only proposal could be that a fixed amount per acre must be settled for the melcharth. But even then this system would only make matters worse.

Friday, the 2nd December 1927.

Oral evidence of Mr. C. Seshayya.

The President :—Q.—Mr. Seshayya, you are the Agent of the Asiatic Petroleum Company at Palghat?

A.—Yes.

Q.—Do you belong to Malabar?

A.—No, I don't belong to Malabar. I belong to North Arcot district.

Q.—When did you come and settle down at Palghat?

A.—In the year 1897. For the last thirty years I have been in Palghat.

Q.—Have you acquired any property in Malabar?

A.—No, I don't own any landed property.

Q.—Will you kindly let us know what the opportunities you have had for studying this Malabar land tenure problem?

A.—I am interested a little in the depressed classes and agricultural labourers. When I was making enquiries and trying to see how best their material condition could be improved, I came to know the working of the land tenure system in Malabar. I have moved with tenants, janmis and all sorts of intermediaries. I have also read some literature on the subject.

Q.—Have you studied the literature on Malabar land tenure?

A.—I have had opportunities of conversing with all kinds of people and have also seen some literature on the subject.

Q.—You say in answer to question I that "kanamdars are suffering from arbitrary melcharths and evictions and having no fixity of tenure they have no desire or inclination to improve the land". But we have been told by a number of witnesses that it is the kanamdar who has effected the bulk of the improvements on the land in spite of insecurity of tenure. How do you reconcile that with your position?

A.—I think that if they are given fixity of tenure they will improve the land much better and they would be less harmful to the cultivating tenant. Because, under the existing law the kanamdar has the fear that he may be turned out after the expiry of the period of the lease, i.e., twelve years, he will try his level best to exact as much from the cultivating tenant as possible. I am of opinion that if fixity of tenure is given his condition would improve and consequently he would sit less tightly on the neck of the cultivator.

Q.—You say "The feudal chieftains became the janmis and the neighbouring owners were satisfied with a position under them which was effected by acknowledging the chieftain as the janmi and themselves as kanam holders". We have read enough literature on the subject. Have you got anything apart from literature. Have you got any other source of information?

A.—I have no other proof except what I have heard from my friends.

Q.—Those people also referred you to some authorities?

A.—Yes.

Q.—You say that "Melcharths are given in 95 per cent cases for unjustifiable reasons. Only in 5 per cent cases where the janmi wants additional kanam for proper necessity which the kanamdar refuses or is unable to pay, melcharths are given for proper and justifiable reasons". What is your authority for making a definite statement like 95 per cent and 5 per cent?

A.—I have heard that complaint from almost all kanamdars and because there is every possibility for such eviction under the present law, I presume the number must be very large. I have only said 95 per cent approximately. I did not work it out statistically. I don't of course say that 95 per cent is the exact figure.

Q.—Then in the next paragraph you say "Legislative Council elections will amply prove how far the janmis are able to coerce the tenants. The fact that janmi candidates are returned by the general constituency consisting of 95 per cent of tenants clearly demonstrates that the janmi's oppression is dreaded by the tenants of Malabar". Why should not a tenant elect a janmi if he has got confidence in him?

A.—It cannot be in the interests of the tenants to elect a janmi.

Q.—They can elect a very good janmi. The other day we examined the Raja of Nilambur who is a very good janmi. What is the objection in electing such good janmis?

A.—There are other janmis who are not so well disposed towards the tenants as the Raja of Nilambur. I have known during one election many Ezhuva tenants who said that they were forced to vote in a particular manner by the janmi.

Q.—When was that? In what election was it?

A.—I should be excused from giving detailed information. I don't even wish to mention the year when the election took place.

Q.—You say "the effective remedy would be to grant permanent occupancy right to kudiyruppu holders, to stop by legislation arbitrary evictions and melcharths, to fix a certain rate of renewal fee and michavaram and legislate that so long as the kanamdar is prepared to pay the michavaram and renewal fee no eviction or melcharth is legal or valid". Well, all these mean a distinct and clear diminution in the janmi's rights. What compensation do you provide for that?

A.—Where is the necessity for any compensation when the janmi gets his michavaram and the renewal fee?

Q.—Michavaram and the renewal fee are paid even now. What addition would you give to the janmi for the curtailment of his present rights?

A.—A janmi does not lose anything by such curtailment of his so-called rights.

Q.—Will not the value of the janm right be reduced in terms of money?

A.—I don't think the janmi will lose anything.

Q.—Will not the market value fall in that case?

A.—I don't think the market value will fall.

Q.—Do you mean to say that the janmi will be able to raise the same amount of loan?

A.—I think it will be possible.

Q.—Don't you see any difference between the janm value of saswatham lands and the janm value of kanam lands?

A.—Yes, there is.

Q.—Then these kanam lands will become saswatham lands according to you, in which case the value of the janmi's interest is bound to fall?

A.—I don't think so.

Q.—Very well, that is your view?

A.—Yes.

Q.—You say "The granting of permanent occupancy right to kanamdars of kanams before 1852 is too unsatisfactory. At least kanams 36 years' old must be given fixity". What is your reason for fixing 36 years as the limit?

A.—1852 is too long a period and only a few people will be benefited by such legislation. So it is I have suggested a middle figure like 36, that is all.

Q.—Then you say "Kuzhikanamdars and verumpattamdars do not stand in need of fixity as they are not generally evicted so long as they pay the rent and discharge their obligations". What is there to prevent the verumpattamdar from being turned out?

A.—No, the verumpattamdar should be given fixity of tenure.

Q.—So you modify your answer to that extent?

A.—Yes, in this case also I am not for giving any compensation.

Q.—You say that the verumpattamdars may be given fixity if they give security for at least one year's rent?

A.—I want to give him fixity of tenure even without that one year's rent being given as security, because in almost all cases the cultivating tenants are very poor and they will be unable to pay any security. In fact if you demand security from them the very object of giving them fixity would be frustrated. They are the busy ones in the system of land tenure in Malabar.

Q.—Then how would you expect the janmi to get his rent?

A.—If one year's rent is not paid then you may turn him out and in that matter too I don't want the parties to go to a civil court and waste money and time. The revenue court may easily adjust those things.

Q.—In the case of kudiyruppu you say that they should get permanent occupancy right. That is something more than qualified fixity of tenure which you would give to the kanamdar and the verumpattamdar?

A.—Kudiyruppu should always be made permanent. If the tenant refuses to cultivate those lands for which he is given that kudiyruppu he may be evicted, because if he brings in another labourer he could not find room in the kudiyruppu. Except in cases where the kudiyruppu forms an integral part of the holding both in the towns and villages, permanent occupancy right should be given. Only the extent in the towns will be less.

Q.—Supposing a kudiyruppu in a town has got 25 cents, and the house is only on a part of it and the rest is a garden. What will you do then?

A.—I would slice it off. A portion of it may be taken away.

Q.—In answer to question V you say "Judges are only sub-conscious that there is such an Act and they award compensation only when they find that the evidence is irresistible. The angle of view of the judiciary has to be changed before the intended effect could be produced." This is a very strong statement to make. Have you got any instances in view to substantiate the same?

A.—Unless there is a very strong evidence, judges don't act correctly. In all cases it is not possible for the tenant to give conclusive evidence. I don't say judges are perverse. I only say that judges must not be so very exacting.

Q.—Then you say that "in the case of kudiyruppu-holders the landlord may be made to pay one-fourth of the value of the kuzhikanam in all cases and one-half of the value of the house if the house is the landlord's." Will you kindly explain that statement?

A.—Even if the house is the landlord's, if the tenant is evicted the landlord should pay the tenant half the value of the house because he had been living in that for long. One-fourth of the improvement value may be given to the tenant in the case of compound and one-half of the value of the house even if it be the house of the landlord. I would suggest the amending of the Improvements Act in that way. In regard to the improvements made by the landlord only one-fourth should be given to the tenant.

Q.—What is the justification for giving one-fourth of value of improvements?

A.—That is a mistake. I don't mean it with regard to other improvements.

Q.—Your answer to question IX is not quite clear. You say "The remedy would be to legislate that the verumpattamdar should not be evicted so long as he pays the rent regularly and so long his security for rent continues." Now you want that security to be taken away?

A.—If security is insisted upon, one year's security may be taken; but I would suggest that without security the verumpattamdars may be given fixity of tenure. My interest is only with regard to the verumpattamdars. With regard to the kanamdars if it is necessary security may be demanded.

Q.—If left to yourself you would not care what the fate of the kanamdar is? You don't care whether the kanamdar lives or dies, to put it shortly?

A.—I have already explained my position. The kanamdar is only a middle man preying upon the verumpattamdar between the janmi on the one side and the cultivator on the other side.

Mr. Kotieth Krishnan :—Q.—You have considerable experience among the agricultural labourers?

A.—Yes.

Q.—And mostly among the verumpattamdars?

A.—Yes.

Q.—The condition of these working classes under the verumpattamdars is very miserable?

A.—Yes.

Q.—They are not able to lay by anything?

A.—Not only they are unable to lay by anything but their condition becomes still more miserable when the crop fails owing to vicissitudes of season. They are unable even to find resources for small marriages. They have to borrow.

Q.—Some persons have stated that these agricultural labourers are drunkards. Are they so as a class?

A.—I don't think they are so as a class. Some among them may be so.

The President:—Q.—What percentage of them may be drunkards?

A.—Might be about 20 per cent.

Mr. Krishnan:—Q.—Same percentage you will find among the kanamdars also?

A.—Perhaps more. If it is toddy in their case, it will be European liquor in the case of kanamdars. That is the only difference.

Q.—Do you think that the kanamdar is as submissive towards his janmi as he was 30 years ago?

A.—I think he is becoming more assertive.

Q.—May I take it then that it is your opinion that at present these kanam tenants are not so submissive to the janmi as they used to be?

A.—I have drawn the difference in the percentage between the verumpattamdar and the kanamdar and the kanamdar and the janmi in answer to question II (1) (a).

Q.—Now, in course of time the verumpattamdar may also try to assert himself?

A.—If he is able to do so. Now the idea has not occurred to him. He is contented with his present lot. Only he would like to have a little of independence.

Q.—Do you think that the condition of the agricultural labourer would be improved if fixity of tenure is given to the cultivating tenants?

A.—Yes, certainly.

Q.—You said something about votes and elections. Have you any personal knowledge of the influence brought to bear upon the electors to vote for one particular candidate by the janmis?

A.—He will be more than human if he will not do it. I have no personal knowledge about the affair, but a friend of mine told me the actual incidents.

Q.—Do you know that in the Legislative Council elections illiterate voters are asked to name the candidate for whom they intend to vote?

A.—Yes.

Q.—Are you aware that a literate man was forced to give out the name of the candidate owing to pressure from his janmi?

A.—Some friends have told me that such a thing has happened in a particular election. I have no personal knowledge.

Rao Sahib V. Krishna Menon:—Q.—You have experience of Cherumas?

A.—Yes.

Q.—Are there very many verumpattam Cherumas in Palghat?

A.—I think there are a few. Not many.

Q.—At present to meet their own requirements and the requirements of cultivation they have to raise loans?

A.—Yes.

Q.—If some sort of certainty is given to them their lot will be very much improved?

A.—Yes.

Q.—By doing so neither the kanamdar nor the janmi will be materially affected?

A.—No, they won't be affected.

Raja Sir Vasudeva Raja of Kollengode:—Q.—Have you got any house property?

A.—No.

Q.—You have made a thorough study of the system of land tenure in Malabar?

A.—I can't say I have made a thorough study of the land tenure in Malabar.

Q.—You have said that 99 per cent of the kanam evictions are brought about by the janmis either out of spite towards the kanamdar or to oblige some sycophant depending on the janmi. Did you make any enquiries in any one case at least?

A.—I have been told of such things by the sufferers themselves. I did not make any personal enquiries, but I believed in their bona fides.

Q.—Have you verified any of those cases?

A.—No, I have not.

Q.—And it is on the oral statement of some of your kanam friends that you made such a statement?

A.—Yes.

Q.—And what about the 95 per cent which you have quoted about melcharths.

A.—That was also based on information. I have not collected any statistics on this matter.

Q.—Well, you have made so many suggestions to improve the rights of the kanamdars. I take it from the answers which you have given to the President that you do not really press their case because you are not interested in them being more concerned only with the verumpattamdars. So I don't go into that question?

A.—Yes, that is right. My interest is with the labourers and the verumpattamdars. I don't care much for the middle man.

Q.—In Legislative Council elections you said that some people who were literate announced the names of the candidates for whom they wished to record their votes. It does not necessarily mean that it was under compulsion. Any person can gratuitously offer to mention the name of the candidate because the voter by so doing might get benefit from the candidate or his own janmi. Is that not possible?

A.—It is not possible to believe that in every case it was so. It may be so in some cases.

Q.—There are labourers under verumpattamdars who are cultivating lands, there are also labourers under kanamdars who are cultivating lands. Is there not some difference in the method of treatment and lot of the two classes of labourers?

A.—Yes. Cultivators under the kanamdar would be in a better position.

Q.—Similarly cultivators who are directly under the janmi?

A.—If the tenants are working directly under the janmi, then the janmi will get most of the profits and so he will be more generous towards his tenants.

Q.—So if the depressed classes who work directly under the janmi there is some chance of their being treated generously and better than the others who are working under the kanamdars or the verumpattamdars?

A.—As a matter of fact, it is so. That is why I want to give fixity of tenure to be given to the verumpattamdars.

Q.—Do you advocate reduction in the existing rents?

A.—The existing rents may be permitted to continue as they are.

Q.—So on the basis of the present rent and on giving one year's security, the verumpattamdars may be given fixity of tenure?

A.—Yes, because they will have more inducement to cultivate properly.

Q.—And in regard to the other statements you are not concerned with the kanamdars and it is on that understanding I don't question you now?

A.—I am not very particular about other statements.

The President:—Thank you very much Mr. Seshayya for your evidence

XVII

Written statement of Mrs. M. M. de Conceicao of Oalicut.

I have stated all the facts of my case in my petition to His Excellency the Governor dated the 15th August 1927. I have now produced my documents to substantiate them.

1. Sale deed to my father, M. S. Saldanha, in 1855.
2. Kanam deed of 1887 in renewal of a previous kanam to my father.
3. Kanam deed to me in 1915.
4. Copy of karaima deed executed to me in 1915 by Ahmod's son, Kuttirayan Vittil Aythraman Kutti.
5. Copy of melkanam deed granted to his brother Abu Bucker.

6. Copy of plaint in O.S. No. 612 of 1927 brought to evict me.
7. Some of the rent receipts granted to me, up to November 1923.
8. Municipal tax receipts.

The following statement shows the income I now get from my property, and the loss I shall sustain in case I am deprived of my property:—

	Per annum.		
	Rs.	A	P.
Receipts—			
Rent of the house at Rs. 30 per mensem	860	0	0
Coconuts, 700, at Rs. 50 per 1,000	85	0	0
Karaima	15	8	0
Total	410	8	0
Expenditure—			
Municipal tax	42	8	6
Whitewashing and other repairs (say)	30	0	0
Total	72	8	0
Net income	337	15	0

The Court Commissioner has just valued my improvements. I am informed by my *vakil* that the compensation payable to me comes to Rs. 3,200. If this is invested in a safe bank at 4 per cent I shall get Rs. 128 a year. It will be loss to me of Rs. 209-15-6.

Oral evidence of Mrs. M. M. de Conceicao.

The President:—Q.—Mrs. Conceicao, you say that you are in possession of a holding in Calicut?

A.—Yes.

Q.—The janmi has given melcharth of your holding to one Abu Bucker?

A.—Yes.

Q.—The melcharthdar has filed an eviction suit and it is pending?

A.—Yes.

Q.—I find that the matter is *sub judice* as the suit is pending before the Munsif's Court. The papers which you have produced do not show the exact circumstances under which the suit was filed. You say that you were paying the rent regularly?

A.—Yes, till about three years ago.

Q.—You used to pay rent on production of receipts?

A.—Yes.

Q.—You have made improvements on the land?

A.—Yes, great improvements.

Q.—The house belongs to you?

A.—Yes, and now they want to evict me.

Q.—Will you kindly tell us under what circumstances the suit was filed against you?

A.—Only to evict me. Nothing more. I have produced a copy of the plaint.

Q.—Yes. (The plaint and the connected papers were examined.) The plaint which was filed by the melcharthdar recites that he paid Rs. 150 to the janmi in addition to the previous kanam amount?

A.—I know nothing about it.

Q.—Did the janmi ask you to give additional kanam?

A.—My term was not out. It was before the expiry of my term that he has given melcharth.

Q.—When is the term to expire?

A.—Only this year.

(On reference it was found to be on 13th February 1927.)

Q.—Before the term expired the janmi could ask you to raise the kanam?

A.—I got nothing in writing.

Q.—Did he ask you orally?

A.—Some time back he came to me and said that the kanam had to be renewed and so on. I said 'let the time come for renewing the lease.' I did not refuse to renew.

Q.—Then did he ask you for additional kanam?

A.—I do not remember.

Q.—What is the extent of this holding, can you tell us?

A.—It is shown in the document.

(On reference it was found to be about three-fourths of an acre.)

Diwan Bahadur T. C. Narayana Kurup:—Q.—Who is the janmi?

A.—Baricha Moopan's family.

Q.—Is not that family in pecuniary difficulties?

A.—I believe so.

Q.—Is not their estate in the hands of the Receiver?

A.—I do not know. When we get receipt we pay him, that is all.

Q.—If there is a Receiver you can ask the Receiver to apply to the Court to have this meloharth cancelled. I read in the papers—I know as a matter of fact the family has been adjudicated an insolvent and a Receiver has been appointed.

The President:—The matter is *sub judice*. Mr. Narayana Kurup says that he understands that the estate has been placed in charge of a Receiver and he suggests that if you apply to the Receiver, the Receiver could move the Court to set aside the melcharth. If it is found that some injustice has been done your grievances will be redressed. At the worst you will have to pay Rs. 150 to the Receiver to be paid back to the melcharthdar. All that will be decided by the Court.

A.—Now what should I do?

Diwan Bahadur T. C. Narayana Kurup:—You had better go and see the Receiver and he will put you in the way.

Q.—What has Best & Co. to do with this?

A.—The manager of the Company, Mr. Parthasarathi Ayyangar, is my tenant. He is occupying my house. Then one Hyderman is living in a house built on a piece of land which I gave him.

Q.—There are two houses—one put up by you in which the manager lives and the other one has been put up by the sub-kanamdar—the tenant under you?

A.—Besides those there are some huts. I am living in another place.

Q.—You are getting Rs. 30 as rent?

A.—I get about Rs. 45 in all. Rs. 30 for the house, Rs. 8 from the sub-kanamdar and Rs. 4-8-0 plus Rs. 3 from the huts.

Q.—You have to pay Rs. 6 to the Moopan's family?

A.—Yes. My father bought the holding and my husband did a lot of improvements.

Q.—The Commissioner has valued it at Rs. 3,200?

A.—My *vakil* told me that I am to get a compensation of Rs. 3,200.

The President:—Q.—We shall keep a copy of the plaint and return all these documents which you may want for reference?

A.—Thank you.

The President:—The only suggestion we could make is what Mr. Kurup has told you. You approach the Receiver and he may get the melcharth cancelled and if it is cancelled the suit automatically comes to an end.

Q.—Then may I go?

A.—Yes. (The documents were all returned.)

Written statement of Mr. Max Saldanha of Calicut.

Our family has been holding on kanam a paramba named Attaveppu Turisingel paramba in Kallathukunne amsam, Calicut, under the Padinharakettu Thavai of Puthia kovilakam from a time out of mind. Documents, since the Registration Act came into force, show that our possession extends for nearly seventy years. We have taken renewals of the demise regularly. Rent used to be on production of receipts on printed forms to the kovilagam rent collector, and we have so paid it till last year.

We have improved the land considerably by a large outlay of money. In previous renewals of the demise we acceded to all terms imposed on us by the landlord including one by which 178 bearing coconut trees planted by us were taken over by the kovilakam for a paltry consideration of Rs. 89. If the Kovilagam wanted other terms, though they might be onerous, I should rather have acceded to them and taken out a renewal than run the risk of being deprived of our family property. Without, however, consulting me or even giving me least intimation the kovilagam has granted a melkanam to one who has been coveting our property for several years. It has undertaken to bring, in its own name but at his expense, a suit for eviction and, after eviction, to put him in possession. A suit has accordingly been brought (O.S. No. 344 of 1927) in the Principal District Munsif's Court of Calicut and is now pending. We shall soon be deprived of our ancestral property. No charge of any neglect of our duty as tenants can be laid against us, yet the kovilagam has, by its deplorable action, made us the victims of very grave injustice.

The following are the documents produced:—

- (1) Kanam deed of 1890 executed to my mother and me in renewal of a prior kanam. It shows that 178 coconut trees taken over by the kovilagam.
- (2) Kanam deed, dated 28th February 1915. The last renewal granted to my sister.
- (3) Copy of the melkanam deed, dated 11th March 1927.
- (4) Copy of plaint in O.S. No. 344 of 1927 brought for my eviction. No rent has been claimed. Shows no rent in arrears, except that for last year.
- (5) Municipal receipts.
- (6) Revenue receipt.

Statement showing the income I derive from my property and the loss I shall sustain in case of eviction.

					Per annum.		
					Rs.	A.	P.
House—							
Rent at Rs. 100 per mensem	..	..	..	..	1,200	0	0
Deduct—							
Municipal tax	..	..	..	..	186	2	0
Cost of repairs	..	..	..	..	180	0	0
					816	2	0
Net income	..				888	14	0
Paramba—							
Value of coconuts about	..	..	..	..	250	0	0
Karaima	..	..	..	..	17	0	0
Total	..				267	0	0
					Rs.	A.	P.
Deduct—							
Revenue	..	..	..	..	27	8	0
Municipal tax	..	..	..	..	21	4	6
Upkeep (say)	..	..	..	..	25	0	0
Rent to kovil	..	..	..	..	85	2	9
					108	15	8
Net income	..				158	0	9
Total net income	..				1,941	14	9

From the Court Commissioner's account, I shall be probably awarded Rs. 13,350 as compensation for improvements. If this sum is invested at 4 per cent interest, I shall get Rs. 534 per annum. I shall be a loser of Rs. 507.

Saturday, the 3rd December 1927.

After the examination of Mrs. Conceicao, Mr. Max Saldanha was examined.

Oral evidence of Mr. Max Saldanha.

Diwan Bahadur T. C. Narayana Kurup :—Q.—The house referred to by you is occupied by the present tenants and they have been in possession of the house for the last forty years?

A.—Yes.

Q.—They have made the house very attractive by planting a pakka garden and doing other things?

A.—Except the garden, they have made very little improvements in the house.

Q.—They are now paying you a rent of Rs. 100?

A.—Yes.

Q.—You pay to the kovilagam Rs. 35-2-9?

A.—Yes.

Q.—What is the renewal fee that you pay?

A.—The receipt for the same granted in the year 1915 was referred to and it was found to be Rs. 263-12-0.

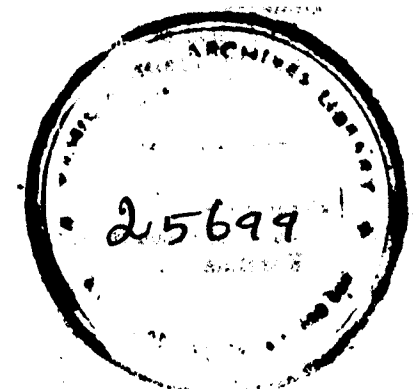
Q.—So it works at the rate of Rs. 20 and odd a year?

A.—Yes. We pay in addition to this the revenue and the municipal tax.

Q.—What is the assessment you have to pay?

A.—Rupees 27 and odd.

All the documents were referred to and after that the witness was allowed to go. The documents were returned to him.



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