REPORT OF THE MALABAR TENANCY COMMITTEE

VOLUME I

THE REPORT

MADRAS
PRINTED BY THE SUPERINTENDENT
GOVERNMENT PRESS
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CHAPTER I—INTRODUCTION.

1 The circumstances which led to the appointment of the present Malabar Tenancy Committee and the terms of reference to the Committee are given in the following extracts from Government Order No. P. 1666, Revenue Department, dated 5th July 1939 :—

"In October 1938, the Government gave notice of introduction in the Legislative Assembly of a Bill to amend the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930). The scope of this amending Bill was restricted to the removal of certain difficulties experienced in the working of the Act. The Bill, however, was not actually introduced as it was subsequently decided, in view of the persistent demand for a more thorough revision of the Act, that the necessity for legislation of a more comprehensive character should be considered. It has accordingly been decided that a Committee should be appointed to study on the spot the nature and effects of the land tenures prevailing in the Malabar district and in adjacent areas where similar tenures are prevalent and to suggest for the consideration of the Government such legislative measures as it might consider necessary for the regulation of tenancy and similar relations in these areas.

"The Committee is requested in particular to investigate and report on the following points :—

(1) the origin and nature of the several interests held by the janmis, the intermediary tenure holders of land and the cultivating tenants,

(2) the respective rights of the janmis and of the various kinds of tenure holders, viz., Kanamdars, Melkanamdars, Kuzhikanamdars, Sub-kanamdars, Kudiyiruppus, Verumpattamdars, etc.,

(3) the basis of the assessment of rent and the factors that should be taken into consideration in fixing a fair rental for dry, garden and wet lands in the case of the various kinds of tenure holders,

(4) the necessity of securing fixity of tenure to the various tenure-holders,

(5) the origin and nature of "renewal fees" and the necessity for controlling these by legislation,

(6) the desirability of revising the present legal provisions regarding relinquishment, eviction and compensation for improvements and of extending the provisions of tenancy legislation to fugitive cultivation and the cultivation of pepper,

(7) the necessity for making legal provisions to prohibit levies of feudal character and to secure the standardization of the weights and measures to be used in tenancy and rental transactions,

(8) the suitability of the legal processes, penalties and procedure provided by the present Tenancy Act, and

(9) whether the intended legislation should be extended to the Kasaragod taluk in the South Kanara district and the Gudalur taluk in the Nilgiris district."

2. The personnel of the Committee appointed in the Government Order already quoted was as follows :—

(1) Sri K. Kuttikrishna Menon, B.A., B.L. (*Chairman*).
(2) ,, R. M. Palat, Bar.-at-Law, M.L.A.
(3) ,, Raja Sir V. Vasudeva Raja Valia Nambidi of Kollengode, C.I.E.
(4) Khan Bahadur P. M. Attakoya Thangal, M.L.A.
(5) Sultan Adi Raja Abdur Rahiman Ali Raja Avl., of Cannanore, M.L.A.
(6) Sri E. M. Sankaran Nambudiripad, M.L.A.
(7) ,, A. Karunakara Menon, M.L.A.

(8) P. K. Moideen Kutti Sahib Bahadur, M.L.A.

(9) Sri R. Raghava Menon, M.L.A.

(10) ,, M. Narayana Menon, M.L.C.

(11) ,, C. K. Govindan Nayar, M.L.A.

(12) ,, M. P. Damodaran, M.L.A.

(13) ,, P. K. Kunhi Sankara Menon, B.A., B.L.

(14) ,, N. S. Krishnan.

(15) ,, E. Kannan, M.L.A.

(16) ,, K. Madhava Menon, M.L.C.

(17) P. I. Kunhammad Kutti Haji Sahib Bahadur, M.L.A.

(18) Sri U. Gopala Menon, B.A., B.L.

(19) Muhammad Abdur Rahman Sahib Bahadur, M.L.A.

Mr. A. J. Platt, I.C.S., was appointed as Secretary to the Committee. He joined duty on 17th July 1939.

3. The Committee very greatly regrets that one of the members, Raja Sir V. Vasudeva Raja, fell ill after he had attended the Committee's first meeting and passed away before the Committee's deliberations were concluded. The Committee has thus sustained a great loss in being deprived of the benefit of Sir Vasudeva Raja's knowledge and experience. As the only member of this Committee who had also served on the Raghaviah Committee, his assistance would have been invaluable to us. We wish to record our sorrow at his death and our appreciation of the services which he was able to render to us.

4. Khan Bahadur P. M. Attakoya Thangal was prevented by ill-health from taking part in the Committee's deliberations. It is a matter of great regret to us that we were thus unable to profit by his knowledge and experience.

5. The Chairman convened the first meeting of the Committee at Madras on 5th August 1939. At this meeting the Committee approved rules for the conduct of business, settled the Questionnaire * and decided to record evidence at two centres in Ponnani taluk and one centre in each of the other taluks (except Cochin) in the Malabar district and at one centre each in the Gudalur taluk of the Nilgiri district and in the Kasaragod taluk of the South Kanara district.

6. The Questionnaire was given wide publicity in the press and copies of it were sent to over a thousand persons in Malabar and elsewhere asking for replies by 6th September 1939. The response to the Committee's Questionnaire was most gratifying. In all 459 replies were received. The following table shows the number of replies received from different classes of persons :—

Replies received.

Taluks.	Janmis.	Kanamdars.	Kuzhikanamdars and verumpattamdars.	Peasants' Associations.	Lawyers.	Government officials and others.	Total.
Malabar district—							
Palghat	6	5	2	..	5	5	23
Ponnani	38	4	2	10	6	3	63
Walluvanad	39	12	7	17	2	3	80
Ernad	18	5	2	8	2	2	37
Calicut	15	1	..	9	6	4	35
Wynaad	2	2	..	1	..	..	5
Kurumbranad	3	2	5	17	2	..	29
Kottayam	7	..	36	50	5	1	99
Chirakkal	8	..	6	33	4	..	51
Cochin	1	..	..	..	1	..	2
Total ..	137	31	60	145	33	18	424
Nilgiri district—							
Gudalur	1	1	..	2	1	2	7
South Kanara district—							
Kasaragod	1	..	..	14	2	1	18
Madras City	..	..	..	..	6	4	10
Grand total ..	139	32	60	161	42	25	459

7. The Committee's second meeting was held at Madras on 12th October 1939 when the Committee decided on the programme of its tour in Malabar and the witnesses to be invited to give evidence. Most of the witnesses were selected from the persons who had answered the Committee's Questionnaire, but a few other persons were also invited to give evidence.

* See Appendix A.

8. The Committee toured the area affected by its enquiry during the months of October, November and December 1939 and recorded evidence at the following centres on the dates noted against each centre. Some evidence was also recorded at Madras.

Taluk.	Centre.	Date.	Total number of witnesses examined.
Malabar district—			
Palghat	Palghat	23rd, 24th and 25th October 1939	11
Ponnani	Chowghat	28th and 29th October 1939	7
Ponnani	Tirur	30th October 1939	3
Walluvanad	Perintalmanna	4th, 5th and 6th November 1939	9
Calicut	Calicut	10th, 11th and 12th November 1939	8
Ernad	Manjeri	18th, 19th and 20th November 1939	9
Wynaad	Vayittri	25th and 26th November 1939	6
Nilgiri district—			
Gudalur	Gudalur	27th and 28th November 1939	7
Malabar district—			
Kurumbranad	Badagara	2nd, 3rd and 4th December 1939	5
Kottayam	Kuthuparamba	9th, 10th and 11th December 1939	6
Chirakkal	Taliparamba	16th, 17th and 18th December 1939	8
South Kanara district—			
Kasaragod	Kasaragod	19th, 20th and 21st December 1939	9
Madras City	....	14th, 15th and 16th January 1940	6
		Total	94

9. The Committee endeavoured as far as possible to hear representatives of all interests as well as disinterested persons. The following table shows the classes of witnesses examined :—

Witnesses examined.

Taluk.	Janmis.	Kanamdars.	Kuzhikanamdars and verumpattamdars.	Peasants' Associations.	Lawyers.	Government officials and others.	Total.
Malabar district—							
Palghat	3	1	2	1	4	..	11
Ponnani	2	2	..	3	3	..	10
Walluvanad	2	4	1	1	1	..	9
Ernad	3	2	1	1	2	..	9
Calicut	2	1	..	1	2	1	7
Wynaad	1	3	..	2	..	..	6
Kurumbranad	..	1	2	1	1	..	5
Kottayam	1	..	..	3	1	1	6
Chirakkal	1	..	1	2	2	2	8
Cochin	..	..	..	..	1	..	1
Total	15	14	7	15	17	4	72
Nilgiri district—							
Gudalur	2	1	..	1	1	2	7
South Kanara district—							
Kasaragod	3	..	..	2	2	2	9
Madras City	1	..	..	..	3	2	6
Grand total	21	15	7	18	23	10	94

10. The Committee met continuously for four days at Madras on 3rd, 4th, 5th and 6th February 1940 and reached decisions on the points referred to it.

11. The Committee considered a draft report at a meeting at Madras on 24th February 1940. While approving portions of the report the Committee decided that some further matter should be incorporated in it. A revised report was accordingly drafted and approved by the Committee at its final meeting held at Calicut on 30th and 31st May 1940.

12. We have received the most cordial co-operation from the public in general, and from the witnesses in particular. All the non-official witnesses appeared before us at their own expense, often at considerable personal inconvenience. We should be guilty of ingratitude if we did not record our sincere appreciation of their readiness to give us the benefit of their knowledge and experience. We also wish to record our thanks to the District Judges of North and South Malabar and the other officers of the Judicial Department, to the Deputy Director of Agriculture, Coimbatore, to the District Forest Officer of Nilambur and last, but not least, to the Collectors of Malabar, South Kanara and the Nilgiris and their subordinates for their very great assistance in our deliberations and in the arrangements for our tour.

CHAPTER II—HISTORY OF TENANCY LEGISLATION.

13. The subject of Malabar tenancy legislation has been before the Government and the public for a period of nearly sixty years and the mass of literature that has grown round it is enormous. While we have no desire to revive controversies which led to acrimonious discussions in the past at the same time we feel that this report would not be complete without a reference, however brief, to the history of the subject for the last sixty years.

14. The question of land tenures first attracted the serious attention of the Government because of the Moplah * outbreaks which assumed grave proportions from 1836 onwards and continued to mar the tranquillity of Malabar down to recent times. In 1880 the Government received an anonymous petition in which it was stated that a terrible outbreak would occur on account of the strained relations between landlords and tenants in Malabar. The petition was referred for report to Mr. Logan, the then Collector of Malabar, to Mr. Wigram, the then District Judge and to Mr. Macgregor, a former Collector of the district. These officers reported that in several parts of the district there was much agrarian discontent. The Government, therefore, in 1881 appointed Mr. Logan as Special Commissioner to investigate the question of land tenures and the adequacy of compensation allowed for tenants' improvements. Mr. Logan made elaborate inquiries into the subject and came to the conclusion that when British rule began the janmi was not the sole proprietor of the soil, that the kanamdar, ' the kudiyan,' had as stable a right in his holding as the janmi had in his, and that the respective rights of the parties were well regulated by custom. According to Mr. Logan, customary relations had been disturbed in favour of the janmi who had come to be regarded as having absolute allodial rights and the compensation awarded to the tenant on eviction was insufficient and did not deter the janmi from exercising his right of ouster. He recommended legislation for giving fixity of tenure to actual cultivators of holdings not exceeding 25 acres of wet or dry land, or of 5 acres of garden land. He further recommended the fixing of the rent at two-thirds of the net produce. The report was vigorously criticized by various persons and the whole question of Malabar tenures was referred by the Government to a Special Commission presided over by Sir T. Madhava Rao, the remaining members being Mr. Logan, Mr. Wigram, Mr. (afterwards Sir) C. Sankaran Nayar and Mr. P. Karunakara Menon. The Commission in their report, dated 17th July 1884, adopted much the same views as Mr. Logan, and recommended giving fixity of tenure to persons who held directly under the janmis for a stated period of years. The views of the Commission were subjected to a very trenchant criticism by Sir Charles Turner, the then Chief Justice of Madras, in his Minute on Malabar Land Tenures. The Minute upheld the view taken by the administrative and judicial officers that the janmi had always possessed an unqualified and absolute right to the soil and that the tenant could be evicted at his pleasure after the contractual period of the tenancy. He nevertheless recommended the conferring of occupancy rights on cultivators who had held less than a certain area for fifteen years continuously. In view of the strong observations made by Sir Charles Turner on the recommendations of the Commission, the Government appointed a very strong Committee presided over by the Hon'ble Mr. Master, a member of the Executive Council of the Governor, and including such well-known persons as Sir T. Madhava Rao, Mr. Justice (afterwards Sir) T. Muthuswami Ayyar, the Hon'ble Mr. (afterwards Sir) S. Subramania Ayyar, the Hon'ble Mr. (afterwards Sir) H. Sheppard and Mr. (afterwards Sir) C. Sankaran Nayar, to consider the whole matter in the light of Sir Charles Turner's criticism. The Committee decided that it was necessary to give the tenant on eviction the full value of his improvements and accordingly a bill was drafted to that effect and submitted to the Government on 9th February 1886. The Government placed it on the Statute book as The Malabar Compensation for Tenants' Improvements Act, I of 1887. As regards the question of redeemability of the kanam and the absolute right of the janmi, the Committee by a majority agreed with the views of Sir Charles Turner. They were of opinion that the legislative recognition of an occupancy right in the tenants of Malabar was not justified by historical considerations or in view of any political necessity. They recommended legislation to the effect that no tenant should be ejected except at the end of an agricultural year and after giving six months' notice and that the Collector should be empowered to grant waste lands in the ownership of private persons on patta to agriculturists. They accordingly submitted a draft bill to the Government along with their report but the Government did not accept the bill.

15. Experience of the working of the Act I of 1887 showed that it had not had the effect of checking the growing practice of eviction. The Government, therefore, undertook

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* According to the census of 1931—

Population of Malabar	3,533,944
Muslim population of Malabar	1,163,453
Muslim population of the whole Presidency ...	3,305,937

an examination of the causes of the partial failure of the Act and came to the conclusion that the failure was to some extent due to the inadequacy of the compensation awarded by the Courts and that further legislation was necessary to rectify the defects of the Act. In 1895, therefore, the Government decided that the Act must be amended and Mr. (afterwards Sir) R. S. Benson, who was placed on special duty for the purpose, drew up the draft of a Bill. Subsequently, the Government considered that the mere amendment of the Improvements Act might not be sufficient and that it was probably necessary to have further legislation to amend the whole law of landlord and tenant in Malabar and accordingly in 1899 Mr. T. Ross, I.C.S., was placed on special duty to draft a comprehensive Tenancy Bill for Malabar in which was to be incorporated the Compensation for Tenants' Improvements Bill drafted by Mr. Benson. Unfortunately, Mr. Ross died before the work was finished and the Government dropped the idea of a comprehensive tenancy legislation. Mr. Benson's Bill was, however, taken up and passed into law as Act I of 1900 which had the effect of repealing Act I of 1887 and re-enacting it with considerable amendments.

16. Within a few years of the passing of Act I of 1900 complaints were made that the Act, like its predecessor, Act I of 1887, had not had the effect of imposing a check on the arbitrary exercise of the power of eviction and that 'Melcharths' had become usual for the purpose of evicting the tenants in possession. What the tenant wanted was not compensation on quitting his holding but the right to continue in possession of it on payment of a fair rent. Legislation on the subject of compensation, it was urged, did not do all that was necessary to put tenancy relations in Malabar on a proper basis. Mr. Dance, the Collector of Malabar, was so impressed by the 'Melcharth' evil that he proposed legislation to stop it. He drafted the 'Malabar Melcharths Bill' with a view to restricting the power of granting 'Melcharths' possessed by the janmis, but the Government, in 1901, after a careful consideration of the measure, refused to act on it.

17. The subject of tenancy law for Malabar was again examined from time to time and in 1905 the Government decided not to consider the matter further until the Estates Land Bill had been passed. In the Bill, as it was originally introduced in the Council, there was a provision enabling the Government to extend its operation by notification to the Malabar district, but the provision was removed before it was passed into law in 1908. In 1911 the Government called for a report on the working of the Compensation for Tenants' Improvements Act and this led to the re-opening of the larger question of a comprehensive tenancy law for Malabar. Mr. (afterwards Sir Charles) Innes who was the Collector of Malabar made a report in 1915 reviewing the various difficulties under which the tenant was labouring. According to him, the main evils which required remedying were insecurity of tenure, rack-renting, exorbitant renewal fees, social tyranny and miscellaneous exactions. He examined the statistics of population and the land available for cultivation and came to the conclusion that it was a matter of economic necessity to give fixity of tenure to the tenant as the extension of cultivation would be greatly accelerated if the tenants who reclaimed lands were given more protection against eviction. He accordingly recommended that fixity of tenure should be given to all cultivating tenants who had been in possession of land in a village for a period of 15 years and to non-cultivating tenants (tenure-holders or intermediaries as they were called) who had been in possession of a holding or part of a holding continuously for a period of 40 years. The proposals of Mr. Innes were severely criticized by his successor, Mr. Evans, who reported that there was no political or economic reason for undertaking legislation. The Government agreed with Mr. Evans and dropped the question of tenancy legislation.

18. It is convenient at this stage to refer to the history of tenancy legislation in the neighbouring States of Travancore and Cochin where the tenures are similar to those prevalent in Malabar. An order of His Highness the Maharaja of Travancore, dated 25th Vrischikam 1005 M.E. (1829 A.D.), declared that by the established usage in the country, the tenant (kanamdar) was entitled to remain in possession as long as he paid the rent and other customary dues and directed that the tenant should pay the janmi his usual ordinary and extraordinary dues, and that the janmi should receive the same and let the tenant remain in possession and enjoyment of the property. Later it was found expedient to reaffirm and reiterate the order and accordingly a Royal Proclamation was issued under date, 25th Karkitakam 1042 M.E. (1867 A.D.). The Proclamation expressly stated that so long as the kanamdar paid the stipulated rent and other customary dues, he should not be liable to action for ouster by the janmi and that courts should not give judgment in favour of such action. The Travancore Janmi and Kudiyan Regulation, V of 1071 M.E. (1896 A.D.) was passed with a view to carry out in its entirety the intention of the Royal Proclamation of 1042 M.E. and was chiefly aimed at conferring on the kanam tenant fixity of tenure by checking capricious evictions and restricting the demand for exorbitant rents and renewal fees on the part of the janmis and securing to the latter punctual payment of rent and other customary dues. Fixity of tenure and fair rent were secured to the kanam tenant and facilities were given to the janmi for the speedy realization of rent and renewal fees. In the Cochin State, after an inquiry by a Commission, legislation was found necessary and accordingly the Cochin Tenancy Regulation, II of 1090 M.E.

(1914 A.D.) was passed. It gave all tenants the right to claim the value of their improvements on eviction and conferred a sort of fixity of tenure on all kanam tenants of thirty years' standing. It also afforded the janmis adequate facilities for the speedy recovery of arrears of rent from recalcitrant tenants by filing summary suits in civil courts.

19. The matter of tenancy legislation in Malabar became a live issue again when Diwan Bahadur (afterwards Sir) M. Krishnan Nayar raised the question of the grant of permanent occupancy rights to kanamdars. He finally introduced a Malabar Tenancy Bill in the Legislative Council in 1924. The Bill was intended to confer fixity of tenure on all kanamdars and on all cultivators of the soil who had been in possession for six years or more and to prohibit the grant of melcharths altogether in any form. It also contained provisions for fixing the rent and renewal fees. The Legislature passed the measure in 1926 with considerable modifications but His Excellency the Governor thought it necessary to withhold his assent to it. The Government immediately afterwards appointed a Committee with Mr. T. Raghaviah, C.S.I., as President and Mr. H. R. Pate, I.C.S., Raja Sir Venganad Vasudeva Raja, Diwan Bahadur T. C. Narayana Kurup, Diwan Bahadur Sir T. Desikachariar, Mr. Kotieth Krishnan, Khan Bahadur Haji Abdur Haji Kasim Sahib Bahadur and Rao Saheb V. Krishna Menon as members. The Committee was asked to inquire and report on the disabilities of the tenants of Malabar and on the best means of remedying such disabilities as the Committee might find to exist and which they thought should be remedied. The Committee toured the Malabar district, examined witnesses at Palghat, Calicut and Tellicherry and submitted an elaborate report to the Government in the middle of the year 1928. They said that the main disability pressing hard upon the tenants in Malabar was insecurity of tenure, that there were cases of unjustifiable eviction and that evictions were likely to increase in future on account of the changes in social and economic conditions. The Committee recommended that qualified and optional fixity of tenure, subject to the conditions set forth in their report, might be conferred on certain classes of tenants and they said that legislation to that effect would be sufficient to prevent arbitrary evictions. They also recommended the fixing of fair rent and renewal fees. As compensation, the landlords were to be given special facilities for the collection of rent and renewal fees and guarantees against loss by providing security for rent and making rent and renewal fees a charge on the holding. The Committee were fully conscious of the fact that their report was not the last word on the subject, that their recommendations were only one step in the right direction and that many more steps might have to be taken before the ultimate goal was reached.

20. The direct outcome of the Raghaviah Committee's report was the Malabar Tenancy Act, XIV of 1930, which embodied the recommendations of the Committee with slight modifications. The Act was a distinct advance on similar legislative measures in Travancore and Cochin where a qualified fixity of tenure had been conferred only on certain kanam tenants. In Cochin, a recent enactment—Act XV of 1113 M.E. (1938 A.D.)—has repealed the Regulation of 1090 M.E. (1914 A.D.) and re-enacted it with certain modifications on the lines indicated by Madras Act XIV of 1930 and we understand that a Bill to confer fixity of tenure on verumpattamdars is at present on the legislative anvil of that State.

21. Within a few years of the working of the Malabar Tenancy Act—XIV of 1930—it became apparent that there were certain defects in it which had to be remedied and in 1938 the Government actually gave notice of the introduction of a Bill to amend the Act. The Bill, however, was not introduced, as it was subsequently decided that the necessity for legislation of a more comprehensive character should be considered. The Government accordingly appointed the present Committee to study the nature and effects of the land tenures prevailing in the Malabar district and in adjacent areas where similar tenures are prevalent and to suggest such legislative measures as might be considered necessary for the regulation of tenancy and similar relations in these areas.

22. From the brief summary given above it is clear that the first milestone in the history of tenancy legislation was reached with the passing of the Tenants' Improvements Act of 1886. The need for protecting the tenant against eviction and rack-renting was conceded, but it was hoped that the Act would afford the necessary protection and that arbitrary evictions could be prevented by safeguarding to the tenant the full value of his improvements. It was found by experience that this indirect attempt at giving fixity had not had the desired effect and that if eviction was to be stopped, it was necessary to resort to the direct method of giving fixity by legislative interference. The Act of 1930 in recognizing this must be regarded as an important epoch in the history of tenancy legislation. It has granted qualified fixity to certain classes of tenants as a sort of compromise of the various claims of the conflicting interests involved. The rents payable by certain classes of tenants have also been fixed. We propose to consider how far the existing Act has accomplished the object aimed at and what further legislation, if any, is called for. As it has been urged before us that even the existing Act was passed without justification and in violation of the private rights of parties and sanctity of contracts, we have thought fit to give our opinion on that question also.

CHAPTER III—ORIGIN AND NATURE OF THE TENURES.

23. It may be said that an enquiry into the historical origin and development of the various tenures prevalent in Malabar can have only an antiquarian or academic interest. But, as the matter has been specifically referred to us, it is necessary to consider the literature on the subject and the evidence taken in the present enquiry and to indicate our views thereon.

24. The origin of property in Malabar must have been the same as in other parts of the world. Nobody in these days attaches any significance to the tradition that the mythical hero, Parasurama, reclaimed Malabar from the sea and gave it to Brahmans. The idea of private property originated throughout the world from exclusive possession and occupation. When a piece of waste land was occupied by a person and brought under cultivation, it became his private property. "Sages who knew former times . . . pronounce cultivated land to be the property of him who cut away the wood or who cleared and tilled it and the antelope of the first hunter who mortally wounded it." So says a text of Manu (C. 9, Sl. 44). The evolution of private property must have been the same in Malabar. In the evidence adduced by the tenants before the Committee they said that it was they who brought waste lands under cultivation and that they thus became entitled to the soil. The landlords said that they brought the lands under cultivation and became the owners thereof. The reply of the Landholders' Association to our Questionnaire says: "Janmam is of very ancient origin. Bands of immigrants in the ancient days who came and cleared the jungles and settled down became the proprietors of such places and called themselves janmis. The janmam right therefore arose from original occupation and cultivation and not by any grant from any sovereign, ancient or modern." Both the landlords and tenants agree that occupation was the origin of property, the only difference being as to the person who originally occupied. The janmi says that it was he who did it while the kanamdar asserts that the ancient janmis who owned extensive tracts of lands could not have brought them under cultivation and it must have been the kanamdar who originally occupied the lands and made them cultivable. The persons who were examined by us as representing the janmis were specifically asked whether it could be said that the ancient janmis brought lands under cultivation and became consequently owners thereof and all of them had to concede that that could not be said of the ancient janmis. It appears from the writings of early inquirers on the subject that all the lands in Malabar belonged in janmam to the Rajas, Devasthanams and Nambudiri Brahmans and that both duty and inclination prevented them from attending to the cultivation and management of the lands.

25. The great controversy between Mr. Logan and the Commission of 1884 on the one hand and Sir Charles Turner on the other, centred round the question of janmam and kanam and it has been the subject of acute controversy and elaborate examination ever since.

26. There are very few indigenous writings regarding the tenures in Malabar. Kerala Mahatmyam (the greatness of Kerala) and Keralolpathi (the origin of Kerala) are the best known of them. The former is in Sanskrit and the latter is in Malayalam but purports to be a translation from Sanskrit. About the authorship and dates of the books, there is no reliable information. Both of them contain the usual inflated Brahmanical legends regarding the origin of kanam and janmam but can have little claim to historical accuracy. Vyvahara Mala, said to have been written by one Mangalath Nambudiri several centuries ago, contains a description of the land tenures. Vyvahara Samudram, a poetical treatise on Malabar law supposed to have been written more than two hundred years ago, is said to contain a record of the customary law. The works above mentioned are not, however, of much assistance in coming to a conclusion about the origin of the tenures.

27. We shall next refer to the early foreign writers who are not quite consistent as regards the incidents of janmam and kanam. The earliest foreign writer is Jacobus Canter Visscher who was the Dutch Chaplain at Cochin from 1717 to 1723. He wrote letters to his friends at home and in one of his letters he gave an account of the 'sales and loans of Malabar' which contains a description of *Patta*.* It is said that by patta, kanam was indicated and that the description shows that kanam was redeemable. But if by

* "There is a mode of loan called *Patta* which is very common, and can only be explained by an example. Thus, supposing a man has a garden worth 10,000 fanams, he sells it for 8,000 f. or 9,000 f., retaining for the remainder of the value the right of the proprietorship of the estate; for these 1,000 f. or 2,000 f. the purchaser must pay an annual interest. If the seller wishes at the end of some years to buy back his estate, he must restore the 8,000 or 9,000 fanams, and pay in addition the sum of money that shall have been fixed by men commissioned to value the improvements made upon the property in the interim by fresh plantations of cocoa-palms or other fruit trees. But if the purchaser or tenant becomes weary of the estate and wishes to force it back on the original possessor, he can do so only at a loss of 20 per cent."

patta was meant kanam, the description could not be said to be accurate. Then there is a gap of about 70 years before we come to the report of Mr. Farmer, one of the Joint Commissioners who were appointed in 1793 to inspect and settle the country ceded by Tippu Sultan. He stated that all lands were in the possession of kanamkars or farmers who deposited with janmakars a certain sum as security for the due payment of the stipulated rent. In the articles settled with regard to janmakars, the Joint Commissioners stated that in the event of the failure of the kanamkars to pay the share which the janmakars were receiving prior to their emigration to Travancore on Tippu's invasion, the janmakars could evict the kanamkars on the expiry of the respective leases. It appears from the report of the Joint Commissioners that the produce had to be shared between the janmakars and kanamkars in a definite proportion and that the share that the kanamkars got was much in excess of the janmakar's share.* Dr. Buchanan who was deputed by the then Governor-General to make a special enquiry into the circumstances of Malabar in 1800 regarded the janmis as proprietors and the kanamdars as tenure-holders resembling mortgagees, but found a well recognized usage as to division of produce between the janmi and kanamdar. Mr. Warden, who was later Collector of Malabar, in his report in 1801 agreed with Dr. Buchanan in the description of the land tenures. Both Dr. Buchanan and Mr. Warden observed that the right of redemption was rarely exercised by the janmi. Major Walker in his report of the year 1801 adopted the theory of property propounded in 'Vyvahara Mala' and was emphatic that the janmi had the absolute proprietary right in the soil, but limited the rent to two-thirds of the net produce. He stated that kanam was a sum of money deposited in the hands of the janmakaran as a security, in case the Kudiyan (tenant) should fail to pay his yearly rent. In the general report of the Board of Revenue, dated 31st January 1803, janmam was described as an immediate right of property resembling the freehold tenure under the feudal systems and kanapattam as a tenure by mortgage. It was stated that janmam was not that allodial right (as native writers maintained it to be) which recognized no superior, rendered no service nor contributed any portion of its profits to the commonweal. Mr. Rickards who became the principal Collector of Malabar in 1803 observed that it was not usual to turn out a tenant so long as he continued to pay his rent and that he was entitled to a certain share of the produce as defined by custom. In a book published by him in 1832 he recognized the fact that the holders of kanam and kuzhikanam tenures were practically permanent tenants. In a minute of Lord William Bentick, dated the 22nd of April 1804, it was observed that the rights of landed property and the division of the produce of the soil between the landlord and tenant were, in Malabar, perfectly defined and confirmed by immemorial usage. Mr. Thackeray in his report, dated 4th August 1807, described the tenures in much the same way as Major Walker. The committee appointed by the House of Commons to enquire into the state of affairs of the East India Company in their fifth report issued in 1812 recognized the existence of private property in Malabar from ancient times under the name of janmam and referred to the kanam as a tenure with possession under which the proprietor received from the tenant in addition to his rent, an advance of money which might be considered either as a loan or as a security for the due payment of the rent. In their proceedings, dated 16th January 1815, the Board of Revenue stated that the janmam property was not so much in the land as in the income and that the land was much more the property of the kanamkar or cultivator than that of the janmakar as the latter had no power to raise the pattam or his income. In his report, dated 30th March 1816, Mr. Ellis observed that possession of the land had passed from the proprietary janmakar to undertenants of various descriptions who rendered them a Swamibhogam or acknowledgment of superiority, paid the Government rent and enjoyed all the remaining profits. Sir Thomas Munro who visited Malabar in connexion with the introduction of regulation law into the district wrote an interesting report in 1817. He stated that at the time of the

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* "On the premises set forth in Mr. Farmer's Report, combined with the information since received from Oodut Roy (as per the 196th paragraph) the relative situation of the Kanamkars or cultivating farmers and of the Janmakars or proprietors as they respectively stood before and since the assessment of a regular public revenue by Hyder and Tippoo, may if calculated upon ten purrahs (the supposed medium produce of 1 purrah of seed) have been nearly as follows:—

	Cultivator's or Kanamkar's share of the produce.	Proprietor or Janmakar's share of the produce.
Before the conquest of a proportion of 2/3rds	6-4/6ths	3-2/6ths
Since the conquest	5-3/6ths	1-3/6ths
Difference ..	1-1/6th	1-5/6ths

The aggregate of which diminution in their respective shares make up the 3 purrahs that constitute the Government's present right out of every 10 as already noticed, which may reduce the question with respect to these janmakars to whether 1-3/6ths in 10 or 3/20ths be, or be not sufficient for their present maintenance, now that they are, or may be, relieved from the necessity and ought even to be obliged to relinquish, the pernicious practice of keeping up a train of Nayars for Military service"—page 131, Reports of a Joint Commission.

advent of the British, the country was divided among a number of petty Rajas of whom the Zamorin was by far the most powerful and that it was further subdivided into districts (Nads) and villages (Desams). Each Nad and Desam had its own military Chief who was called the Naduvazhi and Desavazhi, respectively, whose duty it was when summoned to the field to join the Raja with the stipulated number of followers. Every subdivision of a district instead of being called a district of so many thousand pagodas was called one of so many thousand men. The military chiefs did not pay any taxes and Colonel Munro stated that they were at one time the sole proprietors of the lands of the respective villages except where the village was the private property of the Raja. Writing in 1822 he observed that the landlord's rent had been ascertained and fixed from a remote period and could not be increased. Mr. Graeme who was deputed to Malabar with a Special Commission to introduce the new system of Police and Magistracy and to consider what improvements might be introduced in the revenue administration of the district wrote an elaborate report in 1822 to which was appended a glossary containing explanations of technical and abstruse terms relating to law, tenures and other subjects. The Board of Revenue in their minute, dated 5th January 1818, dealt with the land revenue and tenures of Malabar and described kanam as land mortgage prevalent in Malabar which did not admit of foreclosure and contained within itself an inherent principle of self-redemption. They observed that the janmakar held the land on the tenure of the sword and by right of birth, not of the Raja, but in common with him, and therefore may be considered as having possessed a property in the soil more absolute than even that of the landlord in Europe. In 1821 the Court of Directors complained about the defectiveness of information regarding ancient Malabar and called for a report about the conditions and circumstances under which the great body of actual cultivators and slaves cultivated the land and measures employed for their protection. In the report of Mr. Vaughan, dated 24th August 1822, he stated that there was no necessity to interfere for the protection of the under-tenants. The Court of Directors in their despatch, dated 18th May 1825, stated that there appeared to be an intermediate class in Malabar between cultivators and the Government, and that justice required that such a portion of the rent of the land, as this class had by custom enjoyed, should be reserved to them. They went on to inquire whether the other descriptions of persons subsisting on the land were mere tenants-at-will—or had a fixed interest in the soil like the ryots in other parts of India. Records do not show that anything was done to throw light on the points raised. At the instance of the Board of Revenue the Sudder Court instituted an inquiry into the existing land tenures of Malabar and they passed their proceedings, dated 5th August 1856, which regarded the janmi as having full rights of ownership and the kanamdar as a mere terminable tenure-holder without any permanent interest in the land and liable to be ousted at the end of twelve years in the absence of a contract to the contrary.

28. Besides the indigenous writings and the reports of early enquirers, there are the old deeds collected by Mr. Logan which throw considerable light on the relations of agricultural classes in Malabar.

29. Janmam is a word of Sanskrit origin and is usually interpreted as meaning "birth" or "birthright," and therefore, the hereditary right in the soil conferring absolute rights of ownership. The late Mr. Arthur Thompson, however, as quoted in Moore's Malabar Law and Custom, suggested that the terms janmam and janmi were used as the nearest Sanskritic equivalents in sound to the words zamin and zamindar used by Muslim land revenue administrators. The word janmam first occurs in a deed, dated 856 M.E. (1681 A.D.), No. 22 in Logan's Collection. Earlier deeds in the collection use the phrase "nir attiper". Attiper is derived from "atti," a stack or bundle and "per" from "peruka," to obtain, and is said to mean the whole bundle or mass of rights in the soil. The use of the word "nir" or water is explained by Mr. Thompson as a common incident of sales in Hindu law, the idea being that the right of the grantor disappeared as completely as the water sank into the soil. Mr. Logan on the other hand translates "nir attiper" as "water-contact-birthright," or the birthright obtained by coming in contact with water. In his view the right transmitted was not a right in the soil at all, but a social position carrying with it certain privileges.

30. The word kanam has been explained in three ways. Dr. Gundert derives it from "kanuka" to see, and explains it as meaning that which is seen, or the visible right of the kanamdar by virtue of his being in possession as opposed to the invisible right of the janmi. In this view the translation of kanam as money is merely a secondary meaning. A second view is that the word is the same as a Tamil word meaning among other things "money," "a small gold coin" or "anything valuable." According to Mr. Logan it means "supervision" and refers not to rights in land but to the position of the Nair guild in society as the executive part of the body politic, their function being that of "the ear, the hand and the eye" as the Keralolpathi has it. The word first occurs in deed No. 3 of Mr. Logan's Collection attributed to the ninth century where it is translated as "right"

and in deed No. 4 of unknown date. The deeds by which this right is created are described, however, as " ubhayapattola karanam " or deeds of ubhayapattam. The word ubhayam is connected with the Sanskrit root " ubhu " meaning " to join " and can be interpreted in two ways either as implying joint ownership or as implying a right to take that which is joined to the soil, i.e., the produce. The second derivation is supported by the use of the word ubhayam in North Malabar in the phrase " nalu ubhayam " or four ubhayams meaning four kinds of produce, coconut, arecanut, jack and pepper.

31. The theories of the nature and origin of the tenures which have been advanced before us may conveniently be described as the verumpattamdar's case, the kanamdar's case and the janmi's case. These conflicting theories have been the subject of acute controversy and elaborate examination at least from the time of Mr. Logan's report as Special Commissioner. Leading authorities on Malabar have differed radically over them and have not seldom drawn opposite conclusions from the same evidence. We have not been able to discover any fresh evidence which would clearly establish one or other of these theories.

32. The verumpattamdar's case has been advocated by the All-Malabar Peasants' Union and by a number of verumpattamdars. It was the view originally put forward by Mr. Logan that the rights of the janmi, the kanamdar and the verumpattamdar were not in origin rights over the soil as such, but positions in the political organization of the country. In so far as they became related to the soil, they constituted rights of joint proprietorship.

33. The kanamdar's case has been urged by most of the kanamdars who have appeared before us, and has found strenuous adherents at least from the time of Sir T. Madhava Rao's Commission. The theory put forward is that kanam was an irredeemable tenure, and that the view taken by the Courts that kanam was a redeemable and terminable tenure was wrong. Sir T. Madhava Rao's Commission held that it was originally legally irredeemable. Sir T. Madhava Rao, however, contented himself by saying that, in practice, the kanamdar was not redeemed so long as he paid his dues and that the tenure had thus become virtually irredeemable. It has also been argued that the kanamdar was the original owner of the soil by virtue of having first occupied it and was compelled to attorn to the janmi or chieftain in return for the latter's protection.

34. The janmis for the most part uphold the view taken by most of the early British administrators and adopted by the courts. This view, which was defended at length by Sir Charles Turner, is that the janmi was the absolute owner of the property from whom all tenures were derived, and that kanam was a redeemable tenure.

35. Mr. Logan's theory depends on a detailed examination of a number of deeds dating from the 8th Century A.D. onwards, many of which were collected by Mr. Logan himself. Mr. Logan was particularly impressed by the insistence in many early attiper deeds on the social and manorial rights which they purported to convey, and came to the conclusion that what was transferred by these deeds was not property in the soil but a position in the social structure. Mr. Logan also attached much importance to the old kanam deeds in his collection, which contain no reference to redemption or to any period for which the kanam was to run. Mr. Logan concluded that during the era of the Malabar Emperors or Perumals and after the departure of the last of them about 824 A.D., Malabar society was divided into guilds. At the bottom were the cultivators who were entitled to one-third of the produce. Above them were the guilds of Nairs or kanamdars whose duty was supervision, this being Mr. Logan's interpretation of the word kanam. The Nair guilds collected the pattam or authority's share in the exercise of their function of " the ear, the hand and the eye " and paid half of it to the chieftains or overlords, later known as janmis, who possessed the " water-contact-birthright " which entitled them to various privileges mainly of a social character. With the break up of the traditional Malabar society, the relationship of guild and overlord became one between individuals. As all the parties had to be maintained out of the produce of the land, their rights became related to the land whose produce was divided in equal shares between the janmi or overlord, the kanamdar and the verumpattamdar. When the janmi required money, he naturally turned to the kanamdar for it and in return allowed the kanamdar to retain in his possession a part of the janmi's share of the produce in addition to the kanamdar's own share. This was the origin of the money advance which subsequently became a distinctive feature of the kanam tenure. At first the kanam right held by the guilds of Nairs was a perpetual one while that of the individual kanamdar was not. Deed No. 19 of 1666 A.D. in Mr. Logan's Collection converted an individual kanam into a karayma or permanent tenure as individual kanam rights could, at that time, be terminated at each succession of a new Raja and probably also of a new janmi of other classes. By the time of the Mysorean conquest, however, an individual kanam right was regarded as so secure that tenants including Moplahs were content to take large kanam rights from the Hindu janmis, who fled to Travancore, when they could presumably have seized the janmam right itself. Thus in

Mr. Logan's view the original guild system had developed into a system of joint proprietorship by individuals, whereby the janmi, the kanamdar and the verumpattamdar shared equally the produce of the soil. This customary relationship was, according to Mr. Logan, misunderstood by the early British administrators and by the British Courts. They treated the janmi as the absolute proprietor of the soil, the kanamdar as a mortgagee whose tenure was terminable after the period of his contract and the verumpattamdar as a tenant-at-will. In consequence of this erroneous view, the customary relations of the parties were, Mr. Logan thought, disturbed in favour of the janmi and to the disadvantage of the kanamdar and verumpattamdar.

36. Several circumstances have been relied on before us to show that the kanamdar had higher interests in the land than the janmi and that the tenure was irredeemable. The old kanam deeds in Mr. Logan's Collection contain no reference to redemption and no statement of any period for which the lease was to run. In some temples in Cochin State money is deposited under the name ' kanachoru ' and in return, it is said, the temple supplies cooked rice (choru) in perpetuity to the family of the depositor. A number of Malayalam proverbs show the high value placed on kanam rights, which, it is said, could not have been attributed to a redeemable tenure. Examples often quoted are " One should celebrate Onam even by selling kanam " and " A person who has not acquired a kanam even for ten fanams is not fit to be a man." A question generally asked of a person behaving presumptuously is " Has your grandfather given kanam here? " Many kanam amounts, in South Malabar in particular, are small sums out of all proportion to the value of the property held under the tenure. They could not, therefore, have been regarded as mortgage amounts or even as security for rent, but must have been originally mere tokens of fealty. The janmi's status was measured by the number of his kanamdars and indeed the term janmi is popularly supposed to mean a person who has kanamdars under him. The rent which the kanamdar paid was calculated by deducting the interest of his kanam amount not from the full rent or verumpattam, but from the kanapattam, said to be half the full rent. At the time of the Joint Commission of 1793, the kanamdar received a much larger share of the produce than did the janmi and was referred to as " the farmer." It is argued that he must have been the person who originally brought the lands under cultivation. In this view the original kanam amount was a token of fealty, and the renewal fees paid at the succession of a new landlord or a new tenant were voluntary presents made to show the continuance of the relationship. One of the terms for renewal fee, ' soujanyam,' means present. Terms also in common use for renewals are ' manusham ' and ' purushantharam,' derived respectively from ' manushyan ' and ' purushan,' both meaning man. In this view they are interpreted as meaning for the lifetime of a man.

37. The janmi's case was elaborately stated by Sir Charles Turner in his Minute on the draft Bill relating to Malabar Land Tenures prepared by the Madhava Rao Commission. Sir Charles Turner examined the theories advanced by Mr. Logan and the Madhava Rao Commission. He denied the charge that the Courts had upset the customary relations of janmi and kudiyan. According to him, the courts had merely ascertained the customary law, and their decisions were in accordance with the view of all the early British authorities from the Joint Commission in 1793 to Mr. Graeme in 1822.

Sir Charles Turner also questioned Mr. Logan's historical theories. Malabar was completely Hindu in its institutions. Hindu law recognized private property in the soil, subject to the payment of dues to the King for protection, but Brahmans learned in the Vedas were exempt from those dues. Property in land was so highly valued that its alienation was hedged in with restrictions and originally sales took the form of gifts and were attested by heirs, kinsmen, neighbours and an officer of the sovereign, but this was not essential. These conditions obtained in Malabar. The janmam right seemed to have been originally the monopoly of Nambudiris. The absence of land revenue was explained by this fact. The other classes of janmis claimed the same privileges. Sir Charles observed that Mr. Logan's deeds proposed to sell not only the surface of the soil within defined boundaries, but stones, good or bad, stumps of nux vomica, thorns, roots, pits, mounds, treasure, low earth, water, ores, boundaries, field ridges, canals, washing places, footpaths, streams, deer forests, shady places for honey, etc., and in some cases rights which might be termed manorial. If these words had any meaning, they pointed to an ownership of the soil as complete as was ever enjoyed by a free-holder in England. The formalities used in transfers of janmam right were identical with those anciently in use elsewhere in India. The janmis claimed freedom from revenue and though this was not admitted, it might have been claimed in good faith by the Brahman owners of janmam property in view of the Brahman's right to hold land free of tax. Sir Charles Turner explained the absence of any reference to redemption in kanam deeds by saying that it was too well known to need mentioning. The right to claim the value of improvements on redemption was similarly not mentioned and for the same reason, but it was admitted that such a right existed.

38. The majority of the Master Committee held that kanam was a renewable and consequently a terminable tenure. From the fact that the kanam was renewable, does it necessarily follow that it was terminable? Could it not be said that it was not terminable if the customary renewal fee was paid and renewal effected?

39. Strong reliance has been placed on the description of *Patta* by Canter Visscher to show that kanam is redeemable. If by *Patta*, or *Pattayola Karanam*, kanam is indicated, its description is hardly correct. It would be interesting to read his description of *Onam** and if his description of *Patta* is on a par with his account of *Onam*, it is clear that we cannot attach any importance to his description.

40. From the reports and other writings above noticed, one fact indisputably emerges, viz., that the kanamdar in olden times was the farmer who was cultivating the land himself or with the help of slaves and agricultural labourers and that he had a very substantial interest in the land. There is no evidence to show that the rights of the ancient kanamdars came into existence as a result of their being let into possession by the janmis. That the kanamdar was a mere lender of money having no hand in the improvement of the land has not been seriously advanced even by janmi witnesses before us. They told us that though the kanamdars were tenure-holders interested in the land, they could be evicted at the janmi's pleasure and that the period of twelve years for kanam was an innovation made by the British Courts for which there was no justification. The kanamdars agree with the janmis in saying that the British Courts unjustifiably changed the duration of the kanam but according to the kanamdars the change was in favour of the janmis. The kanamdars say that the tenure was irredeemable as long as the customary dues payable to the janmi were regularly paid and redeemable only when there was default and that the British Courts made them redeemable after twelve years. The early Proclamation of the Maharaja of Travancore in 1829 declared that to be the law in his kingdom and the subsequent regulations of 1867 and 1896 have merely confirmed the early view entertained in that State. As the tenures throughout Kerala are similar, one would not be wrong in presuming that the same state of things must have prevailed throughout Kerala. The majority of us are inclined to take the view that, as declared by the Maharaja of Travancore in 1829, the kanamdar was liable to be ousted only if he defaulted in the payment of the customary dues.

41. It has not been possible for the Committee to come to any unanimous opinion regarding the origin of janmam and kanam. The majority of us are of opinion that there is no evidence to show that the janmi was the absolute owner of the soil and the kanamdar was a mere tenant-at-will. As the kanamdar was the occupier, he must have been the original owner. In the troublous times of old, the kanamdar must have acknowledged allegiance for his own safety to some Raja, Naduvazhi or Desavazhi (local chieftain), Devasthanam (God) or Nambudiri Brahman (visible God, as one witness put it before us), and janmam right must have originated in that way and must have meant only a sort of overlordship and not absolute right to the soil. This appears to be clear from the fact that all the lands originally belonged in janmam to the Rajas, Devasthanams and Nambudiris. As they did not themselves occupy and cultivate the lands, original occupation and cultivation could not have been the basis of janmam. As Sir Thomas Munro stated, the military chiefs of each Nad or Desam regarded themselves as janmis whatever that term denoted originally. The military chiefs must have conceded similar rights to Devasthanams and Nambudiri Brahmans.

42. Having stated so much about the origin and nature of janmam and kanam, we shall proceed to state the various tenures or rights in land prevalent in Malabar and their characteristics as recognized by law at present.

As settled by judicial decisions, *janmam* is the highest form of ownership known to law and means absolute proprietorship.

Kanam is now generally a lease for twelve years. The tenant deposits with the landlord a sum of money or paddy for which the tenant is entitled to interest. The tenant, on the expiry of the term, takes a renewal from the landlord after paying a fee and is entitled to hold on for another period of twelve years. Act XIV of 1930 has made it obligatory on the landlord to grant a renewal on payment of a fee which is also fixed by the Act. In several cases kanams in North Malabar are mere mortgages and the Act makes a difference between kanams in North Malabar and those in South Malabar.

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* "4th. In August comes the feast Onam; or the birthday of Sita, the wife of Sri Rama or Vishnu. This is observed by some people for four days, by others for seven. They raise a hillock in front of their dwellings, smeared with cowdung and strewed with flowers, on which they set up the image of Vishnu, clothed in a new garment, and provided with an open coconut for food. Those castes who are allowed to partake of fish must abstain from it on this day, and the upper people distribute garments to their servants."

Kuzhikanam (Kuzhi=pit) is a reclaiming lease for planting and differs from kanam in that no advance is made to the landlord. The tenant has obtained the right to take a renewal on payment of a stipulated fee under the recent Act.

Verumpattam (Verum=bare) is a simple lease enuring only for a single year where no term is specified. If the tenant holds over after the period and the landlord assents to his continuing in possession, the tenancy becomes one from year to year, liable to be determined by reasonable notice. If the tenant has improvements on the land, he is, in spite of the determination of the tenancy, entitled to remain on the land until ejectment in execution of a decree of Court and the tenant so continuing in possession holds as a tenant subject to the terms of his lease. In the case of verumpattam leases granted by Kovilakams, the period is generally twelve years and a renewal fee is collected. Certain classes of verumpattam tenants have obtained qualified fixity under Act XIV of 1930. The tenure is called *Verumkozhu* or *Verumkari* in North Malabar. Where the tenant advances a sum as security for the rent, the amount advanced is called *Munpattam, Talapattam, Kozhukanam* or *Kattakanam.*

Melpattam (Mel=upper) is a lease of trees in a paramba entitling the lessee to take the usufruct thereof.

Kuttikanam (Kutti=stump) is a felling lease for which the landlord receives a stipulated fee for every tree felled or a consolidated sum for all trees felled within the period of the lease.

Melcharth (Mel=above, charth=lease) is a lease granted to a stranger entitling him to oust the tenant in possession. If the tenant sought to be evicted is a kanamdar, the Melcharth is also called a *Melkanam.* The Act has virtually the effect of abolishing Melcharths.

Panayam is a mortgage with or without possession. If it is with possession, it is called *Kaivasampanayam, Karipanayam* or *Kozhueruka Panayam* and if without possession, it is called *Choondi* or *Thodupanayam.* In the case of *Kaivasampanayam* unlike kanam, there is no implied covenant for quiet enjoyment for a period of twelve years. One form of Kaivasampanayam is called *Undaruthi panayam* (Unda=eat, Aruthi=over) under which both principal and interest are extinguished by the usufruct and the land reverts to the mortgagor free from the mortgage.

Puramkadam (Puram=over, above; Kadam=loan) is a further sum of money advanced by a kanamdar or a mortgagee in possession on the security of the property already demised on kanam or mortgage. The interest on the money so advanced is deducted from the rent.

Kettayadakam was described by Major Walker as a usufructuary mortgage, the mortgagor remaining in possession till he makes default in payment of interest, on which event the mortgagee may enter; the profits after satisfying interest will bear the same interest as the mortgage, and may be set off against the principal. This form of mortgage is not common.

Otti is a usufructuary mortgage, the interest on which almost extinguishes the entire income of the land. The landlord merely retains the proprietary title and the right to redeem, getting only a pepper corn rent. The Ottidar has got the right of pre-emption if the landlord wants to part with his right. It is also called *Veppu, Palisa-madakku, Varimadakku, Neer-Palisa* and *Nir Ozhika Otti.*

Peruvartham is akin to Otti and can only be redeemed on payment of the full market value at the time of redemption.

Ottikkumpuram (Puram=after or next) is a charge for a further sum of money advanced by the Ottidar which the mortgagor has to pay along with the Otti amount.

Nir Mutal or Kudima Nir Karnam (Nir=water, mutal=property, kudima=family) is the last step which can be taken by a janmi without parting with his rights for ever. This is now obsolete.

Janmapanayam is a transaction by which the landlord relinquishes even the right to redeem and cannot sell the janmam right to any but the Janmapanayam-holder. This tenure seems to be very rare.

Grants of land used to be made as a reward for services rendered or for future services or for both, in the form of perpetual leases. The grant, if made to a Brahman is called *Santhathi Brahmaswam,* if made to a non-Brahman of caste equal to or higher than the grantor's, it is called *Anubhavam* or *Saswatham* and if made to a person of inferior caste *Adima* or *Kudima. Janma Kozhu* (Kozhu=cultivation) is also a transfer in perpetuity of the right of cultivation. Where the tenure is one of service in connexion with temples, it is called *Karankari* or *Karayma* and if in addition to doing service the tenant has to produce a certain quantity of rice for nivedyam or offering to the deity, the tenure is called *Arijanmam. Achandrarkam* and *Vaga* are also said to be permanent leases but are seldom found.

CHAPTER IV—A BRIEF REVIEW OF THE ECONOMIC POSITION OF THE AGRICULTURIST.

43. It is necessary to examine the economic position of the agriculturists of Malabar in order that we may view the various tenancy problems arising for consideration in their true perspective.

44. Malabar is part of the traditional land of Kerala and forms part of the Malayalam-speaking country extending from at least the Kasaragod taluk in the north to Cape Comorin in the south and inhabited by people following the same customs and manners and having a distinctive culture of their own. The Malayalam-speaking country has a population of over 10 millions and is composed of three political units, viz., the British territory (comprising British Malabar, Kasaragod taluk in the South Kanara district, and Gudalur taluk in the Nilgiri district) and the two Indian States of Cochin and Travancore.*

45. Malabar by itself has an extent of 5,794 square miles, and is in size the eleventh district in the Presidency, but in population it is the second yielding place only to Vizagapatam which, according to the Census of 1931, has a population of 3,607,948 as against 3,533,944 of Malabar. Vizagapatam is, however, in extent three times as large as Malabar. In density of population Malabar with 610 per square mile stands second only to Tanjore with 638 per square mile, the average for the Presidency being 329. The total area of Malabar is 3,595,785 acres of which, according to the latest figures available, only 1,506,992 acres are cultivated. Paddy is raised in 864,825 acres or in about half the extent of the cultivated area and in the other half the principal product is coconut. Pepper also is largely grown especially in North Malabar while arecanut is extensively grown in parts of South Malabar.† The average yield of cultivated lands, without making any allowance for cultivation expenses and vicissitudes of season, does not exceed Rs. 50 an acre.‡ On a rough estimate, about 70 per cent§ of the people depend on agriculture for their subsistence. Consequently, more than 25 lakhs of the population have to be maintained out of the produce of 15 lakhs of acres of cultivated land. Thus each person depending on agriculture for livelihood has on an average 15/25 or 3/5 of an acre and gets a *gross* yield of about Rs. 30 per year or about Rs. 2–8–0 a month, or less than 1½ annas a day. The average income of an Indian has been estimated to be about Rs. 60 a year as against Rs. 2,250 of a person in the United States of America.

46. Rice is the staple food of the people of Malabar and though the country at one time produced sufficient rice not only for its inhabitants but also for export,‖ it has now to import large quantities of rice from other places. The increase in the extent of cultivation has not been commensurate with the growth of the population and the yield per acre of land has not been increased to any appreciable extent by new and improved methods of cultivation. The average multiple outturn was stated to be ten by the Joint Commissioners in 1793 and it cannot be said that it is more at the present day. It has not been possible for us to ascertain how the average yield in Malabar compares with that in the rest of India, but we find it stated that the yield of rice and wheat in India has to be increased three times in order to reach the standard of Japan.

47. Pepper was very much in demand in olden days and Malabar had the monopoly in pepper trade. Pepper was called ' Malabar Money ' ¶ and it was the chief attraction for the European nations to trade with the East and it eventually led to the foundation of the British Empire. When the Dutch took pepper saplings from Malabar in the 18th century to plant in Sumatra, the Zamorin expressed the hope that Malabar's supremacy in pepper would be invincible. That the hope has not been fulfilled is clear from the fact that 90 per cent of the world's pepper comes now from Dutch Indies and Malabar hardly exports even 1 per cent.** Consequently many of the pepper gardens have ceased to be paying and several of them are deserted. The price of pepper has also gone down considerably and it now fetches only a fourth of the price it was fetching normally. Coconut has largely taken the place of pepper, but it has to be noted that the greater part of world's supply of coconut comes from the Philippines, Sumatra, Western Malaya and Ceylon and that with the present dumping of coconut even in the Indian market from Ceylon where it is grown in large estates on a gigantic scale. coconut is not likely

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* Population according to the census of 1931—

British Malabar	3,533,944
Kasaragod taluk of South Kanara ...	302,043
Gudalur taluk of Nilgiri district ...	31,956
Cochin State	1,205,016
Travancore	5,095,973

† The area under the different crops is given in Appendix B-1 and 4, 5, 6.

‡ Details of the calculation are given in Appendix C.

§ Sixty-two per cent according to the Census of 1931 and another 8 per cent at least are said to depend on subsidiary occupations like coir-making, etc.

‖ "Rice fields, which are so productive that they suffice to furnish rice not only for the whole of Malabar, but also for exportation." P. 12. Malabar letters by Jacobus Canter Visscher.

¶ Reports of a Joint Commission of the Province of Malabar—P. 241.

**See the Article by Prof. P. J. Thomas in Professor K. V. Rangaswami Ayyangar Commemoration Volume—P. 284.

to pay even the expenses of its cultivation to the Malabar agriculturist. Owing to the continual fall in prices and the enormous labour and cost involved in watering the trees and the lack of sufficient marketing facilities, arecanut cultivation has ceased to be paying and people have already begun to neglect it.

48. The manufacture of salt in the early part of the 19th century was in a large measure a subsidiary industry to agriculture in Malabar and it used to take place in the hot weather and gave employment to agricultural labourers at a time when there was little work in the agricultural fields. When the necessity for such subsidiary employments to agriculturists is being insisted upon, we feel that it is proper on our part to draw the attention of the Government to the industry which once flourished in Malabar.* We are glad to observe that the Government of India have agreed to experiment with the manufacture of white salt on the West Coast to avoid the heavy transport charges now paid for salt from Tuticorin.† We hope that the experiment will soon be taken in hand. We have not the slighest doubt that it will prove a great success and that it will be possible to make Malabar self-sufficient in the matter of salt within a very short time.

49. With the alarming increase of population, without a corresponding increase in the yield of lands, and with the fall in exports and the necessity for more imports, the condition of the people has become deplorable and it must be admitted that Mr. Logan's prediction of a state of ' insolvent cottierism ' has long been fulfilled. What more evidence of it do we require than the fact that thousands of young men quit Malabar in search of employment, and that menial service throughout the Presidency, if not throughout the whole of India, has become the monopoly of the Nairs of Malabar instead of the Military service ‡ of the Pre-British days!

50. All those depending on agriculture in Malabar lead a precarious existence—right from the janmi at the top, through the intermediaries down to those who live by casual labour. It is not right to say that the janmis are as a class well off. Mr. K. P. Raman Menon of Calicut gave us the instance of his gardener who is a janmi paying an assessment of Rs. 300 but finds it difficult to get even two meals a day. Some of the janmis especially in North Malabar live in utter penury and misery. Though famines are unknown in Malabar, it is an undisputed fact that a great majority of the people are unemployed or under-employed and they live on a sub-nutritional level. Unless steps are taken to relieve the high pressure of the population on agricultural land, the consequences are likely to be disastrous both from the political and economic points of view.§

51. It is clear that it is necessary to increase the productivity of the soil and the area under cultivation in Malabar and for this the first desideratum is a plentiful supply of water. To a casual visitor, Malabar with its evergreen appearance gives a very false impression, viz., that it has water in abundance and that there is no necessity to provide any irrigation facilities for cultivation. But those who are personally acquainted with the conditions in Malabar know that though Malabar is blessed with a copious rainfall, the average fall being not less than 100 inches a year, the rains very often fail at the proper time and the crops wither. What is of vital importance to agricultural security is the seasonable distribution of rainfall rather than its total amount. It is therefore necessary to have irrigation projects for harnessing water and distributing it. There are no Government irrigation works in Malabar, the solitary exception being Vandithode anicut in the east of Palghat taluk. It was originally owned by a Palghat Brahman and was taken over by the Public Works Department in 1902 as the owner failed to carry out the required repairs. We find from the report of the Special Settlement Officer in 1930 that the only

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* " The islands contain not only cocoa palms but also arable fields and salt-pans, for this country produces an abundance of salt, which is exported to other places." P. 42, Malabar letters by Jacobus Canter Visscher.

" They have of late complained more loudly of their having been prohibited from manufacturing salt by which their lands are rendered useless, as they will yield no other produce. . . The manufacture of salt should be permitted on all lands appropriated to this purpose before the monopoly and also on all such lands as may have been converted to this use in consequence of cowles from the Collector." A report on the revision of Judicial system in the Province of Malabar, dated 4th July 1817, by Thomas Munro, First Commissioner.

Salt manufactured in Malabar in 1812 amounted to 2,517 garce. (1 garce equals 3,200 Madras measures.)

† Madras in 1939 (Outline of the administration)—P. 39.

‡ " The profession of arms by birth subjecting the males of a whole race to military service from the earliest youth to the Decline of Manhood was a system of policy utterly incompatible with the existence among them of the marriage state." WARDEN, Collector of Malabar from 1804 to 1816.

In Johnson's " Relations of the Famous Kingdoms in the World " (4 to 1611), the author thus records of the Nairs:

" They inhabit no towns, but dwell in houses made of earth environed with hedges and woods, and their ways as intricate as into a labyrinth. It is strange to see how ready the soldier of this country is at his weapons: they are all gentlemen and termed Nairs. At seven years of age they are put to school to learn the use of their weapons, where, to make them nimble and active, their sinews and joints are stretched by skilful fellows, and anointed with the oil Sesamus; by this anointing they become so light and nimble that they will wind and turn their bodies as if they had no bones, casting them forward, backward, high and low even to the astonishment of the beholders. Their continual delight is in their weapons, persuading themselves that no nation goeth beyond them in skill and dexterity."

§ " Agrarian movements in various parts particularly in the Kistna and Malabar districts gave cause for anxiety, but the disputes were handled with tact and firmness." P. 46, Madras Administration Report, 1938-39.

money expended on repairs since 1902 was a sum of Rs. 3,152 between 1925 and 1927 and that the irrigation channel leading from the anicut was in a bad state of repair in some places. Nevertheless, the Government gets an annual income of Rs. 240 from this source and according to the Settlement Officer, it is a very good return for the small outlay. We understand that since 1930 nothing has been done even to improve this irrigation source which is the only one in the district. It is stated in the Supplement of the *Malabar District Gazetteer* published in 1933 as follows :—

> " The Malampuzha Reservoir project in the Palghat taluk was intended to irrigate 40,000 acres (20,000 acres double-crop land, 10,000 acres single-crop land and 10,000 dry crop land) for 15 days after the south-west monsoon and for 45 days after the north-east monsoon to enable the crops to mature after the cessation of the rains, but its investigation was, in 1926, postponed till the requirements of the Ceded districts have been attended to."

The investigation has not since been taken up.

52. Let us compare Malabar in the matter of irrigation with the other districts in the Presidency. Take for instance Tanjore, where the density of population is a little more than that in Malabar. The total cultivated area in Tanjore in 1937–38 was roughly 13 lakhs of acres out of a total extent of 23 lakhs of acres. The area commanded by irrigation in Tanjore approached 10 lakhs of acres in 1931 and since that year the Mettur Project has become an accomplished fact and the area now under irrigation must be considerably larger. It is likely that with the inexhaustible supply of water from Mettur, all the cultivated and cultivable lands in the district will be brought under irrigation at a very early date. What a contrast to Malabar with its tiny patch of irrigated land on which the Government have spent the paltry sum of about Rs. 3,000! The Government have spent about 2,315 lakhs of rupees on irrigation for the rest of the Presidency and 14,000 lakhs of rupees for the whole of India.

53. The Committee feels that the agriculturists of Malabar have every reason to complain that their interests have been sadly neglected in the past and that they do not get any adequate return for the revenue that they pay to the Government. It is the unanimous opinion of the members of the Committee that with a view to improve the economic condition of the people of Malabar, the Government must take immediate steps to make available to the agriculturists all possible sources of irrigation. In order to enable the Government to do this effectively, the Committee has proposed elsewhere to invest the Government with power to take possession of all irrigation sources and use them to the utmost advantage of the agriculturists, the only limitation on its power being the existing and rightful user by the persons who are now in possession of them.

54. The agriculturist must have proper marketing facilities in order that his produce may fetch the best price possible. He must have direct means of communication either by rail, road or canal to the place where his produce will find a ready market. In the north of the district, where the coastal strip is a network of backwaters and mud-flats, the South Indian Railway supplies the only means of direct communication between Malabar and South Kanara. The transport generally in North Malabar is provided by vessels trading along the coast and by country-boats trading on the inland waterways. Malabar has an extremely useful system of waterways throughout the greater part of its seaboard, but it has to be stated with regret that the canal system which covers 184 miles of constructed canals or natural backwaters remains as it was forty years back. The waterways, nevertheless, bring in a revenue of Rs. 24,000 a year to the Public Works Department. *

55. Mr. Moberly in his scheme report in the year 1900 pointed out the necessity for more roads in Kurumbranad taluk and Mr. MacEwen in 1930 said that the position had improved little, if at all, since 1900. Mr. MacMichael in 1904 reported that the mileage of roads in Chirakkal taluk compared unfavourably with that of the rest of the district and he said that in the north and east of the taluk, bandies were practically unknown. Mr. MacEwen said that even in 1930 the criticism held good and that nothing had been done since 1900 to improve the position of the ryot in this respect. Mr. MacEwen also observed that Malabar's connexions by arterial roads with the outside world were exactly as they were thirty years ago and that there was no road connexion between Malabar and South Kanara along the coast. The situation has not in any way improved since Mr. MacEwen wrote. The Committee observes that much has to be done in the way of road-making in the district and especially in Chirakkal taluk in the areas to the east and north of Taliparamba which are inaccessible for wheeled traffic. The object of the Committee in making the above remarks is to bring the unsatisfactory condition of the roads and canals to the notice of the Government and local bodies so that they may examine the matter and take proper steps for providing easy transport facilities to the agriculturist.

56. The question of assessment was brought prominently to the notice of the Committee during its tour of the Malabar district and Kasaragod taluk in South Kanara and a few of the witnesses went to the extent of saying that unless the Committee was in a position to make recommendations to the Government to reduce the assessment, the Committee's labours would be in vain and would not ultimately result in any benefit to anybody. We feel that as the question of assessment has not been directly referred to us it is not strictly

* See Re-settlement Scheme report of the eight plains taluks of the Malabar district—Pages 20 and 21.

within our purview, but at the same time it is to be conceded, it would not be irrelevant to consider the quantum of the share of the produce taken by the Government when considering the respective shares of the landlord and the tenant. Further, the evidence of witnesses from the Kasaragod taluk is unanimous that unless the rates of assessment are reduced to the level of those prevailing in North Malabar, it is not advisable to introduce tenancy legislation in that taluk. It has also to be remembered that even under the existing Act, the fair rent of dry lands is fixed with reference to the assessment. We have, therefore, thought it necessary to make a few observations on the topic for the consideration of the Government.

57. We heard complaints about the assessment at the very beginning of our tour, and as we proceeded north, they became louder and louder and became loudest in Kasaragod taluk. In this taluk, vast extents of scrub jungle and rocky hillocks which yield absolutely no income, are assessed to revenue and the janmis find it impossible to pay the assessment, while at the same time they find it difficult to make up their minds to relinquish the lands and free themselves from liability. Hence it has become usual for the revenue authorities to resort to coercive processes and we had an instance given to us of 6,000 acres of land having been sold for one anna. Coercive processes were, before 1930, very rarely called for in the West Coast. The Special Settlement Officer of the year 1930 in his report stated that the average area coming under the hammer for the whole district of Malabar was only 42·98 acres with an assessment of Rs. 98–3–0 and from the statistics made available to us, we find that the number of distraints and sale notices and even actual sales have increased to an alarming extent in the last few years.* We are satisfied that the agriculturists have reason to complain about the assessment, and we feel that we shall not be doing our duty either towards the Government or towards the people, if we do not set forth the main heads of complaint in this report. They are as follows :—

(i) Though the tenures and conditions of holding property in Kasaragod taluk are similar to those prevailing in North Malabar, the assessment is calculated on the basis of half the net produce instead of one-third of the net, as in Malabar.

(ii) Vast extents of waste land in Kasaragod taluk on which nothing is grown and nothing is likely to grow are assessed at the rate of 1 anna to 3 annas an acre.

(iii) The commutation rate at the time of re-settlement in Malabar was fixed at Rs. 34–2–0 for 1,000 coconuts and Rs. 294 per garce for paddy, whereas the prices have been much lower during the last few years. The soundness of a system of taxation which takes into account only the prices of the previous twenty years and makes no allowance for a future fall in prices has been questioned. A more generous policy has been adopted in the Punjab in Lyallapur and in Lahore whereby remissions are guaranteed automatically every year in proportion to the fall in current prices, but no additional demand is made if there is any rise in prices. The same policy may be adopted here specially in the case of commercial products like coconut and pepper.

(iv) If there are 10 coconut, 120 arecanut, or 5 jack trees in an acre of land, the whole extent is assessed to tax though the major portion of it may not have been planted up.

(v) Jack trees are taken into account for the purpose of garden assessment and this works great hardship, as jack fruit does not fetch any price worth mentioning in several places in the interior of the district.†

(vi) Twenty pepper vines were taken to be equal to 10 coconut palms in the Kasaragod taluk and on account of the precarious nature of the pepper crop, this worked great hardship. We are glad to note that the Government have recently granted relief in this matter and pepper gardens are now assessed only as dry lands.

(vii) When a dry land is converted into wet or garden at the ryot's expense or a single crop land is made into double crop land, higher rates of assessment are imposed on such lands after reclassification and this involves the taxing of the ryots' improvements which is not done in other parts of the Presidency except in the district of South Kanara.

(viii) Transfers from wet to dry or from garden to dry are permitted only if, owing to causes beyond the registered holder's control, the land has become permanently unfit for wet or garden cultivation.

(ix) No objections were admitted at the time of the re-settlement as to the rates of assessment in the case of lands on which the old money rate remained unaltered or had been altered only by the general percentage increase.

(x) If a dry land is enclosed or cultivated continuously for a period of three years, it is permanently assessed as dry, wet or garden and even if the tenant is

* Statistics are given in Appendix B-10 and 11.

† "Gardens composed solely of the last named (jack) are very rare indeed, and I do not remember ever having seen one in the district. A few scattered jack trees are usually found among other garden trees, and as the District Gazetteer says, there is no widespread trade in the jack fruit; the owner uses what he requires in his own house and any surplus is sold if there is a convenient bazaar close by."—Mr. MacEwen's Scheme report for the eight plains taluks of the Malabar district, page 12.

afterwards forced to give up cultivation as unremunerative, the land is not reclassified as unassessed and the janmi has to continue to pay the assessment.

(xi) Even house-sites are assessed to revenue in Malabar whereas in other parts of the Presidency they are not assessed at all.

58. There remains for us to make some observations of a general character—

(i) As the Government have themselves conceded that they are not in the position of landed proprietors in Malabar and that the janmi is the absolute proprietor of the soil, the share of the State in Malabar must be considerably less than the share which the State demands in ryotwari tracts.*

(ii) In the Proclamation of 1805, Mr. Warden called on the janmis to "render a true and faithful account of the pattam of their estates" and he further stated that "all their apprehensions might be dissipated by the early establishment of an unalterable assessment." On the faith of this proclamation it was contended that the assessment prevailing in 1805 could not be altered. The Government examined the question at the time of the Settlement and rejected the contention and we do not, therefore, say anything further on the subject.

(iii) The revenue was almost doubled at the Settlement of 1900. From about 17 lakhs it rose to about 34 lakhs in the case of the eight plains taluks of Malabar and it was further increased by 6 lakhs at the resettlement of 1930. The Commission of 1884 stated that at the then impending settlement the assessment should nowhere exceed 20 per cent of the existing assessment and should not be enhanced even to that extent except where it was notoriously low.

59. Some of the witnesses have told as that there are numerous instances where the rent and even the income are less than the assessment. An adhigari of Walluvanad taluk gave evidence before us that there were instances where the income was not sufficient even to pay the assessment. Mr. K. P. Raman Menon of Calicut also said that the assessment was unfair and inequitable in several cases and he gave us an instance within his own personal knowledge, viz., that a land belonging to him of which the rent was only Rs. 52 paid an assessment of Rs. 50. A list of such cases was given to us by the Government Pleader and Public Prosecutor of South Kanara.† The Indian Taxation Committee (1924–25) stated that the materials before them point to a standard rate of assessment of not more than 25 per cent of the rent where the rent is fixed by a Settlement Officer or is limited by law or by custom having the force of law.‡

60. To sum up the present situation in Malabar, the condition of the people is deplorable and they are sunk in indebtedness, poverty and misery. The result has been a natural apathy and indifference, and even despondency which destroys even the desire or the will to live better. Matters are getting worse every year and the Government have to tackle the problems before it is too late for them to do anything.

61 The members of the Committee are unanimous that it would not be wise or politic to withhold suggestions for the amelioration of the people. The first suggestion we would make is to grant immediate relief in the matter of assessment in cases where the assessment is out of all proportion to the income. The moral effect of such a step would be great and its repercussions will be felt in every nook and corner of the district. The Committee's second suggestion is to take all possible steps to make lands yield more. There are considerable tracts of waste lands in Malabar which can be brought under cultivation by a judicious plan of Land Clearance and Colonization. The subject is considered at some length in the chapter relating to Waste Lands and Forests. We would next suggest that in all possible cases, irrigation facilities must be given to agriculturists so that they may not have always to depend on the precarious rainfall for growing their crops. Irrigation facilities would also enable them to bring dry lands under wet cultivation and convert single-crop lands into double-crop. The Government and local bodies should also by improving the roads and canals in the district give the agriculturists easy transport facilities. For relieving agriculturists of their present indebtedness and for improving their lands, steps should be taken to give them credit facilities by establishing co-operative credit banks throughout the district. We would also lay stress on the urgent necessity that exists to take steps to save pepper, arecanut and coconut trades from the absolute ruin threatening them. Lastly, we would suggest that to grant some relief against unemployment and under-employment, measures may be adopted to organize cottage industries, to revive village arts and crafts, and to encourage industries like salt manufacture, soap-making, fishing,§ etc.

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* "It cannot, in any sense, be argued that the Government is in the position of a large landed proprietor in Malabar. Nature supplies the irrigation. Private property in land has always been acknowledged, and the combined shares of the State and janmi ought not, in strict justice, to exceed the share which the State demands in ryotwari tracts"—page 143 of the report of the Commission of 1884 presided over by Sir T. Madhava Rao.

† Printed in Appendix D.

‡ Report of the Indian Taxation Committee, page 86.

§ In the year 1938–39 the total quantity of salt issued in the Presidency for fish curing fell from 199,785 maunds to 163,818 maunds and the quantity of fish cured from 765,771 maunds to 647,647 maunds. The number of private oil and guano factories on the West Coast fell from 145 to 56—Madras Administration Report, 1938–39, page 160.

CHAPTER V—THE NECESSITY FOR LEGISLATION.

62. It is now a matter beyond controversy that it is necessary to give fixity of tenure to the actual cultivator in order to make the land yield its utmost. Mr. Logan as early as 1881 in his report stated as follows :—

> "The first and by far the most important conclusion to be drawn from the evidence is that it is absolutely necessary to devise some means for giving to the actual cultivator of a small holding full security that if he plants trees, he will be left free to gather their fruits, and that if he reclaims land from the wastes he will be left free to enjoy the fruit of his labour and capital."

The necessity to give security is much greater now than when Mr. Logan wrote. As already stated in an earlier portion of this report, the increase in the extent of cultivation has not been keeping pace with the growth of population, and the pressure of population on agricultural land is becoming greater and greater as years go by.

63. It has been said that the need for giving fixity is not peculiar to Malabar but is common to all parts of India and especially to the ryotwari tracts in the Presidency. However true this may be, Malabar has certain peculiar features which make the need more imperative. All lands in Malabar including Forest and Waste lands are claimed by the janmis as their absolute property and it is not uncommon to find, especially in South Malabar, vast extents of land owned by a single family. According to the Census of 1931 the percentage of cultivating land-owners was 5·7 in Malabar as against 38·9 in the rest of the Presidency. It is necessary to control the monopoly of land at present enjoyed by the janmis of Malabar and, therefore, Malabar stands in more urgent need of legislation in this respect than any other part of the Presidency.

64. Another reason for undertaking legislation for Malabar is the necessity for giving fixity of tenure in the case of homesteads at least. There are no communal house-sites in Malabar and the houses are, as a rule, scattered and situated each in the midst of its own garden. Even for his homestead, therefore, the tenant has of necessity to depend on the janmi. In their order appointing the Malabar Tenancy Committee of 1928, the Government recognized the necessity of giving fixity of tenure for home-steads. Unfortunately the Act of 1930 has not given fixity but has only provided that if a suit in eviction is brought against a tenant who has been in possession of a kudiyiruppu for more than ten years, he is entitled to purchase the landlord's right in it. This we consider insufficient and legislation seems to us to be necessary for giving fixity of tenure to all kudiyiruppu-holders.

65. Objection has been raised to the grant of fixity of tenure to verumpattam tenants on the ground that they have no substantial interest in the land and that they have no incentive to improve it. This is, however, an argument for granting fixity of tenure, so that the verumpattam tenant may have an interest in the land and sufficient incentive to employ his labour and capital to improve it. Another objection put forward is that the verumpattamdar is in effect, merely an agricultural labourer and any fixity granted to him will not enure to his benefit as the land is likely to pass into the hands of money-lenders. While such a result would certainly be undesirable, it is no argument against granting fixity of tenure, but only for providing safeguards in the event of lands passing into the hands of non-cultivators. Another objection to the grant of fixity is that if it is granted, the tenants may default in the payment of rent. To meet this objection we recommend the retention of the provision that if the rent remains unpaid for a specified period, the landlord has the right of eviction. We have also suggested summary procedure for the recovery of rent which would lead to its expeditious collection.

66. Under the present Act a cultivating verumpattamdar has fixity of tenure only if his holding includes wet lands. A verumpattamdar who has converted a waste land into a flourishing garden should be allowed to enjoy the fruits of his labour and we think it is unreasonable to insist that the holding should include a piece of wet land in order to get fixity. We are therefore of opinion that legislation is necessary for the purpose of giving figity to all cultivating verumpattamdars.

67. Under the existing Act, if the landlord wants the land *bona fide* for his own cultivation or for that of any member of his family, or for building purposes for himself or any member of his family, he is entitled to sue the tenant for eviction. This provision seriously modifies the fixity of tenure granted to the tenant. If the landlord wants to take to cultivation, he can evict his tenants regardless of time and space. He may evict this year or fifty years hence and he may evict a tenant from an acre of land which may be his entire holding or from thousands of acres.

68. On the other hand, it is said that a landlord, be he a janmi, kanamdar or kuzhikanamdar, should be given an opportunity to go back to his own lands and take to cultivation especially at a time when families are being partitioned on account of the recent Marumakkathayam and Nambudiri Acts and when even educated members belonging to such families find it well-nigh impossible to secure employment in Government service or to take to any lucrative profession. We have in our recommendations tried to reconcile the conflicting interests and suggested measures whereby such evictions may be confined to genuine requirements.

69. Equally important is the question of rent. It would not be of any benefit to the tenant, if along with the granting of the fixity of tenure, provision were not made against arbitrary increase of rent. Complaints have been made before the Committee that the actual tiller of the soil is being rackrented, that all the profits of the land are taken by the landlords, and that, in consequence, the cultivator is reduced to the position of a mere labourer. There is evidence to show that in ancient days the produce was divided between the janmi and the tenant in accordance with certain customary rules. The Joint Commissioners' report of the year 1793 shows that before the conquest of Hyder Ali, the shares were out of 10 paras of produce, 6-4/6 to the kanamdar and 3-2/6 to the janmi. The janmi was bound to keep ' a train of soldiers ' out of his share. After the assessment of revenue by Hyder Ali and Tippu Sultan, the kanamdar's share was reduced to 5-3/6 and the janmi's share to 1-3/6. The latter was absolved from his liability to keep the soldiers. In 1803, the Principal Collector Mr. Rickards with the consent of the janmis adopted the following principle for the purpose of assessment : " On rice grounds, after deducting from the gross produce the seed and exactly the same quantity for expenses of cultivation, then allotting one-third of what remains as Koroolabham to the Kudiyan, the residue or pattam is to be divided in the proportion of 6/10 to the Company and 4/10 to the janmkar." The practice of giving one-third of the produce to the cultivator has continued to the present day. It would, therefore, be introducing no violent change if in all cases the cultivator is held entitled to a certain fixed portion of the produce so as to secure to him a reasonable margin of profit.

70. Conditions in Malabar are different from the rest of the Presidency on account of the difficulty created by the existence of a number of intermediaries between the ultimate landlord and the tiller of the soil. It is usual especially in North Malabar to find three or four intermediaries between the janmi and the actual cultivator all having interests in the same piece of land. The larger the number of mouths to be fed out of the same land, the greater is the likelihood of the actual tiller being rackrented. Malabar stands apart in this respect from the rest of the Presidency and legislation for fixing fair rent has not come too soon.

71. The argument against legislation based on sanctity of contracts and on the private rights of parties has no meaning when the parties to the contract do not meet on equal terms. It is a well-known principle of equity that bargains will not be upheld if one party to the contract was manifestly in such a position that he could not freely exercise his will. We therefore think that the relations between landlords and tenants must be regulated by legislation and placed on a secure footing.

CHAPTER VI—FIXITY OF TENURE, EVICTION AND RELINQUISHMENT.

72. We have shown the necessity for giving fixity of tenure to tenants of agricultural lands in Malabar and the legislature has, under Act XIV of 1930, given certain classes of tenants qualified fixity. We shall in this Chapter consider whether it is necessary to extend the provisions regarding fixity to other classes of tenants and whether the fixity already conferred should be made more comprehensive.

73. In order to make our discussion intelligible, it is necessary at the outset to give a brief description of the nature of the lands in Malabar. Lands are usually classified into three kinds—wet, garden and dry. This classification has been adopted in the revenue records of the district and in Act XIV of 1930 and we think that it would be convenient to adhere to the classification. ' Wet land ' is land which is adapted for the cultivation of paddy. ' Garden land ' is land used principally for growing fruit-bearing trees; the garden trees of Malabar recognized by the revenue authorities are the coconut, arecanut and the jack. Gardens composed solely of jack trees are unknown and under Act XIV of 1930, jack-fruit is not taken into account in assessing the rent payable. We may therefore define garden land as land used principally for growing coconut trees and arecanut trees.* ' Dry land ' is land which is neiher ' wet land ' nor ' garden land.' We shall throughout our discussion, follow the above classification.

74. We have in Chapter III of this report described the nature and origin of the several tenures and rights in land prevalent in Malabar. It would be difficult for persons not acquainted with Malabar to remember their names and characteristics. But to follow our discussion intelligently, it would be sufficient to grasp the peculiar features of only three classes of tenancies under which most of the lands in Malabar are held. We shall, therefore, even at the risk of repetition, state their names and usual incidents in as brief a manner as possible. They are verumpattam, kanam and kuzhikanam. Verumpattam is a simple lease and is the lowest of tenures prevalent in Malabar. It generally enures for a single year unless it is held under a Kovilakam (Raja) when the period is usually twelve years and it is then called Customary Verumpattam. Kanam is a lease with security as opposed to a bare lease and is now regarded by Courts as an anomalous mortgage as the land is also treated as security for the amount advanced. It is generally for twelve years. Kuzhikanam also is a lease for twelve years granted with a view to plant up the soil with fruit-bearing trees.

75. Before we enter on the main topic for consideration it would not be out of place to make a few observations on the distinction between occupancy right and fixity of tenure. One proposal made to the Committee and embodied in the Questionnaire was the grant of occupancy right to the actual cultivator. Most of the persons who answered the Committee's Questionnaire did not make any distinction between occupancy rights and fixity of tenure. If absolute fixity were conferred and the right were made also heritable and alienable, there would practically be no difference between occupancy right and fixity of tenure. The only difference would be that in case of the death of an occupancy tenant without heir the tenancy would not revert to the landlord but to the Crown, whereas on the death of a tenant without heir and having only fixity of tenure the tenancy would revert to the landlord. If occupancy right were granted, the landlord would not be able to evict the tenant under any circumstance but, in granting fixity, conditions could be imposed under which the landlord would be able to get possession from the tenant or, in other words, qualified fixity as opposed to absolute fixity could be granted. It has not been seriously pressed on us that absolute occupancy rights should be conferred on any class of tenants. The demand has been only for fixity of tenure.

Fixity of Tenure.

76. With the above preliminary remarks let us now take up the question of fixity of tenure, the main topic for consideration. As already stated, Act XIV of 1930 has granted fixity to certain classes of tenants. It has altogether excluded certain lands and buildings from its operation. Lands transferred by a landlord for felling timber or for planting tea, coffee, rubber, cinchona or any other special crop prescribed by a rule made by the local Government and any building owned by a landlord together with the land appurtenant thereto are not within the purview of the Act. Leases for felling timber and leases of buildings are not leases of land, as such, nor are they taken generally by agriculturists. We do not, therefore, think that any legislative interference is called for in

* In this view it is necessary to amend the definition of garden land given in Act XIV of 1930 as follows: ' Garden land ' means any land used principally for growing only coconut trees or areca trees or both—Vide statement of Objects and Reasons of the Malabar Tenancy (Amendment) Bill, 1938.

such cases. The planting of tea, coffee, rubber, cinchona and similar crops is mainly done by large companies who may reasonably be presumed to be able to protect their own interests under the ordinary law and no legislation seems to be necessary for their safety. A suggestion has been made, however, that fixity should be conferred on such plantations of less than fifty acres in extent as they are mostly owned by individuals. There are very few estates falling below the limit and even the owners of such small estates seem to be persons who are educated and well able to look after their own interests. We do not, therefore, recommend any legislation for conferring fixity on holdings cultivated with tea, coffee, rubber, cinchona and similar crops. Melpattam is a lease of the usufruct of trees and it is unnecessary to grant fixity of tenure for it. Fugitive cultivation and cultivation of pepper are also excluded from the present Act. The extension of the Act to such cases is one of the terms of our reference. It is, therefore, necessary to deal with these kinds of cultivation.

77. *Fugitive cultivation.*—Fugitive cultivation is not defined in the Act. It may be said to include all kinds of shifting and intermittent cultivation on dry lands. The most important dry crops are punam and modan, both a species of hill paddy. The term *punam* is applied to cultivation on the forest-clad hills at the foot of the ghats and on the ghat slopes themselves. A patch of forest is cleared and burnt and a crop of hill paddy is grown on it. Dholl, millet and plantains are often grown mixed with the hill paddy and the ground is then left fallow for a number of years. Modan is grown on the low hills which abound in the plains of Malabar. After modan, gingelly is grown and harvested and then Samai. The land is afterwards left fallow for two to four years according to fertility. Ginger and groundnut are valuable crops grown in some parts and ragi and cholam are also grown. The area cultivated with fugitive crops in Malabar is considerable, averaging as it does, 79,510 acres a year over the past five years.* Although the extent of land under fugitive crops has decreased in recent years, many of the poorer classes of cultivators still live mainly out of this type of cultivation. As the cultivation is shifting and not continuous, the lands are classified as unoccupied dry in the revenue records.

Dry lands are usually included in verumpattam, kanam and kuzhikanam holdings and though the cultivation on such dry lands is fugitive in character, fixity of tenure under our proposals attaches to these lands unless they are expressly transferred by the landlord for fugitive cultivation. Lands which are leased expressly for fugitive cultivation are not in the possession of any tenant continuously and it is impossible to grant fixity of tenure for them. We do not, therefore, think it necessary to extend the provisions of the present Act, or the proposed legislation, regarding fixity to fugitive cultivation.

78. *Pepper cultivation.*—The cultivation of pepper is practised in all taluks of the district, but predominantly in Chirakkal and Kottayam taluks which between them contribute over two-thirds of the very considerable total of over 95,000 acres.

Pepper is cultivated in dry lands, the vines being trained usually up trees specially planted for the purpose. The vines come into bearing between the sixth and eighth year after planting, and continue to yield until about twenty-five or thirty years after planting, when they die. It is stated that pepper vines are not usually replanted in the same area, as the soil is, according to popular ideas, rendered pungent by the vine and is therefore unsuitable for replanting. Pepper cultivation is, therefore, said to be fugitive in the sense that the area has to be abandoned when the vines die and cannot be planted up again for some years. The grant of fixity of tenure for pepper cultivation would not necessarily be an advantage to the tenant. He might be compelled to retain the pepper garden in his possession when it had ceased to be productive. We do not, therefore, recommend fixity of tenure for the cultivation of pepper.

79. The Act confers fixity of tenure on all cultivating verumpattamdars (whose holdings include wet lands) subject to defeasance under certain conditions. It confers a right of renewal on all customary verumpattamdars and kuzhikanamdars and on all kanamdars except those whose kanam amount exceeds 60 per cent in South Malabar or 40 per cent in North Malabar of the Janmam value and those whose holdings cover only dry lands.

80. *Verumpattamdars.*—We shall first deal with the case of verumpattamdars. Under the present Act a cultivating verumpattamdar has fixity of tenure only if his holding includes wet lands. Thus a verumpattamdar who has only garden lands or dry lands is excluded from the provision granting fixity of tenure. On the other hand, if a wet land is included in the holding, fixity is conferred with respect to the whole holding even though the garden and dry lands are out of all proportion to the extent of the wet lands. We think that it is unnecessary to provide that the holding should include wet land in order to get fixity. There is no reason why a verumpattamdar who has made an arid tract into

* The figures are given in Appendix B-3.

a smiling garden should not be given fixity because no wet land is included in the holding. The arguments in favour of granting fixity are as applicable to the case of dry and garden verumpattam lands as to verumpattam wet lands. We are, therefore, strongly of opinion that fixity should be conferred on all cultivating verumpattamdars whether or not their holdings contain wet lands.

Moreover, the nutritive value of fruit is now being realized and it is absolutely essential to give fixity of tenure on dry lands for the purpose of encouraging fruit farming. With the development of cheap, rapid and reliable transport, of cold storage facilities and of methods of preserving the surplus crop such as canning and sun-drying, fruit farming will, we feel sure, increasingly engage the attention of the more enterprising agriculturists in the near future.*

81. *Kanamdars, kuzhikanamdars and customary verumpattamdars.*—The present Act confers the right to demand renewal which amounts to fixity of tenure on all kanamdars except those specifically excluded by section 17 (*c*), on all kuzhikanamdars, and on customary verumpattamdars. The section has excluded kanams where the kanam amounts exceed 60 per cent in South Malabar or 40 per cent in North Malabar of the janmam value. The reason for excluding them is that they are not real kanams but mortgages and such kanamdars are not tenure-holders but really investors of money. We feel that there is no necessity to give them a right to demand renewal and thus prevent the mortgagors from paying up the mortgage debt and recovering possession of their lands. We would, therefore, recommend the retention of the present provision regarding kanams of the value above specified.

Section 17 (*c*) (2) excludes kanamdars where all the lands covered by the kanam are dry lands and none of them is a wet land or a garden land. We feel that there is no adequate reason for excluding kanamdars of dry lands from the right to demand renewal. On the other hand, the conferring of fixity on such lands would be an incentive to improve them and might help to relieve the high pressure of population on agricultural land to some extent. The reasons given above for giving fixity to verumpattamdars of dry lands are equally applicable to kanamdars of dry lands.

Our proposal is to give the right to demand renewal to all persons who hold real kanams. It may be that several of them are not now actual cultivators but it is an undisputed fact that they are persons having substantial interest in the lands and we would be throwing open the flood gates of litigation if we ignore their rights altogether in giving fixity. Our endeavour has been as far as possible to retain the existing state of things and we would, therefore, confer fixity on all real kanamdars without making any distinction between cultivating and non-cultivating kanamdars. The position of customary verumpattamdars and kuzhikanamdars is analogous to that of kanamdars and the reasoning applicable to kanamdars is equally applicable to them. It is also noteworthy that the present Act confers the right to demand renewal on kanamdars, kuzhikanamdars and customary verumpattamdars whether they are cultivating or non-cultivating. We are, therefore, of opinion that the right to demand renewal should be granted to all these classes of tenants of agricultural lands whether they are cultivating or non-cultivating except to those kanamdars specified in section 17 (*c*) (1) of the present Act who are really mortgagees. We propose in paragraph 151 that renewals and renewal fees in their present form should be abolished, so that those tenants who are now liable to eviction for failure to take renewals would no longer be liable to be evicted on that ground, but would instead have fixity of tenure subject only to the conditions specified later.

82. *Tenures converted into mortgages.*—We are informed that a number of tenures which get fixity under the Act have been converted into mortgages in order to evade the provisions of the Act. Instances have been quoted to us where verumpattams with advances of rent known as munpattam or talapattam and ordinary kanams have been termed mortgages. We consider that such evasions of the Act should be prevented. Where a mortgage is shown to have been granted in place of a verumpattam, kanam or similar tenure, the mortgagee should be treated as a verumpattamdar or kanamdar as the case may be.

83. *Commercial sites.*—We have hitherto dealt with tenants holding agricultural lands and we deal later with kudiyiruppus. Another class of land which has been brought to our notice is that of so-called ' commercial sites.' These may be defined as lands which are not used mainly for agricultural purposes or as kudiyiruppus. We consider that fixity of tenure should be given also to the tenants holding such sites. In deciding whether a land is a commercial site or not, the criterion should be the use to which it is put at the time when the question arises for decision.

* It is noteworthy that India imports preserved foodstuffs to the value of over two crores.

84. *Ideal farm.*—Two suggestions embodied in our Questionnaire were first that fixity of tenure should be restricted by limiting the area in possession of the cultivator to that suitable for an ideal farm and second, that their rights should be limited by prohibiting sales by cultivators to non-cultivators. The proposal for ideal farms really raises a much larger issue of the redistribution of land among peasant proprietors. The logical corollary of this proposal would be a prohibition of any subdivision which would reduce a holding to an area less than that of an ideal farm. In view of the partitions now taking place amongst Marumakkathayam and Nambudiri families, and the fragmentation which necessarily occurs under the Muslim law of inheritance, any restriction on subdivision would be impracticable. We consider, therefore, that such a restriction of area should not now be imposed.

85. We are not unmindful of the fact that on account of the excessive fragmentation and fractionalisation of holdings, it is becoming impossible for agriculturists to have any irrigation facilities, to adopt improved methods of cultivation or even to maintain cattle of the right kind. Most of the holdings have ceased to be economic and we feel that the problem has to be tackled in all earnestness. It would be sufficient for us in this report to draw the attention of the Government to the growing necessity that exists for consolidation of uneconomic holdings.*

86. *Sales by cultivators to non-cultivators.*—The prohibition of sales by cultivators to non-cultivators presupposes that there is a distinct class of non-cultivating money-lenders in Malabar. This has been strenuously denied and it is at least true that much of the rural credit of Malabar is supplied by persons who are themselves cultivators. A restriction of this kind would seriously contract rural credit with harmful results unless other credit arrangements could be made. The object of the proposal is to protect the actual cultivator and to foster agriculture. We propose elsewhere that the actual cultivator should not be compelled to pay more than fair rent. If this proposal is accepted, the ownership of rights in land by non-cultivators will not affect the interests of the cultivator to any serious extent. The transfer of rights from cultivators to non-cultivators might affect individuals, but would not injure the interests of the cultivators generally. We do not, therefore, propose that any such restriction should be placed on transfers of rights.

87. *Fixity heritable and alienable.*—The fixity of tenure at present enjoyed is both heritable and alienable. There can be no doubt that this is in accord with the general sentiment in Malabar which has always recognized a very wide freedom of transfer and sub-demise of rights in land. We, therefore, recommend that this practice may be continued and no restrictions need be placed on the rights of heritability and alienability.

88. *Conclusion regarding fixity.*—To sum up, we propose that fixity of tenure, both heritable and alienable, should be granted to all classes of tenants, present and future, holding land of any class whatever, but not to certain kanamdars who are really mortgagees, or in respect of lands cultivated with pepper as the principal crop, fugitive crops, or products such as tea, coffee, rubber or cinchona.

Grounds for Eviction.

89. The present Act, as already stated, confers only a qualified fixity or in other words, the fixity conferred is subject to defeasance on certain conditions. The grounds for eviction are mentioned in sections 14 and 20 of the Act and we propose to consider whether it is necessary to remove or restrict the grounds therein specified. With the exception of eviction for the landlord's own cultivation, the grounds are extremely simple and little difficulty has been experienced in their interpretation.†

90. *Denial of title, waste and collusive encroachment.*—The grounds specified in clauses (1), (2) and (4) of sections 14 and 20, viz., wilful denial of title, wilful waste and collusively allowing a stranger to encroach on the holding, have not given rise to any specific complaint. Very few suits have been filed on these grounds, nor can any tenant have a reasonable grievance if he is evicted for any of them.

91. *Failure to take a renewal.*—Clause (3) of section 20 specifies failure to take a renewal as one ground for eviction. In view of our proposal in regard to renewals and renewal fees, this ground for eviction will no longer operate.

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* "*Societies for the consolidation of holdings*: The Government ordered that these societies should be started in a few districts to begin with, and set apart Rs. 50,000 out of the Government of India grant for rural uplift to meet the cost of special inspectors to supervise the societies. There were 16 such societies working in six districts. One society consolidated 181·21 acres, the average extent of a holding increasing from 0·22 acre to 1·39 acres."—Madras Administration Report, 1938–39, page 121.

† Statistics of litigation on each ground are given in Appendix B-7.

92. *Failure to pay rent.*—Under clause (3) of section 14, failure to pay rent within three months of the due date is a ground for the eviction of a cultivating verumpattamdar. If the Committee's other proposals are adopted, the class of verumpattamdars with fixity of tenure will be considerably enlarged and the right of eviction for failure to pay rent will become of much practical importance. It is a right on which the landlords lay great stress. The general demand of the tenants is that they should have fixity of tenure subject to the payment of fair rent. It has further been stated that so long as the rent is fair, no tenant will fail to pay it. This statement may take an unduly optimistic view of human nature but we feel that as the verumpattamdar is given fixity of tenure, it is not unreasonable to propose that failure to pay the whole or part of the rent should continue to be a ground for the eviction of verumpattamdars. We are, therefore, of opinion that clause (3) of section 14 of the present Act should be retained but with a slight modification detailed in the following paragraph.

The existing provision gives the tenant three months' time to pay the rent before he becomes liable to eviction. Rents on double-crop wet lands are generally paid in two instalments in the Malayalam months of Kanni (September-October) and Makaram (January-February). A period of three months from February means that a suit cannot be filed before the summer vacation of the civil courts and that it is not possible to secure possession of the land in time to begin cultivation operations for the following agricultural season. We, therefore, recommend that where rent due between the Malayalam months of Kanni (September-October) and Makaram (January-February) (both inclusive) is not paid by the 30th of the Malayalam month of Kumbham (February-March), the verumpattamdar should be liable to eviction. Where rents are due before Kanni or after Makaram, the present time-limit of three months may be retained. This ground for eviction should apply only to verumpattamdars.

93. *Failure to furnish security.*—The cultivating verumpattamdar is at present liable to eviction under clause (7) of section 14 of the Act for failure to furnish security for one year's fair rent. This provision does not apply to kanamdars, kuzhikanamdars and customary verumpattamdars. The provisions in the Act for taking security from the verumpattamdar have, in fact, rarely been used. It is argued, however, that the fear of being required to furnish security makes the verumpattamdar more regular in the payment of rent. It has been suggested that the provision for security should be abolished as very few verumpattamdars are able to furnish security and this provision, therefore, renders their fixity of tenure illusory. A further suggestion is that the liability to furnish security should be restricted to the defaulting verumpattamdar.

It is generally admitted that very few verumpattamdars are at present in a position to furnish security for rent. We have proposed in paragraph 80 that a verumpattamdar should have fixity of tenure. There are two interests to be reconciled, the tenant's fixity of tenure and the landlord's right to collect his rent. We consider that these can best be reconciled by confining the demand for security to the verumpattamdar who defaults for one year in the payment of the whole or part of the rent. The verumpattamdar who paid his rent would thus be free from the demand for security and would have an incentive to be regular in the payment of the rent. The landlord would be able to obtain security in those cases where it is reasonable to demand it. Where the verumpattamdar renders himself liable to a demand for security, there must necessarily be a right of eviction to enforce the demand. We propose, therefore, that where a verumpattamdar has defaulted for one year in the payment of the whole or part of the rent, he should be liable to furnish security for one year's rent in accordance with the provisions of the present Act and should be liable to eviction if he fails to furnish the security. The demand for security should be made within 12 months of the default. This ground for eviction should be confined, however, to verumpattamdars.

94. *Bona fide cultivation and building.*—We next come to clauses (5) and (6) of sections 14 and 20 of the Act which have given rise to a great deal of controversy, and on which most of the suits for eviction, brought after the commencement of the Act, have been based. Under clauses (5) and (6) of sections 14 and 20, a landlord can evict certain tenants whose term has expired if he requires the holding *bona fide* for his own cultivation or for cultivation by the members of his family or for building purposes for himself or his family. It is clear that these grounds for eviction constitute a considerable modification of the fixity of tenure otherwise granted to the tenant. The tenants generally want them restricted or abolished. The landlords, on the other hand, would like to have the present right enlarged and they argue that the Act was intended to prevent capricious evictions but not to abolish evictions altogether.

95. Some cases have been brought to the notice of the Committee in which these provisions have been abused and evictions secured ostensibly on the ground of *bona fide* cultivation or building but actually for other reasons. To meet such cases of abuse it has

been suggested that the provisions of sections 15, 21 and 43 of the present Act should be made more severe. Sections 15 and 21 enable the evicted tenant to get back possession of the land if it is granted on lease to a new tenant within a period of six years or if the building for constructing which the eviction was obtained is not erected on the land within the same period. But section 43 provides that if the landlord had paid any value of improvements, the person claiming restoration shall be bound to return to the landlord the value so paid in respect of the improvements existing at the time of the restoration together with the Kanartham, if any, and also the value of improvements effected *bona fide* by the landlord between the date of eviction and the date of suit. The proposal made to us is that where the tenant is restored within the six years' period, he should not be required to repay the value of his improvements or pay the value of the landlord's improvements and if there are no improvements to be paid for, he should be entitled to mesne profits. The objection to the proposal is that it would penalise cases where the landlord had genuinely intended to cultivate or build but was unable to do so. The purpose of this suggestion is to ensure that evictions shall be made only in cases where there is a *bona fide* intention to cultivate or build. We feel that the measures which we propose are more likely to secure this object.

96. While there is general agreement that abuse of these provisions should be prevented as far as possible, it is also conceded that those landlords who want to evict tenants in order to earn their livelihood by cultivation should be able to do so. We are accordingly unable to accept two of the suggestions made to us, one to abolish the right altogether, and the other to impose a time-limit for its exercise. The complete abolition of the right would work hardship on the poorer landlords and on those numerous families, who are partitioning under the Marumakkathayam and Nambudiri Acts. Any time-limit to be effective would need to be short. Suggestions vary from one year upwards. A time-limit would make no allowance for needs arising after its expiry. It is also open to the grave objection that its immediate effect would be greatly to increase the number of eviction suits as most landlords are likely to take proceedings before the tenant has secured immunity from eviction by lapse of time. Thus a provision intended for the tenant's protection might result in their immediate extermination, though it might benefit those tenants who came into possession after the specified time.

97. We have, therefore, examined a number of other suggestions for the amendment of these provisions. They fall into two main classes, one exempting certain classes of tenants from the liability to eviction on these grounds and the other excluding certain classes of landlords from exercising this right.

98. In the former category the proposals are that tenants of small holdings and long-standing tenants should be exempted from eviction on the grounds specified.

In respect of tenants of small holdings, the suggestion is that those in possession of less than 5 acres of wet land or 2 acres of garden land should be exempt from eviction. This would, however, leave very few tenants liable to eviction at all. Even if the limit were reduced, it would be possible for a tenant to evade it by collusive subletting in favour of his relations. This exemption would virtually amount to the abolition of the right altogether. We are, therefore, unable to accept it.

The exemption of long-standing tenants seems at first sight reasonable, but on closer scrutiny appears to be impracticable. The suggestion is made on the analogy of the right now granted under section 33 of the Act to kudiyiruppu holders of ten years' standing to purchase their kudiyiruppus when they are sued in eviction. The proposal has two disadvantages. It would render the tenant's position in future less, and not more, secure as the landlord would in many cases feel obliged to evict the tenant before he had secured immunity. It would also penalise the considerate landlords who have conformed to the best traditions of the Malabar landlord and allowed their tenants to remain in possession for long periods.

99. Three main suggestions have been put forward for the exclusion of certain classes of landlords from the exercise of the right of eviction. The first is to limit the right to the poorer landlords who are variously defined as those who have less than a certain amount of property or those who need to cultivate to earn a livelihood. The second is to exclude sthanams and charitable and religious bodies from the exercise of this right. The third is to exclude those landlords who already directly cultivate a certain area of land and to permit other landlords to evict tenants only from such extent of land as will bring the total area in the landlord's direct possession to the specified limit.

The restriction of this right to the poorer landlords proves on further examination to be impracticable. It has been suggested that a poorer landlord should be defined as one who pays an assessment of less than Rs. 250. Many Marumakkathayam and Nambudiri families are now partitioning and most of the members after partition will in future pay less than Rs. 250 as assessment. This restriction, therefore, would be largely ineffective.

Another definition of the poorer landlord is implied in the suggestion generally made that this right should be restricted to those landlords who need to cultivate in order to maintain themselves. In practice this would mean that every suit for eviction on this ground would involve a most unpleasant inquisition into the landlord's means. There would further be no certainty about the amount required for a man's maintenance.

100. The abolition of this right in the case of sthanams and charitable and religious bodies constitutes the second suggestion. As early as 1884, Mr. C. (afterwards Sir C.) Sankaran Nayar suggested the grant of fixity of tenure to the tenants of sthanis and charitable and religious bodies and the proposal has found supporters ever since. Mr. Justice Sundara Ayyar in 1911 observed that it would be proper to declare that temples and other public institutions should not have the right to evict their tenants. Where the landlord is a sthani, the question of personal cultivation or building does not, in practice, arise. The sthani usually attains the sthanam at an advanced age and is unlikely ever to require land *bona fide* for cultivation or building. This ground for eviction may, therefore, be abolished without injustice so far as the sthani is concerned.

A charitable or religious body such as a devaswam, mosque, sabhayogam or mutt cannot from its nature cultivate its land. The abolition of the right of these bodies to evict for purposes of cultivation would merely record an existing fact. The right of these bodies to evict for building purposes might be used by the trustees who are often also private landlords, to harass the tenants of these bodies for other reasons. It is sometimes necessary, however, for a charitable or religious body to extend its existing premises. Examples given to us are the extension of the burial ground of a mosque and the construction of sanitary conveniences for the staff of a temple. We consider that there would be no injustice if the right of these bodies to evict for building purposes were to be restricted to such cases of necessity. We, therefore, recommend that where a religious or charitable body desires to extend its existing premises and to evict any of its tenants for that purpose it should first approach the Collector for a certificate of the necessity of the extension and the area required for it. The Collector should give notice to the party to be evicted, and hold a summary enquiry into the necessity of the extension and the area required, and issue or refuse a certificate accordingly. No suit for eviction on this ground should be entertained from a religious or charitable body without such a certificate, nor should a decree be passed for the eviction of tenants from any area in excess of that given in the certificate. The right should apply only to the extension of premises existing at the date of the passing of legislation or any earlier date which may be specified. It is not at present entirely clear whether the extension of the burial ground of a mosque would constitute a building purpose within the meaning of the provision in the Act. We consider that such a purpose should be included with the restrictions mentioned.

101. It has also been suggested that in the case of ancient janmis who own extensive estates and who, therefore, may not find it difficult to get lands for actual cultivation or for building purposes, no hardship will be caused if eviction for such purposes is prohibited altogether. Mr. Justice Sundara Ayyar in 1911 stated " that the conferring of permanent rights on kanamdars holding under ancient janmis will be a substantial step in the improvement of agriculture and that it might be possible to declare that in the case of ancient janmis they would not be entitled to evict kanamdars holding under them." The difficulty in accepting Mr. Sundara Ayyar's proposal is that the term ' ancient janmi ' is not capable of any precise definition.

We feel that the suggestion for the imposition of an acreage limit constitutes the only practicable means of achieving the object of limiting such evictions to genuine requirements. The average holding in the Madras Presidency is said to be about 5 acres * and this extent was considered by the Banking Enquiry Committee in the United Provinces to be the minimum necessary for an economic holding. We consider that an extent of 5 acres per head of the landlord's family would be adequate for direct cultivation and building taken together.

102. Our proposal, therefore, is that a landlord other than a sthani or charitable or religious body should be allowed to evict for *bona fide* cultivation or building purposes provided that the extent from which tenants may be evicted for both purposes combined when added to the area already directly in the possession of the landlord or any member of his family should not exceed 5 acres per head of the landlord's family. Forests and waste lands and lands in which fugitive cultivation is carried on should not be taken into account in calculating the extent in the landlord's direct possession. In the case of small joint families consisting of more than one but less than four members, the limit

* The average size of a holding in Bengal is 3·1 acres, in Assam 3 acres, in Behar and Orissa 3·1 acres, in Madras 4·9 acres, in Central Provinces 8·5 acres, in the Punjab 9·2 acres and in Bombay 12·2 acres. In British India as a whole, holdings of less than 1 acre are no less than 23 per cent of the total and those below 5 acres 56 per cent, all of which may be considered uneconomic.

calculated in the manner above indicated may be too small, as custom requires them to maintain a higher status than the individual members would maintain separately. We propose that in cases of such families the limit may be raised to 20 acres. In calculating the number of members in a family, wife and children in the case of a male and husband in the case of a female should be excluded in respect of tarwad property, but included in respect of separate property.

103. The provisions for the restoration of the tenant, if the landlord fails to carry out the purpose of eviction, may be retained in their present form.

Relinquishment.

104. Closely connected with the subject of fixity is the question of relinquishment by the tenant. The present provision for relinquishment in section 44 enables the tenant to surrender his entire holding after due notice, but requires him to tender all outstanding arrears at the time of surrender and to forfeit his kanam amount and his improvements.

The exclusion of partial surrenders except where the landlord agrees to them, is a reasonable one, especially in view of our proposals regarding fair rent. We recommend, therefore, that this provision may be retained. There is also no objection to the retention of the provision for notice of surrender.

The provision for payment of arrears before surrender was apparently intended to prevent evasion of the payment of large arrears. In effect, however, it retains the tenant on the land when he is already in arrears and allows more to accumulate. We recommend, therefore, that the payment of arrears should not be a condition precedent to surrender. For the balance of the arrears, if any, after setting off the kanam amount and the value of the improvements, the tenant should continue to be personally liable.

It has been suggested that the tenant who voluntarily surrenders should be entitled to claim the balance of his kanam amount after adjusting his arrears first against the value of his improvements and then against his kanam amount. Some witnesses have suggested that he should also be entitled to receive the balance of the value of his improvements.

If the latter suggestion were accepted, many tenants would have an incentive to surrender as the value of improvements calculated under the Improvements Act is, in many cases, in excess of their present market value. It is generally agreed that no landlord in Malabar could pay all his tenants for all their improvements. The great majority of the landlords would be unable to meet even a small portion of the numerous claims which would be made. The suggestion to repay the value of improvements on surrender is, therefore, impracticable.

Even the restricted suggestion that the balance of the kanam amount should be repaid might gravely embarrass many landlords. It has been pointed out to us that while the individual kanam amounts may be small, they amount in total to a large sum which the landlord would be unable to repay. We do not, therefore, recommend this suggestion.

The need for surrender arises only in cases where the holding is unprofitable. In all other cases the tenant can sell his holding for its market value. It is unnecessary and inequitable to compel the landlord to pay the kanam and value of improvements. The object of the suggestions discussed above is to relieve the tenant who has made improvements, but whose holding is unprofitable at the existing rental. We consider that this object will better be achieved by the proposal which we make in paragraph 108 that no tenant should be compelled to pay more than fair rent.

We do not, therefore, recommend any change in the existing provisions for surrender except that the payment of arrears need not be a condition precedent to surrender.

CHAPTER VII—RENT AND REVENUE.

105. The most important questions referred to the Committee are those of fixity of tenure and fair rent. Fixity of tenure without fair rent, it has been said, is an absurdity. It will not benefit a tenant if he is given fixity of tenure without at the same time limiting the rent which can be demanded from him. If unreasonable demands for rent can be made on the tenant, he will be compelled to quit the holding in spite of the fixity granted to him. It is thus obvious that the rate of rent which the tenant is to pay is a matter of prime importance to him. At present, the fair rent system is of limited application. It applies in the calculation of renewal fees but in other respects the rates of fair rent have scarcely come into force. The cultivating verumpattamdar is to pay fair rent only after 1942. The kuzhikanamdar is required to pay fair rent when he applies for renewal but owing to the technical defect in section 22 of Act XIV of 1930, the provision is largely a dead letter. It follows, therefore, that much of the discussion about the rates of fair rent prescribed by the Act has been academic in the sense that scarcely anyone has any practical experience of them.

Fair Rent.

106. *Verumpattamdars.*—Our main proposal on the subject of rent is that no tenant of agricultural land should be compelled to pay more than fair rent. It is true that under the existing Act, fair rent is, as stated above, applicable only to certain classes of tenants and for limited purposes. The Act of 1930 has proceeded on the basis that it is necessary to protect the actual tiller of the soil against rack-renting and has accordingly fixed the rent payable by the cultivating verumpattamdar, but a verumpattamdar has been defined in the Act as a tenant other than a kanamdar or kuzhikanamdar of a holding for agricultural purposes which includes wet lands. Under the existing Act only those verumpattamdars who have wet lands included in their holdings have fixity of tenure. We have held that no such restriction is necessary and have recommended that fixity should be conferred on all verumpattamdars, whatever class of land is held, whether wet, garden or dry. The right to have fair rent fixed must accompany the right to fixity and we accordingly recommend that all verumpattamdars and their landlords shall have the right to have fair rent fixed for their verumpattam holdings.

107. *Kuzhikanamdars.*—The kuzhikanamdar is liable to pay only fair rent after he gets a renewal and the provision is applicable as much to a non-cultivating kuzhikanamdar as to a cultivating kuzhikanamdar. Under the measures which we recommend in paragraph 155 the kuzhikanamdar will be required at the expiry of his existing term to pay fair rent plus a portion of the renewal fee. As he is already required to pay a renewal fee in addition to fair rent, our proposal, though at first sight anomalous, is in accordance with the existing practice. Moreover, the kuzhikanamdar will have, according to our proposal, an advantage over the verumpattamdar in that he will not be liable to eviction for default in the payment of rent.

108. *Kanamdars, customary verumpattamdars and intermediaries.*—The kanamdar whether cultivating or non-cultivating is not affected by the provision regarding fair rent, but is left to be governed by the terms of his contract with his landlord. There has been no demand from any quarter for legislative interference in the matter of fixing the rent payable by a kanamdar, customary verumpattamdar or an intermediary as the rent payable by them in almost all cases is less than fair rent. We have, therefore, thought it unnecessary to recommend the extension of the system of fair rent to such classes of tenants. It is, however, said that the rents paid by some kanamdars and kanamkuzhikanamdars are in excess of fair rents payable on their respective holdings. Our object, as stated already, is to secure, in general, that no tenant should be compelled to pay more than fair rent. Accordingly we consider that all such persons should be given the option of converting themselves into verumpattamdars and thus paying only fair rent. In that event, the amount of their kanam, or other sum advanced should be treated as security for rent bearing simple interest at $6\frac{1}{4}$ per cent per annum. This option should apply to all classes of tenants to whom we have recommended that fixity of tenure should be granted. Our proposal does not, therefore, apply to those kanamdars or kanamkuzhikanamdars specified in section 17 (*c*) (1) of the Act or to usufructuary or simple mortgagees except those specified in paragraph 82 who are not real mortgagees.

109. Having said so much about the extension of the fair rent system, we next propose to deal with the rates of rent for all the taluks except Wynaad and later with the rates for Wynaad, where conditions are peculiar.

MALABAR PLAINS.

110. *Wet lands not converted by the tenant.*—The most radical suggestion for the amendment of the rate of fair rent of wet lands is to follow Mr. Rickard's Proclamation of 1803 and treat the assessment of wet lands as 60 per cent of the rent. The rent would thus be 5/3 of the assessment. The chief objection to this is that in fact the assessment of wet lands is not based on Mr. Rickard's Proclamation, but varies according to the witnesses from 20 per cent of the rent upwards. Further, this suggestion would involve a change in the assessment of rent on wet lands, and base it on a money calculation, instead of, as at present, on a share of the produce. The chief advantage of the proposal is ease of calculation but if our proposals for the machinery for fixing fair rent are accepted, this will not be of great advantage. We feel that the calculation of rent in kind for wet lands is more satisfactory and has the sanction of long usage and that it is not advisable to have the rent fixed in proportion to the assessment.

111. The formulæ suggested for fair rent fall into two classes, based respectively on the gross produce and on the net produce. The advantage of formulæ based on gross produce is that they make calculation of rent easy. They have, however, the grave disadvantage that in the case of poorer lands they give a smaller share of the net produce to the tenant, and in the case of better lands, a smaller share to the landlord. In our opinion it would be better to base the rent on a division of the net produce.

112. According to the present Act the rate in the case of wet lands not reclaimed by the tenant is two-thirds of the net produce and this is arrived at by deducting two and a half times the seed customarily deemed to be required from one-third of the total gross produce (deducting the expenses of reaping) for the previous three years. The first criticism made of this formula is that the mode of calculating the gross produce is impracticable as it is not possible for a court commissioner to ascertain the produce of the previous years. Some evidence has been adduced to show that, in fact, the commissioner ascertains the average produce. We consider that the gross produce of a normal year (deducting the expenses of reaping) may be taken as the basis for the calculation of fair rent on all classes of wet lands. Where a land is registered as " double-crop wet " (either " registered " or " compounded ") in the revenue records and is actually cultivated with wet crops, it should be presumed that it is cultivated with two crops unless it is shown that it was not, and could not be, so cultivated. Where a land is registered as single crop in the revenue records it should be presumed that only one crop is grown on it, unless the revenue records show that it has been cultivated with a second wet crop in each of the three years immediately preceding the date of the calculation. The produce of a vegetable or dry crop grown as a second crop should not be taken into account, nor should the produce of any third crop.

113. Calculation of the net produce involves the calculation of cultivation expenses. Most of the suggestions made on this point are based on a misapprehension of the meaning of the present formula, which is in all probability due to the fact that the formula has not been worked to any appreciable extent. The present formula for the calculation of cultivation expenses is based on conditions prevailing in Palghat taluk and in some other taluks, where the area of wet land is described by the seed customarily deemed to be required. In Palghat taluk, for example, one acre is described as ten-para-seed area. Thus the cultivation expenses at two and a half times the seed customarily deemed to be required come to 25 Palghat paras per acre. The seed actually sown, however, is about 6 Palghat paras per acre. According to the evidence of the Deputy Director of Agriculture, if improved seed were used, a seed rate of 2 or $2\frac{1}{2}$ paras per acre would be adequate. In those localities where the area of wet land is not described by its customary seed requirements, the phrase " seed customarily deemed to be required " can only be interpreted as " seed actually required, " and the calculation of cultivation expenses will be not $2\frac{1}{2} \times 10$ or 25 Palghat paras, but $2\frac{1}{2} \times 6$ or 15 Palghat paras per acre. If improved seed were taken as the basis of calculation, the cultivation expenses would be $2\frac{1}{2} \times 2$ or $2\frac{1}{2} \times 2\frac{1}{2}$ or between 5 and $6\frac{1}{4}$ Palghat paras per acre. Even excluding improved seed, it is clear that the present formula may be very variable in its results. The suggestions generally made that cultivation expenses should be $3\frac{1}{2}$ or 4 times the seed required are based on a consideration of the seed actually required, and are in fact virtually the same as, or less than, the expenses allowed under the present formula. Thus $3\frac{1}{2}$ times the seed actually required would be 21 Palghat paras per acre and four times the seed would be 24 Palghat paras per acre. The evidence tendered by actual cultivators, except in cases where there is manifest exaggeration, is generally in support of the rate of $3\frac{1}{2}$ times the seed actually required. This view is further strengthened by the calculation in Mr. MacEwen's Resettlement Report that cultivation expenses vary from Rs. 4 to Rs. 12-8-0 per acre, which at present prices might come to 8 to 25 Palghat paras. On the average, therefore, we consider that 20 Palghat paras per acre would be an adequate allowance for cultivation expenses. In view of the difficulties of the present formula we recommend that cultivation expenses for each crop should be expressly stated as 20 Palghat paras ($133\frac{1}{3}$ MacLeod

seers) per acre. We recommend, however, that the body which is to fix fair rent should be empowered to increase this rate in exceptional circumstances such as scarcity of labour or the necessity for taking special precautions against depredations of wild animals, or any unusual difficulty in protecting the land from inundation.

114. The traditional shares of the net produce followed in the present Act are one-third to the tenant and two-thirds as rent to the landlord. An alternative suggestion is that equal shares should be given to the landlord and the tenant and that the assessment should be paid out of the landlord's share. If the suggestion for equal shares were adopted, the landlord would in many cases receive a net rent representing about one per cent interest on the present value of the janmam right. We consider that this would be an inadequate return for his investment. We do not, therefore, think that there are sufficient reasons for departing from the present traditional distribution of the net produce.

115. Our recommendation is that the rate of fair rent for wet lands not reclaimed by the tenant should be two-thirds of the net produce and that the net produce should be calculated by deducting from the average gross produce cultivation expenses at twenty Palghat paras (133⅓ MacLeod seers) per crop per acre.

116. *Punjakol and Kaipad.*—The rate above mentioned should not, however, apply to two peculiar forms of cultivation called Punjakol and Kaipad * for which no special provision has been made in the existing Act. Punjakol cultivation is carried on in the Enamakkal and Viyyam lagoons of Ponnani taluk and in some isolated strips of very low-lying land in the coastal villages of that taluk. It is carried on in lands which are under water during the usual cultivation season, by draining the excess water from them early in January. Kaipad cultivation is carried on in the low-lying flats on the edges of the backwaters of North Malabar. The soil is heaped up into small mounds and seedlings are planted thereon. The crops are liable to loss if the monsoon begins early. According to the evidence given before us, the expenses of these types of cultivation are half the gross produce. We, therefore, recommend that the rate of fair rent for Punjakol and Kaipad cultivations should be two-thirds of the net produce, ascertained by deducting from the gross produce of a normal year one-half of the said gross produce for cultivation expenses.

117. *Wet lands reclaimed by the tenant.*—The present rate of fair rent on dry lands converted into wet by the tenant's labour is one-fifth of the net produce. Cultivation expenses are calculated for the first twenty years at three times and thereafter at two and a half times the seed customarily deemed to be required. This formula for the calculation of cultivation expenses is open to the same objection as in the case of other wet lands. We consider that it would be reasonable to fix the cultivation expenses at a flat rate of 20 Palghat paras per acre and that the tenant is not likely to suffer as his share is four-fifths of the net produce. The division of the net produce is undoubtedly favourable to the tenant, and the rent may in some cases be even less than the assessment. We propose in paragraph 148 that the actual cultivator paying fair rent should be required to pay the assessment even if it exceeds the rent, but that he should be entitled to set off the assessment paid to the extent of his rent. This proposal, in our opinion, would go far to meet any case of hardship to the landlord. We recommend, therefore, that the rate of fair rent for dry lands converted into wet by the tenant's labour should be one-fifth of the net produce, calculated by deducting from the gross produce of a normal year cultivation expenses at 20 Palghat paras (133⅓ MacLeod seers) per crop per acre.

118. *Garden lands.*—The present rate of fair rent for garden land is one-fifth of the gross produce of coconut trees and one-sixth of the gross produce of arecanut trees belonging to the tenant, and for trees belonging to the landlord, two-fifths and two-sixths respectively.

One suggestion embodied in our Questionnaire was that the rate of fair rent for garden lands should be based on the assessment. The suggestion is generally opposed on the ground that garden assessment is calculated on the area of the land and does not vary with the number of bearing trees. It does not, therefore, bear any fixed proportion to the gross produce. The proposal would facilitate calculation of rent in cases where all the trees in a holding belonged either to the landlord or to the tenant, as a different proportion of the assessment could be applied in each case. In most cases, however, some of the trees belong to the tenant and some to the landlord. It would not, therefore, be practicable to fix the rent in proportion to the assessment in those cases. In view of these difficulties, and of our proposal in paragraph 140 for the appointment of a body to determine fair rents, we consider that it would be more satisfactory to base the rate of fair rent for garden lands on the gross produce.

* For a description of the two forms of cultivation, *see* Mr. MacEwen's Resettlement Report, paragraph 13.

It is generally agreed that the present rates of fair rent for garden lands are satisfactory from the tenant's point of view. The suggestion made by many of the landlords is that the tenant should be required to pay the assessment for his trees in addition to the one-fifth or one-sixth share payable as rent to the landlord. The evidence before us is that generally this one-fifth or one-sixth share is sufficient to pay the assessment. The proposal seems to be designed mainly for those cases where the assessment exceeds this share. In such cases, however, the acceptance of the proposal would result in an anomaly. As it requires the tenant to pay for his own trees one-fifth or one-sixth of the produce plus the revenue, which exceeds that amount, he has to pay more than two-fifths or two-sixths of the produce for his own trees whereas for the landlord's trees he pays only two-fifths or two-sixths of the produce. In other words the tenant would pay more rent for his own trees than for the landlord's trees. We consider that the hardship caused to the landlord where the assessment exceeds his share of the produce will be met to a large extent by our proposal in paragraph 148 that the actual cultivator paying fair rent should be required to pay the assessment even if it exceeds his rent. We recommend, therefore, that the existing rates of fair rent for garden lands should be retained.

119. *Dry lands.*—The present rate of fair rent for dry lands is three times the assessment. It thus varies from Re. 0–15–0 to Rs. 6–12–0 per acre. There is no general complaint against this rate either from the landlords or the tenants. We consider, therefore, that it should be retained in the case of ordinary dry lands.

120. *Commercial crops.*—It has been suggested, however, that this rate is inadequate for cases where the tenants cultivate commercial crops such as groundnut, cotton and ginger. Ginger is generally grown as a fugitive crop and our proposals for fixing the fair rent of fugitive cultivation will, therefore, in most cases apply to it. Moreover, we consider that special rates of rent should apply only to lands which are regularly cultivated with commercial crops. The extent of cotton cultivation in Malabar is small and averages only about 400 acres a year. Efforts are being made, however, to extend the cultivation of cotton and to encourage spinning as a cottage industry. We consider that this enterprise should not be hampered by the imposition of a higher rate of rent. In the case of groundnut cultivation we consider that a higher rate of fair rent could be paid without hardship, as the crop is a valuable one. The cultivation of groundnut is confined to Palghat taluk and is practised chiefly in villages which border on the Coimbatore district and which in physical features resemble that district rather than the rest of Malabar. We are informed that such lands in Coimbatore district fetch rentals varying from Rs. 15 to Rs. 20 per acre. We recommend that where a dry land has been cultivated with groundnut for 3 out of the 5 years before the calculation of fair rent is made, the rate of fair rent for it should be 3 times the highest dry assessment of the district (i.e., 3 times Rs. 2–4–0 or Rs. 6–12–0 per acre) or the rate fixed in the existing contract, whichever is less.

Wynaad Taluk.

121. There remains for consideration the rate of fair rent for Wynaad taluk. Conditions in the Wynaad taluk differ radically from those in the other taluks of Malabar. The outstanding features of the taluk which affect the relationship of landlord and tenant are the prevalence of malaria and the scarcity of labour for wet lands. There are no garden lands. While the rate of rent for dry lands sometimes approximates to the fair rent fixed in the Act, the rents of wet lands in all cases are much below the fair rent in the Act. We recommend, therefore, that the following special rates of fair rent should apply to the Wynaad taluk.

122. *Wet lands not converted by the tenant.*—The present rate of rent for wet lands is low owing to the scarcity of the indigenous labour by which wet land is cultivated. The attraction of money wages on tea and coffee estates draws away this type of labour. Imported labour is not used for wet cultivation though it is used for dry cultivation. We were informed that considerable extents of wet lands are lying fallow for lack of cultivators and labour.

The rent now paid varies from half a pothi * to two pothis per acre and the tenant in some cases pays the assessment in addition. The seed required for one acre is $1\frac{1}{2}$ pothis and the yield is said to be from 10 to 15 fold or 15 to $22\frac{1}{2}$ pothis per acre. Even taking the lowest figure, the fair rent under the Act would amount to two-thirds of $(15 - 3\frac{3}{4})$ or $7\frac{1}{2}$ pothis as opposed to the present maximum of 2 pothis. It is clear that such an increase in rent is impracticable and unfair.

It is generally agreed that the existing rates of rent for wet land in Wynaad taluk are usually fair and need not in most cases be disturbed. The rate of rent suggested as a maximum for wet lands is one-tenth of the gross produce plus the assessment. This

* One pothi = 30 MacLeod seers approximately.

formula may be applied in any case where the existing contract rate is higher. Accordingly we recommend that the rate of fair rent in the Wynaad taluk for wet lands not converted by the tenant should be one-tenth of the gross produce plus the assessment or the rate fixed in the existing contract, whichever is less.

123. *Wet lands reclaimed by the tenant.*—As there is no lack of wet land available for cultivation, there has been no occasion for tenants to convert dry land into wet, nor is it likely that they will do so in the near future. It is, however, advisable to make provision for such cases if they occur. The same considerations would apply to them as to other wet lands. The present formula is $1/5 \times (15—4\frac{1}{2})$ or $2\frac{1}{2}$ pothis per acre for the first twenty years, as opposed to the present maximum rate of 2 pothis per acre on ordinary wet lands not converted by the tenant's labour. This formula is clearly inapplicable. We recommend, therefore, that the rate of fair rent for dry lands converted to wet by the tenant's labour in the Wynaad taluk should be one-twentieth of the gross produce plus the assessment or the rate fixed in the existing contract, whichever is less.

124. *Dry lands.*—The present rate of rent on dry land in the Wynaad taluk varies generally from Re. 1 to Rs. 6 per acre, but in some cases a premium or renewal fee is also paid. The general view is that a rate of Rs. 6 per acre is excessive, but that a rate of Re. 1 to Rs. 3 is reasonable. If the formula for fair rent in the Act were applied, the rent would be from Rs. 3 to Rs. 6–12–0 per acre. We consider that in view of the unhealthiness of the locality a lower rate should be applied in the Wynaad taluk than in the plains taluks. We, therefore, recommend that the rate of fair rent for dry lands in the Wynaad taluk should be twice the assessment or the rate fixed in the existing contract, whichever is less. It would be open to the tenant to start to pay fair rent at twice the assessment immediately or to continue to pay the rent fixed under his contract until its expiry. On the expiry of the contract, however, the tenant would have the option of paying fair rent at twice the assessment or the rate under the existing contract plus a portion of the premium or renewal fee, if any. In calculating the portion to be added on, the renewal fee or premium last paid should be divided by the number of years for which the lease or renewal was granted.

Fugitive Cultivation and Cultivation of Pepper.

125. Before we go to the question of the machinery for fixing fair rent it is necessary to consider whether we should recommend the fixing of fair rent for fugitive cultivation or the cultivation of pepper. We have said, in the chapter dealing with fixity, that it is not practicable to give fixity of tenure to persons in possession of lands for either of these two kinds of cultivation. It has been pressed on us that it would be advisable to have fair rent fixed for such kinds of cultivation also.

126. *Fugitive cultivation.*—The rate of rent now levied for fugitive cultivation varies considerably. In some cases a money rate is charged for ginger which is a more valuable crop, while the rent for lands cultivated with fugitive food crops is usually fixed in kind. Two specific complaints have been made about the rent for fugitive cultivation. One is that the right to fugitive cultivation is in some cases auctioned and the other is that the rent is arbitrarily calculated. The auctioning of the right of fugitive cultivation is prevalent only in North Malabar, where the jungle growth on the plot in question is sometimes valuable as firewood. We consider that if such auctions are permitted any proposals for fixing fair rent for fugitive cultivation could be easily evaded as the amount bid at such an auction would be an addition to fair rent. We recommend, therefore, that no amount bid at such auctions should be realizable at law.

127. The arbitrariness of the rate of rent arises largely from the haphazard way in which the cultivation is carried on. In some cases we are informed that the landlord first learns of the existence of the cultivation when he receives his ' punja chit ' or demand for Government revenue on it. There are generally two bases for assessing the rent. One is to calculate it in proportion to the assessment and the other is to assess it at a share of the produce. The former method is fairly satisfactory as it means that the rent is fixed on a definite basis. One formula quoted to us was one seer of paddy for each quarter anna of the assessment. The fixing of rent on the basis of the produce is unsatisfactory as the assessing of the produce in many cases is left to an agent of the janmi. The agent is often paid a commission on the amount of rent he collects. If he wishes to earn a higher commission, he is tempted to assess the produce highly. Alternatively he may be tempted to put a low estimate on the produce and to share the illegal profit thus made with the tenant. In the former case the tenant loses and in the latter, the landlord. The area cultivated with fugitive crops is measured each year by the village officials and a statement known as a punja-chit showing the area cultivated and the assessment payable is served on both the

tenant and the landlord. This statement forms a very convenient basis for the calculation of rent, and is in some cases used for that purpose as has already been observed. In our opinion it is desirable in the interests of both parties to fix the rent payable by the tenant on the basis of assessment.

128. The next question is what multiple of the assessment should be adopted for fixing the fair rent. The rate of fair rent which we have recommended for ordinary dry lands is three times the assessment. The cost of cultivating fugitive crops is higher than that of ordinary dry crops, because of the labour involved in clearing the jungle. We are informed that a rate of twice the assessment has been adopted for fugitive cultivation in an estate which has recently come under the control of the Government. We consider that this rate might with advantage be generally adopted. The assessment should be paid out of this rent, and the cultivator should be entitled to pay the assessment first and deduct it out of the rent as in other cases. We recommend, therefore, that fair rent should be fixed for fugitive cultivation at twice the assessment.

129. *Cultivation of pepper.*—There appears to be no good reason why fair rent should not be fixed for pepper cultivation also, provided that a satisfactory formula can be evolved. The yield of pepper gardens is extremely variable as the crop is very dependent on the vagaries of the season. We were informed that the average yield per acre is approximately half a baram*, but that it varies very considerably on either side of this figure.

130. The usual rate of rent for pepper gardens is " two per ten," or one-fifth, calculated either as one-fifth of the gross produce each year, or the entire produce once in five years. Complaints are made about both these methods of calculation. The calculation of a share of the gross produce every year involves an estimate of the produce made usually by an agent. This is open to the same abuses as the calculation of produce in fugitive cultivation. In addition, as the produce of pepper is extremely variable, the possibilities of abuse are greatly increased. Where, on the other hand, the entire produce is taken once in five years, it is said that the landlord does not take his year in a regular rotation, but takes only those years in which the crop is good or the price is high.

131. In view of the difficulties mentioned above, it has been suggested that the rent of pepper gardens should be the same as for dry lands or three times the assessment. This rate would, however, be hard on the tenant in bad years, when the crop might be one-tenth of a baram, now worth about Rs. 10 and the rent Rs. 6, while in good years the crop might be one baram worth Rs. 100 and the rent still Rs. 6.

132. The Committee considers that in a fluctuating crop like pepper a share of the produce is more satisfactory than a fixed money rent. The objections raised to the present system relate to the way in which it is worked rather than to the system itself. We consider that the traditional rate of two per ten, if honestly worked, is the most satisfactory to both parties. This can, in our opinion, best be done by the landlord's taking the entire produce once in five years and by specifying the years in which this should be done. As the vines begin to yield on the average in the seventh year after planting, the tenant may take the entire produce for the first four years of bearing, i.e., the seventh to tenth years (both inclusive) and the landlord may take the entire produce of the eleventh year. The same regular rotation should then be followed, so that the landlord should be entitled to take the entire produce in the eleventh, sixteenth, twenty-first, twenty-sixth and thirty-first years after planting. The tenant should take the entire produce of the other years.

133. This proposal should apply in all cases where pepper is grown on dry lands as the principal crop and the fair rent rate of three times the dry assessment should not apply to them. Where pepper is grown on garden lands or on dry lands as a subsidiary crop, this proposal should not apply.

134. In those years in which the landlord takes the produce, the landlord should pay the assessment, and in other years the tenant should pay it. In order to facilitate this object, we recommend that the amendment of section 14 of the Malabar Land Registration Act which we have proposed in paragraph 148 should apply also to the actual cultivator of pepper gardens.

135. One criticism which has been made about this proposal is that the cultivator may neglect the garden in the years when the landlord is entitled to take the produce. We understand, however, that this is unlikely to occur, as such neglect would affect the produce not only in the year when the landlord is entitled to it, but also in the following year when the tenant would have the right to take it.

136. Another point raised is that the proposal will leave the tenant without any produce from his garden every fifth year. We are informed, however, that most tenants who cultivate pepper have either more than one pepper garden or other kinds of cultivation in addition. It is unlikely that the produce of all the tenant's pepper gardens would be

* One baram = one candy = 640 lb.

taken away by the landlord in the same year, and if the tenant has other kinds of cultivation, he would get income from them. The proposal would, therefore, not cause much hardship to the tenant.

137. We recommend, therefore, that the cultivation of pepper as a principal crop should be brought within the scope of the intended legislation to the extent of fixing fair rent which should be the entire produce of the eleventh year after planting and of every fifth year thereafter.

Commercial Sites.

138. We have proposed in paragraph 83 the grant of fixity of tenure to commercial sites. Section 9 of the Act already prescribes a special rate of fair rent for commercial sites in municipal areas. We consider that the fair rent of commercial sites throughout the district should be regulated on the same principles, regard being had to the conditions in the locality concerned. We propose that the fair rent of commercial sites should be the letting value of the site which may be defined on the lines of section 9 of the Act as the rent paid or agreed to be paid in respect of similar lands of the same extent in the neighbourhood. This rate of fair rent should not, however, apply to commercial sites held on kanam, kuzhikanam, kanamkuzhikanam or customary verumpattam.

Fixing of Fair Rent.

139. One of the principal objections made to the present Act is that many of its provisions involve an application or a suit and that the procedure involves an unduly heavy expenditure in relation to the benefits likely to be secured. One witness, for example, stated that in one case, an expenditure of Rs. 60 was incurred in order to fix a renewal fee of Rs. 5. We feel that unless some cheap and speedy means of fixing fair rent can be devised, the main advantage of the system of fair rent will be lost. It is also said that under the present procedure it is difficult for the court to arrive at the truth. As far back as 1883, Mr. (afterwards Mr. Justice) P. P. Hutchins wrote thus :

> "I strongly protest against this burden (ascertainment of the net produce) being thrown on the Civil Courts. Long experience has taught me that there is no question upon which the courts of this country are so utterly helpless, as the amount of past produce of land. The judge must depend on commissioners, and Mr. Logan has very clearly shown that they are both expensive and untrustworthy. Nice estimates of this description can only be framed by a trained Settlement Officer on the spot."

The present day commissioners who are advocates may not be untrustworthy, but they are costly and it is difficult for them also to ascertain the facts correctly. We feel that the truth would more readily be ascertained if the relevant facts were to be investigated by a body with some local knowledge engaged in making a general enquiry into the productivity of all lands or trees of the same locality. There is considerable truth in the saying that three-fourths of those who do not scruple to lie in the courts would be ashamed to lie before their neighbours or the elders of their village.

140. We therefore recommend a general settlement of fair rents in a manner similar to that adopted in the Burma Tenancy Act, 1939. Our proposal would involve the appointment of a Rent Settlement Officer, who should be of a rank not lower than that of a Revenue Divisional Officer. He should be assisted by three assessors nominated by the Government to represent the various interests involved. The Rent Settlement Officer in consultation with the assessors should at the same time fix the rent to be paid by the actual cultivators of all the lands in a locality not smaller than a revenue village. The fair rent should be fixed in accordance with the formulæ already given and the fair rent to be fixed is that which is to be paid by the cultivating verumpattamdar. Other classes of tenants would also be benefited by the fixing of fair rent as it would be useful if the land were subsequently sub-let and might be required in the calculation of renewal fees. It will be necessary for the Rent Settlement Officer to fix the extent of the holding, the instalments, if any, in which the fair rent shall be payable, and the date or dates when the fair rent or the instalments shall be payable.

When the Rent Settlement Officer has fixed the rent, he should give notice of it to the actual cultivator and his immediate landlord who should then be entitled to present objections in a manner similar to that adopted in a settlement of land revenue. Any other person interested in the property should also be entitled to present objections to the order, but notices need not be given to them. The Rent Settlement Officer may revise his order after hearing the objections. To meet possible cases of hardship, there should be a right

of revision on exceptional grounds, such as a grave miscarriage of justice occasioned by serious defects in procedure. Questions of fact should not generally be a ground of revision unless the Rent Settlement Officer's final order was passed against the unanimous advice of his assessors. Revision petitions on the grounds referred to above may be presented to the Collector or the District Judge, who may summarily reject them if there is no *prima facie* case for interference.

141. We recommend that along with the fixing of fair rent, the Rent Settlement Officer should frame a complete record of rights of the janmis, intermediaries and tenants of all lands in a village. When the record of rights in any village is completed, any person interested in a particular piece of land should be entitled to get a copy of the record pertaining to that land and such copy should be deemed to be *prima facie* evidence of the facts stated therein.

142. As the fixing of fair rent would be a considerable advantage to the actual cultivator and in some cases to his immediate landlord, we consider that they may reasonably be required to pay for it. We regret that we have no accurate data on which to base any calculation of the cost of this procedure, but it should certainly be considerably less than the cost of a commission issued by a civil court. It would be desirable, if possible, to calculate the cost of fixing fair rent in advance and to collect a fee to cover it at the time of the rent settlement operation. The cost may be divided equally between the actual cultivator and his immediate landlord.

143. The procedure outlined above applies to a general settlement of rents, or to a periodical revision once in twenty years. In other cases the rent may be fixed, as at present, by a civil court.

Payment of Rent.

144. 'Fair rents' of wet lands and garden lands are, under the Act, fixed in kind and the rents payable for wet lands under existing contracts are generally payable in paddy. As long as the landlord and the tenant are on good terms, no difficulty will be felt in paying the rents in kind. But once misunderstandings arise, payment in kind would be a constant source of bickerings between the parties, and the landlord would be able to put the tenant to unnecessary trouble and expense. Disputes may arise as regards the quality of the produce, the measures to be used in, and the method of measuring it and we can well conceive of the annoyances that may be caused to a tenant if he is compelled to take the produce to his landlord with whom his relations have become strained. We are, therefore, of opinion that the rents of wet lands may, at the tenant's option, be paid in money at the current market price. The rents of garden lands should be paid in money at the current market price as it is not usual to pay such rents in kind. In order to avoid disputes regarding the market rate we recommend that for each taluk the prices of paddy, coconut and arecanut should be published by the Collector in the District Gazette every month and that the Gazette notification should be taken to be conclusive evidence of the prices prevailing for one month from the date of the notification.

Procedure for Recovery of Rent.

145. Our proposals for the fixing of fair rent are based on the presumption that if the rent is fair, it should be speedily realizable. At present rent is usually recovered by a suit. There is a provision in the Act for summary procedure and rules have recently been framed for that purpose. These facilities have, however, been of little value to the landlords. Under the present summary procedure, only a personal decree can be passed and in most cases it is impossible to execute it. The landlord is, therefore, obliged subsequently to file a regular suit to secure a decree against the property. Under these circumstances it is not surprising that very little use has been made of the summary procedure provided.

Two main proposals have been made for the speedy recovery of rent. One is the attachment of the produce and the other, summary procedure leading to a decree against the property. Attachment of the produce has been mooted on more than one occasion as a means for recovering rent. The objection usually raised to it is that in view of the peculiar excitability of the tenantry in some parts of the district it would lead to breaches of the peace. It is true that produce is attached for the recovery of land revenue, but this practice has the sanction of longstanding usage. The tenant whose crops are attached has a greater respect for the Government than for the landlord's agent. We do not, therefore, recommend the attachment of produce as a means of recovering rent.

In our opinion, the only practicable means of ensuring speedy recovery of rent is summary procedure leading to a decree against the tenant's rights in the property. The procedure which we contemplate is an application for the recovery of arrears of rent for a period not exceeding three years. The present summary procedure should then be adopted and if an order having the force of a decree is granted, it should also be against the tenant's rights. The procedure may come into force as soon as fair rent is fixed and may apply to all rents including 'fair rents.' We are aware that this proposal may involve at least a specific extension of the provisions for summary procedure in the Civil Procedure Code.

Remission of Rent.

146. It has been suggested that when the land revenue is remitted, there should be a corresponding remission in rent. The landlords object to this proposal on the ground that they do, in fact, grant remissions of rent when the crops fail, even in cases where remission of revenue is not granted. While we recognize that many landlords have been generous to their tenants in the grant of remissions, it is inevitable under modern conditions that the relationship of landlord and tenant in Malabar should become more contractual and less patriarchal. We consider, therefore, that in order to be fair to both parties, provision should be made for the remission of rent where land revenue is remitted. This proposal applies to remissions of the charge for a second crop in cases where the 'fair rent' is calculated on two crops. General suspensions of revenue in the event of famine are unlikely to occur in Malabar and no special provision need be made for them. Exceptional remissions or suspensions of revenue such as have been granted in recent years are based on a fall in prices. As fair rents are calculated generally in kind, there is no need to suspend or remit rent in accordance with such exceptional suspensions or remissions of revenue. The actual cultivator would, however, derive the benefit of them by our proposal in paragraph 148 to amend section 14 of the Malabar Land Registration Act. We therefore recommend that where the land revenue of a land is remitted wholly or in part for failure of crop or similar causes, the rent should be remitted in the proportion that the remitted portion of the assessment bears to the whole assessment. The provisions of section 13 of the Bombay Tenancy Bill, 1938, might be suitably adapted to achieve this purpose.

Revision of Rent.

147. We recommend that fair rent once fixed should remain in force for twenty years, and should not be revised during that period except in special cases, which should be rare. The tenant may have a right to apply for revision of rent within that period on the ground of decrease in the area or reduction in the productivity of his holding occasioned by causes beyond his control. The landlord may have a right to apply for revision of rent on the ground of any enlargement in the area of the tenant's holding due to natural causes, or of any increase in the productivity of the land due to an improvement such as an irrigation work effected by the landlord.

Payment of Assessment.

148. Our proposals for fair rent assume that in all cases the assessment is to be paid out of the landlord's rent. We consider, however, that it would be more satisfactory to both the landlord and the tenant if the tenant were also made responsible for the payment of revenue and allowed to pay it out of the rent. Some classes of tenants are required by the terms of their contracts to pay the revenue, but there is usually no such provision in the case of verumpattamdars or under-tenants. Cases may occur where the tenant pays his rent, which includes the revenue, in full to his landlord and the latter fails to pay the revenue. The tenant's crops are then liable to attachment for the landlord's default. Even if the tenant has paid the revenue due on his own holding, his crops are not legally free from liability to attachment for other arrears due by his landlord. A complaint has also been made to us that any refund made by the Government by way of remission of revenue does not benefit the tenant as the amount is paid by the Government to the landlord and the latter does not pay it over to the tenant. A remedy for these disabilities is provided by joint registration under section 14 of the Malabar Land Registration Act. If the tenant is jointly registered with the janmi under that section, he can secure his crops from any legal liability to attachment by the payment

of the revenue due on his holding. This remedy is, however, under the present provisions, available only to those tenants who have a direct contract with the janmi and does not therefore apply to the under-tenant. We recommend, therefore, that section 14 of the Malabar Land Registration Act should be amended to admit of the joint registration of the actual cultivator paying fair rent even where he has no direct contract with the janmi. This proposal is, in our opinion, advantageous both to the landlord and the tenant. From the former's point of view, it would make the tenant jointly liable to pay the assessment. As he is receiving fixity of tenure and is not to be compelled to pay more than fair rent, it is not unjust to place this liability upon him. From the tenant's point of view, it would enable him to secure his crops from attachment by the payment of the assessment due on his holding and to get directly from the Government the amount ordered to be refunded by way of remission of assessment. We recommend, however, that the tenant who is jointly registered in this manner should be liable to pay the assessment, even if it exceeds his rent and that he should not be entitled to sue the landlord for any excess of the assessment over his rent. The tenant would, of course, be entitled to set off the assessment paid to the extent of the rent due from him whether or not his immediate landlord is under the legal obligation to pay the assessment. Where the immediate landlord is not liable to pay the assessment under the terms of his contract and his sub-tenant has made such a payment, the former should be entitled to set it off against the rent due by him under his contract.

The proposal for joint registration would result in a considerable increase in the number of joint pattas in the revenue records. We are informed, however, that in practice the assessment is now generally collected from the actual cultivator, where there is no kanamdar, and that the proposal may facilitate the collection of revenue.

CHAPTER VIII—RENEWALS AND RENEWAL FEES.

149. The origin of renewals and renewal fees cannot be ascertained at this distance of time with any claim to historical accuracy. Various theories have been put forward and one of them is that the renewal fee was in the nature of a succession duty paid on the death of the janmi or the tenant, and the words Purushantharam and Manusham (both meaning for the lifetime of a man) used to denote renewal fee, are said to support this theory. It seems to us likely that renewals and renewal fees might have had their origin in the way suggested, but it is not possible for us to be quite definite about it. As no purpose will be served by pursuing the inquiry, we do not propose to say more on the subject. It is an undoubted fact that in most parts of Malabar, kanamdars, kuzhikanamdars and customary verumpattamdars used to take renewed deeds after paying renewal fees and to continue in possession of their holdings.

150. As stated in an earlier Chapter of this report, the whole controversy regarding Malabar land tenures centred round the redeemability of the kanam tenure strenuously claimed by the janmi and as vigorously denied to him by the kanam tenant. The present Act may be said to have settled the controversy to a certain extent by giving the kanamdar a right of renewal at a specified fee. The kanamdars complain that the fee now fixed for wet lands is generally in excess of the fee previously levied. They say that the renewal fee in olden days was usually 10 per cent or 13 per cent of the kanam amount and never exceeded 20 per cent * and that the fee now fixed comes to about four times as much. They also maintain that the renewal fee has ruined many kanamdars as they have been compelled to mortgage their properties to pay it. They urge, therefore, that renewals and renewal fees should be abolished altogether. The janmis have not contended before us that the renewal fee should be increased. What they want is that the renewal fee now payable should be made easily recoverable. Under the present law the janmi cannot sue for recovery of the renewal fee unless the kanamdar has once taken a renewal under the Act. The customary law did not recognize any right in the janmi to sue for the recovery of the renewal fee as such but he had the means of collecting it by granting a melcharth if the kanamdar refused to pay. Under the present Act, the holder of a melcharth cannot evict a tenant for his own cultivation. The grant of melcharths has in consequence been greatly restricted. The landlord's only means of collecting his renewal fee is now a suit in redemption. In many cases the value of improvements as calculated under the Improvements Act exceeds their present market value so that the janmi loses heavily by the suit. Moreover, under the present procedure, the kanamdar can protract the proceedings and then apply at a late stage for renewal of his kanam. In view of these difficulties, many janmis have been unable to collect their renewal fees.

151. The proposal which we make is essentially a compromise between the two points of view. It is in brief that renewals in their present form should be abolished, that renewal fees should be reduced, divided into twelve equal instalments and added on to the rent, and made recoverable as rent. Failure to pay these instalments should not, however, be a ground for eviction.

152. We are definitely of opinion that, except in cases of division of a holding or transfer of portion of a holding, no purpose is served by compelling the tenants to take renewal deeds every 12 years, and incur expenditure therefor by way of stamp, registration and writing charges—not to speak of the trouble and inconvenience caused to a tenant by having to wait on the landlord's agent and in the registration offices. The renewed deed contains the same terms as the old deed and benefits nobody. It is said that it is of value to the landlord as a recognition by the tenant of the right of the landlord but the receipts for rent and renewal fees granted by the landlord and accepted by the tenant would serve the purpose as well. Further, we have recommended that a Rent Settlement Officer should fix the fair rents of all lands and should prepare as a necessary corollary to his work, a full record of rights of all the parties interested in the lands. The record prepared by the officer will be a permanent one and would certainly obviate the necessity of having renewal deeds every twelve years for evidencing the landlord's rights to the land. We therefore propose the abolition of renewals except in cases of division or transfer.

153. As regards renewal fees we are of opinion that they ought to be reduced. The rate of renewal fee for kanam lands is at present calculated on the kanamdar's net profit. A suggestion has been made to us that renewal fees should be fixed in some proportion

* "Originally the general rate was 10 per cent of the kanam amount with an additional 3 per cent on account of certain incidental payments,"—Joint report of the Cochin Tenancy Commission.

to the kanam amount. The proposal is, we think, unsound in principle as it would lead to the anomaly that the renewal fee payable by a tenant who has advanced a large sum of money as kanam will be much higher than that payable by a tenant who has only a nominal kanam and only a small stake in his holding. We therefore think that the present provision for fixing the renewal fee on the basis of the kanamdar's net profit is preferable to the suggestion made to us to fix it in some proportion to the kanam. There is, as stated already, a general complaint that the rate of renewal fee on wet lands held on kanam is higher than it was before the Act. The complaint seems to be well-founded. Therefore, we are of opinion that the rate of renewal fee for wet lands held on kanam should be equal to, instead of two and a quarter times, the kanamdar's net annual profit as calculated under the present formula. The rate of interest on the kanam amount should be that specified in section 17 of the Act. In respect of garden lands, the calculation of the renewal fee under the present formula has resulted in several instances in a 'nil' figure. We think it is only fair that the landlord should be given some compensation by way of renewal fees for depriving him of his right of eviction. The landlords in several parts of North Malabar are not in the habit of levying renewal fees and granting renewals, and having regard to this and to the fact that the expenses of maintaining a garden come to as much as three-fourths of the gross produce, we think that the amount of renewal fee should be fixed at a low figure. The calculation with reference to fair rent under the present formula would lead to complications, as some of the trees might belong to the janmi, some to the kanamdar and some to the under-tenant and different rates of fair rent would apply to such classes of trees. It would be equitable and fair to all parties concerned if we fix the renewal fee at one year's Government assessment on the property. We accordingly recommend that the rate of renewal fee for garden and dry lands held on kanam, or kanamkuzhikanam should be one year's assessment minus interest on the kanam amount, if any, calculated at the rate specified in section 17 of the Act. Where a kanam includes wet lands as well as dry or garden lands, the interest should be calculated on the portion of the kanam charged on the dry or garden lands. Where no specific division of the kanam amount is made in the lease deed between wet and dry or garden lands, the portion of the kanam amount charged on the dry or garden lands should, for this purpose, be calculated in proportion to the assessment of the lands held under the kanam. The rates recommended for renewal fees of lands held on kanam may also be applied in the case of kuzhikanams.

154. The present renewal fee for the customary verumpattamdar is three year's net profit. We recommend that it be reduced to one year's net profit as the reasons given by us for reducing the renewal fee of wet lands held on kanam to one year's net annual profit are equally applicable to wet lands held on customary verumpattam.

155. It is well known that the tenant finds it difficult to pay the renewal fee in a lump sum and that he generally mortgages his property to pay it. If the renewal fee is reduced and the tenant is also allowed to pay it in easy instalments, it may be possible for him to continue in possession of his property without encumbering it. We therefore recommend that the renewal fee payable may be divided in all cases into twelve equal instalments and added on to the rent and made recoverable as rent. Failure to pay rent is not made a ground for eviction of tenants other than verumpattamdars. For the same reason it is unnecessary to visit the defaulter in the payment of the instalments of renewal fee with any such penalty.

156. *Commercial sites.*—The rates of renewal fee described above should not, however, apply to commercial sites, as defined in paragraph 83. We consider that in such cases it would be reasonable to allow the landlord a share in the unearned increment in the value of the site, and that this may best be done in the case of such sites held on renewable tenures by allowing a different rate of renewal fee. In the case of commercial sites held on kanam, kuzhikanam, kanamkuzhikanam or customary verumpattam, the renewal fee should be one year's letting value of the site minus the interest on the kanam amount, if any, calculated at the rate specified in section 17 of the Act. The letting value may be defined on the lines of section 9 of the Act as the rent paid or agreed to be paid in respect of similar lands of the same extent in the neighbourhood.

157. As regards the time of payment, the first instalment of renewal fee should become payable and recoverable as rent on the due date of the current year's rent in cases where the term of the lease has already expired, and in other cases on the due date of the rent of the first year after the expiry of the current term.

CHAPTER IX—INTERMEDIARIES AND UNDER-TENURE HOLDERS.

158. The Malabar land tenure system has been described by some as the most complicated in the world while some others maintain that when once its peculiar terms are understood, the system will appear to be not complicated at all and to be easy of comprehension. Rights in land are very highly prized in Malabar and the variety and numbers of alienations till they reach the deed which for ever alienates the janmam, afford the most conclusive evidence that can be adduced of the tenacity with which the ancient landholders cling to their janmam right. The variety of tenures is considerable, their names being in most cases peculiar to the system. Wigram & Moore's Malabar Law and Custom gives no fewer than twenty-eight, each with its own well recognised incidents. We have in Chapter III described the various tenures prevalent in Malabar. Many of the tenures are held by persons who are not actual cultivators but possess some interest varying from a right to receive a small rent to one little short of absolute proprietorship. They are known as intermediaries. In the Kurumbranad taluk it is quite common to find three or four intermediaries each with distinct rights, between the janmi and the actual cultivator. In most parts of Malabar it is usual to have at least one intermediary.

159. There are the widest divergences of opinion on the question of intermediaries. The intermediary, especially the kanamdar, is described from one point of view as the backbone of the country. He is said to have been the original cultivator who brought waste lands under cultivation and converted pristine Malabar jungle into a paddy flat or a smiling garden. He is described as an essential part of the economic life of Malabar as he furnishes the capital, while the landlord furnishes the land and the cutivator the labour. From the opposite point of view the intermediary is termed a parasite living on the labour of the cultivator and contributing nothing to the wealth of the country, and his existence creates various difficulties for the under-tenant. Improvements effected by the under-tenant are liable under the existing law to be set off against arrears of rent due by the intermediary, though the under-tenant himself may have paid his rent regularly. The under-tenant's position may also be rendered precarious by the failure of the intermediary to take a renewal.

160. It has therefore been suggested to the Committee that all the intermediaries and janmis should be liquidated and a class of peasant proprietors created. The elimination of intermediaries and janmis is the ultimate but not the immediate object of the All-Malabar Peasants' Union. The method of elimination most commonly suggested is one of compulsory purchase of the intermediary's and janmi's rights by the cultivating under-tenant. It has also been suggested that the intermediary should similarly be allowed to buy out the janmi's rights.

161. However laudable the object to create a class of peasant proprietors might be, it cannot be achieved by the means now proposed. If the tenant's liberty to sub-let is not restrained, the compulsory purchase of intermediaries' and janmis' rights would result in time in the creation of a new class of janmis and intermediaries and the problem of the actual cultivator would again have to be faced. There is also another difficulty in accepting the suggestion of compulsory purchase. Very few cultivating under-tenants are in a position to buy out the intermediaries and janmis. The suggestion has been made that the purchase should be financed by the Government by the issue of bonds. We are not in a position to estimate the financial implications of the proposal and we do not, therefore, recommend its acceptance by the Government except to a limited extent which we shall refer to later.

162. Apart from the considerations mentioned above, we cannot ignore the general feeling in Malabar that rights in land have a value quite apart from monetary considerations. While it is generally agreed that the under-tenant should be protected so long as he pays his dues, we desire also to do justice to the large class of intermediaries and janmis who have invested labour and capital on the soil. The intermediary or janmi who has done neither will be eliminated by the operation of economic forces. The process need not be artificially hastened by a general scheme of compulsory purchase. Consistently with this view, we do not consider that an intermediary should be given the right of compulsory purchase of his janmi's interests in the property.

163. There is general agreement that the under-tenant is entitled to protection so long as he pays his dues and that the superior landlord should have sufficient safeguards for collecting his rent. We shall consider the suggestions that have been made to achieve both these objects.

164. It has been suggested that the under-tenant should be allowed to pay his rent into court and he should thereafter be freed from liability for any default by the intermediary. This proposal would result in a great increase in litigation as almost every under-tenant

would feel obliged to adopt this course. A second proposal is that the under-tenant should be completely protected provided that he pays his rent in full to his immediate landlord. The objection to this proposal is that it would facilitate collusion between the immediate landlord and the under-tenant and might lead to collusive sub-leases designed to defeat the superior landlord's just claims to rent. We are not, therefore, in favour of this proposal. Our recommendation for protecting the under-tenant is elaborated in the following paragraphs.

165. The under-tenant should be entitled to inform the superior landlord of his under-tenure by means of a notice stating the rent payable by him to his immediate landlord. After this notice has been given the superior landlord should be entitled to demand, and the under-tenant should be enabled to pay, rent direct to the superior landlord if the immediate landlord defaults. Subject to the giving of this notice, the under-tenant should be protected provided that he pays his own rent in full either to his immediate landlord before a demand by the superior landlord or to the superior landlord after such a demand, such payment being binding on the immediate landlord. The under-tenant would not then be liable for, nor would his improvements be set off against the arrears due by his immediate landlord. The superior landlord's demand should be made within one month of the default.

166. If there are superior landlords higher than one degree above the immediate landlord, the same principle should apply. The under-tenant may inform all of them similarly of the existence of his tenure and the rent due from him to his immediate landlord. Any of them should be entitled to demand rent from the under-tenant in case of default. If the under-tenant receives notice from more than one superior landlord and has not already paid his rent to his immediate landlord, he should pay rent direct to the head landlord who has sent him notice of demand and he should also inform all those who have sent him similar notices of what he has done, i.e., whether he has paid to his immediate or head landlord. Provided the under-tenant has adopted this course, he should be protected in any legal proceedings instituted by any of his superior landlords.

167. The result of our proposal may well be that the superior landlord will receive from the under-tenants in total more than the rent due to him from his tenant. The latter will have two remedies, either to sue for recovery of the excess or to set it off against future rent. As the excess payment will be due to his own default, the result cannot be considered unjust.

168. We regret that our proposal is rather complicated, but it has been found impossible to devise a simpler method to satisfy the two objects of protecting the under-tenant who pays his rent and of safeguarding the superior landlord's just claims to rent.

169. As already stated, the other chief difficulty now experienced by the under-tenant is that if his immediate landlord fails to take a renewal, his position may be rendered precarious. We have proposed that renewals should be abolished altogether. If this proposal is accepted, failure to take a renewal will no longer be a ground of eviction. This particular hardship of the under-tenant will, therefore, automatically disappear.

170. Notwithstanding our desire to do justice to those intermediaries who have invested labour and capital on the soil we realize that the default of the immediate landlord is a constant source of annoyance and a possible cause of loss to an under-tenant. We therefore propose that, in such cases, the under-tenant should be allowed to purchase compulsorily the rights of the immediate landlord in the holding. The right of purchase should be conferred only in cases where the immediate landlord has defaulted for not less than three consecutive years by more than one month on each occasion in the payment of the whole or part of the rent, unless the default was for *bona fide* reasons such as a doubt as to the person to whom it was payable. The under-tenant should be allowed the right of purchase only if he has paid his rent in full for the same period. The right should be exercised within twelve months from the date of the last default by the immediate landlord or of the last notice by the superior landlord demanding rent, whichever is later. The purchase price should be the capitalized value of the income derived by the immediate landlord from the holding held by the under-tenant, i.e., the capitalized value of the difference between the rent he receives and the rent he pays for the portion of his holding held by the under-tenant. The calculation should be made in proportion to 'fair rent' For the purposes of this calculation one-twelfth of any renewal fee payable should be included in the rent. The capitalized value we fix at 20 times the income or, in other words, the income is capitalized at 5 per cent interest. It may be said that the value proposed to be given is excessive, but in view of the compulsory nature of the purchase, we do not think that it is unduly high.

171. The procedure we contemplate for the purpose of enforcing the right of purchase is an application to the Court for fixing the price. In the course of the hearing of the application, the accounts between the superior landlord and the immediate landlord and between the latter and the under-tenant should be finally adjusted and settled, and orders

should be passed for payment of any excess due to, or by, the immediate landlord. The under-tenant should thereafter pay to the superior landlord the rent which the immediate landlord had been paying for the property included in the under-tenant's holding or would have paid for it if it had been the only property in his possession.

172. This proposal may result in an increase in the number of tenants holding land directly under the superior landlord but this result will not generally occur in cases where the immediate landlord is solvent and has a substantial interest in the property. In other cases, it will be to the superior landlord's advantage to have the immediate landlord replaced by tenants who have a real interest in the property and who will often be themselves actual cultivators.

173. Before we leave the subject of compulsory purchase of the intermediaries' interests, it is necessary to bring to the attention of the Government a proposal which has been adverted to already at the beginning of this chapter. It is generally agreed that the actual cultivator is in such an impoverished state that it will not be possible for him to avail himself of the right proposed to be conferred, unless credit facilities are also vouchsafed to him. The suggestion has, therefore, been made that irredeemable bonds for the capitalized value of the rights of the intermediaries may be issued to them and that the interest payable on such bonds may be collected from the cultivator along with the revenue on the land and paid over to the holders of the bonds. We do not think that the proposal, if accepted, will be a great burden on the Government as the interest will be regularly collected along with the land revenue. We therefore recommend that the proposal may be favourably considered by the Government.

CHAPTER X—COMPENSATION FOR IMPROVEMENTS.

174. Malabar law secures to the tenant the right of being paid for all kinds of improvements before he can be evicted from his holding and the law encourages cultivation to such an extent as to entitle even a trespasser to the value of improvements.* The improvement rates had been fixed by custom and they had varied enormously throughout the district. As stated already in the Chapter on the History of Tenancy Legislation, it was found necessary to codify the law and Act I of 1887 was passed. It was subsequently repealed and re-enacted as Act I of 1900 which contains the present law relating to compensation for improvements made by tenants in Malabar. Since the passing of Act XIV of 1930 suits for eviction have decreased considerably and the acceptance of our recommendations would still further reduce their number. As the question of tenants' improvements arises for consideration only when suits for eviction are brought, it may not have much importance in future. But as we are not recommending the grant of absolute fixity of tenure which would have the effect of abolishing suits for eviction altogether, it is necessary to consider the Improvements Act and recommend its amendment, if any defects are found to exist. It is generally admitted that the Act adequately safeguards the interests of the tenants and that it has on the whole worked satisfactorily. We shall, however, examine the suggestions made to us for removing certain defects which are said to exist.

175. It is said that the compensation paid for orange trees, cashew trees, tamarind trees and graft mangoes is inadequate and that they are valued only as timber trees. No specific instances have been quoted in support of this complaint. The Act appears to contemplate the payment of compensation for such trees as fruit-bearing trees. It is possible, however, that the tenants were not able to prove the prices of the produce for the purpose of calculating compensation. As orange and cashewnut cultivation are on the increase, it would be desirable to have the prices of oranges and cashewnuts published under section 14 of the Act. We believe that this could be done without difficulty. As graft mangoes are of several species it would be more difficult to publish prices of them but the prices of the commoner varieties might be published. The prices of tamarind might also be published.

176. As we have recommended the grant of qualified fixity of tenure to all classes of tenants of lands and all kudiyiruppu-holders, and the abolition of renewals altogether, there would, probably, in future be no occasion for such tenants to take new leases. In Gudalur and Kasaragod taluks, generally, and in some cases in Malabar also, the existing leases contain a provision taking away or limiting the right of the tenant to make improvements and claim compensation for them. Under the existing law such contracts made prior to 1886 are valid and binding in Malabar and in Gudalur the contracts made prior to even 1931 are valid. The possession of the tenants will continue to be under the existing leases and it will be unjust and inequitable if such contracts are held to be valid even with regard to improvements effected hereafter. It may not cause great hardship if improvements already made are held to be governed by the existing contracts. We therefore recommend that in spite of such contracts taking away or limiting the right, the tenants included in our proposals for the grant of fixity of tenure or the fixing of fair rent should be entitled to claim the value of improvements effected after the passing of the intended tenancy legislation in accordance with the provisions of the Malabar Compensation for Tenants' Improvements Act.

177. It has also been suggested that it is necessary to amend the Act in respect of the number of trees which a tenant can plant in an acre of land and claim compensation therefor. Section 18 of the Act proceeds on the basis that 120 coconut trees, 720 arecanut trees or 60 jack trees could be properly planted in an acre. The evidence given before us is unanimous that 120 coconut trees could not profitably be planted in an acre and the Deputy Director of Agriculture told us that 60 trees could on an average be planted. In the Act of 1886, the number given was also 60. The Settlement Officer fixed 60 coconut trees as the standard per acre, although in the best soils for coconut, 80 would be grown. (Vide G.O. No. 883, Revenue, dated 29th August 1900). We are, therefore, of the opinion that the number should not exceed 80 and we would accordingly recommend that the number given in the section be reduced to 80 and a proportionate reduction be made as

* "It is still the law of the Laccadive islands that the person who plants the trees is the owner thereof, though they are planted on another's land. In Malabar it is well known that not only tenants but even others who are in possession of the property except by criminal trespass get the value of their improvements."—38, Mad. 710 at 719.

regards the other kinds of trees also. We are not unaware of the fact that in the recent Act * in the Cochin State the numbers given are the same as in our Act, but the evidence before us and the personal knowledge which some members of the Committee have, confirm our opinion that the numbers given are much in excess of the numbers that can profitably be planted in an acre of land.

178. The last suggestion made on the subject of the amendment of the Improvements Act is that a provision should be made for fixing a time within which the value of improvements should be deposited and the decree for eviction executed. In an ordinary suit for redemption the time-limit for eviction is six months, though it can be extended by the Court for valid reasons. Where there is a decree for eviction on payment of compensation for improvements it can be kept pending for twelve years by taking execution proceedings every three years. In consequence, the tenant has little incentive to improve the property in the meantime, as he is not certain when he will be evicted or whether he will be evicted at all. The landlords object to the imposition of a time-limit on the ground that they will find it difficult to deposit the value of improvements within the period specified. We feel, however, that there is no adequate reason for continuing the tenant in an uncertain situation for a long period of twelve years. There is much to be said for the view that a landlord who sues to evict must be presumed to know that he will have to pay the value of the improvements and that he must be prepared and be ready to deposit the value within a reasonable period. We, therefore, recommend that the time-limit of six months, as in decrees for redemption of mortgages, may be imposed in decrees for eviction on payment of the value of improvements. The time-limit would, as in decrees for redemption, be extendible for reasons satisfactory to the Court.

* Vide section 17, The Cochin Tenancy Act, Act XV of 1113.

CHAPTER XI—KUDIYIRUPPUS.

179. In this Chapter we propose to deal with the question of kudiyiruppus which constitute one of the peculiar features of Malabar. Houses in Malabar are not usually constructed close together as in East Coast districts but lie scattered each in its own plot of ground. Generally speaking, kudiyiruppu means the site of any residential building and such other lands as are appurtenant thereto and included in the same holding.

180. Mr. Wigram as early as 1882 recommended the grant of fixity to every house-holder for his kudiyiruppu and the ground round it. The Hon'ble Mr. Justice (afterwards Sir) C. Sankaran Nayar stated in 1914 that no person should be turned out of his homestead by his landlord except where that was absolutely necessary for the landlord. At present a kudiyiruppu holder who has been in possession for ten years or more has the right under section 33 of the Act of 1930 of purchasing the landlord's interest in the kudiyiruppu when he is sued in eviction. It has been suggested that he should be entitled to exercise this right at any time even though no suit for eviction has been brought against him. The financial resources of many of the tenants are such that they are not in a position to avail themselves of the right of purchase and very few tenants have in fact exercised the right. It is, therefore, very unlikely that the extension of the right would benefit them in any way. We consider that the kudiyiruppu holder can best be protected by the grant of fixity of tenure. If fixity is granted, the right to purchase the landlord's interest in the kudiyiruppu may be abolished.

181. In recommending fixity of tenure for kudiyiruppu-holders we wish to make it clear whom we include in that term. Our recommendation does not include tenants of rented buildings, or ulkudi and kudikadappu-holders, or tenants of those holdings where the main object of the building is its use for commercial purposes or sub-letting. The definition of kudiyiruppu should be amended suitably.

182. The objection raised by the landlords to the grant of fixity of tenure to kudiyiruppu-holders is mainly due to a misapprehension that the term includes tenants of rented buildings. While the definition of kudiyiruppu in the Act includes such buildings generally, they are specfically excluded by section 2 from the operation of the Act. We have recommended in paragraph 76 that this exception should be retained.

183. It is generally agreed that ' ulkudi ' holders should not be treated as kudiyiruppu-holders, as they are, in fact, merely watchmen. It is usual for a landlord who owns a garden to employ a watchman and to allow him to erect a hut in the garden and live there in order to carry out his duties effectively. This privilege is known as ulkudi right. The watchman in some cases executes a lease deed agreeing to pay a small rent, but the deed is designed mainly to safeguard the landlord against a possible claim of adverse possession and, in practice, the rent is not collected. The landlord directly, or a demisee other than the watchman, cultivates and takes the produce of the land and this is a simple criterion of an ulkudi right. We propose, therefore, that those holdings cultivated directly by the landlord or a demisee other than the watchman should be excluded from the definition of kudiyiruppu.

184. Kudikadappu-holders of British Cochin are a class similar to ulkudi-holders, except that they pay a small rent. We are informed that they have been treated as kudiyiruppu-holders under the present Act. They are not, however, kudiyiruppu-holders in the usual sense of the term. As in the case of ulkudi-holders they may also be excluded from the definition of kudiyiruppu-holders.

185. Where a tenant has constructed a building mainly for commercial purposes or for sub-letting, he should not be treated as a kudiyiruppu-holder. One criterion of a kudiyiruppu is that it is used by the holder as his own dwelling house. The buildings referred to do not satisfy this criterion and the tenant who has constructed them should, therefore, be excluded from the benefits intended for kudiyiruppu-holders.

We recommend that fixity of tenure should be granted to all kudiyiruppu-holders coming within our definition of the term.

186. It has been suggested on the one hand that no rent should be paid for kudiyiruppus and on the other that the grant of fixity of tenure should be conditional on the payment of fair rent. It would not, in our opinion, be just to exempt kudiyiruppu-holders from the payment of rent altogether. Their legitimate grievances will be largely met by the grant of fixity of tenure. In return for this privilege it will be reasonable to require them to pay some rent.

187. The rent now paid for kudiyiruppus is generally less than the fair rent fixed in the Act. Rural kudiyiruppus, in particular, are not usually regarded as a source of income to the landlord. If the grant of fixity of tenure were accompanied by an appreciable increase in rent, it might well be regarded as of doubtful benefit to the tenant. We do not, therefore, recommend that the grant of fixity of tenure should be conditional on the payment of fair rent. Our recommendation is, in general, that the rate of rent for rural kudiyiruppus should be the existing rent and that if the existing rent happens to be more than the fair rent as fixed by us, the kudiyiruppu-holder should be liable to pay only fair rent. It has, however, been brought to our notice that most gardens in North Malabar would fall within the definition of kudiyiruppu and might under this proposal bear only nominal rents. The point is the more important as we suggest in paragraph 188 that no kudiyiruppu-holder should be evicted for the landlord's own cultivation or for building purposes. We recommend, therefore, that the favourable rate of rent proposed above, should apply only to the area necessary for the kudiyiruppu. This area may be defined as 50 cents in rural parts and 25 cents in municipal limits. For any excess over this 50 cents the kudiyiruppu-holder in rural parts should pay fair rent. In the case of kudiyiruppus in municipalities, the rent payable for the excess extent over 25 cents should be fair rent as fixed by us or the rent payable for similar lands in the locality, whichever is higher. It may not always be practicable to demarcate the specific area of 50 cents or 25 cents to which the favourable rate of rent should apply. We, therefore, recommend that where fair rent is calculated on fruit-bearing trees, they should be treated as if they were distributed evenly over the holding other than the area occupied by the building. The calculation of the favourable rate for the area of 50 cents or 25 cents, as the case may be, should be made on that basis and the fair rent or rent rate should apply to the remaining extent. This proposal for the fixing of rent for kudiyiruppus does not apply to those held on kanam right, where the rent payable should be the existing michavaram increased by an instalment of the renewal fee in the manner suggested in paragraph 151.

188. The question remaining for consideration is whether it is necessary to confer on the kudiyiruppu-holders absolute fixity. While we realize that the grounds on which a kudiyiruppu-holder may be evicted should be as limited as possible, they should be generally those applicable to the tenuure on which he holds and whete he does not hold on any specific tenure, the grounds should be generally those applicable to verumpattamdars. The reasons which have led us to recommend the retention of the grounds of denial of title, waste, collusive encroachment and failure to pay rent for three months from the due date as grounds for eviction in respect of other tenancies apply with equal force to kudiyiruppu-holders. We propose, however, that the kudiyiruppu-holder should not be liable to eviction for the landlord's own cultivation or for building purposes. In our opinion, the kudiyiruppu-holder deserves protection in this respect. If it is hard to be evicted from one's holding, it is harder still to be ejected from one's homestead. In the peculiar conditions of Malabar we consider that the tenant should not be liable to eviction from his kudiyiruppu for the purpose of cultivation or building. These two grounds of eviction should not, therefore, apply to kudiyiruppu-holders except in the cases specified in the next paragraph.

189. It has been brought to our notice that lands which fall within the definition of kudiyiruppu are in some cases necessary for the cultivation of other lands. They may be needed for the construction of a farmhouse for the use of adjacent wet lands. Where the landlord directly cultivates a wet land and for this purpose requires to construct a farmhouse in an adjacent kudiyiruppu, it would cause hardship to the landlord if he could not evict the kudiyiruppu-holder for this purpose. We recommend, therefore, that, in such a case, the landlord should be allowed to evict the kudiyiruppu-holder.

190. It has been pointed out to us that if the kudiyiruppu-holder had unrestricted rights of transfer over his kudiyiruppu, this might lead to the introduction of undesirable tenants whom it would be virtually impossible to evict. We consider that the difficulty could best be met by the grant of a right of pre-emption to the landlord, if the tenant transfers the holding. Such a right would also be some compensation to the landlord for the abolition of his right to evict the kudiyiruppu-holder for his own cultivation or for building purposes. The right of pre-emption is not new either to Malabar law or to the relationship of landlord and kudiyiruppu-holder. It is already conferred by section 38 of the Act on the landlord whose rights in a kudiyiruppu have been compulsorily purchased by the tenant. The right should not be available in cases of transfers by inheritance but should enure to the landlord in such transactions as usufructuary mortgages. The transfers giving rise to the right of pre-emption might be defined as transactions by which any person, except a member of the tenant's family, comes into actual possession of the kudiyiruppu by any means other than inheritance. We recommend that in such cases of transfer, the landlord should be given the right of pre-emption of the entire rights of the transferee in the kudiyiruppu.

CHAPTER XII—FORESTS, WASTE LANDS AND IRRIGATION SOURCES.

191. One of the outstanding features of Malabar is that, generally speaking, all unoccupied land is presumed to belong to some private owner until the contrary is shown. In most other parts of the Presidency, however, the presumption is in favour of the State. The correctness or otherwise of this presumption is one of the matters incorporated in our Questionnaire.

192. The presumption is questioned on the ground that it was made without adequate enquiry. The reason usually given in support of it is that Hindu polity which recognised private ownership in the soil survived longer in Malabar than in other parts of India. The presumption, therefore, survived in Malabar while in other parts of India, Muslim conquerors succeeded in establishing the contrary presumption in favour of the State. It is stated, however, that no such presumption is made in the States of Travancore and Cochin, which are still ruled by Hindu Kings, and that the argument based on Hindu polity cannot, therefore, be sustained.

193. The correctness of the presumption was defended at some length by Sir Charles Turner in Chapter II of his Minute on the draft Bill relating to Malabar land tenures. He argued that Hindu law recognized private ownership in the soil. The view was supported by all the early British Administrators, and was not abandoned even when the Court of Directors in 1821 doubted its correctness. Whatever antiquarian interest a research into this subject may have, we feel that the result likely to be achieved by such a research would be of little practical value and scarcely commensurate with the labour involved. We have, therefore, taken the presumption as an existing fact, and made our recommendations on that basis.

Forests.

194. It is an undoubted fact that forests have been recognised in Malabar as belonging to private owners at least since the establishment of the British Government in the district at the close of the 18th century and the janmis have proceeded on this basis. At this distance of time we think that it would not be equitable to ignore rights which have been held to subsist for about a century and a half. Nevertheless, we feel that if in the exercise of these private rights, the public interests are likely to be jeopardized, it would be proper, nay, our bounden duty, to recommend to the Government restrictions on their exercise. It is admitted that for various reasons it is necessary to stop deforestation in the interests of the people at large and the Governments of several countries have found it necessary to increase the area of forests under State control and to insist on certain rules in the management of even private forests. The Raja of Nilambur who owns extensive forests told us that it was not necessary to place any restrictions on private owners and that according to Mr. Irwin, Retired Forest Utilization and Exploitation Officer to the Government of Madras, the exploitation of the Raja's forests could be carried on profitably even with the method of extraction now prevailing in them. The Raja was good enough to supply us with a copy of Mr. Irwin's memorandum which contains the following statement: "The exploitation, I am sure, can be carried on with good profit, for an indefinitely long period, if regulated in scientific rotation, but even with the method of extraction now prevailing with the kovilakam, the resources of the forest will allow profitable exploitation for at least a period of 70 years. In fact with a little scientific and discriminate method of fellings the abundant regeneration now suppressed will greatly enhance the value of the forests with the progress of exploitation." From this statement it is clear that even in the Raja's forests felling is not done on scientific lines. It would be fair to conclude that fellings in Malabar forests in general are not regulated by scientific principles. We feel, therefore, that some general control is necessary to prevent the denudation of private forests. The measures necessary to achieve this object may be left to the expert Committee,* which, we understand, is examining the matter.

195. In many cases cultivators at present take leaves for use as green manure from, and pasture their cattle in, private forests. The landlords describe this practice as a concession and the tenants claim it as a right. Whichever it may be, we feel that the practice should be continued subject to such restrictions as may be necessary to protect forests from destruction or denudation. We consider that the question of these restrictions could best be dealt with by the expert Committee.

196. We recommend for the consideration of the Government that the same facilities for taking green manure and grazing cattle may be granted to agriculturists in Government forests also.

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* Constituted by Government Memorandum No. 1842-I/39-1, dated 15th June 1939.

Waste Lands.

197. Owing to the presumption of private ownership there is very little waste land at the disposal of Government in Malabar except in the Wynaad taluk where large extents of land were escheated. Any cultivator, therefore, who wishes to open up waste land has to approach some private owner for the purpose. There are considerable extents of waste land in the district.* The janmis generally maintain that they are prepared to grant waste land to anyone who genuinely needs it and that they never refuse to do so. We feel, however, that steps should be taken to bring more waste lands under cultivation with beneficial results to the district. No hardship would be caused to the landlords by curtailing their power to keep waste lands in their possession uncultivated. The method which we recommend for this object is a revival of the cowle system in a modified form.

198. The essential feature of the cowle system was that it was a grant made by the Government of a janmi's waste land to some other person without prejudice to the janmi's rights. A large number of cowles were granted under the system after 1826. As early as 1853 Mr. Conolly, Collector of Malabar, wrote—"A man is not allowed to keep his land waste unless he agrees to pay the Government the tax they would derive from its cultivation. Should he decline to do this, the land is delivered over to any person who will undertake to till it, a specification being made that out of the profits deducible from its cultivation a certain portion (about 15 per cent) shall be given to the proprietor as the landlord's share." The practice of granting cowles was discontinued, as the High Court held that the Government had no right to deal with a stranger for the purpose of assessing land to revenue.†

199. The Commission presided over by Sir T. Madhava Rao proposed to confer on the Collector power to grant permanent pattas for waste lands. A similar proposal to give waste lands to cultivators was made by the Committee presided over by the Hon'ble Mr. Master and was incorporated in a draft bill which formed Appendix D to the report. The proposal was, however, not accepted by the Government.

200. We recommend that this opportunity should be taken to revive the cowle system with some modifications. The procedure which we contemplate is that any person may approach the Collector to grant him on cowle any waste land in the direct possession of a janmi, for the purpose of cultivating it. Applications may be entertained in respect of any waste land registered in the revenue accounts as unsurveyed, unoccupied dry or unassessed or, (in the Wynaad taluk) as undeveloped dry. They should not, however, be entertained in respect of land which has been planted with any useful product or any land which is usually cultivated with fugitive crops. Notice of the application should be given to the janmi and he should be given an opportunity of presenting objections to the grant of the cowle. The application should be dismissed if the Collector is satisfied that there are reasonable grounds for doing so. We include among reasonable grounds the fact that the land is a forest habitually used for felling timber, or is necessary for taking green manure or for pasturing cattle, or that it is already planted with useful products, or that the applicant has no need of further lands or no genuine intention to cultivate. If the janmi shows no reasonable grounds for refusing the grant, he should be given the first option of bringing the land under cultivation within a period to be fixed by the Collector with reference to the circumstances of the case. If the janmi declines this option or fails to bring the land under cultivation within the period fixed, the Collector should grant the applicant a cowle for it on payment of the value of any timber trees standing on the land. The extent granted should not, except for special reasons, exceed five acres per applicant in the plains taluks and ten acres in the Wynaad taluk. The cowle should state the period within which the land is to be brought under cultivation. The land should be resumable if it is not brought under cultivation within that period.

201. Under the old cowle system the janmi had a right of ouster. We consider, however, that such a right would make the benefits of the system illusory. We recommend that the cowledar should be given fixity of tenure and should not be liable to eviction under any circumstances.

202. We recommend that it should be a condition of the cowle that no rent should be payable for the first five years and that assessment should not be levied for the same period.‡ After the expiry of that period, the cowledar should be liable to pay the assessment and cesses on the land and a sum equal to the dry assessment as rent. As the grant of such cowles would constitute some interference with the janmi's rights and may be made against his wishes, we recommend that the rent should be made recoverable in the same manner as an arrear of land revenue and should be collected by the Government along

* The figures are given in Appendix B-1.

† See Second Appeal No. 78 of 1888.

‡ Lands assigned to scheduled classes are exempt from payment of assessment for seven years where the lands require much reclamation—Madras in 1939 (Outline of the Administration), page 73.

with the assessment and paid over to the janmi. A system similar to this is adopted in Travancore State for the collection of rents due from kanamdars. We also recommend that if the land is abandoned by the cowledar, the liability to pay assessment should not be transferred to the janmi.

203. In this connexion it is necessary to press on the attention of the Government the urgent necessity that exists for undertaking a comprehensive scheme of Land Clearance and Colonization. There are large extents of waste lands belonging to the Government in Wynaad taluk and if our recommendation regarding the transfer of waste lands in the ownership of private persons is accepted, there would be vast extents at the disposal of Government in almost all taluks in Malabar. The existence of a large body of landless proletariat is becoming a political and social menace in Malabar and it would be an act of wise statesmanship to settle the landless in appropriate areas. Each family may be given about 10 acres in addition to a few acres of common land for pasturage and it may also be given two pairs of bullocks, two cows and the necessary seed for their initial agricultural operations. The State may also build a model house for each family and during the first year a minimum subsistence allowance also may be given. The scheme may cost the Government about Rs. 1,500 per family. The amount spent on each family should be in the form of a loan recoverable in easy instalments after the expiry of a few years. Private agencies have neither the right nor the means to venture on any such undertaking and only the Government can do it. We envisage colonies each of a few thousands of acres in extent distributed in different parts of Malabar, each colony having its own small dispensary and school.

Irrigation Sources.

204. Private ownership of land in Malabar conditions the tenant's cultivation in many ways and nowhere is this more apparent than in respect of irrigation sources. In most other districts of the Presidency the control of irrigation sources is in the hands of Government. In Malabar irrigation sources are, with trifling exceptions, under private control. It is generally conceded, however, that most landlords are not in a position to execute major irrigation schemes and that these could only be undertaken by the State. The Committee's attention has been repeatedy drawn to the necessity of affording irrigation facilities to the agriculturist in Malabar. One of the obstacles to a State scheme of irrigation is that all land, including the beds of rivers, streams and canals, is regarded as private property and the Government cannot, therefore, interfere with the rights of private owners by constructing irrigation works. We feel constrained to recommend that in the interests of landlords and tenants alike, this obstacle should be removed. We propose, therefore, that the Government should be empowered to take control of all irrigation sources, for the purpose of controlling the supply of water or constructing irrigation works subject only to the existing and rightful user by the persons now in possession of such sources.

CHAPTER XIII—MISCELLANEOUS.

205. In this chapter we propose to deal with certain miscellaneous matters which are of great importance to agriculturists.

206. *Weights and measures.*—The weights and measures in use in Malabar are most tantalizing even to a Malayalee. They vary considerably from taluk to taluk and even in different parts of the same taluk. To add to the confusion, the landlords have very often two kinds of measures, one for receiving rent and the other for paying out (*Patta para* and *Chilavu para*). It is therefore necessary to introduce standard weights and measures which will be easily understood by everybody.

In these days of easy communication we feel that it is advisable to have common measures and weights throughout the whole of the civilized world. This, however, cannot be achieved at least as long as the present war lasts. The Indian Legislature could have introduced standard measures and weights throughout India and we can find no insuperable objection to this desirable reform being effected at a very early date. The Indian Legislature has already passed the Standards of Weight Act, 1939, establishing standards of weights throughout British India. The Act is confined to standard weights and has no reference at all to standards of measure of capacity, length and area and it is also defective in that it does not insist on the standard weights alone being used and in that it does not impose any penalty for using other weights. We understand that the matter is under the consideration of the Madras Revenue Board and we trust that the Board and the Madras Government will take immediate steps to bring the subject to the attention of the Indian Government or introduce legislation in the local legislature standardizing measures and weights in this Presidency and penalising the use of other measures and weights.

Hitherto the MacLeod seer has been the only standard measure in Malabar. The Malabar District Board has, however, recently standardized measures in certain parts of the district. If these measures find general acceptance, it would be desirable to adopt them as the prescribed measure in preference to the MacLeod seer, till the Legislature fixes a standard measure for the whole of India or the Presidency.

Section 46 of Act XIV of 1930 requires that all leases should state the relation between the MacLeod seer and the measure according to which rent is to be paid. This question would not, in future, be of great importance in view of our proposals for the fixing of fair rent and the option recommended for the tenant of wet lands to pay in money. We feel, however, that the principle of the provision should be followed in all cases where it is applicable. The provision of section 46 is not generally complied with as there is no sanction behind it. We therefore recommend that no lease should be accepted for registration if it does not state the relationship between the measure to be used and the prescribed measure.

207. *Rates of interest.*—The rates of interest collected from the tenants on arrears of rent are generally exorbitant. They are usually 20 per cent in the case of paddy and 12 per cent in the case of money. These rates are sometimes an inducement for the landlords to allow the arrears to accumulate without making an earnest effort to collect them. Instances are not rare where arrears of rent have been allowed to multiply at the above rates for periods of forty and fifty years. The Agriculturists' Relief Act has, of course, afforded relief in many such cases. We think that it would be advisable to fix a reasonable rate of interest which may be adopted in all tenancy transactions.

We have already recommended that sums deposited as security for rent should bear interest at $6\frac{1}{4}$ per cent per annum, simple interest. This rate may, in our opinion, be adopted in the calculation of interest on arrears of rent notwithstanding any contract to the contrary. The advantage of the rate is its ease of calculation, as it amounts to one pie per rupee per month. It may with advantage be adopted in all tenancy transactions. It should not, however, apply to the calculation of interest on kanam amounts for determining renewal fees and the provisions of section 17 of the Act in that respect may be retained.

208. *Feudal levies.*—There is considerable dispute as to what constitutes a feudal levy. For the sake of convenience we propose to deal in this section with all payments made by tenants to landlords other than the basic paddy or money rent stipulated in their leases. The landlords maintain that all such payments generally constitute part of the rent or are of merely nominal value. The tenants generally maintain that they are feudal levies.

It has been the custom in the past for tenants to make presents to their landlords on the occasion of festivals. Such presents are a bunch of plantains given to Hindu landlords on such festivals as Onam and Vishu, ghee or oil given to a devaswam for a ceremony, and chickens, eggs or calves presented to Muslim landlords at Ramzan or other festivals. In North Malabar in particular these presents are embodied in leases, often under the name of " chillara purappad " or " miscellaneous rent " and their money value is usually stated. Where they are given in leases, their money value can be recovered by suit. The majority of these presents are not of great monetary value. It is said that in some cases the landlords make gifts in return, which often exceed the value of the tenant's presents. The objection made to such presents is that they are vexatious to the tenant, and unduly emphasize his subservience to the landlord and that landlords insist on them out of a false sense of prestige.

Some tenants who appeared before us said that landlords issue invitations to their tenants for entertainments such as ' kathakali ' or ceremonies such as ' thalikettu-kalyanam ' in the landlord's house. The tenant, it is said, is expected to take a present of money or vegetables with him when he goes to the landlord's house in response to the invitation.

The levies to which most objection has been made are known as ' nuri ' and ' vasi.' They are made when paddy rent is being measured out. ' Nuri ' is said to be in origin a means of numbering. When paddy is being measured, each time a certain number of measures is reached, a handful of paddy is put on one side from the tenant's heap to show that this number has been reached. When the required total of rent has been reached, these handfuls are added to the landlord's heap. In some leases the amount of nuri is stated.

' Vasi ' is a similar addition of between 1 and $1\frac{3}{4}$ measures for every ten measures counted out. It is possibly in origin an allowance for dryage in cases where the paddy is measured undried. ' Vasi ' is also stated in some leases.

There is general agreement that where ' fair rent ' is paid, no such levies should be permitted or enforced. It has, however, been pointed out to us that a general prohibition of such levies in other cases would not be practicable. One instance quoted was that of a Varier or temple servant whose lease requires him to pay one para of paddy per year as rent, and to present two garlands a day for the use of a temple. Many leases granted by devaswams provide for the supply of ghee or milk, and in consideration of this fact, a nominal rent alone is fixed. There are also a number of service tenures where the rents payable in money and kind are small, but some service has to be rendered. In such cases it would be unjust to abolish altogether all rents other than paddy or money and the imposition of fair rent as an alternative might be much more onerous to the tenant. We consider, therefore, that where the tenant finds it to his advantage to continue under a tenure which requires such payments or services, he should be allowed to do so, but he should have the option of paying their money value if he prefers that course. We recommend, therefore, that where fair rent is paid, no payment or service in addition to rent should be required or enforced. In other cases, the tenant may render the payments or services which are specified in his deed or pay their value in money at his option.

209. *Recovery in cases of loss of possession after 5th July* 1939.—The Government Order announcing the appointment of the present Committee was published on 5th July 1939 and it would be reasonable to hold that any evictions which have taken place as a result of any proceeding instituted after the said date shall be subject to the provisions of the new enactment. We accordingly recommend that any tenant who has been evicted from his property in execution of a decree passed in a suit instituted after 5th July 1939 be at liberty to apply for re-delivery of such property within a specified period and the court shall order re-delivery if it is satisfied that the tenant would not have been evicted if the new legislation had been in force at the time of the suit. Any tenant who has parted with possession of the property of his own accord after 5th July 1939 should similarly be entitled to apply for re-delivery of such property within the specified period. The tenant will have to return the kanam amount, if any, received by him and to pay compensation for the improvements which had been paid for by the landlord and which are in existence at the time of re-delivery as also for the improvements which the landlord had effected *bona fide* between the date of getting possession from the tenant and the date of re-delivery to him.

210. *Contracts invalid.*—As tenants are as a body unable to protect themselves against stipulations to the obvious prejudice of their rights, it is necessary to provide that nothing in any contract made after the 5th day of July 1939 shall take away or limit their statutory rights under the proposed legislation.

AMENDMENT OF THE MADRAS MARUMAKKATTAYAM.

211. This subject is not specifically referred to us but has arisen in the course of our enquiry. It was pointed out to us that section 33 of the Marumakkattayam Act invalidates a lease given for more than twelve years except with the consent of the majority of the major members of the tarwad. If our recommendation regarding the grant of fixity be accepted, the section might be held to include the grant of any lease. The section might also hinder the grant of leases for cultivation of tea, coffee, rubber, cinchona and similar crops, as no tenant would be prepared to raise such plantations on a twelve years' tenure. The minimum period for which such leases are granted is usually 48 years and this period is clearly necessary for the purpose. Another type of lease for which a long period is necessary is a mining lease. The restriction in these cases does not appear to serve the purpose of protecting the family interests against mismanagement, for which it was designed. We would suggest for the consideration of the Government the desirability of amending the Marumakkattayam Act in the light of our observations.

CHAPTER XIV—EXTENSIONS OF THE PROPOSED LEGISLATION TO PARTS NOT INCLUDED IN THE MALABAR DISTRICT.

212. The Committee's terms of reference require us to examine the desirability of extending the provisions of tenancy legislation to the Kasaragod taluk in the South Kanara district and the Gudalur taluk in the Nilgiri district. We propose to consider the subject in this chapter. We shall first take Kasaragod taluk.

Kasaragod Taluk.

213. The majority of the population of Kasaragod taluk speak Malayalam. The last Census report gives the percentage of Malayalam-speaking population as about 70 per cent and it is stated that the persons whose mother-tongue is not Malayalam are found almost entirely north of the Chandragiri River.* In physical features there is much resemblance between the Kasaragod taluk and North Malabar. In common with some other parts of the South Kanara district, the taluk forms part of the traditional Kerala. In the southern portion of the Kasaragod taluk, lying mainly to the south of the Chandragiri river and corresponding to the former Bekal taluk, the resemblance to North Malabar is marked. This part of the taluk was at one time within the domains of the Raja of Chirakkal. The landlords of this area own large extents of lands and are, for the most part, Malayalees. Some of them also own lands in North Malabar and most of them are related to families living in Malabar. The tenures of this area, whether described by the Malayalam term common in North Malabar or the supposed Kanarese equivalent, are virtually the same as those obtaining in North Malabar. A landlord is normally styled a janmi; kanam is, as in North Malabar, practically a mortgage, and the verumpattam or chalageni tenure is indistinguishable from the verumpattam of North Malabar. Some of these features are also to be found in the northern portion of the Kasaragod taluk, and also, so we are informed, in the Puthur taluk. Certain features peculiar to the southern portion of the Kasaragod taluk render its resemblance to North Malabar still more striking. The custom of making presents to landlords, described in Chapter XIII under the heading of 'Feudal Levies' is said to prevail in this area also. The extensive cultivation of pepper and the practice of fugitive cultivation on kumari lands are two further features which distinguish this portion of the taluk from other parts of the South Kanara district and emphasize its resemblance to the Chirakkal and Kottayam taluks of North Malabar. Owing, however, to historical accidents, this area has been included in the South Kanara district. A request generally made by the Malayalam-speaking people both of this and other parts of the South Kanara district is that they should be included for administrative purposes in the Malabar district.† While we feel that there is much to be said in support of this request, it is a subject outside our terms of reference. We do not, therefore, propose to discuss it here beyond commending it to the consideration of the Government.

214. The proposed extension of the provisions of the Tenancy legislation to Kasaragod taluk is a matter directly referred to us. The landlords of the Kasaragod taluk are ordinary ryotwari pattadars. The rates of assessment which they pay are generally higher than those which prevail in the adjoining areas in North Malabar. All lands, even though not cultivated, are subject to permanent assessment, at one, two or three annas per acre. There is no presumption of private property in land as in Malabar. It is because of

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* Prevailing mother tongue : Malayalam, Tulu (16 per cent), Kanarese (8 per cent) and Marathi (4 per cent) are also returned. These are found almost entirely north of the Chandragiri river—Census of 1931, Village Statistics, South Kanara District, page 11.

† (i) Malayalam-speaking population in Mangalore taluk has been calculated to be at least 12 per cent and in some of the villages the Malayalam-speaking population comes to about 40 per cent.

(ii) Malayalam-speaking population in the whole of South Kanara is at least 21·8 per cent.

Other languages spoken in the other taluks of the South Kanara district according to the Census of 1931 are—

Mangalore taluk	Tulu 55 per cent. Konkani 24 per cent. Kanarese 3 per cent.
Puthur taluk	Tulu 62 per cent. Kanarese 12 per cent. Konkani 7 per cent.
Udipi taluk	Tulu 46 per cent. Kanarese 26 per cent. Konkani 18 per cent.
Karkal taluk	Tulu 66 per cent. Konkani 18 per cent. Kanarese 7 per cent.
Coondapoor taluk	Kanarese 79 per cent. Konkani 14 per cent.

these differences between the two systems that the landlords object to the extension of the Act to any part of the Kasaragod taluk until the revenue system is approximated to that of Malabar, or unless legislation is undertaken for the entire Presidency in favour of the tenants of ryotwari pattadars. The amendment of the revenue system of the Kasaragod taluk is a subject outside our terms of reference. We are informed, however, that a change has recently been made in the assessment of pepper gardens, and it is possible that other changes may be made. General legislation in favour of tenants of ryotwari pattadars is similarly not a subject referred to us.

215. The idea of extending the Malabar Compensation for Tenants' Improvements Act to the other districts in the Presidency for the protection of sub-tenants in ryotwari and Zamindari tracts was first suggested by the Honourable Mr. Cardew who observed that the introduction of provisions securing to the tenant, in spite of any contract to the contrary, the value of any improvements that he might make in his holding seemed to be a desirable feature of any legislation for the tenants' protection. An officer was placed on special duty to write a note on the subject and he concluded his note as follows :—

> "As yet there has been no demand for legislation, but if it is to be undertaken, the simplest course would seem to be to extend the Malabar Compensation for Tenants' Improvements Act *mutatis mutandis* to other districts."*

Mr. R. A. Graham, the Collector of South Kanara, advocated the extension of the Act to the whole of Kasaragod taluk in South Kanara. Mr. Graham's reasons were that the land-owning class in the southern part of the taluk was much the same as in Malabar and the conditions were in many respects similar. The Government, however, in 1912 dropped the suggestion to extend the Malabar Compensation for Tenants' Improvements Act to any other district.

216. As there is great similarity between the tenures and the relations of landlord and tenant in the South of Kasaragod taluk and those in Malabar, we are strongly of opinion that the Malabar Compensation for Tenants' Improvements Act may with advantage be extended to that portion of the Kasaragod taluk. The working of the Act in Malabar has shown that the Act would not solve all the difficulties under which the tenants are labouring. It has, therefore, been suggested that all legislative measures affecting tenancy relations in Malabar may be made applicable to Kasaragod taluk. We agree with the suggestion as the arguments for extending the Malabar Compensation for Tenants' Improvements Act to Kasaragod taluk are equally applicable to the extension of other legislative provisions affecting Malabar tenants to Kasaragod. We therefore recommend the extension of tenancy legislation as envisaged for North Malabar to this predominantly Malayalee area.

217. While there is much to be said for the inclusion of the whole of the Kasaragod taluk, the case is clear for the immediate extension of all tenancy legislation regarding Malabar to the portion of the Kasaragod taluk which lies to the south of the Chandragiri river. We also recommend its extension to the villages of Bedadka and Bandadka which, though lying to the north of the Chandragiri river, are predominantly Malayalee and possess the feature of fugitive cultivation on kumari lands which is otherwise peculiar to the area south of the river. Our proposal is that the legislation applicable to North Malabar should apply to this area with certain reservations in respect of fugitive cultivation.

218. Fugitive cultivation is practised on kumari lands, but they are permanently assessed at rates of one, two and three annas an acre. Fugitive crops are usually cultivated at intervals of ten years in the same area. As the landlord has to pay the assessment even in years when there is no cultivation, a rate of fair rent at twice the assessment would be inadequate. We consider that the principle which we have adopted in Malabar that the landlord should receive a net rent equal to the assessment may reasonably be applied in this case. We therefore recommend that the rate of fair rent for fugitive cultivation on kumari lands should be twenty times the permanent assessment. This will result in rates of Re. 1–4–0, Rs. 2–8–0 and Rs. 3–12–0 per acre, which are, in our opinion, reasonable. If, however, the assessment on kumari lands is made payable only in years of cultivation, as is the case in Malabar, our proposal would require modification. In that event, the rate which we have recommended for Malabar might be adopted in this case also.

Gudalur Taluk.

219. The area known as the Gudalur taluk of the Nilgiri district is composed of the Nilgiri-Wynaad and the Ouchterlony Valley. The whole of this tract formerly belonged to the Malabar district. For administrative reasons the Ouchterlony Valley was transferred to the Nilgiri district in 1873 and the Nilgiri-Wynaad in 1877. For all practical purposes, the taluk is similar to the Wynaad taluk of the Malabar district. The large majority of

* Vide Notes to G. O. No. 9 (Confidential), Revenue, dated 2nd January 1914.

the tenants of wet land and most of the tenants of dry land except in the tea and coffee estates, speak Malayalam as their mother tongue.* Except for Government lands, which cover a considerable extent as in the Wynaad taluk, all the land in the taluk belongs, with trifling exceptions, to three Malabar janmis and is held on tenures similar to those in the Wynaad taluk. Owing to the accident of their exclusion from the Malabar district, the tracts in question were not brought under the operation of the Malabar Compensation for Tenants' Improvements Acts—The Repealed Act, I of 1887 and the present Act, I of 1900.

220. The question of the extension of the Malabar Compensation for Tenants' Improvements Act to this taluk was first raised in 1888. The proposal was supported by the Collector and the Board of Revenue. The Government communicated it to the Select Committee which sat in connexion with the 'Malabar Evictions and Waste Land Bill.' The Bill was not moved and with it the proposal was also dropped. The subject was again opened by the Collector of the Nilgiri district in 1910 but in 1913, after a consideration of the reports of the Collectors of the Nilgiri and Malabar districts, the Government held that no case had been made out for extending the Act. Representations were made from time to time that the Act should be made applicable to the Gudalur taluk on the ground that the tenants in that taluk required the protection of the Act just as much as the tenants in Malabar. The subject was again examined by the Government in 1919 and a draft bill was published in 1920. The Government were prepared to give the proposed legislation only prospective and not retrospective effect and as the persons who were agitating for the extension wanted it to be extended retrospectively or not at all, the bill was not proceeded with and was dropped in 1923. As the persons interested in the matter subsequently expressed their desire to have legislation on the subject with at least prospective effect, the subject was again taken up by the Government in 1930 and the Gudalur Compensation for Tenants' Improvements Act was passed by the legislature in 1931 extending the provisions of the Malabar Compensation for Tenants' Improvements Act with a slight modification to Gudalur.

221. The Act has no retrospective effect and one of the suggestions made to us is to make the Act retrospective. We have dealt with the matter in considering the amendment necessary for the Malabar Compensation for Tenants' Improvements Act and we have come to the conclusion that the Act should be given retrospective effect to the extent of invalidating prior contracts affecting improvements made hereafter on holdings affected by the proposed legislation. The request to give retrospective effect to the Act has been made chiefly by the tenants who have constructed buildings on commercial sites. The so-called commercial sites are to be found in the bazaars of Gudalur village and some other villages. They usually include a row of shops constructed by the tenant which are sub-let while the tenant himself lives in the upper storey of the building. We understand that no particular hardship will be caused to such tenants if the Act is not given retrospective effect. An instance quoted to us was that of a tenant who took a lease at a yearly rental of Rs. 5. He erected a row of shops on the site at a cost of Rs. 1,000 and derived a rent of Rs. 20 a month or Rs. 240 a year by sub-letting the shops. When the lease expired, the landlord demanded a rent of Rs. 200 a year. In the course of his twelve years' lease the tenant had received an annual profit of Rs. 235 or Rs. 2,820 in all on his investment of Rs. 1,000 and had thus recouped his capital more than twice over. It is clear that in a case such as this, the original lease was granted at a favourable rate of rent in consideration of the fact that on the expiry of the term the improvements would become the property of the landlord.

222. The question of payment for improvements is bound up with the question of fixity. In many cases of leases of commercial sites under the existing contracts, the improvements become the property of the landlord on the expiry of the lease. If the tenant were, in such cases, given fixity of tenure in respect of the site, this would virtually deprive the landlord of the improvements. We consider, therefore, that it would be unjust to grant fixity of tenure to tenants of commercial sites in Gudalur taluk who are not entitled under their contracts to payment of the value of improvements.

223. In other cases, the reasons that exist for giving fixity of tenure to Malabar tenants are equally applicable to Gudalur. Another weighty reason for giving fixity of tenure to the tenants of this taluk is that there are considerable extents of waste lands which can be converted into paddy flats or flourishing gardens. From an economic point of view, it is necessary to induce persons to take to cultivation of these undeveloped areas and unless they are assured of fixity of tenure, they are not likely to invest their money and labour on the development of these areas. We, therefore, recommend that the proposed legislation should be extended to the Gudalur taluk of the Nilgiri district with the same modifications as we have proposed for the Wynaad taluk.

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* Prevailing mother-tongue : Malayalam. Kanarese, Tamil, Telugu and Kurumba are spoken mainly by the imported coolies and others who form a floating population—Census of 1931, Village Statistics, Nilgiri district.

CHAPTER XV—SUMMARY OF RECOMMENDATIONS.

This Chapter contains a summary of our main conclusions and recommendations. The references made in the summary are to paragraphs in the report.

Chapter III—Origin and Nature of the Tenures.

We are unable to come to a unanimous conclusion about the origin and nature of the tenures. The majority consider that the kanamdar (the farmer) was the original owner of the soil. Janmam was a sort of overlordship and not an absolute right in the soil. (41)

Chapter IV—The Economic Position of the Agriculturist.

The Committee stresses the need for an increase in the productivity of the soil (46), steps to save the pepper, coconut and arecanut trades from ruin (47), the introduction of salt manufacture (48) and other village industries and arts and crafts to relieve unemployment and under-employment (61) and the provision of State irrigation facilities (51 and 52). The Government should, for the purpose of affording irrigation facilities, be empowered to take possession of all irrigation sources subject to existing and rightful user (53). Better marketing facilities should be provided by the construction of roads and canals (54 and 55). The Committee details the complaints about the assessment of land revenue (57 to 59) and recommends immediate relief in cases where the assessment is out of all proportion to the income (61).

Chapter VI—Fixity of Tenure, Eviction and Relinquishment.

We recommend the grant of fixity of tenure for all classes of lands except those transferred for the cultivation of fugitive crops, pepper (as a main crop), tea, coffee, rubber, cinchona or any other special crop prescribed by rules. Tenants of buildings owned by a landlord should not get fixity. Fixity of tenure, both heritable and alienable, should be extended to all classes of tenancies except certain kanams which are really mortgages (88). Thus all verumpattams, whether or not the holdings include wet lands (80), all kanams including those comprising only dry lands but excluding those specified in section 17 (*c*) (1) of the Act which are really mortgages, all kuzhikanam and customary verumpattams would get fixity (81). Fixity of tenure should also be granted for commercial sites, i.e., lands which are not used mainly for agricultural purposes or as kudiyiruppus (83). In order to prevent evasions of the Act we also recommend the grant of fixity of tenure to any mortgagee whose mortgage is shown to have been granted in place of a tenure (82).

The grounds of eviction of tenants are to be restricted. The grounds of denial of title, waste, and collusive encroachment are to be retained (90). Failure to take a renewal will no longer be a ground of eviction as renewals in their present form are to be abolished (91). A verumpattamdar may be evicted if he fails to pay by 30th Kumbham (February-March) the rent due between Kanni (September-October) and Makaram (January-February) or within three months of the due date in other cases (92). A verumpattamdar who defaults in the payment of rent may be called upon within twelve months of the default to furnish security for one year's rent, and evicted if he fails to do so (93). The landlord is at present entitled to evict if he requires the land *bona fide* for his own cultivation for building purposes. The right should be abolished so far as sthanis are concerned, and religious and charitable bodies should only be allowed to evict tenants from the area which the District Collector considers necessary for the extension of their existing premises (100). In other cases landlords may exercise the right subject to the proviso that the extent from which tenants may be evicted for both purposes combined when added to the area already directly in the possession of the landlord or any member of his family should not exceed five acres per head of the landlord's family (102).

The payment of arrears of rent should not, as at present, be a condition precedent to voluntary surrender, but the tenant should continue to be personally liable for the excess of the arrears over the kanam (if any) and value of improvements (104).

Chapter VII—Rent and Revenue.

No tenant should be compelled to pay more than fair rent (106). It is, however, unnecessary to fix the rent payable by kanamdars, customary verumpattamdars or intermediaries, but any tenant may convert himself into a verumpattamdar paying fair rent if he chooses (108). Different rates of fair rent are recommended for the Malabar plains and the Wynaad taluk (109).

Malabar plains—(a) Wet lands not converted by the tenant.—In view of the difficulties of the present formula, the rent should be based on the produce of a normal year (112), cultivation expenses should be expressly stated as 20 Palghat paras (133⅓ MacLeod seers) per acre per crop (113) and deducted from the gross produce, and the rent should be two-thirds of the net produce thus calculated (114).

(*b*) *Punjakol and Kaipad cultivation.*—For these special types of wet cultivation, the cultivation expenses should be calculated at half the gross produce, and the rent should be two-thirds of the net produce thus calculated (116).

(*c*) *Wet lands reclaimed by the tenant.*—The fair rent should be one-fifth of the net produce as at present, but cultivation expenses should be calculated at 20 Palghat paras per acre per crop (117).

(*d*) *Garden lands.*—The present rates of fair rent are one-fifth of the gross produce of coconut trees and one-sixth of the gross produce of arecanut trees belonging to the tenant, and in the case of trees belonging to the landlord, two-fifths and two-sixths respectively. These rates should be retained (118).

(*e*) *Dry lands.*—The fair rent of ordinary dry lands should be three times the dry assessment as at present (119). For lands which have been cultivated with groundnut for three out of the five years preceding the calculation of fair rent, the rate should be three times the highest dry assessment of the district, i.e., 3 times Rs. 2–4–0 or Rs. 6–12–0 per acre (120).

Wynaad taluk.—The rates for the plains taluks should not be made applicable in the Wynaad (121).

(*a*) *Wet lands not converted by the tenant.*—The fair rent should be one-tenth of the gross produce plus the assessment or the rate fixed in the existing contract, whichever is less (122).

(*b*) *Wet lands reclaimed by the tenant.*—The rate should be one-twentieth of the gross produce plus the assessment (123).

(*c*) *Dry lands.*—The rate should be twice the dry assessment or the rate fixed in the existing contract whichever is less (124).

We have not recommended fixity of tenure for the cultivation of fugitive crops or pepper as a main crop, but we propose that fair rents should be fixed for these types of cultivation (125).

Fugitive cultivation.—The rate should be twice the assessment (126 and 127).

Pepper cultivation.—The rent should be one-fifth of the gross produce and to secure this end, the landlord should take the entire produce of the eleventh year after planting and of every fifth year thereafter (137).

Commercial sites.—The fair rent of commercial sites should be the letting value of the site, i.e., the rent paid or agreed to be paid in respect of similar lands of the same extent in the neighbourhood (138).

Fixing of fair rent.—Fair rents should be fixed simultaneously for all lands in a locality by a Rent Settlement Officer of the rank of a Revenue Divisional Officer in consultation with advisory assessors representing the interests involved (140). A complete record of rights should be prepared at the same time (141). The cost should be recovered from the actual cultivator and his immediate landlord (142). There should be a revision of rent in all cases after a period of twenty years (143) and in exceptional cases within that period (147).

Payment of rent.—The rent of garden lands though fixed in kind should be payable in money at the current market price. The rent of wet lands should be paid at the tenant's option in kind or in money at the current market price (144).

Recovery of rent.—There should be summary procedure for the recovery of rent leading to an order having the force of a decree against the tenant's rights in the property (145).

Remission of rent.—The rent should be remitted in proportion to remissions of land revenue granted for failure of crop (146).

Payment of assessment.—Section 14 of the Malabar Land Registration Act should be amended to admit of the joint registration of the actual cultivator. The tenant jointly registered should be liable to pay the assessment even if it exceeds his rent (148).

Chapter VIII—Renewals and Renewal Fees.

The practice of having renewal deeds executed every 12 years should be abolished altogether (152). The renewal fee should be reduced, divided into twelve equal instalments and added on to the rent and made recoverable as rent. Failure to pay the instalments should not be a ground of eviction (151). The renewal fee for wet lands should be one year's net profit ascertained as at present by deducting from the fair rent, the land revenue (if payable by the tenant), the interest on the kanam amount (if any), and the rent payable under the lease. For garden and dry lands the renewal fee should be

one year's land revenue on the land minus interest on the kanam amount (if any) (153–155). The rate of renewal fee for commercial sites held on kanam, kuzhikanam, kanam-kuzhikanam or customary verumpattam should be one year's letting value of the site minus the interest on the kanam amount (if any) (156).

Chapter IX—Intermediaries and Under-Tenure Holders.

It is not necessary to eliminate intermediaries by artificial means (162). The under-tenant should be protected so long as he pays his rent (163). He should be entitled to inform the superior landlord of his under-tenure by means of a notice stating the rent payable by him. In the event of default by the intermediary, the superior landlord may by notice demand rent direct from the under-tenant. If the under-tenant has paid rent to his immediate landlord before such notice or to the superior landlord after such notice, he should be protected in any legal proceedings for the rent (165).

Where the intermediary defaults for three years in the payment of rent, the under-tenant may compulsorily purchase the intermediary's rights (170). The Government should issue bonds to enable the under-tenant to do this (173).

Chapter X—Compensation for Improvements.

The prices of oranges, cashewnuts, mangoes and tamarind should be published under section 14 of the Act (175).

Even in those cases where contracts to the contrary are now valid, the tenants included in our proposals for the grant of fixity of tenure or the fixing of fair rent should be entitled to claim the value of any improvements effected after the passing of the intended tenancy legislation (176).

The number of coconut trees for any excess over which compensation may be refused should be reduced from 120 to 80 per acre. Similar reductions should be made in the case of other trees also (177).

A time-limit of six months should be imposed in decrees for eviction on payment of the value of improvements (178).

Chapter XI—Kudiyiruppus (Homesteads).

Fixity of tenure should be granted to all kudiyiruppu holders and the kudiyiruppu holder's right of purchase when sued in eviction may be abolished (180).

The term kudiyiruppu holder should not include tenants of rented buildings or ulkudi or kudikadappu holders, or those persons who have constructed buildings mainly for commercial purposes or sub-letting (181–185).

The kudiyiruppu holder should pay the existing rate of rent or fair rent whichever is less for an area not exceeding 50 cents in rural areas and 25 cents in municipal limits. For any excess over this area he should pay fair rent in rural areas, and in municipal limits fair rent or the rent payable for similar lands in the locality whichever is higher (187).

The kudiyiruppu holder should be liable to eviction on the grounds applicable to his tenure, and if no tenure is stated, on those applicable to a verumpattamdar. He should not, however, be liable to eviction for the landlord's own cultivation or building purposes unless the kudiyiruppu is necessary for the construction of a farm house for lands directly cultivated by the landlord (188 and 189).

The landlord should have a right of pre-emption if the kudiyiruppu holder transfers his kudiyiruppu (190).

Chapter XII—Forests, Waste Lands and Irrigation Sources.

Forests.—Some general control is necessary to prevent the denudation of private forests (194). Cultivators should be allowed to take leaves for green manure from, and pasture their cattle in, private forests subject to restrictions necessary to protect the forests from destruction or denudation (195). The same facilities may be granted in Government forests (196).

Waste lands.—The cowle system should be revived in a modified form, and made part of a comprehensive Land Clearance and Colonization Scheme (200–203).

Irrigation sources.—In order to facilitate State schemes of irrigation, the Government should be empowered to take control of all irrigation sources subject to existing and rightful user (204).

Chapter XIII—Miscellaneous.

Weights and measures.—Weights and measures should be standardized and leases which do not state the equivalent in the standard measure should not be accepted for registration (206).

Interest.—The rate of interest in all tenancy transactions should be 6¼ per cent simple interest per annum notwithstanding any contract to the contrary. This rate should not apply in the calculation of interest on kanam where the provisions of section 17 (*c*) may be retained (207).

Feudal levies.—In cases where fair rent is paid, no levies or services in addition to rent should be permitted or enforced. In other cases, if the tenant prefers to continue to hold under a tenure requiring levies or services, he should be permitted to commute them into money (208).

Right to restoration in case of eviction after 5th July 1939.—Any tenant who has parted with possession or been evicted in a suit instituted after 5th July 1939, the date of the Government Order appointing the Committee, should be entitled to restoration if he would not have been evicted, had the proposed legislation been in force (209).

Contract after 5th July 1939 *invalid.*—Nothing in any contract made after 5th July 1939 should take away or limit the statutory right of a tenant under the proposed legislation (210).

Amendment of section 33 *of the Marumakkathayam Act.*—Section 33 of the Madras Marumakkathayam Act requires amendment (211).

Chapter XIV—Extensions of the proposed Legislation.

Kasaragod taluk of South Kanara district.—The legislation applicable to North Malabar should be extended to the portion of the Kasaragod taluk lying to the south of the Chandragiri river and to two villages north of the river (216 and 217). The rate of fair rent for fugitive cultivation on kumari lands should be twenty times the permanent assessment or Rs. 1-4-0, Rs. 2-8-0 and Rs. 3-12-0 per acre (218).

Gudalur taluk of the Nilgiri district.—The Gudalur Compensation for Tenants' Improvements Act should be given retrospective effect to the extent of invalidating prior contracts affecting improvements made hereafter on holdings affected by the proposed legislation (221).

The legislation applicable to the Wynaad taluk should be extended to the Gudalur taluk, but fixity of tenure should not be granted to tenants of commercial sites who are not entitled under their contracts to payment of the value of improvements (222).

Conclusion.

In conclusion we would like to say that throughout our labours we have been animated by a desire to do the maximum good to the maximum number and at the same time not to interfere with vested rights by any revolutionary changes. The recommendations are the largest common measure of agreement come to between the members representing different, almost irreconcilable interests. The question of Malabar tenures is very complicated and we are not vain enough to think that we have settled permanently the eternal question of landlord and tenant or that our recommendations, if accepted, will usher in the millennium in Malabar. But we do hope that our suggestions are such as to afford solutions of the pressing problems of the day and to promote peace and amity which would enable the people concerned to make a common endeavour for their uplift.

We cannot conclude our report without mentioning the valuable services rendered to us by our Secretary, Mr. A. J. Platt, I.C.S., whose ability, untiring industry and cheerfulness under all circumstances lightened our labours considerably. We wish to record our appreciation of the assistance we have received from him and the staff in our deliberations.

* MUHAMMAD ABDUR RAHMAN.
K. KUTTIKRISHNA MENON (*Chairman*).
* R. M. PALAT.
P. M. ATTAKOYA THANGAL.
* ABDUR RAHMAN ALI RAJA.
* E. M. SANKARAN NAMBUDIRIPAD.
A. KARUNAKARA MENON.
P. K. MOIDEEN KUTTI.
R. RAGHAVA MENON.
M. NARAYANA MENON.
C. K. GOVINDAN NAYAR.
M. P. DAMODARAN.
P. K. KUNHISANKARA MENON.
N. S. KRISHNAN.
* E. KANNAN.
K. MADHAVA MENON.
P. I. KUNHAMMAD KUTTI HAJI.
U. GOPALA MENON.

A. J. PLATT,
Secretary.

* Subject to a dissenting minute.

NOTE BY THE CHAIRMAN.

The main report contains recommendations which were unanimously agreed to by all the members of the Committee. The unanimity was brought about as the result of a compromise amongst the members representing divergent interests. Some of the members, however, wanted subsequently to write minutes of their own and dissenting minutes were received from

1 Mr. R. M. Palat, Bar.-at-Law, M.L.A.,

2 Sultan Adi Raja Abdur Rahiman Ali Raja Avargal of Cannanore, M.L.A.,

3 Sri E. M. Sankaran Nambudiripad, M.L.A.,

4 Sri E. Kannan, M.L.A., and

5 Muhammad Abdur Rahman Sahib Bahadur, M.L.A.

They are printed below.

K. KUTTIKRISHNA MENON,
(Chairman).

DISSENTING MINUTE BY MR. R. M. PALAT, M.L.A., AND SULTAN ADI RAJA ABDUR RAHIMAN ALI RAJA OF CANNANORE, M.L.A.

It is with some reluctance that I write this dissenting minute. I find that I am compelled to do so, as there is among certain janmis particularly of the grain producing areas of Malabar, a feeling that some of the recommendations made by the Committee are so injurious to their interests, that they would prefer not to be parties to a compromise, and as there is a likelihood that this report may be kept confidential, they feel that they may have no opportunity of presenting their views sufficiently early. This section of the janmis is led by the present Zamorin of Calicut. As in my opinion it is not fair that their views should go unrepresented I feel myself constrained to place these views before the Government. If this report is ever published, it is quite likely that this section of the janmis may have some further objections to advance to the Committee's report. So, it should be understood, that this minute does not deal exhaustively with their viewpoint, as I have had only a few general discussions with them. The only point which I thought, was sufficiently important and controversial to require a specific mandate from the Malabar Landholders' Association was whether the janmis should agree to give up their present right to two and a quarter times the fair rent as renewal fee and accept in lieu thereof the amount of fair rent as renewal fee with summary procedure for the collection of rent and michavaram. On this point although over three hundred persons were addressed, replies were received from about twenty-seven persons only and only about a dozen janmis attended the meeting. The majority led by the Zamorin were against coming to any terms with the tenants' representatives on this point. It is the strong views expressed by the Zamorin, particularly, that has induced me to write this minute.

In my opinion, it is of doubtful benefit whether there is any need to hold an enquiry into Malabar land tenures at this stage, for the Act of 1930 comes fully into effect in 1942 only and it seems to me to be more profitable to have awaited and seen the working of the Act of 1930 for some time before again upsetting and introducing uncertainties into the relationships between the various tenures and landed interests in Malabar. But the Congress Government thought otherwise, and after some hesitation and after consulting the Secretary of the Malabar Landholders' Association and some other janmis, I decided to serve on the Committee. Many witnesses whom it would have been profitable to examine have not been examined; for instance there are three retired Malayalee Judges

of the Madras High Court, namely Sir C. Madhavan Nair, Sri C. V. Ananthakrishna Ayyar and Mr. K. K. Pandalai, and an ex-M.L.A. (Central) Mr. Kudali Kunhikammaran Nambiyar, who represented the landholders of the Presidency in the Central Legislature, whose evidence we were not fortunate enough to have, nor was it found possible to have the evidence of more than a very few of the witnesses I wanted to be examined while some of the so-called janmi witnesses examined were not the nominees of any janmi member of the Committee. The Committee was overwhelmingly " tenancy " in character and Raja Sir Vasudeva Raja of Kollengode whose help would have been very valuable for the janmis was prevented by serious illness from attending the sittings. But I must acknowledge the reasonableness and the willingness of the " tenancy " members to listen to my point of view and meet me as far as they felt they could fairly do.

I shall now deal chapter by chapter with the joint report.

Chapter III.—I shall start with Chapter III of the report, as the first two chapters require no comment. If we concede that for the general good any private right can be infringed, it becomes profitless to go into the question as to whether the state, the janmi or the actual cultivator as represented by the kanamdar or verumpattamdar was originally the owner of the soil. But as against State ownership I believe the theory is worth consideration that no instance has been adduced of State ownership except where one or both the following conditions were present: (1) the existence of an absolute monarchy, (2) conquest by a foreign power. Neither of these conditions was present in Malabar except during a very late stage in Malabar history when the country was occupied by Hyder Ali. But there was chronic rebellion during the whole period of the Mysore occupation, and the people never accepted it, so that when the British came in as " allies " —see the wording of some of their proclamations to the Rajas, etc.—they came in more or less under the conditions existant before the Mysore Conquest and so were bound by the system existing before that conquest. The complete dislocation of local conditions, due to the Mysore irruption, enabled the British to substitute their absolute rule for the very limited monarchy of the Malabar Rajas, but not to the extent of entirely disregarding all local customs. In fact an attempt to do so gave rise to the famous Pychy rebellion as well as to the recall of the Major MacLeod.

Chapters IV and V.—The position of the janmis in Malabar is not at all an enviable one. The Committee has in its joint report mentioned the instance of about 6,000 acres of land being sold for arrears of assessment by the Revenue authorities for the sum of one anna, and another instance of a janmi who pays an assessment of Rs. 300 being glad to earn his living as a gardener and thereby at least secure two meals a day. Such instances can well be multiplied indefinitely. I am informed that in a pending partition suit it was found that each member of the Puthiya Kovilakam, a branch of the Zamorin's family, is entitled to Rs. 10 per mensem only. The Puthiya Kovilakam is considered one of the richer janmi families. The janmis as well as their tenants are all living in abject poverty and there is nothing to choose between them. This is not a case for more equal distribution of wealth, for no class possess any wealth at all. If anything at all, the tenantry in North Malabar, and particularly the kuzhikanamdars in Kurumbranad taluk are undoubtedly in a better economic position than their janmis. Under these circumstances there hardly seems to be any need for legislation, to try and benefit one poverty stricken portion of the population at the expense of another and still more poverty stricken portion. What is really required is an immediate reduction in the assessment, a benefit which should be distributed among all those who live on the land. I have added a separate note at the end of this minute on Malabar land assessment.

Chapter VI.—At the beginning of Chapter V, the Committee has with approval quoted Mr. Logan's opinion. His recommendation that the actual cultivator should be given the right of holding his land so long as he pays his rent has been definitely accepted by the Committee, but the evils which may proceed from this, and which have been pointed out by Sir T. Madhava Rao, in his Committee's report, of which Committee Mr. Logan was also a member, have not been guarded against. I need not set them out here again as that report is easily available.

As the Committee has pointed out, all land in Malabar is usually classified under three heads: wet, garden or dry. The janmi as a rule has no objection to giving his tenant fixity of tenure so long as he pays his rent regularly. The Malabar Land Improvements Act has made it practically impossible for the janmi to evict his tenant wherever the tenant has made any improvements worth mention. As he is himself generally too poor to find the necessary money, his usual method of evicting any tenant is by melcharth, by which method he himself does not obtain possession of the land. So no legislation is really necessary to guard against frequent evictions which may damage the land except perhaps legislation restricting his right of giving the land on melcharth. As has been

pointed out by the Committee, with the partition of the Malabar Tarwads, which is proceeding rapidly after the passing of the recent Marumakkathayam and Nambudiri Acts, it is more than likely that many of the members of these families would take to agriculture as a means of livelihood. There is no reason why a mere occupier or a speculater should be preferred to the owner or janmi. Some of the peasants associations' representatives have been unreasonable, I may say even spiteful, in their attitude. This was particularly noticeable with regard to the evidence tendered at Kasaragod, where one of them said that even if a tenant owns 50,000 acres he should not be allowed to be evicted with respect to any portion of his holding by his janmi even if that janmi has no land at all in his possession. It is obvious that no cultivator in Malabar today is in a position to cultivate 5,000 acres, let alone 50,000 acres. The idea seems to be that there is something sacrosanct in the name of "cultivator," and that this word loses its sanctity if the janmi becomes one. So, I would propose that the present right of eviction should not be interfered with except that melcharths may be abolished. I was personally in favour of agreeing with the majority report, but, I understand that some members particularly Sri E. Kannan is writing a dissenting minute to do away entirely with the right of eviction. So, if we are not to have peace as a result of sacrifice, we need have no compromise at all, and legislation may be passed over our heads.

As regards holdings in an urban area, I am of opinion that no fixity of tenure should be given to any of them. My reason is that holdings within a municipal area are strictly speaking not agricultural holdings at all, and there is neither rhyme nor reason why a man who owns a house at Calicut should be treated more favourable than one who owns a house, say at Madras, or Trichinopoly, nor has there been any demand for permanency of tenure from dwellers in urban areas. This really is a matter for the passing of a Rent Act, and does not, in my opinion come within the purview of this Committee. In the Act of 1930, through an oversight all holders of agricultural land were given occupancy rights, with the result, as a member of the Committee pointed out, that the existence of even a single coconut tree in a holding within municipal limits, was held by the courts to give the whole holding the character of an agricultural holding and of thereby giving the holder permanency of tenure. This clearly is an oversight and should be corrected.

Refusal to renew should undoubtedly be made a ground for eviction, as at present, and the right of melcharth retained in such case, for this would ordinarily be the only way in which the janmi could enforce his right. Or in the alternative the janmi should be given the right to effect compulsory renewal, in the same way as the kanamdar can now do through the courts.

The Act of 1930 has provided for summary procedure to collect rent. But the procedure now available is practically valueless as pointed out by the Committee. Various authorities have at different periods advocated the introduction of some sort of summary procedure for the collection of rent. The Committee has agreed to a form of summary procedure, which, in my opinion, will meet our present needs, with this modification, that immediate possession should be given to the superior landlord, not only of verumpattam lands as recommended by the Committee but also of lands held under him on kanam tenure, allowing, if thought fit, six months' time from the date when the rent falls due, before the superior landlord could claim possession, possession to be given up by the janmi when he gets his rent, with a time limit for the paying of rent.

Relinquishment, so to say, is the counterpart of eviction. The Committee is undoubtedly in favour of relinquishment. That is the tenant is to be allowed to free himself from his contractual obligations if he finds he has not made such a good bargain as he expected, although as things stand the tenant makes the contract with his eyes fully open and without any right of relinquishment, except as permitted in the Act of 1930, which is only of very limited benefit to him. That is the janmi is to suffer for the bad judgment of the tenant. This is obviously unfair. To say that the tenant is the weaker party is not in the least true, for if he is a man of no substance, the janmi gets no benefit in getting a remedy which is unrealizable and so would be more anxious than the tenant himself to get him off his land and the contract and allow him to relinquish, while if on the other hand the tenant is a rich man, there is no reason why he should be permitted to repudiate his contract nor is the demand for land so great that he had to get possession on impossible terms. On the other hand there is really a scarcity of tenants as we have had almost unanimous evidence from all our witnesses that no application for land was ever refused by the janmis.

Another point that I wish to draw attention to is that *none* of the agriculturists' representatives were against alienation to non-agriculturists. This seems to me to lack *bona fides*, for if the improvement of agriculture and permanency of tenure are the essence of their demand, as is alleged by them, the lessening of the money value of

their holding, involved in the acceptance of the principle that land should be held by agriculturists only, should not have affected their recommendation. If, on the other hand, they hold this view in order to enable them to borrow more freely, I may remark that borrowing is a habit with them and instances are very rare indeed, if any, where they actually discharge all their debts and the janmi should not be penalised for this purpose. That there is no distinct class of non-cultivating money-lenders in Malabar does not seem to my mind give any weight to their contention. For, if the object is that the poorer peasant who is in debt should be replaced by a richer one, why not give the janmi the first option, if he or any member of his family is willing and able to take up the land instead of a money-lender, or again why not confine alienations to agriculturist money-lenders which proposal could do no harm if, as is alleged, the money-lenders are themselves agriculturists?

Chapter VII—Fair rent.—I agree to the Committee's proposals as to wet lands but I cannot agree to their proposals with regard to garden lands. I do not believe that it was ever the intention of the Government or the legislature, when they passed the Act of 1930 that the janmi should gradually lose all his rights in his land. This is what would happen if the relevant sections of the present Act are kept unaltered. For on certain kinds of trees where the improvements belong to the tenant the janmi is entitled to one-sixth of the net produce only, and out of this share the janmi may have to pay the assessment, which often would be more than this one-sixth. What generally happens is that the janmi is responsible to the Revenue authorities for the assessment, and it is collected from him even where he has not been able to recover his rent, or again, the tenant is injured where he has paid the rent on his holding as it is still held liable for the janmi's default with regard to other plots in the latter's possession. This is another important reason why there should be some sort of summary procedure for the collection of rent, as the janmi can pay his assessment only if he gets his rent or again the procedure prevailing in Travancore and suggested by this Committee with regard to cowle lands may be adopted with regard to all lands, that is, that the Government should collect the rent on behalf of the janmi. The Committee has conceded that there is hardship in such cases when it has unanimously recommended that the tenant in possession should be answerable for the assessment on his holding and on his holding only, and this is a perfectly logical ground, since as the assessment is due to his improvements, it stands to reason that he should bear its results. The Committee has however limited his liability by saying that where such assessment exceeds the rent due to the janmi, he should have a right to set off the assessment he is compelled to pay against the rent to an extent not exceeding the rent. The Committee has recognized the principle that where a janmi's land is given under cowle by the Collector, the tenant should always pay a rent to the janmi, exclusive of the assessment that he pays the Government. Such is the recommendation of the Committee. So the case is still stronger that the janmi should not be deprived of his rent from land which the janmi has of his own free will given to a tenant which, however, is the result of the Committee's recommendation and the provisions of the Act of 1930. Instead of the complicated method of calculating the rent now prevailing, I would suggest that on all kanam and kuzhikanam lands the janmi should be entitled to receive a rent equal to the assessment. This would also be following Mr. Warden's proclamation, where on all " perum " lands the janmi should get a share equal to the Government's. The reasons advanced by the Committee would apply more for a reduction in the assessment than for not basing the janmi's claim on the assessment.

The Committee has at its last meeting recommended that groundnut should be exempt from the provisions of fair rent. I would add cotton also. A member pointed out that this would discourage to some extent the cultivation of cotton, and thereby affect hand spinning, an item in Congress propaganda. If the Government desire to encourage such propaganda, they should do so by reducing the assessment on such land, that is, they should themselves pay for their desire to encourage a particular form of industry and not make the janmi pay, rather than the tenant, who really it is that wishes to go in for hand-spinning. It is all well to be charitable and generous with another person's property. Similarly ginger and other valuable crops should be exempt from the provisions of fair rent. Nor is there, for instance, any reason why the janmi should not be allowed to share to a greater extent than at present in the proceeds of cashewnut plantations, where the labour and capital expended by the tenant is at present negligible.

Nor can I agree to the suggestion that in cases of fugitive cultivation, the rent should be double the assessment. Here I would suggest that the Government should collect the rent and the assessment as in cowle lands, and that the rent, which should be twice the assessment should be clear of the assessment.

In the case of pepper lands, the janmi should take the rent from the fifth year. This is the present practice where the janmi is entitled to two out of ten, a practice which the Committee approves.

Chapter VIII.—I do not object to spreading out renewal fees over a period of years but I have a special mandate from the Malabar Landholders' Association, that the renewal fee should under no circumstance be reduced to one year's fair rent. In fact this is really the chief controversial point, which has induced me to write this minute. Failure to renew or to pay the renewal fee instalments should also be a ground for eviction as at present, as I have already pointed out.

Chapter IX.—I am in complete agreement with the suggestions contained in this chapter.

Chapter X.—I have no further suggestions to make with regard to this chapter.

Chapter XI.—I have nothing to say as to this chapter except that there is no reason to include urban kudiyiruppus, nor to exempt more than twenty-five cents for a rural kudiyiruppu. I have already mentioned that kudiyiruppus in Malabar townships can put forward no claim to better treatment than kudiyiruppus in townships outside Malabar, and logically I do not see why if verumpattamdars of land within municipal areas are given permanency of tenure, similar verumpattamdars of buildings should also not be given permanency. The Committee is in favour of the former proposition but not of the latter. The one is as equally sound or unsound as the other is.

Chapter XII.—My contention here is that no right should be given to any tenant with regard to any private forest except such as the Government are willing to give in their forests. This is really the acid test of *bona fides* and necessity.

Chapter XIII.—I have nothing to say as to this chapter.

Chapter XIV.—Although, I, in a way represent South Kanara also in the Assembly, I am not in a position to say how far this Act should be extended to South Kanara. We held only one meeting there, and the evidence was conflicting. I, personally, would have liked to have had the help of Mr. Karant, M.L.A., either as a member of this Committee or as a witness, and who was, I believe, a member of the Committee on whose recommendation the Act of 1930 was passed. If the Act is to be extended on the ground that the people in South Kanara are similar to the people in Malabar and particularly to the people in North Malabar, the Act should be extended to the whole district of South Kanara except perhaps the Coondapoor taluk, as there is very little difference between the Tulu speaking people and Malayalees, and as the evidence before us has shown, Tulu itself used to be written in Malayalam characters and Kanarese is as much a foreign tongue to them as to a Malayalee. But if South Kanara tenants should be given the same privileges as those in Malabar, there is no reason, why these suggestions *mutatis mutandis* should not be extended to the whole Presidency or on the contrary why there should be any legislation whatever now for Malabar alone. I agree generally with the rest of this chapter except that there is no need to fix the 5th of July 1939, the date when this Committee was appointed, as a date after which action under the existing law may be taken only at the janmis' risk. The Government was quite able to foresee this and could have by ordinance enacted this, and there is a precedent for such Government action as they have enacted such a clause with regard to temple entry in the Madura temple. This recommendation is therefore uncalled for.

Chapter XV.—I need not say anything with regard to this chapter as I have already made my suggestions.

(Signed) R. M. PALAT—8-6-40.

(,,) SULTAN ABDUR RAHIMAN ALI RAJAH.

NOTE ON MALABAR LAND ASSESSMENT, BY Mr. R. M. PALAT, M.L.A.

At the meeting of the Committee held on the 6th of February, a resolution was passed that the attention of the Government should be drawn to the anomalies in the land revenue system in Malabar. I would class the complaints of the Malabar tax payer under two main heads. First where a special set of rules, which in effect is a discouragement to agriculture, are applied to Malabar alone and which rules are applied nowhere else except on the West Coast and secondly where solemn pledges and proclamations have been broken.

The Land Revenue Settlement of 1894 was undertaken in the words of the report, under the impression, that Malabar was not contributing anything like its share towards the land revenue of the Presidency. " That the district pays far less land revenue than it should, is evident; and in justice to the ryots of settled districts, this district should be called on to pay its fair share of the land revenue of this Presidency." (Board of Revenue, Revenue Settlement, Land Records and Agriculture, 18th September, 1894, No. 383.) This idea in itself is a mistake, as the theory in Malabar has always been that the land in Malabar is private property and so is subject to tax only, and not to rent and tax as in the case of land elsewhere. Such being the theory, it is unreasonable to look at the assessment in Malabar and say as Mr. MacEwen says, " I myself am in entire agreement with Mr. K. S. Narayana Ayyar, . . . that the best wet land in the first group area of Malabar is at least as good as the best wet land under the Cauvery first-class sources in the Lalgudi taluk of Trichinopoly district. These Lalgudi lands even before the recent settlement paid Rs. 10 per acre " (paragraph 48 of Board of Revenue Proceedings No. 80, Press: 17th October, 1930) and later on page 51 " the wet lands on the Coimbatore side of the boundary are in the third group, while in Malabar they are in the second group; yet in spite of the lower grouping in Coimbatore the 1—4 single-crop land there pays Rs. 4 nearly, exactly double the assessment that similar land pays in Malabar." This statement is misleading, for on page 60 (paragraph 61) of the same report, in the table given there, Mr. MacEwen gives the following figures: for 7—2 land where it is private janmam the existing rate per acre is Rs. 5 and the proposed rate Rs. 5–5–0 while the rates for Government janmam lands are Rs. 8–5–0 and Rs. 9–14–0 and for 7—1 lands the figures are Rs. 6 and Rs. 7–2–0 for private janmam and Rs. 10 and Rs. 11–14–0 for Government janmam lands. The question of single crop or double crop does not affect us as on the West Coast only is double crop when so converted by the cultivator's labours taxed. I would submit that the above figures show that Malabar is not assessed lightly when compared to the rest of the Presidency.

It is a well known principle of revenue law, that assessment on Manavari lands are not subject to revision which principle has been entirely lost sight of in Malabar; nor are improvements effected by the ryots ever taxed in the rest of the Presidency, unless such improvements are due partly or wholly to some help, monetary or otherwise, from the Government. These principles have again been ignored by the Government in the case of our unfortunate district.

The Government of Madras in G.O. No. 775, Revenue, dated 13th August, 1883, accepted the proposal that " in districts in which the revenue has been adequately assessed, the elements of price should alone be considered in subsequent revisions. The gardens of Malabar are reclaimed at great cost. The original soils would not, save in exceptional cases, be worth much for ordinarily agricultural purposes and to base heavy assessment on improved lands of this kind would tax the ryots' improvements which are not supposed to be taxed at all." (Revenue No. 1846, dated 16th September, 1873.)

This statement is followed by an order, dated 5th September, 1889, by the Governor in Council, Revenue No. 755 that assessment should be on land and not on produce, and even then, should be well within the Government proportion laid down in the proclamation, and subsequently Mr. Moberly, the Special Settlement Officer, in paragraph 80 of his letter, dated 24th May 1894, No. 1202, says " considering that the wet lands of Malabar are Manavari or rainfed, that in other districts no second crop charge is levied on dry lands and that my proposals result in a very large increase of single-crop assessment, I beg to suggest that no second crop charge be levied in this district." But this was conveniently not accepted, although supported by the Collector in paragraph 28 of his letter. Mr. Moberly in his letter, dated Calicut, 11th March 1893, No. 459, to the Commissioner of Revenue Settlement, paragraph 3, asks, " Now I would most respectfully ask the Board how any scheme for the settlement of the garden lands of Malabar, which depends, either entirely or only partly (as in Mr. Stewart's scheme) on a tree-tax can be reconciled with the wish of the Government of India that the settlement shall secure to land owners the profits of all improvements which they make upon their estates "; in paragraph 10, " As I read the principles enunciated by the Government of India, land classed at the settlement as single crop must be always treated as such, unless it is converted into double crop owing to improvements effected at Government expense " and in paragraph 11: " I am pretty sure that if Government will allow the landowners to reap the full benefit of all improvements which may be effected in the future, such as conversion of dry or wet into double crop wet, there will be little or no difficulty in introducing settlement rates even though the revenue may be enhanced "; and Mr. Bradley, Collector of Malabar, in his letter, dated Manjeer, 18th April 1893, No. 471-R-General, supports Mr. Moberly, see paragraph 5: " The third question should be answered similarly, that is to say, that the conversion of single-crop into double-crop wet land or dry into wet land should not after settlement involve any additional charge upon the land." The

Board's resolution on this, dated 14th August 1893, No. 345: "One is the question whether after the new settlement has been introduced, lands converted from dry into wet are to pay any additional assessment, and the second is whether if a wet land classed at settlement as single crop is converted into double crop at the landlord's expense it should be treated as single crop until a revision of settlement. As regard the first question, if the settlement report shows that all lands which at a small outlay can be converted into wet are classed as wet or at a dry rate which is not materially below the lower wet rates, the Board would see no objection to the limitation of assessment on such land for the period of thirty years to the rates fixed at the settlement. On the second question, the answer would also greatly depend on the settlement classification. If there were reason to suppose that all land capable of growing a second crop under present circumstances had been classed . . . as double crop land, it might be reasonable for Government to forego a second crop charge hereafter." This is mere quibbling. What is meant by "*materially* below the lower wet rate?" What is meant by "all land capable of growing a second crop?" People who can stretch their imagination thus can well conceive the peaks of the Himalayas, or the ocean bed or the Sahara desert, as all garden land or double crop land, whichever would yield the greater profit to Government, and assess accordingly.

Then we have the Government Order, dated 23rd October 1893, No. 931, Revenue, paragraph 7: "Mr. Moberly argues . . . to tax the ryots' improvements is an infringement of a principle which has been repeatedly affirmed. Government observes that the same argument would apply to wet lands also . . . but this has never been taken into account in assessing wet lands at the initial revision of settlement and the Government considers that such allowance cannot and ought not to be made . . . in Malabar." There is no real reason assigned. This order indicates that if a special course is profitable to Government, that course may be followed in spite of all their proclamations and undertakings. The order further continues in paragraph 10 to say that only such portions of an enclosure should be assessed at garden rates as may be taken to be fully planted, the calculation to be made *by numbering the total number of trees and assigning them to the minimum land required for planting them, the rest of the enclosure to be assessed at a nominal rate only.* Even this concession has been taken away by Mr. MacEwen's settlement, by which the whole enclosure is assessed at fully planted garden rates.

I would quote here from a resolution of the Central Government (extract from the proceedings of the Government of India Department of Revenue and Agriculture No. 1-50-2, dated Calcutta, the 16th January 1902), paragraph 20: "Again the principle of exempting from assessments such improvements as have been made by private enterprise, though it finds no place in the traditions of the past has been accepted by the British Government. The Madras ryots have a recognized right to enjoy for ever the fruit of their improvements and the exemptions of wells, irrigation channels and tanks which are private property is provided for by executive orders."

The conversion of single-crop into double-crop wet land or dry into wet should not after the settlement involve any additional charge on land. We have a letter from Mr. E. C. Buck (Secretary to the Government of India), to the Secretary to the Government of Madras, dated Simla, 15th May 1883, No. 537 R., paragraph 13: "The assessment of revenue upon profits of other kinds of improvements made by the agriculturists themselves would be misused in itself and would involve those difficult enquiries into the valuation of land which it is resolved in future to avoid. This is especially the case in regard to the gradual enhancement of value effected in the application of greater labour and skill to the operations of tillage heretofore an important item in the increment of revenue acquired by new assessments. His Excellency in Council is convinced that it is false economy to discourage in any way the employment of such increased skill and labour and is therefore prepared to resign any revenue leviable on the profits of improvements of this kind," and in paragraph 10: "It desires that the Government demand should thereafter be *adjusted upon facts rather than estimates;* . . . lastly it wishes that the settlement should be such as to secure the landowners the profits of all improvements which they make on their estate" and paragraph 13: "After mature consideration the Government of India has arrived at the conclusion that such a system of settlement cannot be satisfactorily established, if any increase of assessment is permitted on other than the three following grounds: (1) increase in area under cultivation, (2) rise in prices, (3) increase in produce due to improvements effected at Government expense."

The Collector of Malabar, Mr. C. A. Galton, to whom the above letter was referred for opinion agrees with the principles enunciated by the Government of India (his letter, dated Calicut, 6th November 1883, No. 4509).

In 1861, without reference to the above proclamation (G.O. No. 5005, dated 14th September) directed the imposition of uniform rate of As. 12, As. 10 and As. 8 per acre on punam, of As. 12 an acre everywhere on Modan and As. 9 on an acre everywhere on ellu (gingelly). A proposal to include among taxable products such articles as ginger and pepper was made in 1871 (Proceedings No. 3471, dated 16th August) but on the representations of the Collector, was not proceeded with (Proceedings No. 1846, dated 16th September, 1873).

Any crop that is not modan or punam or ellu and the land on which it grows are free—in Palghat taluk only (Board's Proceedings No. 1289, dated 24th February) a rate of As. 12 per acre for ten other crops, such as cholam, ragi, etc., was charged, so that the position in 1889 was that (1) the imposition of assessment depends not on the fact of cultivation but on the nature of the crop raised, (2) when dry land is used for the growth of any product, other than the taxable ones, as above, it is not taxed. Following the recommendations of a committee appointed to discuss the principles on which a revision of dry and garden assessment in Malabar should be passed Government ordered (5th September, 1889, No. 765, Revenue) that in the revision of the settlement of Malabar " the assessment must be fixed with reference to the value of its produce."

Homesteads again are not assessed on the east coast districts. Mr. Moberly in his letter, dated 24th May, 1894, No. 1202, paragraph 87, recommends that house-sites, etc., should be free of assessment. " The Board consider that Mr. Moberly's suggestion in paragraph 118 that no assessment shall be charged on houses built in streets with the provision that assessment shall be charged when the house-site exceeds 25 cents on the excess of the house-site above 25 cents may be accepted (Board Resolution, dated 18th September, 1894, No. 383, page 166, etc.) and 272 (first settlement). But the opinion of Mr. Nicholson " that every subdivision should be permanently assessed which contains a house or fruit trees or is fenced " was accepted (Board of Revenue, Mis. No. 2745, dated 6th June, 1900).

None of these three concessions have been applied to Malabar, for if these are applied strictly it would more than halve the present Government demand on land. We can only pray to the Government that we on the West Coast should not be penalised unfairly, and that to start with, these principles of land revenue settlement should be made applicable immediately to the whole district or in the alternative to all future improvements and should gradually be extended to all cases wherever applicable.

Now to turn to the second head, that is where the Government have ignored their own proclamations.

First with regard to assessment of pepper gardens, the Government have ignored their own most solemn pledges. I quote below the last of a series of proclamations with regard to pepper.

PROCLAMATION.

The principal Collector of Malabar hereby notifies to pepper growers and all persons concerned in the cultivation of pepper, that the Right Honourable the Governor in Council has been graciously pleased to authorize him to declare that the Government adheres to its proclamation published in 1806 under the signature of the then Principal Collector, Thomas Warden, Esquire, whereby the tax on the pepper vine was abolished and that the tax upon the growing vine will not be revived.

The notification is published for general information in order that the minds of the people may be relieved from all fears on the subject of re-imposition of tax upon the pepper vine.

(By the authority of the Right Honourable the Governor in Council)

(Signed) W. SHEFFIELD,
Principal Collector of Malabar.

(True copy)

(Signed) R. C. C. CARR,
Under Secretary to Government.

Burragherry, Kartenad taluk, 8th January 1828.

And in 1827 (Board's Proceedings No. 1846, dated 16th September 1873), the Government authorized the Collectors to declare that the Government adhered to its proclamation of 1806 and would not revive the tax on pepper." So much for complete remission of assessment on pepper lands.

There has been a great deal of controversy as to the meaning of the words " unalterable assessment " in Mr. Warden's proclamation of 1805. This was finally set at rest in 1894–1905 settlement of Malabar. The words after taking the then Advocate-General Mr. H. H. Shephard's opinion were said to mean that the Government are entitled to a certain fixed share in the produce of the land (letter, dated Madras, 10th May 1882, No. 51). This fixed share to be according to the Proclamation of 1805, " in the case of wet lands to be 6/10 of 2/3 of the net produce. (2) On perum or orchard lands 1/3 of the coconut, supari and jack trees produce being deemed sufficient for the kudiyan, the remainder or pattam to be equally divided between the sircar and the janmakar. (3) On dry grain lands, which are very scantily cultivated in Malabar, the circar's share to be half of the janmakar's waram on what is actually cultivated during the year. The assessment on the pepper produce will be fixed hereafter." Mr. Conolly in paragraph 23 of his jamabandi report for 1843–44 says that the landholders " are aware that —we think it desirable a permanency of the Government demand to the produce." In this opinion Mr. Logan also agrees. Mr. MacWatters in his letter, dated Calicut, 24th March 1883 agrees (paragraph 30) that the Government are bound not to exceed the proportions of the landholder's share laid down in the Proclamation of 1805 and the Board's Resolution, dated 13th November 1882, No. 2755, paragraph 11, says " the guarantee implied therein must be held to relate not to the actual amount of tax, but to the proportion or share of the pattam claimable by Government. In this view, Mr. Logan and the Government Pleader whom the Board have consulted concur " and they finally order in paragraph 36 " The Government demand should be calculated upon the pattam or landholder's share of the produce."

At the resettlement we again see a Government Order, dated 18th April, 1883, No. 459, Revenue. " In justice to the inhabitants of the other parts of the Presidency he recognizes the necessity for a revision of the Government demand on these districts, in order that they may contribute their fair share to the necessities of the State."

This should apply only to the value of the produce, and not to the shares of each of the parties which have been recognised as unalterable. We are in fact not concerned and should not be affected by what the Government or any one else may consider as to what portion of the total Presidency assessment Malabar should pay. We here, are protected and bound by the particular proclamations applicable to our district and not by any other consideration. In fact the idea expressed in the above order if pressed at all, that Malabar is comparatively more lightly assessed than the rest of the Presidency, should really be used to reduce the assessment in the other portions of the Presidency. It is notorious that in the rest of India generally, the assessment weighs less on the ryots than in this Presidency which has been longest under British rule. The Central Government did not make that an argument for the issue of instructions to impose higher land assessment in the rest of India.

Mr. Warden's Proclamation of the 21st July, 1805 is quite clear. Mr. MacEwen claims that he has not in his settlement exceeded the Government share under this proclamation at any rate as regards wet lands.

" (Second) on perum or orchard lands, one-third of coconut, supari and jack tree produce being deemed sufficient for the kudiyan, the remainder or pattam is to be equally divided between the sircar and janmakar.

" (Third) on dry grain lands which are very scantily cultivated in Malabar, the sircar's share is to be half of the Janmakar's waram on what is actually cultivated during the year."

That is to say in orchards or garden lands, the kudiyan is evidently to get one-third gross and the janmi and the sircar one-third gross each. The janmis would, I believe, be quite satisfied if this is so. But in many cases and particularly during the last assessment, when a very large acreage if it is enclosed within a single enclosure, but contains only five jack trees for instance, is assessed at full garden rates for the total extent of the enclosure and consequently the sircar assessment is greater than the money value of the gross total produce of the area. This should be remedied at once, and the terms of the proclamation applied. Else it is clearly a breach of contract and a breach of the conditions under which the land was improved.

The Government have made its meaning quite clear in paragraph 30 (Mr. MacWatter's letter, dated Calicut, 24th March 1881, No. 883). In regard to future settlements it may be stated, therefore, that although the Government are bound not to exceed the proportions of the landlord's share laid down in the Proclamation of 1805, they are in no way bound by Graeme's commutation rates. Therefore all that the Government could afterwards claim is the increase due to increase in prices and not to any other factor.

Although the proclamation of 1805 is as to the produce of land, and till then depended on an enumeration of trees this principle was deprecated by the committee appointed to discuss the principles of garden settlement in Malabar (see paragraph 39, D.O. from Mr. W. Wilson, Commissioner of Revenue Settlement to the Secretary to Government, Revenue Department, dated 1st July 1889). " After the most careful consideration the committee are unanimously of opinion that the adoption of any system of assessment which demands a general enumeration of trees as its fundamental principle is to be deprecated and should be abandoned in favour of a system that does not refuse such an enumeration and is at the same time equitable and feasible." Mr. Galton, Collector of Malabar, comments on this opinion (G.O. No. 859, Revenue, dated 16th July 1884) in the following terms: " as proposed in Board's Proceedings No. 2755, dated 13th November 1882, the tree tax should be abandoned and the average value of the produce per acre being ascertained, the Government demand should be fixed with reference to the share of the pattam which originally regulated the existing demand per tree." Then we have the G.O. No. 756, Revenue, dated 5th September 1889. " His Excellency the Governor in Council considers that the committee is right in urging that in the revision of the settlement of Malabar the assessment must be fixed upon the land with reference to the value of its produce, that there is nothing in the proclamation of 1805 which precludes the adoption " of this and in paragraph 5: " As to paramba lands, it seems that a classification of sorts would be useless . . . There seems to be no reason why the plan of taking a standard produce should not be adopted here as elsewhere The standard would probably be for the most part coconut." Here, we see the first departure from the terms of the proclamation of 1805. How could "coconuts " be the basis " for the most part " the basis on which calculations are made?—Coconuts, which often produce crops more valuable than the paddy of wet lands? And again on the other hand coconut gardens require about seven or nine years to yield any return while they are subject to assessment long before that. The 1805 proclamation in combination with the policy of the non-imposition of assessment on cultivator's improvements should be deemed to mean that parambas should only be permanently taxed on *the lowest possible basis that is on the presumption that it is all waste land, but cultivable and which require no improvement in the nature of the land on the part of the cultivator.*

In Board's Resolution No. 402, dated 31st May 1892, paragraph 16 " The only question which remains to be disposed of is . . . Whether the assessment should be levied " on all lands or only on lands actually occupied, " Mr. Dumergue rightly considers that it will be in accordance with G.O. No. 611, dated 22nd July 1886, paragraph 3 and No. 534, dated 17th May 1888, paragraph 4, to levy the assessment on occupied lands only, and Mr. Stewart also expresses a similar opinion. He would assess all cultivable lands, whether occupied or unoccupied, but would levy assessment only on such of them as may be occupied for purposes of cultivation whether by the janmi himself or his tenant. The draft proclamation is sufficiently clear " and the draft proclamation runs as follows: " (*d*) that rates of assessment shall be fixed for all culturable lands, but shall be levied only on such lands as now are or may hereafter be brought under cultivation, (*e*) that unculturable lands shall not be assessed. Should any of them hereafter be reclaimed and occupied, the rates of assessment improved on neighbouring land of similar quality shall be levied." This further proves my case. So that all parambas and land which were not assessed before the 1894 settlement of Malabar and which was afterwards planted or cultivated should not have been assessed and if assessed at all, then only at culturable waste land rates and also as mentioned in Mr. Stewart's (Special Settlement Officer, Malabar and South Kanara) letter to the Secretary to the Commissioner of Revenue Settlement and Director of the Department of Land Records and Agriculture, dated Coimbatore, 30th March 1892, No. 2626, paragraph 6 " all cultivable lands, wet, dry or garden, occupied or unoccupied should, I think, be assessed at a definite rate per acre, but assessment would only be levied when such lands are occupied . . . Thus waste forest merely in the possession of a janmi but not occupied by him or his lessees or tenants, etc., would merely remain registered as his assessed waste, but no assessment would be levied unless it was occupied for cultivation purposes."

The Board's resolution quoted above has made this point clear.

So that the position reduces itself to this. It is the considered opinion of the Government that the assessment on undeveloped land should be levied on land and not on trees, but this is hedged in by the proclamation of 1805 that the produce should be

divided equally between the kudiyan, the janmi, and the Government, and again this is still further restricted by the declared policy of the Government, that the cultivator's improvements should not be taxed. If these conditions are applied, as they should be applied, in the light of the various orders and proceedings I have quoted above, then the rate of assessment on what was originally cultivable waste, but has been opened up and converted into gardens, or wet single or double-crop land, should be practically only old modan or ellu rate. This rate to be increased or decreased according to the increase or decrease in the price of modan or ellu. The application of the above principle, as well as of the two paragraphs of the draft proclamation of 1888 I have quoted above makes the pepper corn rent on assessment now levied on all uncultivated and unculturable waste in Wynaad a distinct breach of the Government undertaking. If a pepper corn rate can be levied in the Wynaad to-day, is there anything to prevent a higher rate being levied there to-morrow, and the same process repeated in the rest of Malabar? There is the analogy that in the earlier settlement if a portion of a garden was planted, the whole was not assessed at full garden rates, while in the last settlement the whole garden is so assessed. Therefore it stands to reason that the Government should immediately revise the present settlement of all garden lands and apply those principles to which Government have bound themselves by repeated declaration of policy.

DISSENTING MINUTE BY SRI E. M. SANKARAN NAMBUDIRIPAD, M.L.A.

INTRODUCTION.

I would have been extremely happy if I could sign the report without striking a discordant note. But I find that the gulf which separates me from my colleagues is so wide that avoiding this, my separate note, would be shirking my duty to the public.

My colleagues have confined themselves to the problems of immediate importance but have avoided the basic question of land tenure. Whether landlordism as an institution serves any useful social function or whether it is parasitic in nature, whether its continuance is a necessity for society at large, or whether it should be ended with or without compensation, these basic questions of land tenure have been omitted. They proceed on the basis of the existence of landlordism as a fact and the necessity of any legislation, within the four corners of that institution alone as practical politics. That explains why, instead of expressing itself clearly on it, the majority report simply gives a brief description of the various theories about the origin and nature of the several interests held by the janmis, intermediaries and cultivators. I propose to address myself to these basic questions, not because they come strictly within the purview of the terms of reference to the Committee, but because an explanation of my view point on the basic questions will help in clarifying the reasons for the changes which I set forth at the end to the concrete proposals made by the Committee in chapters VI to XIV. I also feel that in a world of rapid changes where old systems and institutions are tottering under the irresistible impact of new social forces, where basic questions stare you in the face, demanding rational solutions, avoiding them will simply add to the complications already existing.

The following are, in my opinion, the basic questions whose answers should form the foundations for all proposals of tenancy legislation :—

(1) Whether the janmis, in their present form, existed before the British occupation of Malabar.

(2) Whether the social, economic, political and other changes brought in Malabar after the advent of the British justify the creation of janmis in their present form, if answer to (1) is in the negative or its abolition if the answer is in the affirmative.

(3) How far the existence of landlordism as an institution (apart from its abuses) leads to the misery of the people of Malabar described in Chapter IV of the Report.

(4) Whether having regard to the needs of social progress, landlordism as an institution should be allowed to continue in any form.

(5) What should be the basic nature of agricultural economy obtaining in Malabar? After expressing myself on these, I shall briefly explain my difference with the majority on Chapters VI to XIV?

NATURE OF JANMAM PROPERTY IN THE PRE-BRITISH DAYS.

I do not presume to have made any original research into the historical aspect of land tenure in Malabar. As every other student of the subject, I have to fall back upon the brilliant contributions of a host of witnesses from Mr. Logan to Sir Charles Turner. And, as the majority report itself states, no fresh evidence has been collected during the course of the labours of the present Committee. But I believe that if a proper outlook is taken on the subject, the evidence already collected is sufficient to show that janmam right, in its present form, and with its present incidents, did not obtain in early days.

Now, what is the proper outlook that should be taken? I feel that most witnesses on either side have taken certain things for granted which are quite unwarranted so far as society in these days is concerned. The most important of these is that there was a definite written code of laws which was enforced by a specific authority. This is obviously a false assumption. As in all mediæval societies it was custom and not law which ruled the country. The very power of custom even in these days in those fields of social activity which are yet unaffected by British rule or British culture shows the enormous lengths to which custom can go in regulating the social relationship of man in a mediæval country. I do not think anybody can quarrel with Mr. Logan when he says :

> " If it were necessary to sum up in one word the law of the country as it stood before the Muhammadan invasion, and British occupation, that would undoubtedly be the word ' custom '."

To expect that documents of these days would specifically state the exact relationship between landlord and tenant, would be the greatest mistake. To argue that because the janmis are not able to produce documents showing their right to janmam property, they had no right whatever in early days would be as absurd as to argue that because the tenants' rights to perpetual and undisturbed enjoyment of the leased land is not mentioned in the documents, he can be evicted at the sweet will of the janmi. The fact of the matter is that the rights of both were well defined by custom and accepted universally as a matter of course. We have therefore to fall back upon not any written documents, but on custom.

If this fundamental fact is clearly borne in mind, there will be no difficulty in coming to the conclusion that, whatever other incidents it had, landlordism in Malabar had not the right to arbitrary eviction and arbitrary increase of rents with which it has been clothed by British jurists. Whatever the theoretical position, it is undeniable that eviction was most uncommon in practice, even Sir Charles Turner admitting that :

> " Although then a right of occupancy was then unknown, to the law of Malabar, it practically, to some extent, existed."

For various reasons, like the abundance of cultivable land, no janmi could afford to evict a tenant except for non-payment of rent or on other grounds which society at large would justify as sufficient for eviction. Likewise was it the case in respect of rents. Whether or not the janmi had the theoretical right to enhance the rent, he could not afford to raise it above a certain customary rate. Rack-renting and arbitrary eviction were not, in practice, the incidents of janmam right. Even to-day, good janmis (i.e., those janmis who consider themselves above the modern notions of social habits and who would like to have the old customs maintained in their pristine glory) consider it beneath their dignity to rack-rent or arbitrarily evict their tenants. I therefore think that janmam, as understood according to ancient custom, is different from janmam, as defined by British jurists.

The same fact may be stated in another way. Right of private property as an economic institution is a modern conception. What obtained in mediæval days was not a legal relationship between one individual and another, but a social relationship of members of a social organism. It follows from this that right to property (either of the janmi or the kanamdar) was a right on society which had along with it a corresponding obligation to society. While society would scrupulously protect the rights, it would jealously guard itself against violations of obligations. The janmi who arbitrarily evicted or otherwise oppressed a tenant would as surely be dealt with by society as the tenant who

did not pay the customary rent or pay the customary allegiance to the janmi. When custom as law and society as its guardian gave place to written code and modern courts, the janmis, as the stronger party, were not only relieved of their obligations but as Sir T. Madhava Rao brilliantly sums up :

> " Those causes which prevent the dispossession of landed property and which concentrate landed property, and which tie it up in the hands of the janmis have been *too rigidly maintained or enforced* by the courts. A *strictness or rigidity* has been imparted to them which they *formerly did not possess.*"

If certain new incidents of janmam right were added on by British jurists, to the rights already existing according to old customary law, it should also be stated that certain other incidents which obtained as per custom were also put an end to by it. The janmi of old (i.e., pre-British days) was not a mere landlord; his only privilege was not receiving rent. He was the centre of a system around whom the people of the locality gathered to regulate their social conduct. He collected around him a host of scholars who provided the cultural centre for the whole society. That centre itself functioned as the place wherefrom justice was meted out to the people. He was also the agent of the Raja or Zamorin (whoever it may be) in the matter of collecting an army for the purpose of war. He was, in short, not a rent-receiving landlord, but the head of a social system based on feudal relationship which regulated not only the economic, but social, political and cultural life of man. He was more of a Naduvazhi or Desavazhi than a landlord.

What the British occupation of Malabar did was to wrest from the janmis all such powers and privileges. The janmi was no more to act as the agent of the Raja or Maharaja; the redivision of the country into revenue areas and paid officers to look after their affairs placed the whole administrative system on an entirely new footing and the janmi had no place in it, except that of an influential man of the locality. His hold on the people was slowly but surely being destroyed by modern notions of social relationship. The Western culture based on individual liberty and democratic relationship between man and man replaced the ancient native culture which had the janmi's small selected circle of scholars as its nucleus. All this was not completed in a day. It could not be done even in a few years' time. Much of it remains yet to be done. But the British advent laid the foundation for these things. And no power on earth could stop its uninterrupted operation which would result in the complete elimination of the janmi from the social and cultural scheme of things. Here is a higher and more advanced form of society and its perfected machinery of state and culture acting as the tool of history in destroying a decadent social system and a dead or dying culture. Feudal society and mediæval culture cannot for long resist the triumphant march of capitalist society and modern culture.

Thus, in short, the British rule made a two-fold change in land tenure. (1) It took away certain rights and priveleges of the janmi which were social, political and cultural in character. (2) It gave him new unrestricted rights on the landed property held by him. That is, from a relationship based on status, land tenure was turned into one of contract. The advocates of different interests forget this fundamental fact when they argue that their right in the soil is admitted by history. A relationship based on contract, however, natural to us in modern days is unthinkable in those days.

Accustomed as we are to modern conceptions of property, we are often likely to be misled into the belief that the property in its present form existed at all times, even as we are likely to be misled into the belief that law, as opposed to custom, ruled our mutual relationships at all times. This assumption accounts for the fallacious arguments on the existence of private property in land in Malabar from very early days. When the advocates of the interests of the janmis argue that Malabar was never a land of state ownership of land, they may or may not be right; but when they go a step further and say that therefore all land in Malabar was private property, over which the predecessors of the present day janmis had an unrestricted right, they are obviously forgetting the basic principles of the history of human development. They forget the irrefutable fact that property, like other social institutions, is ever-changing, ever-developing. Property or the laws which govern its possession and use, is as much prone to changes as any other social institution. It did not practically exist in early days, but it arose at a particular stage in the history of social development and began to develop with society. I do not propose to refer to the writings of the various historians, economists and sociologists in this regard. I would, however, like to quote the following extracts from " Wealth ", by Edwin Cannan, Emeritus Professor of Economy in the University of London, which summarizes the development of property in land :—

> " The idea of property in land does not appear to come quite so early. Primitive mankind was in much the same relation to the land that mankind at present

is in relation to the sea. The men were few, the land was big; the number of men using the land was not large enough to make them any appreciable inconvenience to one another. But when numbers grew, each group of human beings living together and in communication with each other, began to feel itself menaced by and therefore to resent the appearance of strangers in the district over which they were accustomed to roam, and which they had accustomed themselves to call 'their' hunting grounds.

"In regard to land, however, there was much less possibility of sympathy from disinterested persons than in regard to movables. The dispute involved two whole groups, one of which was interested in making, and the other in resisting the invasion. Opinion outside these two groups would be distant (having regard to the facilities of communication) and probably ill-informed, especially if languages differed. Moreover, the causes of disputes were not so simple in themselves. There is not likely to be much difficulty in ordinary cases in deciding who is the person usually in the habit of carrying a particular bow or spear or of occupying a particular cave or house. But there may easily be great difficulty in deciding whether the one or the other group is the one which usually hunts in some particular valley or on some particular mountain side. Quarrels were frequent and could not be settled by a trial of forces between the two interested groups. If the victory of one side was decisive, it often led to some sort of incorporation of the vanquished which led to the amalgamation of the two territories into one so that now a larger territory would be held under one authority against all invaders. When two territories were amalgamated into one, it would not necessarily or probably follow that the whole territory would be one property; much more often the old line of demarcation would be preserved or in some cases, it would even happen that entirely new divisions of the territory might be made for its convenient use by several groups, each under a subordinate authority or in some way united together and divided from the rest. The land held by each of these groups is 'theirs' in a somewhat different sense from that in which the land of all the groups now under one authority is 'theirs'. It is their property while the whole land is their country or territory.

"It was long before the difference between property in land and territory was grasped. It is scarcely grasped at the present time in many minds when acquisition of territory by a sovereign state is in question. But in practice the distinction has been recognized ever since conquest or other acquisition of territory ceased to carry with it the entire dispossession of the properties of the land annexed.

"While the territories of small groups, defended only by force of arms against external aggression, were thus being transformed into collective property recognized by the governing authority of the larger territory of which they now formed a part, the idea of property in land was gaining strength in another direction, owing to changes within the areas occupied by the small groups. The site of a house with some small curtilage must necessarily be subject to the same idea as the house itself, so far as the 'right' to undisturbed occupation is concerned. It is practically difficult to differentiate the house and its site. So people early began to regard the homesteads as 'theirs' and to be supported by the authority of the group in maintaining their position not only against outsiders but even against other members of the same group. But at first there could be no similar ideas with regard to the rest of the land of the group; land being plentiful and men few, a single person or family would not be likely to claim a particular stretch of land as land which it had occupied, and which, therefore, should not be touched by others. In search of game every man would desire to roam over the whole of the land wherever the quarry happened to take him. So, too, pastoral people would turn out their flocks and herds with the idea that they should all be able to go where they would in search of pasture. Even arable cultivation could be carried on in common by groups consisting of moderate number of persons without any very great problem of organization being encountered. As time went on, however, it was found practically convenient to allow permanent occupation of plots of land for arable purposes by individuals and their heirs, and, eventually, even the pasture was divided up with the small exceptions which we see in the 'commons' of the present day."

One need not subscribe to every detail of what Professor Cannan says, but all students of the development of economic institutions must admit that property (much less individual and private property) did not exist in early days; that property in land

arose much later than property in other things and that the character of property itself is changing with changes in the environment of man. It is this general statement of a historical fact to which I want to draw attention. If this is borne in mind, much that is otherwise inexplicable would become quite clear. The conflicting theories deduced by various writers from seemingly contradictory facts become explicable. That whereas in most documents collected by research students on Malabar Land Tenures, the character of the property is not mentioned, there are certain of them which go to show, as says the Fifth Report, that " the lands in general appear to have constituted a clear private property, more ancient and probably more perfect than that of England " becomes no more a contradiction when it is remembered that we are dealing with a society developing through the course of centuries; that gradually the institution of private property is developing in the impact of modern social forces; and that it begins to take deep root in the people and expresses itself in various ways. Although it was the advent of the British that became the main agent of this development, in its modern and perfected form, it should be remembered that the same forces which operated in Britain since Renaissance, operated in Malabar also though in a weak and undeveloped form. The forces which gave rise to Reformation, which sent the Pilgrim Fathers to foreign countries, and colonized America and established commercial contacts with India, which waged a relentless struggle against despotism, and wrested political power for the rising middle-class, which carried out the great industrial revolution and changed the whole face of the earth, did operate in Malabar although not in the same form and to the same intensity as in Britain. It follows then that they should bring with them ideas of property and that on land. A rigidity is gradually given to social relationship which was unheard of before. People who would rest content with custom and pledged word begin to emphasize their right not only on the soil but on everything above and below it including snakes, stones, thorns and caves, as is seen in certain old documents collected by Mr. Logan. When and how this change was brought about, why it had to wait for the British to come before it had completed—these and other allied questions are irrelevant for the moment. What I want to emphasize is that land tenure is not a static phenomenon but an organic institution of a dynamic society.

It should be treated as such. We cannot treat it away from its social background and hang it in the air. The forces which lie behind it at this stage must be closely studied if we want to arrive at correct conclusions.

I, therefore, approach the problem, not from a legalist point of view, but from a sociological one. It is not the legality or otherwise of the existing right of present day janmis which I am interested in, but the forces which gave rise to it and the forces that work behind it now. That, I feel, would go a long way in the solution of their problem. Because even if the innovations have been made by British Courts, it is not possible or desirable to go back to the system obtaining before the British Courts. The restoration of the kanamdar to his old position is unthinkable to-day not because it would deprive the janmi of his existing rights, but because it would not solve a single problem among the many which have arisen during the last century and a half. I would now address myself to the task of examining these new problems which give the clue to a rational solution of the question of land tenure in Malabar.

Effects of British Occupation on the Economy of Malabar.

I have already stated in brief outline how the social and cultural changes wrought by the advent of the British entrenched landlordism in full and unrestricted mastery over agricultural land in Malabar. But that is not the only result of the advent of the British; it brought about a veritable revolution in the economy of the whole country. It has affected every department of man's activity in India and a consideration of the same is intimately connected with an examination of Land Tenure.

The Indian Industrial Commission of 1916–18 in their Report (Chapter I) after stating that—

> " The coming of the railway and steamship, the opening of the Suez Canal, and the extension of peace and security by the growth of British power have brought about very great changes ",

and describing the state of things in " India before Railways " (paragraph 3), examine in what way that state of affairs has been modified.

They say:

Economic changes in rural areas.

" Turning in the first place to the rural areas, we find an increasing degree of local specialization in particular crops, especially in those grown for export. Cotton is now no longer planted in small patches in almost every village where

conditions are not absolutely prohibitive, but is concentrated in areas which are specially adapted to its various types. The dry plains of Central and Western India are admirably suited to a short-stapled but prolific kind; while the canal-fed zones of the Punjab, the United Provinces and Sind are producing an increasing quantity of large-stapled types which are also grown in the retentive soil and moist climate of Gujarat and the well-irrigated areas in Madras. The peculiarly favourable climate of Bengal has tempted the ryots to extend their jute cultivation often at the expense of their foodstuffs, while sugarcane is disappearing from tracts not specially suited for it. A visible sign of this movement may be seen in the abandoned stone-cane mills lying near villages in arid plains in Central India which now prefer to keep their scanty stores of water for other crops and pay for their sugar by the sale of their cotton. The people have been led to make this change by the cheap railway and steamer transport and by the construction of roads, which, while facilitating the introduction of foreign imports, also render available to the farmer in his distant and land-locked village a large share of the price offered by far-off nations for articles which once merely supplied the needs of Indian rural life. Markets have sprung up on or near the railway, where the foreign exports or the larger Indian collecting firms have their agencies; and the ryot is now not far behindhand in his knowledge of the fluctuations in the world-prices of the principal crops which he grows.

"Improved means of communications have had another important effect in altering the nature of the famines to which so large a part of India is exposed and in lessening their disastrous results. The development of irrigation and the improvement of agriculture enable the country in a normal year to grow a much larger quantity of foodstuffs than before, and it is now possible, thanks to the railways, to divert supplies from the export trade to the famine-stricken tracts. Famine now connotes not so much a scarcity or entire absence of food as high prices and a lack of employment in the affected areas. The terrible calamities which from time to time depopulated wide stretches of the country need no longer be feared. The problem of relief has been scientifically studied, and a system worked out which can be put into operation as soon as the recognized signals of the approaching distress are apparent. Failure of the rains must always mean privations and hardship, but no longer necessarily wholesale starvation and loss of life.

"It is clear that, if the basis of employment also be widened, crop failures will lose much of the severity of their effects, and the extension of industries, in as great a variety as circumstances will permit, will do more than anything to secure the economic stability of the labouring classes.

"The capital in the hands of country traders has proved insufficient to finance the ordinary movements of the crops and the seasonal call for accommodation from the main financial centres are constantly increasing. This lack of available capital is one cause of the high rates that the ryot has to pay for the ready money which he needs to buy seed and to meet the expenses of cultivation. On the other hand, money is largely invested in the purchase of landed property, the price of which has risen to very high figures in many parts of the country. Proprietors freely spend their savings from current income on the improvement of land in their own cultivation, but loans from private persons are obtainable as a rule only on terms quite disproportionate to the value of the improvements. These are also most invariably made on land in the investor's own possession, not in that of his tenants. The magnificient irrigation system of India, the drainage works of Bengal, and the relatively small amount that has been advanced by Government as improvements loans are almost the only instances where public funds have been definitely devoted to this end. The demand for capital for land improvement has hitherto perhaps been modest; but the stimulus afforded by the various provincial Agricultural and Industrial Departments, especially in Madras, has led to the introduction on a small, but rapidly increasing scale of modern appliances to replace Labour, improve cultivation; something has been done by the co-operative movement, initiated and fostered throughout by Government action, and far more may be hoped from it in the future. But the no less urgent necessity of relieving the ryot from the enormous load of

Scarcity of capital for agriculture.

debt, with which he has been burdened by the dearness of agricultural capital, the necessity of meeting periodical demands for rent, and his local habits, has hitherto been met only to a very small extent by co-operative organization.

Labour and wages in rural India.

"It is impossible to pass from this brief sketch of the agricultural position without some allusion to the rise in the level of wages and the growing scarcity of Labour in most parts of the country. The rise in the cost of labour is due mainly to the increased demand but in some places to the decline in the labouring population consequent on the ravages of plague during the past twenty years and on famine in the last decade of the nineteenth century, although we do not forget that the population as a whole increased by some twenty millions between 1901 and 1911. This period of distress was followed by a sequence of more favourable seasons combined with higher world-prices. This prosperity in its turn led to greater expenditure by Government, railway companies, and private enterprise, necessitating increased employment. Simultaneously, the increase in world-prices which became effective in India owing to the rapid extension of communications, brought the cultivator some money, and the consequent rise in the cost of living furnished an additional argument to the labourer in his claim for higher wages. This rise tells heavily on those sections of the population which are not benefited by increased agricultural and industrial production, and has accentuated the tendency of the village artisan to migrate to the towns where better pay is obtainable.

Middleman and the export trade.

"The export trade from country districts generally suffers from the existence of an undue number of middlemen, who intercept a large share of the profits. The reasons for this are various. In the first place, it must be remembered that a great number of Indian cultivators are indebted to a class of traders who not only lend money, but lend, purchase and sell grain, and sell articles as cloth, salt and oil to small consumers. The position of a peasant farmer, with grains, seeds or cotton to sell, and at the same time heavily indebted to his only possible purchaser eventually prevents him from obtaining a fair market price for this crop. Even where the farmer is not burdened by debt his business with the dealer is still very often on a *per contra* basis, his purchases and sales being alike reckoned in cash in the dealer's books at a rate which is always known to the customer at the time. The farmer owing partly to poverty and partly to the extreme subdivision of land, is very often a producer on so small a scale that it is practically impossible for him to take all his crop to the larger markets, where he can sell at current market rates to the agents of the bigger firms. This is especially the case in Bengal, Bihar and Orissa and the United Provinces. Here most of the articles for export are purchased from local dealers by the exporting agencies. The larger markets are usually frequented by an unnecessary number of brokers and touts; and there are almost always one or more intermediaries between the purchaser who moves the grain to the point of consumption or export and the producer or other persons who actually bring the crop into the markets. The market rules and organization do not usually provide means for preventing or punishing fraudulent trade methods: while the multiplicity of the local weights and measures in many cases it must be admitted, the natural desire of the seller not to be the only person defrauded, contribute still further to an undesirable state of affairs. Complaints are frequent but all parties accept what appears to them the inevitable. But, where a better organization has been established, the ryots thoroughly appreciate the benefit.

Effects of Imports.

Influence of Imports on village life.

"Such are some of the far-reaching effects of the increased flow of exports from India. The greater number and variety of imports have also had their influence though in a less marked degree. Vessels and implements of iron, brass and copper are now commonly used in villages and their price is within the reach of almost all classes. Petty articles of domestic use or personal ornaments such as scissors, mirrors, bangles, and the thousand and one cheap and glittering trifles

with which the rural huckster decks his stall, have poured in from abroad. Drugs and patent medicines of all kinds, Indian and foreign, command a ready sale. Sewing machines are found nearly everywhere, and bicycles are ever in increasing demand.

"The effect on small industries in India has been considerable, but has not always been in the same direction. The imports of brass sheets, for example, has reduced the demand for the services of the brass founder, but has greatly extended the business of the maker of brass hollow-ware. Cheaper iron obtainable in convenient sections has helped the cultivator to buy more and better carts, and has diminished the cost of many of his indigenous implements. The position of the village artisans is changing. The tendency is for them to lose their status as village servants, paid by the dues of the village community, and to become more and more ordinary artisans, who compete freely among themselves for custom; in some cases, notably that of the village leather-worker, they are disappearing under the competition of organized industries. The influx of mill-made piece-goods not only of foreign, but of Indian manufacture had before the war cheapened the price of cloth in comparison with other commodities and had enormously extended its use by the poorer classes but had at the same time prejudicially affected the communities of weavers scattered over the country in the towns and larger villages. In India a far greater degree of resistance has been offered by the handloom to the aggressions of the factory than in England. This is attributable to the greater number of specialized types of cloths of which slow-moving Indian custom decrease the use; to the fact that the demand for many of these is on so small a scale, while the types themselves are so special, as to render it difficult for the power-looms to produce them at a profit; to the faithfulness of the weavers as a caste to their hereditary trade, and their unwillingness, especially in the smaller towns, to take up factory work; and to a less extent to the money locked up, on a vicious system, it is true, in the financing of the weaver by his patron and incubus, the money-lending cloth-merchant.

Standard of comfort affected by imports.

"The effect of the use of imported and factory-made articles on the standard of comfort of the rural population has been however greatly small. The poverty of the Indian peasant precludes most novel forms of expenditure while lack of education and the prescriptions of custom make him slow to accept any innovations in his food or clothing or in the habit of his daily life. But the enormously extended use of cotton cloth especially of the finer counts, of woollen clothing, the introduction of kerosene oil, matches, collapsible umbrellas, and of better and cheaper cutlery and soap have added appreciably to the comforts of the people.

"The increase of exports and imports has facilitated the provision of funds for communications. The existence of these communications has itself had an educative effect on the people, has gradually helped to render labour more fluid and incidentally more costly and has added to the sense of political unity among the more educated classes."

The extracts given above go unmistakably to show that the changes brought about in the rural economy of India are fundamental; that, in place of the indigenous and mediaeval economy based on the closest harmony between agriculture and cottage industries, a new economy was built upon the basis of a dominant foreign industry to which the whole Indian economy was subjected to both as a cheap source of raw material as well as a vast market for finished products; that, though the feudal relationship between the various component parts of society was maintained in form (and virtually strengthened as in the case of the intensification of the power of the landlords which we have already observed) Indian economy was, in fact, placed under the subjection of a capitalist system which dominated over Feudalism itself. Although modern industries did not spring up in India, although landlordism was not abolished in form, it was the power which smashed feudalism and built up the huge industrial undertakings in other countries that began to control Indian economy. The very landlords created or maintained by British rule came under the sway of capital, the very agriculture became a handmaid of industry, with this difference that this capital which controlled the feudalism and this industry which dominated over agriculture were foreign.

Here is the great contradiction in history that while the British power destroyed feudalism in its social, political and cultural aspects, it installed it (where it did not

exist) and strengthened it (where it existed) in its legal aspect; that, while the British administrative system dethroned the political power of the native feudal nobility, while it supplanted the old mediaeval culture with its own culture, while it subjected the native feudalism to its economic domination, it strengthened the landlords who should naturally have been completely done away with by it. To go into the causes thereof is not my purpose here. But I must draw attention to the fact that it has affected our economy to a great extent.

According to the statistics collected by the Committee, the janmis had under their direct cultivation, 171,662 acres of land out of a total of 1,506,992 acres of cultivated land in Malabar in fasli 1347. This means that they have leased out 1,335,327 acres to tenants under them. It is difficult to find out how much they receive out of this as rent. Assuming, however, (as the Majority Report shows), that the average yield of paddy lands is 150 paras per acre, and that the average yield per acre of coconut garden is Rs. 30 worth of nuts, assuming again that the janmi gets rents at rates prescribed under the present Act, the janmis in Malabar would be getting roughly Rs. 20 lakhs from coconut garden lands (352,132 acres in fasli 1347 at Rs. 6 per acre) Rs. 225 lakhs from wet land (561,550 acres in fasli 1347 at Rs. 40 per acre), another Rs. 63 lakhs on dry land (at three times the assessment on dry land which is in fasli 1347, Rs. 21 lakhs), the total amount on leased land would come to Rs. 308 lakhs. Deducting out of this Rs. 45·5 lakhs for revenue (which is the amount for fasli 1347), the janmis get a net rent of Rs. 252·5 lakhs or about Rs. 2½ crores. I am conscious of the inaccuracies in these calculations, but since these are based on the existing provisions in the Act, and since rents actually collected are higher than at this rate, they can be taken as roughly correct. Assuming, however, that this is not correct and the actual rent collected is only Rs. 2 crores, it does not affect my argument.

If the payment of this amount goes in hand with some social service, rendered by the landlords as a class, it would be quite justified. That was the explanation for payments made in mediaeval days. That is also the justification for Rs. 45 lakhs paid by the cultivators into the Government coffers as land revenue. In mediaeval days landlordism was a social, political and cultural institution, as well as economic. But shorn of all these functions, the Malabar janmis of to-day are only a dead corpse of their own fore-fathers; and it is this dead corpse that has given added importance to it. But does it justify its economic importance by performing any useful function in that sphere as does the *entrepreneur* in modern capitalist industry? Does it provide capital, either short-term or long-term, to the cultivator who needs it? Does it construct and improve irrigation sources and prevent the preventible drought? Does it carry on any research work to make agriculture up-to-date and scientific? Does it do anything towards organizing the marketing of agricultural produce and thereby see to it that the cultivator gets a fair value for his produce? Does it organise or encourage cottage-industries so as to provide some subsidiary occupation to the cultivator? In short, if, by an act of legislature, the janmis of Malabar are to-day deprived of this Rs. 2½ crores, which they get as rent, does the industry of cultivation stand to suffer in any manner as does the modern or capitalist industry if the *entrepreneur* is, by an act of legislation, suddenly removed and he is not replaced by a rational alternative system? The answer to the questions raised above would show sufficiently well that landlordism does not justify itself economically; that it gets its rent for no service rendered to society, that therefore it is parasitic in nature, and that any scheme of economic planning should include its abolition.

Abolition of Landlordism—A Pre-Condition for Economic Planning.

The appropriation by the janmis of Malabar as a class of Rs. 2½ crores out of the annual agricultural production of the country without any return to the cultivator to this tribute which he pays to this decadent class is the core of rural economy in Malabar. How does its abolition help our economy to improve itself and develop on up-to-date lines? In other words, how would the tiller of the soil stand if he is allowed, instead of the janmi, to appropriate this Rs. 2½ crores?

Lack of finance is notoriously the basic factor which keeps our agriculture so backward. When the cultivator does not get sufficient to maintain himself and his family at a reasonable minimum standard of living, he cannot be expected to invest money on improved methods of cultivation. Nor is he in a position to put something by for use in lean years. He is, therefore, not only obliged to keep his cultivation at a very backward stage but to rely on the rural money-lender for credit. Several experts have gone into the question of agricultural improvement and the solution of the problem of rural-indebtedness. Excellent schemes have been put forward, but unfortunately all

of them lack the essential pre-requisite to carry it through. What is the use of carrying on research into the possibilities of agriculture and giving wide publicity to new attractive schemes, unless the majority of cultivators who should apply them have the wherewithal to do so? And what is the use of scaling down agrarian debts unless the debtor peasant is in a position to pay it off even after its being scaled down? And, finally, what is the use of Co-operative Societies and Land Mortgage Banks unless the cultivator who is supposed to benefit by it is allowed to have sufficient resources to offer as security? All the grandiose schemes of agricultural improvement and Co-operation come to nothing not because our peasant is, by nature, immune from such influences, not because he is illiterate and dull-witted, but because he is financially unable to make use of them.

By abolishing landlordism, the Rs. 2½ crores which he now pays will be available to him. By a judicious use of this, his position can be very much improved. Let us make a rough calculation.

Applying the tests used by the Provincial Banking Committee Report (Debt per head of population, Debt per acre of land and Debt per rupee of assessment) the total indebtedness of the Malabar peasant would roughly come to Rs. 15 crores. Allowing Rs. 4 crores for the indebtedness of the non-cultivating agricultural classes, and Rs. 4 crores for amounts which could be scaled down under moderate provisions, the peasantry would still have to pay Rs. 7 crores as its debt. If the Government come forward with the bonds to the creditor, to which the land will stand as security, the whole of this debt would be wiped out in 30 years if the peasant is asked to pay at most 9 per cent, including interest and the annual instalment towards principal. This would work out at Rs. 63 lakhs. Let us set it apart out of the Rs. 2½ crores. Let us set apart, out of the balance, Rs. 50 lakhs for the peasantry's contribution to various forms of co-operation (short-term credit, agricultural improvement, dairy and poultry-farming, housing, education, etc.); the co-operative movement would then be taken out of the depths to which it has fallen, a new spirit would pervade the whole country-side, and agriculture will begin to become a business proposition. And, finally, let us lay aside the balance of Rs. 137 lakhs for the actual consumption of the peasant. With more food for himself, his family and his cattle, he will become a sturdy and independent peasant. All the annual Baby-weeks and shows have not been able to make our rural children really healthy, but this one will, because it will make nutritious food available to them. Children will flock to the schools and sick ones will be properly attended to.

The abolition of the appropriation by the janmis of this 2½ crores, therefore, is the key to the whole problem and therefore the pre-condition for any economic planning. But it is not the peasant alone who stands to gain by it. Industries, large and small, will also get their share with the improvement of the country-side. The higher standard of life of the peasant would make industrial labour itself much more efficient than it is to-day, because the major part of its inefficiency consists in poor physique and a great majority of the workers in India, according to Whitley Commission (a much higher percentage in Malabar than elsewhere) "are at heart villagers, they have had in most cases a village up-bringing, they have village traditions and they retain some contact with the villages." Any improvement, therefore, in the condition of the villagers will have its influence (in most cases perhaps indirect, but in many cases direct) on the efficiency of labour. Much greater than this is the benefit accorded to the industry by the wider market. The Rs. 137 lakhs laid aside for the peasantry's consumption would provide for its products. Special mention should be made of the textile and tile industries, because the first thing that the peasant would, perhaps, do is to house himself and clothe himself better. Above all, this will furnish industry with additional capital. When one is not allowed to take rent out of land which he does not cultivate, capital will not flow towards land as it does to-day. The man who has grown rich either by profession or business does to-day invest his earnings on land because although the capital thus invested is not productive, from the view-point of that industry, it is as productive of profit for him as it would be if he had invested it in industry. How much money is thus invested every year, it is difficult to find. But the statistics of registration show that, in 1938, 22,601 sale-deeds have been registered in Malabar at an aggregate value of Rs. 89,62,288 and 42,077 mortgage deeds at an aggregate value of Rs. 75,85,359 in North and South Malabar together. This being a by no means abnormal year, let us take that approximately Rs. 160 lakhs is being invested every year on land by new owners. Let us out of this deduct 25 per cent (I personally feel that this is rather high but still for lack of reliable data, I take a high percentage for being on the safe side) or Rs. 40 lakhs for genuine purchases by those who want to cultivate it themselves. Rupees 120 lakhs would still be available

for productive investment in industry, trade, banking, etc. Let us take that 50 per cent of this or Rs. 60 lakhs alone will be available for industry as such. Still it will be a great thing and the proverbial shyness of Indian capital will at one stroke be removed. The "potential capital" of which the External Capital Committee observes as sufficient to "meet the larger part of India's industrial requirements", will become not potential, but actual and Sir Basil Blackett's observation that "India could not only supply the whole of her capital requirements, but might also become the leader of capital for the development of other countries" will be justified, provided only that the present flow of capital to improductive channels is checked by the abolition of landlordism.

The improvement in the standard of life of the villager is in short the core of the economic development of our country. Without it, no amount of planning will bear its fruit. It is not, by itself, a Socialistic experiment, but a part, an essential part, of the development of capitalism. That is why the French Revolution and other bourgeois revolutions carried out this essential task. India has also to carry it out if she has to develop economically on essentially bourgeois lines.

The Question of Compensation.

Are the landlords entitled to compensation if they are deprived of what they are now getting, and which many of them purchased in the firm belief that they will be allowed to enjoy it unhindered? It remains for me to answer this question.

I look at it, not from any legalistic point of view, but it is for me a pure question of practicability and expediency. Can the peasantry afford to pay compensation? If compensation is to be paid even at the minimum rate, how will it stand in relation to the appropriation of the existing rental, for re-vitalising agriculture and building up industrial trading institutions? That seems to me the essential question. And, from that point of view, the question of compensation can easily be dismissed as impracticable, since that compensation would raise the same dangers and difficulties which we have at present in a new form. Of course, it will be hard in the case of many families not to get compensation. But, if it is provided that the families of the present landlords will have the first choice of taking a maximum extent of land (say, 20 acres) for their own cultivation (this will be reverted if they lease it to others) it will be a great relief in most of such genuine hard cases. I cannot really think of any other form of compensation.

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I know that such a drastic reform will not be undertaken at present. Still, I felt it my duty to give expression to my support to it, lest in the mass of details as to legal and practical questions, the fundamental question should be lost sight of. I also want to draw the attention of the Government to the fact that the reforms suggested even in my notes given below will not be the last word in tenancy reform. There is no use of fighting shy of it.

I, therefore, make certain suggestions with regard to the actual recommendations made by my colleagues. These suggestions are put forward only because, even for the limited purpose of redressing certain glaring injustices, the majority recommendations do not go far enough.

Recommendations.

Chapter Six.

The majority report proceeds on the basis that since the tenant in Malabar is entitled to the value of his improvement, it matters little to him whether he is given occupancy right or fixity of tenure. I agree that it is the substance that matters. But I am afraid there is no substance of fixity in the proposals evolved by the majority of my colleagues. In fact, the net result of the proposals is not even fixity of tenure, but restricted right of the landlord to evict the tenant. The tenants may feel relieved that arbitrary eviction has been reduced by putting further restrictions on the landlord, but to suggest that the proposals contain fixity of tenure which differs from occupancy right only in name, is to deceive oneself because the fixity conferred upon the tenant is quite illusory.

There are three conditions on which the tenant may be evicted according to the majority report: (1) failure to pay rent, (2) failure to furnish security in case default is made in the payment of rent for one year, (3) necessity of the landlord for *bona fide* cultivation. Now, the net result of all these is that fixity is nullified in a large number of cases.

I agree that the landlord should get his rent regularly. But the penalty attached to non-payment of rent, according to the majority report, is, I feel, too severe. I have no objections if the systematic defaulter is evicted or security is demanded of him. What the majority report, however, does is to club together the systematic defaulter with the man who defaults even for a year for reasons beyond his control. Even in the case of a tenant who could not pay his rent because there was sudden calamity in his family (say, the death of a member), even for a year, not only does the engine of eviction begin to operate, but security is demanded of him. The tenant who is not for some reasons able to pay by 30th Kumbham will be evicted even if he pays up the arrears by Medam, because his failure to pay rent in Kumbham make him liable to security and non-compliance with it to eviction. Thus, even a genuine failure to pay at the fixed time makes him liable to eviction.

I suggest the following changes :—

(1) Failure to pay by the 30th Kumbham would entitle the landlord to sue for arrears.

(2) Failure to pay one year's rent together with the interest thereon by 30th Kumbham of next year will make one liable to eviction.

(3) Failure to pay in full or in part for any three years during a decade will make one liable to furnish security.

As regards *bona fide* cultivation, I have the following suggestions to offer :—

(1) The limit of 5 acres per individual is too high. I have no objection to make it 5 acres per individual provided a maximum is fixed for the extent of land a landlord may evict the tenant from, whatever the number of members of his family. An undivided family consisting of, say, 30 members can, according to the majority report evict a tenant from 150 acres. In a majority of cases not more than one or two members of a landlord's family do not stand to benefit by it. What happens is, the karnavan of a family whose members may be staying in Madras or Singapore would evict from lands tenants calculated at the rate of 5 acres for every man, woman and child who does not interest himself or herself in cultivation. This is likely to happen in a number of cases. To call this eviction for *bona fide* cultivation is a misnomer. I therefore suggest that a maximum of 20 acres per family is put whatever the number of members thereof.

(2) Restriction of the right of eviction for *bona fide* cultivation to poorer landlords is not so impracticable as the majority report suggests. If instead of the assessment basis, the annual income basis is taken, I have no doubt that to distinguish the poor landlords from the rich will not be at all difficult. I would suggest, for instance, that any landlord who gets an annual income (land revenue and interest on debts may be deducted out of the gross income) of Rs. 100 per individual or Rs. 2,000, whichever is higher, by rent or otherwise, should not be entitled to evict the tenant for *bona fide* cultivation.

If at least the suggestions made above are accepted, i.e., (1) eviction is restricted to failure to pay one year's rent by the next year, (2) security is demanded only of the regular defaulter, (3) only poor landlords are allowed to evict for *bona fide* cultivation and (4) even that is limited to 5 acres per individual or 20 acres whichever is higher, I think some real relief will be obtainable for the tenants.

Chapter Seven—Rent and Revenue.

With regard to the rates of fair rent, I have these suggestions to offer :—

(1) The expenses of cultivation should be fixed at 25 Palghat paras instead of 20. For one thing, it has been proved by all witnesses who have any experience of actual cultivation that $3\frac{1}{2}$ times the seed is the minimum required for cultivation expenses and that, if anything, it should be raised. For another thing, 20 Palghat paras is in most cases less than $3\frac{1}{2}$ times the seed actually

required. It is only in rare cases that 6 Palghat paras is sufficient per acre. The seed actually required varies from 6 to 7½. Even if 6 is taken as the invariable rule, 20 is less than 3½. I, therefore, feel that it is quite reasonable to raise it to 25.

(2) With regard to the sharing of produce, I feel that the net produce should be divided equally between the actual cultivator and his immediate landlord. I do not see how it is reasonable or practical to take the return on investment which the landlord has made on land as the criterion for fixing fair rent. On this basis I am afraid, no fair rent can be fixed because the land has been over-capitalized. Land has been bought and sold at high prices on the basis of the landlord's right to rack-rent the tenant and now to go upon the basis of a fair return on investment made on that basis is simply to sanctify rack-renting. The basic question in this connexion is, to my mind, whether the productive labour of the tenant gets a fair return and not whether the non-productive capital of the landlord should get a sufficiently high rate of interest. In this connexion, I should also state that the present tendency is for a rise in the rate of wages of both the urban as well as the rural labourer. And that tendency should be encouraged in the interest of general economy. The least that can be done to this end is to provide that half the net produce both on wet lands as also on punjakol shall be given to the tenant.

(3) It is possible that in many cases, particularly on dry lands, the present contract rate of rent is less than the formula suggested by the Committee. As the majority report itself states in another connexion, the return to the landlord from dry land is quite negligible. If, now, the landlord is empowered to take three times the assessment, it will be very hard on most tenants, particularly on the lowest and poorest of them. Hard, indeed, would be the case if those Harijans and other rural labourers, who, instead of getting exemption from rent and revenue as they desire, are suddenly asked to pay much more than they are now asked to. I, therefore, suggest that in the case of all pending tenancies, fair-rent shall be that calculated on the basis of the several formulae suggested by the Committee or the contract rate, whichever is less. Laisez Faire and Freedom of Contract should be interfered with in the interest of the weaker party. If, for historical reasons, a particular tenant is allowed to pay less than the fair-rent, there is nothing unreasonable in allowing him to enjoy that privilege for the future also.

(4) With regard to fair-rent on pepper lands, I find that there is a subtle difference in the rate. While the customary rate is 1 to every 5, it has been manipulated as 1 in every 5. In other words, 1 : 5 has been changed into 1 out of 5 or 1/6 has been raised to 1/5. I recommend the restoration of 1/6. That is, the year in which the landlord should have his share should be 11th, 17th, 23rd, etc., and not 11th, 16th and 21st, etc., as the majority recommends.

With regard to fixing of fair-rent, I feel that it would be most unfair to recover the cost of fixing it from the actual cultivator. I do not object to a nominal fee (say, 4 annas for every application) being levied on every holding. Nor do I object to it if the maximum cost to be recovered from the tenant is fixed at a certain percentage (say, 10 per cent) of the total fair-rent fixed for his holding. But to provide that the whole cost of the Rent Settlement Commission should be recovered from him and his immediate landlord is very hard indeed.

The proposal of the majority report that the tenant should pay the whole assessment, even if it exceeds fair-rent, is, I am sure, quite unreasonable. Of course, it is not the fault of the landlord that the Government have assessed unreasonably. But, then, neither is it the fault of the tenant. It is unfair that the landlord who claims absolute ownership on land should ask himself to be relieved of liabilities on it. It is the common obligation of both the landlord and tenant to get the assessment revised. Till that is done, the landlord should bear, at least, half of the difference between assessment and fair-rent.

Chapter Eight—Renewals and Renewal Fees.

When fair-rent is fixed, the kanamdar or other intermediary who has made a much more productive investment of land than the landlord stands to lose, because he gets less from his under-tenant while he has to pay the same amount to his superior.

In all fairness, he should be asked to pay less to his landlord in exact proportion to what he loses by way of reduction in what he gets from his under-tenant. If this is not done, it will be some relief to him if at least renewal fee is totally abolished and thus a longstanding demand of his conceded. I therefore do not agree with the majority that renewal fee should be collected even in its reduced form.

Chapter Nine—Intermediaries and Under-Tenure Holders.

Although I do not agree with the several arguments used and statements made by the majority, I feel that so far as what could be done practically to protect the under-tenure holder, the proposals in this report are acceptable.

Chapter Eleven.

The majority report says :

> " It would not, in our opinion, be just to exempt kudiyiruppu holders from the payment of rent altogether."

I feel that the authors of the report have not seriously considered the problem of the rural labourer and the Harijan who has no property except his own willingness to work for others. The lot of these people is deplorable. They are serfs if not actual slaves. To ask them to pay rent and revenue is just to hand them over to the landlord who can do with them in any manner he likes. All the arguments used by the advocates of the tenants' cause with respect to arbitrary eviction and its social consequences in the 1920's apply with much greater force in the case of these rural labourers. Unless they are protected from eviction, from their miserable huts on any account, they will be under the perpetual hold of the rural bully whether he be the janmi or intermediary tenant or the village official. I would also like to draw the attention of the Government to the fact that the landlords do not stand to lose much by this, because the rent realized from kudiyiruppus is negligible. By making the landlord incur a small loss, the lowest of the low in the villages will be released from social serfdom. I may conclude by saying that I want this exemption from rent and revenue to be granted only to those tenants who have no other property except the kudiyiruppus and who have no other occupation but wage-labour. In the case of others, I agree with the majority report.

I am for giving fixity to Ulkudi-holders also. In a condition where all land available for house-sites are monopolised by a few people, it will be hard for the poor man who is an Ulkudi-holder if he is to be turned out from the only habitation which he has. He may be turned out provided the landlord gives him another site whereon to put up a house.

Chapter Twelve—Forests, Waste Lands and Irrigation Sources.

I have only to make the following additional suggestions :—

(1) In continuing the practice of allowing tenants to take leaves for green manures, and pasture the cattle, " the restrictions as may be necessary to protect forests from destruction and denudation " should not, it should be made clear, include any levy of grazing or manure fees.

(2) Government should control not only sources of irrigation, but channels and small waterways in such a way that no landlord or tenant through whose field water has to pass to another man's field should be entitled to obstruct.

(Signed) E. M. SANKARAN NAMBUDIRIPAD.

DISSENTING MINUTE BY SRI E. KANNAN, M.L.A.

FIXITY OF TENURE FOR NON-CULTIVATING KANAMDARS.

The granting of fixity of tenure to non-cultivating kanamdars is objectionable on the following grounds :—

(1) The report itself admits that the Sudder Court defined in 1856 the kanamdar "as a terminable tenure-holder without any permanent interest in the land and liable to be ousted at the end of twelve years in the absence of a contract to the contrary."

(2) It further admits that most early British administrators held similar views.

(3) It also says that the reports of foreign writers are not quite consistent about the incidents of kanam.

(4) The kanamdars rely for their case according to the report on the report of Sir T. Madhava Rao's Commission. Security of tenure was first granted to kanamdars in Travancore by order of His Highness to the Appeal Court in order No. 222 of 1829. That order refers to tenants who have improved "their lands by their labour and capital." Sir T. Madhava Rao defended the granting of security of tenure to kanam tenants on the ground that "the more the latter are placed in dependence on the will and pleasure of the former (landlords), the less must be the progress of improvement in landed property; and that the kanam tenant has been 'sole improver of the land'." (Vide reply of Sir T. Madhava Rao to the note of Mr. Sadasivam Pillai, dated 9th October 1866, published as Appendix III in the report of Travancore Janmi Kudiyan Committee, 1916.) Sir T. Madhava Rao has dealt with the growth of kanam rights in page 632 of the Land Revenue Manual, Travancore. He says that, inasmuch as the land has been developed by Sudras, and as the loan taken from the latter could not be returned by the janmis, the kanamdar became 'a co-proprietor of the soil'. It should be noted that in all these passages the reference is to the grant of security of tenure to the cultivating kanamdar. Comparing the views of Sir T. Madhava Rao and Justice Sadasivam Pillai, His Highness Rama Varma says in his memorandum of 10th May 1882 the following: "The one took a judicial view, and the Diwan a political view." "Expediency and substantial justice required the protection of a large class of the industrious population of the country against arbitrary ejection from the lands in which they had spent their capital and labour for generations together." It should be therefore noted that security of tenure was granted to kanamdars because they were cultivators at the time such a security was granted.

(5) The report states that the kanam tenure was irredeemable. Even if it were so, it could be so only till 1856. In fact all tenures were never redeemed in early days when price of commodities was low, when there was plenty of land, and dearth of cultivators. Since 1856 kanams have been purchased only with the full knowledge that Kanam lands were redeemable after twelve years. If historical rights were to be restored, it could only be to the heirs of kanamdars who existed before 1856, and not to the transferees and their heirs who bought the kanams after 1856. And this should be done without prejudice to the rights of the cultivating verumpattamdar or kanamdar.

2. According to the Tenancy Act of 1930, the right to demand a renewal was given to kanamdars on the basis of the Raghaviah Committee report of 1927–28. That Committee fixed renewal fees at a certain sum (vide paragraph 102 of the report) as "compensation for a grant of the option to renew." Kanam tenure being redeemable, the previous Act made it irredeemable if the renewal fee was paid periodically at a slightly higher rate as a compensation for the loss of the proprietary right of the janmi.

It is not correct, therefore, to say that "the present Act confers the right to demand renewal which amounts to fixity of tenure on all kanamdars." The fixity of tenure has to be purchased by a payment of compensation. Hence it is the present report confers it on the non-cultivating kanamdar. The Committee adduces no grounds for reducing the renewal fees to a single annual rental in the case of the non-cultivating kanamdar. While the abolition of renewal fees or its inclusion in fair rent may be proper in the case of the cultivating kanamdar, no case has been made for its reduction in the case of the non-cultivating kanamdar.

3. The Committee has made a further advance in promoting the interests of the absentee kanamdar. The existing Act has not granted security of tenure to kanamdars of dry lands. This is a new proposal of the Committee.

4. Another proposal of the Committee is that " where a mortgage is shown to have been granted in the place of a kanam, the mortgagee should be treated as a kanamdar and should have fixity of tenure provided his kanam amount does not exceed the limits specified in section 17 (*c*) (1) of the Act." To grant fixity of tenure to kanam tenants who bought lands after 1856 is itself subversion of law, not in the interest of helping the cultivator, but with a view to create new rights for a class of intermediaries. To further advance upon this position by permitting mortgagees to become kanamdars is interested legislation to create a new class of absentee kanamdars.

5. The report constantly uses the word ' real kanam ' as if constant reiteration of the word ' real ' can be a cause of conferring fresh rights on the kanamdar. It says " that it may be that several of them are not now actual cultivators but it is an undisputed fact that they are persons having substantial interest in the lands and we would be throwing open the flood gates of litigation if we ignore their rights altogether in giving fixity." One cannot understand how this consequence arises. Can it arise only now? Why did it not arise under the existing Act?

6. While these proposals are made to confer new rights on the non-cultivating kanamdar, the unfairness to the rate of interest which a landlord has to pay on the kanam amount under the existing Act ranging from 6 per cent to 12 per cent has never been considered. There is no reason why a janmi or a superior holder should pay more than 6¼ per cent interest on the kanam amount.

7. For these reasons I am unable to support any legislation which confers fixity of tenure on the non-cultivating kanamdar.

Fixity of Tenure for Verumpattam Cultivators.

The report draws a distinction between fixity of tenure and occupancy right. In other words occupancy right is proposed for the verumpattam cultivators, subject to the right of the landlord to eject a tenant for non-payment of rent, to claim security for one year's rent in the case of tenants who have once defaulted, and to resume the land for own cultivation or for building purposes under certain conditions. This is no doubt an inferior kind of tenancy. The kanamdar cannot even now be evicted for arrears of rent under the existing Act though his interest in the land can be brought to sale. When the cultivating kanamdar gets fixity of tenure, he becomes for all purposes an occupancy tenant. But the verumpattam tenant is treated as a second-class tenant whose fair rent is fixed but whose security of tenure is illusory. It is unfair to say " that the witnesses have not pressed on the Committee seriously for the grant of absolute occupancy rights." The answer to this question should be read along with the one given by peasants and peasants' unions regarding coercive processes for collection of arrears of rent. Further a bare question stating merely the words ' fixity of tenure ' or ' occupancy right ' will hardly convey the difference even to the educated classes, still less to the masses (the difference between the two terms). The question ought to have been made clearer explaining the significance of these two words. The difference rounds itself to two points, firstly whether a verumpattam cultivator should be evicted for non-payment of rent or only his interest in the holding should be sold, and secondly whether security for one year's rent should be recovered from tenants who have once defaulted in the payment of rent. Under the existing Act security has to be paid by the verumpattamdar if required by the superior holder. But three months' time is given for payment of rent. According to the proposals in the report little time is given to pay the Makaram rent. Consequently the scope for an increase in arrears of rent is large. The new proposal is that security for one year's rent can be taken from tenants who once default in payment of rent. Taking these two proposals together, it is no improvement at all on the existing position. The provision of verumpattam or the advance payment of security for rent makes it impossible for a tenant to acquire fixity of tenure, and even if it is to apply to defaulting tenants, it should be naturally expected that defaults would be many, and failing to pay rent and munpattam, the number of tenants who will surrender their lands particularly when they have no improvements to claim will certainly be large, thereby defeating the purpose of grant of fixity of tenure.

Evictions.

It is necessary to examine the reaction of the provisions of the Malabar Tenancy Act of 1930 relating to verumpattam tenancy. Cultivators who could not pay munpattam have surrendered their lands to those who could pay. A new class of *madhyavarthis* (intermediaries) who could pay large advances as munpattam (advance security for rent) have come into being, thrusting further down the original class of verumpattamdars to the position of sub-tenants. Failing to pay the existing competitive rent (there being

no provisions to revise rents according to the change in the nature of the soil) and fearing to lose his other assets when arrears of rent accumulate, the verumpattamdar agrees always to surrender his land, without compelling the landlord to go to court. The report further admits that many have been dispossessed as a result of abuse of the sections relating to own cultivation. The advent of the Congress party into power, and the formation of the present Committee had their reactions too in hastening evictions. The fear that fair rents may operate from 1941 has also furthered evictions. The Committee refers in page 17 to fall in prices and the consequent difficulty in paying land revenue. Evictions due to non-payment of rent since 1930 are again due to the same cause.

It is unfortunate that the report has not considered at all whether lands from which cultivating verumpattamdars and cultivating kanamdars have been evicted or which they have surrendered could be restored to them, and secondly whether evictions should not be prevented until the legislation proposed in the report is enacted. Stay of Proceedings Acts have been passed in every Province thereby preventing ejectment till legislation is passed. If this is not done in Malabar, the appointment of the present Committee would have done more harm than good to the tenants of Malabar. It would only be increasing the number of evictions. Secondly cultivating tenants evicted for non-payment of rent or who have surrendered their lands for the same cause during the last ten years should have their lands restored to them. Such a policy has been proposed quite in consonance with the election-manifesto of the Congress and the economic programme passed in the Faizpur Congress. An Act providing for restoration of lands was passed in Bihar (Act IX of 1938) if 50 per cent of the decreed rent was repaid. Such a restoration might be provided for only under certain conditions. The eviction from, or surrender of land should have occurred from 1930 onwards. The land should be with the landholder to whom the land was surrendered, or who evicted the tenant. Where a new tenant has paid munpattam, the original tenant should also pay it. The scheme need not apply to those lands in which improvements have been made by either landholders or new tenants. It should apply only to cultivating tenants.

Limitations to Fixity of Tenure.

The Committee has excluded holdings cultivated with tea, coffee, rubber, cinchona, and similar crops. In Wynaad taluk and other upland areas lands are let for these purposes, and the cultivating kanamdar gets easily indebted by paying high rates of interest for financing these crops. Where holdings are not cultivated directly with the aid of hired labour but are leased, there is no reason why such tenants should not be granted fixity of tenure.

The Committee has excluded tenants cultivating pepper gardens from the benefit of fixity of tenure. Their reason is that pepper gardens might not yield after a few years. If they do not yield, they only become dry lands. If verumpattam tenants of dry lands could be granted fixity of tenure, there is no reason why tenants of pepper gardens should be excluded from such a benefit. If the yield varied, that created a difficulty in fixing a permanently fair rent for all years but not for not granting fixity of tenure.

The Committee says that " in view of the partitions now taking place, etc., and the fragmentation which necessarily occurs under the Muhammadan law of inheritance, any restriction on subdivision would be impracticable." This remark is too wide. While these are grounds for repealing enactments which provide for impartible estates, they could be no grounds for preventing subdivision below a certain minimum of area. What use is there in granting fixity of tenure while the holding may become uneconomic by partition? The Bombay Bill provides for transmission of tenancies to a single heir and for settlement of the heir in cases of dispute by the Tahsildar. Some such provision in the case of holdings of an economic size and less is equally necessary for Malabar.

The Committee does not consider it necessary to propose any restrictions on the alienability of tenant right. That means that the tenants newly created are free to sublet their lands. The purpose of the whole tenancy legislation is lost if rack-renting for the future is not prevented. Habitual subletting is prevented in the Central Provinces Bill and the same provision might be made also for Malabar.

Another proposal of the Committee is to rectify the defects in the existing provision regarding resumption of land for own cultivation by landholders. The proposal is that it should not apply in future to sthanis and charitable and religious bodies. Secondly the land that could be resumed for own cultivation has been fixed at 5 acres per head of landlord's family and at 20 acres per head in families with less than four members. As

every generation of landholders may exercise this right and resume the lands, there may be no land at all left in which tenancy rights may accrue in the future. The principle under the proposal of limiting the area of land that could be given for direct cultivation is no doubt a sound principle. But it is only when this right is given to successive heirs, that there is the possibility of the tenancy land gradually dwindling in area. All the peasants' unions and peasants' representatives have urged the limiting of the area of private land of the janmis directly cultivable by them as fifty acres (vide section 16 of Act XVII of 1939, U.P.). This means that areas beyond 50 acres will be tenancy land for which the landholders will get their rents. The provision for resumption of land by existing owners for cultivation may be justifiable, but to make provision for future owners will be mortgaging the interests of the existing cultivators in order to satisfy the contingent requirements of a future janmi heir. No government can legislate setting at naught the interest of agricultural economy in order to preserve the proprietary rights of a future generation. What the Congress Government have done in United Provinces ought to be possible in Madras too. Provision for a definite area of private land for all landholding janmis will be a better one than the right of resuming tenancy lands by the janmi as and when required now and the future.

This provision should not be applicable to non-cultivating kanamdars.

It is also necessary that the word ' cultivation ' should be properly defined so that it may not apply to cultivations undertaken by absentee landholders who do not reside in the area and who cultivate their lands by the supervision of agents appointed by them.

Fair Rents.

The Committee has laid down a few principles for fixing fair rent. The one is that " it would be better to base the rent on a division of the net produce. The formulæ based on gross produce have the grave disadvantage that in poorer lands they give a smaller share of the net produce to the tenant and in better lands they give a smaller share of the net produce to the landlord." This is a sound principle to follow. But it is surprising that the principle is immediately broken in fixing fair rent of garden lands which is proposed on the basis of gross produce. The first argument of the Committee is that fair rent of gardens cannot be fixed in the ratio of assessment " as assessment itself is based on area and does not vary with the number of bearing trees." According to the Committee the garden rent ought to bear a fixed proportion of the gross produce. This means that rent should be paid also on the surplus produce due to tenants' improvements. One of the complaints of the Committee against assessment is (page 17) that ryots' improvements are taxed. But while they consider that it should not be done in respect of land revenue, they say that rents should be collected on ryots' improvements. Another difficulty mentioned in the report is that a garden consists of trees of tenants and janmis, and that apportionment of assessment and the fixing of the ratio of rent on such an assessment would become difficult. Any way for calculating the gross produce, the yield of janmis' trees and the tenants' trees have to be separately estimated. The way lies in fixing an annual interest on the capitalized value of the trees of the janmi to be paid by the tenant and fixing the ratio of rent on the basis of land revenue for the gardens. The report maintains that land revenue is high on gardens, and consequently twice the land revenue ought to be a favourable rent about which the landlords could not complain. Further, the admission in the report that garden assessment is on area and not on produce is the soundest argument for basing garden rents on land revenue. The whole trouble in fixing rent as a proportion of gross produce is that a uniform formula will not be taking due note of varying cultivation expenses in each area.

It is rather strange that the Committee should feel sorry that fair rent of dry lands is not in proportion to the yields. Malabar was the one country to recognize that a tenant should be compensated for his improvements. While improvements made by a tenant are recognized when evicting him and have to be paid for by the landholder, the yield from those improvements has to pay, according to these proposals, a higher rent from year to year. It has been recognized that enhancement of rent should be on definite grounds due to improvements made by a landholder and not otherwise. To base rents on gross produce is to tax the ryot for the improvement he makes at his expense.

The Committee no doubt starts with giving effect to the ancient practice of one-third of net produce to Kudiyan, and 6/10 to the Company, and 4/10 to the Janmkar of the balance.

According to this principle, the rent cannot be more than assessment. And yet three times the assessment is proposed for dry lands.

The ancient practice agreed to by landlords before Mr. Rickards on 29th June 1803 was that garden produce should be divided into three equal portions between Kudiyan, Janmi and Government. This again will mean that fair rent should be twice the assessment. If gardens have not been properly classified in respect of assessment, it should be remedied by a proper classification.

As regards wet lands, what one has to object to is the formula for the calculation of cultivation expenses. The Committee has arrived at 20 Palghat paras as cultivation expenses. This is hardly a proper method to be applied to all lands in all areas. The better method would have been to lay down the principles for arriving at the net produce. A uniform procedure for arriving at the ryots' net income for purposes of assessment is being followed for the last one century. The best way of calculating fair rent would be to fix its ratio to assessment. But if assessment itself has not been based on proper soil classification and is levied on land incomes due to improvements, then cultivation expenses may be calculated under certain defined principles. These are well laid down in the Central Provinces Land Revenue Settlement Act, the recent Burma Committee report and the Taxation Enquiry Committee report to whose recommendation regarding reduction of land revenue the Committee makes special reference. The United Provinces Tenancy Act XVII of 1939 also makes reference " to the cost to the cultivator of maintaining himself and his family " as part of cultivation expenses.

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

In the Central Provinces the Settlement Officer fixes the rent for different classes of tenants. But he is instructed not to raise in future 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 :—

(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 expenditure for seed and manure and on the costs of agricultural operations paid for in cash.

As in ryotwari 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 principal moneys or mortgages.

The recent Burma Committee Report.

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

> " 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 whch 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."

If the Committee wanted to arrive at a formula for cultivation expenses, it could only arrive at a maximum, leaving it to the rent settlement officer to fix it according to the soil and local conditions. But they arrive at an average. An average will hardly be fair. And if the rent settlement officer is to fix the rent, why not leave the whole thing to him, the proposed legislation restricting itself to a mere statement of the principles that should guide such a settlement. The Committee report refers to Mr. MacEwen's Resettlement report and says that the maximum fixed by him was 25 Palghat paras, and that it amounted to $3\frac{1}{2}$ times the seed. That this is not so will be apparent from an extract from the same report. "In the cases given below I have allowed four times the seed (which means that cultivation expenses are five times the seed), an allowance that seems to be fair and that has been given to me by many experienced village officers and cultivators." If therefore the figures of cultivation expenses as arrived at by the Resettlement report are to be followed, the Committee should fix it at five times the seed (including the value of the seed), leaving it to the settlement officer to increase it according to local conditions.

As regards Wynaad, the Committee's proposal errs in considering that the rent is low. The real fact is that the Kurumas are preferred to better class cultivators, as the former do various services in lieu of the low rental. The basis of gross produce for deciding rent is extremely unfair to the tenant. The days of scarcity of labour and fear of malaria have disappeared since the rebellion. The same principles as are proposed for wet lands might equally apply to lands in Wynaad. The Committee has no doubt come to a sound conclusion that fair rent cannot be fixed for pepper lands with fluctuating incomes. But that means that it should provide for fixing the proportion of produce to be divided each year. Pepper cultivation should be treated as a crop-sharing tenancy, the amount of crop-share being fixed in law, and provision also being made for collection and payment of produce rents (vide sections 141 to 145 of U. P. Tenancy Act XVII of 1939). Having laid down the proposal that crop-sharing is good, the Committee finally proposes that the landlord might take the pepper produce of every fifth year. This will only be a gamble and not fair rent, as sometimes the landlord and sometimes the tenant may win or lose according to the yield of the fifth year. Before closing this paragraph on fair rents, I will only quote a passage to show how twice the assessment was considered as fair rent as early as 1883 by the Madras Government. (Vide G.O. No. 245, dated 15th March 1905—recording report of Government—Revenue department—on Settlement Officers' report on financial results.) "If, as seems likely, legislation on behalf of the janmi will be required, it might perhaps take the direction suggested by Sir Henry Winterbotham 15 years ago of partially enforcing the contract made with the leading janmis in 1805 by providing that the rent should be twice the settlement assessment. At the same time fixity of tenure should be conferred on the tenant, and the rent should be recoverable by civil suit."

It is unfortunate that the report does not recognize that fair rent ought not to be based on the surplus produce due to a tenant's industry and improvements. Mr. Logan who made a scheme of fair rents and fixity of tenure on the basis of the customary rents which the landlords were bound to take according to the agreement they made in 1803 was very particular to include the net produce due to ryots' improvements in his scheme. The landlord was to be entitled "to two-thirds of the average annual net produce of the holding, estimated in kind, not in money at the time of entry or actual possession by the cultivator." This clause definitely excluded the surplus income made by a tenant by his own efforts after his entry into the land.

Relief in Emergencies and Times of Fall in Prices and Rules of Enhancement.

Every Tenancy Act has provisions for relief in agricultural calamities and for revision of rent or revenue when there is a sudden fall in prices. (Vide sections 123 and 125 of U.P. Tenancy Act XVII of 1939 and 39-A of Madras Estates Land Act.) The Committee refer to the Lyallapur scheme of reducing revenue in years of fall in prices in page 17 of their report. The same principle ought to hold good in the matter of rents too. Rent should be enhanced only if the area of a holding is in excess or if an improvement has been effected by the landholder, or if the soil of the land has improved or deteriorated owing to natural causes. Mr. T. Prakasam, ex-Revenue Minister of the Government has very ably argued why the benefit of prices should not go either to the landholder in the matter of rent, or to Government in the matter of revenue. Secondly rent and revenue should be a basic rate on the land and not on the produce whose increase is due to a tenant's industry. The Committee mention in their report that Mr. Warden's proclamation was for an unalterable assessment (page 18). That again shows that the early administrators wanted that the benefit of prices should go to the landholder and consequently to the tenant as well.

Commutation Rules.

While the committee admits the need for commutation when there are differences between landholders and tenants, it has made no provision for it. Commutation should be done by revenue officers and be based on certain fixed principles. These principles are :

(1) Omission of years of abnormally high prices (vide case law 1929 M 523 and 1926 M 760 regarding Madras Estates Land Act).

(2) Deductions for merchants' profits and vicissitudes of the season as followed in the ryotwari settlement of land revenue.

(3) Adoption of the average price of the selling months instead of all the twelve months of a year.

Payment of Assessment.

A very strange proposal has been made by the Committee that the tenant should pay the amount of assessment which is in excess over the amount of rent. No landlord has given back the surplus rent he realized in years of high prices to the tenants and consequently there could be no increased payment of rent in years of fall in prices. The better method would be for the landholder to apply for a reduction in land revenue.

Recoveries of Rent.

The Committee's proposal that produce should be exempted from attachment is one to be welcomed. But it also provides for sale of land for arrears of rent. In such a case there should be an upset price fixed for the lands sold for arrears of rent. Only so much of the holding as is necessary to realize the arrears of rent should be sold. (Vide Madras Estates Land Act, section 126, and sections 126, 177-A and 162-A, second proviso of the Bihar Tenancy Amendment Act of 1938). Even as early as 1882 when Mr. Logan proposed his scheme in the Special Commission report, he provided for recovery of arrears of rent by the sale of the cultivator's interest in the holding and not for eviction from the whole holding (Clause XIV).

The Pitch of Revenue Assessment.

The report says (page 18) that " as the Government have themselves conceded that they are not in the position of landed proprietors in Malabar, and that the janmi is the absolute proprietor of the soil, the share of the state in Malabar must be considerably less than the share which the State demands in ryotwari tracts." This is so in Malabar as the State gets only 6/10 of 2/3 of net produce as land revenue while in ryotwari areas the State gets 15/30 of the net produce. The Resettlement report of Mr. MacEwen refers in the last paragraph of page 57 to the existing assessment and what it should be according to Warden's formula. Government can claim according to the report three-and-a-half times its present assessment. This report ends by saying that " I could go on indefinitely quoting such cases but I think these two are sufficient to illustrate the point."

Kudiyiruppus.

The recommendations regarding kudiyiruppus are a great improvement on the existing provisions. A kudiyiruppu should be one's own dwelling house other than that of a landlord. It could not be sublet. The Committee's proposal excludes tenants of rented buildings. It will be difficult to draw the line between tenants of rented buildings and tenants of kudiyiruppus. According to the Committee, fair rent is not to apply to kudiyiruppus held on kanam right. This will be excluding a large number of tenants who are suffering by the fall in prices of coconuts as they have agreed to pay a high rent fixed in times of high prices, from the benefit of fair rent. The " fair rent " provision should apply to kudiyiruppus of all cultivating kanamdars. There should be no eviction for non-payment of rent but only sale of a portion of interest in the holding of the tenant.

In addition to these proposals, I beg to submit two more. Every cultivator with fixity of tenure should have a permanent residence. If this is not available, Government should make provision for the same. Kudiyiruppus should be exempt from attachment and sale.

Forests.

The proposals regarding forests have been very cautiously formulated by the Committee. Considering their national importance, their management should be taken over by Government paying if necessary compensation on the basis of the average annual income realized during 5 or 10 years. The question should also be explored whether rights over forests have been completely handed over to the janmis at any time.

Feudal Levies.

Feudal levies are approved in the report if they are in the lease deed executed by tenants whose fair rents have not been fixed under these provisions. In other words, tenants cultivating special crops, and kanamdars whose fair rent is not fixed will be forced to pay these feudal levies. These levies should be declared once and for all illegal.

Gudalur Taluk.

The Committee has proposed that contracts now in force should not be binding on the tenants as against the compensation due to them under the Compensation for Tenants' Improvements Act in respect of improvements made after 1931. This alone will not be sufficient. The Act should apply also to improvements effected before 1931 in the case of cultivators. It should be noted that the Chettis are the original owners of lands in Gudalur taluk paying a fixed rent on lands to the Raja. The rent collected was to be spent for the temple. Fair rent in Gudalur should be the fair rent as settled according to these provisions or the existing rent whichever is less. The tenants should be permitted also to utilize the natural facilities of the forests.

The Kotas in this taluk have got certain janmam rights over the lands round about Gudalur. These have been recognized in certain court decrees. These rights should be embodied in a statute.

Regarding urban kudiyiruppus there is need for a Rent Act for regulating rents. Unearned increments also in these cases should be taxed by local bodies and Provincial Government.

Revenue Courts.

The report makes no mention of the agency for deciding disputes. Revenue courts will be the proper agency in the first instance with a right of appeal to civil courts in certain matters.

Debt and Tenures.

Sub-tenants have increased owing to their indebtedness under Kanakkars. Secondly, an indebted Kanakkar borrows on usufructuary mortgage. The garden cultivator becomes his own sub-tenant owing to his debts, paying rent to the janmi and interest to the mortgagor. Thirdly, pro-notes are taken for arrears of rent. Payments are adjusted to these debts and in consequence rent falls into arrears. The growth of leases owing to debt may be prevented in two ways. Usufructuary mortgages should be allowed to be closed if the land had been with the mortgagor for twenty years. For the future the period of such mortgages within which both principal and interest should be repaid should be defined as twenty years. The rate of interest should not be more than 6¼ per cent on these mortgages. Redemption of mortgages even before the due date should be permitted. These provisions need be applied only to cultivators holding lands paying a land revenue of Rs. 75 and less.

In order to prevent the conversion of rents into debts and debts into arrears of rent, some provision is necessary. Any payment by a tenant to a superior holder should be treated as that for rent unless the tenant has otherwise given in writing. Secondly, where debts can be proved to be those relating to rent, they should be allowed to be collected only to the extent of rents due for the last three years from the date of suit.

The Non-cultivating Kanamdar.

I have proposed that the existing provisions regarding the non-cultivating kanamdars require no change. But if the cultivating tenants under these kanamdars can be assured of a minimum holding, the surplus lands may be handed over for direct cultivation to them.

Immediate Relief.

Government should give immediate relief to tenants who are unable to pay existing rents owing to the fall in prices. The relief granted in the Madras Debt Relief Act of 1938 was mostly for the kanamdar who allowed his rents to accumulate for a period of twelve years and not for the Verumpattamdar. There should at least be a reduction in the rent of garden lands which is paid in money, in proportion to the fall in prices. Inasmuch as Government themselves have given a remission of 12½ per cent in land revenue, Government should insist that at least the same benefit is passed on to the tenant.

(Signed) E. KANNAN.

DISSENTING MINUTE BY Mr. ABDUR RAHIMAN SAHIB BAHADUR, M.L.A.

I am of opinion that any attempt at settlement of the tenancy question without drastic changes in the system of land tenure itself is well nigh fruitless because it is impossible to devise any means for giving the actual cultivator " full security that if he plants trees, he will be left free to gather their fruits and that if he reclaims land from the waste, he will be left free to enjoy the fruit of his labour and capital " within a system in which there are landlords and intermediaries with a right to share the fruit of the cultivators' labour and a right to evict him from his holding however well regulated these rights be. It is very well to uphold in theory the absolute right of the janmi and the long-established right of the intermediary. These rights when viewed legalistically may seem immutable. But the right of the producer to enjoy the fruits of his labour is irrefutable.

Moplah comes on the scene with this conception of man's right of enjoying the fruits of his labour as taught by his religion. He might have been economically oppressed and socially tyrannised and provoked to revolt by exasperating him under intolerable evictions and imposition of humiliating conditions. For over a hundred years now Moplah outbreaks have been disturbing the peace of this fair land, forcing the attention of the Government on the urgent necessity for tenancy legislation. Government have failed to do justice to the cultivator. The cause of this failure of the Government is attributable partly to their own capitalist mentality which led them to uphold the vested interests, partly due to the fact of the Moplah's own ignorance and illiteracy which incapacitated them from representing at proper quarters their grievances and seeking redress from oppression and tyranny of the landed aristocracy, and partly due to the fact that the local advisers of those in authority were invariably those related one way or other with landlords' interests and so naturally the tenants' interests were more misrepresented and Moplah as a matter of fact was made a fanatic and the outbreaks attributed to fanaticism. When the diagnosis is wrong, the remedy applied should miscarry and aggravate the malady. This is what has been happening in Malabar in relation between Moplah tenants and Hindu landlords.

Now naturally the question echoes back, what then is the real remedy. I can at once say that the Moplah or the South Malabar tenant does not require or seek any particular remedy or special treatment for this disease which is none other than the common disease of Indian peasantry and particularly of the cultivating tenants all over Malabar. The common disease of the peasantry, nay, the country itself is the insufficiency of the farmer. The farmer does not get enough to feed himself and his children and keep himself healthy and work efficiently and allow his children grow sturdy citizens nor are they clothed and housed properly. Then naturally the cattle cannot be expected to be fed and kept up to the standard; the cultivation deteriorates and yield decreases. When thus the agriculturist is finding himself in such a vicious circle, that is, the rural population is slowly but surely going down into ruin and gradual extinction, towns cannot grow, trade cannot flourish and industries cannot develop. In short the nation cannot advance. To avoid this national calamity the ailment of the farmer should be cured. Give him enough to eat and feed his children with and keep themselves healthy and well clothed and housed so that he may produce enough for all to eat and for commerce and industry to flourish, i.e., raise the standard of life of the agriculturist, the national standard will then raise itself. An economic planning is essential to rehabilitate the country-side and co-ordinate the commerce and industries and harmonize the growth of the entire nation in our advancement. But no economic planning will improve, by itself, without the means to carry out the plan, the standard of life of the agriculturist unless he is provided with the wherewithal to finance the scheme. Financing cannot and should not be done by the Government, but it should be made available from the land itself. Abolish landlordism and save the colossal sum of over Rs. 2½ crores flowing into the pockets of the few landlords draining both the fertility of the soil and the health of the cultivator, annually leaving behind both land and man less and less productive and efficient and make it available to the impoverished agriculturist.

Then he will improve himself, his children and cattle, effect all round improvements by employing better means and methods in agriculture and investing his saving in industries and other enterprises. There will be no need for baby weeks and health weeks, children well fed and clothed will grow happy and healthy and they will flock to schools to get educated. Dispensaries and doctors may not be so much in demand as at

present, because all may have enough of good nutritious food and so all may be healthy. All may have employment and so there may not be many robberies and thieves and less need for policing the country may be felt. This rosy picture of a happy and contented life of the agriculturist for which abolition of landlordism is the first and essential condition to be fulfilled, is not going to be realized, I know, under this Government; nor is this Committee or any such other Committee going to consider the real remedy to the extremely bad plight in which the agriculturist is finding himself in or even if forced to consider to recommend any such changes as is envisaged in the above paragraphs.

Knowing as I do that the above much needed reform cannot be effected for the present I would have certainly been happy to join the majority of my colleagues on the Committee and if possible produce an unanimous report. It is rather unfortunate that I have to express my feeling that the majority has been terribly anxious to uphold the *status quo* and in this anxiety of theirs they have even gone back upon the present Act; this retrogression of the majority is traceable in some of the most important of their recommendations touching questions of fixity of tenure, fair rent, etc., and elimination of intermediaries seems unthinkable to them. Except for the fact that the majority of the members of the Committee are either kanamdars themselves or members of kanamdar families or otherwise connected with this mostly non-producing tenure-holders, I cannot understand why their " endeavour has been as far as possible to perpetuate the existing state of things and therefore confer fixity on all real kanamdars without making any distinction between cultivating and non-cultivating kanamdars."

My colleagues can afford to be generous to their own class, the non-producing kanamdar and allow him to sit tight upon the hard-working producer and suck the poor man's blood in the name of some ancient karnavan being born to a janmi or a few pânams having been advanced in olden times by one of the members of the family to a janmi. Should there be no end to this living on interest on money advanced by ancients? Why not the same theory of Dandupat brought in operation by the Debt Relief Act be applied to kanamdar also and he be disposed off at the earliest opportunity—then it would have been easier and simpler to reform tenancy relations. The majority who advance the argument in the case of Gudalur tenant that the investing Rs. 1,000 and recovering in 12 years Rs. 2,820 in rent " had thus recouped his capital more than twice over " do not feel the injustice of allowing the kanamdar who might have " recouped " his capital two hundred times over to continue fleecing the hard-worked, ill-fed and ill-clad cultivator. I feel that all non-cultivating kanamdars who might have received back in rent twice the amount of kanam they might have advanced might cease to receive any further rent or to have any claim to the kanam amount and the cultivating tenant should have full enjoyment of the rent thus saved. Moplahs might have been content to take kanam, but I have no doubt that they could have been " content " if at all, they were only in the inavailability of better rights just as France could now be considered " content " to acquiesce in her present plight by Germany.

The majority report is halting in so far as even waste lands and forests are concerned. They have been endeavouring to perpetuate the undesirable state of leaving vast areas of productive land being still left waste. I would suggest that any man be free to cultivate any waste land after notifying the Collector and enjoy it paying only usual assessment to Government. For this the Government may declare immediately after enacting the law all waste lands taken over by them and those who are supposed to possess them may be given the option to commence improving them within six months and complete reclamation within three years. All forests, wastes and irrigation and other water sources should be taken over by Government; and not only the timber but rich mineral resources available also should be developed and worked in national interest and should not be allowed to be exploited and gain monopolized by individuals.

I am not for compensating anybody. Neither the cultivating tenant should be asked to compensate, the non-cultivating landlord nor the Government, the janmis who claim rights over lands, forests, wastes and rivers, fish and pebbles in rivers, beasts and stones in forests and all sorts of imaginable things they claim as theirs. But nobody can seriously now think of compensating for using these rights which they had usurped from the community, and kept to themselves. If anybody is to compensate it must be janmis who have so far deprived the community the rightful use of all these.

I said that the majority report in certain respects is retrogressive. The majority seem to hold out a vision of rosy future to the tenant by seemingly conferring fixity of tenure to all. They even say that the fixity they confer is not much different from occupancy right. According to Sir Charles Turner, occupancy right though non-existent in this name was existing in practice in old Malabar, that is the tenant enjoyed an inalienable right over the land he cultivated and he built his own house on. The majority

report so circumscribe what little they confer in the name of fixity that it is highly doubtful if ever the tenant can enjoy this precious right. A tenant who fails to pay rent due in Makaram by Kumbam can be evicted even if he pays up by Medam. Thus fixity is nullified. So I suggest to change the conditions as follows :—

(1) Failure to pay the whole or part by the 30th Kanni (next) will entitle the landlord to sue for arrears.

(2) Failure to pay in full three years' rent or partly in more time but aggregating three years' rent within a decade should make the tenant liable to furnish security.

(3) Failure to pay the whole or any part of the rent for two consecutive years may make the tenant liable for eviction.

In the matter of eviction for *bona fide* cultivation by janmi also a maximum of 20 acres must be fixed of the land alienable by janmi and a minimum of 5 acres to be left over with the tenant. And a further restriction on the landlord that his family income should not be over Rs. 1,500 a year if he should be allowed to evict tenants and take to agriculture.

All kudiyiruppu-holders should have occupancy right with regard to kudiyiruppu and all those kudiyiruppu-holders who have no other holdings in land or other immovable properties or have no income exceeding Rs. 60 per month should be exempted from rent. All kudiyiruppu-holders except Ulkudi-holders should have the option of purchasing their holdings (kudiyiruppus) whenever they can afford to do so without waiting the landlord's pleasure to sue him for eviction.

Ulkudi-holders also must be given fixity of tenure and if they should be evicted the landlord should be able to provide him with another site for a home.

With regard to fixing of fair rent I am sorry to say that the authors of the report have gone back even from the present Act. The Act provides 25 Palghat paras for cultivation expenses. Rao Sahib V. Krishna Menon, Calicut, Sri V. Raman Menon, Parappanangadi, Senior Raja of Amarampalam, Sri Ambalakkat Ramunni Menon, Perintalmanna, all are for allowing four times actual seed for cultivation expenses and 5 Calicut or 7½ Palghat paras to be taken as seed actually required. These are weighty witnesses who cultivate and are not overzealous to help tenants. So I suggest cultivation expenses be taken as 30 Palghat paras and fair rent be half the net produce for wet lands. For dry lands wherever the present contract rates be lower than the fair rent based on formulae suggested by the report, then that be fixed as fair rent.

To meet the cost of the fair rent fixing machinery only a nominal charge of annas four or so be levied on every holding from the cultivator or 5 per cent of his fair rent fixed be only collected from the tenant.

With regard to renewal and renewal fees I cannot agree with the majority. There is no reason why the tenant should be making this extra payment. If the renewal is to be made every 12 years as an acknowledgment of the overlordship, the tenant need only renew his document and whatever he pays must go to the Government in the form of stamp and fees and not to the private pocket of the landlord.

The tenant be exempted from liability to pay assessment in excess of his proportion due on his holding.

(Signed) MD. ABDUR RAHIMAN.

APPENDIX.

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STATISTICS.

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	Statistics of—	
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APPENDIX A.

QUESTIONNAIRE.

Origin and Nature of Rights.

1. What in your opinion is the origin of

(1) Janmam,
(2) Kanam,
(3) Kuzhikanam,
(4) Verumpattam,
(5) Other tenures generally prevalent in Malabar?

2. What was the nature of the interest which the janmi and the various tenure-holders had in the land?

3. Have judicial decisions effected any changes in the rights of the janmi and the tenure-holders, which are not warranted by the origin and nature of their various interests?

4. (*a*) Do you consider that the Revenue authorities and Civil Courts were justified in presuming that all lands in Malabar (including waste and forest lands) belong to private owners?

(*b*) Would you place any restrictions on the rights at present enjoyed by the owners of waste lands, forests and irrigation sources?

(*c*) Would you confer upon the Government the right to take possession of waste lands and grant them to cultivators?

Intermediaries.

5. (*a*) Do you think it desirable to simplify the system of land tenures in Malabar by eliminating the janmi or any of the intermediaries? If so, how would you do this and what compensation, if any, would you grant?

(*b*) What is your opinion of the following suggestions:—

(1) To allow compulsory purchase of the landlord's or intermediary's rights by the tenants;
(2) To limit the area in possession of the actual cultivator to that suitable for an ideal farm; and
(3) To prohibit sales by cultivators to non-cultivators.

6. Do you think it desirable to protect the under-tenure-holder from the consequences of default by any of the intermediaries above him? If so, how would you do this? Sections 18, 26, 42 (2) and 43 (2).

Rent and Fair Rent.

7. (*a*) What proportion of the produce do you think is a reasonable share that should be allotted to the janmi, tenant and the intermediate tenure-holders?

(*b*) Do you know what share of the produce the Government assessment generally represents? Does the assessment in any case, to your knowledge, exceed this share? If so, what do you think is the reason for it?

(*c*) Who should pay the assessment—the janmi, kanamdar, kuzhikanamdar or the person in possession?

8. Do the provisions in the present Act for fixing the fair rent work any hardship on any of the parties concerned? If so, how would you amend them with reference to— Chapter II.

(*a*) Wet lands,
(*b*) Garden lands,
(*c*) Dry lands?

9. Do you think it advisable to fix fair rent in some proportion to the assessment? If so, in what proportion should it be fixed for—

(*a*) Wet lands,
(*b*) Dry lands,
(*c*) Garden lands?

10. Do you think it necessary to provide for remission of rent by the landlord in proportion to the remission of assessment which he gets?

11. Should weights and measures to be used in tenancy and rental transactions be standardized? If so, what standards should be adopted?

Renewal and Renewal Fees.

12. What is the origin and nature of renewal fees?

13. (*a*) Are you in favour of abolishing the system of renewals?

(*b*) If so, how would you confer fixity of tenure on the tenant concerned and what compensation, if any, would you give to his immediate landlord?

(*c*) If not, do you think the provisions of the present Malabar Tenancy Act require amendments in any respect? Chapter IV.

RELINQUISHMENT.

Section 44. 14. Is it desirable to revise the present legal provisions regarding relinquishment?

FIXITY OF TENURE AND EVICTIONS.

15. (*a*) Do you favour the grant of occupancy rights to the actual cultivator, and if so, under what conditions?

(*b*) After the passing of the present Act, have evictions been made on unjustifiable grounds? If so, please specify as many instances as you can? Do you consider it necessary to amend the Act regarding grounds for eviction? If so, how would you amend it?

Sections 14 and 20.

16. Are you in favour of abolishing or restricting the landlord's right to sue for eviction of a tenant on the ground—

Sections 14 (5) and 14 (6), 20 (5) and 20 (6). (1) that the landlord requires the holding bona fide for cultivation or for building purposes for himself or his tarwad? and

Sections 13 and 14. (2) that the tenant has not furnished security for one year's fair rent?

Chapter VI. 17. (*a*) Is it desirable to secure fixity of tenure for all kudiyiruppu holders? If so, what compensation, if any, should be paid to the landlord?

(*b*) Would you make any distinction between urban and rural kudiyiruppus?

(*c*) What is the minimum extent that should be granted on permanent tenure for the kudiyiruppu in (1) urban and (2) rural areas and on what conditions?

COMPENSATION FOR IMPROVEMENTS.

Malabar Compensation for Tenants' Improvements Act. 18. Is it desirable to revise the present legal provisions regarding compensation for improvements or to fix a time-limit for the execution of a decree for surrender on payment of the value of improvements?

FEUDAL LEVIES.

19. What levies of a feudal character are made? Please give instances. What legal provisions should be made to prohibit them?

EXTENSION OF THE TENANCY ACT TO INCLUDE FUGITIVE CULTIVATION AND THE CULTIVATION OF PEPPER.

20. Is it desirable to extend the provisions of tenancy legislation to—

(*a*) Fugitive cultivation,

(*b*) Cultivation of pepper.

If so, are any modifications necessary?

EXTENSION OF THE ACT TO KASARAGOD AND GUDALUR TALUKS.

21. Should the intended legislation be extended to—

(*a*) Kasaragod taluk of South Kanara district,

(*b*) Gudalur taluk of the Nilgiris district?

If so, are any modifications necessary?

LEGAL PROCESSES.

22 (*a*) Does the procedure of the present Act work hardship to any of the parties concerned? If so, how would you amend it?

(*b*) What in your opinion are the measures to be adopted for the fixing and collection of rent and renewal fees in order to make the procedure simpler and less costly?

(*c*) What is your opinion of the following suggestions:—

(1) To provide for summary trial of all proceedings under the present or proposed Act.

(2) To provide for trial of all proceedings under the present or proposed Act in revenue courts.

(3) To grant the right to file suits or applications for recovery of renewal fees.

GENERAL.

23. Are there any serious disabilities pressing on tenants in Malabar not covered by the above questions? If there are, are they peculiar to Malabar or common to the relationship of landlord and tenant throughout India?

24. Are there any differences in the disabilities from which the tenants suffer in North and South Malabar, respectively?

APPENDIX B.

Statement No. 1.

Statistics of total area, etc., of each of the taluks of Malabar district for faslis 1345, 1346 and 1347.

Taluks.	Total extent.	Cultivated area.	Area of cultivable waste.	Area of non-cultivable waste.	Area of Government Forest.	Area of non-Government Forest.	Area of wet land.	Area cultivated with coconuts.	Area cultivated with arecanuts.
***Fasli* 1345.**	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.
Chirakkal	436,271	178,415	114,531	142,328	..	..	53,755	39,428	6,937
Kottayam	309,816	115,185	79,361	80,819	34,060	..	22,760	41,464	7,324
Wynaad	524,831	75,216	74,739	4,933	134,198	..	46,396	..	..
Kurumbranad	268,800	193,805	67,763	6,032	..	..	42,944	102,999	7,561
Calicut	186,631	111,434	67,778	6,850	27	..	26,110	40,183	7,246
Ernad	618,496	204,314	280,082	25,496	101,567	..	68,641	35,804	20,402
Walluvanad	562,045	199,094	129,374	175,408	52,476	..	87,362	17,770	12,004
Palghat	411,539	202,274	22,371	147,584	18,408	17,242	123,736	10,755	3,000
Ponnani	272,093	215,928	37,766	14,879	..	..	89,474	64,102	20,512
Cochin	1,158	899	43	211	..	..	225	653	6
***Fasli* 1346.**									
Chirakkal	436,271	183,353	109,605	142,328	..	..	53,752	39,513	7,066
Kottayam	309,816	119,998	74,532	80,819	34,059	..	22,763	39,917	7,970
Wynaad	524,831	75,852	74,699	4,941	134,169	..	46,223	..	..
Kurumbranad	268,800	211,195	50,357	6,048	..	..	42,955	103,348	7,952
Calicut	186,631	112,457	66,725	6,850	27	..	26,115	40,442	7,284
Ernad	618,496	205,670	280,082	25,496	101,567	..	68,729	37,372	19,222
Walluvanad	562,045	202,749	126,942	175,408	52,476	..	87,386	17,236	12,001
Palghat	411,539	207,037	22,371	142,974	18,409	17,242	123,805	10,807	2,993
Ponnani	272,093	215,834	37,276	14,944	..	..	89,505	64,593	19,695
Cochin	1,158	831	43	279	..	..	225	598	6
***Fasli* 1347.**									
Chirakkal	440,420	181,789	115,319	142,328	..	..	53,759	39,094	6,703
Kottayam	309,737	125,659	68,892	80,819	34,059	..	22,764	41,635	8,053
Wynaad	524,831	75,484	75,603	4,934	134,661	..	46,307	..	..
Kurumbranad	268,835	192,469	68,987	6,010	..	..	42,939	102,490	7,749
Calicut	186,631	113,309	65,989	6,850	27	..	26,115	40,588	7,390
Ernad	618,496	203,296	280,082	25,496	101,567	..	68,731	35,687	19,716
Walluvanad	562,045	212,520	117,427	175,408	52,476	..	87,383	17,603	12,186
Palghat	411,539	204,908	22,371	144,970	18,409	17,242	123,818	10,098	2,929
Ponnani	272,093	213,924	38,952	14,773	..	..	89,509	65,330	20,431
Cochin	1,158	807	67	279	..	..	225	597	6

Statement No. 2.

Statistics of area, etc., Gudalur and Kasaragod taluks.

Gudalur Taluk.

Item and particulars.	Fasli 1346.	Fasli 1347.	Fasli 1348.
	ACS.	ACS.	ACS.
1 Total extent of the taluk	79,602·62½	79,600·43½	79,602·58½
2 Cultivated area of janmam lands	16,160·12	15,842·12	15,544·22
3 Area of cultivable waste in janmam lands	63,442·50½	63,758·31½	64,058·36½
4 Area of non-cultivable waste in janmam lands	..	..	..
5 Area of Government forest	59,526·91	59,526·91	59,526·91 *
6 Area of non-Government forest in janmam lands	..	..	..
7 Area of wet land in janmam lands	4,498·32	4,498·32	4,498·32
8 Area cultivated with coconuts	..	..	..
9 Area cultivated with arecanuts	..	..	..

* Forest notified under section 16 of the Madras Forest Act.

Kasaragod Taluk.

Item and particulars.	1936.	1937.	1938.
	ACS.	ACS.	ACS.
1 Total extent	487,597·00	487,597·00	487,597·00
2 Cultivated area	126,243·00	129,171·00	129,476·00
3 Area of cultivable waste	320,004·00	317,090·00	316,785·00
4 Area of non-cultivable waste	21,076·00	21,062·00	21,062·00
5 Area of Government forest	20,274·00	20,274·00	20,274·00
6 Area of non-Government forest	103,963·51	104,116·98	104,206·98
7 Area of wet land	60,475·43	60,494·92	60,503·75
8 Area cultivated with coconuts	25,117·28	25,304·48	26,124·81
9 Area cultivated with arecanuts	5,287·36	5,398·10	5,322·89

Statement No. 3.

Fugitive cultivation.

Statistics of fugitive cultivation in the Malabar district in each of the five years before the passing of the Malabar Tenancy Act, 1929, in each of the plains taluks.

Taluks.	Area in fasli 1334.	Area in fasli 1335.	Area in fasli 1336.	Area in fasli 1337.	Area in fasli 1338.	Average.
	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.
Chirakkal	29,764·39	29,835·80	29,321·31	28,162·00	27,813·77	28,979·45
Kottayam	12,550·67	11,704·70	13,255·67	11,701·00	12,155·56	12,273·52
Kurumbranad	22,688·00	42,989·00	4,038·00	13,267·00	11,076·00	18,811·60
Calicut	6,569·31	7,858·75	6,947·75	6,330·00	6,410·20	6,823.20
Ernad	21,259·53	24,782·69	24,254·00	25,642·00	13,792·13	21,946·07
Walluvanad	22,327·00	24,751·00	25,013·00	22,876·00	23,893·65	23,772·13
Palghat	9,838·30	12,284·73	14,293·27	15,228·00	14,036·20	13,136·10
Ponnani	4,929·61	4,694·63	4,610·37	4,689·00	4,782·45	4,741·21
Cochin	1·61	..	..	..	..	0·32
					Total extent ..	130,583·60

Statistics of fugitive cultivation in the Malabar district in the past five years in each of the plains taluks and of Kasaragod taluk of South Kanara district.

Taluks.	Area in fasli 1343.	Area in fasli. 1344.	Area in fasli 1345.	Area in fasli 1346.	Area in fasli 1347.	Average.
	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.
Chirakkal	21,901·38	22,004·73	20,415·81	25,078·14	23,340·71	22,548·15
Kottayam	6,694·67	6,752·77	5,483·87	6,971·01	7,906·64	6,781·79
Kurumbranad	4,422·01	4,745·56	5,273·96	5,786·82	5,801·99	5,206·06
Calicut	4,662·33	3,771·35	4,142·60	3,954·31	4,869·92	4,520·10
Ernad	9,700·96	8,898·99	9,029·90	10,312·21	11,385·53	9,865.52
Walluvanad	18,696·31	19,249·22	17,168·82	22,247·17	24,409·48	20,354·20
Palghat	7,362·31	6,044·80	5,368·03	8,546·41	8,897·45	7,243·80
Ponnani	2,862·06	3,586·98	2,216·43	2,426·54	3,857·67	2,989·93
Cochin	1·75	..	..	..	0·54	0·46
				Total extent ..		79,510·01
Kasaragod	1,468·71	2,082·63	1,216·30	1,193·95	1,015·76	1,395·47

Fugitive cultivation in Wynaad and Gudalur taluks.

Wynaad Taluk.

Fasli.	Area under Fugitive wet.	Area under Fugitive dry.	Remarks.
	ACS.	ACS.	
1336	14,584	..	
1337	15,184	..	
1338	15,041	..	
1343	14,277	235,852	Assessed to pepper corn rate of 6 pies per acre.
1344	14,495	235,189	
1345	14,675	234,913	
1346	14,641	234,538	
1347	14,519	234,434	

Gudalur Taluk.

Fasli.	Area under fugitive wet cultivation.	Area under fugitive dry cultivation. (Government waste only.)
	ACS.	ACS.
1345	193·58	840·65
1346	249·77	995·16
1347	223·90	923·27
1348	286·41	877·19

Statement No. 4.

Pepper cultivation.

District and taluk.	Area under pepper in 1933–34.	1934–35.	1935–36.	1936–37.	1937–38.
	ACS.	ACS.	ACS.	ACS.	ACS.
Malabar district—					
Chirakkal	32,960	32,752	32,824	32,964	32,970
Kottayam	21,130	18,912	19,860	25,281	25,565
Kurumbranad	7,548	9,050	9,248	10,309	8,998
Wynaad	9,440	9,241	8,815	8,341	7,641
Calicut	5,043	4,434	4,819	4,925	5,514
Ernad	4,782	4,995	5,187	5,154	5,349
Ponnani	1,991	1,978	2,072	1,920	1,999
Walluvanad	5,638	6,451	6,286	6,258	6,880
Palghat	422	351	342	340	363
Cochin	..	..	..	..	..
Total	88,954	88,164	89,453	95,492	95,279
South Kanara district—					
Kasaragod	5,370	5,720	5,850	5,760	6,110

Statement No. 5.

Area cultivated with oranges in each of the taluks of Malabar in each of the five years from 1933.

	Fasli 1343.	Fasli 1344.	Fasli 1345.	Fasli 1346.	Fasli 1347.
	ACS.	ACS.	ACS.	ACS.	ACS.
Wynaad	213	237	306	700	750
Walluvanad	1	1	1	1	1
Other taluks	..	..	..	..	..

Statement No. 6.

Area under groundnut, cotton and ginger.

Taluks.	Area under groundnut in 1936–37.	1937–38.	1938–39.	Area under cotton in 1936–37.	1937–38.	1938–39.
	ACS.	ACS.	ACS.	ACS.	ACS.	ACS.
Malabar—						
Chirakkal	..	..	1	123	105	120
Kottayam	..	..	..	..	..	..
Kurumbranad	..	..	..	..	..	..
Wynaad	..	..	..	..	..	..
Calicut	..	..	..	..	..	..
Ernad	..	..	..	..	..	..
Ponnani	..	..	..	..	..	..
Walluvanad	..	..	..	101	41	55
Palghat	3,393	4,749	4,929	268	175	190
Cochin	..	..	..	..	..	..
Total	3,393	4,749	4,930	492	321	365
South Kanara—						
Kasaragod	..	..	..	190	190	190
The Nilgiris—						
Gudalur	..	..	..	..	..	..

Taluks.	Area under ginger in 1936–37.	1937–38.	1938–39.
	ACS.	ACS.	ACS.
Malabar district—			
Chirakkal	46	47	57
Kottayam	11	36	38
Kurumbranad	584	678	682
Wynaad	58	171	367
Calicut	658	683	719
Ernad	3,175	3,450	3,669
Ponnani	978	1,082	1,061
Walluvanad	3,364	4,053	4,060
Palghat	760	794	677
Cochin	..	..	..
Total	9,634	10,994	11,330

Note.—Similar information is not available for the taluks of Kasaragod and Gudalur.

Statement No. 7.

Statistics of Litigation under Malabar Tenancy Act.

Applications.

Section under which application is filed.	Number of applications filed in the year.											Result of applications disposed of			
	1930.	1931.	1932.	1933.	1934.	1935.	1936.	1937.	1938.	1939.	Total.	For Plaintiff.	For Defendant.	Withdrawn or compromised.	Pending.
NORTH MALABAR.															
Section—															
11	..	14	22	8	7	11	9	3	4	3	81	27	47	7	..
13	..	6	14	3	3	2	6	..	1	..	35	9	25	1	..
22	63	418	179	150	93	86	51	49	50	38	1,177	480	601	56	40
23 (*b*)	3	56	35	14	20	23	14	9	10	4	188	134	42	6	6
33	5	46	27	20	14	10	4	3	13	3	145	64	69	8	4
34	2	4	..	1	1	1	2	1	..	..	12	1	11	..	..
40	1	7	1	..	..	1	1	..	..	..	11	4	7	..	..
SOUTH MALABAR.															
11	1	20	3	3	6	23	7	29	18	..	110	64	28	9	9
13	..	..	1	5	..	..	..	..	1	..	7	6	1	..	..
22	19	132	51	54	37	31	53	25	59	33	494	308	124	33	29
23 (*b*)	8	60	22	34	34	38	50	46	56	13	361	240	78	33	10
33	5	60	20	20	15	23	21	17	21	22	224	139	41	18	26
34	1	..	..	..	..	..	..	..	..	..	1	1	..	..	..
40	2	2	1	..	..	..	..	..	3	..	8	6	..	2	..

Suits.

Section under which suit is filed.	Number of suits filed in the year										Total.	Results of suits disposed of			
	1930.	1931.	1932.	1933.	1934.	1935.	1936.	1937.	1938.	1939.		For Plaintiff.	For Defendant.	Withdrawn or compromised.	Pending.
NORTH MALABAR.															
14 (1)	4	4	19	7	4	12	9	4	1	2	66	46	7	13	..
14 (2)	9	9	15	17	3	5	10	5	..	9	82	59	9	8	6
14 (3)	22	153	212	148	140	124	134	86	98	51	1,168	817	50	228	73
14 (4)	9	5	12	4	9	3	1	3	2	2	50	5	3	2	..
14 (5)	147	221	196	180	176	66	58	74	50	37	1,205	828	214	123	40
14 (6)	4	5	3	7	1	..	..	2	2	4	28	14	9	5	..
14 (7)	5	12	6	6	..	4	4	2	2	2	43	38	..	5	..
20 (1)	10	19	8	8	2	2	1	3	3	3	59	41	5	13	..
20 (2)	15	9	22	10	3	4	2	7	4	4	80	47	14	17	2
20 (3)	252	209	258	152	219	129	110	93	57	23	1,502	1,275	66	130	31
20 (4)	6	..	12	12	..	..	3	..	..	1	34	20	..	14	..
20 (5)	70	228	304	150	114	84	95	102	66	48	1,261	922	138	114	87
20 (6)	1	2	6	4	4	6	11	6	4	1	45	34	1	10	..
SOUTH MALABAR.															
Section—															
14 (1)	31	9	12	14	10	15	5	10	2	1	109	69	17	22	1
14 (2)	18	10	1	67	..	5	6	12	5	4	128	104	15	6	3
14 (3)	457	701	664	754	842	612	649	794	527	386	6,386	4,412	1,285	443	246
14 (4)	5	5	1	5	..	3	..	3	4	..	26	21	4	..	1
14 (5)	18	36	28	20	31	44	36	36	39	15	303	118	148	5	32
14 (6)	3	1	4	7	8	19	9	10	11	1	73	49	23	1	..
14 (7)	..	..	..	..	..	..	..	..	1	..	1	1	..	..	..
20 (1)	12	4	4	..	1	2	8	11	6	..	48	34	7	4	3
20 (2)	8	2	4	11	1	6	4	14	13	..	63	39	2	4	18
20 (3)	56	160	240	217	215	350	261	374	177	181	2,231	1,092	849	181	109
20 (4)	8	..	3	..	..	..	..	..	..	..	11	8	3	..	..
20 (5)	23	55	51	36	77	35	67	62	44	16	466	200	192	55	19
20 (6)	21	1	13	6	9	8	7	6	13	12	96	34	51	5	6

Further statistics of litigation under the Malabar Tenancy Act and the Malabar Compensation for Tenants' Improvements Act.

NORTH MALABAR.

	1933.	1934.	1935.	1936.	1937.	1938.	Up to 1st August 1939.
MALABAR TENANCY ACT—							
Suits—							
Total number of suits under the Malabar Tenancy Act.	2,934	3,430	3,485	3,245	3,408	1,836	
Number of suits for rent only	2,219	2,744	3,041	2,842	3,056	1,558	
Appeals—							
Number instituted under Malabar Tenancy Act.	32	17	22	11	13	10	Figures not given for North Malabar.
Number disposed of—							
In favour of appellant	13	11	8	5	5	4	
In favour of respondent	19	6	14	6	8	5	
Number compromised or withdrawn ..	..	..	..	..	..	..	
Number pending	..	..	..	..	..	1	
MALABAR COMPENSATION FOR TENANTS' IMPROVEMENTS ACT—							
Number of cases decreed	309	198	181	149	120	82	
Number executed on payment of the compensation ordered.	159	110	90	71	46	36	
Number not executed	150	88	91	78	74	46	

Statement No. 7—cont.

SOUTH MALABAR.

	1933.	1934.	1935.	1936.	1937.	1938.	Up to 1st August 1929.
MALABAR TENANCY ACT—							
Suits—							
Total number of suits filed under the Malabar Tenancy Act.	1,137	1,194	1,099	1,352	1,326	842	616
Number of suits for rent only	832	826	891	892	864	677	426
Appeals—							
Number instituted under the Malabar Tenancy Act.	249	173	240	234	216	216	102
Number disposed of—							
In favour of the appellant	74	40	35	47	48	75	..
In favour of respondent	148	75	116	89	105	109	..
Number compromised or withdrawn ..	21	20	32	35	28	40	..
MALABAR COMPENSATION FOR TENANTS' IMPROVEMENTS ACT—							
Number of cases decreed	338	376	322	432	420	313	123
Number executed on payment of the compensation ordered.	155	169	171	161	158	85	24
Number of suits not executed	95	66	47	109	111	128	69

Statement No. 8.

Statistics of Litigation in Kasaragod and Gudalur taluks.

KASARAGOD TALUK.

Year.	Number of suits for eviction.	Decided in favour of plaintiff.	Decided in favour of defendant.	Compromised or withdrawn.	Number of suits based on melcharths out of those mentioned in column (2).
1934	121	97	7	17	3
1935	135	106	6	23	1
1936	89	63	6	20	1
1937	104*	76	9	15	4
1938	162*	63	Nil	22	8
Total ..	611	405	28	97	17

* Four suits out of 104 instituted in 1937, and 77 suits out of those instituted in 1938, i.e., 81 suits in all, are still pending.

Statistics showing the number of suits filed for eviction in Gudalur taluk during the last five years.

GUDALUR TALUK.

	1934.	1935.	1936.	1937.	1938.
Number of suits filed	3	3	..	3	4
Number decreed in favour of the plaintiff ..	3	3	..	2	2
Number decreed in favour of the defendant.	..	..	..	..	..
Number of suits compromised or withdrawn.	..	..	..	..	..
Number of suits based on melcharths ..	..	..	..	..	..
Number of suits still pending	..	..	..	1	2

Statement No. 9.

Melcharths and renewals.

SOUTH MALABAR.

Taluks.	1924.	1925.	1926.	1927.	1928.	1934.	1935.	1936.	1937.	1938.
Melcharths.										
Calicut	46	36	47	50	57	3	5	..	2	1
Ernad	133	113	118	125	124	54	45	45	41	51
Ponnani	174	187	175	156	120	31	34	24	23	16
Walluvanad	94	78	68	63	67	8	6	13	16	9
Palghat	84	40	23	22	19	12	3	5	4	1
Cochin	..	..	..	..	..	..	..	..	..	..
Total ..	531	454	431	416	387	108	93	87	86	78
Renewals of Kanam.										
Calicut	761	931	967	1,048	1,101	525	482	390	411	404
Ernad	1,687	1,687	1,569	1,716	1,917	1,088	1,166	1,006	1,122	968
Ponnani	2,527	2,399	2,277	2,265	2,293	1,366	1,301	1,159	1,216	1,172
Walluvanad	2,150	2,603	2,693	2,091	2,330	1,541	1,467	1,414	1,678	1,574
Palghat	1,002	1,325	1,054	1,403	1,209	999	943	528	924	828
Cochin	1	..	..	2	..	1	..	..	2	..
Total ..	8,128	8,945	8,560	8,525	8,850	5,520	5,359	4,497	5,353	4,946

Statement No. 9—cont.

SOUTH MALABAR—*cont.*

Taluks.	1924.	1925.	1926.	1927.	1928.	1934.	1935.	1936.	1937.	1938.
Renewals of Kuzhikanams.										
Calicut	350	383	407	297	324	365	343	318	342	309
Ernad	61	65	76	47	45	15	15	45	37	24
Ponnani	63	89	95	89	66	34	26	72	78	9
Walluvanad	..	..	..	..	..	..	..	..	..	..
Palghat	50	100	50	90	70	45	42	66	35	25
Cochin	..	1	..	1	..	..	1	2	..	1
Total ..	524	638	628	524	505	459	427	503	492	368
Renewals of Customary Verumpattams.										
Calicut	110	101	92	54	300	131	124	198	205	121
Ernad	564	781	622	636	840	684	746	466	548	450
Ponnani	237	307	251	223	182	99	76	89	132	98
Walluvanad	289	309	259	307	328	94	132	100	111	118
Palghat	56	108	82	98	78	57	46	56	52	66
Cochin	2	2	1	..	1	..	2	..	1	..
Total ..	1,258	1,608	1,307	1,318	1,729	1,065	1,126	909	1,049	853

NORTH MALABAR.

Taluks.	1924.	1925.	1926.	1927.	1928.	1933.	1934.	1935.	1936.	1937.
Melcharths.										
Chirakkal	554	438	384	407	423	103	106	54	51	44
Kottayam	434	419	424	536	441	111	100	79	56	58
Kurumbranad ..	948	929	883	946	983	222	189	199	165	150
Wynaad	13	10	1	20	9	319	..	..	..	..
Calicut (part) ..	393	371	361	337	331	93	61	40	37	27
Total ..	2,342	2,176	2,053	2,246	2,187	848	456	372	309	279
Renewals of Kanam.										
Chirakkal	511	472	472	530	497	433	546	488	481	488
Kottayam	731	814	704	823	857	735	757	903	888	853
Kurumbranad ..	4,664	4,221	3,791	3,997	4,517	2,773	2,618	2,732	2,970	2,872
Wynaad	11	9	18	14	12	451	10	7	5	11
Calicut (part) ..	1,352	1,328	1,292	1,403	1,471	1,097	1,051	1,069	1,070	1,001
Total ..	7,269	6,844	6,277	6,767	7,354	5,489	4,982	5,199	5,414	5,225
Renewals of Kuzhikanam.										
Chirakkal	3,567	3,581	3,223	3,185	3,076	1,680	2,144	2,017	2,004	1,827
Kottayam	2,255	2,305	2,197	2,660	2,981	2,064	1,744	2,010	2,333	2,143
Kurumbranad ..	2,475	2,510	2,415	2,799	2,799	1,767	1,799	2,028	1,955	1,914
Wynaad	12	4	9	9	12	8	6	10	5	9
Calicut (part) ..	398	318	292	312	306	336	340	366	350	415
Total ..	8,707	8,718	8,136	8,965	9,174	5,855	6,033	6,431	6,647	6,308
Renewals of Customary Verumpattam.										
Chirakkal	132	84	100	86	175	48	65	57	90	81
Kottayam ..	502	531	763	630	346	240	291	281	384	472
Kurumbranad ..	606	640	794	711	757	333	314	327	380	308
Wynaad	24	31	27	29	53	34	8	14	13	14
Calicut (part) ..	6	10	15	12	10	4	10	8	6	4
Total ..	1,270	1,296	1,699	1,468	1,341	659	688	687	873	879

Statement No. 10.

Statistics of revenue coercive processes in each of the taluks of Malabar from 1933 to 1938.

Taluks.	Fasli 1343.	Fasli 1344.	Fasli 1345.	Fasli 1346.	Fasli 1347.
Total number of demand notices.					
Chirakkal	4,510	3,921	10,798	10,691	15,335
Kottayam	5,809	5,404	8,266	12,838	14,458
Wynaad	4,299	4,112	4,445	4,569	3,380
Kurumbranad	16,744	14,275	19,482	22,962	28,135
Calicut	5,845	5,890	8,854	10,361	16,443
Ernad	5,704	5,651	10,034	12,131	16,527
Walluvanad	6,707	7,890	8,160	11,153	17,702
Palghat	2,575	3,230	3,569	3,870	5,584
Ponnani	10,138	11,378	13,303	21,461	25,532
Cochin	38	37	44	49	51
Total ..	62,369	61,788	86,955	109,485	143,147
Total number of distraint or attachment notices.					
Chirakkal	802	741	1,170	1,159	1,472
Kottayam	582	527	1,425	1,545	1,291
Wynaad	1,213	1,018	632	305	237
Kurumbranad	2,077	1,930	3,101	3,090	4,859
Calicut	1,254	952	1,150	912	1,127
Ernad	1,513	1,691	2,563	2,439	2,555
Walluvanad	1,241	1,640	2,194	2,129	3,028
Palghat	444	555	592	427	406
Ponnani	2,319	2,671	3,610	3,859	3,828
Cochin	..	1	..	..	..
Total .	11,445	11,726	16,437	15,865	18,803

Statement No. 10—cont.

Taluks.	Fasli 1343.	Fasli 1344.	Fasli 1345.	Fasli 1346.	Fasli 1347.	Fasli 1343.	Fasli 1344.	Fasli 1345.	Fasli 1346.	Fasli 1347.
	Total number of distraints.					Total number of sale notices.				
Chirakkal	595	528	932	1,021	1,326	802	741	1,170	1,159	1,472
Kottayam	582	527	1,234	1,545	1,291	582	527	1,425	1,545	1,291
Wynaad	847	754	516	235	220	87	114	102	38	31
Kurumbranad ..	2,077	2,048	3,031	3,089	4,849	2,067	1,895	3,091	3,099	4,859
Calicut	996	611	840	818	1,062	1,254	952	1,150	911	1,127
Ernad	1,513	1,691	2,434	2,311	2,437	1,513	1,691	2,434	2,311	2,437
Walluvanad	1,241	1,640	1,420	2,129	3,028	1,227	1,470	1,481	2,129	3,028
Palghat	455	608	658	436	437	444	555	592	427	406
Ponnani	2,319	2,671	3,610	3,859	3,828	2,319	2,671	3,610	3,859	3,259
Cochin	..	1	..	..	..	..	1	..	..	..
	10,625	11,079	14,675	15,443	18,488	10,295	10,617	15,055	15,478	17,910
	Number of defaulters whose movables were sold for arrears of revenue.					Number of defaulters whose immovable property was sold for arrears of revenue.				
Chirakkal	22	21	36	25	49	38	37	44	37	50
Kottayam	45	30	106	77	54	155	16	55	20	14
Wynaad	38	45	23	1	17	49	69	79	37	61
Kurumbranad ..	66	27	43	38	58	99	45	65	40	5
Calicut	66	15	16	16	16	144	135	116	66	20
Ernad	396	7	15	11	13	8	3	5	24	40
Walluvanad	5	28	19	15	6	20	87	97	34	1
Palghat	2	11	14	11	14	..	1	1	2	9
Ponnani	38	82	24	58	47	20	16	44	26	..
Cochin	..	1	..	..	..	..	..	..	..	..
	678	267	296	252	274	533	409	506	286	200

Statistics of revenue coercive processes for each of the taluks of Malabar from 1924 to 1929.

Taluks.	Fasli 1334.	Fasli. 1335.	Fasli 1336.	Fasli 1337.	Fasli 1338.	Fasli 1334.	Fasli 1335.	Fasli 1336.	Fasli 1337.	Fasli 1338.
	Total number of demand notices.					Total number of distraint or attachment notices.				
Chirakkal	1,008	819	677	731	812	76	54	46	44	25
Kottayam	800	1,009	1,050	983	784	98	56	47	38	16
Wynaad	1,336	1,507	1,583	2,885	1,281	375	334	302	561	285
Kurumbranad ..	3,388	3,898	3,807	4,470	4,905	399	400	401	302	363
Calicut	668	662	1,270	1,264	1,197	143	98	116	139	84
Ernad	1,540	1,326	1,451	2,088	2,171	291	236	241	328	303
Walluvanad	2,688	2,668	5,062	4,621	3,480	475	393	599	402	400
Palghat	768	705	731	899	898	114	117	126	102	97
Ponnani	3,723	3,835	3,808	4,371	3,622	805	741	946	962	683
Cochin	21	38	44	34	60	2	1	1	..	1
	15,940	16,467	19,483	22,346	19,210	2,798	2,430	2,825	2,878	2,257
	Total number of distraint.					Total number of sale notices.				
Chirakkal	80	40	35	33	19	96	54	46	44	25
Kottayam	37	40	18	15	16	61	16	29	23	16
Wynaad	280	232	180	357	180	40	70	36	83	81
Kurumbranad ..	250	220	284	233	311	399	400	401	302	363
Calicut	19	16	65	40	36	143	98	116	139	77
Ernad	279	270	228	316	342	291	236	241	328	303
Walluvanad	475	392	599	402	400	474	393	599	402	384
Palghat	103	105	112	102	97	114	117	126	102	97
Ponnani	767	741	928	962	683	805	741	946	962	683
Cochin	1	1	1	..	1	2	1	1	..	1
	2,291	2,057	2,450	2,460	2,085	2,425	2,126	2,541	2,385	2,030
	Number of defaulters whose movables were sold for arrears of revenue.					Number of defaulters whose immovable property was sold for arrears of revenue.				
Chirakkal	10	1	3	..	..	..	..	..	..	..
Kottayam	3	1	2	3	2	3	5	2	2	1
Wynaad	9	17	9	6	7	31	53	27	27	74
Kurumbranad ..	8	6	9	6	5	3	..	..	..	..
Calicut	..	..	1	3	3	12	2	..	11	1
Ernad	2	5	..	1	..	..	2	1	1	..
Walluvanad	1	4	7	1	5	..	..	1	..	..
Palghat	1	1	4	4	4	..	..	..	..	..
Ponnani	1	..	3	2	2	4	..	..	..	..
Cochin	1	..	1	..	1	1	..	..	..	..
	36	35	39	26	29	54	62	31	91	76

Statement No. 11.

Statistics of revenue coercive processes in Gudalur and Kasaragod taluks.

GUDALUR TALUK.

	1933–34. Fasli 1343.	1934–35. Fasli 1344.	1935–36. Fasli 1345.	1936–37. Fasli 1346.	1937–38. Fasli 1347.
(1) For each of the five years before 1929 ..	Not available as the records were destroyed.				
(2) For each of the five years after 1933—					
(*a*) Total number of demand notices ..	..	..	..	2	3
(*b*) Total number of distraint or attachment notices.	156	154	130	318	254
(*c*) Total number of distraints	36	1	3	..	5
(*d*) Total number of sale notices	..	..	..	2	1
(*e*) Sales	..	..	..	..	..
(1) Number of defaulters whose movable property was sold for arrears of revenue.	..	..	..	..	..
(2) Number of defaulters whose immovable property was sold for arrears of revenue.	..	..	..	..	..

KASARAGOD TALUK.

Particulars.	1924.	1925.	1926.	1927.	1928.	1933.	1934.	1935.	1936.	1937.	1938.
(*a*) Total number of demand notices.	1,582	1,617	1,683	1,719	1,826	4,230	2,410	2,995	3,002	3,596	3,904
(*b*) Total number of distraint or attachment notices.	780	843	889	881	927	1,592	1,601	1,912	1,922	2,282	2,570
(*c*) Total number of distraints ..	420	448	442	420	555	564	1,176	1,355	1,357	1,469	1,619
(*d*) Total number of sale notices ..	674	555	610	576	574	1,104	1,318	1,331	1,394	1,636	1,933
(*e*) Sales	209	213	250	239	232	333	324	344	380	511	530
Number of defaulters whose property was sold—											
(1) Movable	163	170	177	173	168	66	207	235	307	314	354
(2) Immovable	29	33	36	38	42	51	102	146	156	169	152

Area cultivated with orange in each of the five years from 1933 —*Nil.*

Statement No. 12.

Statistics of joint registration under section 14 of the Malabar Land Registration Act in each of the taluks of Malabar for each of the five years from 1933.

Taluks.	Fasli 1343.	Fasli 1344.	Fasli 1345.	Fasli 1346.	Fasli 1347.
Chirakkal	..	31	58	281	788
Kottayam	186	132	353	715	553
Wynaad	62	58	117	103	82
Kurumbranad	63	202	3,888	1,245	511
Calicut	542	663	776	1,087	1,383
Ernad	1,109	1,278	1,630	2,673	2,505
Walluvanad	306	720	3,966	8,930	5,145
Palghat	2,047	3,480	5,792	4,173	4,390
Ponnani	..	..	6,437	9,387	11,119
Cochin	..	..	..	..	..

APPENDIX C.

DETAILS OF CALCULATION OF THE AVERAGE YIELD OF CULTIVATED LANDS IN MALABAR.

Total area of Malabar	3,595,785 acres.
Cultivated area in Malabar	1,506,992 acres.
Area under paddy	864,825 acres.
Average yield of paddy lands per acre without making any allowance for expenses of cultivation and vicissitudes of season in the case of double crop lands	170 Palghat paras.
Average yield of paddy lands per acre without making any allowance for expenses of cultivation and vicissitudes of season in the case of single crop lands	100 Palghat paras.
Taking double crop lands to be twice as much in extent as single crop lands, the approximate average yield of paddy lands	150 Palghat paras.
150 paras of paddy commuted into money at the average rate of the last three years	Rs. 75.
Deduct Government assessment of Rs. 5 per acre	Rs. 70.
Average yield of garden lands planted with coconut	1,500 nuts.
1,500 nuts commuted into money at the average rate of the last three years	Rs. 30.
Deduct Government assessment of Rs. 5 per acre	Rs. 25.
Taking paddy lands and garden lands to be almost equal in extent, the average yield of cultivated lands in Malabar comes to	Rs. 50 per acre.

APPENDIX D.

KASARAGOD TALUK.

Ajanoor Village.

List of gardens which do not yield sufficiently to pay assessment including cess as per last Settlement and their present rent.

Survey and subdivision number.	Wet, dry or garden.	Extent.	Assessment.	Present rent.	Patta number.
		ACS.	RS. AS.	RS. AS.	
6–1	Garden	1·30	5 14	7 0	195
8–3	Do.	0·36	2 0	2 0	283
4	Do.	1·97	11 1	9 0	282
5	Do.	2·72	15 5	12 0	148
17–2	Do.	1·17	6 9	6 0	571
4	Do.	1·47	8 14	6 0	400
6	Do.	0·70	3 15	3 0	155
19–1 A	Do.	3·32	18 11	15 0	154
1 B	Do.	1·10	6 3	6 0	1176
2	Do.	1·14	7 11	6 0	151
6	Do.	0·78	5 4	6 0	566
20–1 B	Do.	0·15	1 0	1 0	15
3	Do.	0·95	6 7	6 0	419
22–1	Do.	3·67	24 12	6 0	773
23–2	Do.	0·54	3 10	4 0	188
3	Do.	2·69	18 3	12 0	335
5	Do.	2·22	15 0	15 0	5
24–2	Do.	1·40	9 7	8 0	5
4	Do.	3·07	20 12	15 0	153
26–4	Do.	1·04	8 3	6 0	153
5	Do.	0·10	0 13	0 8	153
42–1	Do.	1·39	9 6	8 0	15
3	Do.	1·64	11 11	10 0	15
6	Do.	1·12	7 9	6 0	250
9	Do.	0·97	6 9	6 0	294
44–1	Do.	0·82	5 9	4 0	1197
3	Do.	1·79	12 1	10 0	201
4	Do.	0·35	2 12	2 0	8
7	Do.	0·76	6 0	5 0	446
8	Do.	4·92	33 3	25 0	294
50–7	Do.	1·36	9 3	6 0	5
11	Do.	0·89	6 0	5 0	488
53–4	Do.	0·76	5 2	5 0	609
54–4	Do.	0·85	5 12	5 0	590
7	Do.	1·00	6 12	5 0	5
10	Do.	1·18	7 15	5 0	476
56–4	Do.	2·20	14 14	10 0	507
57–4	Do.	10·72	72 6	60 0	5
60–5	Do.	2·16	14 9	10 0	929
6	Do.	1·01	6 13	5 0	541
7	Do.	1·57	10 10	8 0	930
61–6	Do.	1·03	6 15	5 0	193
63–2	Do.	1·94	13 2	8 0	248
2	Do.	1·21	8 3	6 0	367
5	Do.	2·00	13 8	8 0	401
66–2	Do.	4·70	37 0	20 0	198
3	Do.	1·73	13 10	8 0	1093
69–2	Do.	5·99	47 3	30 0	5
74–3	Do.	3·95	31 0	20 0	5
75–1	Do.	4·74	37 5	25 0	5
4	Do.	1·49	11 12	8 0	1006
77–3	Do.	2·85	19 4	15 0	937
1	Do.	1·08	8 8	6 0	182
5	Do.	1·97	15 8	12 0	75
326	Do.	10·23	63 1	40 0	5
327–1	Do.	0·60	1 6	1 0	18
2	Do.	1·30	8 12	6 0	33
4	Do.	0·76	4 4	3 0	1210
5	Do.	0·82	4 10	4 0	879
328–4	Do.	1·09	7 6	5 0	33
5	Do.	1·64	9 4	5 0	772
6	Do.	1·00	6 12	4 0	646
7	Do.	1·08	7 5	6 0	521
8	Do.	2·46	16 10	10 0	72
341–1	Do.	1·72	13 8	13 0	1025
2	Do.	2·34	18 7	15 0	685
3	Do.	1·04	8 3	6 0	739
4	Do.	2·21	14 15	10 0	986
343–1	Do.	1·06	5 15	5 0	967
2	Do.	0·72	4 1	3 0	454
454–3	Do.	0·74	4 3	3 0	626
4	Do.	0·72	4 1	4 0	436
5	Do.	0·47	3 11	3 0	183
6	Do.	1·35	7 10	6 0	32
11	Do.	0·91	5 2	2 0	8

Survey and subdivision number.	Wet, dry or garden.	Extent.	Assessment	Present rent.	Patta number.
		ACS.	RS. AS.	RS. AS.	
359–2	Garden	2·46	16 10	8 0	659
360–1	Do.	1·60	10 13	6 0	33
2	Do.	0·44	3 0	2 0	61
391–2	Do.	1·08	6 10	6 0	404
5	Do.	0·67	4 8	4 0	123
11	Do.	1·72	7 12	4 0	5
394–5	Do.	1·57	10 10	8 0	249
6	Do.	0·76	5 2	5 0	685
7	Do.	0·41	2 12	2 0	781
8	Do.	0·84	5 11	2 8	681
9	Do.	0·47	3 3	2 0	1078
396–3	Do.	0·74	3 5	3 0	623
9	Do.	0·72	4 1	4 0	626
10	Do.	0·44	3 0	3 0	372
397–1 B-1	Do.	0·52	3 8	1 0	104
398–1 B	Do.	0·12	0 13	0 4	75
413–7	Do.	0·80	4 8	4 0	113
9	Do.	1·40	6 5	4 0	735
414–3	Do.	0·45	1 8	1 0	758
4	Do.	0·96	3 4	2 0	759
6	Do.	3·78	12 12	4 0	685
8	Do.	0·68	2 5	1 0	116
10	Do.	1·98	6 11	4 0	835
416–1	Do.	0·50	1 11	1 8	754
2	Do.	0·63	2 2	1 8	835
4 A	Do.	0·56	1 14	1 8	526
5	Do.	0·86	2 14	1 8	526
417–5	Do.	0·80	5 6	2 0	756
6	Do.	0·60	4 1	4 0	167
418–3 A	Do.	0·27	1 13	1 8	619
3 C	Do.	0·57	2 14	2 0	619
3 D	Do.	0·64	4 5	3 0	830
4	Do.	0·48	3 4	2 0	831
5	Do.	0·42	2 13	2 0	832
6	Do.	0·37	2 8	2 0	829
7	Do.	0·84	5 11	5 0	729
9	Do.	2·52	19 1	12 0	834
419–3	Do.	0·52	3 8	2 0	834
4	Do.	2·22	15 0	12 0	840
5	Do.	0·86	5 13	4 0	685
7	Do.	1·06	7 3	6 0	107
9 A	Do.	1·75	11 13	10 0	107
420–2	Do.	0·76	5 2	2 0	104
3	Do.	1·82	12 5	8 0	912
4	Do.	1·73	11 11	8 0	420
5	Do.	1·02	6 14	6 0	790
423–4	Do.	1·54	10 6	10 0	724
426–1	Do.	0·80	6 5	5 0	703
2	Do.	0·68	4 9	3 0	214
4	Do.	1·42	9 9	6 0	970
6	Do.	1·36	9 3	6 0	729
7	Do.	0·64	4 5	4 0	819
428–1	Do.	1·04	7 0	5 0	836
4	Do.	1·22	8 4	6 0	628
6	Do.	0·91	6 2	4 0	518
7	Do.	2·49	16 13	10 0	792
9	Do.	1·92	12 15	10 0	498
429–1	Do.	1·48	10 0	6 0	33
3	Do.	1·19	8 1	4 0	617
432–2	Do.	2·08	14 1	6 0	75
4	Do.	1·96	13 4	6 0	827
6	Do.	0·89	6 0	4 0	839
10	Do.	1·78	12 0	6 0	631
450–2	Do.	3·24	14 9	10 0	628
3	Do.	0·91	4 2	2 0	820
4	Do.	1·53	6 14	4 0	821
356–9	Do.	3·64	12 5	8 0	72
277–8	Do.	0·48	3 13	3 0	124
9	Do.	0·43	3 6	3 0	255
10	Do.	1·04	8 3	6 0	22
11	Do.	0·86	6 12	6 0	22