MEMORANDUM

ON THE

Report of the Prakasam Committee

ON

CONDITIONS IN ZAMINDARI

AND

OTHER PROPRIETARY AREAS

"Next to war, pestilence, and famine, the worst thing that can happen to a Rural Community is absentee landlordism."

Prof. Carver.

K. G. SIVASWAMY,
Member,
Servants of India Society.

The Report of the Prakasam Committee on Conditions in Zamindari and other Proprietory Areas.

INTRODUCTION.

In the following pages the report of the Prakasam Committee on the conditions prevailing in zamindari and other proprietary areas is examined. It is not possible to say on the basis of the materials placed before the public by the Committee, whether its recommendations are beneficial or not to the cultivator. In the first place the Committee has excluded a certain class of proprietory units from the scope of the report, even though sufficient evidence has been collected about them. In the second place, the Committee has made no recommendations from the point of view of protecting the cultivator. The report was concerned with interpreting the juridical interests of the occupier of land, be he the farmer of revenue, or the absentee rayat, or the cultivating rayat working with hired labour, or the rayat working by himself with the aid of family labour, who had an immediate engagement to pay the land revenue to the zamindar. Consequently the interests of the cultivating rayat have not been protected, even though the report admits that his lands have passed to moneylenders, that he has become a tenant-at-will, and that competition among such tenants for land is extremely keen and leads to undercutting.

The proposals made by the Committee do not point also to any hope that the protection of the cultivator will receive any fair attention at the hands of Government. The report says that 'persons who rush to the landholders and offer competitive rates each year cannot be treated as undertenants.

Again it says, 'There were such under-tenants in exercise of their own customary rights at the time of the Permanent Settlement.' Having deprived the latter of their rights, and converted them into tenants-at-will, does it lie in the mouth of the Government to say now that they are no more than tenants-at-will? Secondly, the report has shown an unwillingness to propose the grant of occupancy rights to tenants at-will by calling them, in respect of inam lands, squatters of 1933, while it was to such tenants that the C. P. Tenancy Act gave occupancy rights in 1920, and the present U. P. Bill is now granting such rights? Thirdly, the report wants to increase the compensation to be paid to proprietors of the soil upto the purchase price of the land, while any land policy is based on the supreme right of the State to prevent opportunities for farming out lands for lease even by proprietors of the soil. Fourthly, the Hon. the Revenue Minister said in the Legislative Assembly on Dec. 3, 1938 in a reply to a question by Mr. H. S. Hussain.

> The Government have received representations from Congress Committees and others with regard to the necessity of passing tenancy laws in this province. The giving of fixity of tenure to lessees under rayatwari owners of land means taking away from the full ownership of the pattadar, and such a step is not under consideration.

So then the supremacy of proprietory rights in the soil over the national interest of conservation of land, for being used for agriculture, and certainly not for giving opportunities of profiteering by non-agriculturists by rackrenting the cultivator, has been solemnly affirmed by the Government on the floor of the Legislature. Under these conditions one should be excused if he came to the conclusion that the dice have been heavily loaded against the cultivator.

On the merits of the report, one should be grateful to the Committee for the great pains it has taken in properly interpreting the Permanent Settlement Regulation. Under that Regulation and the Regulations connected with it, the zamindar has no right to collect more than the total assessment fixed in 1801. He has no right to collect more than the established rents in 1801 on waste lands. He has no mining rights, nor rights to keep rayati lands as private lands, nor any rights over hills and forests and uncultivable lands. According to the Regulation, the zamindar can distribute waste lands, supervise communal lands and is responsible for irrigation works. But he has hardly discharged his responsibilities in respect of these matters in the interest of the rayat. The Committee recommends that these powers cannot be removed from him as they form part of the Permanent Settlement.

Again the Committee recommends that the rates of rent prevailing in 1801 should be adopted as they form part of the Regulations connected with the Permanent Settlement. Now this may fairly be agreed to by the zamindars; they may be willing to go back to the rents of 1801, but they may demand a share of the produce and refuse its commutation on the basis of prices of 1801, as recommended by the Committee, as it is nowhere said in the Patta Regulation that a rayat has a right to commute his payment from kind to money as and when he liked. While one may agree that, according to the Patta Regulation, the rate of rent should not exceed the rates of 1801, it does not always mean that rents shall not be fixed below the maximum rate of 1801. When the British came, the system of farming out revenues under the pre-British rule had two defects, namely, the revenue fixed was fluctuating, and the persons appointed as farmers of revenue were too often changed. The Regulation cured the revenue administration of these two defects, and Government have so far not gone back on these two reforms introduced in 1801. They had also reserved the right "to enact regulations as they make think necessary for the protection and welfare of the dependent Taluqdars, rayats and other cultivators of the soil." (Permanent Settlement Regulation of 1793). Consequently, Government have every right to fix fair rents, povided they do not exceed the rents fixed in 1801 and do not reduce the total assessment on which the peshkush was based. There is therefore no need for the Committee for stickling to the pre-Settlement rate, and saying that it cannot be reduced on any account. The Patta Regulation too refers to the rates of 1801 as a guide to determine rents; it does not say that it is the rate that ought to be fixed for each holding. In fact, the rates of 1801 were very indefinite, as they included abwabs and as they included produce-sharing on a customary basis, and payment of grain rent.

Government has also got power, under the Permanent Settlement Regulation already quoted, to regulate the distribution of waste lands and the use of natural facilities by rayats, and to control the forest resources in zamins.

The recommendations of the Committee in regard to Inams are most disappointing, as they indicate a retrograde policy of taking away the rights already secured by cultivators under the existing Act.

The fixation of rent, so as not to exceed the rates of 1801, and the total assessment as fixed in the same year will be justifiable only if the measure helps the cultivator. The proposal will reduce the existing rents by four-fifths. But every proprietor of the soil is not an agriculturist. We have at the top the under-farmers who were the early farmers of revenue. Why should the zamindar be deprived of his existing rents for their benefit? Again, there are absentee rayats who live by exploiting the cultivator. Why then should rents be reduced, while the tenants-at-will are not protected? Fair rent not exceeding the rates of 1801 should be fixed for the tenant-at-will, and he should be declared as an under-rayat with permanent rights of occupancy. Above them are the occupancy rayats. The tenants under the under-farmers should also be granted occupancy rights. It is too late in the day to find out who were the original under-farmers. They can therefore be classified only on the basis of the area of their holdings. Those holding, say, above 100 acres dry or 33 acres wet may be classified as under-farmers, giving them the right to use the holdings below the prescribed area as private farms, and making also the existing tenants occupancy rayats in the rest of their lands. The extent of private lands of a zamindar may also be limited in the same manner, and occupancy rights granted in the rest of the lands. Some limited rights in these private lands of under-farmers and zamindars may be given to the tenants, namely, a five-year occupancy on the same rent.

Sub-leases in lands of occupancy rayats should be prevented. These rayats may be given five years to undertake direct cultivation, failing which, hereditary rights should be granted to the sub-tenant, subject of course to the payment of a defined rent. In the case of rayats who purchase lands for the future and who are newly admitted to possession, the sub-tenant should be placed in their status, if these rayats are found to habitually sublet, and on the same rents which they are paying to the zamindar. There will be no injustice in such a proposal as the rayats take or buy lands with a full knowledge of the law against sub-leases.

As regards rents they may be fixed at the rayatwari rate for the under-rayat, at $\frac{1}{2}$ of it for the occupancy rayat, and at $12\frac{1}{2}\%$ less than the rate for the latter for the under-farmer, the rent to be so proportioned as neither to exceed the total assessment on the estate nor the customary rates of 1801.

If, without enlarging tenancy rights of the cultivator and fixing his rent, any reduction in the rents collected by the zamindar is made, the result will be the creation of an army of rent receivers, and larger avenues for rack-renting, the ruination of the agricultural industry, and the placing of the lives of the agriculturist cultivating classes at the mercy of superior holders, however well-intentioned the latter might be. Should the State do so today, when it has certainly larger resources and greater strength than it had in the 18th century to take care of the interests of every single individual in the country ?

The recommendations of the Committee are an invitation to the cultivator to fight his battles, unaided by legislation, with his superior holder for better living conditions. At the one end the Hon. the Premier says, "Collective bargaining is a very crude appartus employed for the purpose of settling labour disputes. I do not think it is good. But it is a necessary evil. I should like to end it as soon as possible." (Budget speech on the Industries Demand, 25th March, 1938, Pp. 785 and 786). At the other end the supreme duty of the State to protect proprietory interests at the cost of the lives of millions of people is proclaimed by the Hon. the Revenue Minister. Between these two pronouncements, may we request the Government to tell us what it is they expect of the cultivators ?

Possibly, the millions of cultivators must pass through the same tribulations, sufferings, privations, strikes and class conflicts as the industrial workers do, to establish an obvious principle that property in land can be justified only if land is used for agriculture, and not if it is to be used for collecting rent. It is unthinkable that the Hon. The Revenue Minister has envisaged the future, and deliberately excluded any protection for the cultivator from the scope of the bill. We hope that better judgment will prevail, and the Hon. The Revenue Minister will look at the problem not merely from the point of view of law, but also from that of the larger interests of agricutural economy in the country.

POONA 4.
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A GRAVE BETRAYAL OF THE CULTIVATOR.

The Prakasam Committee gives the following reasons why the question of the legal status of under-tenants has not been taken up in their report :

1. If there is much competition for land, people offer more than any others for the purpose of securing a footing on the land. Where is the possibility of knowing who is the undertenant? Persons who rush to the landholders and offer competitive rates each year cannot be treated as undertenants.

2. There were such undertenants even at the time of Permanent Settlement.

3. Who are undertenants is a question by itself?

4. Opinion is divided on the question.

5. The question of creation of economic holdings and distribution of the same amongst the landholers with rights of occupancy created in their favour while at the same time making provision to prevent alienations of such holdings on the same old lines have yet to be solved.

6. A separate enquiry will be undertaken.

Transfer of lands to non-agriculturists

Points 1 and 2 are arguments for an immediate enquiry. The Committee itself proposes a partial remedy in point no. 5. It has also offered a strong argument why legal status should be given to under-tenants in two places in the report. Let us quote them.

> Much of the land having gone out of the hands of cultivators into the hands of the creditors, such cultivators who had parted with their properties will be compelled to obtain leases, as subtenants, even for higher rents, sometimes knowing that there would be no margin left for them ultimately. (Report, P. 142)

The Andhra Zamin Rayats Association puts the same idea more forcibly in the following words:

> The average of lands escaping into the hands of non-agriculturists from that of agriculturists would be greater in the zamindaris. The subleases produced by these estates are mainly from these non-agriculturists. (Supplemental memorandum P. 641).

Pressure of population and land hunger are given as the reasons by the Association for increased rents and sale values. The transfer of lands by the rayats to moneylenders is referred to as one of the reasons in the statement of objects and reasons for the new bill.

> The ryots had been subjected to the payment of ever increasing land revenue assessment and the ryots had on that account become heavily indebted to their creditors and *in many cases* were obliged to surrender their rights in favour of their creditors.

Report opens the floodgates for rack-renting.

These opinions of the Committee and the Association clearly indicate the need for a land policy. Cultivators have lost their lands and became under-tenants. Does the Committee want that rack-renting rayats who have invested money in land solely with a view of collecting rents should be granted more privileges and concessions to rackrent still more? Are the rents to be reduced for their benefit? Are the zamindars to forego their mining rights, fishery rents, rights to raise topes and forests, rights to reclaim lands and keep them for 30 years, their right to premium, their rights for damages for unauthorised occupation, their right to enhance rents? These rights under the present Estates Land Act; are they to forego them so that more investors might merrily rackrent, and ruin the agricultural industry of the country? What does agriculture gain, or the country gain by increasing the number of absentee landlords? The new situation which

has developed in the country during the last half a century and more, of overborrowing by the debtor, transfer of lands to the creditor, and the transformation of the cultivator class into a landless class of tenants-at-will is fraught with grave dangers to agricultural economy. A new land policy is the first desideratum. Firstly, the existing rayats should be given the choice within a definite period of choosing the occupation of agriculture, or be satisfied with a fair rent, the law recognising the cultivators in such a case as permanent occupancy rayats. Secondly, in the future, lands should be transferred only to agriculturists who take the risks of cultivation, and if land is sublet for other than approved purposes, the tenant should get the same rights, as those of the rayat who sublet the land. Thirdly, fixation of a fair rent will prevent investments in land and stop the evil of competitive rents due to the struggle for existence.

The State allows a large surplus for the cultivator, so that he might find the money for the non-recurring investments in the farm, and for meeting the deficit in scarcity years, and not for appropriation by a middleman. A legal interpretation of the proprietor of the soil cannot give him a superior right to rackrent a tenant and ruin agriculture. The conservation of land as an instrument of production only in the hands of the tiller is of far more national importance than that of the proprietory right of a rent-receiver. And if protection of the agriculturist requires a dispossession of rights, it should be for the agriculturist, and not for another class of absentee landlords. It was Professor Carver that said that, next to war, pertilence, and famine, the worst calamity that could befall a country was absentee landlordism. No sensible man can agree to a legislation which multiplies the latter a hundredfold by reducing the rents without at the same time protecting the cultivator.

Legislation for the latter purpose is necessary, and we have dealt at the end of this section with the provisions for the enactment of such a legislation.

Evidence in the Report about existance of hereditory tenants in 1801.

Another argument of the Committee for not undertaking legislation in favour of subtenants is that there were such under-tenants even at the time of Permanent Settlement. In the first place this statement, though true, is only a partial expression of facts. For there were under-tenants in those days with hereditary rights too. Secondly, are we to retain both good and bad features indiscriminately, because they existed at the time of the Permanent Settlement?

The existence of under-tenants is referred to in page 238 of the report. It says:

> Those who belonged to the village were called Ulkudis and they had preferential rights as against those who had come from outside to settle down in the village known as Porakudis. Notwithstanding the varying rates charged against these different classes of people, their right to retain their land for themselves and their successors so long as they were paying the rate of rent was always admitted and recognised.

These tenants then are not year to year tenants struggling to get a footing on the land at a competitive rate. How then does the report emphasise the existence of tenants-at-will, and not that of hereditary tenants at the time of the Permanent Settlement?

The report quotes Mr. Forbes' speech, and says that the Estates Land Bill did not take away any existing rights and that these were settled by the villagers themselves. It also refers to the fact that the Rent Act of 1865 puzzled the Government of India when there was no reference in it to non-occupancy tenants, and to the explanation given by the Madras Government. The explanation of the Madras

Government is also given in the report which we quote below:

> Associated with them (mirasidars) are found porakudis or payakaris who in their existing holdings possess as good rights as do the mirasidars in their lands but who, as not being seized of original rights in the village, are not allowed to possess the special privileges of the more favoured class. (Author's Note: These special concessions varied according to the nature of the revenue demands of the rulers and were commuted into a reduced assessment in ryotwari lands).
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> This inferiority of position was generally compensated by holdings at a somewhat lower rate of assessment but so long as that assessment was paid, the right to retain the land and to be succeeded in its enjoyment by his heir was never denied to the porakudi...Others of the porakudis were doubtless under-tenants of the rayats...All this question of resident and non-resident rayat was a purely communal question, a matter solely between the villagers themselves. If up to 1865 the ryots had certain rights, there was nothing in the Act to destroy them.

The loss of hereditary rights at a fixed waram by tenants.

The above quotation might be interpreted to mean that all the tenants then existing became occupancy rayats. Such an interpretation would be shutting oneself in blindness to facts, for the quotation refers to under-tenants. Secondly, the quotation itself recognises varying classes of tenants. Thirdly, the early reports of the E. I. Company show that both the zamindar and the Government recognised the mirasidar as the rayat who had the right to let the lands for 'ulkudis' and 'porakudis' for rent. The fact is that, just as Government interpreted the position of the zamindar as proprietor, they also did the same in recognising the mirasidar as the owner, without granting a legal recognition to the tenant under him. They were concerned with collecting their high assessments, and they would rather not like to do anything which would embarass the ryotwari mirasidar. And what they could not do in a ryotwari area, they would certainly not like to do in a zamin area. The consequence is that the hereditary rights of occupancy at a fixed waram, which the tenant had at the time of Permanent Settlement, were taken away from him. In every village community which in the absence of a Central Government had to regulate the social and economic life of the people by its own laws, a code of administrative rules developed whose only sanction was the custom of the village. When gradually a central government grows, its code of civil law also grows, and the regulations of the smaller institution get into disuse.

We cannot regulate the relationship of the individual to a government acting by law, on the basis of customary rights which grew in the administration of a small village community. They have to be adapted and legalised as suited to modern conditions. During the course of such a process, the more powerful get their privileges first. British notions of property hastened the downfall of these hereditary tenants. Customary rights were embodied in zamindari provinces in Tenancy Laws. They were lost in the provisions of the Transfer of Property Act in ryotwari provinces. That Act does in no way protect the agricultural tenant. But it saved special legislation by Local Governments to regulate agricultural leases. If the Committee were interested in cultivators, it would at least have recognised the ancient hereditary rights, even if it postponed the larger problem of preventing the passing of land to rent receivers, and of retaining the land in the possession of those who put it to cultivation.

Contempt for tenant-at-will.

The Committee has ransacked all old laws, interpreted them against existing prescriptive rights to dethrone a small number of zamindars, and to enthrone in their place a host of rent receivers. Its contempt for the cultivator, while all the time

it uses the word 'cultivator' to deliberately mislead the public, is terribly disgusting. We will give two examples of this veneer of contempt running through the whole report. Talking of the occupancy cultivator in inam lands, the report sneeringly calls him :

> A squatter upon the land who happened to be there in 1933, whether on any previous occasion he was there or not, destroying the freehold rights conceded to them (Inamdars) under the Inam Acts. (Report, P. 196).

Is the cultivator of the soil to be called 'a squatter.' while a rent-receiving occupancy rayat, what is he but a parasite living on that 'squatter.'? Let us turn to page 217 of the report. The Estates Land Amendment Act of 1936 fixed a compensation of one year's rental to be paid by a tenant of whole Inam villages where the Inamdar could prove that he had the Kudivaram right in the land. The Committee remarks on this beneficent measure that "the grant of one year's rental as equitable compensation for taking away the Kudivaram right (right to cultivate) of the Inamdars is like granting one pie nominal damages in an action for tort." The fact is that the compensation should be such that it could be payable by a tenant, and, secondly, it was recommended at a low figure because there could not be any Kudivaram right in whole Inam villages. Again, the Committee approvingly quotes the evidence of a witness that Kudivaram rights should be granted to minor Inamdars, because they have split up their Melvaram rights (right to collect revenue) into innumerable shares. Mr. B. Narayansamy Naidu, one of the members of the Committee, effectively shows in his dissenting minute that, if such a stand were taken, all the landholders of partible estates should get the occupancy rights of a rayat, and be entitled to convert their shares in the estate to 'Sir' or private land.

The irony of the situation is that the previous 'Justice' Ministry wanted to grant $2\frac{1}{2}$ times the rental as the purchase price. It was Dr. C. Ramalinga Reddy, taking his stand as the representative of the Congress on the Karachi Congress Fundamental Rights, that reduced it to one year's rental. We quote the relevant portion of his speech below:

The disowning in the report of a Congress representative who upheld its policy.

> I am here to support the principles of the Karachi programme where there are two boons offered to the agricultural classes, firstly security of tenure, and secondly lowering the burdens on land, more specially on the tenantry. In these days, on account of depression and the general poverty of the masses, I feel that any compensation for security is not really justified, but to raise it to two and a half times is to demand an exhorbitant payment, which will render this Act, so far as the tenantry are concerned, more an engine of exaction rather than a beneficent measure. I do not think such a compensation is called for. I would regard security of tenure as one of the elementary rights which the tenantry as under the estates are entitled to.

We will now show what rights the under-tenants had at the time of the Permanent Settlement. By doing so we should not be taken to support the rights of these tenants only because they existed in 1801. The national interests require that the major industry of the people should be protected from rackrenting. Our only contention is that, if the justification for the grant of more rights to occupancy tenants is their historical existence in 1801, the same history demands the recognition of those rights that existed in 1801 for the under-tenants. But we will go further and press at least for approximating these rights to those existing in other Tenancy Acts. It is again a paradoxical situation that while a Congress Ministry in U. P. is enlarging the rights of tenants by granting occupancy rights to those 'squatters' even of 1938, another Congress Ministry would be devising arguments to prove that they were no more than labourers, that they had no such rights in 1801, that they are today being rackrented, and therefore they should continue to be rackrented, etc.

THE HISTORY OF RIGHTS OF SUBTENANTS.

The earliest reference we have on the subject of rights of subtenants is in the report of the Collector of Madras Mr. Place on land tenures dated 6th June 1799 and published as appendix No. 16 to the Fifth Report of the Select Committee on the Affairs of the East India Company. That report says:

> The pyacarries enjoy the right of cultivating the soil, by prescription, themselves and their ancestors having done so far many generations. They cannot be forced away from the village at the will of the meerassadars who must assign ground for them. But they cannot sell, mortgage, or transfer for a valuable consideration their right, for it consists usually in the soil and not in the substance of the soil. Their heirs succeed but in default of them the lands revert to the meerassadars.

The report refers to another class called pallis who are entitled to one third share of the produce.

> Madranticum affords a curious example of the preservation and assertion of this right. As soon as the tank work was completed, the descendents of many families who had formerly been the hereditary servants of the Brahmins claimed and were admitted to their inheritance, although in the intermediate time they had taken up other occupations and might be supposed to have forgot it. The office constitutes the inheritance. It might of course be relinquished by the occupant who, by that means, broke the succession; and in failure of heirs it rested with the meerassadar to appoint others or not: but this also cannot be sold, mortgaged or transferred.

A new situation developed during the last decades of the 18th century. Cultivators could hardly be obtained. So Pyacarris were allowed to call in others and even settle their holdings on them in default of heirs. (P. 716).

Mr. F. W. Ellis, Collector of Madras, gives on instance in his introduction to *merassy* papers in 1814 of the rights of permanent occupancy enjoyed by subtenants.

> An instance lately occurred in which an attempt was made to oust the ulkudis in consequence of a bill of sale executed by the sheriff by the connivance of the claimant of the merassy. As such sale could only convey the superiorities as tundurvam (a bit share to produce) *not the land*, I resisted the attempts of the purchasers to disturb the actual tenants and shall maintain them in possession until the case be decided by law. (E. I. Affairs. Select Committee Papers, 1832. Appendix, P. 365).

Going a little further back in the history of land tenures, the minute of the Board of Revenue of 5-1-1818 says:

> In many parts of the Tamil country, but especially in the province of Tanjore, the privileges of many of this class have been purchased, usurped, or acquired by Brahmins who now therefore represent the original rayats. But the vellalas of the Tamil country, the coombees of the Ceded Districts, and the Reddis and Naidoos of Northern Circars appear originally to have possessed the exclusive occupancy of the land throughout Hindustan.

(E. I. Affairs—Select Committee Papers, 1832-Appendix, 98-P. 414).

During the first quarter of the nninteenth century the subtenants improved in their status in the Tamil country for several reasons.

The E. I. Company introduced the rayatwari principle of resuming a land if its revenue was not paid by the mirasidars. (E. I. Affairs, Papers, Select Committee, 1832. Appendix 107; Proceedings of Board of Revenue—4th December

1820 quoted in para 40. p. 487). Owing to high assessment some among the latter left the lands vacant which were granted to '*ulkudies*'. Some others left as they considered it *infradig* to sign a muchilikka and get a patta from the zamindar. Unoccupied dry lands on which the mirasidar did not make a claim went to these tenants. Owing to ignorance of mirasi rights, the Collectors gave rights of ownership to tenants. But these mistakes were rectified, and the mirasidars who returned back to their lands were allowed to let out to any one as their tenants the cultivable wastes over which they claimed the right of distribution. In South Arcot the mirasidars sued the Government and the courts recognised their mirasi rights of letting in tenants in the uncultivated lands of the village (Ibid, Appendix 107—Mr. A. D. Campbell's note of 6th November 1826 on South Arcot and Appendix No. 90, Mr. Ellis' note on mirasi rights.) The Board of Revenue in its proceedings of 11th December 1823 said :

> Whenever therefore a mirasidar can be depended upon for payment and can show a good title the settlement should of course be made with him. But even in such cases it is doutful whether the Collector ought, and indeed, at present he certainly cannot legally oust the present occupant by force, for it is admitted by the mirasidars that the ulkudis and their heirs possess the right of the enjoyment of the soil for the purpose of cultivation. (Para 20).

The mirasidar's rights were commuted and a reduced assessment was fixed in their case when the rayatwari settlement was introduced. (Mr. Campbell's note, Para 42.) But Collectors always recognised their right to distribute waste lands and to collect rents from hereditary tenants. It was only when the Government had to lose their revenue by the mirasidars not admitting tenants to possession, they interfered and gave the latter all the rights of the rayatwari holder. (Appendix to. 95. Para 16. Proceedings of Board of Revenues pp. 392 to 397).

The Brahmin grantees of inam villages and the mirasidars of Arcot, Chengleput, Tanjore and Tinnevelly districts had certain special fees paid by cultivators. The tenants paid about ½ as thunduvaram (a small share of produce) to them. (Minute of the Board of Revenue 5-1-1818. Appendix 98 pp. 421 to 428). In Tinnevelly thunduravam was 13½ p. c. This rent varied in proportion to the assessment paid to the Government. Under Muslim rule when the assessment was heavy, the tenant could not pay any special rent to the mirasidars. But a hereditary tenant was always allowed a share of 50 p. c. of the gross produce. (Fifth Report of E. I. C. 1813, P. 137.)

While the tenants called Ulkudis had hereditary rights of occupancy at a fixed varam, the non-residents called Porakudis had only limited rights. The 5th report of the E. I. C. says:

> It often happens from various causes that a mirasdar is unable or unwilling to cultivate his fields. In this case it has been the practice for the Government or its managers to assign the culture of such lands to Parakudis of their own nomination, but the right of the mirasidar in the soil is not impeached by this act arising from his inability. He is still considered as the proprietor and entitled to his Swamibhogum or rent from the parakkudy in possession, and may return again to his cultivation of merasee lands.

The Report further says that these rights continued from the reign of the first Hindu princes till the downfall of their authority.

The note of Mr. A. D. Campbell, 3rd member of the Board of Revenue, prepared for Sir Thomas Manro for his tours in the South, and the minute of the Board of Revenue of 5-1-1818

published as appendices 107 and 98 respectively to the Report of the Select Committee on the Affairs of the E. I. C. in 1832 throw a flood of light on the existence of tenant rights at the time when the rayatwari settlement was introduced. The Government were gladly willing in the Tinnevelly district to induce the Brahmins to cultivate the dry lands by assessing them at three-fourths of the usual rate. But

> The Brahmin has generally found it more to his interest to abandon the cultivation of the dry land to the Sudra who pays the full tax, and to retain his Chathurbhagam alone, than to cultivate the land himself. Hence the dry lands in the Southern provinces instead of being in the possession of actual mirasidars of the village, are found to be often, particularly in Brahmin villages in the possession of a class of hereditary Sudra tenantry, who, under the domination of oolkudis, hold either from the meerasidars or direct from the Government itself. (Mr. Campbell's note, para 125).

The note further says that when, as a result of low assessment and a better price for the produce, dry lands became valuable, the merassidars began to apply for pattas for such lands too. Collectors were informed that they should grant such pattas if the mirasidars could prove that the existing occupant was only an ulkudy. Scores of instances exist to-day in the riverine villages of Trichinopoly district where the mirasidars are paying revenue to Government on dry lands which the tenants have been traditionally cultivating. But they have no rights of occupancy in law. They fought a case against the landholders and the Privy Council decided in their favour. But each case cannot be taken to the Privy Council, and this decision should be legalised in a statute. (Vengampatti tenants against Karupathur and Manathattai landlords in Kulitalai Taluq.)

The mirasidars had their own private lands. Where they cultivated them with slaves, they got the farmers' profits. Where they leased the land to Ulkudi pyakaris, they got a rent ranging between 13½% and 25% of the produce, these tenants paying also the Government share. (Vide minute of Board of Revenue, 5-1-1818. Appendix 98 to the papers of the Select Committee, 1832. Footnote p. 427.) But mirasi villages held under joint or several tenure existed only in areas of tank and channel cultivation where the yield of lands permitted their leasing and sharing the produce.

> I do not think, then, on the whole, that there can be any reasonable doubt that the relics of *mirasi* right indicated the establishment of a superior co-sharing village tenure, such superior tenures being connected either with grants to Brahmins or to other secular castemen—very likely cadets of families and other persons gaining privilege from connection with the ruler—or with a direct privillege granted to encourage and confirm a colonising settlement" (The Indian village Community by — Baden Powell, p. 378).

Rights of hereditary tenants also grew in single landlord villages. But they did not grow in the dry areas because lands had no surplus value for which they could to be rented. Assessment was high. The supply of cultivable lands exceeded the demand. (Sir Thomas Munro's Minute, Appendix 106—24-2-1827 Para 13.)

Three kinds of rayats are referred to in Meer-Sahib's time in Dindigul, the fixed rayats (Putkuts) paying the highest rate. Before the British rule, a fixed sum was paid as revenue in dry land villages, and it was divided among the cultivators. There were sharers in village cultivation working in the lands of fixed rayats called Vellalas (cultivators), Yerwadis (habitual ploughmen), and Pudukudis (new tenants). (Mr. Hodgson's report of Dindigul and Coimbatore, Appendix to the Fifth Report, P. 977.)

In the Telugu country between Nellore and Ganjam the Cadeems did have mirasi rights as in the South, but became mere occupiers of land owing to the heavy assessments of Muslim rulers. The scope for subtenancy was less, and the position of the Cadeems was no better than that of Ulkudi tenants. (E. I. Affairs Select Committee 1832. Appendix 98. Minute of Board of Revenue of 5-1-1818 Page 429).

E. I. C. Policy to give Kudivaram rights to landholders.

The minute of the Board of Revenue of 5-1-1818 specifically enjoined on Collectors not to follow a policy in the Tamil districts, as was done in ceded Districts and Carnatak, of settling assessments with cultivators, but to settle with big-holders as was done in the West Coast. Some of them have lost their hold over the tenants of lands owing to the high taxes collected by previous rulers, and have sometimes disclaimed ownership in order to avoid payment of land tax. The Board therefore particularly enjoins on Collectors gradually "*to convert the bad farms in the Tamil country into good estates, and the landholders into landowners.*" (Para 307) In these instructions we find the crux of the earlier policy of granting rights of full ownership to the landholders, neglecting the claims of the hereditary tenants.

The growth of subleases between 1850 and 1890.

The main features of development in the tenancy system between 1850 and 1890 are described in page 61 and pages 82 and 83 of the memorandum of the progress of the Madras Presidency during the last forty years by Mr. Srinivasaraghava Ayengar. With the rise in the price of produce, land became a saleable commodity.

"Trading capital now turns to land as an investment, and is willing to accept from it a return of 6 p. c. whereas in 1839 it was declared that trading capital did not invest in land." (p. 61). The bigger vakils and other well-to-do people prefer investing in lands which they consider safe. With the exception of a small percentage, who are engaged in trade, the major portion of those, who do nothing more than let their land and collect the rents, are by degrees growing poorer and poorer by selling or mortgaging their property. (Ibid. A note by R. Subramanyayar, District Registrar, Tinevelly. Appendix p. 133).

Grain and money leases are rapidly superseding cultivation on the sharing system (in the Tanjore district). This proves that the porakudis are becoming substantial farmers able to carry on cultivation without much help from the landlords, and to pay the stipulated rent in all seasons. (Ibid p. 83).

In South Arcot the mass of cultivators are tenants with rights of occupancy *terminable at their own option*. On private estates the cultivators who are not padiyals (farm servants) are tenants-at-will paying rent to the intermediate landlord, sometimes in cash, but often in kind, and liable to ejectment at the end of the season. (Ibid. Extract from Dr. Macleane's Manual of Administration p. 123).

Owing to the advent of coasting steamers, and navigable canals, and the Godavari aniout, better classes, instead of being in the hands of sowcars, have become sowcars themselves. The rich rayats lend money on Inam lands, taking them on long leases. The Inamdars in general being poor brahmins are not capable of cultivating the lands themselves". (Ibid p. 127).

In the district of Coimbatore lands were leased on the *Pungal* system. The landholder took a half share for the use of the land called *Nilavaram*, and the other half was divided according to the number of bullocks contributed for cultivation which went by the name of *Yerwaran*, (yer means plough and waram means sharing).

But owing to pressure of population on the land, the terms of sharing stiffened against the tenant. In 1839 it was one half of the net produce after deducting the expenses of cultivation (Ibid p. 83), whereas it was one half of the gross produce in 1890.

In the district of Tinnevelly a new class of middlemen tenants had grown by about the year 1890 who took lands on lease from absentee landlords and sublet them to tenants at higher rents, thereby making bargains at both ends. (Ibid. Appendix p. 134).

The Famine Commission Evidence.

The next document which makes a reference to subtenants is the memorandum submitted to the Famine Commission in 1880 by the Madras Government and published as appendices to its Report. (Volume III). The Commission made an enquiry about the quantity of land that was transferred to non-agricultural and non-resident landlords. The Board of Revenue, while admitting the fact of such transfers, did not attach much importance to it, as these classes were, according to them, treating their tenants considerably. The report of the Board of Revenue says:

The Tanjore Collector considers that in some cases injury is caused to agriculture by the renters not effecting any improvements in their lands or by their ill-treating their subtenants.

Mr. Price, the Collector of Chengleput, complained bitterly about the Brahmin landlords keeping the waste lands uncultivated, and reported that 40% of the land was with non-agricultural and non-resident landlords.

He said: "It is the squabbles between those people and their subtenants which cause much of the waste. They collect from the actual cultivators and squeeze them in every way they can, and then Government has to hunt them down in all directions in view of making them disgorge. The man with capital never has anything to do with these people, as advancing money or having anything to do with the lands, leads in nine cases out of ten to his finding himself involved with landlords whose litigiousness is a by-eword in other districts. I have not seen since I have been in the district half a dozen fairly subtantial ryots." (P. 417).

One of the questions addressed by the Committee to Local Governments related to the grades of agricultural population. The Revenue Board, after analysing the number of small-holders paying an amount below Rs. 10 and between Rs. 10 and Rs. 30, concluded that their number was sufficiently large, and as their agricultural incomes would be insufficient to meet their expenses, they must be taking lands on a kind of temporary tenancy retaining a share of the produce as their remuneration, or doing labour work for others.

On the subject of tenancy conditions the Board sent the following report:

> The Board calculated the total agricultural population in 1871-72 as 7·1 millions, labourers as 2·07 millions, 3·25 millions as uneconomic holders paying an assessment below Rs. 30 living by leases and labour work, ½ a million of the uneconomic holders living by trade, and 1·25 millions living entirely by land. Out of the latter 1800 pattadars paid an assessment of Rs. 500 and above, and 5288 pattadars paid an assessment between Rs. 250 and Rs. 500. (Ibid. p. 234 and 235.)
>
> The tenants of Government or zamindari rayats are usually tenants-at-will, a common arrangement being that half the produce goes to the lessor and half to the cultivator either in money or in kind. The shares vary in different localities and frequently with reference to the amount of agricultural stock provided by each party. There are some exceptional subtenures carrying proprietory or occupancy rights, and these will now be briefly noticed, as they are dealt with in the Collectors' reports. From the Godavari District is reported that there are subtenures with rights of occupancy in the Badrachalam Taluq. The Sub-Collector, Madura, writes, "The ordinary subtenures under lease run from one year to five years, and the rayat's share is generally by agreement from one year to five years and hardly ever more." (Ibid p. 347)

The Board of Revenue also made a suggestion in their report that a tenant-at-will throughout the Presidency should have the right to claim compensation for improvements effected "with the knowledge of the landlord," but nothing has come out of it.

The position of tenants, when the Famine Commission of 1880 made its recommendations was the following. Cash leases had come into vogue. Customary rights of tenants had disappeared. The *Ulkudi* in the south and the cadeem in the north had become tenants-at-will. The share of waram to the landlord had increased. After examining all the evidence, the Famine Commission made three important recommendations. The first was for the enlargement of the rights of occupancy of the cultivators. The second was for the prevention of subleases due to rack-renting by absentee landlords who have purchased the lands of the original rayats. The third emphasised the need for preventing sublease in rayatwari areas. (Vide Appendix to the recommendations of the Commission). The recommendations of the Commission were immediately given effect to by the enactment of Tenancy Laws in many provinces. We have dealt with these laws at the end of this section.

Transfer of lands to non-agriculturists.

But owing to the facilities for borrowing the indebtedness of the agriculturist grew by leaps and bounds. Gradually lands began to pass from the small-holders to big-holders, thereby accentuating absentee landlordism. (Vide Appendix I). This tendency can be steadily seen from the last quarter of the last century. (See Mr. Satyanathan's report of the Madras Government, 1935.) Mr. Srinivasa Raghavayengar who examined the class of mortgages in the districts between 1889 and 1891 remarked that "so far as land was concerned, the tendency has been to transfer it to actual cultivators or to persons who, in addition to capital, have sufficient education and intelligence to adopt improved methods of cultivation when they are found to be profitable."

The remark shows too much faith in the educated non-cultivating classes to develop the land which has hardly proved true. Even his conclusion quoted above is far from true, as a third of the mortgagees were non-agriculturists, so much so that the "Note of the Government of India on transfer of land and agricultural indebtedness", published in 1895, says that "it may be doubted whether the figures bear out the conclusion."

The history of the question after 1880.

Between 1880 and 1900 the Government of India seriously considered measures necessary to prevent the transfer of land to non-agriculturists. Restrictions on transfer rights were introduced in Tenancy Acts. The C. P. Tenancy Act in 1898 ensured the right of occupancy to the subtenant, as against the habitually-leasing occupancy tenant. A Tenancy Bill was introduced (on the basis of the Bengal Tenancy Act) in Madras in 1898 providing for the accrual of occupancy rights, and ensuring certain rights to the non-occupancy tenant. But it took another ten years for the Madras Government to enact the Estates Land Act of 1908. The report of the Prakasam Committee admits that that Act "was an adjectival law that prescribed a procedure for collecting rent, and that it was never intended to take away the rights that had been already existing or create new rights.".

The Committee which set aside the Estates' Land Act and recommended the restoration of rights as existed in 1801 might have adopted the

same policy in respect of the customary rights of tenants. But instead of that, it shelves the whole question by stating that a separate and independent enquiry will be required.

But the Committee did make the enquiry. It admits the existence of rack-renting by occupancy rayats, but only says that it cannot be a ground for justifying the collection of enhanced rents by zamindars. But how does the Committee face the fact of the existence of growing competitive rents? It has published a volume of evidence by Collectors who have codified the existing rents collected from tenants by occupancy rights. (Vide note in the appendix which gives a summary of the reports of Collectors.) It has further published four volumes of evidence. And this takes us to an examination of the remark of the Committee that opinion is divided on the question of legal protection for under-tenants.

The Case for the Subtenants by the Congress M. L. A.'s

One should always be prepared for a certain amount of even sharp difference of opinion on questions which affect existing vested rights. The existence of a divided opinion can be no argument for the postponement of consideration of an important question. Secondly, the sufficiency of evidence cannot be disputed at all, as more evidence has been collected on the question of subtenants than even on the important question of the fixing of rent at the pre-Settlement rate. Thirdly, the zamindar of Mirzapuram has drawn out from the witnesses during their oral examination enough evidence of the surplus value of subletting, and the compensation which rayats expect for giving legal protection to subtenants. And if other members of the Committee did not examine the witnesses from this point of view, it showed that they had either already prejudged the issue, or were indifferent to it. Mr. A. Rangaswami Iyengar proposes in his dissenting minute some feeble solutions for the protection of the under-tenant, and says that such protection should be soon taken in hand. Only two witnesses, the Parlikimedi Rayats Association and Mr. B. Venkatapathi Raju, wanted a separate comprehensive measure. The former said :

> We agree that the under-tenant has to be protected from rack-renting and assured of a decent tenure and a living wage. Our Association is in favour of the minimum demands of such subtenants framed and passed by the South Indian Federation of Peasants and Andhra Rayats Association. Therefore, we do not favour any kind of attempt to create a class of middlemen between zamindars and actual cultivators. Indeed, it shall be the duty of the State to discourage the growth of absentee landlordism.

Mr. B. Venkatapathi Raju admitted the existence of a large class of sub-tenants. The Committee might well have enunciated a policy, even if the drafting of the provisions in the form of a bill required a little more time.

Abstract of evidence for protecting the rayat against the under-farmer and the subtenant against the rayat.

The evidence of Rayats Associations, Congress Committees and important individuals has been for the protection of subtenants. Mr. C. R. Parthasarathy Ayengar, M.L.A., Chittoor says :

> If lands are enjoyed by absentee landlords in zamindar areas, then the pattadar should be called upon to give up the lands to the occupier himself who will pay his rent to the zamindar regulating his rights with his under-tenants. (Part III. p. 154.)

Mr. K. Varadachari, M.L.A., says,

> The legal status of an under-tenant has to be bettered from the existing state of affairs. Wherever a pattadar possesses a very large holding, and when any portion of it is continuously cultivated by an undertenant say for a period of 12 years, it would be equitable to confer on such under-tenant occupancy rights and the rent payable by him must suitably be apportioned with a view to link him with the pattadar himself. (Ibid, p. 160).

Mr. C. V. S. Narasinha Raju requests the Committee to examine the clauses of the C. P. Tenancy Act for preventing subleases. (see also Mr. Satyanarayanmurti's evidence to introduce in Madras the sublease clauses in the C. P. Tenancy Act, Part III. P. 8.) Mr. P. L. Narasimha Raju, M.L.A., proposes occupancy rights to subtenants on the basis of twelve years' occupation. Mr C. Narasimham, M.L.A., proposes security of tenure subject to the right of the rayat to take over the land for self-cultivation. Mr. Kalavenkata Rau, M.L.A., recommends provisions for the non-eviction of subtenants, and the fixing of their rent in relation to their share of produce in the ratio of 3 : 2.

The rayats of the Pithapuram Zamindari say, "Some wealthy Pattadars with extensive lands are getting accustomed to exploit the poverty and unemployment of cultivators and squeeze them to get as much as possible to further enrich themselves. Eviction by pattadars should be allowed only if the existing subtenant fails to pay arrears within reasonable time or is unwilling to pay existing fair rent on the land, or is guilty of waste committed on the land, or has become insolvent." (Part II. P. 84). Many witnesses have recommended the grant of occupancy rights to subtenants (vide pages Part II 27, 75, 78, 106, 139, 194, 126, 129, Part III 35, 77, 92, 101, 118, 119, 194). Some others have recommended the grant of occupancy rights on the basis of a continuous occupation of land by the subtenants. (Part II. P. 24, 151, Part III. 32, 65, and 66). Two witnesses have recommended compensation to the rayat. The Taluq Congress Committee, Polur, recommends the granting of the same rights to the subtenant as those to the rayat, if the latter sublets.

A number of witnesses have recommended for modified rights for subtenants, such as a ten-year lease (Part II. P. 135), protection against eviction (P. 101, 103), and restriction of leases to the same subtenant (Part III. P. 71). Certain others have recommended for certain specific forms of protection, such as securing the surplus from improvements and special crops to the subtenant (Part II. P. 70), protection against unjust rack-renting (P. 73), the fixing of rent at two times the land revenue (P. III. P. 40), the fixing of rent at 5% more than the rental (P. 71), free rights for the subtenant to cut wood and graze cattle (P. 264), the right to remission (Part III P. 71 and P. 106), and exemption of the produce of the subtenant from attachment (Part II P. 35, 70, and Part III 36, 159, 216, 225). A specific recommendation is made by a Rayats' Association in Tinnevelly that holdings of an area 50 acres wet or a corresponding extent of dry area should be declared as estates, thereby granting occupancy rights to the tenants of big pattadars.

We have excluded in the above abstract of evidence that of the Zamindars, as it might be considered as interested evidence. Neither this evidence is that of subtenants themselves who have not yet become vocal enough to assert their demands. It is either that of the occupancy rayats who are suffering as tenants-at-will under big underfarmers, or of the enlightened middle classes who see the justice of the case for subtenants.

The under-farmer.

Before we discuss the question of the rights of subtenants, it is necessary to have some idea of the extent of subinfeudation in the Zamindari areas.

There are two issues involved in the question of subtenants. We have a class of subtenants at the bottom taking lands on waram. We will deal with this class later. But rayats who are either cultivators on their own account, or who sublease their lands, or who cultivate with the assistance of produce sharing tenants and whose position approximates to that of the rayatwari holders, have themselves become under-tenants in zamindari areas, as a result of the interposition of farmers of revenue. These are to be found mostly in the Circars. One result of the Estates Land Act has been the recognition of these big farmers of revenue under the zamindars as occupancy rayats. The consequence has been that the genuine occupancy rayat has became a tenant-at-will. A recent instance of how the recognition of what are called under-proprietors or tenure-holders as occupancy tenants deprived the rights of thousands of rayats (they may have subtenants under them), happened in the province of Orissa in respect of that portion of the Madras Presidency which has recently been added to that province. The Madras Estates Land Act was recently amended in that province, and rents have been approximated to the rayatwari land revenue with an addition of 12·5 p. c. The Raja of Khalikote moved an amendment, (when the bill was under discussion, that the benefit of the reduction should go to the subtenant. He had a strong justification for his amendment in the fact that the Prime Minister of that province was considered to be an occupancy rayat even though he owned an area of 20,000 (twenty thousand) acres. Tenure holders or big proprietors were defined as early as 1885 in the Bengal Tenancy Act, 1881, and in the U. P. Tenancy Act. The status of the occupancy rayats under these holders was also defined. As the Madras Government did not make this distinction, the result has been that the occupancy rayat has been pushed down to the position of an under-tenant. A reference to the Regulations of 1802 will show that defendent Taluqdars and under-farmers have been clubbed with rayats, tenants, subtenants, and cultivators'.

The struggle for rights against the under-farmer in other provinces.

The struggle in the other provinces by occupancy tenants for a better status as against the privileged holders began as early as 1880. Various devices were adopted such as continuous occupation for 12 or 20 years, seven years' lease, purchase of the right at 2½ years' rental, life tenancy with a five year occupancy for the heir, etc. But it should be noted that this struggle had nothing to do with the rights of under-rayats, who were subtenants under occupancy tenants.

But there were subtenants under the privileged tentants. What the recent bill has done in the U. P. is to grant the rights of hereditary tenancy to these subtenants, and to statutory tenants (those who had a life tenancy, with a five-year occupancy for the heir). But the occupancy tenants on the basis of continuous occupation were created in 1881 when the rights of superior tenure holders had to be limited.

Under-farmers became rayats, and rayats became subtenats in Madras.

In the Madras Presidency we have no problem of conferring occupancy rayats on the cultivators. This was necessary in other provinces as the growth of occupancy rights on the basis of continuous occupation was a painful process. The accrual of the occupancy right was prevented by the landholder, and various methods had to be tried for ensuring security of tenure to the cultivator. Our problem is to segregate the tenure-

holder and define his rights, and to grant occupancy rights to the rayats under him. It is too late now to find out whether an occupancy tenant in Madras was an original rent farmer. The device in all the Acts is to declare all those who hold above a certain area as tenure holders. (Vide Bengal Tenancy Act of 1885, Sec. 5·5; Bihar Tenancy Act of 1885 Sec. 5·5; the Sylhet Tenancy Act 1936, Sec. 5·4 b which fixes 100 bighas and more of a tenant as the lower limit for declaring him a a tenure holder; and the Orissa Tenancy Act 1913 which fixes 33 acres as the lower limit.)

It is on these lines that the big occupancy rayat should be defined and given a special name, and the occupancy rayats under him should be granted all the rights recommended by the Prakasam Committee.

The deprivation of the rights of occupancy tenants was due to the introduction of the zamindari system, and along with it that of superior holders or sub-proprietors under them.

The Prakasam Committee thought only of the zamindar but not of the revenue farmers. The latter too came in the wake of the Permanent Settlement. The rayat cannot be restored as original proprietor of the soil unless these tenure holders are given a separate status, and the occupancy rayats under them are also given all the privileges similar to those of the other occupancy rayats, whose area of holding indicates that they were the original proprietors of the soil.

No non-occupancy tenants in Madras

But there are a class of rayats in other provinces who are neither occupancy tenants nor under-tenants. This particularly happens in special classes of land in which a rayat has not been admitted to possession. Or it happens when occupancy rights are granted only to those with

12 years' occupation. The rights of the former class of rayats can be regulated in Madras by providing for rules for the occupation of different classes of waste lands. The grant of hereditary rights as the basis of continuous occupation for a period does not arise in Madras, as all rayats have already got occupancy rights.

The under rayats in Bengal.

But it is in respect of the subtenants of the occupancy rayats that we must give them some legal protection. The history of tenant rights which we have described in this section relates to them. The Bengal Act has gone to the farthest extent in the matter of protecting the subtenant called the under-rayat. The following is a summary of its provisions. If an under-rayat has held land for 12 years or has a homestead on it, he cannot be ejected. Other under-rayats may be ejected by the landlord (landlord means a person under whom immediately a tenant holds), if he wants the land for his use (Bengal Tenancy Act, Sec. 48c). But the initial rent is fixed by agreement. (Sec. 48) It may be enhanced by registered contract or by suit upto four annas per rupee, or in the case of produce rents, not exceeding one-third of the gross produce. The under-rayat can transfer his lands by usufructuary mortgage upto a period of 15 years, and it is assumed that the mortgage debt extinguishes itself within the period.

The subtenants in U. P.

In the U. P. Bill sub-tenancy is discouraged by restricting it to 5 years, and by permitting subleases in legitimate cases. A sublease for a term exceeding one year or from year to year shall be made by registered instruments only. (Sec. 37.) The rate of rent for the sub-tenants will be one-third more than what is fixed as fair and equitable rent. Three members of the Select Committee proposed amendments to the U. P. Bill which would give protection to subtenants. Their contention was that the big holders among tenants should be granted a maximum area, and the rest of the lands should be available for smaller tenants and landless labourers. Secondly, the sub-tenants of statutory tenants (the newly created occupancy tenants by the 1926 Act with a life tenancy and a five-year occupancy for the heir) holding 25 acres or more should be granted hereditary rights, and that all other sub-tenants should be granted a five-year occupancy. In future the sub-tenant was to be given two years' notice. The advantages claimed for these proposals were the following :

" It would have facilitated the equitable adjustment of areas of holdings between various tenants. It would have avoided the objection that the bill was only meant to grant additional rights to the pampered larger tenant—the voters—and did not do anything to improve the condition of the really poor and oppressed, mostly belonging to scheduled castes. It would have meant giving relief to the genuine cultivator and not to the new edition of the landlords, the big tenant who sublets. "

The main defect of these proposals is that it presumes the ownership of large holdings by the tenants. Some of them are themselves subtenants holding under privileged tenants. Secondly, these tenants should have sufficient lands for sub-division among the next heirs who are cultivators. Thirdly, sub-letting is largely restricted in the U. P. to five years. The problem of sub-tenancy therefore is not so acute in the U.P. as in provinces like Madras where there are no restrictions on subleases by tenants, and where zamindars can let in as many tenants and sub-tenants in their private land, as they please without any restriction whatever.

In the C. P. occupancy rights were granted to every 'squatter', to quote the expression used in the Madras report in respect of tenants-at-will in 1920. They were designated as occupancy tenants, the original occupancy tenants who existed at the time of early settlements and who had greater rights of transfer, being called absolute occupancy tenants. In the C. P. rights of transfer were restricted to a greater extent than in the U.P., thereby preventing subleases.

Occupancy rights of subtenants against a habitual lessor rayat.

But subleases could be made from year to year by occupancy tenants, and for longer periods by absolute occupancy tenants. The transfer of their lands to non-agriculturists increased so much that measures were found necessary as early as 1898 to prevent habitual subleasing. The C. P. Tenancy Act provides for certain effective rights for subtenants as against habitual renters. Such tenants are those who hold from a tenant, or a privileged tenant (malikmakbuza), or a proprietor of the lands purchased from privileged tenants, or a rayatwari holder. These subtenants may be declared by the Revenue officer to have the rights of an occupancy tenant as against these holders of lands, if they sublet.

These rights will hold good only in such local areas where the Chief Commissioner declares that this section will be in force. It should be proved by the subtenants that "land is habitually sublet or managed solely with a view to obtaining rent". The local area wherein subtenants get these rights may be as small as may seem expedient. The Revenue officer will inquire into the circumstances and, if satisfied, will grant occupancy rights to the subtenant, and also fix the rent to be paid by him to the proprietor, and the tenant respectively. If the tenant dies without heirs, the subtenant will hold the land as

an occupancy tenant direct from the landlord at the total rent paid by him to the tenant and the landlord. The section is not to be applied *ordinarily* to certain cases of absolute occupancy or occupancy tenants. These tenants may be directly cultivating the lands or leasing them out. With the gradual sub-division of holdings among the heirs, all the lands may be brought under direct cultivation in the process of time. So it was considered unfair to declare a subtenant as an occupancy tenant in such cases. Secondly, many investors have bought tenants' lands before the enactment of this provision in 1898, solely with a view to realise rents. In their case too the section is not to be ordinarily applied.

The C. P. Act confers only for hereditary rights of occupancy for subtenants against the habitual renter. It gives no relief in the matter of rents he is paying to the superior holder. Secondly, it permits subleasing by tenants in the interest of direct farming by their successors, thereby giving more importance to future rights than the immediate needs of agriculture. Thirdly, it saves the rights of the earlier investors in land, thereby approving a prescriptive right to rack-rent as against the rights of the State to conserve land for agriculture. Lastly, it generally restricts the rights of transfer of the majority of tenants.

A Tenancy Policy for Madras.

The position in Madras is entirely different. We have never believed in restrictions on rights of transfer. But as the report itself mentions, purchase of lands solely to farm them out for rents should be prevented, and secondly, the original rayats who have lost their lands to bigger agriculturists or moneylenders should at least get occupancy rights. We have also to remember that the ulkudi tenants had hereditary rights of occupancy from time immemorial, and when old rights are being restored under the terms of the Permanent Settlement, cutomary rights of tenants which are acknowledged both by Mr. Forbes and the recent Madras Committee report as not having been affected at all by the Estates Land Act should be recognised in law.

The best policy would be to prescribe a certain time limit not exceeding five years, within which the occupancy rayats should take to cultivation. Occupancy rights should accrue to the original subtenant, if the lands are not directly cultivated by the occupancy tenant within those five years.

In the case of those who buy the lands of occupancy rayats in the future, and of the occupancy tenants who existed at the commencement of the Act and who do not undertake direct cultivation, the provisions of the C. P. Tenancy Act might be applied as mentioned below.

Where occupancy tenants existing at the commencement of the Act are unable to cultivate the lands themselves with personal or hired labour, (provided that they do not cultivate it with the aid of produce sharers, as the latter are no more than tenants,) and therefore sublet, they should be assured of a rental which should not be more than twice of what they pay to their superior holders. In the case of occupancy tenants who are newly admitted to possession either by the landlord, or as a result of purchase, they should forego both their rights of holding the land and realising a higher rent than what they pay, as they have purchased the holding with a full knowledge of the existing law against subleases.

Tenants of tenure-holders and of zamindars in their Sir lands.

It now remains to clarify the position of tenants in 'Sir' lands of landholders and in the lands of tenure-holders. We have proposed elsewhere the grant of occupancy rights in 'Sir' lands, exempting

at the same time a certain extent of private land in the case of each zamindar. We have further proposed that the tenants of 'Sir' lands, in the area limited as 'Sir', should get a five year occupancy right at the same rent. The U. P. Assembly has recently passed these provisions. The same rights may also be given to the tenants in the private lands of tenureholders. The present tenants should get occupancy rights in the remaining area owned by tenureholders or under farmers.

Regulation of subleases.

When once it is decided to prevent habitual sublease, it will be necessary to define by rules legitimate subleases that should be permitted as necessary incidents of agricultural practice.

Fair rents.

We will now have to define the rents to be paid by the various classes of tenants. The ideal policy would to be fix the rent for the land to be paid by the cultivator, irrespective of the rights of superior holders and and leaving it to the latter to share it amomong themselves. The next best course is to recognise existing rights, give the present rayats for a definite period a chance to cultivate their lands, and bar all future claims for rents higher than what they pay, to the zamindars by the leasing of lands.

Under the proposals made in the section 'Fair Rents or Revenue' rents have been defined as one-half of net income in the case of subtenants, one-fourth in the case of existing occupancy rayats and the new occupancy rayats who would be created as a result of defining the under-farmers and of limiting the area of 'Sir' in the case of zamindars, and as 12½% less than the rent for occupancy rayats in the case of underfarmers.

Both the under-farmers and the zamindars will have a defined extent of private land which they may sublet or directly farm. No rent need be fixed in their case, provided it is not enhanced during a period of five years.

Public response to the proposals.

These proposals regarding subtenants will have a wide approval for the following reasons. There will be two new classes of occupancy rayats created in the 'Sir' lands of zamindars, and in the excess lands of underfarmers holding more than a certain extent. There will be the subtenant at the bottom recognised in law. All these new rayats and subtenants will warmly support the measure and bless the Government for removing the opportunity for rackrenting by others. The occupancy rayats have every cause to be satisfied, as they would be paying under the proposals, only half of what a rayatwari holder is paying. The rents proposed for them are exactly the same as they have been demanding. Their grievance, if at all they have one, could only be that the area of their exploitation by rack-renting has been completely eliminated.

The zamindars too could not complain, as they would get their legitimate rent as fixed under the Permanent Settlement. The under-farmer should develop the historic sense of looking over his past and remember that nobody had prevented his tresspass and rack-renting, as has been done in other provinces during the last 58 years, and resign himself to the fact of only having been restored to his proper and legitimate place among the grades of rent receivers. But he too gets a reduction of 12½% in his payment of land revenue to the zamindar which he should consider as a not insufficient compensation for taking away his right to rack-rent in a certain portion of his lands.

Latifundia and agricultural labour.

It might be argued that a result of these proposals would be direct farming by occupancy rayats and the transformation of the existing subtenants into labourers. Large-scale farming would be

resorted to, it might be said, with its attendant evil of the exploitation of the labourer. To the extent to which renting is stopped, the growth of a parasitic class on the labour of others is equally stopped. The rayat will have to take the risks of cultivation. He cannot be an absentee landlord. And possibly his application to agriculture might have a beneficent reaction on the agricultural economy. The evils of tenancy will disappear, but the evils of exploitation of a labour population on a wage system will grow. This should be tackled simultaneously in a separate piece of legislation in order to protect the interest of agricultural labour.

INAM TENURES.

The Inamdar under the Estates Land Act.

The Estates Land Act of 1908 brought inam villages in which the land revenue alone has been granted in inam under its scope. It left the question whether an Inamdar had both the Melvaram and Kudivaram right in land to the decision of the courts. But the onus of proof that the Kudivaram right vested in the Inamdar lay on him. In 1918 the Privy Council decided in a case that the burden of proof did not lie either on the Inamdar or the tenant, but that each case should be decided on its merits. The result of the decision was that the rayat in an inam village lost his Kudivaram right unless he could prove it, which of course he had not the means nor the capacity to do. The Estates Land Amendment Acts of 1934 and 1936 have tried to secure for the rayat what he lost by the decision of the Privy Council. They included the inam *villages* as estates. It was quite possible that an Inamdar had Kudivaram rights in the land. So the Act laid down the proofs which he should adduce to prove them.

(1) He should have retained the Kudivaram right and not converted the land into rayati land. (2) He should have cultivated it for a continuous period of twelve years before 1-11-1933. (3) He should have acquired the Kudivaram from a person who held only the Kudivaram right. (4) If he had purchased the land in a public auction for arrears of rent, he should have continuously cultivated it for 12 years since the acquisition of the land, and before the commencement of the Amended Estates Land Act of 1936. (5) Any expression in documents of July 1918 and after to prove the Kudivaram right will not be admitted in evidence. This clause was inserted as Indamdars might have taken agreements that the rayats had no Kudivaram rights, after the Privy Council decision of 1918.

A record of private lands of Inamdars is to be maintained on this basis by the Collector after hearing objections. Their other lands will be considered as rayati lands. But provision has been made for a Special Tribunal to be chosen by the Governor before which an Inamdar can appear and prove his Kudivaram right in a period of 3 years. If he so proves, he will be entitled to a compensation of one year's rental for conferring upon the tenant a permanent right of occupancy in respect of the said land.

The Committee's interpretation of Kudivaram right in Inamdar, and the inclusion of Inams in the Act, as ultra-vires.

The contentions of the Committee against the rights granted to the Inam tenants are the following:

(1) The smaller inams were brought under the scope of the Act of 1936 (p. 196 and p. 211).

(2) Inams were governed by separate regulations. These put the Inam lands on the same basis as the rayatwari lands (p. 203), and regulated the relations between the Inamdars and their tenants (p. 204). The title of the Inamdars was affirmed on 50 years' previous possession which meant their kudivaram or possessory right (p. 209). Everybody believed that the Inamdars had acquired a perfected title by enfranchisement, and that any price could be paid for Inam lands which were considered to be freeholds with absolute title and free of land tax (p. 208).

(3) The Estates Land Act cannot decide, in view of the existence of special regulations, the rights of Inamdars and tenants.

(4) Still less can the Act provide for a special tribunal, while such rights are to be decided by the civil courts according to the Government of India Act, 23 of 1871, and consequently the Amendment Acts of 1934 and 1936 are ultra-vires.

II. Having said this much, the Committee observes that "the Government left the zamindar free to deal with the cultivators of Inam lands that may have been included in the assets at the time of Permanent Settlement on the same basis on which the other rayats in the estate are dealt with." The special regulations about Inams, according to the Committee, do not apply to these included inams. Therefore the provisions of the Estate Land Act could apply to this class of Inams, and Revenue courts might settle their disputes. Only the Committee objects to the poor compensation of one year's rental and wants it to be increased.

III. The Committee also recommends that, inasmuch as the zamindar cannot alienate land revenue by creating Inams after the settlement, they should be resumed by the Government, and the cultivator granted the Kudivaram right.

We will now examine these contentions of the Committee.

Can an alienee of land revenue be granted the tenant's land because his share has dwindled?

I. That smaller inams have been brought under the scope of the Act is an incorrect settlement. An inam village might have been split into several shares.

What the present Act says is that such apportioning can be no reason for excluding an inam village from its scope. Much is made of the fact that the Inamdars' holdings are small. We would mention here that there is a school of thought which believes that the gradual extinction of the nominal agriculturist, though holding proprietory as well as occupancy right, whose livelihood is made mostly from sources other than agricultural, is to the good of agricultural economy, and that we need not adopt any special measures for bolstering this class of extremely uneconomic holders. But while there will be some justification for the creation of economic holdings for uneconomic holders who supplement their proprietory land by taking lands on lease, there can be no justification for granting cultivating rights to a class who have always lived on rents, and who had only the right to collect rents when the Inams were settled.

Rule of fifty years' possession for Inam titles was forced on Government.

The second argument of the Committee was that Kudivaram rights have been granted to the Inamdars when the Inam Commissioner conferred the Inam title on them. This argument is based on the ground that the Commissioner was asked to grant the title to every one who had a fifty-year possession, irrespective of the fact whether the grant was genuine or not.

The fact was that though a regulation to register Inams was passed as early as 1802, no effect was given to it. No Inamdar asked for a title. Bogus Inams grew largely during the sixty years until 1862, when the Inam Act was passed. The Court of Directors instructed the Madras Government in 1847 to grant Inam titles on the basis of long possession in cases where the titles could not be proved by an Inamdar. But the earlier regulation was quite different. Section 8 of Regulation 31 of 1802 expressly provided that "possession for any length of time shall be no good plea for exemption." (Page 5, Revenue letter No. 3 of the Madras Government, 6-2-1857. See also para 3, page 212 of the Report for the provisions of Sec. 8 of 31 of 1802.) Yet the report of the Committee says, "Actual possession of the said lands previous to the dates therein specified was the real test applied in rule 2 of Regulation 31 of 1802."

It was in 1847 that the Court of Directors informed the judicial department in their letter No. 19 of 13th October that long undisturbed possession affords evidence of right and constitutes a motive to Government not to interfere. (P. 5). The Court of Directors replied to the Madras Government on 1-9-1858 (No. 8) explaining why they wanted 50 years' possession to be treated as evidence for conferring an Inam title.

> It may well be pleaded by many holders of inams that their predecessors or themselves would have had the advantage of much oral and perhaps of some written testimony, had the Government not delayed the threatened enquiry in some cases for 90, and in others for nearly 60 years. In very few cases will the original grantee be alive; in most, the estate will be already in the third generation. In the settlement of this question something more than strict right must be taken into account......If a resumption would approve itself, there would be arrayed against us, not only the hostility of the persons actually deprived, and of their dependent cultivators who will continue to look upon them as their legitimate landlords, but also the sympathies of those belonging to the same condition of life apprenensive of similar treatment (para 12) ... It must be borne in mind that the blame of the neglect to settle this question rests not with them (Inamdars), but with our administration (para 22).

These then were the reasons that prompted the Court of Directors to instruct the Madras Government to confirm even defective titles if possession was proved for 50 years. (See also para 25, page 580, Appendix to the Madras Estates Land Act Committee Report.)

Possession never meant Kudivaram right.

And what did this prossession mean? It never meant a title to the Kudivaram right. Regulation XXXI of 1802 was to try the validity of titles and determine the annual assesment of certain lands exempted from payment of revenue. This Regulation had nothing to do with the relations of Inamdars and tenants.

Regulation IV of 1831 empowered the Government, and excluded the jurisdiction of the courts to decide claims for grants of money or land revenue in respect of certain Inams. This Regulation had nothing to do with the relations of Inamdars and tenants. Regulation 31 of 1836 extended the provision to grants made by Native Governments and confirmed by the British Government. This again had nothing to do with the relations of Inamdars and tenants.

The Inam Commission was instructed to confer the Inam title, without any investigation of the same if the Inamdar could show 50 years' possession. Inams were enfranchised on payment of a quit rent and titles were given by the Inam Commission under Act IV of 1862. An enfranchised Inam holding is not subject to any service tenure. It cannot revert to Government. The holder gets the rights of transfer. But he never gets the Kudivaram right, if he does not possess it already. Act IV of 1862 only says:

> The title deed issued by an Inam Commission in pursuance of the provisions of Regulation 31 of 1803, or an authenticated extract from the register of the Commissioner or the Collector shall be deemed sufficient proof of the enfranchisement of land previously held on Inam tenure.

This clause certainly does not grants Kudivaram right to the Inamdar.

Affirmation of Kudivaram right along with the grant of Inam title by Act VIII of 1869.

The report of the Inam Commissioner of 30th October 1869 which has been quoted in the Report of the Committee shows that there were two kinds of Inams, one in which the cultivating and the revenue-collecting right both vested in one and the same person, and the other in which these two rights vested in two different persons. Let us quote the report:

> In the latter class of cases the Inamdars relying on the terms used in title deeds began to claim the right in the soil to the injury of the proprietory right of others therein, and suits were brought to enforce the supposed effect of the title deeds. Although these deeds were thrown out by the courts, there was no certainty that a different view of the law might not be taken by different judges in future cases and the Government resolved to pass a short Act declaring that nothing contained in any title deed issued to any Inamdar should be deemed to define, limit, infringe, or destroy the rights of any description of holders or occupiers of the lands from which any Inam was derived or drawn.

This Act was passed as Act VIII of 1869. It defines clearly the limit of the Inam title which the report characterises as a 'possessory Kudivaram right'!

Right of Civil Court to decide Inam claims is not a right to decide tenants' claims.

During the period when the Inam titles had to be investigated, the jurisdiction of the courts was excluded, and the Governor-in-Council was made the final authority. When the titles had been issued under Act IV of 1862 and another of 1866 which enfranchised Service Inams, Act XXIII of 1871 of the Government of India restored the jurisdiction of the Civil Courts for deciding Inam claims. The Civil Court was "to try cases in regard to the award and payment of pensions or grants of money of land revenue and the identification of the persons entitled to receive them." Because the Courts were allowed to try suits regarding the payments to be made by or to Inamdars, the Report concludes that the relations of Inamdars and tenants cannot come under the Estates Land Act. It further concludes that the proprietory rights of the Inamdar as against the tenant cannot he decided by the Revenue Court or the Special Tribunal under the Estates Land Act.

Feeling a great deal of easy self-satisfaction at its new discovery, the report pities the Privy Council and the judges, whose attention, according to it, was not drawn to the principle of "continuous possession" on the basis of which inam titles have been conferred.

Common points between an estate and an Inam.

It further argues that an estate and an inam should not be brought under one and the same Estates Land Act, not realising that those two proprietory units have two different regulations to fix the payments to Government, and that the Estates Land Act regulates only the relationship of the landholder and his tenant.

No legal bar to Estates Land Act deciding the rights of Inamdars.

It might be argued whether the Act could go further in deciding the extent of Kudivaram rights of an Inamdar. The Estates Land Act of 1908 left it to the Courts, with what results we know. There is nothing too in any of these regulations or Acts which give exclusive jurisdiction to any other agency to decide the rights of an Inamdar as against his tenant. Are the authors then of the 1936 Amendment Act to be blamed for preventing litigation and for clarifying the rights of tenants and Inamdars?

Further the Estates Land Act scrupulously excludes inams other than village inams. It is extremely unlikely that an Inamdar of a village, would have had Kudivaram right in the whole village. The Act also permits the possession of private land by an Inamdar, if he would have continuous occupation under certain conditions.

Nature of Inams and Kudivaram rights.

More than all, we have to remember that inam grants were, in a number of cases, not grants of land to individuals. This would be evident from the report of the Inam Commissioner printed on page 554 of the appendix to the Report of the Committee.

There are inam lands in the hands of religious institutions. Is it contended that the heads of the latter have the power to dispossess the tenants. Even if the facts were so in certain cases, should not these tenants get occupancy rights, considering the fact that no individual Inamdar is affected thereby? There are a variety of Inams for institutional purposes. Here too the tenants might be granted occupancy rights.

Another class of inams is for the support of works of irrigation. The payment is made as an allowance of a certain proportion of each year's cultivation. There is no possession of land which can be claimed here.

Take again the inams granted to Brahmins, Muslims, and ancient police and military services who could never have taken to cultivation, and to whom Government cannot give away the right of the cultivator, even if they wished to.

Again the report says that the zamindars and Polygars of the Circars and the south alienated lands for their household servants and men of their caste who where never agriculturists at all.

Again there were inams, the peculiarity of which was that "they had no fixed locality assigned to them, but they consisted in the deduction of a fixed percentage out of the annual cultivation of the village." There were also *gramamaniams*, according to which the revenue alone was aliented in favour of the Inamdar. How is it possible to grant possession of land in such cases? Considering therefore the kind of persons to whom inam grants were made, and the kind of grant made other than in land, possession of land could never have meant kudivaram rights in all cases. Mr. Baden Powell says in his book "Land Systems of British India" that "The Inam freehold does not affect in any way subtenures or rights of occupancy where such subsist on the land."

List of Regulations treating all proprietory units on a similar basis.

While therefore the existing Inam Acts could not be interpreted by any stretch of imagination to regulate the relations of Inamdars and tenants, there is ample evidence to show that the Inamdars and zamindars were treated on a similar footing in various regulations and Acts. Regulation 27 of 1802 regarding recovery of arrears of revenue by the Government applied to every branch of public revenue and to all actual proprietors. (Appendix to the report, see foot-note page 84). Regulation 28 regarding recovery of arrears of rent applied to all farmers of any branch of public revenue (Ibid page 93). Regulation IV of 1822 interpreted the regulations regarding the realisation of rents not merely by zamindars, but also "*by others in virtue of special grants issued by the ruling authority on terms of a permanent or temporary settlement of the land revenue* that they were not intended to define, limit, infringe, or destroy the actual rights of any description of

landholders or tenants etc." The Madras Rent Recovery Act of 1865, the Madras Proprietory Estates Village Service Act of 1894 and the Madras Hereditary village officers' Act of 1895 all treat the zamindar and inam villages as proprietory units of same status.

The Committee has proved nothing.

The Committee's report has therefore niether proved the existence of Kudivaram rights in the Inamdars, nor has it shown that there are special Acts governing Inamdars and tenants, nor has it established that the regulation of Inam rights by Revenue Courts and a special Tribunal under the Estates Land Act is ultra-vires.

Inconsistency in regulating relation of landlord and tenants under the Estates Land Act in case of included Inams.

The next point made out in the report is that the zamindar is free to deal with the cultivators of inam lands in the case of included inams. The zamindar steps into the shoes of the Government in the case of inams whose revenue has been included in the assets on which the peshcush was permanently settled. And if Government had no rights to sell away the rights of the cultivator to the Inamdar and could only alienate the land revenue, the zamindar too cannot do anything more than fix the quit-rent for Inams. If the Estates Land Act cannot determine, according to the report the relations of the Inamdar and the tenant, in respect of excluded inams, it cannot equally do so in respect of included Inams.

Resumption of post-settlement Inams, a good recommendation.

The last recommendation of the Committee to resume all inams settled by the zamindars after the Settlement, as such grants are expressly prohibited in law, and to give full proprietory rights to the tenants under them is one of the good recommendations of the report on which immediate action may be taken.

The miserable plight of Inam tenants.

Having thus far dealt with the legal interpretations and shown that all village Inams can be brought under the Estates Land Act we will now deal with the evidence let in before the Committee on behalf of tenants of Inam villages, which unfortunately does not find that large place in the report which is given to the evidence of the Inamdars.

Protection of tenants of minor Inams.

One has therefore to search the columns of the *Hindu* to understand the grievances of Inam tenants which were represented before the Committee. We have to remember that the smaller an estate is, the greater will be the amount of rack-renting. Two witnesses at Rajmahandry made representations about the high rents, neglect of irrigation and harassment of the tenants through the system of joint pattas. (19th Jan. 1938). Another witness from the Agency spoke about the rise in his rent from Rs. 82 to Rs. 400 in his inam village. The sufferings of whole Inam villages in kistna district were also represented before the Committee:

> The Inamdars here were trying to nullify the effect of the inams Act taking advantage of the fact that the tenants had no records. Mr. D. Venkataratnam pleaded that the special tribunal under the Act should be set up at once. In Kalavapudi the mokhasadars got promulgated section 144 against the tenants. The *Hindu*, 24-1-1938.

> A tenant of Kowthavaram under a minor Inamdar complained that the rayats in these minor inams were greatly suffering on account of the *ambaram* (produce sharing) system which led to constant friction. He suggested that minor inams should also be classified as Estates under the Estates Land Act, and should he settled at Government rates. Another tenant of Gothavaram Agraharam said that the Agraharamdar threatened the tenants with eviction unless they agreed to enhancements. Vide supplemental memorandum, P. 46, and the *Hindu*, 23-1-1938.

Restoration of dispossessed lands.

When we turn to the written evidence submitted to the Committee, we find some representations made by poor tenants of the inamdars. The tenants of an Agraharam in Guntur district request that the lands they have been deprived of may be restored to them. (Part I. P. 67.)

> The petitioners of certain agraharams in Vizagapatam district say : Their condition is worse than the conditions of zamin rayats, that a rate of Rs. 15 to Rs. 16 per acre is charged, and that remissions are not given even if crops fail. (Part II. p. 45). The mokkasadar has enhanced the revenue of the village from Rs. 1600 to Rs. 2500 and has not done any repair to the tanks. (Ibid, p. 53).

Ejectment of tenants, the result of the Privy Council decision.

The rayats of Puritipadu agraharam complain how their Agraharamdar took advantage of the Privy Council decision and sued for their ejectment, and how they had to compromise by agreeing to pay Rs. 18 per acre, while they were previously paying only Re. 1-14-0 as. per acre. (Ibid, p. 140).

Two murders.

The following is the statement of the rayats of Gudivada Taluq about an agraharam.

> The agrahadamdars wanted to take possession of these agraharam lands by increasing the rate. They told us that the Estates Land Act would apply to these lands, began to take possession of them by hook or crook, and some two of us were murdered in connection with these lands. They have instituted civil and criminal proceedings to frighten us, and to take possession of those lands. Some of us were afraid of them and gave possession to them.

> Since then we are undergoing several difficulties, as we have no footing in the village. Some of us have abandoned the village. The Government may see how many people abandoned this village. (Ibid, p. 141).

Appeal of tenants to resume Inams. Incendiarism and assaults.

Again the rayats of two inam villages in Hindupur taluq request the Committee to resume the inams owing to the oppression of the Inamdar. (Part III, P. 272) In certain villages in Guntur district the rayats have been prevented from cutting their crops with the aid of the police. The agraharamdars reported about their hay stacks being set on fire while the fact was that "the dried beams of the standing jonna crop have been set fire to". The memorandum about the condition of these villages states the following further facts :

> An old woman of 80 has been beaten on the forehead when she made a semblance of resistance orally, when the agraharamdars tried to take possession of the dry field in her possession. The atrocities committed by the agraharamdar on the rayats have became so notorious that the Guntur district Inam Rayats' Conference held on 5th January 1938 passed an unamimous resolution condemning the action of the agraharamdars and the police. Further the agraharamdars got the members beaten of a Christian family after tying them . up. Supplemental Memorandum-P. 48.

Cutting a tank bund.

> The Mokhasadar has deliberately cut a tank bund in July 1937 and got the water from the tank drained off with a view to harrass some of the rayats, whose lands are irrigated by the water from the tank, as the rayats were taking part in the enquiry (about unlawful enhancement of rents). He has converted the village poromboke into a private garden of his own. He is obstructing the rayats from cutting any firewood, and is insisting on payment of fees unlawfully. Ibid, P. 50.

Litigation for pasture facilities.

The rayats of another village complain about summary suits and say that the Inamdars should not be allowed a minimum extent of even 5 acres, as that would defeat the very object of the Government of protecting the tenant, and that the evidence of the Inamadars was " exaggerated, one-sided and biassed." (Ibid P. 101). The rayats of Damavaram village represented how they had to conduct continuous suits to assert their rights, and they were prevented from cutting fuel, grazing cattle and gathering manure leaves, in spite of the compromise arrived at. (Ibid, P. 218).

Committee's conclusions retrograde.

We have made reference to all this evidence, as the Committee has not only shelved it, but taken up quite a contrary attitude against the Inam tenants. The Committee has affirmed that split-up inams, though belonging to whole village inams, should be treated differently, and possibly, according to them, the owners of such inams should be granted Kudivaram rights. Secondly, they do not want to grant protection to any tenants of minor inams. Thirdly. they want to increase the compensation, in case of purchase of Kudivaram rights by tenants, to the amount paid under the Land Acquisition Act by the Government to the rayatwari holders. Fourthly, one does not know the Committee's proposals regarding excluded inams excepting the fact that they have been excluded.

The South Indian Peasants' Federation, the Andhra Rayats' Association, the Zamin Rayats' Association have all condemned the exclusion of certain inams from the bill. We will go further and say that the time has come to include the minor inams. Holders of minor inams above a certain area may be treated as under-farmers. The proposals we have suggested in respect of the latter may apply to the former too. And in closing this section of our memorandum, we cannot but enter our emphatic protest against any going back on the Inam legislation of 1936, granting Kudivaram rights to an Inamdar having a share in a whole inam village, increasing the compensation to the Inamdar for the grant of occupancy rights to tenants, and excluding certain inams from the scope of the Act.

THE LAND-HOLDERS' ENCROACHMENTS ON TENANTS' LANDS.

Existing provisions.

Under the Madras Estates Land Act of 1908 rayati land can never become private land of a zamindar except under certain conditions. If a ryot dies without heirs, his occupancy right shall cease, but the land will not become private land (Sec. 10. 2). If the zamindar has reclaimed land by his own labour, he may "by contract in writing prevent any person from acquiring a permanent right of occupancy in respect of the said land during a period of 30 years from the date of the first cultivation after reclamation." (Sec. 6. 1. Explanation 4). Further, a landholder may sue before the Collector for the ejectment of a ryot when he has materially impaired the value of an agricultural holding and rendered it substantially unfit for such purposes. But such land cannot become his private land. He can file a suit in the Civil Court for ejectment for unauthorised occupation of land within 12 years (Sec. 163 A), provided he has not recovered any payment for such occupation. If he has received a payment and does not sue within 2 years, the unauthorised occupant shall be deemed as a ryot. (Sec. 9. 1. Explanation 3). The Collector may award damages not exceeding one year's rent to the landholders in cases of unauthorised occupation (Sec. 163). Such land after the ejectment of the occupier cannot become the private land of the landlord. but lands reserved *bonafide* by the landholder for raising a garden or tope or forest, and which are let for temporary cultivation under a contract, or waste lands let for pasturage of cattle under a contract, shall not become rayati lands (Sec. 6. 1. 2. Explanation). Further a landholder may bid in auction for the land brought to sale by him for arrears of rent, purchase it and convert it into private land (120 A).

Rights of ejectment and collection of damages.

We will now examine how these rights are affected by the provisions of the draft bill of the Madras Estates Land Act Committee. This bill does not recognise the right of a zamindar to sue for ejectment of a rayat on the ground that the holding has been rendered unfit for cultivation by him. Secondly, the new clauses 154 and 155 of the bill prohibit the collection of any damages for unauthorised occupation.

Special rules for unreclaimed lands.

A suit by the landholder for trespass by a person should be instituted under the new bill within three years before the Collector and not the Civil Court. The landholder would be entitled to mesne profits only if he had not collected any land revenue. Thirdly, the landholder cannot hereafter reserve waste lands either for growing pasture or raising topes, garden, or forests, for all lands are divided by the bill into three classes as waste lands, communal lands, and forests, none of which he can appropriate for private farming. But he can grant Pattas under Sec. 17 of the new bill for erection of buildings, or for gardens, or to clear and bring waste lands under cultivation. The existing Act permits him to keep such reclaimed waste lands for 30 years under his management without the accrual of any occupancy right in them. No such restriction is mentioned in the new bill. The U. P. Tenancy Bill of 1938 as amended by the Select Committee expressly prevents the growth of any tenant rights over reclaimed lands only for a period of 14 years, lands lying uncultivated for

7 years being deemed as lands to be reclaimed for the purpose of this section (U. P. Tenancy Bill Ch. 7. 4. 3 A). Some time limit in the case of reclaimed lands is essential if they are not to become the zamindar's private farms.

Tree Rights.

Another right which the draft bill gives to the landlord is that a ryot shall not cut the trees in his holding if there is local custom to the contrary. We hope that the Committee having said that the Estates Land Act has been a prolific source of litigation will not perpetuate it in regard to the right of cutting trees. Clause 8 of the bill which saves this customary right to the landlord should be deleted. But under Sec. 94 the levy of taxes which were not included in the original assetment is illegal.

Safeguards against encroachment on Rayati lands.

One important improvement in the bill is that a landlord cannot hereafter hold a rayati land as an occupancy tenant. The Estates Land Act allows a co-landholder to be an occupancy tenant in rayati land. Secondly, if a landholder gets rayati land by inheritance, he can admit in such land any person on any terms for a period of 12 years. These two rights are taken away in the new bill. Hereafter, 'whenever the occupancy right in any rayati land vests in the landholder he shall have no right to hold the land as a ryot but shall hold it as a landholder.'

The Bill is an improvement in three respects, that the landlord cannot collect premium when admitting a ryot to rayati land, cannot reserve mining rights in the ryots' land (Cp. Sec. 7 of the Estates Land Act and 4·12 of the draft bill) and cannot convert tenants' lands taken by him in auction into private lands (Sec. 18 of the draft bill).

The grant of additional rights to ryots namely mining rights, and tree rights, can be justified only on the ground that they will be agriculturists undertaking the risks of cultivation, or such rights should go to the cultivating tenants under them.

The prohibition of adding auctioned land to private lands will hold out in future no inducement to the land-holders to accumulate arrears of rent, and to recover them by summary procedure with the aid of the Revenue Department by a public auction of the holding. But it does not solve the restoration of lands already acquired in public auction by the landlords particularly after the depression of 1930.

II.

Restoration of Auctioned Lands.

Loss of Rayati lands by auction after the depression.

A study of the memoranda submitted by the landholders reveals the area of private land which has been acquired by landholders in public sales. Some of the zamindars did not state the exact area so acquired, or have not answered the questionnaire of the Committee in this respect. But none the less, the information supplied is sufficient to show how lands have been acquired for a nominal price by the zamindars. As Pattas are not generally granted when a holding is partitioned, it generally happens that the land of a ryot who has paid his rent for a joint holding is brought to sale for the non-payment of rent by another.

In the Southern districts, special private farms are maintained called Elapannai ('auction farms') in the local vernacular. The Andhra Zamin Ryots' Association refers to an increase under private farms owing to relinquishments and evictions. A vigorous administration is generally

carried on by the Courts of Wards with a view to clear the prior debts on the estates, and as revenue officers themselves are in charge of them they easily apply coercive processes and sell the lands. Sale of lands became more common in estates which introduced money rents at a time of high prices and which could not be collected after the depression. * One of the estates mentions the addition of assessed wastes to private farms by the land-holder (Part III. p. 265). The information given by the zamindars in their memoranda is not complete. But it can be easily collected by the Government, as revenue officers will have a record of public sales of ryots' holdings.

The basic principle in the wiping off of rent arrears.

We are stating these facts to show, that Government should lose no time in restoring the lands auctioned and purchased by the zamindars since the depression of 1930 to the original tenants. The Madras Government have already wiped off the arrears of rent due till 1935-1936 on condition of payment of rent for the two years 1936-37 and 1937-38. A rent decree can be kept alive in law for 12 years. A suit for arrears of rent can be instituted within 3 years. Yet under the Madras Agriculturists' Relief Act of 1938 all the rent debts due for the years 1935 and 1936 and rents due under decrees since 1926 have been wiped out. This provision means that those who have not paid their rents

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* The reader may refer to the memorandum submitted by the under-mentioned estates to understand the real situation. Estates of Kottam and Tarlipet vide (Part I), Gangole and Myvadi (Part II), Ettayapuram, Sivagiri, Kadambur, Marungapuri, Sivaganga, Walajnagaram, Turaiyur, (Part III), South Valluru, West Sherma-hammadapuram and Polegarni (Part IV.)

till the passing of the Act will get substantial relief. But those who have paid it at the cost of their holdings will get no relief.

What Bihar has done to restore auctioned lands.

It is exactly with the object of giving relief to those whose lands were bought by the zamindars after the depression, that the Bihar Congress Ministry passed an Act (Act IX of 1938), which provides for the restoration of these lands to the original tenants. The Act was not to apply to petty landlords who were not liable to pay local cess of an amount exceeding Rs. 375 per annum, and to lands taken in auction before 1929. Greater relief by way of restoring the whole land auctioned was to be given in the case of ryots whose rents have been enhanced or commuted after 1911. The proportion of auctioned land to be restored should be not less than six acres, and would inversely vary according to the extent auctioned in each case (Sec. 9). The ryot should pay 50% of the arrears of rent for which the land was auctioned and the costs (Sec. 8). The amount due might be repaid in five years in instalments. The Collector would determine the plots to be restored and their rent (Sec. 10).

Appeal to the Madras Government.

We hope that the Hon. the Premier who stuck to his provisions regarding the remission of rents in the Agriculturists' Relief Act in spite of all opposition, and who set aside constitutional rules of procedure by hurrying the bill through, lest delay might lead to sale of holdings of tenants, would bring forward immediately a measure similar to the one in Bihar, and earn the eternal gratitude of those tenants who are to-day either labourers or tenants-at-will. We hope too that the Hon. the Revenue Minister who has impressed into service law and history from the old archives of the Secretariat library to protect the elementary

rights of the ryot, and who has shown a breadth and a dash which are peculiarly his own, will add one more measure, which will be to the lasting benefit of the agricultural class, to whom land is everything, and whose pathetic continuance of cultivation on the same plot at a higher rent or for wages even after its sale, cannot but awaken the active sympathy of any publicist or social worker.

III

DEMARCATION OF 'SIR' LANDS AND PROTECTION OF 'SIR' TENANTS.

There can be private lands only when they are directly cultivated.

'Sir' lands were once the private lands of zamindars which were directly cultivated by them. Gradually bought-in-lands, communal lands such as public paths, cattle stands, and irrigation tanks, and lands relinquished by tenants were added to the 'Sir' lands by the zamindars (vide P. 634. Memorandum of the Andhra Zamin Rayats' Association). The recent draft bill defines private land as:

> 'Land which is proved to have been cultivated by the landholder himself with his own stock or by his own servants or by hired labour for twelve continuous years immediately before the date of commencement of this Act.'

It further says that the existence of private land might be proved on the strength of local customs and by letting any other evidence. The Prakasam Committee cannot avoid the argument of local usage or custom in the case of the landlords, as its whole scheme of protection of the rights of the superior tenant is based on it. Local custom or usage will easily be proved and no tenant would dare to contradict it in a court. In so far as the principle underlying private farms is that the zamindars should be allowed to have proprietory rights in them to the extent they undertake direct cultivation, the only basis on which the area of private lands should be determined should be the area continuously cultivated by the landholders.

Principle already recognised in respect of whole Inam villages.

Occupancy rights to tenants were not granted in these lands, because they were to be directly cultivated by the landholder. The principle of continuous cultivation by the landholder to be entitled to own a private farm has been already recognised by the previous Ministry in respect of Inamdars of whole Inam villages. It was not enough that the Inamdar proved that a land was his private land and he had continuously cultivated it for twelve years before first July 1908. It was not enough that he had cultivated the land continuously for 12 years before 1-11-1933. It was not enough that he has purchased the right of a tenant. He should in all these cases have retained the Kudivaram, i.e., have directly cultivated the lands. Even when auctioned lands are added to his private farm, they should have been continuously cultivated for 12 years before the commencement of the Madras Estates Land Act of 1936. We wonder what objection there can be for the application of the same principle to the zamindars, viz., that it was not enough if they had specifically let the land as private land before 1-7-1898 (vide Sec. 185) but they should still have retained the Kudivaram. The Act was also very particular to say, in the case of Inamdars, that leases, pattas, and documents stating that the right of occupancy of any tenant was limited or restricted or did not exist would not be admissible in evidence to prove the ownership

in a private land (Sec. 185 3rd proviso). Why not apply the same principle to the private lands of the zamindar? It is one of those paradoxes of life that what a reactionary Ministry was able to do to enlarge the rights of tenants, a popular Ministry pledged to the cause of Kisans dares not to do. Considered from all points of view, it would not be depriving the landlord of any customary or legal right if only such lands were declared as 'Sir' lands as were under his continuous cultivation for a period of twelve years before the commencement of the Act.

Survey and record of private lands at the cost of Zamindar.

Having defined the extent of private land on the basis of continuous occupation for twelve years, it should be accurately recorded as has been done in other provinces. The draft bill makes such a recording permissive. The Estates Land Act has provided for such a record in its amendment of 1936 in the case of Inam lands. Government should undertake this work along with the survey of rayati and communal lands and realise the cost from the zamindar.

Report reactionary as it not only does not grant occupancy rights, but grants special privileges as against tenants.

Some restrictions are necessary to protect the rights of tenants in 'Sir' lands. The zamindar is more interested in these lands as he could enhance their rent. Sometimes he diverts the water facilities intended for rayati lands to his private farm (vide Evidence of Andhra Ryots Association, Supplemental Volume, P. 635). But as the report makes no provision for the granting of any occupancy rights to sub-tenants, it leaves the door open for rack-renting by zamindars in private farms. It goes one step further and continues the special privileges which are granted to a landholder in respect of evicting the tenant from the 'Sir' land under the Estates Land Act. According to this Act, the landlord may apply to the Collector for a warrant to take possession of the premises of a tenant who has not paid his rent at the end of a year. It will be executed by a Police Officer if the arrears of rent are not paid within a certain date. But the tenant may make an application to set aside the warrant, and if the Collector still decides on his ejection, he may file a suit in the civil court to set aside the proceedings (Secs. 158 to 161.) These provisions are repeated in the draft bill with an additional clause taken from the Madras Tenancy Bill of 1898 to the effect that a landlord or his agent may be fined up to Rs. 500 if either makes a false statement for getting the warrant. We do not understand why these special privileges to evict a tenant of a 'Sir' land should still be accorded to the zamindar. The zamindar can have no more status in respect of 'Sir' lands than a ryot-wari holder. It should be sufficient, if the existing provisions regarding agricultural leases in the Transfer of Property Act were applied to the 'Sir' lands and their owners.

The U. P. Tenancy Bill.

It will do well for the Madras Government to note what the Select Committee on the U. P. Tenancy Bill has done to enlarge the rights of tenants. All tenants of 'Sir' lands of landholders paying a land revenue of Rs. 250 and more less, and of 'Sir' lands of other landholders, in lands exceeding 50 acres each which would be their private farm, shall become hereditary tenants of their holdings. (Secs. 13 A and 24). The right of the smaller landholders to let in tenants as they like is in no way taken away, nor the right of the bigger landholders to do so in an area not exceeding 50 acres of 'Sir'

land. But the 'Sir' land of big holders exceeding fifty acres ceases to be 'Sir.' (Secs. 7, 8, 8 A). The right of sub-letting too is in no way restricted to 5 years, with a further restriction that three years should elapse for again sub-letting, as in the case of occupancy tenants. Provision is also made for a decrease in the tenants' area, if a landlord thereby desires to increase his 'Sir' area up to fifty acres according to the rules of accrual of 'Sir' rights in tenancy lands (Sec. 13 B and C). Certain rights are also guaranteed to the tenants in the 'Sir' lands (the 'Sir' lands of small holders and 'Sir' lands comprising 50 acres of big holders) who do not acquire hereditary rights, or who are later admitted as tenants. These are that they shall be entitled to hold the land for 5 years, and that rents should not be enhanced during this period. (Secs. 25 to 27).

The original bill of the U. P. Government was more logical and consistent with economic principles. The big holders paying a land revenue of Rs. 100 and above could not be agriculturists and were only collectors of revenue. Hence all their tenants who have continuously occupied 'Sir' lands before or after the commencement of the Act would get occupancy rights except in certain classes of lands. These are grove lands, pasture lands or land covered by water, shifting areas, lands held for public purposes, and lands which have not been cultivated for five years and more and are under reclamation by the landlord. The restriction regarding sub-lease equally applied in the original bill to 'Sir' lands of landholders as in the case of privileged and occupancy tenants. But a landlord was given the right of direct cultivation. He might do so within 2 years of the enactment of the Act failing which the ejected tenant could claim heritable occupancy rights in the same land.

The new provisions of the Select Committee narrow the area of 'Sir' lands in which rack-renting is possible to 50 acres in the case of big holders, and have no limitation in the case of smaller landlords except that they give to 'Sir' tenants of these holders the protection of a five years' occupation on the same rent. They are measures dictated by considerations of expediency, for it cannot be said that competitive rents are not injurious to agriculture, when granted to a small holder or restricted to a small area of a big holder.

Grant of occupancy rights in the C. P. when a land is habitually sublet.

The C. P. Tenancy Act is sounder in principle in this respect inasmuch as a tenant of land which is habitually sublet by a superior tenant may be granted under its provisions occupancy right by a Revenue Officer. A landholder in the C. P. cannot also sublet his Khudkast (land directly cultivated) land.

Restrict area of 'Sir' and grant occupancy rights in the rest.

Anyway we commend the U. P. provisions in respect of two useful changes which they have made regarding 'Sir' lands. One is the restriction of the 'Sir' area in the case of big holders. The other is the grant of occupancy rights to those who have been occupying the rest of the 'Sir' land of big holders above a certain maximum on the same status as other occupancy tenants.

IV

LANDHOLDERS' RIGHTS IN CULTIVABLE WASTES.

The existing law re waste lands.

The waste lands in a zamin area may be divided into many kinds. There are the ordinary lands in which a ryot may be admitted to possession. There are others which could be brought under cultivation with a certain investment of money for providing water facilities. Others again require a period of intensive reclamation. There are again lands which may be let for the erection of dwelling houses or manufacturing purposes.

Under the existing law a person who is admitted to possession of rayati land is bound to pay only such rent as prevails for similar lands with similar advantages in the neighbourhood or 'in case such rate cannot be ascertained, exceeding such rate as the Collector may on application decide to be fair and equitable.' A landholder may also collect under section 3, 11 b. sums payable on account of pasturage fees and fishery rents. Lands let for pasture cannot become rayati land. The landholder can reservel ands for raising a garden, a tope or forest. He can reclaim lands and such lands cannot become rayati lands for a period of 30 years.

Misuse of powers of distribution of waste lands by landholders.

If one looks into the history of administration of cultivable waste lands by zamindars, it is a sad tale of rack-renting of the tenants, and a misuse of power, while there has been no addition to the material wealth of the country by saddling zamindars with this responsibility of agricultural development. Whatever extension of cultivation was brought about, it was in spite of them, for a tenant was afraid to dig a well or raise a paying crop, as his rents would be enhanced with every progress he made in agriculture. Again instances have come to notice, that rayati lands have been granted to the relations of zamindars, the wife of the zamindar, the Dewan and the staff of the estate, without any principle, and without any scrutiny whether they are good agriculturists who can make the maximum use of the land. Waste lands have sometimes been appropriated as private lands too, The State has therefore the bounden duty to interfere and regulate the distribution of waste lands. The exercise of such a duty can never be an interference with the just rights of zamindars. This duty has been further reinforced by the provisions of the Permanent Settlement-Regulation of 1793 which we quote below :—

Rights of the State to regulate the distribution of waste lands.

> "It being the duty of the ruling power to protect all classes of people and more particularly those who from their situation are most helpless, the Governor-General in Council will, whenever, he may deem it proper, enact such regulations, as he may think necessary for the protection and welfare of the dependent Taluqdars, rayats and other cultivators of the soil, and no Zamindar, independent Taluqdar, or other actual proprietor of land shall be entitled on this account to make any objection to the discharge of the fixed assessment, which they have respectively agreed to pay."

The Regulations introducing the Permanent Settlement had only two objects in view, to provide security of tenure for the rent-farmers and to fix a moderate land tax permanently. (Vide Preamble, Madras Regulation XXIV of 1802). The zamindars had no doubt the right to collect the rent of waste lands at the rates fixed in 1801. But the State had always the right, nay, the duty of developing the agricultural resources in the interest of its citizens. This duty the State could not divest itself of, and if a sanad granted a certain right, the State could certainly limit it in the larger interests of the country it was thought necessary. Finally, the Prakasam report has proved by an interpretation of the law on the subject that the ryots have the inherent right to extend their cultivation over wastes. (P. 94. 5 b.) The landlord is hardly the proper agency to protect this right,

The witnesses who gave evidence before the Committee have emphasised the need for some form of State control over the distribution of waste lands. It is extremely unfortunate that the Committee, after showing that the zamindar was no more than a collector of revenue, and after finding that he has consistently abused his powers and adversely affected the agricultural economy of the country, should give him large powers of distributing the waste lands.

Section 4 of the new draft bill ensures the right of the zamindar to distribute waste lands at rates of rent fixed at the time of the Permanent Settlement on cultivated lands. Sec. 16–17 recites the various purposes for which grants of land may be made by lease or by patta by a landholder, namely, dwelling houses and buildings for manufacturing or other purposes, and clearing and bringing waste lands into cultivation. These leases or pattas may be granted "for any term of years or in perpetuity on such terms as may be naturally agreed." Sec. 16–19 says that, subject to the rate of rent not exceeding the rate on cultivated lands at the time of the Permanent Settlement, the landholder may arrange on any terms agreed upon between him and the tenant, by grant of pattas for bringing waste lands under cultivation. Sec. 16–22 says that the rates of land revenue levied on the cultivated land at lower rates than those at the Settlement, or those levied on waste lands on the basis of rates for lands of similar quality and description, by a landholder in pattas granted for the erection of dwelling houses, factories, or other permanent buildings or for bringing waste lands into cultivation or for making any improvements will be binding on his successor only in respect of grants for these purposes, and only when the ryot has

Provisions of the new bill and some minor defects.

carried out substantially the conditions of the grants. Sec. 16-23 defines the rates of land revenue which the Collector should adopt in suits involving disputes of land revenue, so as not to exceed the rate prevailing in the year preceding the Permanent Settlement. Sec. 17 says that any contract to pay a higher or lower land revenue than that fixed in the year preceding the Permanent Settlement is not enforceable. This section is quite in contradiction with the previous ones which permit the collection of a lower land revenue in the case of certain lands. Sec. 16-19 and Sec. 16-22 vary with each other, in that the former section limits the land revenue on lands under reclamation to the rate fixed at the Settlement, and the latter section, permits the levy of land revenue rates which are less than those for lands of similar quality and description. The latter rate may be higher than the former one. An amendment of the bill is required to rectify these minor defects.

Need for state control and regulation of waste lands.

We will now examine whether these clauses are an improvement on the present position, and to what extent they will contribute to the development of waste lands.

The landholder in the future will not have the inducement to arrange for reclamation of waste lands at his cost, as he cannot hope to get a higher rent than the rent at the settlement or the rent of lands of similar description. He cannot keep it as private land for 30 years as provided in the existing Act and realise its full income in return for his investment. He will therefore try to be a profiteerer by admitting ryots even in unreclaimed lands at settlement rates. The clauses in the bill do not state to whom the income from trees

which are cut down in unreclaimed land will go. In rayatwari assessed lands such trees are auctioned by the Government, and the proceeds are credited to Government funds. It is possible too that waste lands may not be brought under cultivation, as the rayats may not have the resources to reclaim them, and the landlords will never have any incentive under the proposed rules to invest money in waste lands.

Secondly, the Bill makes no provision for the regulation of grazing in pasture lands. As it stands, land let for pasture may become rayati land. Or the landholder should retain it as unreclaimed land, charging a special rate which would be equal to, or less than the Settlement rate. The consequence of such an act would be that the rents on pasture lands which ought to be nominal might approximate to the settlement rates.

Thirdly, as the landlord cannot in future collect more than the rents fixed at the Settlement, he may like to distribute such lands to his relations and favourites rather than to the needy and industrious rayats.

Fourthly, the rents on all classes of waste lands are made uniform. Waste lands granted as house sites or for manufacturing purposes may have a higher letting value. There can be no taxation of unearned increments, when the land revenue is fixed permanently.

Two alternatives.

There are only two ways of solving the problem of development of waste lands for the future. Government might pay the zamindar the original assessment fixed for these lands at settlement rates after deducting the collection charges, and treat them on the same lines as Government assessed wastes. But if the zamindar is to be retained, definite rules for the grant of waste lands should be formulated. He may be allowed to grant Pattas for ordinary cultivation in ordinary lands subject to the right of appeal of an applicant to the Subdivisional Revenue Officer when his application is rejected by a zamindar. The rules should provide that pattas would be granted in future only to those who are agriculturists and whose primary source of livelihood is agriculture. Lands let for reclamation, for making permanent improvements, pasture and livestock breeding, for raising forests, topes and gardens, or market gardening may require initial outlay. Irrigation facilities too may be required. Government is a better agency to admit rayats to waste lands in such cases. Thirdly, lands let for non-agricultural purposes should be under the complete control of Government. Detailed rules will have to be formulated in regard to the distribution of waste lands. Sec. 6-4 of the Act which grants the right of distribution of waste lands to landholders will require radical amendment, saving the rights of Government to make such rules as are necessary for the progress of agriculture and the prosperity of the agriculturists.

V.

COMMUNAL LANDS IN ZAMIN VILLAGES.

THE EXISTING LAW.

Under the Estates Land Act the following lands are classified as neither rayati land nor private land of the zamindar :

4. 16. (*a*) *Beds* and *bunds* of tanks and of supplies drainage surplus or irrigation channels.

(*b*) Thrashing floor, cattle stands, village sites, and other lands situated in an estate which are set apart for the common use of the villagers.

(*c*) Lands granted on service tenure, etc.

According to the Act these communal lands shall not be assigned or used for any purpose. (20 – A). The Collector might divert disused communal lands and convert them into rayatwari land provided that no reversionary right is vested in the landholder. In the case of beds and bunds of tanks and channels, they can be diverted only with the consent of the landholder. (20 A. I.) The Collector might acquire communal lands at the cost of the Local Government, the local bodies, the landholder, and the rayat. (20. B.) He may evict trespassers in communal lands within 30 years of commencement of such occupation. (Sc. 21.) He shall decide the customary rights in the use of communal lands (20)

THE NEW DRAFT BILL.

Communal lands have been encroached upon both by landholders and rayats. The new draft bill provides for a survey and record of such lands. The reversionary rights of landholders in such lands are declared null and void.

The common law rights of the public in them are recognised. Encroachments on these lands are void always, without the time limit of thirty years as provided in the existing Act. The recommendations of the report go a step further, in that they provide that trespassers should pay the cost of acquiring new lands, or leave the present lands they have encroached upon.

Under the Permanent Settlement of 1802, lands exempted from assessment of public revenue were excluded in fixing the permanent peshkush to be paid by the landholder. Government themselves undertook the disposal of such lands. This position has been made clear in the recent draft bill.

Landlord's supervision over communal lands should cease.

So far we should congratulate the Committee for these provisions. But it is on the question of agency for the administration of lands that one has to differ from them. It gives no clue as to who will act on behalf of the rayats in regulating the exercise of their communal rights. Is it the idea to form statutory Panchayats and transfer this function to them? If so, rigid control by superior authorities is necessary to prevent any misuse of powers by the Panchayat. Detailed rules should be provided for. We have elsewhere referred to the question of local administration in respect of communal lands. Another defect of the bill is that it still makes the landholder the trustee to whom the rayats should apply for using the land for other than specified purposes. Any kind of power to a single individual in regard to communal lands would lead to its abuse.

And when his administration has so obviously resulted in the expropriation of communal lands either as rayati land or private land, it is strange that the landlord should still be allowed to interfere in the common matters of the rayats.

VI.

RIGHTS OVER HILLS AND FORESTS.

Inherent rights of State over hills and forests saved in the Permanent Settlement for the Government as against zamindar

We cannot be sufficiently thankful to the Prakasam Committee for a correct interpretation of the rights of the zamindar over hills and forests. No law has explicitly recognised these rights of the zamindars. The question involves a decision on two issues, namely, the proprietory ownership of hills and forests and the customary rights

of rayats to the use of natural facilities in these hills and forests. That the zamindar had no proprietory rights over the latter is clear from the Forest Act of 1882, which permits an owner to apply to the Collector to take over the administration of forests, but does not define 'the owner,' who may either be the rayat or zamindar. 'Poromboke' is a common term which is understood in the Tamil country as lands not belonging to the villagers in which they can claim a share of ownership, but as belonging to the State. When the East India Company settled the lands on the rayatwari basis, there were villages in which certain people claimed the right of mirasdars, as original settlers, of letting out as much cultivable lands on lease as they owned in proportion to the number of shares they held in the village. But even they did not claim any proprietory rights over immemorial wastes or hills and forests. These lands were called *Anadikorambu* (lands having no owner, and existing without any limit of time) as against *Saikalkorambu* (cultivable lands) (vide Appendix 98, p. 425—minute of the Board of Revenue of 5-1-1818 to the Select Committee on the Affairs of the East India Company, 1832). The village community no doubt regulated the use of these hills and forests by ryots for agricultural and domestic purposes. But the proprietory rights in respect of them vested with the State. The report of Mr. Hodgson as Collector of Tinnevelly (vide appendix to papers submitted to the Select Committee on the Affairs of E. I. C., 1832) refers to a class of lands called 'Perumpathu', big wastes over which the villagers had no proprietory rights, and whose disposal therefore rested with the State. The Permanent Settlement of 1802 gave the right to the zamindar of developing and collecting rents only from those lands the assessment of which was made the basis for the settlement of the peshcush due by the zamindar to the Government. Hills and forests are exempted lands under the Permanent Settlement Regulation, and their disposal rests with the Government.

How landholders have misused these rights.

The Committee's report is mixing up two issues, of ownership of hills and forests, and customary rights of villagers to use the produce of the latter for agricultural and domestic purposes. The report refers to the evils of leasing out forests for tea, rubber, and coffee plantations by the zamindars. The cutting down of trees for these purposes prevents the conservation of rain in the forests and a diminution of water supply in the rivers (page 252). Claims of prescriptive right should therefore hardly be allowed in the natural resources of the State, whose depletion affects millions of rayats.

The report grants the ownership of hills and forests to the rayats, and then appeals to the latter to exercise their power and apply to the Collector for a proper administration over these forests. We have shown that the rayats had at no time any proprietory rights over them. We have also shown that the State disposed of them from time immemorial, and that it saved its powers by exempting such lands from the supervision of the zamindars under the Permanent Settlement. The State can therefore by an executive order take over these hills and forests, subject to the customary rights of the villagers, in order to utilise the natural facilities. If the zamindars contest these rights of the State in this respect in a court of law, Government may then think of the compensation to be paid for taking back the hills and forests. The compensation cannot exceed the amount of rent which could be fixed for

such lands on the basis of rents prevailing in the year preceding the Permanent Settlement.

VII.

COMMUNAL OWNERSHIP vs. STATE OWNERSHIP.

Administration of village communities.

It now remains to discuss the nature of the agency for the administration of communal lands, hills and forests. The report seems to pin its faith on the ancient village community. This community did not embrace all the villagers, but only the elders of the village. Secondly, it decided matters by discussion and not by majority votes. Thirdly, membership of the village Panchayat was on the basis of hereditary leadership and not on that of election. Even the villages as they existed in the beginning of the 19th century were of three kinds, lands under a single landlord, joint lands in ownership, and lands held in severalty. The leaders of the village did not even arrange for the cultivation of waste lands, in spite of the inducement held out by Collectors, agreeing to their ownership of cultivable wastes and letting them out on lease. As a next alternative, Collectors therefore granted in certain areas lands on rayatwari patta to resident tenants. In Mirasi villages the leaders did not care to cultivate the dry lands which they owned, which were again granted by the Collectors to the cultivators. Sir Thomas Munroe says in his minute to the Select Committee on East India Affairs in 1832 (vide p. 457):—

> "The happy state of the natives in the joint tenure of the villages is not supported by the fact of most of them having long since adopted the separate tenure. This was probably the gradual work of time long before the Company's Government".

The fact was that the owners of lands combined for joint cultivation when lands had no annual surplus value, and when the agriculturists of the village required the protection of village leadership against the oppression of the local officers of a weak central Government. But where lands could be let out on rent or could yield a surplus income, they were held in severalty.

The present plight of institutions.

The history of village leadership in the management of village institutions during the present century is not a happy one. Statutory powers were given to co-operative societies, village Panchayats, village courts, forest Panchayats, and irrigation Panchayats. In addition, there are non-statutory Panchayats of caste leaders to regulate the personal religious and social life among agricultural tribes, and to administer trust properties, as choultries and temples. None of these bodies have shown the results which were expected of them. If a few of them have worked well, the credit should go to the one or two individuals in the village rather than to the Panchayat as such. It is a conflict of ideas. We want our village leaders to think in terms of all classes, to shed their sense of superiority on the basis of caste and social status, and to evince the same sense of duty in the protection of public properties and expenditure of public funds as they do in relation to their own private property. The individualistic, fatalistic, and superstitious outlook of the people has to be replaced by the civic, selfconfident, and secular outlook on life. Men's outlook has to change. It is a matter of common knowledge that the forest Panchayats grew inefficient and corrupt with the abolition of special officers for their supervision who have therefore again been recently reappointed. (vide page 149. f. Committee's report). Secondly, Indian

village leadership has to act without the lever of public opinion which is no dout growing, but has not yet reached the stage of being a vigilant watchdog over village administration. What little good has come out of these bodies is due to their control by the superior administration of the State, which insists on conformity to certain rules.

Reconstitution of Panchayats.

It is an admitted fact that, if there is any matter in which Government are little to blame, and village leaders more, it is in respect of the management of cooperative societies and village Panchayats. The Congress Ministries need not pass through all the experience of the pioneers in the field of rural organisation, but may well use that experiment for an adaptation of village institutions as suited to the conditions of village life. The way out is not to stifle opportunities of village local self-government, but to evolve a more efficient structure for rendering village services. As village Panchayats have no revenue nor police work to do as in ancient times, their unit of jurisdiction might be broadened from the point of view of sanitary and social services. With a view to create the confidence of all classes in the Panchayat, election on the basis of wards and adult franchise should be introduced. Until a developed citizenship is able to put the village leaders in their proper position and tone up their administration, the Panchayats should have little executive powers. There should be a paid officer, as in the village unions of Bengal, who should possess a knowledge of law and administrative rules relating to villages, who can also look after sanitation, make estimates of minor village works, and who will generally be looked up to as the guide, philosopher and friend of the villagers. These paid officers should belong to a self-contained service of local self-government, and their work should be controlled by superior officers. The Panchayat administration should be regulated by a sufficient number of rules which, without preventing initiative, and being too rigid for local application, should check abuses and maintain an elementary standard of efficiency.

When such statutory bodies are formed, then would be the time to think of handing over to them the supervision of the use of communal lands, and the regulation of the exercise of the natural facilities over forests and hills. But in no case can the natural resources of the State such as forests be handed over to the village Panchayets, whose conservation and development are the prime duties of the State from the points of view of national wealth and irrigation facilities.

VIII

Mining Rights of Rayats and Landholders.

While the report constantly reiterates and emphasises the inherent rights of rayts to mine quarry, and excavate in their holdings, the draft bill restores to the Government its control over the exercise of such rights. The bill provides for the payment of royalty to Government. It provides further that the Collector shall have regard to the rules sanctioned by Government in respect of similar Government lands when used for like purpose. (12. e) We will go a step further and say, that the State should declare its rights, particularly mining rights in the soil, while at the same time permitting the rayat to use its natural facilities as clay, gravel, or stone,

IX

Irrigation Works in Zamin Areas.

Obligation to maintain irrigation works declared by courts and accepted by zamindars.

The Prakasam Committee conclude the portion of their report on the maintenance of irrigation works by the zamindars in the following words:—

> Having obtained their sunnuds from the Government for an unalterable peshkush and enjoyed the benefit of the same for 138 years, the landholders have failed to discharge their duty in regard to the maintenance of the existing irrigation sources and the construction of the new irrigation works.

The responsibility for the maintenance and development of irrigation falls in varying proportions on the Government, the zamindar, and the rayats.

The duty of conserving and developing water resources rests on the Government. Both in the interest of national economy and that of impoving the condition of the rayats, the State should and ought to do everything for organising the water resources. This should be definitely declared in the bill. The zamindar of Mirzapurum in his dissenting minute says:

> The zamindars do not deny that they are under an obligation to maintain the existing irrigation works in a State of proper repair.

When the introduction of the rayatwari system was under discussion, the main advantage claimed for the zamindari system by the official protagonists was that the State would be rid of the responsibility of maintenance of irrigation works under the latter system. As recommended in the report of the Committee, a fund should be provided by the zamindars for the purpose of maintenance of irrigation works. But the zamindars themselves want loans from Government to repair tanks and other irrigation sources. Instead therefore of insisting on them to execute the works, and, in default, providing for their execution by the State, option should be given to them to hand over the responsibility to the State on condition of payment of costs by a slight addition to their peshkush.

The State should undertake works in default of zamindars and not rayats.

The draft bill provides in clause 89 that the rayats should pay a contribution not exceeding one year's land revenue for executing a work which the zamindar fails to undertake and reimburse the same to themselves by adjusting it to the land revenue which they have to pay. Firstly, this is putting a gratuitous responsibility on the rayats. Secondly, the clause does not provide a solution in respect of works which cost more than one year's land revenue. Thirdly, the poor rayats should not suffer because certain leaders in the village who agreed to execute a work have not done so. What the rayat wants is water for his land, and where the zamindar does not fulfil his part of the job the State should see that the rayat's needs are met.

Duty of the State to develop water resources.

As regards additions and improvements to existing works and undertaking new projects, the State should shoulder the responsibility, without in any way depending on the zamindar to discharge them. The rayats should pay water rates for additions and new projects. The Royal Agricultural Commission have recommended in their report the establishment of a special minor irrigation branch in the Irrigation department. This branch is to survey the water resources, to assist the rayats in organising themselves for undertaking small works, and also for directly executing them where necessary. The State ought to adopt a uniform policy in matters of irrigation,

and it should be in a position to do so without the intermediary of the landlord. The bill should declare that additions, improvements, and new works would be undertaken by the Government. The proviso to clause 86 which requires the consent of the landlord for this purpose should be deleted.

The rayat's responsibilities for petty repairs.

Under the bill petty works of repair fall on the rayats. The working of irrigation panchayets for silt clearance and distribution of water has not proved a success. The big holders cannot be trusted to serve the interests of small holders. In certain areas, villagers themselves request the Tahsildars to make arrangements for the annual maintenance of tanks and channels. The mixing of this work with that of village Panchayets, which have other functions to discharge in respect of people who have no lands to be irrigated from tanks or channels, has led to the transformation of the Panchayet into an irrigation one or a sanitation one according to the interest shown by the members in its different functions. A special sub-committee of a Panchayet with separate accounts may be tried as an experiment. But the rayats should have the choice of conducting annual repairs either through a committee of their own, or the Revenue department.

IX

Distraint and Sale of Property for Arrears of Rent.

Evidence before the Committee.

The evidence tendered before the Committee describes the existing grievances of rayats in the application of coercive processes. We summarise them below:

(1) The landholder has abused his powers by not serving, or by improperly serving, the demand

and distraint notices. (Evidence of many witnesses.)

(2) The power the landholder has to keep the distrained property, namely, standing crops, produce, and cattle in his custody, until the sale officer sells them, has been abused. (Evidence of many witnesses.)

(3) His power to appoint a watchman to tend, reap, and gather the distrained crops has led to the payment of heavy charges on this account by the tenant. (Evidence of Mr. Ramkrishnarau, Gollapalli, Part II, Page 122.)

(4) The custody of distrained cattle with the landholder has again led to the payment of heavy fodder charges by the rayat. (Part II, Evidence, Page 16.)

(5) The right of the tenant to institute a summary suit within a month contesting the distraint is not sufficient, for the exercise of this right is a costly procedure, as heavy stamp duties have to be paid. (Ryot's Association, Pithapuram, Page 68.)

(6) The process fee, the proclamation fee, and the sale charges which the tenant has to pay amount in many cases to many times more than the rent to be collected. (Pithapuram Rayats' Association, Page 68.)

(7) Further, a minimum amount of produce should be exempt from attachment. The existing rules regarding exemption of movables are not at present adhered to. (Evidence, Pages 183, 185.)

(8) As there is no provision for an upset price, holdings quite out of proportion to the rent to be collected are sold for a nominal price. (Mr. N. Subramanyayar, Page 205.)

(9) The right of the mortgagee is not safeguarded. (Evidence, Pages 188 and 221.)

(10) Even though the time limit for distraint proceedings is fixed at one year from the date on which the arrear fall due, the present Act permits suits for arrears of rent up to three years, and execution of decrees for rent up to twelve years from the date of application. (Mr. K. R. Avadhani, Page 227.)

(11) The Act does not safeguard the interest of under tenants who would have raised the crop at their own expense but who would be deprived of the produce by the enforcement of distraint by the landholder. (Ibid. Page 225.)

We will now examine how far the present bill rectifies these defects, and in what manner it should be modified, if coercive processes are to be effective, without at the same time levying more than enough distress on the rayat for the collection of arrears of rent.

Landlords' powers of distraint.

We shall first take up the first four grievances mentioned in the evidence. The report of the Committee says that power of distraint and sale should not be given to the landholder, and yet both the service of notice and taking charge of the property distrained are still left to the landholder in the new bill (Sec. 42). These powers should be used only by the staff of the Revenue department on behalf of the landholder. The time given for the sale of movables is unduly long. It is 45 days from the date of distress. The U. P. Bill quickens the procedure. The notice of distraint will be issued by the Tahsildar which may be contested in 7 days by a written application by a tenant. (Sec. 157 A). The order of the Tahsildar is not capable of being appealed against (Sec. 157 B.)

The U. P. Bill avoids the custody of the distrained movables by the landholder by making the tenant responsible to keep them till they are sold. (Sec. 155). Consequently the police assistance to a landholder which is provided for in the Madras Bill for distraining movables, and which leads to bitterness and assaults in villages, is not necessary under the U. P. Bill. The fixing of the responsibility on the tenant has another advantage, that he need not bear the costs of protection of distrained crops, and the feeding of the distrained cattle. The U. P. Bill further provides for the fixing of the date of sale in such a manner, so that it would fall on the dates when the crops mature and can be sold. (Sec. 160).

Cost of distraint.

The Madras Bill makes the existing position worse by providing for the sale of the articles at some neighbouring village if it is advantageous, instead of 'the nearest place of public resort' as provided in the existing Act. The cost of transport of the articles to the place of sale will fall on the tenant, adding thereby to the costs of distraint to be borne by him.

The next group of grievances relates to costs of distraint. These are reduced to the minimum in the U. P. Bill by fixing one anna in the rupee on account of costs of sale, and by providing for the approval of the expenses of the landholder for the issue of notice and proclamation of sale. It is hoped that the rules under the Madras Bill will keep down the costs of distraint to be borne by a rayat to a minimum.

Exemption of movables from attachment.

The most complicated question in the application of a process of distraint is the one relating to the attachment of produce and other movables of a rayat. The implements and materials of husbandry, animals kept for husbandry, and the produce and cattle fodder necessary for the maintenance of the cultivator and his cattle respectively, till the next harvest, are the minimum

to be exempted in execution of decrees, if the cultivator is not to be hampered in any way in his occupation of agriculture. The existing provisions in the Estates Land Act go some way in preventing the sale of the necessary articles of husbandry. The Madras Government has taken no steps to implement Sec. 61 of the Civil Procedure Code and to exempt a portion of produce necessary for the subsistence of the cultivator till the next harvest The new draft bill makes the position of the cultivator worse by copying a Tenancy Bill of 1898, while even the civil law has since been improved by providing for exemption of a portion of produce in the case of agriculturists if so desired by Local Governments. The draft bill says :

> Ploughs and implements of husbandry, the cattle actually trained to the plough, and seed grain shall not be distrained for arrears, so long as other property may be forthcoming sufficient for the discharge of such arrear.

The small cultivator will generally own only these articles mentioned in the bill and rarely any more. The Estates Land Act exempts at present these and also manure stocked by a cultivator. The bill therefore is more reactionary than the existing Act in not exempting the instruments of production including produce and necessary to a rayat for subsistence for continuing his occupation of agriculture.

The U. P. Bill provides for a number of restrictions when moveables are attached for arrears of rent. It restricts the distraint to standing corps or products ungathered or gathered on the holding, deposited on a thrashing floor or the like. It prohibits distraint on crops or products that have been stored or any other property. The amount which can be destrained shall not exceed one-fourth of the crops or products. (Sec. 153). "No distraint shall be made of any produce of the whole or any portion of which a previous distraint has been made." (Sec. 152. 2 c.)

The Bihar Act XI of 1938 has the following clause in respect of execution of decress granted in suits for rent arrears and not in proceedings of distraint.

"Provided that the moveable property of the judgment debtor shall not without his consent in writing be so attached or sold unless the decree cannot be satisfied by the attachment and sale of the holding for the arrears of the rent of which the decree was passed."

But the same Act has provisions for distraint of crops and for no other moveable property through courts in case of recognisable holdings and defined rents.

We hope that the Government will revise the bill, retain the existing provisions of the Estates Land Act, exempt also from attachment one milk cow or buffallo which is a source of living for the rayats, and give effect to Sec. 61 of the Civil Procedure Code, exempting from attachment a portion of the produce as well as cattle fodder necessary for the maintenance, till the next harvest, of the man power and the bullock power respectively used in a farm.

Sale of a minimum portion of holding at an upset price.

The Committee had more than sufficient evidence before it about the abuses in the sale of a immoveable property. At present under the Estates Land Act the sale officer can bring to sale only that area of a holding equal in value to the amount of arrears due and costs. (Sec. 126). This clause finds no place in the draft bill. Secondly, there is no provision for the upset price. The following clauses in the Bihar Tenancy Act may be usefully embodied in the Madras Bill:

Before issuing the sale proclamation, the Court executing the decree shall hear the parties, and estimate the value of the holding, or of that portion of the holding, the proceeds of the sale of which it considers will be sufficient to satisfy the decree. A holding or a portion of a holding advertised for sale shall not be sold for a price lower than that specified in the sale proclamation, provided that, if the highest amount bid for such holding, or portion of a holding, is less than the price specified for the same in the sale proclamation, the Court may sell such holding or portion for such highest amount, if the decree holder consents in writing to forego so much of the amount of the decree as is equal to the difference between the highest amount bid and the price specified for the holding or portion in the sale proclamation. Sec. 163 A.

The Bihar Act also empowers the Collector to distribute the rent on the sold and the unsold portion of the holding.

Exemption of homesteads from attachment.

We may consider here the question of exempting homesteads from sale in execution of decrees for arrears of rent.

Section 60 of the Civil Procedure Code exempts buildings and sites of agriculturists from attachment in execution of decrees. But this law has been interpreted that it will not apply to those who have a transferable right in the land. The Bihar Tenancy Amendment Act of 1938 has made the following provision regarding exemption of houses and sites which may be embodied in the Madras draft bill:

A decree for arrears of rent against a raiyat or an under-raiyat shall not be executed—

By the sale of houses and other buildings with the materials and the sites thereof and the lands immediately appertunant thereto and necessary for their enjoyment, belonging to the raiyat or under-raiyat occupied by him.

Provided that any such house or building and the materials and the sites thereof and the lands immediately appertunant thereto and necessary for their enjoyment may be sold in execution of a decree for arrears of rent due in respect of the site of such house or building (Sec. 177 A).

The tenure of homesteads.

Closely connected with the question of the exemption of the homestead from attachment for arrears of rent is the larger question of its right of ownership. When a homestead is in the holding itself, the question of its ownership does not arise as the land is the rayat's land.

But the incidents of tenure of a homestead of a rayat in the village site or in the site of a contiguous village should be defined. The draft bill leaves it to be settled by 'local usage or custom, and by the provisions of this Act.' In the first place the right of a rayat to a house-site in the village Natham is a right to a share in one of the communal lands in the village. This should be recognised as a common law right, and not left to be decided according to custom. Secondly, the words 'according to the provisions of the Act' are vague. The other Tenancy Acts use the words 'according to the provisions of the Act applicable to land held by a rayat' (Sec. 236. 1. The Bihar Tenancy Act). The fact is that the Bill has copied a bill of 1898 which itself was based on the Bengal Tenancy Act. But the latter Act has undergone considerable improvements which are not taken note of in the Bill.

The interest of the mortgagee in public sale of lands.

We will now examine the other representations made by the witnesses before the Committee. It was said that when a land was brought to sale, the interests of the mortgagee were not protected. These would be sufficiently protected, if the surplus realised after paying the arrears of rent by a public sale of land was used to pay off previous encumbrances. Such a protection would improve the security which a tenant can offer for borrowing, and thereby his credit

position, and thus enable him to borrow at a lower rate of interest than what he is able to do at present. One safeguard provided in the recent Bihar Tenancy Act is

that, if there is any incumbrance on any portion of such holding, the Court shall not order such portion to be sold unless in the opinion of the Court the decree cannot be satisfied without the sale of such portion. (See 162 A. 2nd proviso).

Time limit for suits and application for execution.

The next representation made by the witnesses, namely, that the time given to a landlord to sue for arrears of rent up to three years and to execute the decrees granted in such suits up to 12 years should be restricted to one year from the date on which an arrear of rent was due, has been given effect to in the new bill.

The insecure position of the cultivator when produce is distrained.

The last representation was about the difficulties that under-tenants are put to, when distraint processes are put into force. This is one of the dangers in permitting the distraint of produce. The restriction on the amount of produce to be distrained to one-fourth of the harvested produce or standing crop may probably solve this difficulty. Again, a ryot takes an advance and lets the land for a definite number of years. The recent Bihar Tenancy Acts provides, in Sec. 121, proviso 3, that "an application for distraint shall not be made in respect of the produce of any part of the holding which the tenant has sublet with the written consent of the landlord". This proviso does not solve the question of the justice of distraining the produce of the cultivator which has been raised by his labour and expenses, for the rent due on the land. Where a land is sublet, the land alone should be the charge for the rent and not the produce.

X

SUBDIVISION OF HOLDINGS.

The rayats suffer in many ways, owing to want of provisions for making a proper subdivision of holdings. The difficulties are partly brought about by themselves by not intimating the landholder of the subdivisions they make in the land.

Further, lands have not been surveyed and a portion of the holding is transferred. In such cases, under the existing law, the landholder is bound to enter into a *joint engagement* with the transferor and the transferee. The result is the transferor is also responsible for the rent. Secondly, a portion of a holding may be transferred where lands have been surveyed. But the subdivision may not conform to the rules of the Local Government in this matter. The rayat may not know these rules. The landlord enters into *joint engagements* with both the transferor and the transferee. As a result, the former suffers for the failure of the latter to pay the rent.

Under the Estates Land Act, the landholder is to distribute the rent within six months when he agrees to a subdivision. He may not do it. The tenant has thereafter to apply to the Collector. Until all these tedious proceedings are completed, the transferor is responsible for the rent. What the rayats therefore require is a machinery for a summary enquiry for registration of subdivisions of holdings and for a proper distribution of rent. The Tahsildar is the best agency for the purpose. Under the provisions of the C. P. Tenancy Act any tenant may apply for partition of the holding and the fixing of the rent to a Revenue officer. (Sec. 93). A proper record of transfers and partition should also be maintained by the village accountant. It is also necessary that subdivisions below a

certain area should be prevented. The Bengal Tenancy Amendment Act of 1938 has the following provision in this respect which may be suitably adopted in the Madras Bill:

> No order for division or distribution shall be made which would result in bringing the rent for any portion below two rupees in the case of tenures, or one rupee in the case of holdings (Sec 83.2. Proviso b.)

Under the rules of the C. P. Tenancy Act (Sec. 93) "if the application involves the formation of a holding of which the area will be less than ten acres, the Revenue Officer shall reject the application forthwith". The recent Bombay Tenancy Bill has made a provision that the holding shall devolve only to one successor among the tenants. The provision should be welcomed, if it applied only to holdings which would become uneconomic as a result of partition, and if the decision about the successor among the several heirs was left to the Revenue officers instead of the landholders. (Sec. 9).

The provisions in the draft bill regarding division of holdings are imperfect and inconsistent. A few changes in the existing provisions of the Estates Land Act would be preferable. Secs. 16. 14 and 16.15 enjoin on the rayats to register all transfers and empower the Collector to apportion the rents. Sec. 97 says:

> Provided that no landholder shall be compelled to consent to the division or further divisions, as the case may be, of a revenue field, or to the distribution of the land revenue on the field or on the part there of included in the holding as the case may be.

The rules should make it specific in what cases a landlord may refuse consent. There seem to be no provisions in the bill about partition of holdings among co-sharers and distribution of the rent of such holdings. All these defects should be rectified.

Fair Rents or Revenue.

Value of the report in fixing the total assessment of each estate.

The strongest point of the Committee's report is its conclusion arrived at by an interpretation of the Permanent Revenue Settlement of 1802 and other Regulations, that a zamindar cannot collect as rent from his estate more than the total assessment on whose basis the Peshkush was fixed. Its weakest point is when it tries to apportion this assessment today on the existing lands at certain rates. The report has shown that, according to the Patta Regulation of 1802, the landholder could not collect more than the rent prevailing in the year preceding the year of settlement. It has further shown that enhancement of rent on written contract till 1908 against the pre-settlement rate was null and void. The conversion of grain rent into money rent at rates other than pre-settlement rates was equally null and void. The fixation of rent on the basis of rent of neighbouring lands of the same description was equally improper. The introduction of new rates on waste lands also was not justified. The fixing of a special rate on lands on which improvements were made by landlords, without limiting the rate to the cost of the improvement, was equally unfair.

When the Madras Estates Land Act of 1908 provided that the existing rates of rent would be presumed to be fair, it took the rent as enhanced illegally in these ways as the fair rent fixed at the time of the Permanent Settlement. That was mistake No. 1. It permitted commutation of kind rent into money rent on the basis of prevailing prices, and not on that of the prices prevailing in 1801. That was mistake No. 2. It allowed an increase in rent on the basis of an increase in the productive powers of the land as a result of impovements by the landlord. That was mistake No. 3. It further allowed an increase in rent on the basis of prices, where the rent is not a money rent and is not permanently payable at a fixed rate. That was mistake No. 4.

Compensation for acquisition of Inams based even today on the original assessment.

That the rent should not be more than the rate fixed at settlement has been ably vindicated in the report. Such a position is justified too by the present procedure adopted in the standing order No. 90 of the Revenue Board, according to which the compensation to be paid to an Inamdar, when acquiring his land, is fixed at the original assessment minus the quit-rent. This amount of compensation is fixed on the assumption that an Inamdar is entitled to collect only the assessment fixed on the recognition of an Inam and not more. What applies to an Inamdar still more applies to zamindar. But it is extremely difficult to find out the rate at the Settlement for each field. Money rent was not fixed in all the estates in 1801. It was later introduced in most of the villages. This rent would not be the rent fixed in the pre-settlement year. Again there are a few estates today in which produce-sharing is still the procedure for collecting rents. It is in defining the procedure for fixing the rent that there are any number of snags in the proposals of the Committee.

Difficulty in fixing the original pre-settlement rate for each holding.

The first proposal is that the money rates fixed in 1801 should be retained. But lands have been brought into cultivation after 1801. Their rates have to be fixed. The draft bill therefore says :

> IV Rate of assessment fixed in perpetuity on wet lands at the time of the Permanent Settlement might be taken as a uniform rate for all the waste land that have since been brought under cultivation.
>
> V. That in ascertaining the rates of assessment of land revenue on all the cultivated lands at the time

of the Permanent Settlement and consolidating the same with the rates of assessments on waste lands since brought under cultivation, a uniform rate not exceeding the rate fixed at the Permanent Settlement on cultivated lands should be adopted for both the cultivated and the uncultivated.

In this procedure there is every possibility of waste lands being assessed at higher money rates, while they are paying a dry rate at present.

Average rate on the basis of indefinite areas different from the Settlement rate.

The Bill thereafter suggests a number of methods for assessing the fair rent. Take the assets on which the peshcush was based. Convert the measurements made in those days into acres. Divide the assets by the acres for dry lands and wet lands. We will thus arrive at the average rent. This procedure has been seriously questioned in the dissenting minutes on many grounds. The conversion of areas from one kind of measurement to another has given the result of a larger area being under cultivation in 1801 than what it really was. The cultivable area fixed in those days has been questioned. Finally, there is no historical nor legal basis for arriving at the pre-settlement rent by dividing the gross income by the extent of area. This gives only an average rate, which is far lower than the rates on different kinds of land as fixed in 1801. Then again produce sharing was so common in 1801 that it led to undue exactions. So much so that Regulation IV of 1822 had to be passed to interpret the Permanent Settlement Regulation, the Patta Regulation, and the Regulation empowering landholders to distrain properties for non-payment of rent.

These Regulations were not meant to define, limit, infringe or destroy the actual rights of any description of landholders or tenants, but merely to point out in what manner tenants might be proceeded against, in the event of their not paying the rents justly due from them, leaving them to recover their rights, if infringed, with full costs and damages in the established courts of justice.

The other methods suggested do not seem to be proper too. They are examined below.

Possibility of high rents in certain cases by adoption of settlement rates.

(*a*) To take the rate which has been fixed for Government lands in 1801. This was unduly so high that Government themselves reduced it in rayatwari areas (vide Mr. B. Narayanasamy Naidu's dissenting minute p. 354.)

(*b*) To take the rate fixed in the village accounts of estates. There were obsolete garden taxes in 1801 which have since been abolished in rayatwari areas. If this method is adopted, high garden rates will have to be paid by the rayats.

(*c*) To estimate the present day yields, on the basis of soils and irrigation sources, determine the customary waram of the zamindar, and commute it at the price of 1801. While this will be a fairer method than the previous ones, the report says that it should be adopted only when all others fail.

In all the methods other than the last, there is a lot of uncertainty regarding conversion of the old measurements into new ones, and a lot of inequality too, as soils have not been surveyed as accurately as in rayatwari areas. The conversion rates vary even in neighbouring estates. According to the report, the dry and wet rates per acre in 1801 was Re. 1 and Rs. 1-10-8 in the estate of Vizianagaram, while they were 8 as. and Rs. 2-11-2 respectively in the estate of Bobbili. Further, if the zamindar desires to get his customary share in produce so that his share may not be unduly reduced by commuting it at the prices of 1801, it cannot be objected to, for he is taking his stand at the pre-settlement rate of produce sharing.

There is another inconsistency in the rent fixed, which Mr. B. Narayanasamy Naidu shows in his dissenting minute. The rayat is to pay, according to the Bill, the land revenue assessment fixed in perpetuity at the Permanent Settlement. But the land revenue to be arrived at is not this rate, but an average rate found out by dividing the gross income by the area on which it was fixed. The latter is entirely different from the former.

Unalterable revenue too rigid a provision.

As the report takes its stand on an unalterable land revenue as fixed in 1801, it becomes too rigid in its application. Sec. 16-21 says:

> Nothing contained in this section shall entitle a rayat to sue for the reduction of land revenue payable by him on the ground that it has been unduly high on account of a fall in prices or any other reason.

But Sec. 23 b permits a rayat to pay the land revenue in produce, as it prevailed at the time of the Permanent Settlement, when he is unable to sell his produce or raise a loan to make a cash payment of land revenue. Sec. 23 c permits a rayat to demand commutation of the payment in kind into cash on the basis of prices prevailing in 1801. The same privileges may be demanded by the landholder according to his convenience, and there is nothing in the Patta Regulation or the Permanent Settlement granting the benefit of the mode of payment only to the rayat, and not that of the mode of receipt in cash or kind to the landlord.

The rayat therefore can demand no remission in land revenue in the future owing to a fall in price. But he may get a remission "according to the custom of the country on account of drought, inundation, or other calamity of the season." (Sec. 16.7). There is no provision for a reduction in the peshkush to be paid by the zamindar. Neither are the rules of remission clearly defined.

Nor can the land revenue be enhanced to meet the costs of improvements in irrigation sources. (Sec. 16.7). One result of such a provision would be that no landlord would undertake any improvement. This section goes further, as under it Government might improve a work and debit the cost to the zamindar. It is one thing to make the zamindar responsible for the maintenance of existing works, but it is another thing to make him pay for additional improvements made in an existing irrigation source.

Need for an element of progression in the tax.

The result of all these provisions is that there can be no reduction in land revenue owing to a fall in prices and no enhancement of land revenue for improvements in irrigation sources. A low standardised rate on land, fixed unalterably, is not objectionable. But there should be an element of progression in it. There should be no bar to a graded additional tax on land on the basis of incomes. There should be no bar to the levy of rates on land by Local Bodies. There should be no bar too for the separation of the irrigation cess from the standard basic rate of revenue levied on land and its levy and collection by the State. Rules of remission which should apply both to the land-holder and the rayat should be clearly mentioned in the bill itself. We have dealt with this question of remission in a succeeding paragraph.

The Committee has no doubt given a formula for the maximum revenue realisable from the tenants of an estate. But the fixation of fair rent on each holding should be done entirely on different considerations. A Rent Settlement Officer may be given instructions to take the Settlement rate in 1801 as the rate which should not be exceeded in fixing a fair rent.

Total assets in 1801 to be one of the considertions for fixing fair rents.

Before we make any proposal regarding fair rents, we will just refer to the procedure adopted in other provinces in fixing the same.

Provisions in U. P. Tenancy Bill.

A new class of tenants has been created in the U. P. Bill called hereditary tenants, by enlarging the rights of tenants of certain 'Sir' lands, and of those holding under certain classes of privileged tenants. Before these tenants were created, there were occupancy tenants at the commencement of the Act. The principles for fixing the rents in respect of the holdings of these two classes of tenants is defined in the Bill.

> They should be rents payable without hardship over a series of years by cultivating hereditary tenants with substantial holdings.

Further the rent should not exceed one fifth of the value of the produce. The level of rents paid between 1895-1905, and the difference in prices of agricultural produce between the latter period and the depression of 1930 should be duly considered in fixing the rent. Consideration should also be paid to the amount of produce, and the crops grown, the cultivation expenses, and the cost of maintaining the family of the cultivator. Exhancements of rents cannot be made within 20 years. The grounds for an enhancement in rents are defined as improvements by the landlord, fluvial action on the land, and increase in the area of the holding. The grounds for abatement of rent are defined as

decrease in the area or the productivity of the soil. A lower rent of two annas in the rupee less than the corresponding rates for hereditary tenants is fixed for certain privileged tenants. The maximum rent for sub-tenants and tenants of 'Sir' is fixed at $33\frac{1}{3}$ p. c. more than the rent fixed for hereditary tenants. Rent Settlement Officers will determine separate rates for different circles and soils.

In the Central Provinces the Settlement Officer fixes the rent for different classes of tenants. But he is instructed not to raise the rent of a tenant whose surplus income from land is due to his own improvements on it. The Officer "may also reduce the rent of a tenant in order to avoid an excessive reduction in his profits." The following among other details are specially mentioned in arriving at the costs of cultivation. We specially mention them because they are usually lost sight of in assessing the profits from land.

The provisions in the C. P. Land Revenue Settlement Act.

> (1) The depreciation of stock and buildings.
>
> (2) The money equivalent of the cultivator's and his family's labour and *supervision*.
>
> (3) Interest on the cost of buildings and stock and and expenditure for seed and manure and on the costs of agricultural operations paid for in cash.

As in rayatwari provinces, the Settlement Officer looks into

> profits of agriculture, existing level of rents in the locality and the sale prices of land, the consideration for leases, and the principal moneys on mortgages.

The recent Burma Land and Agricultural Committee report on Tenancy 1938 says:

The recent Burma Committee.

> Our conception of a fair rent is that rent should not exceed the part of the crop remaining after the cultivator of an economic holding has met the normal costs of cultivation and maintained himself and his

family in reasonable comfort as that is understood by this class of cultivator in the district in which he lives. We go further and consider that the cultivator should retain for his own use some part of the crop over and above the minimum required to maintain himself and his family in reasonable comfort. We are aware that this definition of a fair rent is lacking in precision, a criticism to which any definition must in fact be exposed. (Page 9).

One of the items which the Burma Committee includes in considering the costs of cultivation is the interest to be paid on loans which is an item of expenditure for every cultivator.

Proposals of the Taxation Enquiry Committee.

The Taxation Enquiry Committee report says that a return for enterprise should also be considered in arriving at the cost of production.

Fixation of rent or revenue on the basis of the annual value after deducting the cost of production will show what amount can really be levied on a small holding as rent or revenue. The Taxation Enquiry Committee have recommended one-fourth of the annual value as land revenue. They define annual value in the following terms:

> Annual value means the gross produce less cost of production, including the value of the labour actually expended by the farmer and his family on the holding, and the return for enterprise, and that the functions of the Settlement Officer should for the future be limited to the ascertainment of this value on a uniform basis under such conditions as might be appropriate in each province.

The maximum rent for the cultivator.

With the experience of the several provinces before us, we should arrive at a fair rent for the cultivator. The maximum rent for the cultivator is fixed at $\cancel{\frac{1}{4}}$ of the gross produce under the Bengal Tenancy Act on the presumption that the under-rayat is the cultivator. The term cultivator has been used in the report of the Prakasam Committee to denote the under farmer, the occu-

1/3

pancy rayat, and his subtenant. The Estates Land Act defined a ryot as one who holds land for the purpose of agriculture. The draft bill defines a ryot as any occupier of land who pays land revenue to the zamindar, thereby removing the last vestige that remains in the present Act of any contact of the revenue payer to the occupation of agriculture. The rent of the subtenant in the U. P. is $\frac{1}{3}$ more than that of the occupancy tenant, which is fixed at $\frac{1}{5}$ of the gross produce. This works to $\frac{4}{15}$ of the gross produce for the cultivator. Bengal fixes it at $\frac{5}{15}$ of the gross produce. The Taxation Enquiry Committee fixes it at $\frac{1}{4}$ of the net income, and assuming net income to be $\frac{2}{3}$ of gross produce, the land revenue for the ryot and not for the subtenant will be $\frac{1}{6}$ of the gross produce.

Rents for different grades of tenants

We will examine the application of these principles to the rayats and cultivators in the zamindari areas of Madras. We have proposed in to the first chapter on tenants that the minimum classification that would be required for a due protection of the cultivator would be the following.

At the one end, the underfarmers holding larger areas should be separated as a new class of holders, if the real occupancy rayats under them are to get any protection. At the other end, the subtenants should get at least the legal protection provided for in other provinces. There is also the large class of existing occupancy rayats who are agriculturists. We will, therefore, get four classes of tenants:

(1) The underfarmers holding 30 acres of wet or garden lands or 100 acres of dry lands.

(2) The occupancy rayats under under-farmers and those in "Sir" lands of zamindars over a certain limit of area.

(3) The existing occupancy rayats.

(4) The subtenants.

(5) The subtenants in "Sir" land below a certain limit of area of zamindars and underfarmers.

The rent should be fixed for the last class of cultivators at a rate not exceeding ⅓ of the gross produce. This ratio will be in consonance with the provisions of the Tenancy Acts in other provinces, and will approximate to the land revenue paid in rayatwari areas. The tenants classified as (2) or (3) will have their revenue fixed at the rate recommended by the Taxation Enquiry Committee for the rayatwari holders. This will be half of what the subtenants pay and will amount to ¼ of the annual value. This relief to the large class of occupancy rayats, to both the existing rayats as well as the new rayats mentioned under clause (2), should be made available only when the cultivator's (subtenant's) rate has been fixed at ½ of the net annual value of land or ⅓ of the gross produce. (Note: Net annual value is estimated in this note as two-thirds of the gross produce.)

The underfarmer is a privileged holder, and he might be permitted to pay a little less than what the occupancy rayat pays to him. Privileged tenure holders pay in other provinces to the zamindar 12½% less than what occupancy tenants pay to them. They will have no cause to object to this rate, as they will always hold a certain minimum area in which they can let in subtenants, as zamindars do in their private farms The zamindars too can have no cause for complaint, as they would be assured of the amount of assessment fixed in 1801 which they could hope to get steadily from year to year, without letting the dues fall into arrear, which is due not merely to the inability of rayats to pay, but

also to the skill and influence of big tenants to evade payments. As regards the subtenants of zamindars and underfarmers in the areas which they may farm directly or sublet, no recommendation need be made for the present, provided the rent is not raised for five-years, and subtenants are assured of a five-year occupancy.

Other considerations in fixing *rent or revenue.*

In fixing the rents, the level of rents in 1801, and what was paid before the depression of 1930 might be taken into consideration. The calculations of rent made in this manner should not exceed the estimated income from tenants to zamindars in 1801. Rent or revenue shall not be enhanced owing to a rise in prices or other reasons. But Government should always have the power to fix a graded income tax on agricultural incomes above a certain limit. The Settlement Officers will have to collect, under these proposals, the data for fixing the annual value in future, only in respect of big holders. The water tax should of course be levied separately by the State for the use of water.

Rules of remission.

It now remains to discuss the procedure for fixing remission of land revenue in scarcity years. The remission should equally apply to what the zamindar has to pay to the Government. The provision of remission cannot be left to rules and ought to be embodied in the Act. The U. P. Tenancy Bill has clearly defined the extent of remission which will be granted in its sixth schedule. The relief in rent per rupee is to vary according to the loss measured in annas per rupee of normal produce, provided such minimum loss is not less than six annas in the rupee. This relief is passed on to every holder of land from the zamindar to the last grade of tenants. The same provisions might be adopted in Madras.

Appendices

I

A PATENT MEDICINE FOR AGRICULTURAL INDEBTEDNESS.

AMONG the ponderous seventeen volumes issued by the Madras Estates Land Act Committee lies hidden a medley of information, some of which may require authentication and documenting. And there are announcements too of new policies' which will escape the public eye except of very careful readers. We do not know whether the Committee as such takes any responsibility for the views expressed in Part II of the Report. That part contains a scheme for removal of agricultural indebtedness. It makes a candid statement of the results of the Madras Agriculturists' 'Relief Act' in the following terms.

> "Naturally the agriculturist finds himself in trouble with regard to credit. The old sowcars whose debts have been cut down under the Act would not be enthusiastic and ready to lend moneys to the agriculturist to the extent to which they were doing before the Act was passed. Numerous complaints have been made before our Committee on this question."

This view is rebutted in a press note No. 7 of the Development Department dated 6th December 1938, which says that the co-operative movement is giving every help and there is no need to entertain any feeling of the contraction of credit of a ryot. In fact, time after time the Hon. the Premier has disabused the public mind of any fear of shrinkage of credit by the operation of the Agriculturists' Relief Act.

Let us now pass on to give a summary of the scheme of rural credit as has been formulated in the report of the Madras Estates Land Act Committee.

According to the report the following were the causes of indebtedness, firstly the replacement of the corporate life of the villagers by the individual ryotwari system, secondly the enhancement of rent by the zamindars and Inamdars from their tenants, and of revenue by the Government from their ryots, and thirdly the cost of litigation in courts of law. The first was no doubt a cause of indebtedness, as individual ownership of lands in the place of communal ownership put in possession of ryots a tangible security in land on which they could borrow. But if what was gained by individual ownership was taken away by high rent or revenue on the produce of the land, the ryots or tenants were no better than serfs, and what they should have suffered from is not from a growing debt but want of credit. The amount of debt is less in zamin areas because no one would lend to tenants whose produce is hypothecated to zamindars for the rents due to them. High rents are the cause of want of credit. If land revenue is the cause of debt in ryotwari areas, (it was so in the early decades of the last century owing to high assessments and the varying methods of village leases and direct assessment adopted by the East India Company), then how will the committee explain the investments in land by non-agriculturists, and the leases that have increased both in the zamin and ryotwari areas? Even in zamin areas where rents are indeterminate, sub-leases have enormously grown at high rates, as are evidenced from the collectors' reports published by the Estates Land Act Committee. And even if high assessments or high rents were the cause of debt, they could not explain its growing volume, for no one would lend indefinitely to an agriculturist who has no margin to repay his debts. On the other hand, the economic history of India teaches us that an increase

in the price of produce and value of land, the individual ownership of lands, the growth of land as a good security for raising credit owing to the creation of a record of rights, facilities for registration, the introduction of a civil law, and the facilities given by courts to money-lenders to recover the loans according to the law of the land are the causes for the growth of indebtedness.

The report then refers to a scheme of agricultural banks formulated as early as 1882, and says that it failed because the Government would not give a guarantee required of them. Again it says that:

> It was not to the interest of the British that *such village banking system* (italics ours) should be established in this country, the proposals and schemes had been thrown out, and in their place co-operative Societies Act was passed.

The chief merit of the scheme of Agricultural Banks, according to the report, is that, while Government wanted that the banks should restrict themselves to productive objects, their authors emphasised the need for liquidating old debts and for lending for all useful objects, the bank concerning itself only with the due security for the loan. The report therefore jumps to the conclusion that, because the proposal was for issue of *credit* for all objects, the scheme of Agricultural Banks was for carrying out multi-purposes, in addition to the grant of loans as has recently been recommended in one of the publications of the Reserve Bank of India We will now examine the correctness of these propositions.

An agricultural bank was proposed in 1882 to function as a company bank. It was quite the opposite of the village banking system. The Government of India were against agricultural banks in 1882, because the tenants had no security in land in Upper India provinces, and the scheme was workable only in ryotwari provinces. Also, without a clearance of the huge-amount of debts, the bank could not really start work. According to them

> Improvidence of cultivators and uncertainty of seasons are elements which are liable to interfere with a bank's success, and the difficulties might be met by prudent management. Yet the bank could not hope to succeed, unless it could start in a field where he agricultural classes were unencumbered with debt, or were enabled to liquidate their existing debt on reasonable terms.

Secondly, a multi-purpose society is a Co-operative society. It combines credit, supply of requirements and sale of produce. It is based on the faith that village leadership would be discovered to sufficiently understand the economic conditions of the people, to plan out a programme of development, and enthusiastically carry it out for the benefit of the rich, the middleclass, the small holder, the deficit holder, the tottering village craftsmen, the agricultural tenant and labourer, and the various classes of rural occasional and unemployed labour. It is rather surprising that the report believing in village banks, praises quite the contrary scheme of agricultural banks, and believing in village co-operation condemns the co-operative Societies Act and its working. The fundamental difference between Agricultural Banks and village Co-operative Societies cannot be put better than in the words of Sir Frederic Nicholson himself which we quote below from his report on agricultural banks.

> It is clearly useless for any bank outside a very small circle to think of supplying the countryside with the credit it needs. Nor is it conceivable that the borrower could obtain from such a bank either facile, cheap, or safe credit, the expense of enquiry, the risks of loss on petty loans to unknown persons, would preclude facility, while the element of safety would be largely wanting, since safety requires that the destination of the loan should be a productive one etc. Credit banks cannot and do not enquire into the purpose of a loan, provided the security is sufficient, whereas it is of the essence of village credit that the lending institution shall be a powerful aid to the borrower in checking extravagance and in suggesting useful outlay."

The Madras Estates Land Act Committee, pinning its faith in what is called a multipurpose Co-operative Society, says in the following words that the Co-operative movement has failed

> "Because it gave facilities for a handful of people who were at the head of the co-operative movement to speculate and gain as much profit as possible at the cost of the agriculturists."

It further says that the reason for the failure of the movement was:

> That the Constituents of the societies are not all agriculturists but non-agriculturists. Even though it has failed, and it is acknowledged by the best of the gentlemen who have been working it, still there are people who are resisting the proposals to reform the system by introducing multi-purpose Societies, which the Government of India itself proposed to do nearly 60 years back.

It is pathetic to see the report consistently repeating a glaring untruth that the proposal of an agricultural bank is simultaneous with the formation of a multi-purpose society.

The two reasons it gives for the failure of the Co-operative movement are 'the profiteering nature of the men at the top at the expense of agriculturists and the non-agricultural constituents of the societies.' If one looks into the constitution of the co-operative structure, it will be found that it is so purely federal that the representative of the village Co-operative Society has every power to elect his leaders who are at the top of the movement. And if they are bad, it is a reflection on the village leadership which is unable to discriminate, or being able, is indifferent or self interested. And it is to this village leadership that the report recommends more onerous duties of discharging the functions of a multi-purpose Co-operative Society, namely credit, supply and sale. It has became the common practice to cavil at district and provincial leadership, as those in power only come in touch with the latter, not realising that these leaders, with the best of intentions, are unable to make a move on, in a federal constitution, as they have to choose between office and power, and cannot have both. And it often happens that the village representative who can consolidate votes and has local influence over a clan or community has a larger control over, men at the top. And if the cause for the failure of the co-operative movement is to be laid anywhere, it should be laid at the poor character of village leadership and the absence of a watchful village public opinion. Men at the top have hardly stood in the way of the proper working of village societies, but on the other hand, have given them every help to make them more serviceable and useful to the people.

The fact of the matter is, that the advantages which were claimed for the village Co-operative Society by Sir Frederic Nicholson have not all come true. They have not drawn local capital. They have not helped the small men with petty loans. It was expected that, while agricultural banks might not be able to scale down debts, the village banks would do so, and pay the creditor and realise the settled amount from the member.

But the co-operative movement has come to grief both in Madras and the C. P. by undertaking liquidation of past debts. It was again said that honorary unpaid work would be forthcoming and therefore the cost of credit would be cheapened. On the other hand village secretaries have to be paid and societies have to employ clerks. There is an army

of supervisors who have also to be maintained to assist the societies in their work. In fact, so much has the staff increased in the movement that it is maintaining itself because of the issue of loans on the basis of security rather than on that of repaying capacity, and because also of the utilisation of the profit realised from reserve fund in recurring expenditure. The following were the other advantages claimed by Sir Frederic Nicholson and none of them have come true.

> "Their ability to act as agents and brokers for their members in the sale of produce and purchase of necessaries; their capacity of acting as village granaries, lending grain for maintenance and seed; their ability to act as intermediaries between the State and the individual, whether in matters of loans for land improvements, cattle etc.,"

The multi-purpose society does not seem to have any larger objects in view than these above mentioned. The only difference it makes as compared with the village co-operative society is that it will have jurisdiction over a larger area. That means that village leadership has to be discovered from more than on village. All success that has been achieved in co-operation has come through individuals, rather than through the average village leadership. In the class conflict that exists to-day in the village, it is hardly possible to expect the absentee landlords to be serviceable to tenants or labourers. Neither the big landholder would be interested in the needs of the small-holder as the community of interests between them is little. The problem of organising agriculture is further complicated by the fact of existence of long term debts, uneconomic holdings, and want of employment. The supply of credit for agriculture is less important to the average cultivator than that of work to engage himself. In other words, we want an agency not only to help the villager in agricultural production and marketing, but also to utilise his labour power in remunerative activities. The leadership that is therefore required should combine a knowledge of conditions, a capacity to organise industrial activities, a sympathetic outlook to help all classes, and an earnestness to push a scheme through. A trained and well-paid agency duly controlled from the top and working under an agricultural bank and branches will give far better service to the village ryots and labourers than a co-operative society of the two latter classes. And though India has not to-day a developed citizenship to rehabilitate village life, it has certainly a large army of enthusiastic young men who have been educated in the universities and who are pulsating with a new life to share in the great task of building the economic life of the country. The working of the Spinners' Association has shown what can be done by a central body to help the masses. And if only we had asked the villagers to run spinners' societies, they would have become dormant long ago. What little success can be claimed for co-operation in the Sunderbans in Bengal is due to the working of the societies under the supervision of a single estate which runs a supply store, and markets the paddy of its tenants. Almost every success of a village co-operative society can be traced to a single person in whose absence the society goes to sleep. The way therefore lies in the liquidation of debts by reducing them to a repayable size, and arranging for their repayment by mortgage banks, and by floating an agricultural corporation for each province with branches for carrying out the multi-purposes which are expected to be carried out by a small village society. That way the U. P. Government we understand, are planning, and we hope Madras will take a lesson in this matter from them.

II.

Rates of rent or Waram paid by subtenants to rayats and ryots to zamindar.

Extracts from reports of Collectors

(Published by the Government for the Estates Land Act Committee.)

	Dry land		Manavari land		Wet land	
	By Sub-tenants	By rayats	By Sub-tenants	By rayats	By Sub-tenants	By rayats
	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
Vizagapatam Dist.						
1. Kurupam	Rs. 3 to 6	Rs. 1 to 4	...	...	Rs. 10 to 20	Rs. 5 to 13
2. Mandaras-Zamindars generally get half the produce from their subtenants.						
3, Vizianagaram	Rs. 8 to 15	As. 4 to Rs. 8	...	...	Rs. 10 to 30	Rs. 3 to 22
4. Parlakimedi	...	As. 8 to Rs. 3	...	Re. 1 to 4½	...	Rs. 2 to 7

The rayats collect from subtenants from 50 per cent to 66 p. c. of the produce on wet lands.

5. Mohagam	10	5	12	5	28	23/8
6. Talasamudram	...	...	20	4 to 40	...	...

(1) Kind rent on wet lands paid by rayats ranges between 8 and 20 garce per acre and that paid by tenants between 10 and 23 grace.

(2) In a number of estates of Vizagapatam district the report mentions that one rupee per acre for dry lands and Rs. 2 for other class of lands is paid to the ryot in addition to the rent due to the Zamindar.

(3) Some others mention half the produce as what is paid by subtenants.

(4) In some others 5 to 15 putties for dry lands, 5 to 20 putties for manavari lands, and ten to thirty putties for wet lands is mentioned as the kind rent paid by subtenants.

Thongedu Gotwada	Rs. 2 to 6	Rs. 1-4 to 4-12	...	...	10 to 25	7-11 to 19-8
Salur	Half share produce. Subtenants to bear costs of cultivation.					
Shermahamadapuram	4 to 20	Rs. 1 to 5	...	Rs. 1 to 5	8 to 30	Rs. 5 to 16
Kesavarayanipalem	8 to 15	1 to 10	...	...	...	...

	Dry		Manavari		Wet	
	Subtenants	Rayats	Subtenants	Rayats	Subtenants	Rayats
Madgole	Rs. 1 to 25	4 as. to Rs. 25	...	...	10 to 50	Rs. 1 to 35
West Godavari Dist.						
Gundefalle	10	4	...	...	5 bags of paddy per acre	8
Mirzapuram	...	6-4	...	...	7 to 12 bags	8
Nidadavole	5	10-0	...	...	6 to 15 bags of paddy	9-2

Note:—Dry rates are generally double, while paddy rates are half the share of the produce.

One half of the produce by subtenants after appraisement of the crop.

	Dry		Manavari		Wet	
E. Godavary.						
Kottam and Pithapuram	Subtenants generally pay twice the rental paid to estates.					
Estates in Amalapuram Tq.	Average rates of rent paid by rayats on dry lands are less than half of what is paid by subtenants. In the Wet lands the subtenants pay a rent up to 10 bags of paddy or 200 Kambambs or 100 Kunchams per acre, while the rayats pay to the Zamindar up to Rs. 37 per acre.					
Kapileswaram Tq.	10 to 25	2 to 18	...	...	...	...
Pittapuram Tq.	10 to 30	2 to 18	...	...	...	...
Gopalapuram Estate	10 to 35	4-12 to 5-15	...	...	...	...
Palivela Estate	10 to 30	3 to 20	...	...	...	...
Ramachandrapuram Tq.	Rates paid by subtenants are generally double of what rayats have to pay the zamindars.					
Kistna Dist.						
Devarakota	10 to 30	4 as. to Rs. 6	...	...	...	...
Gudivada Tq.	Rs. 2 to 5	Rs. 2 to 3	...	8 to 12 bags of paddy	...	2-4 to 14-8
Nandigama Tq. Vissanapet	The tenant pays on dry lands twice the assessment payable to the proprietor on the land. Half produce system in wet lands.					
Nuzvid Tq.						
Vuyyur, Mirjapuram	...	...	Rs. 100 to 180	Rs. 2 to 37	...	...
Estates in Bezwada Tq.	Rs. 2 to 35	5 as. to 12 - 5 as.	...	...	Rs. 40 to 50	Rs. 6 to 18
Nellore Dist.	In Venkatagiri half the yield is paid by subtenants on Wet lands.					

	Dry		Manavari		Wet	
	Subtenants	Rayats	Subtenants	Rayats	Subtenants	Rayats
Guntur Dist.						
Agraharams	Rs. 10 (average)	Rs. 2 (average)	...	...	...	...
Chengleput Dist.	Half the produce irrespective of the crops raised is payable by subtenants.					
Thinananur Enadur	For every ten markkal 50 or 55 to be paid to the ryot by subtenants.					
Pazhayanur	55% of the net produce i. e. after payment for village artisans, to the owner of the land. The straw belongs to the subtenant and the rent is to be paid by the rayat.					
North Arcot Dist.						
Kangundi	Half the produce if irrigated directly. Two shares to the ryot and three shares to the tenant if irrigated by bailling to the tenant.					
Chittoor Dist.						
Naragallu and two other villages	One third of the produce in dry lands and half the produce in wet lands.					
Gudipatti	Rs. 45 to 75	14 as to Rs. 4	...	...	Rs. 45 75	Rs. 5 to 22-6
	The high rate is for sugar cane lands. In other cases it is half the produce in kind.					
Pulicharlapoliem Estate	...	8 as to 6-3-0	...	...	...	4-1-0 34-11-0
	1½ share to subtenants and one share to rayats in dry lands. ½ share to subtenant and ½ to rayats if tank water is used and 1½ share to subtenant and one share to rayat if well water is used.					
South Arcot	No subtenants paying waram or rent except in Zamin Malliapat where it is half waram.					
Salem Dist.						
Salem Zamin Estate	Rs. 20	15 as to 13-14-0	Rs. 14	4 as to Rs. 6	Rs. 25	1-4-0 to 16-0-0
Animoor	15 to 24	2 to 6	5 to 15	7 as. to 5-9-0	10 to 15	3 to 5-12-0
Komaramangalam	25 to 35	Rs. 2-8-0 to 7-0-0	5 to 10	5 as to Rs. 5	25 to 35	Rs. 2-8-0 to 16
Konganapuram	8 to 25	1-4-0 to 5-6-0	5 to 15	3 as to 3-10-0	10 to 30	4-3-0 to 9-6-0

	Dry Subtenants	Dry Rayats	Manavari Subtenants	Manavari Rayats	Wet Subtenants	Wet Rayats
Kokkarayampettai	12-8-0 to 20-0-0	1 to 5-4-0	4 to 16	8 to 4-11-0	15 to 26-4-0	4-8-0 to 6-8-0

Bagalur — The rayats pay to the proprietor dry land rates varying from 8 as to Rs. 2-4-0 and on wet lands Rs. 2-12-0 to Rs. 7-8-0. One fourth of the produce harvested is generally paid by the cultivators to the pattadars in the case of dry lands and one half in the case of wet lands. The kist is shared equally.

	Dry Subtenants	Dry Rayats	Manavari Subtenants	Manavari Rayats	Wet Subtenants	Wet Rayats
Coimbatore Dist.						
Paravipalayam	20	3-11-0	10 to 15	11 as. to Re. 1 2 as.	...	...
Ramapatnam	20 to 25	1-2-0 to 4-3-6	10 to 15	7 as. 9 ps. to Re. 1 2 as.	...	...
Samathur	20 to 25	2 to 4-3-0	10 to 15	0-14-0 to 1-12-0	...	...
Uthukuli	20 to 25	3-2-0 to 4-3-9	10 to 15	0-13-9 to 1-9-11	...	...
Whole Inam villages	5 to 25	1-8-0 to 3-2-0	10 to 20	As. 10 to Re. 1	15 to 40	4 to 12
Vellimalaipalayam estate	10-15-0	9 as. to 1-8-0	8 to 12-0	9 as. to Re. 1	...	...
Trichinopoly Dist.						
Udayarpalayam	...	1-5-8 to 10-11-4	...	...	...	...

Half the yield is paid by subtenants.

	Dry Subtenants	Dry Rayats	Manavari Subtenants	Manavari Rayats	Wet Subtenants	Wet Rayats
Andipatti	Rs. 2 to 3	7 as. 4 ps. to 1-8-8	...	...	25	5-3-0
Kattuputtur	3 to 10	4 as. 6 ps. to 3-2-0	...	...	30 to 125	6-4-0 to 21-2-0

	Dry		Manavari		Wet	
Marungapuri	...	2-11-4 to 5-6-7	...	11 as. to 2-2-0	...	15 as. 5 ps. to 7-3-6

The subtenant pays half of the yield in the case of wet and dry lands, one third in the case of garden lands, and twice the assessment in the case of leases which are very few.

	Dry		Manavari		Wet	
Inam Tiruppangili	2-4-0 to 4 Rs.	10 as. to 2-4-0				
		2-11-1		11 as.		1-10-0

The subtenant pays on dry lands also at a waram rate of Rs. 30 to Rs. 20 Madras measures per acre.

	Dry Subtenants	Dry Rayats	Manavari Subtenants	Manavari Rayats	Wet Subtenants	Wet Rayats
Kadavur	35 to 60	to 5-7-0	10 to 15	to 1-12-10	...	to 2-4-0
Tanjore Dt.						
Kadiramangalam	24	3-8-0	...	...	33 to 49-8-0 24-12-0	11-14-0 to 17-14-0
Thittacheri	9	3to7-8-0	...	...	to 37-2-0	18-0-0
Daraswaram	20	3-12-0	...	...	25 Kalams per acre	4 to 8
Mokhasa villages in Papanasam Tq.	Rs. 15 to Rs. 30	1-15-6 to 4-13-9	...	...	30 to 40 Kalams	16 Kalams
Perambur and Midamangalam	5 5 to 106	3-3-9 to 4-8-0	...	...	18 to 30 Kalams an acre.	...
Pattukottai Tq.	Rs. 3 per acre waram 2/5 to 1/2	Re. 1 to Rs. 5	...	...	Half produce	Rs. 3 to Rs. 7
Madura Dt.						
Ayakudi	10	5 as,9ps. to 5-12-1 ps.	...	...	40	1-1-3 to 17-15-11
Idayacottar	15 to 20	5as10ps. to 3-9-10	...	...	40 to 50	2-2-9 to 4-8-5
Ammayanayakkanur	Half the yield	14 as to 9-0-6	6 Kalams of 48 m. m.	0-11-8 to 8-2-0	...	...
Thevaram	One-third of the yield	0-8-4 to 1-7-4	...	...	Half the yield	1-0-8 to 10-6-8
Gandamanayakkanur	Rs. 7 to Rs. 15 per acre	11 as to 5-3-6	...	...	20	1-11-8 to 4-5-4
Vallamadhi	7 to 15	5as. 7ps. to 3-9-9	...	...	20	3-9-8 to 4-4-3
	1 to	5as. 9ps.			4-4-0	0-11-7

	Dry Subtenants	Dry Rayats	Manavari Subtenants	Manavari Rayats	Wet Subtenants	Wet Rayats
Kannivadi	10	to 5-6-8	...	...	to 50	to 10-13-5
Peraiyur	Common expense 20°/o Remainder equal halves	1-12-0 to 4-11	...	...	...	2—9-0 to 5—5-0 ?
Saptur		8 as to Rs. 5	...	...	...	6—0-0 to 24-0-0

In dry lands the lessor gets *one* third and in wet lands 2/3.

Tinnevelly and Ramnad Dists.

Ramnad — Subtenancy does not generally obtain in the Zamindari areas as the waram tenure of wet lands seldom leaves anything to the cultivator after deducting the cost of cultivation etc. The dry lands are not fertile enough to yield a net harvest encouraging subtenancy.

Sivaganga — Tenants pay in kind to rayats in the ratio of 1:2 or equal shares after the deduction of cooly charges etc. Rents on dry lands in Sivaganga paid by rayats to the proprietor vary from 2 as. to Rs. 4. The wet land rate is Re. 1 to Rs. 25.

Other estates in Sattur, Srivilliputur and *Koilpatti* Tqs. — Subletting at high rents is common in the estates *of* Sivagiri, Palavanatham, Gollapatti, Sevalpatti, and Ettayapuram. They are generally three times the assessment.

Kuruvikulam	...	1-2-8 to 2-6-4	...	*7 as. 5 ps.* to Rs. 1 9 as. 6 ps.	...	3 to 6
Tiruvettanallur	...	0-5-7 to 7-1-3	...	...	...	3-3-10 to 21-5-4
Kulasekharam-anagalam	...	0-6-9 to 4-13-9	... ...	... ...	... ...	2-7-6 to 12-5-6
Singampatti	...	...	...	...	15 to 21 kottas per 1·62 acre	4-15-0 to 21-10-0 per acre
Urkad	...	...	...	...	13 kottas per 1·62 acre	*10 to* 105 per acre

	Dry Subtenants	Dry	Manavari Subtenants	Manavari Rayats	Wet Subtenants	Wet Rayats
Inam Vagaikulam	...	...	...	...	14 marakkals for every one kotta of yield i.e. 2/3	60 to 75
Ettayapuram	1 to 5	0-5-8 to 2-1-6	... ...	... .	1 to 25	0-7-4 to 8-1-9
Kadambur	...	1-8-0 to 14-1-0	4 to 10	0-4-8 to 2-5-4	10 to 50	4-13-8 to 9-5-4
Inam Poovani	6	0-4-0 to 1-11-0	...	...	12-8-0	4-6-0

In the estates of Tinnevelly district the subtenants generally pay between 1/3 and half the produce in dry lands, and 1/2 and 2/3 of the produce in wet lands.

III

A Note on the village "as an autonomous republican unit."

The report of the Committee refers to the existence of village republics during the pre-British rule. But this is mistaking villages held in superior tenure by privileged classes, and the combination among revenue farmers in a village to pay the revenue to the rulers, as joint tenures. In the South there were agraharams granted free of revenue to Brahmins. There were other villages granted to Sudras who were religiousminded as Pandaravadikais. In the country between the rivers South and North Penuar certain grantees were given a portion of lands revenue free. (Baden-Powell-village communities p. 367). In many of these villages the superior classes who could not cultivate, arranged for common " cultivation, but the plots were held in severalty. *Mr. Baden Powell says* that, as the Brahmins were non-agriculturists, it is quite likely that some families among them would hold jointly i. e. dividing the income, " while family quarrels and jealousies would lead others to divide the land itself. " In some villages the lands were held in common and distributed periodically to the owners of shares, with a view to prevent certain sharers enjoying all the good lands, and certain other shares all the bad lands. There were again single landlord villages cultivated by tenants. The assemblies in these villages were no more than a meeting of the privileged shareholders to arrange for cultivation by tenants and slaves, and to distribute the profits among themsleves. This work naturally brought in its train the further responsibility for the elders of arranging for transfers when a mirasidar left the village, and of admitting strangers to possession without the special privileges which the original settlers had. Curiously enough these superior tenures are to be found only in irrigated areas. The shares from land were divided into three kinds the melvaram (rayat share), thunduvaram (landlord's share), and kudivaram (the cultivating occupant's share). There were a number of villages too where the joint tenure did not prevail.

The report of the Committee mistakenly refers to nattamakars or village elders in Dindigul as the village community. These were four or five important families in a village who took the responsibility on themselves to pay the revenue to the rulers, and whom the villagers feared and respected owing to the quasi-official status they had in the village. Even in joint-ownership villages, the strength of the village community lay in the danger from without, and between the risk of a dismembered village which may be harassed by the nabob's men, and the evil of putting up with the administration by elders, the villagers preferred the latter. These village communities of elders existed so long as they had the official recognition. To the ordinary masses of villagers, quarrels among the elders were their only hope, when alone they could gain in importance. The State farmed out its revenues in ancient days to a few people in every village, because that was the only possible method of administration. As a result, these people claimed certain proprietory rights in land, rights over waste lands and forests. The Hon. the Minister and his committee want to restore these farmers of revenue styled mirasidars, and grant them the mining, water, and forest resources of the country.

If he will possibly go back a few more centuries, he could not have found inam villages, but certain superior settlers and original cultivators of the soil. Claims of property arose either owing to the clearing of a jungle and reclaiming it for cultivation, or conquest. Is it the idea to restore the proprietory ownership in the soil on this basis? Rights of property also change with the growth of a centralised government, which having picked up strength, is in a position to day to protect the individual right to live and work, instead of farming out the lives of the people to privileged tenureholders in a village. Should the State still think of delegating its larger responsibility of social and economic welfare to these village leaders, who have neither the capacity nor the strength of the bigger unit of the State to develop the natural resources of the country. We cannot do better than quote the conclusions of Baden-Powel about the character of village communities.

"Those who have hoped to see in the joint village anything of a communistic or socialistic type, will, I fear, be disappointed by a study of the real facts. By far the larger portion of the joint villages were in origin the result not of Communism but of conquest: of tribal and caste superiority, and of family pride in the common descent from a house that once held sway in the country around. Not a few are the descendants of successful 'farmers' (of revenue) auction-purchasers, and land speculators who in common with others acknowledge the joint family law and the consequent joint inheritance."—(p. 443).

IV

Extracts from the *report* of the Famine Commission of 1879.

(1)

ENLARGEMENT OF TENANT RIGHTS.

Where the subdivision of lands among tenants-at-will is extreme, and in a country where agriculture is almost the only possible employment for large classes of people, the competition is so keen that rents can be forced upto a ruinous height, and they will crowd each other *till the space left* to each is barely sufficient to support a family; any security of tenure which defends a part of the population from that competition must necessarily be *to them* a source of material comfort and peace of mind.... Measures should be framed to secure the consolidation of occupancy rights, the enlargement of the numbers of those who hold under secure tenures, and the widening of the limits of that security together with the protection of the tenant-at-will in his just rights, and strengthening of his position by any measure that may seem wise and equitable.

(2)

Protection of Sub-tenants.

Concurrently with the extension of rights of transfer, the practice of sub-letting by an occupancy tenant should be discouraged *or even, if* possible forbidden. If a tenant for a long period fails to keep up the stock required for cultivating his land or otherwise ceases to be by occupation and habit a *bona fide* cultivator, the rights he or his ancestors acquired by cultivating the soil might reasonably pass from him to the person who, having become the actual cultivator, occupies his place. (Para 31.)

(3)

Prevention of sub-leases in rayatwari areas.

In consequence of the tendency on the part of those who are recorded as ryots to sublet their lands or part of them and to *live on the difference* between the rents they receive and the revenue they pay to Government, a considerable class of subordinate tenants is growing up who have no permanent interest *in* the land, and who pay such high rents that they must always be in a state of poverty. These subordinates are not recorded or recognised in the Government registers, but the existence of such a class involves the same evils as we have *dwelt on* in the case of tenants in Upper India. We think that the question should be submitted to the consideration of Local Governments, whether it is *contemplated under* land revenue settlement, Government ryots should be permitted to sublet their lands, and if so, whether measures should not be taken for recognising *the status of* such sub-tenants, and recording the area they hold, the rents they pay, and the conditions of their tenure. (Para. 3[illegible].)