REPORT OF THE MALABAR TENANCY COMMITTEE

VOLUME II

EVIDENCE

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THE MALABAR TENANCY
COMMITTEE

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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?

(*c*) The assessment should be paid by the janmi. If the janmi desires joint registry with his tenant, he can apply under section 14 of the Malabar Land Registration Act.

8. (*a*) It will be advantageous to both parties if the rent now levied is fixed as the fair rent.

The rent in the Act is not sufficient to cover the assessment in respect of wet lands reclaimed by the tenant. In section 5 of the Act, the fair rent should be fixed so as to include the assessment in addition to the one-fifth.

(*b*) Similarly, in the case of garden lands, if the trees belong to the tenant, the fair rent should also include the assessment in addition to the one-fifth now allowed by the Act. If the trees belong to the janmi, the fair rent should also include assessment in addition to the two-fifths.

(*c*) In the case of dry lands, the fixing of the fair rent as three times the assessment has resulted in much hardship to the janmis. Besides samai, gingelly and horsegram cultivated on dry lands, groundnut and ginger are also cultivated. In Palghat taluk, the tenant is getting from Rs. 9 to Rs. 20 per acre on samai and modan cultivation, excluding all expenses; and on groundnut, he is getting Rs. 60 as profit. Ginger is not a common crop in Palghat. The dry assessment is 5 annas to Rs. 2-4-0 per acre. In respect of lands yielding a profit of Rs. 9 the janmi gets a rent of only 15 annas; and in respect of lands yielding a profit of Rs. 60, the janmi gets a rent of only Rs. 6-12-0. This is an unjust system. The janmi should get half the net income derived by the tenant exclusive of expenses.

9. The fixing of fair rent on the basis of assessment will never be correct.

10. I have no objection.

11. I do not think so.

12. Lands yielding large income were given to the tenants as security for the loans obtained by janmis. It was the practice to calculate this income at intervals and adjust it from the mortgage liability. This is renewal. It was the practice to effect renewals within periods varying from two to six years. My information is that, in 1852 or so, the Sadar Court fixed the kanam period at 12 years. My opinion is that this period of 12 years has no connexion with *Purushantharam* or Mahamakam.

13. (*a*) The system of renewals may be abolished provided the janmi is given, annually, two-thirds of the verumpattam after deducting the interest on the kanam amount and the assessment. This is very advantageous to the tenant. Renewal fee need not be remitted in a lump; and he does not lose the 12 years' interest thereon. No stamp duty, registration fee and writing charges are necessary. And the janmi gets a permanent income.

(*b*) Even if the system of renewal is abolished, the kanam tenant need not get any fixity of tenure beyond the existing right. There should be no prohibition on evicting the tenant for the landlords own cultivation.

(*c*) Yes, on the lines indicated above.

14. No.

15 (*a*) The verumpattamdar should not be given any right which will render it impossible to evict him.

(*b*) I am not aware of any eviction on unjustifiable grounds.

16. There should be no prohibition on evicting the tenant for the landlord's own cultivation. Unnecessary suits have increased on account of the words "bona fide". A verumpattamdar who cannot pay *munpattam* should not be granted any sort of occupancy right.

17. (*a*) The kudiyiruppu holders need not be given any fixity of tenure other than that now allowed by the Act.

(*b*) The kudiyiruppus in rural and urban areas should not be dealt with on the same basis.

(*c*) The kudiyiruppu holders in rural areas should be given the site on which the kudiyiruppu is situated as well as an equal extent to be added on to it.

18. Yes. After 1942, jack trees, palmyra trees, mango and tamarind trees will not yield any rent. If the janmi has to evict the tenant, he will have to pay for the trees for which he does not get any rent. This is unjust. Therefore, there should be an amendment to provide that compensation need not be paid for the trees in respect of which no rent is derived.

19. I am not aware of any such levies.

20. (*a*) No.
(*b*) I do not know.

21. (*a*) & (*b*) I do not know.

22. (*a*) The janmi should have the right to file applications for recovery of renewal fees.
(*b*) Some measures should be devised for the easy recovery of rent.
(*c*) (1) I have no objection.
(2) No.
(3) There should be facilities for recovery of rent and renewal fees on application.

23. No.

24. I do not know.

By the CHAIRMAN :

What I have said in paragraph 3 of my memorandum is based upon the statement in Logan's Manual. I am not aware that the tenancy in Malabar and Travancore is the same. I have seen documents as old as 150 years. I have not seen documents 800 years old. With the growth of population, it is advisable to bring more and more waste lands under cultivation, but it is not proper to vest the Government with power to take away waste lands from the hands of the janmis. It is no doubt a fact that the janmis are doing nothing to bring more lands under cultivation. Since the coming into force of the law providing for partition, the junior members of the families of janmis have begun to feel the need for such waste lands for cultivation purposes. It will therefore be better to leave them in the hands of the landlords or janmis. It has become necessary even now to have such lands for the junior members of the family. They are beginning to improve the land. They have to take to the land. I think there are men who are willing to take up cultivation, though nobody has yet begun it. If there are any irrigation sources in the possession of the janmi, there is no objection to the Government having power to take possession of them in the interest of the country as a whole.

I do not think any great change is necessary in the existing system. I will mention later the one or two changes necessary. It is very difficult to collect rent from the kanamdars. I do not think it is possible to devise any system free from complications. According to me, it will not be possible to eliminate the intermediaries.

The present rent is the fair rent. There is no necessity for any change. I have no objection to have the fair rent as fixed in the existing Tenancy Act. There is considerable difficulty to fix the fair rent according to the provisions in the Tenancy Act. The rents mentioned in the kanam documents are ordinarily less than the fair rent according to the Act. It will therefore be better to treat the present rent as the fair rent. As far as the Palghat taluk is concerned, the tenants have had no occasion to complain about the present rent. The provisions in the Act for fixing fair rent are applicable to kanamdars only for fixing the renewal fee.

As far as this part of the country is concerned, I think that there is not much difficulty caused by the use of various types of weights and measures. I am not very well conversant with variations in the same taluk.

I do not object to the spreading of the renewal fee over a period of twelve years ; in other words, if reasonable rent is paid every year to the janmi, I do not object to the renewal fee being abolished altogether.

The term "bona fide" has caused unnecessary litigation. There should be no restriction in evicting the tenant by the landlord if it is for his own use. When the landlord has to prove his own necessity, it has to be done through the courts so that a suit becomes obligatory. As a result of the proposed amendment, it would not be necessary to prove that the land is required for cultivation purposes. As it will amount to this that the janmi will not have to prove that the land is required by him for actual cultivation, I think I should alter my original answer. I have no objection to retaining the words "bona fide". The produce of trees such as jack fruit trees, mango trees and tamarind trees are not taken into account in fixing fair rent. The janmi should not be compelled to pay compensation for such trees. It would not better serve my purpose if the produce of the trees were also taken into account in fixing the fair rent.

By Sri M. NARAYANA MENON:

There is not much difference between kanam and karipanayam. Under the karipanayam tenure the tenant could be evicted at any time but there is a period of twelve years fixed under the kanam tenure. Two hundred years ago there was not this difference. The kanam and karipanayam systems of tenure existed then. I cannot say what was the difference between them. There were many systems of tenure in the old days like anubhavam, saswatham, vepu and karangari. If the renewal fee is converted into michavaram and one lump sum payment is to be made by the tenant to the janmi, the tenant may be permitted to purchase the janmam right of the janmi, if the compensation is fixed on the basis of michavaram and if proper value is given to the right purchased. Twenty years' purchase will not suffice. I will give an illustration. The land yields a rent of 1,000 paras of paddy; it has a kanam of 500 rupees. There will be no improvements in the property. The michavaram will be very low. Twenty years' purchase on the basis of michavaram will be very low. That will not be the proper janmam value. Under the Tenancy Act, $2\frac{1}{4}$ years' profit is the renewal fee for a period of twelve years. The janmam value cannot be calculated on the basis of that michavaram and proportionate renewal fee. There are not two separate classes, cultivating and non-cultivating. All can cultivate and people hereafter will have to cultivate. If a person is not a cultivator, but after a year or two he wants to cultivate, there can be no objection to it. I do not think that the verumpattamdars should be given security of tenure. No tenant, for instance, in the Palghat taluk has any good interest in the land that he cultivates. I do not think he will change even if security of tenure is given. If a tenant puts a sufficient quantity of manure on his plot and the next year the janmi evicts him, he is likely to lose. But no janmi in his senses would evict a tenant who is taking so much interest in the land. I am of the opinion that there should be no restriction with regard to verumpattam cultivation. If security of tenure is to be given security should be taken from the tenant at double the years' rent. The janmis are put to considerable trouble on account of the non-payment of revenue by the kanamdars to the Government. Under the rules there is provision for joint registration. If that is done, it will be a good remedy. When the lands are brought to sale it is the janmam right that is sold and not the kanam right. I think it would be better to sell the kanam right first.

By Mr. R. M. PALAT:

I know that the tenures differ considerably even as between North and South Malabar. I cannot say whether there will be more dissimilarity as between Malabar and Travancore than as between North and South Malabar. There is increase of population among the landlords even as there is among the tenants. The members of the landlord's family would be the people who could better bring the lands under cultivation than others. They in whom the ownership of the land vests should be given preference in this regard over those that do not possess it for the reason that they would be in a better position to make use of the land and subserve the purpose for which the lands are held. There was no instance in my family when waste lands had been asked for by anybody and had been refused. There is no demand from people for such lands. I cannot say how the Government could give it to others. The karnavans give lands to strangers even in preference to anandaravans because of the ill feelings existing between them. The anandaravans further do not pay. I have no objection to the Government taking control of irrigation sources, after paying compensation to the owners. Nobody would take up lands if the entire yield were fixed as rent. As the produce of jack and other trees are taken into account for the purpose of fixing the revenue, the rent also should be increased. When I said that the existing rent might be taken as the fair rent, I referred to verumpattam and not to michavaram. I have reasons to say that twenty years' verumpattam would not be the proper value for the janmam right. It is not possible to find out the correct rent of the kanam lands now. The junior members of the Palghat Raja's family are worse off than ordinary verumpattamdars even though they are members of an erstwhile ruling family. Mostly every janmi family is indebted. The revenue is paid mostly by distraining jewels and vessels. It is because of the improvements to the land that the revenue has increased. The person responsible for the improvements should have to pay that revenue. Under the present practice one man makes the improvements and another pays the revenue. The person who enjoys the produce, whether it be the janmi, kanamdar or the verumpattamdar, must pay the revenue. I have no objection to give notice to others, and to make notice obligatory. I have no objection to giving proportionate remission. Even now, when there is no revenue remission, if there is failure of crops, we remit rent. So, when the Government themselves remit revenue, there is no objection to give proportionate remission. The landlords also are making presents to their tenants when there are marriages, births, etc., in the families of the latter.

By Sri U. GOPALA MENON:

I have no amendments to propose regarding the rights given to the tenants under the Act. I do not know if the janmis want to take away the rights given to the tenants

In most documents kanapattam has not been fixed. I do not know what the rate of kanapattam formerly in vogue was. There is a customary rate for verumpattam. I cannot say definitely what that rate is. "Cherulabham" means the net income which a tenant gets after meeting the cultivation expenses and the dues to the lessor. I do not know what the rate for cultivation expenses in Palghat taluk is. I have not cultivated lands and I cannot give any idea of those expenses. I cannot say whether or not it will be just to give the tenant half of the net income. I cannot say also whether michavaram, pattam, etc., have increased or decreased. Families of tenants have not suffered similarly. The janmis are suffering because the expenses of their families have increased. Before the advent of the British there was no system of renewals. The cycle of *vyazham* (Makara Vyazham) shown in the old documents was intended to fix the date of a document. I cannot say why they mentioned it like that. I know that *Vyazhavattam* means 12 years. I do not know whether in the olden times the reign of one Perumal in Kerala was counted in this manner. I do not know that at the end of each reign of a Perumal the renewal of all documents pertaining to his land took place. Ordinarily there is no proportion fixed between the kanam amount and the produce of the land. Many of the old kanams were profitable to the kanam tenants. There are ancient tarwads whose homesteads are on such kanam lands. I cannot say how kanam tenures so advantageous to the tenants came into existence. Where the kanam amount is large, the janmi collects two per ten which is the renewal fee. I have not heard of kanam *purappadu* being called two in ten.

I have not heard of the system of cowle said to have been in force some years ago. There is no objection to granting the waste lands for cultivation by tenants, provided the members of the janmis' families are given the right of refusal. Though many members of the families of janmis are educated persons, they are ready to take to cultivation. In my family four persons have taken to cultivation. There are ten adult male members in my family and these people are cultivating the lands given to them under the partition in the family. I do not want that the members of the non-partitioned families of janmis should have the right to take to the land. I do not know that timber from the forests is being rapidly removed; but if it is a fact that the want of rains in our parts is due to the large-scale cutting and removal of trees from the forests, it ought to be stopped. I do not know of any fugitive cultivation in the hilly tracts. For the arrears of revenue the crops of the verumpattamdar are attached, but the janmi pays up the arrears. Within my knowledge there has been no case where crops have been sold for such non-payment of revenue. If, however, such cases occur, the verumpattamdar can pay the revenue and deduct it from the rent due to the lessor. I cannot say if the tenant should be given protection in cases where the revenue payable exceeds the rent due to the lessor.

By Sri R. RAGHAVA MENON:

The janmis in Malabar will have no objection to giving fixity of tenure to persons who are residing in kudiyiruppus if some purappadu or nominal rent is fixed.

Under the existing Malabar Tenancy Act, if a land is required for the janmi's own use, the tenant can be evicted. I agree that only when the condition of the janmi and his family necessitate the taking up of a land for cultivation for their own livelihood, he should be allowed to evict a kanamdar. In my opinion that is covered by the word "bona fide" in the Act. If the janmis want to evict for their purposes, they must be allowed to do so, the only condition being that the janmi and his family want to cultivate such land on account of their poor condition. If a janmi's family has got enough lands for their needs under actual cultivation, the present provision in the Act must continue. I am unable to say why, but I am of opinion that this condition should not be applied to verumpattamdars. My opinion is that under the existing Tenancy Act, the renewal fee is not higher than it was before. I have not investigated what a verumpattamdar in Palghat taluk will be getting towards his share of the profit after deducting his cultivation expenses and the rent payable to the janmi per acre. In our taluk the patta paras contain more than 10 and are 11, $10\frac{3}{4}$ or $10\frac{1}{2}$ edangalis. The ordinary standard para is 10 edangalis. I cannot say if any of the lessors got surrenders from the tenants under registered surrender deeds and released the same lands orally to the same tenants because of the rumoured appointment of this Committee. I have not heard of many suits for eviction after the appointment of this Committee. When the land is enjoyed by the kanamdar the revenue is paid by the janmi in order to keep in the janmi's own name the liability to pay the assessment. There will be the owner's name in the patta.

By P. K. MOIDEEN KUTTI Sahib Bahadur:

We have not more than between 500 and 1,000 acres of waste in our family. If the members of the family of the janmi do not require those lands, there is no harm in giving them to the cultivators. Nobody ordinarily evicts good tenants; but we cannot give up

that right to evict even if good tenants are there. We want this power to get back the lands because we may require them for our own use. I need not give reasons why I should have power to use my own property. There are no feudal levies in this taluk.

By Sri E. KANNAN:

I have not said anywhere that it would be better if the Tenancy Act were repealed. In the majority of cases the relations between landlords and tenants are cordial in the Palghat taluk. I am not aware of a Karshaka Sangham in this taluk or in North Malabar. It is not practicable to fix the rent according to the Tenancy Act. Because it would be difficult to find out the yield for the past three years. That is the main reason. There is no desire for a change in regard to the irrigation sources. Nobody else than the owners takes water from the water sources.

By MD. ABDUR RAHMAN Sahib Bahadur:

The indebtedness of the janmi is due to the reduction in rent and other dues to them and to the increase of expenditure. Further there is the low price of paddy, failure of crops and non-receipt of rent. We help the tenants or give them any concession if the land is affected by flood, drought or other calamity. We do not give the same facilities to the kanamdars. I say that the landlords require compensation from the Government if they take over the control of irrigation sources, because storing water in tanks and other such things can only be done by human effort and expenditure. If you refer to canals, I cannot answer. I agree that the verumpattamdar has now fixity of tenure and I do not question that. I am not aware of any general grievance that the people could not afford to meet their obligations to the landlord.

By Sri E. M. SANKARAN NAMBUDIRIPAD:

By proper behaviour I mean that the tenant should discharge his obligation to the landlord and should not allow his lands to deteriorate. My own opinion is that those who want to evict at will can do so but it is always conditioned by the fact that the janmi has an interest in the land and he would not evict a person who really looks after his lands. But all the same there is that likelihood. I am not doing it myself.

By Sri A. KARUNAKARA MENON:

The matter of dispute between the janmi and the tenants is the renewal fee. There are renewals both outside and in the Courts. There has been a reduction in the number of renewals and the Act is the reason for it. Even before the Act, there was no provision for compulsory renewal. The Act does not permit the landlord to compel renewal and he has to file a suit for eviction, which means much difficulty. But before the Act, if a suit for eviction was filed, you can get an eviction decree. Even under the Act if the tenant does not ask for renewal, he can be evicted, but if he puts in a petition for renewal, he can at that stage get the renewal. The result of the Act is that the landlord has to go to the court for renewals. There will be a remedy for this, if there is an easier way of fixing the renewal fee. It would be better to fix the renewal fee on a fixed income basis. I object to fix the renewal fee on the basis of revenue. If an agreed rent could be fixed as between the landlord and the tenant, I have no objection to the abolition of the renewal fee. I do not think that the suggestion made under question 13 is by far onerous than the renewal fee now paid under the Act. I cannot say whether the assessment is always more than the dues to the janmi. I am not for arbitrary eviction by landlords. But if you restrict the rights of the landlords still further than what the Tenancy Act does, it will lead to complications and discord.

By the CHAIRMAN:

To compel the landlords to pay the value of improvements or of the trees that have not been taken into account in fixing the rent would be hard. The answer that I have given to question 18 is wrong.

By Sri K. MADHAVA MENON:

I am paying about Rs. 150 assessment since partition. Two years ago my tarwad was partitioned. The number of people without lands may have no comparison with that of people owning lands. Those who have land depend upon it mainly for their livelihood. I cannot say what should be the limit of possession of an individual. In my family four anandaravans are cultivating. They each have 3 or 4 acres. They have not entrusted such lands to tenants for cultivation after partition. Ordinarily a man can cultivate about 40 acres of land. I am not prepared to say that if one has more than 40 acres of land, the excess may be given to a man who has no land. The majority of verum-

pattamdars would be unable to give even one year's rent as security. The owner should cultivate the land. That is my opinion. But it will be an impossible thing for some janmis to do. It will be impossible to give fixity of tenure to the verumpattamdar at any time. I have no objection to giving them permanency to the kudiyiruppu holders. The difference between the kudiyiruppu holders in urban and rural areas is that in the country-side the prices are now low and in the urban areas the prices are high. No distinction need be made between them in granting fixity of tenure. As they need not be evicted, no question of renewal arises in their case.

By Mr. P. K. KUNHISANKARA MENON :

Some remedy may be found without the need for going to court for recovering the rent. I cannot give an answer offhand. If the kanam tenant wants his money back, I do not object to our making a provision for that in the Tenancy Act.

By Mr. R. M. PALAT :

The forests are being denuded for fugitive (Punam) cultivation. In Malabar some forests are owned by janmis and some by Government. I cannot say who among them gives greater facilities to the tenants for fugitive cultivation, for grazing and for green manure. I have not heard of numerous suits for arrears of rent against the verumpattamdars. The landlord should have the same rights for irrigation sources as for a well which he has dug. There should be no difference made between the kudiyiruppu holders in urban areas and in the mufassal, but permanency should not be given to those who occupy houses in towns on monthly rentals. The kanam tenant should be allowed to surrender his land and get the money from the landlord. His improvements should be paid for.

2 Sri Rao Sahib N. N. Rama Ayyar, B.A., B.L., Landlord, Nellicherry, Palghat.

1, 2 & 3. I have no sufficient knowledge to give an opinion as to when the several terms mentioned in question (1) originated, as to what each of them then connoted, as to the relationship each bore to the other, and so on and as to the changes, if any, which time has effected in their incidents. Only an antiquarian or a research student can answer such questions. Even if he is able to unravel all these points, I submit that the Government should not, on the strength of such theoretical conclusions, give the go-by to the declarations of policy enunciated in G.O. No. 2346, Law (General), dated the 29th July 1927. So far as lands held directly by a verumpattamdar under a janmi are concerned, there is no essential difference between the former and the pattadar's tenant of the East Coast, except that the Malabar verumpattamdar is in a better position by being afforded the protection of the Malabar Compensation for Tenants' Improvements Act.

4. (*a*) I cannot accede to the position that there was merely a 'presumption' about the private ownership of all lands by the early British administrators. The revenue authorities and civil courts of early days must, on the other hand, be presumed to have done nothing more than recognize an existing fact, viz., the private ownership of all lands in the district.

(*b*) & (*c*) I am against placing any restrictions on the rights enjoyed by the owners of waste lands, forests and irrigation sources. Nor would I confer upon the Government the right to take possession of waste lands and grant them to cultivators.

5. (*a*) & (*b*) (1) The existing rights of the janmis and intermediaries are very sacred and substantial and no attempt should be made to eliminate either by compulsory purchase or otherwise.

(2) I cannot give an answer without being informed as to what 'an ideal farm' is.

(3) If any restriction of the sort contemplated by this question is imposed on the sales of lands the land value will still further be adversely affected for want of proper competition.

6. Yes. There are however ample provisions in the Indian Contract Act, the Transfer of Property Act and the Malabar Tenancy Act which safeguard the under-tenure-holder's rights.

7. (*a*) The cultivating tenant may be allowed one-third of the produce. If there is no intermediary the balance should go to the janmi. The intermediary's income would depend upon the terms of his demise.

(*c*) The janmis should pay the assessment.

8. The present rent of holding as agreed to between the parties should be deemed to be fair rent.

(*a*) *Wet lands.*—The provisions contained in Madras Act XIV of 1930 for fixing the fair rent of wet lands are sure to lead to endless litigations. I would respectfully invite the Committee's attention to page 33 of Mr. MacEwen's Scheme Report on the Settlement Operations of Malabar—vide Board of Revenue, Madras (Land Revenue and Settlement), Proceedings No. 80, Press, dated 17th October 1930. The method described by him and usually adopted in fixing land values for purposes of sale should be adopted for fixing the fair rent of wet lands. An officer of the Agricultural Department or the tahsildar may be entrusted to find out the estimated yield of a holding after local enquiry and inspection when parties are not able to agree.

(*c*) *Dry lands.*—The 'fair rent' for dry lands as per the Tenancy Act of 1930 is shockingly low. To substantiate my submission in the memorial in respect of dry lands I would respectfully draw the Committee's attention to pages 11 and 53 of Mr. MacEwen's Report. In Pudusseri amsam, Palghat taluk, referred to by him, there are no intermediaries. I can conclusively show that the lands in this amsam were virgin forests once, that the jungles were cleared by the janmi at his expense, that he was greatly encouraged by the revenue authorities to do so, and that it was he who brought every cent of land under cultivation. I therefore submit that 'fair rent' for an acre of dry land in this amsam, if it should be fair, should at least be equal to that which a tenant pays to his landlord for an acre of similar dry land in the adjoining Coimbatore district.

7 (*b*) & 9. No general ratio, between the produce and the assessment, exists. I may here, in the first place, instance the case of assessment on wet lands registered as double crop wet. 'All settlement operations are based on the first crop of a district.' Lands regularly cultivated with two wet crops are registered as double crop at one quarter over the single crop assessment. It is well known that the second crop is considerably in excess of one-quarter of the first crop. Again, there are considerable areas of wet lands in Malabar where three wet crops are usually raised with, however, no assessment on the third crop. That is to say, three crop lands are only registered as double crop wet for purposes of assessment and as such are assessed at one-quarter over the single crop assessment. Where valuable commercial crops like groundnut, chilly, cotton, or sugarcane are raised the ratio between the assessment and the produce will be 1 : 50, if not higher. Mr. MacEwen has, at page 34 of his Scheme Report, recorded that the *rent*, in the case of wet lands, generally ranges from five or six times the assessment to between ten and twelve times the assessment. He does not say that in the cases examined by him there was rackrenting. I am, therefore, decidedly against any idea of fixing rent in some proportion to the assessment. The assessment on the land is no safe criterion to fix the fair rent of the land as the settlement operations did not proceed on the footing of the rent of each piece of land. The fixing of fair rent on the basis of assessment has never been the practice anywhere; it should never be introduced anywhere, least of all in Malabar.

10. In the light of the above observations it is not possible to provide a general formula for remission of rent by the landlord in proportion to the remission of assessment which he gets.

15. (*a*) I am not in favour of this suggestion. I would strongly protest against such a proposal.

(*b*) So far as I know there have been no unjustifiable evictions. There should be a provision that the alienation of crops and cattle when the cultivator is in arrears of rent, should be made a ground for eviction. The proviso to section 14 in so far as it controls clause 4 should be deleted as it may result in a holding being injuriously split up.

16. There should be neither abolition nor restriction of the landlord's right to sue for eviction of a tenant on the grounds specified in the Questionnaire. The word 'bona fide' occurring in section 14 (5) should be deleted. Reference may, in this connexion, be made to paragraph 85 of the Raghavayya Committee Report. The necessity for such a provision as clause (*b*) in section 14 is self-evident in these days of unemployment, especially in the case of a Brahman landholder. Any just Tenancy Act should contain provisions to encourage, and not impede, landholders to cultivate their own lands.

17. (*a*) The existing provisions afford ample protection to kudiyiruppu holders. I am against granting them any fixity of tenure. The compensation must be fixed at full market value of the land.

(*b*) The right to purchase should not be granted in respect of urban kudiyiruppus.

(*c*) In view of my answer to (*a*) I find no necessity to answer this question.

By the CHAIRMAN:

I am a B.A., B.L., of the Madras University. I do not pose myself as a janmi. I am only a middle-class landholder having about 1,200 acres of janmam lands. I have no kanam lands at all.

I own lands under ryotwari system in Coimbatore. Since the passing of the Tenancy Act, the verumpattamdar has secured fixity of tenure. The tenant of a pattadar has no fixity of any sort and there is the risk of the rent being increased. So there is essential difference between them.

The statute has conferred upon cultivating verumpattamdars qualified fixity of tenure even without the payment of security. I have not evicted any verumpattamdar for failure to furnish security.

The kanamdar in the olden days might have been a money-lender. In the old days there was no bank and the best investment was with the janmi probably. The investor had his residence near that of the janmi. That is how this system probably originated. I cannot say that he was a mere middleman. I have not read the report of the Joint Commission of 1793 in which it is stated that the kanamdar was the actual cultivator, that his share out of a produce of ten paras was six and four-fifths paras, that the janmi's share was three and two-fifths paras, that at that time the janmi was under an obligation to keep a band of Nairs under military training and that this was done away with when the janmi's share was reduced to one and three-sixths and the kanamdar's to five and three-sixths. The kanamdar was never a tenant-at-will. Fresh arrangements were only come to at the death of the janmi or the kanamdar. I do not know if there were frequent cases in the old days where the kanamdar who was paying his dues and the renewal fee regularly was evicted. The kanamdar had a substantial interest in the land.

By Sri U. GOPALA MENON :

The verumpattam tenants' rights, as defined in the Act, should not be curtailed. The rent on dry lands should be amended.

'Janmi' means an absolute owner who is not a kanamdar and his status depends upon the number of his kanamdars. That is one of the reasons why such favourable terms are generally found in the agreements with kanamdars. I have read that kanapattam is half the verumpattam.

By Mr. R. M. PALAT :

The zamindar is merely a rent collector and that he appropriates something for himself and pays the balance to the Government. It is a permanent settlement.

Verumpattam rent of dry lands is about 50 to 75 per cent higher in Coimbatore than in Pudusseri amsam.

By Sri M. NARAYANA MENON :

So far as I know there is no difference between the ryotwari landholders in the East Coast and the janmi here. I do not know if the State has any ownership of the soil in the East Coast. For all practical purposes of enjoyment, income and land acquisition proceedings—so far as the main things go—there is practically no difference. In cases of acquisition proceedings, payment is made and though the amount may vary, the principle is the same. Materially and economically so far as Palghat is concerned the verumpattamdars are better off than their brethren there.

By Sri K. MADHAVA MENON :

I would refer to the definition of janmi in the Act for the stand I take as well as to G.O. No. 2346. If the rights of the landlord under the Tenancy Act has been curtailed, it has been without compensation. That is one of the grievances against the Government that they have gone back upon their declaration.

By Sri A. KARUNAKARA MENON :

It has been given effect to under the statutory definition and it has been embodied in the statute and declared that absolute ownership of the property vests in the janmi. When once a statute is passed, it ought not to undergo any change, except for State reasons.

By Sri U. GOPALA MENON :

I have invested money, purchased the right and improved the lands. And if any person is able and prepared to convince that the basis on which the Government proceeded is not correct, I would not be convinced. I know that the Government Order which I say is a stable ground seems to you to be unstable. But all the same one has to make one's representations. There are people owning vast expanses of land. I cannot say if they purchased them. The lands which have come into our possession belonged to the Vadasseri tarwad.

By Sri M. NARAYANA MENON :

Kanam documents executed by the Zamorin in which the kanam is from half a rupee to Rs. 2 may not strictly represent loans by the tenants to the Zamorin. All the same, Kanam might have been a method of raising money as well as the prosecution of philanthropic ends.

By Sri U. GOPALA MENON :

For the public good and the interests of agriculture, the Government have been collecting revenue from me. When I purchased the land, it was with an idea that my family should be benefited. A sufficiently strong case should be made out before a change in the existing system is thought of.

By Sri E. M. SANKARAN NAMBUDIRIPAD :

It is because of those janmis who have not purchased their lands that I refer to this Government Order. My position is that no janmi's rights should be interfered with. When the Queen's Proclamation has been given the go by, I do not feel sure if this declaration made twelve years ago by the Government would stand.

By the CHAIRMAN :

The Government recognized that all forest lands in Malabar belong to the janmis. The Board of Directors themselves, rightly or wrongly, recognized that all lands in Malabar belonged to private owners. There is no other reason for the presumption of private ownership. Further there is the question of adverse possession. It is now too late to enquire into the presumption. I cannot give any intelligible reason for it.

In the first place the janmi should be asked to reclaim waste lands and bring them under cultivation ; if he refuses, the Government may take the power to take it over for distribution purposes. But at the same time the persons who come into possession of the lands should be asked to pay the regular dues to the janmi. The question of time-limit might be fixed by the Committee.

It is to the janmi's interests that he should not denude forests. He derives good income by granting periodical felling leases on kuttikanam and he keeps a watchman just as the Government do. The deleterious effects of an ill-kept forest can be prevented by prescribing that felling leases could be given not oftener than once in 20 or 30 years and that too only for portions of the forests. I agree that some restriction ought to be placed in the interests of the country at large.

If the janmis are not making any profitable use of irrigation sources and are allowing them to go waste the Government may take them over after compensating the owner. In case there is any ayacut under the sources, its normal supply should be assured. There is no question of water-cess in Malabar. The Government may spend Rs. 500 or Rs. 1,000 and try to collect the interest on the outlay from us by means of cess. Such a thing should not be done. I agree to the principle of Government control and have stipulated certain conditions.

By Sri U. GOPALA MENON :

The sovereign is only entitled to one-sixth share. He has no proprietary interest in the land. He, as the servant of the people, is entitled to the share, that is by way of taxes. Of all places in India, it is a fact that Hindu rule last remained in this place. I find that there was no land revenue in the ancient times.

By Sri M. NARAYANA MENON :

According to the Muhammadan Law, as we have understood it, once the sovereign decides to impose taxes on the lands, the question of acquisition of private ownership does not arise. He *ipso facto* recognises the person in occupation as the proprietor. When Tippu ceded the place, he could not give more than he possessed.

The Cochin Government is taking up irrigation sources not used by the janmis.

By Sri K. MADHAVA MENON :

Under the Cowle system the Government first asked the janmi to clear the forests and to have people settled on them and to bring them under cultivation. When the janmi declined, the Collector was asked to find out persons with money who would undertake the work and the lands were given to such people on cowle and those people were asked to see the janmi to come to some arrangements as between themselves. The grant of the cowle was subject to the rights of the janmi, but no compensation was givento the janmi. About 16,000 cowles were issued by the Government of private lands.

By Sri M. NARAYANA MENON :

The High Court condemned the issue of the cowles. I have one such cowle. Every bit of the forest lands I got through a cowle has been reclaimed. There may be a few bits with some trees on and they are required for green manure, pasture, etc., and there are others which could not be reclaimed. The control of irrigation sources may be taken up by the Government, after suitable compensation. What the owners had spent upon them may be paid to them.

By Sri R. RAGHAVA MENON :

These irrigation sources are small irrigation projects.

By the CHAIRMAN :

The early British administrators got their information from those who came in contact with them. The various local chieftains may have been consulted. They may have consulted the ordinary people also. A Dutch traveller has written in 1743 giving his views on janmam, kanam and all that. My reading of Logan shows that he has gone wrong.

It is a very difficult thing to simplify the present tenure system. If it can be done it should be welcomed. You may first allow the janmi to purchase the rights of the intermediaries and, if the janmi is not in a position to do so, you may allow the intermediary to do so. I agree that in that way the system can be simplified.

By Sri K. MADHAVA MENON :

I cannot say definitely how many acres a man can cultivate. I may be able to cultivate all the lands I own. In Palghat taluk a single tenant can cultivate about 30 acres of nanja lands and 30 acres of dry lands. I was allowing this ; but after the Tenancy Act came into force I split up the engagement. My tenant who was cultivating the above thirty acres had not sub-let the lands. He had six Cherumas under him. He was cultivating the land with the labour employed by him. If these workmen work for him they can live in their holdings on that land.

By Sri U. GOPALA MENON :

Mortgagees who are entitled to receive rent are not intermediaries. I cannot give any reason why the weeding out should be confined to the intermediary tenure holders only.

By Sri M. NARAYANA MENON :

In the elimination of intermediaries, the janmi should be given the first option. It is better to allow the cultivating verumpattamdar to purchase the janmi's right. If we allow the kanamdar to purchase the janmi's rights, there will be all sorts of complications. The Sthanis should not come under this restriction, because otherwise the moneys belonging to the Devaswams, Kovilakams, Sabhayogams, etc. will be dissipated. There are certain other privileges to persons owning lands. If I pay Rs. 1,500 as assessment I can vote for the Landholders' Constituency. The question of franchise is important. For tenures such as Saswatham tenure, the michavaram reserved for them should be capitalized and paid to them. There also there is the franchise right.

By Sri A. KARUNAKARA MENON :

Janmis, kanamdars and agriculturists, all depend upon the land. Their relations too have to live on the produce from the land. But unless I am shown statistics I cannot admit that the majority of our people depend upon agriculture for their existence. Ours is an agricultural district, I admit. By the janmi's purchasing the kanamdar's rights, a large number of people will be taken away from the land ; but there will be left the verumpattamdar, the cultivator and the labourer. The persons who are now connected with land may invest their money in industry. If it is not in the interest of the country to dissociate them from the land, you would not have included this question in the questionnaire.

By Sri R. RAGHAVA MENON :

It is too early to say whether any more simplification than is contained in the Tenancy Act is called for. Only nine years have elapsed since the passing of the Act. The existing rights should continue. With certain modifications fixity of tenure may be granted and that would be quite enough.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

Let the State prove to me that the interests of the country require any interference. My opinion is that in the interests of agriculturists no such interference is necessary.

By the CHAIRMAN :

I have not studied the question of safeguarding the rights of under-tenure holders. But I feel that there are ample provisions to safeguard their rights. Under the existing law the value of improvements made by the under-tenants is set off against the arrears of rent. They should be protected.

By Sri U. GOPALA MENON :

When a suit for eviction is brought against a tenant, the under-tenure holder should be able to plead fixity of tenure with his landholder as against the landlord. My knowledge of the under-tenures is poor.

By Sri M. NARAYANA MENON :

If there are two or three under-tenure holders, there should be protection granted. I do not agree that when a kanamdar is ejected, the under-tenures also should come to an end.

By the CHAIRMAN :

It would be reasonable to allow one-third of the produce to a kuzhikanamdar or a verumpattamdar. If there are cultivating kanamdars in Kurumbranad taluk who have only kanams of one or two rupees, they may also be allowed one-third of the produce. The existing rent should be treated as fair rent. It would not be more than one-third. Subsequent to the passing of the Act a number of cases have arisen for fixing the renewal fee. It will be done on the basis of fair rent. You can call for statistics and find out whether the fair rent as represented by the parties differs. If the cultivating verumpattamdar says that it ought to be reduced, it may be done. But you should not proceed on the assumption that the existing rent is rack rent. It is a complicated question to fix the rent payable to intermediaries and by the intermediaries to the landlord. I could not give a solution for that. There should be provision for the delivery of the customary strawpattam by the verumpattamdar to his immediate landlord. If it is possible, it is advisable to solve the question, but that will depend upon a number of circumstances.

The fair rent on dry lands as fixed in the Act is "shockingly low." Under section 8, fair rent in the case of dry lands is three times the assessment. The janmi has to pay the assessment, etc. So what we get is twice the assessment minus the cess. Section 30 which provides for revision of rents apparently cannot apply to cases of dry lands, because section 8 has already fixed the rent in respect of them. In no other district so far as I know, has rent been fixed in terms of the assessment. In cases where we invest money in clearing the jungle for making the land fit for cultivation we should get a fair return. The cost of reclaiming an acre of waste lands into dry will be about 200 rupees. The net yield of an acre of dry land, depends upon the nature of the crops raised ; but in the case of groundnut, it will be about Rs. 60. I have a tenant who has forty acres of land out of which he cultivates 10 acres with groundnut. He obtains about Rs. 450 and the rent he pays is Rs. 208 which works out at Rs. 5–8–0 per acre. In the other portion he grows dry food crops for his own maintenance. The tenants do not cultivate the whole lands with these commercial crops. They could do so if they wished. There is also a considerable quantity of cotton cultivation. Fair rent in such cases should be increased. Deputy Collectors or Tahsildars may fix the fair rent of dry lands after inspecting each piece of land and making suitable enquiries. Rs. 5 to Rs. 7–8–0 would be the fair rent per acre. But that is not throughout the whole taluk.

The Raghavayya Committee in paragraph 83 did not fix the fair rent of dry lands with regard to the verumpattamdar and his immediate landlord. Then when it came to a question of renewal fee in paragraph 102 they had to consider the question of fixing of fair rent with respect to dry land. They fixed it arbitrarily and they have themselves admitted it. It is only fixed with reference to the renewal fee and not with reference to the fixing of rent as between the landlord and the cultivating tenant. That is where, I think, it is unreasonable.

The fair rent should be about Rs. 5 to Rs. 7–8–0 per acre for the one or two amsams adjoining the Coimbatore district. As for the others I do not think that there is any extensive cultivation to warrant it. From the very beginning of the British administration, Government made a distinction between the dry lands in the Palghat taluk and the dry lands in other taluks. The assessment in respect of these lands ranges from Re. 0–7–0 to Re. 1–2–0 per acre.

By Sri M. NARAYANA MENON :

The procedure prescribed for assessing fair rent for wet lands is not workable. There is no difference between the method outlined by Mr. MacEwen and the method

referred to in the Act except with reference to the fixing of three years' produce. I think that it is impossible and nobody can find what the gross produce is for the preceding three years. Instead of that I would like the Tahsildar to go to the land, make personal enquiries, ascertain the yield from the neighbouring cultivators and come to some decision on the question of rent. Every tenant, labourer and cultivator knows all these factors. I have no objection to have the procedure prescribed under the Act for fixing the fair rent if it can be worked out. Section 5 deals with lands converted by the labour of the tenant. What is to be done if the land is converted by the money and labour of the janmi. There is a customary rent for every field in this part of the country. If it is too high, it is open to the tenant to submit his case to the Tahsildar and it is equally open to the landlord to submit his case and the officer would come to a decision about the fair rent. If parties cannot agree somebody would have to give his decision.

Cultivation of tobacco does not obtain in any large degree. In respect of those lands on which groundnut is grown they can also grow another food crop as a second crop. Sugarcane is an annual crop and it requires a lot of water and in my estate they are growing it only on wet lands. The profit is large but there is only one crop and it requires a large quantity of water. It is not possible to fix any rent for fields growing sugarcane because it is not being grown in any large quantities.

Newly reclaimed lands are not productive of any yield for the first six years and the landlord has to pay out of his pocket to the cultivating tenant to re-imburse him for the loss. Ten years after reclamation, the question of fair rent may be considered.

By Sri R. RAGHAVA MENON :

Cultivation expenses for the first crop are twice the seed amount and for the second crop one and a half times. Under the prevailing conditions, an extent of 30 to 40 acres of dry land can be taken up for cultivation under one man's personal supervision. This applies also in regard to wet cultivation.

Even each kandam has its traditional rent going back to the conquest. The traditional rent has not been generally departed from. If there were to be an increase we should not be able to get any tenant. Assuming that a man would take it for want of anything better, he would continue for only a year or two. The tenant usually sticks to the same land. Changes in tenancy are effected owing to lapses on the part of the tenant by not paying the rent regularly and for other reasons. The tenant has enough for paying his dues to the janmi. He swallows it all. No good janmi will evict a good tenant and will even excuse him from certain lawful payments to allow him to continue on the land. The fair rent is a subject of negotiation. If there is no prospect of his getting a reasonable return after paying the rent, the verumpattamdar would not take up the land.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

I would not empower village panchayats to fix fair rent. I have no confidence in them as they are at present constituted. I prefer revenue officials.

By Sri R. RAGHAVA MENON :

If the productivity of the soil has improved, there is bound to be an increase in rent. If a tank has been deepened or there has been an improvement in the irrigation supply, the tenant will be glad to pay the increased rent. Only in such cases as when the fertility of the soil had been improved or the irrigation sources, has there been any increase in rents.

By Sri E. KANNAN :

I have leased out about 700 acres for verumpattam cultivation both wet and dry. There is no uniformity with regard to all fields in the rent levied. There is no discontent among my tenants. Disaffection among tenants in Palghat taluk exists only in the imagination of those who want it.

By Sri A. KARUNAKARA MENON :

For fixing fair rent I have more faith in the executive officers than in the Commissioners sent by the Court. I admit that the revenue officers may go wrong. The Commissioners are respectable but they are inexperienced and are far more likely to go wrong. Fair rent may be fixed on the basis of the gross produce of a normal year. All occupied dry lands are under continuous cultivation but not with the same crop. In making legislation dealing with the tenancy problem of Malabar a distinction should be made between locality and locality and field and field. I will not be satisfied with the general average for the

whole district. Mr. MacEwen's report has given very great satisfaction. If there had been dissatisfaction there would have been memorials sent in. His complaint was that nobody appeared before him. No occasion has arisen for fixing fair rent in any other district.

By Sri K. MADHAVA MENON :

I have not studied the basis of assessment of dry lands. I cannot say that in the case of assessment of garden lands, the proportion of produce to assessment is in many cases very disproportionate. I have no personal experience.

The cultivating tenant may be allowed one-third of the net produce. In cases where the landlord has not done any reclamation, but the tenant has reclaimed wet lands, the Act has done an injustice by section 5. The landlord should get only dry pattam. Rent should not be calculated on the basis of reclamation. If a tenant has reclaimed a land and brought it under occupied dry, he should pay the assessment and the landlord may then be paid a nominal rent. Lands have been brought under occupied dry in my janmam at my cost. In cases where there is real rack-rent, the tenant may apply to the Court. And if the Court is satisfied let his rent be reduced.

I have had no occasion to evict any of my tenants. The tenants may have surrendered their lands for various reasons. I have not gone to Court at all for eviction.

By the CHAIRMAN :

I am not in favour of granting occupancy rights to any class of tenants.

By Sri M. NARAYANA MENON. :

In cases of drought or failure of crops, the landlord should and does give remission. In the case of recalcitrant janmis some reasonable provision for remission should be made and it should be workable. If the remission that the janmis give is to be based on remission given by Government, the tenants would suffer.

In renewals of kanam demises, the renewal fee may be spread over a period of twelve years.

The janmi would get a fixed amount every year from the kanam tenant. The janmi should be given the first option to purchase the kanam tenants' rights and then the kanamdar and failing that, the next man. If the janmi is given the right to pay off the kanamdar, that means, he gets the right of redemption. But the kanamdar is also given the right to purchase the janmi's rights. The kanamdar is given the right to call upon the janmi to sell his land ; if the janmi is not willing to do so, the kanamdar can exercise his right through the Court. Similarly the janmi will be given the right to call upon the kanamdar to pay the kanam value and if the kanamdar is not willing to do that, the janmi may be given the right of redemption.

If the kanamdar voluntarily relinquishes under the provisions of the Act he does not get the value of improvements. That is a hardship. It will all depend upon the nature of the improvements.

By the CHAIRMAN :

I am not in favour of granting occupancy rights to any clas of tena nts, including actual cultivators, as it will diminish the value of janmam lands. The expression ' bona fide ' found in section 14 (5) should be deleted. If it is allowed to remain there, it will be difficult for the courts to frame the issue as to whether or not a landholder requires the land for his bona fide cultivation. It should not be an issue for the Court to decide. You can provide against the abuse of this right by providing that if the landholder does not cultivate the land continuously for 2, 3 or 4 years the land should revert to the kanamdar. I agree that if the expression ' bona fide ' is removed from the section, there will be no sort of fixity of tenure to any class of tenants in Malabar.

By Sri M. NARAYANA MENON :

In the case of kuzhikanam the entire reclamation is made by the tenants. Originally, the janmi had bare janmam right. I am against conferring occupancy right in such cases also. It may be unfair, no doubt, but I am against it. To be frank, the land is mine. I have granted it on verumpattam to a man. Why should I go to Court ? You may later on find out whether the landlord has abused this power. If in the beginning we can find out that he does not want the land for bona fide cultivation, we may stop the transfer of the land. There may be provision in the Act for that purpose. The man's intentions cannot be found out. If a vakil with a large income says ' I want to cultivate myself ,' it may be that his intentions are to give up practice and take up cultivation. He must prove that he

intends to give up practice. If possible the word ' bona fide ' may be defined. It is a very wide term. I have not sufficient legal knowledge to define it. The actual intention and motive of the man must be ascertained before a decree is given.

By Sri R. RAGHAVA MENON :

If the lessor wants the land for his own cultivation he must have it. If a man wants to cultivate a verumpattam land for his own maintenance he must have the privileges to have it. He must have the capital to cultivate. I do not think it would be practicable to grant fixity of tenure to a verumpattamdar in cases where the lessor has got enough verumpattam lands for his maintenance. Even if we restrict eviction to a certain acreage and grant fixity for the remainder it would not be a workable proposition.

By P. K. MOIDEEN KUTTY Sahib Bahadur :

The limit of capacity of a landlord for cultivation is the limit of his credit. It will depend also upon the will of the person.

By Sri E. KANNAN :

If you will satisfy me that by this grant of occupancy rights the value of my janmam property would not diminish, I can agree. If, under the provisions of the Land Acquisition Act, you will fix the value of my janmam rights, I will be prepared to grant occupancy rights over my janmam lands.

By Sri A. KARUNAKARA MENON :

I would not agree to an amendment inserting the words ' If there is necessity for the landholder to cultivate ' in the section. The position of the tenant is not very precarious. The word ' bona fide ' has been introduced for the protection of the tenant.

By Sri K. MADHAVA MENON :

I have no objection to grant fixity of tenure if the value of my janmam rights is fixed under the Land Acquisition Act on the basis of the market value during that year and for some years previously. A tenant will have ample incentive to improve the land without security of tenure. There is no harm in testing the ' bona fide.' If a landholder, after taking possession of the land does not make use of the land for bona fide purposes, you can penalise him by enacting that he will not be entitled to the value of the improvements when the tenant gets back the land.

By Sri M. NARAYANA MENON :

If a person obtains a decree to attach cattle and crops, the tenant should surrender the land too if there are arrears. I will be satisfied if the crops are made a charge for the pattam. The crops may be made a charge for the arrears of rent.

By the CHAIRMAN :

The provision for security under the Act is absurd. The landlord may give the tenant six months' notice and, if within that period the tenant does not furnish security, the landlord may sue for eviction. If the security is furnished the suit may be dismissed. This procedure would eliminate the procedure prescribed in section 13.

By Sri K. MADHAVA MENON :

There are many instances where verumpattamdars have given security.

By the CHAIRMAN :

I have no objection to granting fixity of tenure to kudiyiruppu holders provided the janmam value of my land is not affected in any proceedings taken under the Land Acquisition Act hereafter. I would not be satisfied with the capitalized value of the rent that I am now getting. It will come to only a fraction of what I am entitled to get. In the case of rural parts it may be 20 or 30 times the rent, but not in the urban areas. The landholder must be given the right to evict every kudiyiruppu holder in his parambas for his own purpose. I have no objection to your taking away my right to evict if you purchase my land under the Land Acquisition Act.

3. Sri K. Krishnan Nayar, Advocate, Palghat.

1. (1) *Origin of janmam.*—According to the ancient history of Kerala, Parasurama gifted all the lands to the Brahmans and thereafter by purchase and descent janmam is claimed. The local chieftains might also have conquered and made lands their own. The janmam might have originated in this manner also.

(2) *Kanam.*—The origin of kanam may be due to the fact that janmis having lands in distant places gave possession of lands to persons there on receipt of a sum of money known as kanam and thereby created a subsidiary right.

(3) *Kuzhikanam.*—Kuzhikanam originated from waste lands being given by janmis to persons without any money consideration for the purpose of converting them into garden land.

(4) *Verumpattam.*—Verumpattam originated from the ordinary method adopted by owners of lands, of granting leases of portions of lands which the landlords themselves could not cultivate.

(5) *Other tenures.*—The other tenures prevalent in Malabar such as Saswatham, Adimayavana, Anubhavam, etc., might have arisen on account of past services rendered to janmis or on account of present services which if discontinued may entail forfeiture of the tenure.

2. Janmi had absolute proprietorship and other tenure-holders only a subsidiary right which is carved out from the absolute right of the janmi.

3. Some changes have been effected by judicial decisions. Kanam is a peculiar tenure in Malabar. Judicial decisions have treated this as a mortgage according to the notion in English law. High Courts have held that kanam is an anomalous mortgage partaking of the character of a mortgage and a lease but kanam is a peculiar tenure which is neither a mortgage nor a lease in the strict sense.

4. (*a*) I consider that the revenue authorities and civil courts were justified in presuming that all lands in Malabar belong to private owners.

(*b*) I am not for placing restrictions.

(*c*) I am not for conferring upon the Government the right.

5. (*a*) I do not think it desirable to simplify the system of land tenures in Malabar by eliminating the janmi or any of the intermediaries.

(*b*) (1), (2) & (3) I am against any of the suggestions.

6. I do not think it desirable to protect the under-tenure-holder in any other way than that already provided in the Malabar Tenancy Act.

7. (*a*) I do not think that an invariable proportion of the produce should be allotted to the janmi, tenant, and intermediate tenure-holders as the conditions and circumstances under which lands are held are different in each case.

(*b*) The assessment is generally between one-tenth and one-fifth of the produce. It may be in some cases more or less, the reason being wrong classification due to bona fide mistakes.

(*c*) The assessment may be paid by janmi, kanamdar, kuzhikanamdar or person in possession according to the special agreement as it does not matter.

8. There is no hardship as far as I am aware and no amendment is necessary.

9. I do not think it advisable to fix fair rent in some proportion to the assessment.

10. It is not necessary to provide for remission of rent by landlord in proportion to the remission of assessment.

11. Weights and measures should be standardized. Standard para may be adopted and standard weights now in use may be adopted.

12. Renewal fee is a payment in a lump to the janmi of a portion of the yearly profit which the tenant has been enjoying for 12 years since the tenant holds on a very favourable rent.

13. (*a*), (*b*) & (*c*) I am not in favour of abolishing the system of renewals. The renewal fee may be levied under the Act but the system of granting melcharths should be absolutely prohibited.

14. There is no necessity to revise the legal provisions regarding relinquishment.

15. (*a*) Occupancy rights may be given to actual cultivator provided he does not make default in paying rent.

(*b*) As far as I know no eviction on unjustifiable grounds after the Act. There should be no eviction on the ground renewal is not taken. The landlord may be allowed to recover by suit or petition the renewal fee itself without having recourse to a suit for redemption which is met by a petition for renewal by the tenant.

16. (*a*) & (*b*) I am not for abolishing the landlord's right to sue for eviction but only for restricting.

17. (*a*) It is desirable to secure fixity for all kudiyiruppu-holders. The compensation may be fixed as per provisions of the Act.

(*b*) No distinction is necessary.

(*c*) The extent already in occupation should be granted on condition of paying the value of the land.

18. It is not desirable to revise the present legal provisions or to fix a time limit for the execution of the decree.

19. After the passing of the Tenancy Act and the terms of renewal have been fixed the tenants do not feel obliged to submit to such levies and the janmis have therefore discontinued to make such levies. No legal provisions need be made now as the Act itself restricts the powers of the janmis.

20. It is not desirable to extend the provisions of the tenancy legislation to fugitive and pepper cultivation.

21. The intended legislation if it is to be had need not be extended to Kasaragod taluk and Gudalur taluk without modifications.

22. (*a*) In my opinion the procedure of the present Act does not work any hardship.

(*b*) The measures now adopted for fixing and collecting the rent and renewal fee are enough.

(*c*) (1) & (2) I do not agree with the suggestion.

(3) I agree with this suggestion.

23. There are no serious disabilities pressing on Malabar tenants particularly now. The Malabar tenures are peculiar in character but this does not mean that apart from the incidents appertaining to such tenures, there is anything uncommon in the relationship of landlord and tenant in Malabar. The relationship in other parts of India is governed by the nature of the tenures existing there. There is no use of any such comparison.

24. The tenants do not suffer from any disabilities which exist only in the imagination of some people and there cannot therefore be any differences between North and South Malabar tenants in the rights to which they are entitled under a particular class of tenure.

By the CHAIRMAN:

The janmis in ancient times may have themselves brought waste lands under cultivation or leased them to others. There may not have been actual possession in the sense that they themselves occupied the whole land. But in the eye of the law though they were not in actual possession, they had constructive possession through their tenants. The kanamdars were in actual possession at the time when Malabar was ceded to the British. It may be that they were in possession even before the British came in. The kanamdar was not entirely a tenant at-will. In some cases we find that until 1855, they were resumable. The 12-year period was not available in some cases and there are records to show that even before that time they were evicted after a particular period. There seems to have been some sort of contract between them and we also find documents where we do not find the period mentioned nor even the clause with regard to the surrender. I cannot say anything about the Travancore Proclamation of 1005 M.E. From the materials before us, I am not in a position to state that it was a correct position. I have not come across any instance where a kanamdar who was in existence before the British conquest was evicted immediatly after the conquest even though he was paying his dues regularly.

By Sri M. NARAYANA MENON:

Small kanams granted by the Zamorin were not exactly mortgages. He was giving away lands so that several persons might be benefited. It may be that incidentally he raised money. It may be that some lands were purchased very recently but all the lands were not purchased. I do not know of any lands got by forfeiture and confiscation. The sovereigns also possessed estates of their own and there was no further need for them to have more lands. I have seen many kanam documents in which though there may have been renewals the fact of such renewals is not mentioned. But the renewals were generally granted except in the case of some improvident janmis, the period being generally for twelve years.

By Sri A. KARUNAKARA MENON:

I have not come across any cases where cultivators have given up their lands in favour of devaswams and nambudiris and taken them back on kanam.

By the CHAIRMAN:

The presumption that lands belong to private owners existed even before the British conquest. I am not in a position to give any intelligible reason for that presumption I have not heard it said that the civil courts and judicial decisions were wrong in that regard. I am not prepared to say that that presumption was not right. I have no objection to the forest and waste lands and irrigation sources being taken up by the Government to be used to the best advantage of the people at large on condition that the rights of janmis are not interfered with. Even formerly, cowles were granted for waste lands and on that analogy, it may be done.

By Sri M. NARAYANA MENON:

Irrigation sources may be taken over by the Government provided the person who constructed them is paid proper compensation and the sources are used for as large an extent as possible.

By Sri A. KARUNAKARA MENON:

I cannot say whether forests were formerly communal property. Though it might be said that the forests have to be exploited and should not at the same time be denuded, I am not for their being taken over by the Government.

By the CHAIRMAN:

I do not agree that the janmi gets nothing from the forest. In some cases he gets very much.

By Sri M. NARAYANA MENON:

The village community is given facilities for grazing and for getting manure from the forests even now at very small rates.

By the CHAIRMAN:

I do not think there is any need to eliminate the janmi or the intermediary. I feel there is no confusion on account of the existence of intermediaries. When once fair rent is fixed for the verumpattamdars, there will not be any difficulty; as regards the rest, there will be separate contracts as to what they should pay. The intermediaries must be left to their own contracts and the legislature should not intervene. If the michavaram payable by a kanamdar is more than the fair rent which he is to receive the michavaram payable by the kanamdar may be rateably reduced. I do not favour compulsory purchase in such a case.

By Sri M. NARAYANA MENON:

If the fair rent is fixed the intermediary will be affected, but there will not be any difficulty about adjustment for it can be rateably reduced. Even where it goes beyond the contract between the parties, if it becomes necessary, it can be done. I do not think it necessary to abolish intermediaries in order to remove these complications.

By Sri R. RAGHAVA MENON:

With a full knowldege of these things, I say the land system is not at all complicated.

By Sri K. MADHAVA MENON:

There is no demand for lands for purposes of cultivation. When some of the lands go without tenants, we have actually to hunt for tenants. I put it down to the temperamental change that has come about to the people and not to the unprofitableness of cultivation. Nobody comes and presses for lands. Nobody is trying to snatch lands and competition does not exist.

By the CHAIRMAN:

If the value of the improvements effected by an under-tenant is set off for arrears of rent due by the intermediary, the latter must make good the loss which the under-tenant suffers. If the intermediary is not able to do so, some provision may be made affording protection to the improvements effected. For the kanam tenant, there will be provision in the kanam deed with regard to the michavaram and between the cultivator and his immediate landlord, there is the provision as to fair rent. So I do not think it necessary to alter the existing state of affairs.

It would be better to leave the liability to pay assessment to the janmi. As regards joint registration, the present provision satisfies both the janmi and the tenant and it may continue. When the tenant is liable to pay the revenue under the contract, he will get that benefit if there was remission. When there is remission granted by the Government, the person who is liable to pay the revenue must be benefited to that extent. If the tenant pays as a matter of equity, he may get that benefit.

By Sri M. NARAYANA MENON :

The present provision of the Act regarding the fixing of fair rent is practicable. As regards the three-year period we can come to more or less correct conclusions though the data may not be quite accurate. It has been worked quite well and no difficulty has been experienced. Ordinarily speaking one year's produce in a normal year will be the average for three years. To take the previous year's produce as a basis has the advantage that witnesses also can be examined. I prefer courts to decide it and not executive officers as there is an opportunity to question the commissioner's report. There are instances where the janmis are compelled to pay the assessment when the kanamdars failed to pay it. I am indifferent whether the interest of the kanamdar is proceeded against if there is a provision in the contract for the kanamdar to pay it. There is no need to compel the janmi to give remission to the tenant owing to failure of crops or such other incidents beyond his control as 99 per cent of the janmis grant remissions in such cases.

By Sri R. RAGHAVA MENON :

People do not generally go to court. This will only constitute 1 per cent. I am against such general provision to meet one or two hard cases.

By P. K. MOIDEEN KUTTY Sahib Bahadur :

It is always convenient to pay fair rent in kind. I am against investing the village panchayats with the power of fixing fair rent. They have been working to their detriment generally.

By Sri A. KARUNAKARA MENON :

There may be as many pattas as there are tenants. That is a most innocuous arrangement. Lands which are inferior in quality are made to pay heavy assessment by wrong classification. Sometimes mistakes might have been committed by the survey officers in the classification of these lands. I have very little knowledge of garden lands.

By Sri K. MADHAVA MENON :

I do not favour increasing the cultivator's share to 50 per cent of the net produce. Even the so-called verumpattamdar is not actually cultivating in many cases. He employs agricultural labourers and pays them very low wages. The wage of a labourer is said to be one edangali of paddy per day ; but the labourer is actually paid only half an edangali. One-third is sufficient for a tenant in any case. On that score there is no complaint.

By the CHAIRMAN :

I do not know where I got the information for my answer to question 12. The rent paid by the kanam tenant is very very favourable. It is sometimes one-third or half of the verumpattam rent. The tenant can therefore be said to be enjoying much more than what he is entitled to. If the land has been improved by the tenant, he will not be paying anything to the janmi. I am not for abolishing the system of renewal fees. I have no objection to spreading over 12 years the renewal fee payable by the tenant, if it will be convenient to the tenants to pay it like that. If some provision is made for fixing the rent payable by the kanamdars, there will be no necessity to consider the question of renewal fee at all.

By Sri M. NARAYANA MENON :

The renewal fee under the Act is in some cases less and in some cases more than before.

By Sri R. RAGHAVA MENON :

I do not favour making the renewal fee uniform. I have not enquired whether the renewal fee is in most cases more than it was previously. The renewal fee fixed under the Act is not high.

By the CHAIRMAN :

If the tenant surrenders of his own accord, he should not get his kanam and value of improvements.

By Sri M. NARAYANA MENON :

If the kanam tenant does not want the land, he can assign or mortgage his right. When it is a voluntary surrender, he should not be given the value of improvements. There is no unfairness in it.

By Sri P. K. KUNHISANKARA MENON :

I am not a janmi ; I am a kanam tenant under the Zamorin.

By the CHAIRMAN :

If the landlord's right to sue for eviction on the grounds mentioned in the Questionnaire is left to him, the tenant has no absolute fixity, that is all. That is why we have

introduced the words ' bona fide cultivation '. The tenant may feel secure to that extent. I agree that he is likely to be evicted under certain conditions, but they do not depend entirely upon the landlord's caprices. He too has to satisfy certain reasonable conditions. The whole thing depends upon the janmi's requirements and not on the actions of the tenant. The janmi cannot get the land by merely saying that he wants it. He will have to prove that he requires it for bona fide cultivation. If he is able to prove to the satisfaction of the court that he wants it for cultivation by himself, he must get it. If bona fide is proved, the question of motive cannot be considered. Sometimes improvements are difficult to prove and sometimes the tenants are able to prove the existence of improvements which it is difficult for the janmi to pay for. There is some hardship for the tenant, I admit. He does not feel absolutely secure. As long as this provision continues, there is likelihood of his being evicted.

By Sri R. RAGHAVA MENON :

We cannot exhaust all the cases which would constitute bona fides. It must always depend upon the merits of each case. The wording ' bona fide requires for cultivation ' is quite adequate. If he wants to cultivate, he must have it.

By Sri M. NARAYANA MENON :

If an actual cultivator or cultivating janmi falls ill and leases the property temporarily to another with a view to resume cultivation after he gets well, he should be allowed to resume the land.

By Sri A. KARUNAKARA MENON :

In cases where no renewal has been effected, the landlords should be given the right to collect renewal fee. Such a right was not in existence before. The tenant now has the right to get the landlord to sue him for redemption and pay them the value of his improvements. I do not consider it a hardship for the tenant to take away that right.

By the CHAIRMAN :

If the tenant thinks that the old law was more helpful to him, he must be allowed to come under its provisions. The janmi may be given the power to apply for payment of renewal fee and if the tenant objects he may sue for redemption. Then it will be just to apportion costs. It is desirable to secure fixity for all kudiyiruppu holders. The kudiyiruppu holder may be given the right to purchase the right of his landlord even though no suit is brought against him.

By Sri M. NARAYANA MENON :

Even if there is no space available for constructing a farmhouse, kudiyiruppu holders should not be turned out. Filling up of even an area under cultivation should be preferred for this purpose to evicting a kudiyiruppu holder.

By Sri R. RAGHAVA MENON :

Kudyiiruppu holders are not generally turned out. I would not give them any fixity apart from the right given under section 33 of the present Act.

By Sri E. KANNAN :

I am not aware of the eviction of Cherumas. They are generally people of a fugitive character. The landlords want these people to continue on their farms for the sake of their ready and cheap labour. These kudiyiruppus being adjuncts of a big estate or farm, I am not in favour of granting fixity of tenure to their holders. If things are left as they are, no hardship to the holders will arise.

By the CHAIRMAN :

It is desirable to have a time-limit for execution, otherwise the tenant will continue on the land without knowing when he will be evicted. It may be six months.

I do not think that there are many feudal levies now. Anything which is besides the contract may be ended. If it is laid down in the contract that a tenant should pay so many articles such as ghee, etc., on such and such occasions, those things are not feudal levies. They are part of the rent or michavaram. It will be equitable to restrict such levies to the produce from the land. If there are other things, it would be desirable to have them abolished.

By Sri M. NARAYANA MENON :

Contributions for Kettukalyanam and similar occasions should be abolished. They are feudal levies. One Sthani used to levy *para-vari* in the old days at the rate of Re. 1 per para of pattam to meet his initial expenses on assuming the Sthanam. If provisions of this kind are found in the patta documents, they must be held to be void. If there are

plantains in an estate there may be no objection to presents of plaintain fruits on Onam festivals and so on. It must be remembered that the tenant who takes such presents to the landlord gets presents of cloths in return.

By Sri A. KARUNAKARA MENON :

With respect to devaswam lands, payments in kind such as ghee may be converted into paddy or money. The fees for appeals arising against orders under the Tenancy Act, may be on the basis of civil miscellaneous appeals.

By Sri C. K. GOVINDAN NAYAR :

Kuzhikanam is a thing of which we have very little experience here. Kanam tenure is the same in both North and South Malabar.

By Sri E. KANNAN :

The tenants here have very little grievance. As between the cultivating tenant and the landlord, there is no complaint and no disaffection.

4. Sri P. A. Sundara Ayyar, Landlord, New Village, Kollengode.

1. (1) Janmis of Malabar are in possession of janm properties from time pre-historic and so we cannot say how they got it.

(2), (3), (4) & (5) Other tenures—Kovilakam verumpattam (സന്തതി ഭൂമിസ്വം, കാരാങ്കരി) and so on are leased to people for the services rendered to the janmis. Kanam, kuzhikanam and verumpattam tenures are given to the tenants for the money received when janmis are hard-pressed for money and kanamdars are allowed to take interest from the land which is leased to them for 12 years. Kovilakam verumpattam lands are given to tenants for the services rendered to the janmis. Kuzhikanam tenants are given waste lands to improve the land for a nominal sum received by janmis. Verumpattam tenants are tenants in possession of the land to cultivate the land for one year and to live upon cherulabham from the land in question.

2. Janmis have got permanent right in the land whereas other tenants have only temporary right over the landed property.

3. The civil courts were quite right in holding that janmis are the proprietors of the land. I quite agree with the views of the judicial pronouncements made by the courts from time to time.

4. (*a*) Revenue authorities and civil courts are quite justified in presuming that all the lands in Malabar including waste and forest lands belong to private owners.

(*b*) I will not place any restrictions on the rights at present enjoyed by the owners of the waste lands, forests and irrigation sources.

(*c*) No, I won't confer upon the Government the right to take possession of the waste lands and grant them to cultivators.

5. (*a*) I don't think it is desirable to simplify the system of land tenures in Malabar. By compulsory purchase the land will deteriorate and the credit system of the country will fall to the ground. If at all they want to do this, janmis and intermediaries are to be fully compensated. Full compensation means, they must be given the market value of the janm properties.

(*b*) (1) Tenants will not be able to do this.

(2) To limit an ideal farm is good, but it is impracticable especially in Palghat taluk, because many acres depend upon one main tank for cultivation.

(3) The land will sink in value and janmis will go to pauperism.

6. I don't think it is desirable to protect the under-tenure-holders from the consequence of default, because they are already given great latitude in the matter of rent collection by the janmis and the kanakudiyans. In Palghat taluk, last year some tenants have got 40 per cent remission while others 30 per cent, while others 20 per cent remission due to failure of crops. No civil action was taken last year against them.

7. (*a*) At present, janmis like myself, who have sunk large amount of money in purchasing land and large amount for the improvements must get an interest which the Government pay for the money, say 3 per cent. The intermediary tenure-holders must get interest for their kanam amount and improvement charges and the dues which he will have to pay to the Government and the janmi. The actual cultivator must get his seed

and wages (വിത്തുപാട്ടം) besides the necessary means to maintain his family for the year. So the proportion of division of the proceeds of the land varies with the different land. So we cannot have one formula for all the lands.

(*b*) The assessment generally represents one-third of the produce. In Malabar, especially in Palghat taluk, the assessment exceeds this share of produce. This is due to classification of lands and the failure of the monsoon and the present re-settlement have enhanced the assessment. In former days, the Hindu Rajas collected revenue from one-twelfth to one-sixth. Hence they were called Shadbhagies.

(*c*) Janmis must pay the revenue because they have got great interest in the land.

8. No, the present Act to fix the fair rent is just and equitable and so there is no necessity to amend it.

9. No. It is not necessary.

10. It is not necessary to provide for the remission of rent.

11. It may be standardized. It is better to have a common standard fixed by the Government which must be intelligible to the man in the street.

12. It is a long established custom to safeguard the right of the janmis. This is done once in every 12 years, i.e. (പുഴവാട്ടം). Formerly, it was done by different janmis in different ways. But now the latest Act has fixed the renewal fee which is just and equitable.

13. (*a*) No. I am not in favour of abolishing the renewals.

(*b*) I am not in favour of giving fixity of tenure to any tenants.

(*c*) The present *Malabar Tenancy Act* is quite all right and no amendment is necessary.

14. The section must be amended and the tenant must be paid the value of his improvements.

15. (*a*) I am not in favour of giving occupancy right to the actual cultivator. Because, the value of the land will be decreased and the cultivators will not be able to cultivate as effectively as the landlords do, for want of finance. The landlords have spent large amounts in digging tanks, making buildings, and in planting trees and in proper manuring in the land. Even if the Government give them occupancy right they will not permanently stick up to the land and will go in search of a Government job with the result the land will deteriorate and the yields will grow less and less. This will become a sort of double Government in which neither the landlord nor the tenant will look to the benefit of the land.

(*b*) After passing of the present Act no eviction has been made on unjustifiable grounds. No amendment is necessary regarding the ground for eviction.

16. I am not in favour of abolishing or restricting the landlord's right to sue for eviction of a tenant on the ground. Let the section stand as it is.

17. (*a*) I am in favour of securing fixity of tenure for all kudiyiruppu holders. Landlord should be paid 20 times the revenue of his land.

(*b*) The urban kudiyiruppu holder must pay 25 times the revenue of the land.

(*c*) The minimum extent that should be granted on permanent tenure for urban kudiyiruppu is 10 cents, and 20 cents for rural areas and should be used only for kudiyiruppu.

18. It is not desirable to revise the present legal provisions regarding the compensation for improvements. Time should not be given for the execution of the decree for surrender.

19. There were feudal levies before the passing of the Act, but now they are the things of the past.

20. It is not desirable to extend the provisions of tenancy legislation to fugitive cultivation and cultivation of pepper.

21. I am not in touch with the local conditions in Kasaragod taluk and Gudalur taluk.

22. (*a*) The procedure of the present Act does not work hardship to any of the parties concerned.

(*b*) The rent dues to janmis may be fixed at the current rate published in the *Malabar District Gazette* by the Collector and may be sent as money order rather than in kind. The present method of fixing the renewal fees works very smoothly between the landlord and the tenant. If the land is renewed once and the renewal fees is inserted in the kanam deed it is enough that the same amount may be sent through money order to the janmi as fee for the succeeding renewals. This method will work smoothly.

(*c*) (1) Summary trials of all proceedings are good.

(2) The revenue officials will find it hard to attend to judicial work.

(3) An application for recovery of renewal fees may be sufficient to collect easily.

23. There are disabilities not covered by the above questions.

24. There are differences. There are not serious disabilities for the tenants in South Malabar after the passing of the Act. With regard to North Malabar I am not posted with the information.

By the CHAIRMAN :

The lands were in the actual possession of the janmis and they subsequently handed them over to the various tenants. The lands were brought under cultivation sometimes by the janmis, and sometimes by the tenants. A century back, the lands were in the possession of the janmi and as he found it hard to cultivate them and as he also wanted money and there was no bank, he gave the lands for cultivation and got money.

By Sri M. NARAYANA MENON :

I do not say all the lands were cultivated by the janmis. The janmi cultivated certain lands and in respect of the other lands that would otherwise lie fallow, he got some money from the kanamdar. The law did not prevent the janmi from ousting the kanamdar. Kanam is altogether different from mortgage. I am of opinion that the kanam tenure came into being not as a result of borrowing but by some other means. As regards big janmis, it could not be said that these tenures were created by means of borrowing. Most of the lands were got by the janmi fairly and some might have been obtained unfairly also. Then there is the question of purchase.

By the CHAIRMAN :

The forefathers of the janmis were ruling chiefs. They are in possession of their lands inclusive of the forest and waste lands on account of that fact. I do not want to have any encroachments upon their rights ; but I have no objection to their forest lands, waste lands and irrigation sources being taken over by the Government, provided the dues they are now getting are sufficiently safeguarded and further that they are to be made use of for the benefit of the public at large.

By Sri M. NARAYANA MENON :

Even now Mudalamadai forests are being used for the benefit of the people provided the Raja is paid a small sum. I do not think it should be restricted to a nominal sum ; you can take it over but he should be given compensation. If you think that it is in the interests of the public to reduce the dues levied, I should welcome it. The land system of Malabar may be simplified if possible. It could be done by enabling the cultivator to purchase the rights of the intermediary or the janmi as the case may be. It is better to allow the kanamdar to purchase the janmi's right by making a lump sum payment of the capitalized value of the amount payable to the janmi.

By the CHAIRMAN :

The provisions of the present Act for fixing fair rent are satisfactory. I am not in favour of abolishing renewals and renewal fees. But the renewal fee may be spread over a period of 12 years. Section 44 of the present Act may be amended so as to give the tenant the right to claim the value of improvements. If the janmi is unable to pay, others may pay if it is going to yield returns commensurate with the money paid. In such a case, instead of surrendering it, the kanamdar may be asked to sell it probably by means of a court auction.

By Sri M. NARAYANA MENON :

In regard to bona fide cultivation, the mere desire for cultivating will not do. It must be proved that he requires the land for his own cultivation purposes. Evictions with other motives should not be allowed and he must cultivate the land. A time limit may be fixed for the execution of a decree for surrender, say one year.

Feudal levies should be abolished, but they are things of the past and do not to my knowledge obtain.

I have not much experience about fugitive cultivation and of cultivation of pepper.

5. Sri P. R. Swami Ayyar, Vakil, Alatur.

1. (1) *Origin of janmam.*—The word janmam has been explained as meaning 'hereditary proprietorship' in Mr. Moore's Malabar Law and Custom. There are different views about the origin of janmam, but those views are only based on mere surmises. Whatever may be the origin of janmam, it is now accepted that the janmis are the full

proprietors of the land. Mr. Logan confirms this view. Rights and liabilities have come into existence, treating the janmi as the full owner of the land. The origin, its history, is only of an academical interest now.

(2) *Kanam.*—According to Mr. Logan, kanam is derived from the root 'kanu' (to see). The kanam is seen to subsist until it is repaid. The origin of kanam, like that of the janmam are based on guesses. Kanam is a more favourable tenure. As at present accepted, it is an anomalous mortgage, as it is both a lease, as well as a mortgage. The Transfer of Property Act of 1882, applies to the same.

(3) *Kuzhikanam.*—This literally means money utilized for digging pits. This is essentially a tenure under which lands are given for the purpose of bringing their lands under cultivation. The improvements have to be paid by the janmi. This tenure is usually found in North Malabar.

(4) *Verumpattam.*—This is a simple lease. Verumpattam means 'bare rent'. This must have originated as a mode of enjoyment either by the janmi or the kanamdar, due to their inability to cultivate all the lands themselves.

(5) *Other tenures—Otti.*—This signifies a pledge, where, almost the full value of the land is given to the janmi under this system of tenure. The ottidar takes the entire produce of the land and the landlord merely retains his title, to redeem. The ottidars also possess the right of redemption.

There are other numerous tenures as Adimayavana, Anubhavam, Santhathi Bramaswam, Kovilakam Verumpattam, etc. These are not common now. These are grants made by the janmis for past work or future work. The terms themselves denote the kind and nature of these tenures.

2. The interest of the janmi is that of a full owner of the land. The various tenure holders derive their right to be in possession according as the character of the demise under which lands were transferred to them. The kanam is a redeemable tenure. Originally the kanamdar had no right to compel the janmi to give him a renewal. The kuzhikanamdar had a right to get the cost of his improvements. He also can be ejected. The verumpattam tenant, is a tenant-at-will or a tenant for a definite period under his contract.

3. So far I am aware, the decisions of the courts have treated the janmi as the owner of the land. The courts have held that a kanam tenure tenures for 12 years and is redeemable. There is no such period in the early history of the tenure.

4. (*a*) The answer to this question, presents some difficulty. The answer depends upon the origin of janmam right. The early history, the reports made by the different Collectors of Malabar who made a special study of this subject, all show that the janmi possesses the entire right in the soil—vide 'Walker's Report.' This private character of the ownership of the land has been adopted by both the civil courts and revenue authorities. This view of the court's decisions, regarding the private ownership, has been accepted and rights have been created. In my opinion it is too late to reconsider the position without detriment to vested interests.

(*b*) No.

(*c*) If the waste lands are the private properties of the owners, that right ought to be respected. Any interference with such a right will be only a confiscatory measure. Lands which were waste lands some 20 years ago, have been either leased to enterprising agencies or made profitable by the owners themselves. The want of irrigation projects is a great handicap to the Malabar tenants.

5. (*a*) It is always desirable to have a simple system of land tenure In attempting to prescribe a simple system, regard must be had to rights and liabilities, that have come into existence. In my opinion, there is no necessity to interfere with the existing state of tenure.

The intermediaries are very necessary and form the main prop to the land tenure system in Malabar. The intermediaries have sunk capital and labour, which it is not easy to compensate. Large interests have been created which cannot be ignored without serious detriment to the economic structure of the land system. The intermediaries, it has to be said, are responsible for bringing more lands under cultivation through their enterprise. The intermediaries are an essential group and no interference should be even thought of.

(*b*) (1) I feel bound to oppose this proposal. This will work hardship. There is no demand for the same.

(2) The answer to this depends upon the scope of 'an ideal farm.' It is not necessary to limit the area in the possession of a cultivator.

(3) Sales to non-cultivators should not be prevented. Any attempt at such a prohibition would diminish the value of the land, which will lead to an economic crisis.

6. The under-tenure-holders have to be protected. The Malabar Tenancy Act has given effect to this view in drafting sections 18, 26, 42 (20) and 43 (2). These provisions may be suitably extended, so as to afford relief to all under-tenure-holders. The above sections deal with some particular kinds of cases.

7. (*a*) Late Mr. Justice Sundara Ayyar in his treatise on the Malabar Law mentions that two-thirds of the net produce, after deducting the cost of seed and cultivation expenses is the usual verumpattam rent. The cost of the cultivation has been fixed as two and a half times the seed required for cultivation.

As regards the janmi, the kanam demise usually makes a deduction for interest on the kanam amount, revenue and the balance alone is made payable as michavaram. This may be allowed to stand.

Next, as between the kanari and his tenant, the above proportion, as in the case of verumpattam tenant, is fair and reasonable. The kanari becomes a kanari either by direct demise or by purchase. After all, in my experience the usual rate of interest in any purchase of land gives only 2 per cent interest in his investment.

Any suggestion in the revision of rent favourable to the cultivator can be done only at the expense of the kanari.

A right legislation must necessarily take into consideration all the interests to be affected and should adopt a course of least harm.

The Malabar Tenancy Act provides for revision of rent. This is a sufficient protection to a tenant. The usual cry that rack-renting is prevalent to a greater degree, in my opinion, is not correct. The yield depends upon many circumstances, i.e., want of skill, want of irrigation facilities, reluctance on the part of the tenant to spend capital, and the want of cheap credit system are some of the common defects which result in a poor yield.

(*b*) There is no fixed system of assessment of revenue. The revenue varies from field to field. The Government has adopted a classification which is based upon the classification of fertility of the soil. This must certainly lead to many instances where the income is less than the revenue. In the case of a paramba, the income is often less than the revenue of the paramba.

(*c*) So far kanam demises are concerned, the patta may be in the names of both the janmis and the kanaris. In the case of verumpattam lands the patta should be in the name of the landlord. As otherwise, it would work hardship on the verumpattamdar.

8. (*a*) This is rather a vexed question. The provisions in the Malabar Tenancy Act, Chapter II, regarding the method of arriving at the fair rent is not easy, so far my experience goes. Ordinarily, the court ; a commissioner is sent who estimates the yield and arrives at the probable gross produce. The rule regarding the taking of three years' average of the gross produce is impossible in the absence of any data. While the janmi would wish an increased rent, the kanari would try to put it very low. Some workable and acceptable method therefore has to be adopted. The formula of arriving at the fair rent as given in the Act, need not be interfered with.

(*b*) *Dry lands.*—There need be no amendment. I have not come across any case of hardship.

(*c*) *Garden lands.*—There are not many garden lands as such in Palghat taluk. This is usual in North Malabar and some places near Calicut.

10. There is no necessity to provide for remission of rent as the fixation of rent has no manner of bearing to the assessment. If any proportion is fixed, it becomes a matter for dispute in civil courts.

11. There is no demand for such standardization where there is no demand. It is better not to attempt any such standard.

12. The practice of claiming renewal fees has been accepted, and the civil courts and the Malabar Tenancy Acts have confirmed the same. The Renewal Fees represent a portion of the cherulabham of the tenant.

13. (*a*) The abolition of renewal fee will, so far as the janmis are concerned, be a serious loss to their yearly income. For instance the Zamorin's Estate yearly takes into consideration in their budget, the renewal fees. The Estate used to get about Rs. 50,000 as renewal fee. There are similar cases, similar to the Zamorin's Estate.

The kanari would certainly be for any legislation which will reduce his burden on the property.

The kanam is a favourable lease. A periodical payment of a portion of rent as renewal fees, I think it should not be viewed as a burden. No doubt, at the end of 12 years period, when renewal fees have to be paid, the tenant feels the difficulty of paying the

amount in a lump sum. To avoid this feeling and to avoid loss to the janmi, I am of opinion that the renewal fees may be spread over the 12 years and be recovered either separately or may be added to the michavaram payable.

(*b*) The question is not free from difficulty. The renewal fee is one that occurs at the end of every 12 years and lasts as long as the tenure lasts. It is difficult to fix a present value for the same.

The kanamdar has now fixity of tenure, under the Act, no doubt depending on his doing certain obligations. This fixity is sufficient for indifferent kanamdars no wholesome provision can give them relief.

(*c*) So far as the provisions of the Tenancy Act, I am of opinion that no amendments are required regarding renewal fees.

14. No. The present provisions are sufficient.

15. (*a*) No. The fixity as provided in the Act is enough.

(*b*) To my knowledge, there has been no eviction on unjustifiable grounds.

16. (1) The term 'bona fide' may be defined with reference to the needs of the landlord. The general definition of 'bona fide' has become the bone of contention in eviction suits.

(2) No.

17. (*a*) The present provision may stand. This gives relief to right minded holders. In eviction suits relating to kudiyiruppus, the holder first claims the value of improvements and if that valuation is profitable, he is willing to quit the holding. When the value does not come up to his expectation, he then claims to purchase the entire interest of the landlord.

In the case of holders with no means, who cannot buy the interests on payment, some lenient provision may be adopted.

(*b*) There need be no distinction between urban and rural kudiyiruppu holders. The same relief has to be given to all holders. The fact that a kudiyiruppu lies within a municipality is only an accident.

(*c*) The present provision may stand. To my knowledge there has been no demand as such.

18. There is no need for any change. It is desirable to fix a time limit for the execution of decree, say, a period of three years.

19. No such levies are now made.

20. (*a*) Not necessary.

(*b*) I have no idea of cultivation of pepper as this is prevalent in North Malabar.

21. I have no experience and hence I am not in a position to answer.

22. (*a*) The Tenancy Act, so far my experience goes, does not work any real hardship.

(*b*) There is no necessity to alter the provisions in the Act relating to the fixing, collection of rent and the renewal of fees.

(*c*) (1) Summary trials are no doubt beneficial but provisions should be made for appeals.

(2) It is not at all desirable to entrust the revenue courts with trial of cases arising under the Tenancy Act. The parties will be put to greater hardships as they have to follow the officers in their camps. All revenue officers have not much of judicial experience. The Lawyer will find it difficult to accept engagements with the result that parties will be deprived of good legal resistance. The transfer of authority to revenue courts will be a novel departure, and the parties who have more reliance in civil courts, are likely to view the decisions of revenue courts as not quite satisfactory.

(3) This right to the landlords may be given as it benefits both the landlord and the tenant. If provision for claiming renewal fee alone is enacted, many costly redemption suits can be avoided. In my experience, the tenant claims renewal only when a redemption suit is filed. This results in the tenant being ordered to pay the costs of the landlord. Many cases of renewal are being effected without the intervention of courts.

By the CHAIRMAN.

The lands were perhaps owned by feudal lords or chieftains in the past and still continue so. It is more likely that they owned them as local chieftains. I am not in favour of interfering with their rights and taking over their waste lands, forest lands and irrigation sources and utilizing them in the interests of the public. If the janmi is not making use of them and if he is not allowing others to exploit them by granting leases and if, after a period of three years' notice he does not take any steps to grant them on lease or to reclaim them himself, they may be taken over subject to certain safeguards of the rights of janmis. It

is not necessary to restrict the use of the forest lands by the janmis. That is going against private ownership. I do not think there is any need for such legislation now. It is an extraordinary suggestion that on account of the clearance of the forests there will be no rains in the land. I do not think it is necessary to interfere with the rights of private owners.

By Sri M. NARAYANA MENON :

I do not think that chieftains held these lands for public benefit. They held it for their own benefit. I agree that it is the rule that the lands held by a Raja are for the benefit of the public. After the advent of the British, these chieftains ceased to be what they were and they got full control of the properties which belonged to them. I do not agree that they held lands for public benefit. What they originally acquired and what was their property, they continue to hold even to this day. They were not like rulers who held lands for public benefit. I do not think it necessary in the interest of the public that the Government should have control over the larger forests.

By the CHAIRMAN. :

It is desirable to have a simple system of land tenure. But there should be no compulsory purchase. I am a janmi owning 1,000 acres. I have demised all my lands to kanam tenants and get michavaram from them. I stand in no need of selling my lands. I am content with the michavaram I get. Why should I be forced to sell my property to the kanamdar? In my opinion, there is no necessity to interfere with the existing state of tenures. If the only way of simplifying the system is to purchase the rights of the intermediaries or the janmis, I submit that no interference is now necessary. Though the system is complicated, so far as Malabar is concerned, there is no great inconvenience caused. It is not necessary in my opinion to fix the fair rent for intermediaries. The Act does not provide any machinery for it. There will be very few cases where the kanamdar has to pay as michavaram more than what he gets from his verumpattamdar.

By Sri M. NARAYANA MENON :

The kanamdars are very necessary. They have engaged labour and invested money on land. I do not think it is necessary to allow the kanamdar to purchase the janmi's right. If there is to be compulsory purchase, the kanamdar may be allowed to purchase in the first instance.

By Sri A. KARUNAKARA MENON :

In Malabar very respectable people are associated with land in one way or another. People are reluctant to part with whatever right they have on land. If the intermediaries are to be abolished to simplify the tenure, there will be a good deal of discontent among those who are asked to part with property.

By the CHAIRMAN :

If the janmi sues the intermediary, the janmi may be asked to give notice to the sub-tenants. If the sub-tenants are able to pay what is due to the janmi by me, they can escape penalty.

To my knowledge there is no demand for standardization. It will be desirable, however, to have a uniform measure for a whole taluk. We have such a uniform measure now. It is no doubt desirable to have a uniform measure for the whole province if it is practicable.

By SRI M. NARAYANA MENON :

The patta para is sometimes the same as the standard para, sometimes less and sometimes more. I have heard of Chilavu paras.

By Sri A. KARUNAKARA MENON :

I have heard of parambas where the revenue is more than the income. As the assessment is based upon classification, there must be such cases.

By Sri M. NARAYANA MENON :

Groundnut and cotton have been cultivated in the Muthalamadai amsam for the last 20 years. If it were not profitable the cultivators would have given it up long ago.

By the CHAIRMAN :

I have no objection to spreading the renewal fee over a period of 12 years. The term 'bona fide' may be defined with reference to the needs of the landlords so as to fit in with the needs of the janmi for cultivation for his own necessities and not necessarily bare necessities. The janmi should be allowed to redeem when he wants it for bona fide cultivation, when he actually needs it to maintain his household. A janmi who has got large properties should not be allowed to redeem or for his fancied needs. If a landlord has got enough verumpattam lands he need not be allowed to add to that by further eviction.

If there are any feudal levies existing, there is no objection to Government stopping them by means of legislation.

6. Sri P. S. Krishna Ayyar, B.A., B.L., Vakil, Alattur, Palghat.

1. (1) *Origin of janmam.*—There is first the traditional account of the origin of janmam and kanam rights. It is thus recorded in Keralolpathi, a work in Malayalam, which literally means 'the origin of Kerala' and contains the tradition current among the people regarding the ancient history of Malabar, that this land of Malabar or Malayalam was created by Parasurama and was given by him as a gift to the Brahmans of the 64 gramams. It is thus the Nambudiri Brahmans in Malabar came to have the properties in the soil with absolute proprietary right in Malabar. He, the said Parasurama, having sent for Sudras from various countries made them settle and prescribed various rules of conduct for them. He created Adima and Kudima in the desam and protected adiyans and kudiyans, etc. To the kudiyan kizhkur (inferior share), to the Brahmans the melkur or the superior share; to the former the kanam and to the latter the janmam. And so the law of kanam and janmam. (Kana-janma maryada.)

There is also a theory propounded by Mr. Logan, the Collector of Malabar. His view is that prior to British rule there were three classes of janmis, kanakars and the kudiyans or the actual cultivators, each of them having a right of co-proprietorship over the soil and each enjoying one-third of the net produce.

There is also a large volume of opinion of the early English administrators who hold that kanakaran is only an intermediary, and the janmi is the absolute proprietor of the soil in Malabar. This absolute proprietorship of the lands in Malabar has been the prevailing view for more than 150 years, so much so the tradition and the consciousness of the people of Malabar, be they janmis, kanakars or verumpattakars, Hindus or Muslims, Nayars, Brahmans or Ezhuvas, have been that the janmam right is the absolute proprietary right in the soil of the person or persons who own the land. It will be seen from the writings of these early English administrators that the absolute right of the janmi has been uniformly recognized by all the authorities, ancient and modern.

There are also accounts of foreign travellers in India, which go to confirm this prevailing view of the janmam. To mention only one authority, Jacob Canter Visscher, the Dutch traveller who visited Kerala in 1743, makes reference to the absolute right of the janmis and to the kanams being redeemable. There is then the famous fifth report which also speaks to this absolute proprietary right or the birthright of the janmi in the land. There is no historical basis or evidence for assuming that the state or the sovereign at any time had any right in the soil in Malabar.

Logan's theory is the sheet-anchor of the tenant-advocates who seek to rely upon the opinion of Logan that British administrators and British courts have committed mistakes by importing the English notion of property incidents in Malabar. There are also the janmi advocates who criticize the theory of Logan as being more fanciful. At any rate the theory of Logan has not found favour with the Government and they have all along proceeded on the idea that the janmis are the absolute proprietors of all the soil in Malabar, arable as well as waste lands.

There is another view current among the people of Palghat, viz., the janmi is one who grants his lands on kanam and the kudiyan is one who takes the grant from the janmi. Whatever may be the theories or views of persons, however eminent, this fact is patent that a large class of people have acquired by purchase and otherwise during the past 150 years or more the absolute proprietary rights in the soil of Malabar, and their right has been recognized by all concerned, as well as the Government. It is now useless to try to subvert the rights of these persons.

The janmam right is of a very ancient origin. Waves and waves of emigration have come to Malabar and the first emigrant might have been the original cultivator, who turned the sod by reclaiming lands from the jungle tracts. It may be thus said that the janmam right arises from the original occupation and cultivation. This is the view held by some of the janmis themselves. Is Parasurama the first occupant? How the Nambudiris came to possess the janmam lands from of yore passes my comprehension. The ancient origin is lost in obscurity and there is no use speculating over this. There are a large class of janmis, large and small, who held tracts of lands in Malabar and their janmam rights as mentioned above have been recognized by one and all concerned, till a batch of agitators, mostly English educated Malayalees, began to create an artificial opinion against the janmis.

Personally I cannot say how janmam rights arose originally in long lost time. To me, it appears to be only an academic discussion which benefits no one. No one is now

competent, according to me, to speak about this origin also. I am one who holds that we have to take things as they are and try to make the lot of the janmi and the subordinate holders of lands under him happy and work for the common good of all concerned.

(2) *Kanam.*—The word arises from the Malayalam word 'Kanunnu.' That means that the kanam is seen to exist until it is re-paid on redemption. The word kanam came to be applied to the tenure in one of two ways. It may be that the cultivators' possession and enjoyment was a right which everybody could easily see, while the right of the janmi was not one which could be perceived by the eyes ; it was invisible to the public. The right that could be seen is called kanam. Or, it may be, that for the creation of such a quasi-leasehold right, the tenant had to make several customary payments, viz., avakasam or fee, oppu and suchi, fee for signing and writing, and sometimes a host of other things such as pattakula, tottakula, poli, tirunalpanam, etc., and finally kanam. None of these payments would endure, they would be exhausted with the grant of the tenure itself except the kanam. The latter would endure for all times and it alone would have to be returned by the janmi on redemption. The kanam money could be 'seen' at all times, and so the word 'kanam' might have been used as an expressive terminology. It is also significant that in the case of Brahman priests in the villages in the Palghat taluk they make when they are engaged for service a money payment to the village called kanam, and that in the case of marriages of lower castes in Malabar the money payment called kanam is made by the husband to the wife. On the termination of the service of the priest in the former case and also on divorce in the latter case, this amount is to be returned. There is nothing in all these to import the idea of permanency. Kanam demises are found to have been granted by the Devaswams, Nambudiris, Kovilakams and big Nayar tarwads.

When a person has large and extensive lands it is usual that he grants a portion of it on lease to his subordinates to look after the cultivation. It is also quite possible that these subordinates came to occupy those lands under their masters, and began to further improve the lands and make them yield a rich harvest. In course of time when master of the janmi came to be in need of money the first person to be looked to by him is his own rich subordinate who might have helped him with money or grants in time of need. The janmi, in gratitude, might have given him a favourable term. The kanari happened to build his house and live on the land granted to him, and thus became attached to the land. This, in all likelihood, may be the origin of kanam, but of which I am not sure. But one thing is obvious here also, that there is a large class of persons who have advanced sums of money or grain to the owner and have taken lands with an obligation to pay what is called michavaram, i.e., rent after deducting the interest on the amount advanced. It may also be mentioned that the present day kanaris are not the old ones. The kanari has no doubt a substantial interest in the land. The kanam right is redeemable. It has been so for 150 years and more.

I do not subscribe to the view that this kanam land is not resumable at all. It is sheer injustice and wrongful to do away with rights that have been enjoyed for the past 150 years. I think that the provisions of the Malabar Tenancy Act and the Improvement Act are sufficient safeguards against arbitrary eviction by the janmi of the lands held and improved by the kanari.

(3) *Kuzhikanam.*—The word literally means the money used for pitting. The tenure is one by which improvements such as coconuts, etc., known by the term kuzhikur are made on a piece of land, and generally endures for a period of 12 years unless contrary is expressly laid down in the agreement. This is usually seen in North Malabar.

(4) *Verumpattam.*—This has its origin in the inability of the janmi or the kanamdars or others in occupation for cultivation.

(5) *Other tenures.*—Most of the other tenures are said to have been obsolete. In the Palghat taluk, to which my experience is confined, there are some irredeemable permanent tenures like Saswatham, Santhathi, Brahmaswam, Anubhavam and Adimayavana. Anubhavam has its origin in the gift by the chieftain to his servant for meritorious services rendered in war or in peace. It is a grant made for past services. There are grants for future services also. The holder cannot be disposed ; the right is hereditary and it is only on default of heirs of the holder that it reverts to the janmi, the grantor. Grantee's right in this is confined only to the enjoyment. Denial of the title of the landlord will work forfeiture. When an Anubhavam grant is made to a Brahman it becomes Santhathi Brahmaswam and it is understood to revert to the grantor on alienation, but a Full Bench of the Madras High Court in 43 Madras Law Journal, page 1, has held otherwise. When a grant of land for services rendered or to be rendered is made to a low-caste man it is called Adimayavana. Grant for services to be rendered is resumable if service is not rendered. Saswatham is a gift of the land usually made to the Nambudiris by Rajas to be enjoyed by the grantees' family, till Sun and Moon last. In all these irredeemable tenures there is the usual pepper corn rent paid to the janmi just to recognize his proprietary right.

2. The janmi as I said above is the absolute proprietor of the soil. The kanam tenant is the intermediary who has been in the enjoyment of the land by cultivating them himself or having them cultivated. The kanari has some substantial interest in the land which has now been sufficiently protected by the Malabar Tenancy Act and the Improvement Act. Verumpattakaran is according to me merely a labourer. He belongs to a class of impoverished, improvident and unintelligible class. They are extremely poor and very often they carry on their cultivation in their own mamul ways. They have no sufficient cattle or sufficient seed grain. They are very often the victims of the village money-lenders. Since the passing of the Malabar Tenancy Act by which they are given a sort of fixity of tenure, these people have now become very dishonest and tend to defeat the landlord at every turn. Malabar Tenancy Act has provided them many loopholes for evading payment of rent. This fear of the landlord is sufficiently attested by the fact that there are numerous eviction suits against the verumpattakars and in these suits just before the harvest season, a number of receiver petitions are being filed. These suits are mostly by the kanaris.

3. Judicial decisions have affected a change in the right of the janmi as against kanakaran in the fact that he was not allowed to redeem a kanakaran before the expiry of 12 years. Originally it appears that his rights were not so fettered and by the recognition of the 12 years' period by judicial decisions the kanakaran happened to gain. This tenure was originally a redeemable one after the expiry of 3, 4 or 5 years as fixed by the contract. The janmi can resume as and when he was able to return the kanam amount and pay the improvement value. Judicial decisions put a curb upon this right of the janmi and corresponding security for a period of 12 years was given to the kanakaran. As regards the janmam rights judicial decisions have not affected any change. As regards the kanam also there is no change except the period of 12 years was added to the kanam tenure.

4. (*a*) Yes. The Government have at the very outset expressed their idea that in Malabar they do not propose to claim any right over private lands. They have claimed rights subsequently to escheat lands only. The revenue authorities and civil courts have very properly accepted the Government view.

(*b*) No restrictions on the rights at present enjoyed by the owners of waste lands, forests and irrigation resources need be placed, except that for purposes of irrigation Government may exercise supervision for maintaining the sources intact and in the distribution of water to the tenants so as to avoid quarrels between the adjoining owners and cultivators of the land. This provision will tend to benefit both the owners and the cultivators.

(*c*) Yes. Provided the waste lands are all undeveloped forest-tracts not adjoining arable lands and only on full compensation being paid by the state to the owner thereof. Waste lands adjoining the arable lands on the low country must be left to be developed by the owners and occupiers of the adjoining arable lands themselves.

5. (*a*) (1) No. Eliminating the janmi is unthinkable. Similarly also the intermediary kanakaran. There is no serious complication in the system of the land tenures now. Few that exist can be set right by a proper and judicious amendment of the existing Malabar Tenancy Act. The theory that between the state and the actual cultivator there should be no intermediary does not apply to Malabar. The state has no proprietary right in the soil except on escheated lands and most of the ryots or the cultivators belong to an impoverished class who are mere labourers. It is the janmi and the kanakaran who have got a substantial right and they cannot be eliminated even on payment of the full compensation. If the two are proposed to be eliminated it would amount to a huge revolution which may not be looked upon with equanimity. If the janmi or the kanakaran or both the janmi and the kanakaran are to be eliminated, what are they to do ? They are a very large class of people who have got to live by some occupation.

The monopoly in the land has been broken down by the enactment of the Madras Marumakkathayam Act and the Madras Nambudiri Act. The right of partition is given by these Acts to persons governed by these Acts and there have been numerous partition suits in the Courts of Malabar, the significance of which has been the splitting up of the ancient Nayar Tarwads and Nambudiri families. Each of the big families are now split up into various units. All of them have to subsist. Therefore the elimination of these people from the lands is unthinkable and is also impracticable.

How to eliminate these people ? It might be said that the janmi can be eliminated by making the kanari purchase the janmi's rights. What is the sin of the janmi for compelling him to sell away his rights ? And what is the special merit of the kanari that he should be so favoured. If the intermediary is to be eliminated it can be done, I think, by making the janmi purchase his right, i.e., by redeeming the kanam or making the verumpattakaran purchase the rights of the kanari. The first course that was being resorted to freely by the janmi cannot be resorted to as that right is now restrained by legislation.

Kanari is favoured now at the expense of the janmi by the enactment of the Malabar Tenancy Act. The latter method of making the verumpattakaran purchase the right of the kanari is impossible.

90 per cent of the verumpattakars in the Palghat taluk are very poor. There is therefore absolutely no case to disturb the existing order of things.

(*b*) (2) It is also impracticable to distribute those farms. What is an ideal farm requires definition. There is no standard for that. How to delimit the area of the land in the possession of the actual cultivator when he has a growing family ? Individual partition in Malabar tarwads is not still recognized. There is still a thavazhi with the common ancestress. Under the circumstances, what an ideal farm should be to suit the requirements of these growing families is difficult to be ascertained.

(3) Prohibition of sale by cultivators to non-cultivators would, I think, tend to the accumulation of the lands in the hands of the rich cultivators or it would tend to impoverish the land itself. In the first case, it would tend to the monopoly of lands in the hands of the cultivators who are rich. In the second case the small cultivators would not even get a loan from the class of investors who have got fluid cash with them. It would also tend to condemn the non-cultivator ever to remain a non-cultivator. It is very often the non-cultivators, who resort to scientific education. They alone have got the leisure and they have got cash with them. Prohibition of sale to them would divert their capital and knowledge to other fields. Agriculture is not going to be benefited by the knowledge and capital they have.

Further the class of the cultivators and the non-cultivators will be moving in a vicious circle. A cultivator's son need not necessarily be a cultivator. Non-cultivator's sons may take to cultivation.

6. In the existing Tenancy Act all the under-tenure-holders are greatly protected. A few amendments only are needed. If the kanari does not take a renewal on the expiry of the time, then that right must be given to the one immediately below him, to apply through court or otherwise to take a renewal from the janmi direct and then protect the right of the under-tenure-holders. Similarly if michavaram or rent is kept in arrear by the tenant immediately below the landlord, suitable amendments may be made. For example, by enacting provisions similar to that of section 72 of the Transfer of Property Act and also adding an express clause enabling the under-tenure-holders also to apply for renewal on payment of all the dues to the janmi by the kanari under the contract. Something akin to the privity of estate must be recognized to exist as between the janmi and the under-tenure-holders. A recent decision of the Madras High Court in A.I.R. 1935 Mad. 92 holds that only the contracting kanari or his assignee or legal representative has got the right to apply for renewal. This decision is now working some hardship.

It is doubtful whether any member other than the person who executes a kychit to the janmi or his assignee or legal representative, much less a mortgagee or under-tenure-holder under the kanaris will be entitled to apply for renewal on account of this decision. There is also one other recent decision of the Madras High Court reported in A.I.R. 1938 Mad. 263 which has also tended to create some complication. Suitable amendments may be made in view of the observations in these decisions. Otherwise sufficient protection is made in the Act itself in the case of under-tenure-holders.

7. (*a*) Regarding the questions relating to rent and fair rent, the method of fixing it as indicated in the Malabar Tenancy Act has not been given a sufficiently fair trial. It is about nine years now that the Tenancy Act has been in force. I have not known of any difficulty or hardship in the Palghat taluk in the working of the provision relating to fixing of the rent and fair rent. Rent fixed under the contract is being paid and during periods of drought there have been remissions also to the tenant by the landlord. The Act must be given a fair trial before any change is contemplated. The Tenancy Act makes provision for revision of rent under section 30. That section has not been given a chance yet. Why not we give that chance ? The period fixed under the section comes only hereafter. At least 20 years' fair trial must be given for the operation of that section and no change ought to be contemplated before that.

(*b*) I have no definite instances where the assessment has exceeded a share of the produce which the assessment may be deemed to represent. There is a general complaint among the people that the Government assessment works hardship upon them. This hardship is due perhaps to the fall in the price of paddy.

In the payment of revenue some pattadars in this taluk have been hard hit by the default of the kudiyiruppu-holders and kanaris in paying the revenue to the Government. Some expeditious and cheap method of enforcing the term of the contract against the

defaulting party, i.e., the kanari and the kudiyiruppu-holder and others who have undertaken to pay the revenue on behalf of the pattadar must be devised. Now that the pattas are being registered in the joint names of the janmi and the persons in possession such as the kanari, the Government must in case of default, seek to realize the revenue in the first instance by the sale of the interest of the holder other than the janmi in whose joint names the patta is registered.

8. With reference to question 8, no hardship of any sort has come to my notice in fixing the fair rent as between the parties. So far as Palghat taluk is concerned many renewals take place by private treaty rather than through Court. That shows that there is a very wise recognition of the altered times and the doctrine of give and take between the parties.

9. The fair rent cannot be fixed in proportion to the assessment at all. Assessment is not uniform. There is a widespread belief that the Government is adopting arbitrary method of enhancing revenue at every resettlement.

10. The michavaram or rent that is being paid by the kanari to the janmi under the kanam demise is notoriously low and under no circumstances remission of rent is to be contemplated so far as the janmi's dues are concerned.

11. There is no necessity to standardize weights and measures so far as the Palghat taluk is concerned. There is no difficulty felt, at any rate, in this taluk. The standard para is well understood by all the parties concerned.

12. The practice of renewal is said to be the incident of the tenure and the right to it has been recognized in the same way as to the right to the kanartham and the payment of the michavaram. The possible origin of this renewal fee is to be sought in the element of self-redemption which was said to be attached to every kanam. Doctor Buchanan and the Minute of the Board of Revenue, dated 15th January 1818, referred to this inherent principles of self-redemption. The renewal or Polichezhuthu entitled the janmi to a remission of a fixed percentage on his original debt and by such periodical renewals and concomitant deductions the land in process of time became disencumbered of this kanam. Thus the parties resumed their original positions. Gradually the practice sprung up of paying to the janmi at this renewal certain sum equivalent to the amount of the share of the advance which had to be remitted. In such cases instead of the kanam being reduced it remained the same amount as before and the janmi took the renewal fee without any additional burden on the land.

There is also another theory put forward. It is said that when the janmi dies and a new succession takes place in the janmi's family or a change of the kudiyan takes place either on account of death of the kudiyan or transfer of the holding, fresh deeds are taken on payment of a fee called പുതുക്കാനം or succession duty. Whatever the origin may be, this renewal and renewal fees have been in vogue for a very long time. It is said by some that it has been in existence for more than 500 years and by others at least for more than 150 years. It has been recognized by British Courts and Legislature and by the people of Malabar.

There is no justice in depriving the janmi of this fee. In many janmi families this is the principal source of income ; deprivation of the same would spell ruin to these families. The nature of the renewal fee took many forms before the enactment of the Malabar Tenancy Act. In some places it took the form of one year's net produce of the land less Government revenue. In some parts it ranged from 13 per cent to 27½ per cent of the kanam. At any rate, it was a payment out of the cherulabham of the land which the tenant was getting. It was really a re-adjustment of accounts between the janmi and the kanakaran at every Polichezhuthu. When the term of the kanam tenure came to be recognized as 12 years, this came to be paid at every 12 years.

A uniform method of calculating renewal fees is devised in the Malabar Tenancy Act and there is no serious difficulty felt in arriving at the figure.

13. (*a*) I am not for abolishing the system of renewals.

(*b*) It is not practicable to fix any compensation to be paid to the immediate landlord if this system were to be abolished.

(*c*) I do not think the provision of the present Malabar Tenancy Act require any amendment in any respect in relation to the fixing of renewal fees.

14. Legal provisions regarding the relinquishment need no provision. Since the passing of the Malabar Tenancy Act no instance of voluntary relinquishment by the tenant or the kanari has come to my notice. Section 44 of the Malabar Tenancy Act tends to become a dead-letter. No tenant gives up his right in the land unless he is compelled to do so through court of law.

15. (*a*) I do not favour the grant of occupancy right to the actual cultivator. Most of the cultivators in the Palghat taluk are poor verumpattam tenants who have no means of enriching the soil. They are too poor to pay any advance payment of rent to their immediate landlord. Most of the landlords are the middle class people who hold kanam lands and kovilakam verumpattam lands. They find it very difficult to collect their rents. In case fixed occupancy right is to be given to the actual cultivators they must at least be made to deposit with the landlords at least two years' rent in advance.

The clause regarding forfeiture for non-payment of rent must be so amended as not to give room for any dilatory tactics on the part of the verumpattakaran tenant. He must be made to deposit the rent and costs of the suit at or before the first hearing of the suit for eviction on the ground of non-payment of rent. The provision regarding the six months' notice for demanding security must also be abolished. A statutory period must be fixed and within that time each and every verumpattam tenant must be compelled to deposit with the landlord and advance two years' rent and a registered Pattamchit must in every case be executed.

(*b*) After passing of the present Act evictions on unjustifiable grounds have been few and far between. Such evictions are now very insignificant. Regarding grounds of eviction no new grounds need be added.

16. I am not in favour of abolishing or restricting any of the landlord's rights to sue for eviction as provided for in the present Act.

17. (*a*) As regards kudiyiruppu-holders the provision in the present Act may continue. It is not desirable to extend that right to all kudiyiruppu-holders. A ten years' continuous possession prescribed in the Act is a wholesome principle. If that principle is taken away and the right is extended to all kudiyiruppu-holders much confusion would arise. If such fixity is to be given to all kudiyiruppu-holders full market value must be paid to the landlord. I must observe that the fixing of the market value has been hitherto satisfactory.

(*b*) There is certainly a distinction between urban and rural kudiyiruppus. Kudiyiruppus in the municipal towns should be exempted from the present kudiyiruppu rules. Regarding rural kudiyiruppu the existing rules might continue. Suits for eviction of kudiyiruppus are becoming scarce.

(*c*) It is not easy to find out the minimum extent that might be granted on permanent tenure for kudiyiruppu as suggested in question 17 (*c*). It depends upon various factors. Therefore the present provision might stand as they are.

18. There is no need now for revising the present legal provisions regarding compensation for improvements or to fix the time-limit for the execution of a decree for surrender on payment of value of improvements. Some minor changes may be made in the classification of fruit trees and the table of valuation may be revised. Tamarind trees, graft mango trees and cashew gardens must be treated as fruit trees and valued on that basis.

19. I do not know of any feudal levies being made at present.

20. Since I have no experience of fugitive cultivation and pepper cultivation I am unable to say anything about the desirability or otherwise of extending the provisions of the tenancy legislation to them.

21. Similarly also regarding Kasaragod and Gudalur taluks.

22. (*a*) The procedure of the Act as indicated in sections 20 to 25 are not properly worded. They tend to work some hardship upon the janmis. The janmis have now no right to apply for compelling the tenant to take renewals. In case a tenant does not take a renewal or apply for it the janmi has to file a suit for redemption, after paying heavy court fee. The tenant makes his appearance in the suit, puts in his written statement and claims the improvement value without making any prompt application for renewal. Heavy commission fees are paid by the janmis for valuing improvements and just before the final hearing the tenant comes with his petition for renewal. Again the commission is usually sent to fix the fair rent. All these waste of money and energy can be avoided if only the janmi also is given the right to apply for renewal, in case he does not choose to redeem on proper grounds. I know personally that such a provision would generously be availed of by most of the janmis and especially the sthanams and devaswams.

(*b*) Under section 23 before any of the grounds on which the landlord files suit for ejectment the petition for renewal has to be dismissed. There is no necessity to dismiss a petition for renewal before a full enquiry into the matters is made. In fact all the points can be enquired into in the petition for renewal itself. Landlord also must have a right to have this question agitated in a petition instead of a suit for redemption.

Court fee on appeals under section 50 must be as in Civil Miscellaneous Appeals. Summary trials may be provided for the proceedings under the Act. But there mustbe appeals from the decision as provided in section 50. Rules for summary trials were framed and published by the Government. That does not seem to have had much publicity. The rules must be embodied in the Act itself. All these proceedings may also be tried as petitions and disposed of expediciously. Provision for appeal should be made in all these matters.

(*c*) (2) It is not advisable to entrust revenue courts with the trial of proceedings under the Act. Revenue Officers often travel from place to place and parties will be put to great trouble and expense. Besides very few Revenue authorities have any judicial training, and lawyers will find it difficult to appear before them. I think both the tenant and the janmi have got more faith in civil courts than in revenue courts.

(3) Landlords or janmis ought to be given the right to file applications or suits for recovery of renewal fees. It is better to give them the right to file applications as otherwise the court fee will be much and the trial prolonged.

23. Besides the general economic difficulties felt throughout India there are no serious disabilities pressing on tenants in Palghat taluk. Those difficulties are not peculiar to this taluk.

24. I do not know of any difference in the disabilities from which the tenants in North and South Malabar suffer if any. My experience is confined to Palghat taluk only.

By Sri M. NARAYANA MENON :

As it is I do not find any complication in our land tenure system. The few defects that have been found can be rectified by a simple amendment of the Act. There are now no kanamdars at all of the old type. Most of the present-day kanamdars are purchasers of kanam rights. The kanamdar may be allowed to purchase the janmi's right, for full compensation. But that is not simplifying the system. There are janmis big and small. The rights of small janmis ought not to be purchased. In the case of big janmis the kanamdars may be allowed to purchase their rights, after leaving sufficient margin for the expenses in their families. Small janmis should be allowed to redeem arbitrarily. It would not be sufficient compensation for them if they are given the value of their rights. They must not be compelled by legislation to part with their rights.

By Sri R. RAGHAVA MENON:

In the matter of eviction we have provided against bad faith. There must be the need in the janmi's family for the land proposed to be evicted. It is enough if there is an honest desire to cultivate the lands and no limit can be fixed. It depends upon the size of the family. The poverty of the verumpattamdars is due to the smallness of the holdings. With fragmentation of the holdings and partitions in the families the people remain poor and the only way by which their material condition can be improved is by finding for them some employment for six months in the year.

I think that these people should be put under some discipline. By being verumpattamdars for some years they would be placed under some discipline ; otherwise there is a tendency to rebel against the janmis and to wreak vengeance on them. The spirit of revolt against the janmis should not be allowed to develop.

By the CHAIRMAN :

Genuine kudiyiruppu holders may be empowered to purchase the janmi's rights. Even the ten years rule may be taken away. We may take to some method like the method of valuation in connexion with land acquisition proceedings. It would not amount to real compensation if only the capitalized value of the rent were given to the janmi. But all the same it would not be unreasonable to purchase the right of the janmi in that way.

7. Statement showing cultivation expenses prepared and submitted by Sri Puthusseri Naduvil Veettil Appu, son of Raman, Puthusseri Amsam, Palaghat Taluk.

I have cultivation of 50 paras seed sowing area.

I have also two pairs of cattle and ploughing materials.

First crop (*Chemban*).

	PARAS.
Seed	35
Manure (500 baskets—1 para paddy for every 10 baskets)	50
Ploughing charges (7 *chals*—two pairs of cattle 35 rounds)	10½

First crop (Chemban).

	PARAS.
Charges for conveyance of manure and its spreading, of repair of the bunds of kandams, and breaking of dried mud (katta thallal), etc.	10
Removal of weeds, etc.	50
Watching charges	5
Total ..	160½

Second crop (Chitteni).

Seed	35
Ploughing charges and Nhattuvatti	3
Plucking of seedlings (150 coolies)	15
Transplantation of seedlings	5
Conveyance of manure	5
Ploughing charges	7
Watching charges	5
Total ..	75

Extra.

Bran for cattle (Rs. 45 at two annas per day)	90
Cattle herds—Coolie at 3 paras per month	36
Total ..	126
Grand total ..	361½

The expenses detailed above are indispensable and are worked out on the presumption that the cattle and ploughing implements belong to the cultivator. Their cost and the interest on the outlay for their cost have not been included in the statement. It has to be borne in mind that in the case of double crop wet lands fencing and arrangements for scaring away wild animals are essential.

Coming to the outturn—

Provided the season is favourable.

	PARAS.
First crop—10 fold	500
Second crop—7 fold	350
Total ..	850
Deduct cultivation charges	361½
Net produce	488½

Half of this may be fixed as rent and the balance, i.e., 244¼ paras may be taken by the actual cultivator.

It need hardly be mentioned here that 244 paras will only be barely sufficient for the maintenance of a cultivator's family.

By the CHAIRMAN :

I do not maintain any kind of record of cultivation expenses but I think it is necessary to spend about seven times the seed required for cultivating the lands. The quantity of seed required varies according as the land is fertile or not. There is no difference between the quantity of seed required for broadcast sowing and for raising seedlings for purposes of transplantation. I do not know about the yield in other parts of Palghat except in Pudusseri. There we have lands which are both bad and good. I think that if there is not a seven-fold yield, it is no use taking to cultivation as a profession. In the answer, I have given all the necessary items of expenditure connected with cultivation and the cultivator has nothing more to do. The money invested for cultivation is the cultivator's own and for supervision I require 50 per cent of the net produce ; but one-third would be better than having nothing.

By Sri R. RAGHAVA MENON :

There are families in Pudusseri carrying on agriculture and maintaining their families. Except in periods of drought they were able to live. There are two kinds of pattam, one paid by Ezhuvas and the other by other castes. Evictions are very usual. Except for one or two janmis all other janmis evict, the main reason being competition between neighbouring tenants. I have been a cultivator for the last 25 years. The members of my family rarely do work on the fields though they sometimes plough.

By Sri E. M. SANKARAN NAMBUDIRIPAD :

In the data for expenses I have not included the price of cattle.

By Sri E. KANNAN :

By farming alone people are not able to maintain themselves. When others refuse to take up a land at a certain rental, Ezhuvas offer to take it up and the pattam that they pay came to be called Ezhuvapattam.

By Sri A. KARUNAKARA MENON :

I use only my own bulls for my cultivation normally. In emergencies we take loan of bulls. Because the Ezhuvas have no other means of livelihood they offer high rents for lands. All Ezhuvas are not cultivators.

8. Sri K. Koman Nair, Retired Advocate, Palghat, South Malabar.

Note.—The witness did not send a written answer to the questionnaire.

By the CHAIRMAN :

I was practising here from 1902 to 1931. From the year 1932 I have been engaged in agriculture. I am a janmi; a kanamdar and also a verumpattamdar. In all I have about 120 acres of paddy growing lands. I have seen kanam documents with no stipulation for surrender prior to the Sadar Adalat decision. Later documents contain this stipulation for surrender. Expressions like '*janmi-kana-maryadaprakaram*' '*kana-choru*' indicate a sort of permanency. The ancient janmis in Malabar were Nayars, Rajas and Nambudiripads. The old documents make mention of such janmis. The courts have come to the conclusion that there must be a presumption in private ownership in their favour. When the same Government held the lands in Malabar and those in the East Coast to be under different categories, we must presume that they had valid reasons for it.

By Sri M. NARAYANA MENON :

I have been cultivating the major portion of my lands. While I was practising at the Bar, my lands were being cultivated by others. I have effected very many improvements. If I had not taken to cultivation after retirement, I do not think any tenant would have improved them.

I was a vakil of very many janmis in South Malabar. Very small kanams held under the Zamorin and the Kuthiravattam Nayar could not be regarded as loans raised for necessity. Kanams could not have originated from mortgages. The expression 'Have you given kanam here ?' is generally used with reference to a person who presumes to have certain rights in respect of a thing. The term 'kana-choru' means kanams for which cooked rice has to be given for ever. The tenure is therefore permanent.

Forest lands were in the possession of chieftains. It may have been the original idea that as Rajas they were in possession of these things for public benefit. In my opinion, rightly or wrongly they have been holding these properties as janmis and as full proprietors. I do not think therefore you will be justified in making an escheat of their properties to their prejudice. I am pleading for the *status quo*. The Government may take over irrigation sources on payment of compensation. There are certain kanam documents in which there is no mention of the expression 'Ubhaya Pattolakkaranam'. But instead there is the expression '*Kandu koryam*'.

By the CHAIRMAN :

If the Government is given power to resume forest lands and irrigation sources and utilise them for the public, the janmis' dues should not in any way be interfered with.

I do not agree that the Malabar land tenure system is the most complicated in the world. The land tenure system is complicated everywhere. I am not for interference generally with these different tenures of land as they at present exist. It will cause hardship. There is sentimental attachment to one's property. You will be causing injury to that sentimental attachment. It is desirable to protect the under tenure-holder. He comes into possession with the full knowledge of the risks he has to incur. He suffers to some extent. He must be indemnified by the kanamdar. He can tender in court the michavaram due by the kanamdar to the janmi. If he does not enter such a stipulation in his own document, he has to see that the kanamdar pays regularly. I understand that this grievance is felt in North Malabar. Wherever such grievances are very common they may be remedied. No simplification is necessary according to me. It is not correct to say that because a difficulty or two exists, the system is at fault and should be reorganized. The under-tenure-holder may be permitted to enforce renewal from the janmi on payment of the dues in his own favour or on behalf of the intermediary. Provision might be made to enable the under-tenure-holder to give all the dues due by his immediate landlord to the janmi direct in case he apprehends default and that must be allowed to prevail against any claim that might be made against him by his immediate landlord. If the holdings are

sub-let in various parts, special provision must be made. He may pay his portion and get some relief; he should be given some relief if he is honest and regular. The janmi may be compelled to accept the payments made by him :

By Sri M. NARAYANA MENON.

I do not think that there will be cases where the michavaram payable is more than the fair rent which the kanamdar will receive. You can make certain provisions for that; but from one or two instances, we cannot draw general conclusions.

By the CHAIRMAN :

As regards the intermediaries, I would leave rent to the private contracts as between the parties. In the first instance, the janmi himself may be asked to pay the assessment. That is the law and that may stand. The renewal fee may be spread over a period of twelve years.

There is no point in wanting to get the value of improvements when a person is relinquishing the holding. I am not in favour of any change in that respect.

By Sri A. KARUNAKARA MENON :

Where fair rent is less than the michavaram paid, there may be legislation for rateable reduction.

By the CHAIRMAN :

The grounds in the Act for evicting a cultivating verumpattamdar are satisfactory. The court will have to decide whether the lands are required for bona fide cultivation or not. It will not work any hardship on the parties. The janmi should not be arrogant and should not try to take away the lands from the possession of his tenants when he has no idea of cultivating the lands himself. There are very many big families which on account of partitions are not able to maintain their pristine positions and they naturally desire to take to the cultivation of their own lands. If the janmi seeks to evict because the tenant has improved the property the tenant will be able to prove that the reason behind the eviction is the improvements that he has made in the land and so his bona fides could be questioned.

By Sri A. KARUNAKARA MENON :

The janmam lands can be brought under four broad categories—(1) Devaswam lands, (2) Sthani's lands, (3) Nambudiri's lands and (4) other janmam lands. The lands belonging to the first three categories are not cultivated by the owners. I agree generally that the right of eviction for bona fide cultivation may be taken away from them. Some of the Nambudiris have taken to cultivation now. In regard to them the words ' bona fide cultivation ' may be removed and ' present necessity ' may be added.

By Sri M. NARAYANA MENON.

I know cases where a single person has been cultivating an area which requires 1,000 paras of seed. It is not necessary to place some limit on the extent of land which may be allowed for one man to cultivate.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

If I have 1,000 acres I can cultivate them all with the help of agents.

By the CHAIRMAN :

I have no objection to giving security of tenure to kudiyiruppu holders. If the kudiyiruppu is in a big area he may be allowed also the necessary and convenient compound. Summary trials and easier collections may be provided. Applications for renewal may be entertained. I have no objection to the collection of rent by Revenue authorities.

9. Sri T. P. Chamiyappan, Vilayanchathanur, Vilayanur, Palghat, South Malabar.

1. I cannot give the origin of janmam. It means the right which pays only assessment. The verumpattamdar pays the balance profit after deducting cultivation expenses and consideration for his work.

2. The janmi can take all the yield after paying assessment. The kanamdar now takes all the profit after deducting michavaram and renewal fee. The verumpattamdar holds till the janmi evicts and pays the balance of profit after deducting cultivation expenses and consideration for work.

3. Yes. Kanam deeds give no time limits. The courts imposed the 12-year period.

4. (*a*) Yes, it is right.

(*b*) Owners should give lands and irrigation sources to those who want them for proper cultivation.

(*c*) I am willing.

6. Yes.

7. (*a*) The actual cultivator should get 4/10 of the gross yield and the janmi the rest. If there is an intermediary he should get his share according to his right (from the 6/10).

(*b*) In double crop lands about one sixth. In single crop lands about one fourth. In some cases it is more owing to classification errors.

(*c*) The janmi. Others must pay according to their contracts.

8 Yes. It is difficult to fix fair rent under the present act in disputed cases. A Board should be established to fix it.

9. No.

10. If remission is given for failure of crops, rent must be remitted in proportion.

11. Yes. In Palghat taluk, the 40 nazhi para and edangalis accordingly.

12. Nil.

13. (*a*) In favour.

(*b*) There were no renewal fees or evictions in former days and tenants had fixity without paying compensation.

14. Must be changed.

15. (*a*) The janmi must have the right to evict for his own bona fide cultivation and the tenant must give proper security for rent.

(*b*) I can give instances before the Committee. Changes are needed. Those who have not cultivated so far and have no occasion to do so in future should be excluded from the right of eviction.

16. The landlord must be permitted to evict so much as is bona fide required for his own cultivation.

17. (*a*) It will be good. No compensation should be paid as long as rent and assessment are regularly paid. But in cases where there are no special deeds we need a means to collect assessment and michavaram varying according to ancient custom from 4 annas and 7 pies to Re. 1.

(*c*) From 10 to 25 cents according to the size of the family.

19. Collections are made on the occasion of marriages. If they are not shown in former deeds, they should not be paid even though they are stipulated in present deeds.

22. (*a*) Yes. There is much loss and difficulty in getting possession of lands and collecting rent on decrees. Unless security is given for rent, there must be a provision to collect rent and evict immediately.

(*c*) (1) Yes.

(2) No.

(3) No.

23. Yes. Although money is taken in place of paddy as michavaram, it is not shown so in the receipts in this taluk and many janmis collect in excess of the market rate.

By the CHAIRMAN.

I think that the kanamdar had an irredeemable right to possession. I am of opinion that the Government should be invested with power to take possession of waste lands and forest lands and irrigation sources and utilize them for the benefit of the public at large.

I do not say that the whole tenure system should be simplified. Simplification must be made wherever nece sary. I have no objection to allowing the cultivating tenants to purchase the rights of the intermediaries or of the janmi for the full market value of their rights. The land tenures can be simplified in that way. It is necessary to protect the under-tenure-holder from the consequences of default by the intermediaries above him.

By Sri M. NARAYANA MENON :

If the renewal fee is spread over twelve years and added to the annual michavaram payable to the janmi by the kanam tenant, it would be convenient. It would be more convenient to permit the kanamdar to purchase the janmi's right by paying adequate compensation for the value of that annuity payment, but an exception will have to be made in the case of a janmi who has to cultivate for his livelihood.

By the CHAIRMAN :

Two-fifths of the gross yield may be given to the tenant leaving the balance to be divided between the janmi and the intermediaries. The expenses of cultivation depend upon the nature of the land and of the season. If the land is double crop, on the average the expenses will be 40–50 paras including seed for one acre. Under the Act, for fixing the fair rent it is necessary to watch the cultivation for three years consecutively. I think that if this question of fixing the fair rent could be left to a body of respectable persons of the locality, their decision would be really fair. It should not be left to a panchayat board, because in a body of that kind all persons can come in. I want the power of fixing

fair rent to be entrusted to persons who know the actual state of cultivation. A separate body for electing these persons may be created or the Government may be asked to nominate the members. If it is to be election by some sort of representative body, these representatives must consist of persons who possess certain qualifications specified by Government. Their decision must be final.

By Sri M. NARAYANA MENON :

I have been independently cultivating for the last 35 years about 70 acres of land. I have got verumpattamdars under me. Except when there is drought they pay the pattam regularly. My verumpattamdars have not complained that the pattam is high. I have fixed the rent due from my verumpattamdars bearing in mind the rate of expenses of cultivation I myself incur. The classification of soil is generally wrong.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

I have heard that some people are levying higher rents. If rent is commuted it will be convenient to the tenants.

By Sri A. KARUNAKARA MENON :

The cultivation expenses for the first and second crops would be four times the seed. For the first crop, however, the expenses would be a little more than for the second crop.

Renewal fees may be abolished altogether. There is no need for any compensation because in ancient times there was no provision for it. The janmi should be made to pay the value of improvements on surrender.

By Sri M. NARAYANA MENON :

The cultivation expenses will be about 100 to 120 paras per acre. The first crop yield will be about 10 to 12 fold. The second crop will be a bit lower. I am in favour of retaining the present provision regarding bona fide cultivation by the janmi but big janmis should not claim possession of lands on that ground. I own 70 to 80 acres of janmam land, and about 25 acres of kanam lands.

10. Sri R. Muthukrishna Nayudu, Municipal Councillor, Palghat.

1. I am not able to answer.

2. I am not able to answer fully.

3. I cannot answer.

4. I cannot answer.

5. Kanaris and kudiyiruppu holders may be given the right to purchase the janmam right for proper consideration.

6. It is desirable to protect the under-tenure holders who are regular in payments.

7. Fair rent may be fixed as follows :—

Out of the total produce of the land, seed-grain and $2\frac{1}{2}$ times the seed grain as valli and other expenses may be deducted and the remaining income may be divided between the tenant and janmi in the proportion of 1/3 and 2/3,

E.g.,—

The total produce of 1 acre of double crop land is 160 paras.

Seed grain necessary for it will be	12 paras.
For valli and other expenses $2\frac{1}{2}$ times the seed grain will be	30 ,,
Total ..	42 paras.

The balance income will be 160 − 42 = 118 paras.

Tenant's share is $39\frac{1}{3}$ paras. The rent thus due to the janmi will be $78\frac{2}{3}$ paras for 1 acre of double crop land.

8. The Act is to be amended by substituting $3\frac{1}{2}$ times in the place of $2\frac{1}{2}$ times as shown in section 6 ; with regard to garden lands and dry lands, I am not able to answer.

9. I do not agree to have fair rent fixed in proportion to the assessment now prevailing. There must be a re-settlement of revenue and then only can we think of fixing the fair rent in proportion to the revenue. It should be fixed in regard to wet lands at not more than 4 times the revenue after re-settlement.

10. Yes. With regard to remission of revenue, the Government must change its standing orders. With regard to remission of rent, if there is drought and if the court finds it true there must be remission irrespective of the fact whether the Government remits the revenue or not. The tenants should be enabled to put in original petitions in courts to get the rent remitted.

11. Weights and measures must be standardized. It must be treated as a criminal offence to keep non-standardized weights and measures. Receipts and disbursements must be in the same measures.

12. I am not able to trace the origin of renewal fee.

13. I am in favour of abolishing the system. The renewal fee now payable in a lump may be divided into 12 equal parts and added on to the michavaram payable per annum. There is no necessity for fresh document at the end of every twelfth year since janmis resort to subterfuges at the time of execution of documents The present rate of interest on the arrears of michavaram must be reduced to 1 per 10 instead of 2 per 10. This rate should prevail in the case of arrears of rent also. The tenant must have the right to send the value of the paddy at the Gazetted rate by money order. The patta is to be transferred in the name of the kanari.

14. The tenant must have the right to relinquish. The present provision disabling the tenant from getting back the kanam amount and value of improvements may be deleted, since it is penal

15. (*a*) Fixity of tenure should be given to the tenants who are ready to furnish security for the fair rent or to pay premium for one year's fair rent. Fixity can be given to actual cultivators only. The lessor must have the right to evict the cultivator if he wants the land for his own cultivation or cultivation by the members of the family or tarwad because of the poor condition of the tarwad. This itself must be restricted by the lessors' right being limited to 3 acres for every member of the family or a limit may be fixed based on the revenue paid by the tarwad, e.g , a family that pays Rs. 250 revenue on verumpattam lands either in British India or any Indian state or in both together must not be allowed to evict further lands.

(*b*) There are many instances where registered surrender deeds have been taken by lessors and the land given to the same tenants without any vouchers so that the lessors may enter upon the property without any difficulty. The Act to be passed must therefore have retrospective effect from the date of the appointment of the Tenancy Committee.

16. In the existing Act, section 14, clause 5, is much abused. Janmis take advantage of the "bona fide" clause to evict tenants. After eviction, they do not lease the properties to other tenants but evade the provision of law by appointing some person as agent. The system of cultivation by agent must be stopped. If the janmi really wants the land for cultivation, he can cultivate it himself with the co-operation of labourers and not through an agent. The "bona fide" right should be restricted as I have stated in question 15 (*a*).

17. Fixity of tenure must be given to all kudiyiruppu holders and revenue must be paid by the kudiyiruppu holders. No distinction need be made between urban and rural kudiyiruppus. The extent in occupation should be granted.

18. With regard to improvements made by the tenants, there must not be any deduction in favour of the janmi as is now reserved under the Malabar Tenants' Compensation Act. The tenant must get the full value of his improvements.

19. There are no feudal levies in this taluk.

20. I do not know.

21. It may be extended.

22. All remedies should be by original petitions in courts.

In conclusion, I have to submit that prompt steps should be taken for staying all suits and decrees now pending in courts so that the fruits of the Act may be enjoyed by the tenants.

By the CHAIRMAN :

I alter my written answer. I do not require any change with regard to the sections fixing fair rent. The janmi may be given the right to evict a tenant for bona fide cultivation purposes provided he does not pay assessment of more than Rs. 150 for lands in his actual possession.

11. Sri Parakkal Viswanatha Menon, Vadavannore.

Questions 1 to 3 cannot be answered.

4. (*a*) Waste and forest lands did not belong to private owners.

(*b*) The Government must take possession of waste lands, forests and irrigation sources.

(*c*) Yes.

5. (1) Kanamdars whose kanam amount is 50 per cent of the market value of the land and kudiyiruppu holders must be given the right to purchase janmam right.

(2) The area in possession of an actual cultivator must not exceed 25 acres of wet land.

(3) Sales by cultivators to non-cultivators must be prohibited.

6. A sub-lessee who pays rent properly must be protected.

7. (*a*) The Janmi should get two-thirds of the net produce and tenant one-third. Out of the total produce 3½ times the seed grain, and in hilly and malarial places 4 times the seed grain must be deducted and out of the balance one-third is to be deducted towards tenant's share and two-thirds is to be fixed as fair rent.

(*b*) Now the assessment is disproportionate and it does not bear any relation to rent.

(*c*) The person in possession must pay the assessment.

8. With reference to wet land 3½ times the seed grain should be substituted for 2½ times in section 6.

9. If the assessment is made after a re-settlement then the rent can be fixed in proportion to the assessment. It should be not more than five times the assessment in the case of wet lands.

10. Yes. In the proportion mentioned above.

11. Weights and measures must be standardized as in the case of weights and measures in the bazaars.

12. I am not able to answer.

13. I am in favour of abolishing the renewals. No compensation is necessary to the immediate landlord.

14. The tenant must have the right to relinquish. On relinquishment he must get back the Kanam amount and the value of improvements.

15. (*a*) Yes. As long as he pays rent properly and he is ready to furnish security, personal or otherwise, for the fair rent for one year.

(*b*) In some respects the grounds for eviction should be amended.

16. The landlord who does not hold land above 10 acres must be able to recover possession of the property if he wants to cultivate it himself. In the case of an undivided family the extent of the land is to be fixed in the proportion of 10 acres of land per head. The tenant who does not offer security, personal or otherwise, for one year's rent can be evicted.

17. (*a*) Yes. Proper market value.

(*b*) Yes.

(*c*) One-third acre in urban and ½ acre in rural areas.

18. Yes. There must not be any deduction in favour of the Janmi. The tenant must get the entire value of improvements.

19. Feudal levies are very rare in this taluk.

20. There is not much fugitive cultivation or cultivation of pepper in this taluk.

21. It may be extended.

22. Court proceedings are very costly. Cheaper remedies may be resorted to.

23. The tenants must be enabled to send by money order the value of paddy at the market rate. The Janmi must be compelled to give printed counterfoil receipts. All feudal levies, if any, must be stopped. The interest on arrears of rent must be reduced to ½ per 10. Shrinkage must be reduced to 1 per 10 in Kanni rent. The rent is to be measured in standardized para. If it is to be measured, the granary of the Jenmi is to be within three miles from the lands.

By the CHAIRMAN :

In taking over forest lands, waste lands and irrigation sources, it is necessary that the dues the owners are getting should be safeguarded to them. I would be content with the restriction that land should be transferred at least to a cultivating family. My cultivation expenses are higher than in other parts of the district and coolies have to be paid higher and so it cannot be taken as the basis for the whole district.

By Sri M. NARAYANA MENON :

I keep accounts of the yield per plot. I favour abolishing renewals and renewal fees. I would not give any compensation to the Janmi for the abolition. I would retain the present provision regarding bona fide cultivation if the janmis' holding does not exceed ten acres and not otherwise.

By Sri P. K. KUNHISANKARA MENON :

If a person constructs an anicut and takes a channel through my land, I must be given water on payment. No compensation should be paid for waste and forest lands.

PONNANI TALUK.

CHOWGHAT CENTRE—28th and 29th October 1939.

12. Janab V. K. Kunhi Bava Haji, Manthala Amsam, Chowghat.

1 & 2. Malabar was once reclaimed by the work of sea and it remained covered with forests and jungles, until the ancient inhabitants cleared the lands and rendered them fit for cultivation. In due course, fearing usurpation by their enemies, the persons occupying the lands entrusted their possessions to the care of local prominent men. For this, the owners gave these prominent men a certain sum of money known as *Kana-panam* or "Thirumul Kalcha" and eventually the latter became the trustees of these lands and were receiving periodical "Thirumulkalchas." After the invasion by Tippu, these trustees began to pay assessment due to Government after collecting from the real owners, and made the Government believe that they (the trustees) were really the owners and not the actual occupants. Subsequently, when India came under the control of the British Government, the above trustees re-affirmed their statements and the Government recognized them as "janmis." These janmis who had been growing into power ordered the occupants to pay rent and other perquisites in periodical instalments, every year, besides "Thirumulkalchas" on important festival days as Onam, etc. Such payments came to be known as "michavaram," purappad, etc. Verumpattam and Kuzhikanam were not in existence 200 years ago. With the gradual increase of the population, the lands were obtained on "verumpattam" lease from the land-holders and thus the verumpattam tenure came into vogue.

3. No answer.

4. (*a*) The lands (including waste and forest areas) became the private janmam of the existing registered holders as explained in the answer to questions 1 and 2 and the Revenue authorities and the Civil Courts merely acknowledged the janmam title.

(*b*) Waste lands, forests and irrigation sources should be brought under the control of the Government so that they may be available for public use.

(*c*) Waste lands should be taken possession by Government and they should be granted to cultivators.

5. (*a*) As the person who actually reclaimed the lands and rendered them fit for cultivation is the kanamdar, it is quite reasonable that the verumpattamdar should duly compensate him and also have the power for compulsory purchase from the kanamdar. The rate of compensation should be fixed on the basis of the net annual income together with interest at $4\frac{1}{2}$ per cent per annum. The janmam value should be capitalized on the basis of $2\frac{1}{4}$ per cent interest per annum.

(*b*) (1) It is necessary.

(2) As the extent of an ideal farm is not known, it is not possible to answer this point.

(3) Any person can at any time cultivate the land himself assisted by his family members. It is not therefore justifiable to prohibit sales by cultivators to non-cultivators. A person who cultivates the land by engaging coolies for daily wages is also termed a cultivator. A person in receipt of a monthly salary should not be deemed to be a cultivator.

6. It is desirable to protect the under-tenure-holder from the consequences of default by any of the intermediaries above him. For the consequences of default by any of the intermediaries, the person just above the defaulter should be held responsible.

7. (*a*) In the case of coconut gardens, one acre will invariably consist of 60 coconut trees and will yield 2,000 coconuts. Of this 60 per cent of the gross income should go to the verumpattamdar, one-fourth of the balance should be deducted towards assessment, 5 per cent of the balance should be paid to the janmi and the balance should be the share of the intermediary. This applies, however, only to first-class lands. As garden lands adjoining the sea-shore have to be irrigated and as more labour is necessary for them, two-thirds of the gross produce should go to the verumpattamdar.

(*b*) In the case of pucca coconut gardens, the assessment comes to 40 per cent of the net produce. In respect of poor gardens, the assessment comes to just double the net yield, the reason being that the lands are not so fertile as they were at the original settlement. Besides if there are 10 or 12 coconut trees in an acre, the assessment including cesses, comes to Rs. 8.

(*c*) The assessment should be paid by the person in possession.

8. The provisions in the present Act for fixing the fair rent do not work hardship on any of the parties concerned in respect of garden lands.

9. It would be advisable to fix the fair rent as suggested against 7 (*a*).

10. If the occupant is made liable for the assessment, this question does not arise. If it is not so, remission of rent should be provided for in proportion to the remission of assessment.

11. According to the measure now introduced by the Malabar District Board, one Macleod's seer is equal to 2 edangalis. The weights and measures now introduced by the District Board may be uniformly adopted. Two edangalis of paddy, according to the District Board measure, weigh 125 rupee weight and 1 para weighs 625 rupee weight.

12. "Thirumul Kalcha" which was in vogue at the time of "Mamankam" is now known as renewal fees.

13. (*a*) The janmis (prominent landlords) had, in olden days, to present "Thirumul Kalcha" to the native rulers for every "Mamankam" and the amount necessary for this was being collected from the tenants. As now the Mamankam is extinct, the necessity for renewal fees no longer exists.

(*b*) The answer to this is contained in 5 (*a*).

(*c*) The question does not arise in view of my reply to 13 (*a*).

14. No.

15. (*a*) I favour the grant of occupancy rights to the actual cultivator. It may be done according to the provisions in the Tenancy Act.

(*b*) Not in these parts.

16. (1) & (2). This should be done according to the Malabar Tenancy Act.

17. (*a*) If the actual occupant and cultivator of the land is put to difficulty by the kudiyiruppu holders, then he should have power to evict.

(*b*) There need not be any distinction between urban and rural kudiyiruppus. But there should be distinction between "Ulkudi" and "Kudiyiruppu." In the case of coconut, etc., garden a tenant is permitted to put up a residence within the garden for the proper up keep of the garden. Kudiyiruppus so put up are known as "Ulkudi." There are a large number of such Ulkudis in the rural parts. The occupants of such Ulkudis do not pay anything in return and even if there be written agreement for petty payment nothing is actually paid. In the case of a Kudiyiruppu, there should be a kanam deed or a verumpattam chit with the stipulation to pay rent annually or at fixed intervals and such amounts should be regularly paid. In such cases only, the occupations can be termed "Kudiyiruppus." In the case of all Kudiyiruppu holders with the exception of "Ulkudiyiruppu" holders, it is advisable to secure fixity of tenure. As regards the compensation payable to the land owner, please see answer to question 5 (*a*).

(*c*) The minimum extent that should be granted on permanent tenure for the Kudiyiruppus is 10 cents in urban and 1 acre in rural areas. This can be granted on the conditions mentioned against 5 (*a*).

18. The present legal provisions are sufficient.

19. The practice is to fix the price with reference to the kychit.

20 & 21. Not applicable to these parts.

22. (*a*) I do not know.

(*b*) As the renewal system is not advocated, the question does not arise. Necessary legislation may be made to collect the pattam, michavaram, etc., through Revenue Courts.

(*c*) (1) Summary trial is proposed.

(2) This is necessary.

(3) The right of renewal should be withdrawn. If, however, the Committee is of opinion that the janmis should be given something towards renewal, the following proposal is suggested. Out of the renewal fee now arrived at with reference to the provisions in the Malabar Tenancy Act, the interest for six years should be deducted and the balance divided by 12. The amount thus arrived at may be paid annually to the janmi along with the purappad.

23 & 24. I do not know.

By the CHAIRMAN :

I have about 10 acres of janmam land and about 20 acres of kanam land. Lands were brought under cultivation by the kanamdars. And they subsequently attorned to the local chieftains and paid them certain sums of money in token of their acknowledgment, called kanapanam. These persons to whom they attorned subsequently became the owners and Government and the Civil Courts recognized them as absolute proprietors of the soil. It is necessary to invest the Government with power to take possession of waste and forest lands and utilize them to the best advantage possible to the country.

By Sri U. GOPALA MENON :

It is only a tradition that the forests were only owned by Naduvazhis. I am aware that owners of forests now have paid consideration for them. The private owners should be compensated. The compensation should not be capitalized on the income but should be something nominal only. I have no forest lands.

By Sri A. KARUNAKARA MENON :

Even now a portion of the forests in Malabar are in the possession of local chieftains. Why I say these forests and irrigation sources should be under the control of the Government is that they are useful to the people at large and not to the owners alone. I know more of the condition of the forests, etc., of the Ponnani taluk than of other taluks. Waste land available for cultivation in this taluk is very limited.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

Compensation should be paid only in cases where the owners have bought forests for cash.

By Sri E. KANNAN :

There are people who really want to cultivate but do not get lands. Under the present conditions it is not possible to restrict the area of possession ; and it is not just to distribute lands among those who have no land, taking them away from the possession of others.

By Sri K. MADHAVA MENON :

If a man is in possession of lands which he really cannot cultivate and allows them to lie fallow, they must be taken up by paying the owners a nominal value and given to those who want to cultivate. I am directly cultivating lands. Leaf manure is taken from the forests and this must be allowed. It must be considered like water. If the owner has no other income from the forests, a nominal compensation may be given ; but where the owner gets other sources of income from the forests no compensation need be given.

The Government should be empowered to control irrigation sources.

By Sri N. S. KRISHNAN :

It is difficult to get lands for cultivation. People have no capacity or inclination either to purchase or cultivate the lands.

By Sri M. NARAYANA MENON :

The kanam amount was given for protection and need not be returned. Fixing of interest on kanam amount is a subsequent innovation since the Mysorean invasion. When Government took power to collect revenue, the share of the landholder came to be known as michavaram. If the landholder has made any improvement in the forests, he may be given compensation. But ordinarily trees are not planted by landholders in the forests. If a Naduvazhi is maintaining a forest by having a watchman and sees that nothing is taken away by thieves or eaten by the cattle, he must be given a nominal compensation. There is no necessity to employ a watchman to look after the leaves and such other things. If the owner cultivates any commercial crops in the forests, they must be protected. If leaves are taken away, the trees will not wither away. Nambudiris were only priests. They were not prime ministers in olden days. They may have been after the Mysore invasion. There are many devaswams which were richly endowed. Most of them are under the control of the Nambudiris. Many devaswams subsequently became the property of the Nambudiris.

By the CHAIRMAN :

It is desirable that land tenures should be simplified. The actual cultivator may be empowered to purchase the lands from the janmis or the other intermediaries. The owner should get the capitalized value taking interest at 4½ per cent.

By Sri U. GOPALA MENON :

The rate of interest expected in janmi purchases is 4½ per cent. The person in possession now is generally poor and cannot afford to buy out the superior interests. I have not considered any scheme by which the purchase could be effected.

By the CHAIRMAN :

The sub-tenant should be protected. There should be no decree for surrender against the sub-tenant in possession ; it should be against the intermediary.

By Sri A. KARUNAKARA MENON :

There are only very few verumpattamdars who have been in long continued possession of any garden land. They should be given the right to purchase the rights of their landlord, to enable them to live a life of independence and self-respect. What I have said refers to kudiyiruppus, not to other cultivable lands.

By the CHAIRMAN :

The present provisions may be left as they are in respect of garden lands.

By Sri U. GOPALA MENON :

The tenants should be given the right to have fair rent assessed in respect of garden lands. Since 1930, coconuts have depreciated more in price than paddy. There are many cases of garden lands in which the rents were fixed before the depreciation took place. They are cases of hardship.

By Sri A. KARUNAKARA MENON :

The rent may be fixed in kind and commuted into money at the market rate current at the time of payment. The tenant is being made to pay the same rent as was fixed at a time when 1,000 coconuts were worth Rs. 60 and Rs. 70.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

Fair rent should be fixed by a combined agency including both the revenue officials and the existing panchayats.

By Sri K. MADHAVA MENON :

There will be 2,000 nuts per acre. Excluding cultivation expenses the net produce will be 800. Forty per cent of that will be the revenue. Even if there are only ten or twelve coconut trees in one acre of land the whole acre would be assessed to land revenue as garden. The produce will not be sufficient to meet the revenue.

By the CHAIRMAN :

When renewal fees are abolished, ancient janmis who did not purchase the lands, need not be paid compensation. Those janmis who acquired the land on payment of money, must be paid compensation. The renewal fee may be spread over a period of 12 years and collected in instalments along with the rent.

By Sri K. MADHAVA MENON :

I have no objection to the present rent as fixed by the Tenancy Act for garden lands.

By the CHAIRMAN :

Only janmis who need to cultivate the land themselves for their livelihood should be given the right of eviction. The extent of land they can recover should be limited on that basis. If the present law does not restrict the right of eviction in the manner stated above, such a change ought to be brought about. Kudiyiruppu holders should be given the right of purchasing the rights of the janmi.

By Sri U. GOPALA MENON :

Ulkudi bolders should be given fixity of tenure to the extent of ulkudi.

By Sri K. MADHAVA MENON :

An Ulkudi tenant is a person who has been let into a portion of the paramba for watching the garden. The house of a Ulkudi tenant may be one erected either by him or his landlord. A kudiyiruppu holder should never be evicted under any circumstance. The janmi's dues should be realized as any other dues are realized. In cases where the tenant finds it impossible to pay the rent fixed out of the income of the property, he should have the right to pay it in kind. If the tenant has no money to pay, the landlord must reduce the rent to such an extent as to enable him to pay it.

By Sri M. NARAYANA MENON :

If the janmi's holding is 5 acres for an individual in a joint family, and 10 acres in the case of others, he should have no right of eviction for his own cultivation.

By the CHAIRMAN :

I am not in favour of taking away the jurisdiction of civil courts to try suits and petitions for michavaram, rent and renewal cases and vesting it in revenue courts.

13. Sri Kiduvath Krishnan Nair, District Board Member, Guruvayur, Ponnani Taluk.

1. (1) The origin of janmam is peculiar to Kerala. The janmam right was derived by those who reclaimed and made fit for cultivation the waste jungly lands in Kerala and retained their possession. Janmam right means absolute ownership. There are also janmis who purchased such janmam right for cash.

(2) *Kanam.*—As the janmis were unable to cultivate all their lands themselves they leased out the lands for cultivation and received some amount. This is known as kanam. The kanam amount was to be returned when the janmi took back the land.

(3) *Kuzhikanam.*—This term is used for the plantation of coconut, etc., trees on kanam or verumpattam lands obtained on lease from the janmis.

(4) *Verumpattam.*—When the janmi or the kanamdar finds it impossible to cultivate all their lands themselves, they entrust it for cultivation to others on condition of payment of the income to him (the janmi or the kanamdar) after deducting the cultivation charges and the cultivator's share of the profit (Kozhu-labham). This is called verumpattam.

(5) *Other tenures.*—Otti or palisa-mudakku, ner-palisa, anubhavam, etc., rights are also granted by the janmis to the tenants.

2. The janmi's right on the land is absolute. In the case of those holding the land on other rights such as kanam, verumpattam, etc., they are bound to return the lands when the janmi demands them on payment of compensation for kanam and kuzhikanam rights.

3. No ; but the twelve years, period for kanam was fixed by courts.

4. (*a*) Yes.

(*b*) No.

(*c*) No.

5. (*a*) No.

(*b*) (1), (2) & (3) No change in the existing system is necessary.

6. It is necessary to avoid loss to the sub-tenants caused on account of the intermediaries' default. This can be done by allowing the sub-tenant to pay the amount due by him to the intermediary direct to the janmi and obtain receipt.

7. (*a*) In the case of wet lands, deducting out of the gross yield, seed and one and a half times the seed, for cultivation expenses, one-fourth of the net yield and also straw may be taken by the tenant cultivating the land. Out of the balance, two shares may be given to the intermediaries, if there are any, and one share to the janmi. Regarding the fair rent for garden lands, the existing Act requires amendment. It is explained in the concluding portion.

(*b*) The existing system of assessment is not correct. It is different in different parts. At the settlement prior to the last resurvey, there were many irregularities in fixing the assessment and classification. On account of the ignorance of the public, they might not have been brought to the notice of the Government. The assessment should not exceed one-twelfth of the net yield.

(*c*) If the lands are held on kanam and if the pattas are jointly registered in the name of the kanamdars and the janmis, the kanamdars should pay the assessment. If the lands are leased on verumpattam, the janmi should pay the assessment as he gets the pattam from the lands.

8. (*a*) As regards wet lands, no complaints have been heard of in regard to the existing system.

(*b*) As regards garden lands, the provision in the existing law for fixing the fair rent works much hardship to the janmis. If the improvements on the garden lands belong to the janmi, three-fourths of the net income should be the fair rent and if they belong to the tenant it should be one half.

(*c*) The existing rate of fair rent is adequate in the case of dry lands.

9. As the existing rate of assessment is not correct, the fair rent should not be based on it.

10. When there is loss of crop deserving remission, remission of pattam is allowed even now. It does not appear necessary to provide for anything more.

11. Not necessary as there is now no complaints in regard to the existing weights and measures.

12. In the case of kanam lands leased out by the janmi the kanamdar gets an income annually excluding the interest on the kanam amount and the cultivation expenses, etc. A portion of this income is paid to the janmi at the time of renewal of the kanam lease and is called renewal fees. The fee is calculated with reference to the kanam amount or the kanam-pattam. But each janmi levies renewal fees on a different basis.

13. (*a*) No.

(*b*) Each tenant should get the kanam amount or improvements according to the conditions mentioned in the kanam deeds.

(*c*) In fixing the rate of renewal fee, both the tenant and the janmi have to suffer several hardships. A fixed rate should be provided in order to avoid these hardships.

That is to say, a renewal fee of 8 annas may be fixed for one para of paddy or one panam (As. 4-7) mentioned in the original lease deed. Besides, the tenant should also meet the expenses of stamp duty, writing charges and registration fees for registering the document. This system will not cause difficulty either to the tenant or to the janmi.

15. (*a*) Nothing should be done which is in contravention of the provisions in the existing law.

(*b*) So far as I am aware, no janmi has filed any suit for eviction on unjustifiable grounds.

16. (1) (2) No.

17. (*a*), (*b*) & (*c*) If the tenant so desires, he has now the right to purchase site for kudiyiruppus on payment of value. No further provision is necessary.

18. At the time of eviction, the improvements which were on the land at the time of kanam or verumpattam lease, should be handed back to the janmi ; the courts are wrong in holding that all the improvements belong to the tenant and accepting his plea that the janmi's improvements have been destroyed by lapse of time. An amendment should be made in the existing Act on this point only. No other amendment is necessary.

19. I am not aware of any such levies in these parts.

20 & 21. These questions are not answered as I have no knowledge about this.

22. (*a*) Some amendments are necessary to the existing Act. That is to say, the landowner should be given the right to recover the arrears of pattam, michavaram and renewal fees easily, on presentation of a petition to a competent court. Under the present system, the land owner has to suffer a lot of trouble to recover the dues from his tenant. Provision should be made in the Act to relieve the janmis from these difficulties.

(*b*) There should be facilities as mentioned in the answer to 22 (*a*).

(*c*) (1) Summary trial should be provided for. But all cases should be appealable.

(2) It is not desirable to provide for trial in the Revenue Courts. It should be done in Civil Courts.

(3) The janmi should have the right to file a suit or application for recovery of renewal fees.

23. I am not aware of any disabilities experienced by the tenants since the passing of the Tenancy Act of 1929. On the other hand, the present practice is to harass the janmi by not paying his dues. The janmi will never undertake any litigation if he is paid the dues specified in the lease deed or pattam chit. Under the existing conditions, the janmi will be put to trouble unless legislation is made at once to enable him to recover the pattam, michavaram and renewal fees easily.

24. I am unable to say anything about this as I have no idea about the system of land tenure in North Malabar.

It has to be stated that the Tenancy Act of 1929 is most unsatisfactory in so far as it relates to the fixing of the fair rent on garden lands. The fair rent provided is one-fifth of the net income if the improvements belong to the tenant. If fair rent is fixed on this basis, there will be nothing left after deducting the kanam interest, assessment and michavaram. In most cases, this is the practical experience so far as Ponnani taluk is concerned. The fixing of fair rent for garden lands in Ponnani taluk should be one-third of the net annual income if the improvements belong to the tenant and two-thi ds if they belong to the janmi. This provision in the Act is absolutely necessary. And no amendment is necessary in respect of the wet lands. Besides, there is a kind of cultivable lands in Ponnani taluk known as kol lands. It is cultivated in January and February and harvested in April and May. In respect of these lands, amendment in the existing Act should be made so as to reckon the period of cultivation as 30th May.

By the CHAIRMAN :

I am the agent of Ulanat Mootha Panikkar. He has lands paying an assessment of Rs. 14,000 and odd. Out of this, lands paying assessment of Rs. 10,000 are janmam and Rs. 2,000 kanam. Ancient janmis may have got lands cleared through labourers. The clearing of the forests can be done at any time, once or twice ; the kanam tenant might have done it after he got the land from the landholder. In ancient days lands were lying fallow in Kerala and some people took them, cleared them and began cultivation and thus acquired the janmam. The kanamdar was not a money-lender to the janmi. The kanam amount was not security for rent. If the kanamdar contravened any of the conditions the janmi had the right of eviction ; otherwise not. The janmam and kanam tenures of Travancore and Malabar are alike. If the tenant pays his dues regularly then there is no necessity to evict him. In Malabar the landholder has got the absolute right of property. I cannot give any other reason for the presumption of private property. It is necessary

to confer right on the Government to take all waste lands and grant them to tenants for cultivation in cases where such waste lands are not made use of at all by the janmis. The right over forests and irrigation sources should be purchased by the Government. The capitalized value should be based on the income derived at present from those lands.

By Sri U. GOPALA MENON :

The term ' janmi ' formerly meant Naduvazhis, Rajas, Devaswams and some Nambudiris. In later times many persons who purchased these lands were also known as ' Janmis.' Ancient janmis held lands through kanamdars. The ancesters of these Rajas, Naduvazhis and Nambudiri houses must have originally cleared these lands. I do not know if their soldiery consisted exclusively of kanamdars. Before the British occupation the soldiery in the country mainly consisted of Nayars. These Nayars were mainly kanamdars.

By Sri A. KARUNAKARA MENON :

The Zamorin must have got janmam property on account of his position as a Ruling Chief. This may have been the case with respect to all other Rajas.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

The kanam amount is for the security of the landlord. It is so even in cases of nominal kanam.

By Sri K. MADHAVA MENON :

If a man is enjoying a thing as the owner now, whatever may be the origin of his right, compensation must be paid to deprive him of his right.

By Sri M. NARAYANA MENON :

In former times when the Zamorin and other chieftains were ruling Malabar the properties of persons dying intestate and without heirs escheated to those rulers. I cannot say if the Zamorin and other rulers get lands by way of penalties and confiscation. In the former days the management of devaswams was mostly in the hands of Nambudiris.

By the CHAIRMAN.

It is necessary to simplify the land tenures in Malabar, if it is possible. There is no objection to give the right of compulsory purchase of the intermediaries' rights to the actual cultivator. A similar right may be conferred upon the tenant to purchase the janmi's rights if the proper price is paid. I am of opinion that such rights of purchase should be limited to kudiyiruppu. I would not give the janmi the option of purchasing the kanamdar's rights, but I have no objection to give a right of purchase to the kanamdar. The provisions of the present Act for fixing the fair rent ought to be modified with regard to *Kol* cultivation for which 50 per cent should be taken as cultivation expenses and out of the remaining 50 per cent one-fourth should go to the tenant and three-fourths to the landlord. The rent of garden lands should be three-fourths of the produce if the improvements belong to the janmi and half if the improvements belong to the tenant. The expenses in a garden will be one-eighth of the gross produce. The total income from any first-class garden will be about Rs. 40 per acre. At least Rs. 8 would be required for the upkeep of the garden, fencing, etc. The expenses will come to one-fifth of the gross yield.

There is no objection to standardizing all the weights and measures in Malabar.

By Sri A. KARUNAKARA MENON :

Generally 1 acre of paddy land in these places produces 30 paras of paddy at the utmost. The revenue assessment and the cesses together will come on an average to Rs. 5. When that amount is converted into paddy, it will come to about 15 paras of paddy. Therefore half the produce has to be paid as tax. I can furnish a statement of such instances supported by documents.

By the CHAIRMAN :

There are several instances where the assessment exceeds the rent that the janmi gets. I can give the Committee concrete instances. I have no objection if the renewal fee is spread over 12 years.

If the land is required by the janmi for his own cultivation really, it has to be surrendered. But it should not be taken by the janmi and given to some other person. Under the provision of the existing Act, it is possible to evict the tenant out of spite. That should be made impossible by granting the occupancy right to the tenant, with proper safeguards that the dues to the landlord are paid regularly. Security can be taken from the tenant to the extent of at least two years' rent.

By Sri N. S. KRISHNAN :

The value of such levies as plantains for Onam may be added to the rent.

By Sri U. GOPALA MENON :

In cases of demise of garden lands, where the profits have been reduced either due to deterioration in prices or otherwise, provision may be made for getting fair rent fixed. If it is due to the default of the tenant, it should not be reduced.

By Sri E. KANNAN :

I do not think that there is discontent among the actual cultivators. If there is any, it might be due to the instigation of other persons.

14. Sri C. V. Iyyu, M.L.C. (Cochin State).

Origin and nature of rights.

1. (1) *Janmam.*—The word ' Janmam ' is a sanskrit word ' birth.' This right might have been ' born ' in Kerala only after the sanskritization of Malayalam language after the so-called importation of Aryan culture by the advent of Nambudiris.

(2) *Kanam.*—This word is derived from the pure Malayalam word which means in English ' see ' or ' seen '—rather the ' *visible right.*' The unseen ' Janmam ' right being ' born ' of the ' Visible Kanam ' right at a later stage in the history of Kerala.

' Kanam ' right was believed to be irredeemable and even janmis believed it to be degrading to evict a ' Kanam ' tenant. Even now the Syrian Christians of the West Coast use the word ' Savakanam ' for the amount paid to the Church towards the ground value of the pit in which the dead person is buried. As far as the dead person is concerned he gets eternal occupancy right of the property and if the word ' Kanam ' meant any right of temporary occupation only, this time-honoured name wouldn't have been used.

Though ' Kanams ' were interpreted as ' Panayams ' (mortgages) by the British Courts, the courts in the Native States of Travancore and Cochin began to adopt this view only after many years. It was only in 1060 M.E. (1884 A.D.), the first decision was given by the Cochin Chief Court declaring that there is no fixity of tenure for kanam tenures with dissenting judgment by the only Malayalam Judge of the Chief Court. As far as I know, the then Ruler of Travancore hearing about these rulings of the Madras and Cochin Courts gave fixity of tenure to all kanam tenants in Travancore by the historical Royal Proclamation, embodying the Tenancy Regulation of Travancore. It took nearly 30 years before Cochin had a Tenancy Legislation giving fixity of tenure to kanam tenants who were kanam tenants till the year 1060 M.E. and for all tenants other than verumpattam tenants in 1113 M.E. (1937).

All this is to prove that in the face of all these High Court decisions of Madras, the rulers of these Native States had the inborn conviction that kanam is a right which is irredeemable. I am of opinion that during the first four centuries of the Christian era there were no Brahmans nor Thiyyas in the West Coast and Kerala was inhabited by Nairs and the depressed classes who were the agricultural labourers. The Nair was the ruler, the priest, the soldier and the agriculturist. The writings in the Epistles of Edessa supposed to be written by St. Thomas in the first century do not make any mention of the sacred thread worn by the Hindus of Kerala. The tradition is that St. Thomas visited Kerala in 53 A.D. and converted Nambudiris into Christianity and the present day Syrian Christian is descended from those Nambudiris. Whether this is true or not, it is certain that there were Christians in the third century in Kerala and most probably that they were converts of one ' Thoma ' whom people might have taken to be St. Thomas, the apostle and the Epistles to the Church of Edessa may be his compilation. None of these so-called Nambudiri converts among Syrian Christians anywhere in Kerala can prove ancient janmam rights which goes to show they were mostly the agricultural class of Nairs who were the then highest caste Hindus of Kerala converted by the first Christian missionary to India, whoever he be.

The Brahminical system of Hinduism and the importation of the Gods of Brahman Mythology in the place of the ' Serpant Kalams and Kavus ' of Kerala and the Brahman priestly heirarchy established by the Nambudiris were responsible for the ' birth ' of the so-called ' janmam ' right. Till 60 years ago there were Nairs who are not ' Sthanis ' who believed that a non-sthani Nair being a ' Sudra ' cannot have janmam properties and I know that my grandfather's elder brother purchased a sanad from a karnavan of the Srimathi V. K. Parukutty Nethiaramma Lady Rama Varmah which was a decree debt of a Brahman janmi family in Anjoor village in Cochin State for a very low price which contained several acres of wet and dry lands about 60 years back because of the superstition referred to above. In several cases most of these Nambudiri janmis got the janmam rights of Nairs due to superstition and also devotion towards the Brahman priesthood and through endowment to temples.

(3) *Kuzhikanam.*—Right for improvement. The land is to be dug for planting any tree or making any improvement. A well or tank is also an improvement. The origin is from the Malayalam word ' pit.' This also is an older word than janmam.

(4) *Verumpattam.*—This is a simple tenure which has no fixity of tenure. ' Simple lease ' is its literal meaning. But a verumpattamdar can make improvements. There were the non-agricultural class of Nairs who were either the ruling families or soldier class. The lands of these people were entrusted with the tillers of soil on simple leases which in later days developed as Kovilakam Pattam or Pandaravaka Pattam, etc.

(5) Most of the other tenures are now extinct. There may be '*Otti*,' '*Palisa-mudakku*,' '*adima*,' '*Anubhavam*,' and 'Inam lands.' The latter three are permanent leases granted for services rendered to the ruler or landlord. The former two are a sort of permanent irredeemable mortgages. There are 'Panayam' tenures (mortgage) which has all the incidents of 'Kanam' in the southern taluks of Cochin for which an attempt was made to grant fixity of tenure in 1937 but the Act is yet to be amended again and recently the Government of Cochin has appointed a Committee to go into the question again. I don't know whether such tenures exist in British Malabar.

2. The British administration in Kerala gave rise to a non-cultivating class of people who were practically the feudal class in whom were vested the sole proprietary right of the land which is known as janmam right. All the other rights were only subordinate to that of the janmi and the position of the janmi till recently and even now is that of real ruler in out of the way villages. Till 25 years ago, the position of the Nambudiri janmi used to be very great. Even now this is a very important factor in the social and economic development of Kerala. The interests of the janmi, as well as that of the kanam, kuzhikanam and verumpattam tenants are transferable.

3. Yes. The proprietary rights of the janmi and the interpretation of 'kanam' as a sort of usufructuary mortgage were mere definitions of Courts and the original rights were affected.

4. (*a*) Neither the Revenue authorities nor the Civil Courts were justified in presuming that all lands in Malabar (including waste and forest lands) belong to private owners. I can authoritatively say that all such lands in Cochin and Travancore are considered to be Government property and unless a janmi pays land tax on waste land, he cannot be in possession of such lands. It is probably that neither Hyder Ali nor Tippu Sultan was interested in waste lands and forest areas and the East India Company by a mistake conceded all these rights to the private landowners who were once either rulers or feudatory chieftains.

(*b*) In the interest of the public there ought to be restrictions on such lands and irrigation sources. The forests in Malabar are indescriminately exploited and cleared. This will in the long run affect the flow in rivers. Taxing waste lands will be an indirect source of revenue to the Government and an incentive for cultivation. Legislation also is needed for alienation of waste lands to those who are bona fide agriculturists and remuneration may be fixed. I may also suggest that in every village some acres be set apart as village reserves as grazing grounds and village playgrounds.

(*c*) Yes.

5. (*a*) Yes. All except the cultivating tenant should be eliminated. When the Malabar Tenancy agitation was going on a few years back, Dr. V. K. John, now Advocate, Madras High Court, has made certain suggestions advocating peasant proprietorship in Malabar. I don't wish to follow all he says. He has established practically no claim for the kanamdar. My suggestion is to follow the Land Acquisition Act with certain modifications and vest the whole land in the actual cultivators who may be made liable to pay the value by a longstanding credit system of a period not less than 60 years. The Government or a properly authorized land bank may issue negotiable credit bonds to the janmi and all intermediaries who have any claim or saleable right over the land.

(*b*) (1) I have also given reply to this question above.

(2) The area in possession may be limited in certain cases.

(3) This will handicap free transfer of lands. Provision in law may be made that any non-cultivating landholder will lose his right of redemption in case the lessee cultivator informs him.

6. If the process of the elimination of the janmi and the intermediaries are made possible there is no question of the under-tenure-holder suffering from the consequences of default by any of the intermediaries above him. If the present system is to continue, the Land Revenue Manual, the Civil Procedure Code and the Tenancy Act be so amended that the actual possessor of the land be held primarily responsible for the payment of the Government tax, cess. As for the dues to the janmi, the under-tenure-holder whoever he be, ought to be necessarily impleaded in the suit and if he proves that he has paid his dues to his immediate landlord, his right over the property should be excluded from the civil liability.

7. (*a*) The time-honoured custom is one-third of the produce is paid to the janmi as his due by the kanam tenant. This is to include interest on kanam amount, Government tax and other customary dues. One-third is for the agriculturist's profit and the remaining one-third is for cultivation expenses. The first one-third is known as 'kanapattam' or 'sthalapattam.'

The kanapattams were fixed several decades ago and the lands in possession of the kanam tenants have been improved by their efforts and investments.

The present rates of michavaram are fixed within a period of 50 years and the enhanced rates are at present unbearable more because of the depression in agricultural commodities.

The rate of verumpattam of the produce ought to be also one-third of the gross produce. But, the expenses of cultivation, sirkar tax, janmis dues, etc., ought to be charged on the actual cultivator since the verumpattamdar cannot claim much of the capital investment on the land.

(*b*) I can't say any decisive reply for this at present. There is some ratio for this. In Cochin State, I know there was a time when land revenue was collected in kind. The commutation value for one para of paddy was fixed at the rate of four annas and seven pies (one Cochin panam) and the present rate is fixed in this proportion. For one acre of 'Puravaka' or private janmam second-class paddy land which has double crop cultivation, the land tax is roughly Rs. 5 which comes to about 17½ paras of paddy at the commutation price of four annas seven pies per para. This was fixed when the price of paddy was between six or seven annas per para when the last land revenue settlement took place. The income from such one acre of double crop paddy land will be roughly 100 paras of paddy from a verumpattam tenant to his landlord. There is no cess to be paid in Cochin and the Government sometime gives land revenue remission also. This rate is not a high rate even during these days of depression. There are other systems of land tenures in Cochin such as Government Pandaravaka kanam, and Government Pandaravaka verumpattam. All these are patta lands with fixity of tenure granted by the ruler even before the Tenancy Act was passed. For pandaravaka kanam, the land revenue rate for the same quality of land is 1-2/3 times that of 'Puravaka' or private janmam right. For pandaravaka verumpattam right four times that of the puravaka or private janmam land.

(*b*) The gross produce of such a land referred to above will not be more than 200 paras of paddy and the Sirkar tax comes to a little above one-sixth of the gross produce in Cochin State as far as paddy lands are concerned. There has been no resettlement till now. My knowledge about the adjoining British Malabar lands the assessment is higher than this rate and there is the additional cess also.

(*c*) The person in possession of the land should be made responsible for the assessment.

8. The present system of fixing fair rent is good in principle. But, in the actual working of it, I have not much knowledge since after the passing of the Malabar Tenancy Act there were not many renewals.

(*a*) Please see 7 (*a*).

(*b*) *Garden lands.*—The total investment for growing and tending trees in garden lands be worked out and interest at the rate of 6 per cent be reduced from the gross income of the garden in addition to the Sirkar tax, interest on kanam and puramkandam if any, annual maintenance charges, and of the net produce, one-third may be treated as the fair rent to the janmi as michavaram and the proportionate annual share of the renewal fees. Two-thirds should go towards the profit of the cultivator and knam tenant. This is in the case where the improvements are wholly owned by tenants.

(*c*) *Dry lands.*—For dry lands which are used as paddy nurseries, and for dry paddy cultivation, the rent is generally collected as only double the seed cultivated. This may be worked out as rent and from this may be deducted the Government tax, cess, landlord's dues, etc. The balance will work out as fair rent for dry land.

9. Fixing in proportion to the land assessment will not work out equitably in all cases. I don't approve of this.

10. Yes. There ought to be provision for such remissions.

11. All measurements be stopped and even grains may be weighed and standardization of weights may also be provided for.

12. *The origin of the renewal fees.*—Renewals were effected in almost all cases when the karnavan of the janmi tarwad dies and the new karnavan succeeds to the title of karnavanship. Even now there are such tenures. Renewals once in 12 years are of recent origin. Renewal was in early days meant as a sort of gift on paying respects to the new landlords. Renewals once in 12 years sprang up in the interests of both the landlord and tenants. Even with a stipulated period of 12 years most of the janmis get renewals only once in 30 or 40 years.

13. (*a*) I am in favour of the abolition of renewals.

(*b*) I have replied to this in my answer to 5 (*a*).

(*c*) No answer necessary in respect of 13 (*b*).

14. Yes.

15. (*a*) Yes. I have referred to this in my answer to 5 (*a*).

(*b*) No answer necessary; reference to answer to 5 (*a*). I have no knowledge of evictions on unjustifiable grounds.

16. No answer necessary with reference to 5 (*a*).

17. (*a*) No answer needed with reference to 5 (*a*).

(*b*) There ought to be difference in the case of urban possessions. In urban areas or even in rural areas, dwelling houses and shops may be let out on monthly rent and such leases ought to be redeemable.

(*c*) (1) No fixity of tenure be granted in urban areas.

(2) Rural kudiyiruppus may be given fixity of tenure on the terms referred to by me in the answer to 5 (*a*).

18. The rate of compensation according to the Cochin Tenancy Act is more favourable to the tenants.

19. All this will have to be stopped in view of my answer to 5 (*a*).

20. Yes.

21. The provisions of the Malabar Tenancy Act, may be extended to Kasaragod and Gudalur taluks since these taluks ought to have been part of Malabar.

22, 23 & 24. Please see my reply to 5 (*a*).

By the CHAIRMAN :

There is a provision now in the Act that if the landlord requires land for his bona fide cultivation the tenant should surrender it. There was such a provision as far as the kanam tenants were concerned in the Cochin Tenancy Act which existed before last year. It was taken away entirely. The Cochin Act gave fixity of tenure only to kanamdar. According to the present Act which was passed into law two years back, all the kanamdars have got fixity of tenure exclusive of those who came into possession after 1060 M.E. The sections empowering the janmi to evict a tenant has been deleted. In the Bill now introduced giving fixity of tenure to the verumpattamdar, I think there is a provision for evicting the verumpattamdar for purposes of bona fide cultivation. So even now the Cochin State thinks that it is necessary to retain the provision for the protection of the kanamdar as against the verumpattamdar. In cases where a kanam tenant falls ill or his father dies leaving minor children, the abolition of this provision should involve hardship and some provision must be made to meet it. But a time may be stipulated such as three years. The cultivator can purchase land for his cultivation. All the intermediaries should be eliminated. The present provision may be deleted.

By Sri U. GOPALA MENON :

If the members of partitioned families want to cultivate any number of kanamdars are willing to sell their kanam rights.

By the CHAIRMAN :

There are certain kanam tenants who are not cultivators. In such cases there should be no difference between them and the janmi. If a cultivating verumpattamdar wants to give his land for cultivation purposes due to illness or due to minority of his children some provision should be made.

By Sri U. GOPALA MENON :

The land systems of Malabar and Cochin State are more or less alike. As far as my constituency is concerned, I am a member of the Cochin Legislative Council.

By the CHAIRMAN :

I have got kanam lands as well as Sircar devaswam lands. I have janmam lands also.

By Sri U. GOPALA MENON :

As far as the arecanut gardens are concerned, the cultivator does not get even the expenses of maintenance out of the yield. Even the fair rent fixed according to the Malabar Tenancy Act, as far as arecanut gardens are concerned, is rather high.

On mature thought I have found out a solution for leasing out land by a cultivating verumpattamdar to another cultivating verumpattamdar. There are temporary leases even now going on in Ponnani taluk and my taluk in Cochin State called leasing on 'Varam.' This system is adopted even for single crop cultivation in a double crop wet land.

'Varam' differ in its terms in different places and also depends on the nature of the soil and its fertility.

Different examples are—

(1) Varam at the rate of 6 : 4 ratio. Six parts of the gross produce to the janmi or kanamdar and four parts of the gross produce to the cultivator. Ordinarily manure alone is supplied by the non-cultivating owner of the land and in certain cases seed also is supplied. In all such cases even the hay and straw is divided in this ratio.

(2) There are cases in which four is given to the non-cultivators and six to the cultivator. This is known as 4 : 6. In this case, ordinarily, the manure and seed will not be supplied.

(3) There are 5 : 5 ratio also.

As I told before there are different types. In exceptional cases as pointed out by the Chairman to-day, supposing that the cultivating tenant falls ill or dies with minor children, recourses of entrusting land on a varam demise with stipulation to give at least manure and seeds by the non-cultivating person to the cultivator and stipulate the period of varam to a period of not more than three years in case the cultivator falls ill and in the case of a cultivator who dies with minor children or major children who undergo education or with only female issues, these lands may be entrusted with a cultivating tenant on varam chit granted to the cultivator and the cultivator to execute a kychit to the non-cultivator for a period of not more than three years after the attainment of the majority of the eldest male issue. This male issue can claim the property back as soon as he attains majority. If he do not claim within a period of three years of attaining the majority, the cultivating tenant may claim occupancy right according to the existing law.

In the case of a cultivating verumpattamdar dying without male issue, the tenant who has been granted cultivation rights can claim permanent occupancy right after three years of the marriage of the eldest daughter.

15. Sri K. Narayanan Nair, Secretary, Ponnani Taluk Peasants' Union, Vylathur P.O., Nhamanangat.

The system of Janmam, Kanam, Kuzhikanam, Verumpattam, etc., tenures came into existence almost at the time the British administration commenced.

2. With the commencement of the British administration, the janmi got ownership over the land and the tenants got right of cultivation on specified conditions.

3. Yes.

4. (*a*) No.

(*b*) Waste lands, forests and irrigation sources are highly necessary for cultivation purposes. Their ownership should be restricted in such a way as to facilitate their use for all agricultural purposes.

(*c*) Yes.

5. (*a*) The janmis and the intermediaries need not be eliminated.

(*b*) (1) The cultivator will not be in a position to purchase compulsorily the rights of the janmis and the intermediaries.

(2) The area in possession of the actual cultivator need not be restricted.

(3) The cultivator should have facilities to sell the lands to any one.

6. The sub-tenant should certainly be protected from loss consequent on the default of the intermediary.

7. (*a*) The cultivator should get half the net yield excluding 4 times the seed for cultivation expenses.

(*b*) Assessment is reported to be at various rates, e.g., $\frac{1}{10}$, $\frac{1}{4}$ and $\frac{1}{3}$ of the yield. At present, the rate of assessment is high.

(*c*) The janmi.

8. In fixing the fair rent, 4 times the seed should be deducted for cultivation expenses and half the balance should go to the tenant. But, when it is so fixed, it should not exceed the existing pattam.

9. The fair rent should not be fixed in any proportion to the assessment.

10. Yes.

11. Should be standardized. Failure to use the standard weights and measures should be penalized.

12. The renewal system was created to enable the janmi to derive excessive gain.

13. (*a*) Renewals should be stopped urgently. No compensation whatever need be paid. The tenant should be granted fixity of tenure on the only condition of payment of pattam and michavaram annually.

14. No.

15. (*a*) The actual cultivator should be granted occupancy right on condition of payment of the pattam and michavaram fixed.

(*b*) There have been cases of eviction after the passing of the present Act.

16. The right of eviction of the land owner should be restricted to a greater extent.

16 (1) No family deriving an annual income of more than Rs. 1,000 should evict the tenant.

(2) Three years' notice of eviction should be given.

(3) The owner should enter upon the land immediately on eviction.

(4) The system of giving one year's fair rent as security should be abolished.

17. (*a*) All kudiyiruppu holders should be granted fixity of tenure without payment of compensation to the owner.

(*b*) Yes.

(*c*) The extent should be for a building in urban areas and for a garden in rural areas.

18. The value for improvements should be fixed after personal inspection by the Court.

19. Feudal levies should be penalized.

20. Yes.

21. Yes.

22. (*a*) There is hardship because the adhigari and the janmi are one and the same.

(*b*) The adhigari and the janmi should not be one and the same.

(*c*) (1) Summary trial should not be provided for.

(2) Revenue Courts should not hold the trials. The cultivator should always have the right to argue his case in Civil Court. But stamp duty and Court expenses should be reduced. Delay in Court should also be avoided.

(3) Renewal right should be stopped.

23. The difficulty in measuring the pattam and michavaram in the janmi's house, the delay caused by the janmi in measuring, the mode of measurement, failure to give receipt for payment. Pattam and michavaram should be measured in the tenants' house and taken away by the janmi after giving receipt.

By the CHAIRMAN :

The rights and liabilities of the various tenures as they now exist came into existence after the British occupation. The tenures were in existence even before the British conquest. The changes were introduced by the decisions of Civil Courts. The janmi by reason of these decisions obtained rights of eviction and rights to increase the rent as he chose and also other rights as absolute owner of the land. The practice in pre-British days was that the janmi had no power of arbitrary eviction or indiscriminate increase of rent. I cannot cite any specific authority for my statement.

By Sri U. GOPALA MENON :

The janmi, the kanam tenant and the verumpattamdar had each his specific share in the produce according to the old practice in pre-British days. In other words they were co-proprietors, each with his definite right. The Government had no part in that proprietorship. It was the dues paid to Naduvazhis which ultimately became rent. I am not aware of any ancient document fixing the engagement between the janmi and the tenants in Malabar. I have not seen or studied any such documents. I have heard that before the British advent, all matters touching any locality were conducted by various koottams of people there.

By Sri M. NARAYANA MENON :

Even prior to the advent of the British, the collections made by Naduvazhis were intended for the Government of the country. These collections may be called revenue collections. I have heard that kanamdars were collecting revenue prior to the advent of the British Government, taking a portion for themselves and giving a portion to the janmis. I have heard that they were collecting the revenue only as Government servants.

By the CHAIRMAN :

It is better to do away with the janmam and kanam interests, and other intermediate interests in the land. But I do not think that having regard to conditions as they obtain it is practicable.

The present rule as to fixing of fair rent is not fair regarding wet lands. The cultivation expenses should be at least $3\frac{1}{2}$ times the seed. In these parts a ten-para land actually requires ten-para seeds. For a double crop land the average income for one year would be 90 paras per acre. Out of that 35 paras should be deducted as the expenses of cultivation. Then there would be a balance of 55 paras and out of that 55, $27\frac{1}{2}$ paras must go to the tenant and the balance may be paid to the janmi and the intermediary. The price of an acre of land here is about Rs. 450. The assessment for that would be nearly Rs. 4 or 12 paras. The janmi has to pay it. So he will have a balance of $15\frac{1}{2}$ paras of

paddy worth Rs. 5-13-0 as interest on his investment of Rs. 450. This reduction in the interest on the investment of the janmi is due to the unusual depreciation in prices.

By Sri U. GOPALA MENON :

I do not actually cultivate, but my brother does. I have been Secretary of the Sangham for the last two years. There are more than one thousand members in the Union. It extends to the whole of Ponnani taluk. It was started in 1936. The actual cultivator must be the absolute owner of the land. That is the ultimate object of this Union. It is not now practicable.

By Sri M. NARAYANA MENON :

Ten paras of seed are required for an acre of land in these parts. The yield is ordinarily 5, 6, 7 fold ; in rare cases it is 9. If it is only $4\frac{1}{2}$ or 5 yield, the profit will not be worth a man's labour. There are people cultivating lands yielding $4\frac{1}{2}$ and 5 fold and 3 fold and so on in these parts. For lands yielding two and three-fold, cultivation expenses will be less. The general rate of expenses I have mentioned will not be always correct. Lands yielding five and six fold will require three and a half times the seed for cultivation. The cultivator of land must be the owner thereof. I would be satisfied if the present owners become cultivators if that is possible.

By Sri E. KANNAN :

It is sufficient if the owner supervises. It is not practicable to give effect to the slogan " land for the actual cultivators " as long as the British Administration is here.

By Sri A. KARUNAKARA MENON :

The aim of the association is to improve the condition of not only the cultivator owners but also of the agricultural labourers. It is not one of our objects to make the agricultural labourers owners.

By Sri K. MADHAVA MENON :

I do not mean that all the existing landlords in Malabar might evict all their existing tenants and employ labourers to cultivate all their lands. If it is practicable, it is not good for the country. If a prominent landlord evicts all his cultivating tenants and cultivates the land either directly or through labourers, it should be prevented by law.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

A cultivator can cultivate on his own behalf 5 or 6 acres.

By the CHAIRMAN :

The tenant is not in a position to give compensation for the abolition of renewal fees.

By Sri M. NARAYANA MENON :

If the renewal fee is to be paid at all, it would be better to spread it over a period of 12 years and make it payable along with the michavaram.

By the CHAIRMAN :

If the tenant desires to surrender the land, a provision should be made for his kanam and the value of the improvements to be paid to him.

By Sri A. KARUNAKARA MENON :

It is not unjust for the janmi to be compelled to pay the value of the improvements when the tenant surrenders the property.

By Sri K. MADHAVA MENON :

In a case where the landlord is not able to pay for the improvements effected by the tenant, any injustice can be removed if there is a provision in the law to fix the proper rent at that time.

By the CHAIRMAN :

It is necessary to have a provision that if the landlord requires the land for his own bona fide cultivation, he should have the right to evict the tenant.

By Sri K. MADHAVA MENON :

If the existing rent is lower than what it would be under the Act it should not be increased.

16. Sri K. Appu Nambiar, B.A., B.L., Vakil, Chowghat.

1. The origin of the various tenures mentioned in this question is lost in obscurity and can only be guessed now. The various theories advanced by persons who had much to do with the administration of Malabar can at best be taken only as guesses and surmises.

The word 'janm' means 'root' and signifies the hereditary proprietary interest in land. How a man became entitled to such proprietary interest in any particular property cannot be easily understood. The theory that the present janmi is the representative of the man who occupied the property first when the same was lying waste and improved it may have some truth in it.

Kanam is only one of the various ways of alienating landed property by its owner for satisfying his necessity for money. It does not differ much from an ordinary mortgage with possession. In the case of a mortgage with possession the actual amount received by the mortgagor is shown in the document as repayable while in the kanam document account is taken as regards the entire income derivable from the property and after deducting the expenses such as Government revenue and janmis' michavaram, that portion of the balance as is payable to the owner of the property for the entire period is paid to the proprietor of the property by the kanamdar. Generally only a portion of the amount actually paid to the proprietor by the kanamdar is shown as repayable on the termination of the period.

Kuzhikanam.—A property which is lying waste is granted by its owner to another for the purpose of reclaiming it and effecting improvements thereon on certain conditions, the man who takes up the property on this tenure effects improvement in it.

Verumpattam.—When the janmi or the kanamdar is not himself able to cultivate the property they put it in the possession of other persons on certain terms. The persons who take possession cultivate the property and pay the rent agreed upon.

Customary verumpattam.—It is a very favourable tenure to the tenant and appears to have been granted in consideration of some past services.

There are a few other tenures such as Otti, Janmapānayam, Nirmudal, etc., which partake of the nature of mortgage but are almost equal to outright sales, the owners retaining only a nominal right with them. These tenures are practically extinct now.

There are other tenures partaking of the character of leases and these are permanent tenures. They mostly involve an element of service. They may either be grants for past service or for future service or for both. Adima, Adimayavana, etc., come under this category.

2. The janmi has absolute right over the property and is found to have enjoyed the privilege of getting back the property from the tenant as per the terms of the contract under which the tenant was put in possession. The present attempt to fetter his right of recovering possession except on certain specified conditions appears to be unjustifiable.

Kanam was not a permanent tenure but now the conditions laid down under the provisions of the Malabar Tenancy Act practically make it a permanent thing. Kuzhikanamdar was entitled to the value of improvements effected by him but was never entitled to resist the janmis' demand for the return of the property. The verumpattamdar and the customary verumpattamdar were also liable for surrender on demand by the landlord.

3. Civil courts have not by their decisions made any change in the right of the janmis to their properties. The 12 years' period for kanam which kanam demises now get under demises was brought about by decisions of civil courts. No other changes appear to have been brought about by decisions of courts.

4. (*a*) Excepting escheated and forfeited estates, all land in Malabar has been from ancient times considered as private properties. There is no presumption that immemorial waste or forest lands are the property of the Government. The first thing that struck the various early observers of Malabar was the extent to which private right of property was recognized in Malabar. When such was the real state in ancient times I do not think that the revenue authorities and civil courts were wrong in treating all lands in Malabar (including waste and forest lands) as belonging to private owners.

(*b*) I think that vested right should not be interfered with.

(*c*) I am decidedly against the Government exercising any such right. The present owners must be given the value of the properties taken from them.

5. (*a*) I do not think that any change in the existing system is called for. If for administration or any other purpose a change is deemed necessary, the rights of the janmi and the intermediary should be acquired by the Government by payment of amounts which will fetch them what they are now getting from the properties. The present

Malabar Tenancy Act contains necessary provisions to safeguard the interests of the intermediary and the tenant in possession.

(*b*) (1) Unless it is absolutely necessary to safeguard the interest of the person in possession no proprietor of landed property should, in my opinion, be compelled to part with his right to the same. Section 33 of the Malabar Tenancy Act contains provisions to enable the tenant to purchase the rights of the landlord or intermediary. That provision is deemed to be sufficient.

(2) Without getting a clear and definite idea regarding the area that will be suitable for an ideal farm, I find it very difficult to offer an opinion on this point. I think it is difficult to place any such limitation and to make it workable.

(3) Such prohibition may work hardship and loss to the owners of properties as they will be prevented from trying to get the maximum value for the properties. In Malabar there are very few who are not cultivators.

6. It is necessary to protect the interest of the under-tenure-holder from the consequences of default by any of the intermediaries above him. The under-tenure-holder may be given the right of paying off the arrears due by his landlord to the tenure-holder above him and to recover the same from the defaulter.

7. (*a*) In the case of paddy lands from out of the entire yield the cost of seed and cultivation expenses should be deducted. The balance may be divided into three equal shares. One share should be allotted to the tenant and the remaining two shares to the landlord. In cases in which there are intermediaries they should be given the interest on the amount invested by them and a nominal gain from out of the one-third share allotted to the tenant. In the case of coconut gardens also the net produce is to be divided into three shares and the same allotted as stated above.

(*b*) Assessment does not appear to have been fixed on any uniform basis. The rates adopted in respect of adjacent properties are found to be different. The differences are said to be on account of certain Government rules regulating the principles on which assessment is to be levied. Instances are found in which assessment of a property exceeds purappad due to janmi.

(*c*) In the case of kanam properties the kanamdar should be made liable to pay the Government revenue. In the case of properties held on lease in which improvements have been effected by the tenant, the tenant, and where no such improvements have been made the landlord, should be liable to pay the revenue. In cases in which the properties were brought under assessment on account of the tenants having effected improvements on the properties the tenants should be made liable for revenue.

8. (*a*) & (*b*) So far as wet lands are concerned the provisions in the present Act relating to the fixing of fair rent are found to be satisfactory. In the case of coconut gardens the provisions for fixing fair rent are found to work hardships to the janmi and require amendment so as to better the janmis' interest. In addition to the one-fifth of the yield of the trees belonging to the tenant the revenue of the property should also be paid by the tenant. When all the improvements belong to the janmi two-thirds of the net produce should be allotted to the janmi. When both the janmi and the tenant own improvements one-fifth of the yield of the trees of the tenant and two-fifths of the yield of the janmis' trees as provided for in the Act is considered to be satisfactory.

(*c*) So far as wet lands and dry lands are concerned the rents now shown in the documents may be taken as fair rent for 12 years from 1942.

9. I do not think that the revenue as at present fixed can be taken as a safe basis for the fixing of fair rent.

10. I think it is necessary to make such a provision.

11. Much difficulty is experienced by civil courts as weights and measures are not now standardized. The same measure and weights should be used throughout Malabar.

12. Renewal fee appears to be part and parcel of the janmis' dues in respect of a holding. Instead of the whole of the janmis' portion of the income of the property being made payable every year a portion alone is made payable every year and the balance is paid in a lump when the contract is newly entered into or renewed.

13. (*a*) I am not in favour of the abolition of the system. It is a vested right which the janmis and intermediaries have been enjoying for long and it will be hard to deprive them of its benefit.

(*b*) & (*c*) If instead of using fair rent as a basis for the determination of renewal fee either the pattam shown in the document or the revenue of the property may be used as the basis much trouble and expense may be avoided. The tenant can then know what renewal fee he is liable to pay to his janmi. This amount may also be made payable annually

along with the purappad now payable every year so that the tenants may not have to pay a heavy sum in a lump to the janmi when the contract is renewed.

14. While it is hard to ask the tenant to relinquish the karam amount or the munpattam and the value of improvements effected by him in the holding if he wants to give up the holding, it is equally hard to ask the janmi to shell out the whole amount to the tenant all on a sudden when the janmi is not in a position to do so. I think it will be fair to both sides if a reasonably long time is allowed to the janmi to take back the holding from the tenant by paying the amount payable to him. If the reluctance on the part of the tenant to continue the holding is on account of the income from the holding being insufficient to pay michavaram and revenue after appropriating reasonable interest on the amount invested by him, he may be given redress by granting reduction in the matter of payment of purappad.

15. The protection afforded by the Tenancy Act now in force is deemed to be sufficient. I do not think that any further legislative interference is necessary.

16. The present provisions are necessary and may be allowed to stand. The word 'bona fide' may be deleted.

17. (*a*) Necessary protection has been afforded by section 33 of the present Act.

(*b*) The extent to be allowed as 'kudiyiruppu' must necessarily depend on the circumstances of each case.

(*c*) In my opinion no hard and fast rule can be laid down on this point. The present legal provisions relating to the award of compensation for value of improvements need no revision.

18. The vexatious delay in executing decrees of courts now usually found is really ruinous to both parties. The tenant against whom a decree for eviction is passed ceases to have any interest on the property and the property is neglected. The outgoing tenant who is to get some amount as value of improvements will ultimately get very little when the decree is executed and possession taken. A reasonable period may therefore be fixed for the decree-holder to execute the decree and reduce the property to possession.

19. Whatever amounts have been made payable to the janmis under the existing contracts should be made payable to them by the tenants who have entered into the contract with open eyes.

20. It is desirable to extend the provisions of tenancy to both fugitive cultivation and cultivation of pepper. No modification appears to be necessary.

21. I do not know the conditions existing in the places in question and as such I am unable to offer any useful suggestion.

22. (*a*) A janmi who has to get a small amount on account of yearly michavaram has under the provisions of the present Act to come with a suit for sale of the tenants' right in the holding for its recovery. A suit is too costly and the procedure is dilatory. A landlord should be enabled to get the amount by a petition filed in court. This will save the tenant from the costs of the suit.

(*b*) If the renewal fee is to be fixed on some permanent basis the janmi or the intermediary can claim it along with the arrears of purappad. As the Act now stands, a suit for recovery of renewal fee is not maintainable, except in cases where renewal has once been obtained through courts. In all other cases the janmi has to sue for redemption. The janmi may be enabled to recover the arrears of michavaram and renewal fee by a petition. This procedure will be beneficial both to the janmi and to the tenant.

(*c*) (1) I see no objection to this procedure being adopted.

(2) I am against it. Litigants have greater faith in civil courts than in revenue courts.

(3) I am in favour of such a right being granted. A right to file application is preferred to a right to file a suit.

23. I think almost all disabilities are covered by the above questions.

24. I do not know if there are any differences.

By the CHAIRMAN :

I have been at the bar for about 30 years. I have kanam lands and the assessment thereon will be about Rs 1,000. The kanamdar cannot be regarded as a moneylender as a rule. It is a tenure. The kanam rent is much less than the verumpattam. Kanam differs in certain essential respects from a mortgage with possession. There was no definite period fixed for renewal. In 1853 or 1854, the Court fixed the 12 years period. The tenures of Cochin and Travancore are similar to those in Malabar. The Ruler never

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claimed any proprietary right in the soil of the land in Malabar but only claimed a portion of the produce as land revenue. The British Government has also disclaimed all such right in the soil of the property. This difference is of long standing. I have no objection to investing the Government with power to take possession of the forest, waste lands and irrigation sources provided the janmi's dues are not interfered with.

I want a revision of certain portions of the Tenancy Act. In the case of renewals, there is no provision now for the janmi to recover the renewal fee except in one instance. He should be entitled to recover the renewal fee by suit or petition just as in the case of arrears. It should be made clear whether the janmi is entitled to the renewal fee for one period alone or for several periods which have expired. The main alteration in principle I seek is the right to recover the renewal fee ; apart from that, nothing. I am aware that in the Hindu system of policy the sovereign had no proprietorship of the land, excepting such crown lands as he privately owned.

By Sri M. NARAYANA MENON :

The Zamorin and other rulers would not have been the persons who reclaimed the land. They got the property somehow or other. I am not aware that they got them by conquest, confiscation or forfeiture. I cannot say whether big forests were in the possession of local chieftains as rulers of the land ; they may have even purchased them. A forest is akin to other property ; I make no distinction ; it is also property ; in fact it may be much more valuable than other property.

By Sri U. GOPALA MENON :

If you think deforestation is injurious, then it may be stopped by Government. Cowle were formerly granted without prejudice to the janmi. The janmi got whatever was legitimately fixed. I would welcome a revival of this system.

By P. K. MOIDEEN KUTTY Sahib Bahadur :

I am the legal adviser to a few of the janmis in this area. Vested interests of janmis should not be interfered with by Government. That is my opinion. It is desirable for the Government to take over the forests, after paying compensation to the owner. If the janmi's dues are safeguarded, I have no objection.

By Sri E. KANNAN :

I do not know whether the original proprietors of the soil got their lands only by honest and legitimate means :

By Sri K. MADHAVA MENON :

I am the legal adviser to the Guruvayur Devaswam. I have not come across cases where the kanam amount that has been fixed by the Zamorin for the Guruvayur devasthanam is disproportionate to the income that the kanamdars get from those lands. It might be so in the case of other old janmams. The motive of the janmi in fixing only a nominal kanam amount for those janmam lands was just to favour the kanamdars. I do not think it was to show that the kanamdars possessed a much higher right in those lands than the ordinary tenants. The favour that they wanted to show to the kanamdars was that a particular family was favourable to the janmi.

By the CHAIRMAN :

It is desirable to simplify the system of land tenure. I would have no objection if the actual cultivator were given the right to purchase the janmis' rights. The right conferred by section 33 of the present Act may be given to the tenant without a suit. The under-tenure holder ought to be enabled to pay off the rent due to the janmi by the intermediary above him, and then set it off against the rent due by him to the intermediary holder. I have no other suggestions for protecting the under-tenure-holder.

By Sri U. GOPALA MENON :

There are landholders and tenants in other districts of the Presidency just as there are here. I do not know if in other districts there are intermediaries in any number between landholders and tenants. In Bengal there are also intermediaries between the landlord and the under tenants. It would be sufficient if it is provided that the landlord should give notice to the intermediary of his having defaulted and then collect the rent due by him from the under-tenant who is in actual possession of the land and thus give an opportunity to the intermediary also to save himself from his default. This is what I mean by my written answer.

By Sri A. KARUNAKARA MENON :

The sub-tenant should pay only the amount payable by him to the kanamdar.

By Sri M. NARAYANA MENON :

If the kanamdar says he has paid the rent to the janmi and the janmi says he has not received it, some provision must be made to enable the under-tenant to deposit the amount in court. If the parties have not gone to court, there must be some such provision to enable him to pay the amount to the janmi without endangering his position. There should be no decree passed against the value of the improvements effected by the under-tenure holder for the dues due by the kanamdar to the janmi if the under-tenant has been regular in his payments.

By the CHAIRMAN :

Cultivation expenses are calculated as 2½ times the customary seed description and not the actual requirement. A ten para seed-sowing area may actually require only 6 paras of seed. Cultivation expenses are taken as 2½ times the ten paras. This provision may be left alone.

By Sri M. NARAYANA MENON :

So far as I know, this question of the basis of calculation has not been raised in cases. I think I have not used the word ' intermediary " correctly in my answer to Q. 7. Probably when I used the word " intermediary " there I meant the under-tenant. I agree to correct the sentence by saying that the " one-third share of the actual cultivating tenant should not be interfered with."

By Sri A. KARUNAKARA MENON :

I have met with some instances where the janmi has to pay as assessment much more than the rent that he has to receive. There are instances in which the produce of the property is not sufficient to pay the revenue. There was one instance near this place. There were only five coconut trees in the property and the revenue was eight and odd rupees. He sent a petition and the Tahsildar came and inspected the property and found that the amount payable was only very small but still on account of the rules he could not interfere. There are very hard cases of revenue in this taluk. That is in Kudipuram amsam which is about two or three miles from here. He is a Muhammadan. I do not know his name. Fair rent for garden lands is sometimes not sufficient to pay the assessment and the renewal fee sometimes becomes practically nil. The old practice was to calculate the renewal fee at so much per cent. The janmi ought not to be made responsible for the revenue of the tenant's improvements.

By Sri U. GOPALA MENON :

I have no objection to giving the verumpattamdar the right to have fair rent assessed at once. But I have suggested that in 1942 the same rent may be allowed to stand There may be cases of injustice. As between kanamdar and janmi I will leave it to contract between them, except in cases where the holding is a loss and the janmi refuses to take surrender.

By Sri K. MADHAVA MENON :

The average yield in wet lands in these parts is between eight and ten fold. The rent payable by a tenant averages four fold or 50 per cent of the gross produce. It is not high according to me. I have no objection to fixing the rents for garden lands in kind.

By Sri P. K. KUNHISANKARA MENON :

I have cultivated by agents. Two per ten of the kanam amount is ordinarily the rule for renewal fees. It would be reasonable to fix the renewal fee at this figure.

By the CHAIRMAN :

The renewal fee thus fixed will vary. Large kanams are very few. I have not come across kanam documents of one thousand and two thousand rupees. I have heard that in North Malabar the kanams are big amounts. The proportion of 2 per ten will work havoc in North Malabar. Renewal fees may have originated in the fee paid by the actual cultivator at the time of the death of the owner to the new janmi. If it is so, it must be a feudal levy. If the renewal fee is fixed on the basis of the assessment, it may create hardship as it is said that differences of assessment are found in respect of adjacent properties. Otherwise I would prefer assessment if such inequities do not occur. Inequities occur in all cases. Some permanent basis ought to be found out. I have no objection to that basis being the revenue.

By Sri M. NARAYANA MENON :

If the Government once again increases the revenue the tenant will have to pay a higher revenue and a higher renewal fee. But there is some difficulty ; the parties are to fight for the ascertainment of the renewal fee. So I suggest some permanent basis might be found out.

By Sri E. KANNAN :

The system of renewal fees must be retained. Its abolition will certainly be a hardship to the janmi because he has been enjoying it for a long time.

By the CHAIRMAN :

I suggest the deletion of the words *bona fide* only in view of another provision that if the janmi does not cultivate, the tenant can get it back. This *bona fide* nature of the janmi's claim is so difficult to find out. If some years after he had given up the holding he were to be able to get it back, there would not be any difference in practice.

Q.—The High Court have held that unless the court is satisfied that the landlord wants it *bona fide* for his own cultivation the property should not be surrendered. But if you delete that term *bona fide* the court has to order the surrender. Don't you think it is advisable to have it ?

A.—It is advisable to retain that term *bona fide*. Even if that term is retained, the tenant has no fixity of tenure, and has no incentive to improve the property. Of course, that depends upon the attitude of the janmi and his relationship with the tenant. The tenant will put forth his best efforts only if he knows that he will become the owner of the property.

By Sri U. GOPALA MENON :

There are many instances of the partition of tarwads, and many junior members of these tarwad families will require land for their *bona fide* cultivation. It will be very cruel if they are not able to get back their own properties and cultivate them for their livelihood.

By Sri A. KARUNAKARA MENON :

When the lands are required for building purposes and for cultivation by members of the family and only in such cases, the right of eviction should be granted.

By Sri M. NARAYANA MENON :

The amount of land necessary for a man to live upon depends upon the status of the family. A rich landlord will require more and a poor landlord will require less. Therefore it is difficult to say how much is necessary.

By the CHAIRMAN :

I have no objection to giving the right to the kudiyiruppu holder to purchase the kudiyiruppu right in all cases and to giving him fixity of tenure if he continues to pay the dues to the janmi.

By Sri M. NARAYANA MENON :

If the kudiyiruppu land is required by the janmi for building houses, I would deny the janmi the right to eject the kudiyiruppu holder.

By Sri P. K. KUNHISANKARA MENON :

I have very strong objection to giving ulkudi tenants fixity of tenure. A very large percentage of people are living in such ulkudis. They should have places to live in and be left undisturbed Only so long as they are well behaved in the sense that they do not create any trouble to owners of property.

By the CHAIRMAN :

Three years should be the maximum period for deposit of compensation for improvements. I consider other payments stipulated in the contract as part of rent proper. I do not think there is necessity to provide for the payment of these levies. With regard to fugitive cultivation it is not necessary to give fixity of tenure.

By Sri U. GOPALA MENON :

I am aware that, for a number of years, pepper gardens have been unprofitable. I have not considered whether it is desirable to fix the tenant to some definite lands for all purposes. There is not much fugitive cultivation here.

17. Sri V. K. Korunni, President, Pallipuram Karshaka Sangham, Valappad.

1. Taking each interest separately, it is difficult to trace the origin of each. At different times, different people had different interest in lands. But till the British rule, the relationship between the different classes in a society were based on social relationship and the status higher and lower of each class. Accordingly, janmam and kanam corresponded to Melkur and Kizhkur of those days. The British courts have changed this relationship into a financial relation or contract. They defined Melkur financial and not social superiority. Thus the medieval Naduvazhis who had some definite obligations to the Kizhalars became the janmis of the present day, having no obligations to anyone and possessing entire right over the lands. This great change in Malabar land tenures subjected

the old social obligations to the sway of the newly acquired financial superiority of the janmis. So, even though there were janmam, kanam, kuzhikanam, verumpattam, etc., before British rule, they took their present shape only after British rule.

2. Janmis had melkur (superiority) over kanamdar and verumpattamdar, but that did not mean that they had financial superiority and complete liberty of action as defined subsequently. One-third of the produce was the share of the verumpattamdar, and one-half of the balance each for janmi and kanamdar. In addition to these, each class had social and national obligations. During War-time a fixed number of men and money had to be supplied, e.g., 999 or 600 Nayars. Janmis had to help Naduvazhis and taking active part, the kanamdar had to help the janmis. Similarly, they had mutual obligations even at the occurrence of death, marriages, etc. No one had right to alter these rights or deny them. In a society composed of different classes and vested with different duties to perform the janmis were the melkurs or superiors and as such they had to see that those below them actually performed their duties. They had no right of eviction nor any right to increase rent and michavaram. Whenever a janmi passed away, the tenants had to see the successor-in-title and make some present known as "Thirumul-kazhcha" as a mark of subjugation.

3. The changes on account of judicial decisions are as follows :—

(*a*) The janmi can evict the tenant at will.

(*b*) The janmi can increase the michavaram, pattam, etc., at will.

(*c*) The "Thirumul Kalcha" known as "Purushantharam" was converted into renewal fees ; and the janmi was given powers to fix the amount.

(*d*) "Purushantharam" was fixed as a periodical amount due every 12 years. And the janmi was given powers for renewal. These were all inconsistent with the respective rights possessed by each.

4. (*a*) No. The action of the Revenue authorities and Civil Courts resulted in the grant of full freedom to a set of persons who had in fact no right over the lands.

(*b*) Yes. The waste lands can be utilized as grazing ground. Permission may be granted to anyone to remove fuel and manure as absolutely necessary for cultivation and permission may also be granted to any cultivator for diverting as much water as is necessary for cultivation purposes.

(*c*) Yes.

5. (*a*) It is absolutely necessary that there should be legislation to dispense with all intermediaries between the Government and the actual cultivator. Such legislation should be brought into force as quickly as possible. But the actual cultivator is not in a position to compensate the land owner. And neither the janmi nor the intermediaries, who have nothing to do with cultivation, are eligible for any such compensation.

In this connexion we wish to point out another matter to the Committee. The injustice done on account of the judicial decisions should not be allowed to continue or in other words (i) all kinds of tenants should be allowed fixity of tenure, (ii) the rate of pattam and michavaram should be fixed ; (iii) the right of renewal should be extinguished. This requires immediate attention.

(1) We do not agree with this for the reasons mentioned against (*a*) above and on account of the fact that the tenants are not in a position to pay any compensation.

(2) A major portion of the cultivator should be given some other employment before the remaining cultivators can make use of an ideal farm. We do not entirely agree with the proposal. This point can be considered only from an industrial and commercial point of view.

(3) This is absurd so long as there are land-owners (janmis and intermediaries) other than cultivators.

6. Yes. The tenant should not have any liability other than payment of the fixed pattam. Attachment should be made only for so much of the amount as is due from the cultivator as pattam to the intermediary (including janmis). No other properties belonging to the tenant should be made liable.

7. (*a*) The tenant should get the following income. Only the balance should go to the Government and to the janmis and intermediaries. Half the net yield should go to the cultivator. The net yield means the gross yield minus $3\frac{1}{2}$ times the seed. As regards occupied dry, garden and parambas, no amendment of the existing Act is necessary. But because pattam has to be paid in money, it leads to much difficulty. The pattam should therefore be in kind and its value should be commuted at the market rate prevailing at the time when the pattam falls due. The pattam should under no circumstances be enhanced.

(*b*) Although there are certain fixed rates at which assessment is charged by Government, they do not bear any proportion to the yield. There are many instances in which the yield from the lands is insufficient to meet the assessment.

(*c*) The janmi should pay.

8. The answer is in 7 (*a*).

9. As the assessment itself is disproportionate it will not form any basis for fixing the fair-rent. Moreover it will also be an obstacle to the tenant getting half the net yield as mentioned against 7 (*a*). It would be better to revise the rate of assessment with reference to the pattam proposed above.

10. Provision should be made for remission of rent in proportion to the remission of assessment granted on account of bad season.

11. Yes. Whatever may be the weights and measures they should be uniform throughout. Breach of adherence to the standard weights and measures should be a punishable offence.

12. The answer is contained in the answer to questions 2 and 3.

13. (*a*) Yes.

(*b*) No compensation whatever need be paid. The tenants' fixity of tenure should have nothing to do with the payment of compensation.

(*c*) This does not arise.

14. No.

15. (*a*) Yes. If the tenant pays the pattam or michavaram duly fixed, he should never be evicted.

(*b*) There are many instances. The revision is proposed above.

16. Yes.

17. (*a*) Yes. No compensation whatever need be paid. Besides, kudiyiruppu holders who have no employment other than coolie work should be exempted from payment of assessment.

(*b*) Distinction is necessary.

(*c*) The minimum extent should be 75 cents in rural areas and 25 cents in urban areas.

18. Only some slight revision in value of compensation is called for. There are some more items to be included under "Fruit bearing trees." The time-limit for the execution of a decree should under no circumstances exceed two years.

19. There are many, viz., subscription for festivals and ceremonies, collection of funds for "Kadhakali," etc. The Committee can have a number of instances in the course of its tour. A janmi who makes any collections other than the fixed pattam or michavaram should forfeit his claim for collection of rent for three succeeding years.

20. Yes.

21. Yes.

22. (*a*) There are many difficulties. The difficulties are experienced by all the parties concerned. Legislation necessary to avoid delay and expenditure should be made.

(*b*) Each firka should have a rent fixing Board. Petitions connected therewith should be exempted from stamp duty.

(*c*) (1) & (2). There is nothing more to add to what is stated in 22 (*b*).

23 & 24. This has been answered in detail in the memorandum prepared.

Note.—No memorandum has been supplied.

By the CHAIRMAN :

I have about two acres of land, kanam half an acre and verumpattam one and a half acres. I cultivate all the land myself. I have only heard that the janmi had no right to evict the tenant and that right was obtained by judicial decisions. It is unnecessary to pay any compensation to the intermediaries or janmis, because they are not doing any work on the soil. The kanamdar is an intermediary according to me. I don't know that it was the kanamdar who brought the lands under cultivation in most cases.

By Sri U. GOPALA MENON :

There are very few verumpattamdars who do not actually cultivate but employ labourers to cultivate. I cannot say how many in my village are employing agricultural labourers. The rate of wages they pay is for a male 4 or 5 annas and for a female two and a half annas. Janmis pay in paddy. The tenants who cultivate pay in money.

By Sri M. NARAYANA MENON :

By cultivating 1½ acres of land I get 100 paras of paddy. I spend 50 paras inclusive of the seeds for cultivation. The seed required is 20 paras for both crops. It is double crop land. I don't know the revenue of the land. The rent is 50 paras. The revenue is paid by the janmi. I have been cultivating the land for about 8 years. I deposited the rent according to the Agriculturists Relief Act. The amount in arrears was 107 paras of paddy. I have not yet paid any portion of this year's rent.

By Sri E. KANNAN :

I failed to pay rent regularly because of the poor yield. I have not surrendered the land because I have paid some munpattam which I may not get if I surrender. I do not spend anything as wages. Even though we ourselves work in the field we have to spend about 50 paras.

18. Sri K. V. Raman Menon, Vakil, Ponnani.

4. (*a*) I think the authorities were wrong. I am inclined to favour that view which says that it is occupation that confers title to waste lands but I cannot accept the view that occupiable places may be presumed to have been occupied. What is not actually occupied must be regarded as unoccupied and the Government as representing the public must have ownership of it.

(*b*) Waste lands and irrigation sources must be Government property. Nothing will be gained by placing a few restrictions on the right of janmis. If it is thought desirable to interfere with their right they may be asked to surrender their rights on receiving a small compensation.

(*c*) The Government can have that right. But a small compensation must be paid to the janmi.

5. (*a*) There seems to be sufficient scope at present for a janmi, a kanamdar and a verumpattam tenant. Other intermediaries will disappear when the provisions regarding fair rent comes into operation.

(*b*) (1) I do not think it desirable to give the tenants such a right. Most of the tenants are poor. If this right is given to them they will borrow on ruinous terms and make use of the right. Thereafter they will never be free from the clutches of the money-lender.

(2) It is necessary for the cultivator to know that he can profitably cultivate only a limited extent. At present there is an unhealthy desire on the part of the cultivator to get a mere physical extension of his lands. But I do not think this is a matter where legislation can be useful. It is undesirable to attempt any sort of uniformity. The extent to which land can profitably be cultivated depends upon various unstable factors: on the capital available, capacity of the man himself, nature of labour available, machines used and the advance made in invention of machines.

(3) I do not think it desirable why should a non-cultivator be prevented from turning cultivator. It is necessary only to protect the interests of the cultivator.

Besides preventing such sales by law will only result in underhand workings.

6. The under-tenure-holder must be protected. One method will be on the lines analogous to those I have suggested below in the case of splitting up of the tenants' interest. Whenever an under-tenure is created the intermediary must state what portion of his dues to the janmi is to be charged on the particular under-tenure. If it is a fair and bona fide arrangement the janmi must recognize it. The under-tenure-holder may pay the dues direct to the janmi and if he keeps no arrears the janmi must be allowed to go only on the intermediaries' rights in the particular portion.

7. (*a*) Michavaram existing on the date of passing of Malabar Tenancy Act had better be left undisturbed, except for the portion commuted in money. In the case of michavaram payable in money a reduction in proportion to the fall in price of agricultural produce should be allowed.

The person under kanamdar if any should have to pay only fair rent as stated below, answer to question (8).

(*b*) I do not know. I think the classifiers adopted a rough and ready method to know the nature of the soil and that the higher authorities had implicit faith in the geological knowledge of the classifiers. I think the proportion of revenue and income will not be alike in any two plots. There are instances where the man who pays revenue gets less than revenue from the land.

Ponnani taluk, Kololamba amsam, patta 269. One plot revenue is Rs. 13–4–0. The janmi (Unikkat Tarwad) who pays the assessment gets only a rent of Rs. 8–8–0 from his tenant, one Pazhur Achuthan Nayar.

Again same amsam, the same janmi, revenue is Rs. 3–6–0. The rent he gets is only Rs. 2. Since the income of the person who occupies is not a fixed thing I do not give such instances. But instances are plenty where a man who gets only a small income from the land has to pay a comparatively high amount of revenue.

(*c*) The man who is in possession must pay the assessment and he should be freed from having to pay his landlord's revenue in any circumstance. At present where the janmi has a large assessment everyone of his tenants is at the mercy of the village officers at the revenue season. The janmi also is at the mercy of the village officers. Dishonest tenants can have all the produce and pay nothing to the janmi.

8. Under the present Act 2½ times the seed is reduced from the gross produce for getting at the net produce. That allows only 1½ times the seed for cultivation expenses. In this locality most of the Commissioners of District Munsif's Court, Ponnani, have been taking two times the seed for cultivation expenses for valuation under Tenants' Improvements Act. I think that must be allowed ordinarily in this locality. In the case of punja kol lands a large allowance has to be made for putting up bunds and baling out water, besides the ordinary cultivation expenses. It is desirable to make detailed enquiries regarding cultivation expenses in each locality.

9. I do not think it desirable.

10. The problem will not arise if the liability for revenue is fixed to the person in possession.

11. It is highly necessary, at any rate for measures. Different janmis, it is common, use different measures. Same janmi using different measures for different tenants is not uncommon. The suggestions adopted at the conference convened by President of District Board may be adopted. Section 46 (*d*) of the Tenancy Act must be modified as it is not effective. The Sub-Registrars should return the documents presented for registration where the relation to the standard measure is not given. Suitable amendments to Registration Act may be made.

13. (*a*) Yes.

(*b*) The renewal fee may be spread over the period of the demise and added on to the michavaram. Consideration should be paid to the fact that the janmi is having it in advance.

(*c*) If renewal fee is to be paid as such it should only be for the period future to the date fixed for payment. The rate of interest of 12 per cent at present must be reduced to 6¼ per cent.

14. The present provision work very hard on tenants of coconut gardens where the rent is fixed in money. It will be hard on the janmi also to be asked to pay for improvements whenever the tenant takes it into his head to relinquish. The hardship for both can sufficiently be met, I think, when the rent, at least what is paid in money, is revisable more frequently, say once in six years. The present provisions may then be retained.

15. (*a*) The actual cultivator must have a definite tenure and must have security of tenure also. The only condition for fixity must be that he should be regular in paying his dues.

(*b*) Unjustifiable evictions have taken place in plenty under the clause of landlord requiring the land bona fide for his own cultivation. It is difficult to get proofs for several reasons. The tenant once he gets out of the lands has his own livelihood to look after and cannot watch his landlord. It is not difficult for landlords to keep nominal possession of the land for six years leaving the actual occupation to some dependant on an oral contract to pay rent. Very often he need not continue this even for six years. After a few years he can count upon the fact that the tenant has ceased to watch him. The tenant might have even left the neighbourhood and settled elsewhere. The subject-matter of Original Suit No. 40 of 1939, District Munsif's Court, Ponnani, is interesting in this connexion. The tenant has been evicted in a previous suit much against his wishes, the janmi claiming lands for his cultivation. He took delivery on 29th January 1932 and soon after gave it on oral lease to another—nothing of course appearing in writing. The tenant knew this but was helpless. He would not have succeeded in proving that the janmi had parted with possession. On 10th November 1938 a karar was executed in the janmi's family and in that this land was shown to be in the possession of tenant on oral letting in 1934. The tenant then thought he had clear evidence of the janmis parting with possession but was successfully met with the plea that a year was over after the property was let out and that the remedy was barred under section 43.

The term 'bona fide, etc.' is extremely vague. While some judges go into the question whether the janmis require it bona fide, other judges think that when the janmi says he requires it, his bona fide can be taken for granted and that the tenant's rights are protected by the provision for restoration.

There are instances also where soon after the six years written lease-deeds appear for the lands so got hold of.

This right of landlord should be abolished. Exception may be made in the case of small landlords who may have to take to cultivation for their livelihood. A landlord whose income by way of michavaram is less than Rs. 100 per year or by way of Verumpattam is less than Rs. 250 per year may be allowed to evict tenants and keep possession up to the extent of about 15 or 20 acres. The amount and extent can slightly be increased where the family of landlord consists of numerous members. These landlords need not be asked to prove their bona fides but the present provisions for restoration may apply in their case.

16. (1) Answered in 15 (*b*).

(2) The landlord should have security for one year's rent.

17. (*a*) Yes. The present period of 10 years has led to suits being filed against tenants 8 or 9 years after the lease just to escape the provisions of that section. If the house is built for the tenant's own occupation it must receive protection from eviction where the rent and other dues are regularly paid. I think security of tenure is what is essential and not right of purchase of landlord's interest. The present Act does not give security of tenure where a Verumpattam paramba is the subject-matter. The tenant has to resort to purchasing the landlord's rights—very often a difficult task for the tenant and always a source of grievance to the landlord.

(*b*) Urban Kudiyiruppus need not be so protected. But small panchayats should not be regarded as urban areas.

(*c*) About two acres in rural areas.

18. I do not think it necessary to revise the Improvements Act. The Act has been working well enough though it has some apparent absurdities.

It is necessary to fix a time-limit. When a decree for surrender of possession is made the tenant ceases to take interest in the land. If the decree is kept on for 12 years as is possible now the land gets wasted. If the time-limit is fixed the landlord's right to recover possession need not be absolutely taken away. He may be allowed to sue for possession again 15 or 20 years afterwards getting the rent meanwhile and suffering the costs in one suit at least.

22. The procedure of an ordinary suit is very tedious and costly. Rent for one year may be permitted to be recovered by revenue authorities as revenue in cases where there are registered lease-deeds, and where the tenant has not paid the rent within one month after the harvest.

23. (1) One serious difficulty is to get receipts for rent paid. The smaller janmis are greater offenders in this matter. If the janmi is a lady also and an illiterate gosha lady to boot, with her father, brother, husband and cousin occasionally representing her, the tenant's position become hopeless. Even if he gets receipts he cannot rely on them, one representative seldom recognizing the receipts of predecessors and the tenant seldom able to say who gave a particular receipt. The tenant may be allowed to deposit the rent in treasury where there are registered lease-deeds and the money may be paid to the landlord by the village munsif or panchayat court so that the landlord may not have to go to the treasury and prove his identity. The Collector may publish a commutation price at the harvest time. A small fee even can be levied from the tenant for this service. If it is possible to introduce a cheaper money order system for rent during the harvest season that may also work well.

(2) Another frequent source of trouble is when the tenant's interest gets split up as a result of partition in the family or owing to the succession of a number of heirs to the original tenant. There may be one or two defaulters and the whole lot has to suffer. In such cases when a partition is made the janmi may be informed of it and if the arrangement is a fair and bona fide one the janmi must be made to recognize it. The owner of each portion must have the right for renewal and fixity. Courts may see whether the partition arrangement was a fair one or only a trick to defeat the janmi.

(3) Attachment of crops of cultivators is another source of trouble. The creditor must no doubt get his dues but he must not be allowed to kill the goose that lays the golden eggs (if golden eggs can be used in this connexion, goose can certainly be used). As a result of attachment of crops the rent remains unpaid and the seed lender does not get back the seed. The tenant gets evicted by the landlord and loses credit with the seed-lender. The goose in fact gets killed. In such attachments the courts must retain out of the proceeds sufficient to pay one year's rent to landlord and the dues to the seed-lender. The court must see to the payment also without delay.

Evils arising from tenant's produce being made to liable for large amounts of revenue from landlord and hardships due to fall in prices have already been dealt with.

By the CHAIRMAN:

Waste lands must belong to Government.

By Sri U. GOPALA MENON :

I include in the waste lands all unoccupied waste lands. I am not aware of any cases of sale and purchase of waste lands. I make no distinction. In spite of the payment of consideration, the waste should belong to Government. Of course it may work some hardship in certain cases. But for a person who has purchased land and has been allowing it to lie waste I do not think there could be much pain in parting with it. Compensation should be paid commensurate to the consideration he has paid. I would be satisfied with giving Government power to allow any one into occupation of waste land without prejudice to any of the just rights of the janmi.

By the CHAIRMAN :

I am in favour of simplifying the system of land tenures in Malabar. The three classes of tenure holders, the janmi, the kanamdar and the verumpattamdar should still continue. If we allow the cultivator to buy the kanam or janmam rights, he will try to borrow money from usurious money-lenders and ruin himself, and thus fall into the clutches of the money-lenders. I do not think that the system of land tenure is so very complicated.

By Sri M. NARAYANA MENON :

The money-lender can easily circumvent the law fixing interest at 6 per cent. What I said before applied to the actual cultivators and not to the kanamdar. I do not think the kanamdar requires very much protection, except so far as renewal fees and michavaram are concerned.

By Sri C. K. GOVINDAN NAYAR :

The cultivation expenses should be increased to three times the seed required. I refer only to Ponnani taluk, not to other taluks. The renewal fee may be spread over 12 years.

By P. K. MOIDEEN KUTTY Sahib Bahadur :

If once the rent is fixed, nothing more need be paid to the janmi by the tenant.

By Sri M. NARAYANA MENON :

Security of tenure should be given to the verumpattam tenant. The janmi should have one year's rent as security.

By Sri P. K. KUNHISANKARA MENON :

If the rent is fixed in kind, it will give rise to very many difficulties. Whether the rent is fixed in kind or money, it should be revisable once in five years.

By Sri E. KANNAN :

There is some discontent among verumpattam tenants. There is nothing peculiar about this. The rent was fixed in olden days. I do not think that what the landlords are getting is a fair rent. It will also be seen that they are not getting the rent as fixed in the documents. The proper remedy is to fix a fair rent.

TIRUR CENTRE—30th October 1939.

19 Sri Vancheri Manakkal Narayanan Nambudiri, Tirur.

1. Parasurama gave them as a gift and they were bought in some cases. See Logan's Malabar.

2. No special answer.

3. I do not know that it is so.

4. (*a*) Yes. (*b*) No. (*c*) No.

5. (*a*) As janmis and intermediaries' interests are ancient they should not be abolished.

(*b*) (1) Not to be allowed.

(2) Not to be allowed.

(3) This will reduce the value of land.

6. No such change is needed.

7. (*a*) It should be fixed according to the nature of the land.

(*b*) In some cases the assessment exceeds the produce. The difference is due to errors of classification. Five or ten examples could be taken from one Desam.

(*c*) It should be according to contract. If the tenant leaves arrears, his interest should be sold first and the janm right afterwards.

8 & 9. No change is needed.

10. There will be no objection to this.

11. If it is possible for the whole of Malabar, it should be done.

12. It is a part of the excess profits reaped by the tenant. It is a right of the janmi and an ancient custom.

13. (*a*) No.

(*b*) & (*c*). It is necessary to provide for the collection of a renewal fee for each period of 12 years that has elapsed. It must be made a first charge on the land along with michavaram.

14. No.

15. (*a*) No further fixity is needed.

(*b*) Not to my knowledge.

16. (1) & (2). No.

17. (*a*) No. If it is done, adequate compensation should be paid to the landlord.

(*b*) Yes.

(*c*) There is a difference between urban and rural areas.

18. No change is needed.

19. No such levies here.

20. I cannot say as there is no such cultivation here.

21. There is no objection.

22. (*a*) There is difficulty and changes are needed.

(*b*) A right should be given to collect through summary courts like revenue.

(*c*) My opinion is below.

(1) Provide for summary trials for present and future arrears of rent.

(2) No.

(3) Yes, by application.

23. As assessment is high and prices of products are low, janmis and tenants are suffering. A remedy is needed for this.

24. I do not know.

By the CHAIRMAN:

I own about 500 and odd acres of land on janmam right. I have other kanam lands also, about ten acres. I do not possess any verumpattam lands. The kanamdar was not a middle man or money lender to the landlord. He was a tenant who brought the land under cultivation and what he could not do himself he made other people do. He was the person who mainly improved the land. I have no other basis besides the court decrees for my answer to question 4. Their decisions were taken to be just. I cannot advance any other reason.

By Sri M. NARAYANA MENON :

From the Bharatha to the Feroke river the lands of the Zamorin are mainly the lands of the Vettathnad Rajah and devaswams under him. They were escheated on the death of the Vettathnad Rajah. I cannot say whether the escheat was just before the Zamorin handed over the administration to the British or whether the Vettathnad Rajah was under the Zamorin. Devaswams were under the management of the Vettathnad Rajah and Nambudiris also had some part. The properties of the Devaswam were not private properties of the Zamorin, or the Vettathnad Rajah or Nambudiris. Green manure for cultivation purposes and firewood are taken from forests. There may be some small difficulties but as the landlord and the tenant can co-operate and cultivate, such difficulties will not be felt much. Such hardships could be removed by Government taking control of these areas.

By Sri K. MADHAVA MENON :

If there are large areas of waste lands lying fallow, it would be better to entrust it to those who want it to cultivate. If the landlord's proper dues are safeguarded there is no objection to the Government's taking these lands and distributing them to cultivators. It will be more beneficial to the public at large if the Government takes control of the irrigation sources.

By the CHAIRMAN :

These various tenures cause difficulty, but it is inevitable. It will not be practicable now to change them. It is desirable to do so but the present tenancy legislation has done much in that direction. If the intermediary is paid the capitalized value of his interest in the land, it will be difficult for him to find janmam lands to buy. It is hard to take away such an ancient long-standing tenure. The tenant must have a sense of security. Otherwise he will make some improvements which will not really benefit the land, merely to get the value of improvements. In the interest of agriculture, fixity of tenure should be conferred on the tenant. The right to evict the tenant for his own purposes of cultivation should not be restricted. Arbitrary evictions should be stopped, but the intermediary must have the right, for actual necessity. If the intermediary wants a land to build a house, that is a necessity. The area should be limited to 3, 4 or 10 acres. If the tenant has only one acre, he should not be evicted. If he has more than what is necessary for him, then he could be evicted. If a cultivator has 10 acres of land and if his superior landlord wants 1 or 2 acres for his own purposes, the latter should be given the right to recover that portion. There is no objection to giving the janmi or the intermediary the right to purchase the tenant's right, if he wants the land for his own purposes. The kanamdar or verumpattamdar may be allowed to purchase the janmi's right for proper value if it is for any particular purpose. He should not be allowed to do so merely because he has got money. It is not necessary to provide for compulsory purchase.

By Sri A. KARUNAKARA MENON :

If compulsory purchase is permitted, many people will be thrown out of employment. It will not do good to the people.

By Sri K. MADHAVA MENON :

The actual cultivator has the duty to enquire whether the superior landlord's dues have been paid. The sub-tenant should be empowered to pay directly to the landlord the proportionate amount of the rent which he has to pay. If he has so paid, he should not be liable.

By the CHAIRMAN :

I cannot say offhand what proportion would be reasonable if the yield is tenfold or twentyfold. The fair rent now provided for wet lands is reasonable. I cannot say what portion the kanamdar should give. In some cases the assessment exceeds the produce in garden lands. I shall send a list of such cases. If under the contract the tenant should pay the revenue he must be made to pay it. The tenant in possession may be made primarily liable to pay the revenue. The fair rent of coconut gardens may be fixed in kind.

By Sri C. K. GOVINDAN NAYAR :

The present provision for fair rent of garden lands is quite fair.

By Sri A. KARUNAKARA MENON :

Where the increase in revenue is due to the labour of the tenant, the liability to pay revenue should be transferred to the tenant.

By Sri K. MADHAVA MENON :

If the practice of attaching standing crops for arrears of revenue is stopped, no revenue will be paid. The tenant may pay the balance as rent after paying the revenue. If the tenant pays the revenue of the property in his possession then his crops should not be attached again for arrears of revenue.

By the CHAIRMAN :

Renewal fee may be collected in instalments along with the rent.

By Sri P. K. KUNHISANKARA MENON :

The kanam tenant has only to pay a very small revenue and rent and he gets very high profits. He must give a share to the landlord in the shape of renewal fee. If the profit is small, the renewal fee should be in proportion to the profits.

By the CHAIRMAN :

If the renewal fee is fixed at 2 per 10 in the case of old kanams, in some cases it will work considerable hardship on the tenants and in some cases it will tell upon the janmis themselves. I prefer the present provision.

By Sri M. NARAYANA MENON :

Renewal fees for wet lands are not larger than they were before in these parts. Wet lands in Walluvanad, Ernad and Palghat are very fertile.

By the CHAIRMAN :

The present provision for relinquishment is perfectly fair. It is only when the landlord wants it that he must be asked to pay the kanam and improvements. The tenant can't surrender as he pleases.

By Sri A. KARUNAKARA MENON :

If the tenant is prepared to relinquish the improvements, the kanam should be repaid.

By Sri K. MADHAVA MENON.

Where the landholder has leased his land on kanam with rent for improvements belonging to him and now the yield of the land is not sufficient to pay the rent, there must be a provision made for revising the rent.

By the CHAIRMAN :

If the tenant pays his dues regularly, I have no objection in giving fixity of tenure to Kudiyiruppu holders. The area occupied for kudiyiruppu should be less in urban areas than in the rural areas. I cannot say what would be the minimum and maximum extent of land that would be required for kudiyiruppu. It is necessary to confer a right on the janmi to file an application for arrears of rent and for renewal fees.

By Sri A. KARUNAKARA MENON :

The janmi should be enabled to collect the renewal fee now provided under the Act by means of petitions, only in cases where renewal fees have been fixed by courts.

By P. K. MOIDEEN KUTTY Sahib Bahadur :

I have no objection to stopping the system of giving banana bunches and fowls to the janmis by tenants.

By Sri E. KANNAN :

A fee called Oppavakasam is collected at the rate of Re. 1. If that is abolished I have no objection. Banana bunches and other things are provided in the deed to keep up the good relations between the landholders and the tenants. The tenants also get something by way of return. If this is considered objectionable, I have no objection to such a system being removed.

20 Malayath Kuttikrishnan Nayar and nine others, Melmuri Local Peasants' Committee members, Ponnani taluk.

1. (1) Janmam, (2) kanam, (3) kuzhikanam, (4) verumpattam and (5) other tenures :— These tenures came into clear existence, as they are now seen, after the commencement of the British administration. About two hundred years ago, there were no janmis, etc., as in the present time.

2. Since the British administration, the janmis got private ownership over the lands and the several tenants got right of cultivation under certain conditions.

3. Yes.

4. (*a*) No.

(*b*) Yes, as they are absolutely necessary for cultivation purposes. The cultivators should have facilities to get water, manure, grazing grounds and cultivable lands.

(*c*) Yes. This is absolutely necessary to do away with unemployment.

5. (*a*) It is desirable to simplify the system of land tenure by eliminating the janmis and the intermediaries on payment of compensation to them which shall not exceed the assessment. But, the cultivating tenants should not be put to any difficulty.

(*b*) (1) The tenants should be allowed to pay for the rights of the land owners or the intermediaries only if they are willing.

(2) There is no objection to allowing the cultivator to possess more land than is necessary for an ideal farm.

(3) Sales to non-cultivators need not be prohibited.

6. The price of the produce is not fixed but the assessment is permanent. Therefore the assessment bears varying proportion to the produce.

7. (*a*) & (*b*) It is absolutely necessary to protect the under-tenure-holder from the consequences of default by any of the intermediaries above him. Provision should be made in the law so as to make the defaulters themselves responsible for such losses.

(*c*) The janmi should certainly pay the assessment.

8. There is difficulty in fixing the rate of fair rent. Five times the seed should be deducted for cultivation charges from the gross yield and half the balance should go to the cultivator. When the fair rent is so fixed, the michavaram due by the intermediary to the janmi and the assessment due by the janmi to the Government should be reduced in proportion to the reduced fair rent.

9. Fair rent should not be fixed in any proportion to the assessment. On the other hand, fixing the assessment in some proportion to the fair rent may be considered.

10. Yes.

11. These should be standardized ; failure to use the standardized weights and measures should be penalized.

12. Renewal was originated in order to lease the land a second time.

13. (*a*) Yes.

(*b*) Compensation need not be paid. The tenants should be granted fixity of tenure on condition of payment of pattam and michavaram.

14. No.

15. (*a*) Occupancy right should be granted to the actual cultivator on condition of payment of pattam and michavaram.

(*b*) There have been evictions.

16. (1) The landlord's right to evict should be further restricted. A family who derives an annual income of more than Rs. 1,000 from whatever source it be, should not have the right to evict.

(2) A limit should be fixed for the extent to be evicted.

(3) Three years' notice should be given in advance prior to eviction.

(4) The landowner should enter on the land immediately after eviction ; the system of furnishing security for one years' fair rent should be abolished.

17. (*a*) All kudiyiruppu-holders should be granted fixity of tenure without payment of compensation.

(*b*) Yes.

(*c*) The extent necessary for a pakka building in urban areas and for a garden in rural areas should be granted.

18. The value of improvements is fixed on the basis of the value fixed by court. Therefore, they are sold for a lesser price. Provision should be made so as not to sell the improvements if their value falls below the market rate.

19. Feudal levies should be penalized.

20. Yes.

21. Yes.

22. (*a*) Yes. Because the adhigari and the janmi are one and the same person, the assessment is set off towards the pattam amount and the assessment is recovered by attaching the cultivators' property. The adhigari and the janmi should never be one and the same person.

(*c*) (1) Summary trials should not be provided for.

(2) Provision should not be made for trial by Revenue courts. The cultivator should always have the right to argue his case in a civil court. But the stamp duty and the court expenses should be reduced. The undue delay in courts should be avoided.

(3) Renewal should be stopped.

23. The poor tenants are compelled by the janmis to pay subscriptions such as 'Poli', 'Chumatu' and 'Kalcha' for the plays such as "Aratiyantharam", "Krishnattamkali" and "Kathakali" conducted by the janmis for their pleasure.

By the CHAIRMAN :

I cultivate about 40 paras seed area, 20 paras on kanam, 10 on mortgage and 11 on verumpattam. I have no reason to furnish for saying that the decisions of the civil courts are wrong. The Government may be invested with the power of taking possession of forest and waste lands and irrigation sources to make use of them. It is not possible for the cultivators to give compensation. Those lands are necessary for the cultivators. I agree that the payment of dues to the janmis should be safeguarded.

By Sri K. MADHAVA MENON :

There is a demand for lands for cultivation. In some cases people were not able to get lands and in some cases the proprietors would not give them because there were no lands available. I cannot say why the proprietors refused to give them.

By Sri C. K. GOVINDAN NAYAR :

If forest and other waste lands are taken over by the Government to be distributed to people for cultivation, Government should also take power to give the people manures and other things free for cultivation. The cultivators now have no right to take green manure and other things necessary for cultivation from forests owned by Government without payment.

By the CHAIRMAN :

The proportion which the assessment bears to the yield is not uniform. If the verumpattamdar purchases the rights of the janmi and kanamdar, I should give an amount which does not exceed the assessment to each. When compared with the income from the property that seems to be fair. I mean it must be paid every year. I mean the revenue for an ordinary kanam period of 12 years, that is 12 years' purchase on the basis of revenue for the property, should be the proper compensation.

By Sri K. MADHAVA MENON :

The tenants will be perfectly satisfied if they get proper rent fixed.

By the CHAIRMAN :

The assessment on my lands is more than Rs. 5. I have been holding them for ten years under my own karnavan. The rent is 65 paras of paddy. I have not improved the lands. At my rate of compensation I need pay only Rs. 60 for purchasing kanamdar's rights. The market price of the kanamdar's rights on these lands will be about Rs. 125. Sixty-five paras is excessive rent. Rupees 60 is fair compensation for purchasing his rights as far as this property is concerned. The yield of my verumpattam lands is 70 paras. Cultivation expenses come to 40 paras and rent to the landlord about 65 paras or so. It is a loss but I make it up by income from other lands. I have not separately calculated the loss on this land. The renewal fee that I paid for 10 paras seed area of kanam land was Rs. 40. I get a profit of about 60 paras of paddy per year excluding the cultivation expenses. If the lands were sublet the rent would be 45 paras.

By Sri K. MADHAVA MENON :

The expenses that I mention include the cost of my labour also.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

I get some straw paddy ; that is my consolation.

21. Sri A. Sankunni Warriar, Pleader, Tirur, South Malabar.

Note.—The witness did not send a written reply to the Questionnaire.

By the CHAIRMAN :

There are certain subterfuges adopted by the janmis and therefore some verumpattamdars have not been deriving the benefits of the Act. For instance, there is the case of the verumpattamdar who has advanced a premium as *thalapad* or *munpattam*. The amount will be very nominal. In some cases it will be equal, in some cases less and in some other cases, a little more than the rent. In all these cases, the benefits of the Act are taken away by calling them mortgages to which the Tenancy Act does not apply. Where the rent is equal to or less than the amount advanced, he can be considered to be a verumpattam tenant. I know some courts have held that transactions of this kind ought to be considered as verumpattam whereas other courts have taken different views. So the matter is in doubt. I know of a mortgage deed which dates back half a century.

By Sri M. NARAYANA MENON :

There can be an honest mortgage for Rs. 2 or even for one pie.

By Sri K. MADHAVA MENON :

Fifty years ago there were mortgages which hardly covered a year's or two years' rent. But the tendency to call these mortgage deeds began when the people anticipated the Act. Before that there were few cases.

By the CHAIRMAN :

I am in favour of the abolition of renewal if it can possibly be abolished without prejudice to janmis ; otherwise it would be very hard. The kanamdar is to make up a certain lump amount and pay it and obviate the necessity of taking renewals. It involves some calculations which will have to be worked out. In the case of janmis owning extensive lands I think a provision to enable the tenant to purchase the janmam is necessary. It should not be applied to small janmis. If the renewal fee is to be paid, it may be spread over 12 years and paid along with the rent. For wet lands, a certain multiple, two times or three times the assessment can be taken as renewal fee ; it will not be hard even in such cases where the kanam amount is substantial and the michavaram very small. But in the case of garden lands it cannot be the multiple ; it can only be a very small amount.

By Sri K. MADHAVA MENON :

When you are conferring fixity of tenure on the verumpattamdar, the janmi also should have fixity of rent by way of advance. The rent now prevailing is really rack rent, and so the tenant has very little margin of profit. Further on account of depression the tenant has become bankrupt. If a fair rent is collected from the tenant, he will be able to give one year's rent as security.

By the CHAIRMAN :

The ten years' rule fixed under section 33 of the present Malabar Tenancy Act works hardship upon the tenants. All kudiyiruppu holders, irrespective of the number of years during which they have been in occupation, should be given fixity of tenure so long as they pay their rent regularly.

By Sri A. KARUNAKARA MENON :

The kudiyiruppu holder should be enabled to purchase the janmi's right also.

By the CHAIRMAN :

If a partition is made in a kanam family, it is not recognized by the janmi. All parties to the partition should be enabled to apply for renewals. Since a partition has been effected I think the co-owners may be given the right to apply for renewals and get their shares.

By Sri M. NARAYANA MENON :

The evils resulting from fragmentation of holdings are inevitable.

By the CHAIRMAN :

The condition in section 44 works a real hardship on the tenant. Payment of arrears should not be a condition precedent of surrender. This clause should be deleted. In cases of surrender, if after setting off arrears there is a balance in the value of improvements in favour of the tenant he is not to ask the janmi to pay it but in the case of the kanam amount, the balance kanam may be given by the janmi to the tenant. The rent which the kanamdar should pay may be fixed as in the case of verumpattamdars in cases where the amount is so high.

By Sri M. NARAYANA MENON :

If by the revision it is found the janmi is entitled to get a higher michavaram, I think the janmi is entitled to it.

By the CHAIRMAN :

With regard to payment of rent there ought to be a monthly notification of prices of produce like coconut and paddy. The current price must prevail for commutation of rent and may be fixed for each taluk.

In some cases persons evict tenants on the ground of 'bona fide' cultivation when they do not really want to cultivate. When a man makes a solemn declaration the court is satisfied. So long as this provision exists you are in effect conferring no fixity of tenure at all. If the provision is to be abolished, exceptions may be made as in the case of landless families. If the landlord requires it for cultivation for his maintenance, he may be given it.

By Sri M. NARAYANA MENON :

If his requirement for food is only 70 paras I don't think it is necessary to give more. If you pay compensation to the tenant, he may be willing to give back the land.

By the CHAIRMAN :

If a cultivator falls ill and lets the land, he will stipulate a certain fair rent. He should be satisfied with the rent. There is a minor. After eighteen years he wants to go to cultivation, i.e., his father's profession. Then he may be enabled to get back enough land for his bona fide requirement.

By Sri K. MADHAVA MENON :

The present provision for testing bona fides ought to be more severe.

By the CHAIRMAN :

I have got a garden land. The total number of coconuts which I am able to get is about 1,200 to 1,500. Under the present conditions what I actually get for them is Rs. 18 to 20. For fencing, etc., I have to spend Rs. 15 ; for digging and other things, Rs. 10 ; for manuring Rs. 5. The assessment is Rs. 5–8–0 and the michavaram I have to pay is Rs. 1–8–0.

By Sri K. MADHAVA MENON :

The kanamdar's liability should not be thrown on the shoulders of the under-tenure-holder.

By the CHAIRMAN :

It is to the interest of the under-tenure-holder to see that the janmi's dues are paid regularly. But he cannot do so as his immediate landlord receives the rent from him and pays directly to the janmi. The under-tenure-holder has no possibility of knowing whether the janmi's dues have been paid or not.

By Sri M. NARAYANA MENON :

Now we have a suit once in twelve years. If the period of limitation for arrears of michavaram is fixed at three years, we may have suits once in three years. The interest in the kanam and verumpattam documents should be compulsorily reduced to one per ten for paddy and 6 per cent for money.

WALLUVANAD TALUK.

PERINTALAMANNA CENTRE—4th, 5th and 6th November 1939.

22. Sri P. K. Gopala Menon, Kolakkad, Trikkiteeri Post, Walluvanad Taluk.

This reply relates, in particular, to the system in South Malabar.

When Cheraman Perumal, who was one of the Perumals who ruled Kerala, divided his lands, the share set apart to the Zamorin's family was Kokkozhikode, Chullikkode and Utaval.

Poomulli Mana, the leading Brahman janmi in Malabar, had not even an inch of land here when the head of the family came from Oorakam in Cochin State and settled in Peringode desam of Ponnani taluk.

The same story can be told of the janmam lands possessed by many ruling chieftains and Brahmans.

It is said that none of them purchased janmam property for consideration until recently.

Then, how did they derive their existing janmam right ?

After the end of the administration of the Perumal's the law of "might is right" came into existence. The poor agriculturists who had been cultivating their lands, with absolute right over them, found that their rights were insecure. Their enemies also were afraid of the Gods, the Brahmans and the powerful. Finding that the protection of these people would make their position secure, the cultivators converted their holdings into Devaswam, Brahmaswam, etc., property and, to make it appear that they were holding the lands under them (the Devaswam, etc.), showed "kanam" and executed "Ubhaya-pattola-Karanam" and thus treated the lands as the property of the patrons.

The nature of these "Ubhaya-pattola" was not the same as that of the present kanam deeds. Cadjan leaves were written showing "kanam" and "purappad" and the leaves were cut into two, the first half was kept by the patron and the second half by the cultivator. Counterparts, etc., were not in existence originally. On the death of the patron, the cultivator used to go and see his successor with a "Thirumul-kalcha." There was no system of "renewal" at the end of twelve years and eviction on default. The real owner of the land and cultivator in possession was the kanamdar. In Malabar, there was no system of land revenue originally. It was Tippu who imposed 'Land Revenue' and it was in the name of the kanamdar. This system continued till British rule was established and the British laws extended here. Tenures such as "Karayma," "Karangari," "Adimayavana," etc., arose on account of special necessities and rights, and they could not be evicted or surrendered.

"Kanam" means "that which can be seen always." The people of Trichur near Vadakkunathan Temple have given "kanam" for daily meals and are given meals from the temple in perpetuity.

The janmi had no right to evict the kanamdar nor had the kanamdar the right to surrender the land to the janmi.

Just as there was the system of "Marumakkathayam" in Kerala, which was quite different from the laws of inheritance in other parts of the country, so there was the system of occupancy right over the lands in Kerala known as "kanam" which was not in vogue in other parts of the country. Not understanding the real nature of this right, the British Courts held that it was similar to the rights exercised in other countries and was a mortgage, liable to be redeemed by the janmis. But the courts did not hold that the kanamdar too, had the right to get back his "kanam" and "value of improvements" from the janmi.

When the kanam was thus evicted, the system of verumpattam came into existence. The verumpattamdars' connexion with the land is slight. It was the kanamdar who converted the forests and waste lands into cultivable lands. It was the kanamdar who was formerly paying the land revenue as pattadar is now paying the enhanced rate of assessment, survey charge and all other charges and also the michavaram due to the janmi. Further, the kanamdar pays a large sum at the time of renewal. The kanamdar has no chance of freeing himself from these liabilities. He has no right to demand kanam and value for improvements from the janmi. The verumpattamdar is at full liberty to vacate the land. The verumpattamdar's interest on the land should not be abolished.

Janmam and kanam rights were subjects of transactions and sale. The price was ordinarily calculated on the net pattam from kanam lands on the assumption that the lands would yield that pattam for ever, and not that the land would have to be vacated on the expiry of the period of the lease. The value was not and is not calculated only for the unexpired period of the lease. While janmam and kanam rights have an appreciable

value the purchase of verumpattam right is unheard of in Malabar. Value may be paid for the improvements effected on the parambas or wet lands, but no value has so far been fixed for the cultivator's verumpattam right on the land.

2. The janmi has the right to get michavaram from the kanamdar. The kanamdar has the right to enjoy the land as he likes on payment of the michavaram and the assessment. If there are sub-tenants, they have the right to enjoy the land in accordance with the agreements between them and the owners above them.

3. Judicial decisions have effected changes. Kanam should not have been evicted.

4. (*a*) No.

(*b*) Yes.

(*c*) The Government should have the right to grant waste lands for cultivator's use.

5. (*a*) It is desirable to simplify the system of land-tenures. It should be done by paying compensation to the janmis and the intermediaries calculated on the income they derive from the land.

(*b*) (1) The tenant should be allowed to purchase the right of the janmi and the intermediary compulsorily, only if they attempt to evict the tenant on unjustifiable grounds.

(2) Although it is necessary that the area in possession of the actual cultivator should be limited to that suitable for an ideal farm, it will not be reasonable to evict the small cultivators on this ground in view of the present social and economic conditions.

(3) It is not possible to prohibit sales by cultivators to non-cultivators, unless the Government are prepared to advance loans for the bona fide needs of the cultivators.

6. The under-tenure-holder should have the right to account for the arrears direct with the person to whom such arrears are due and the intermediary concerned should be held liable for the loss caused on this account.

7. (*a*) The cultivation charges and the assessment should be deducted from the gross yield and the balance reckoned as net yield. In the case of kanam lands, the interest on the kanam amount should be deducted from the net yield and out of the balance 2/10 should go to the janmi and 3/10 to the under-tenant, if there is one, and the balance to the kanamdar.

(*b*) I do not know what share of the produce the assessment represents. The assessment has considerably increased after the settlement. Owing to transfers to occupied dry and garden and to the fall in the price of the produce, the burden of assessment has become unbearable. In Desam No. 182, Kulakkad of Moothedath Matamba amsam, Walluvanad taluk, S. No. 6/13, measuring 46 cents has been assessed to 9 annas and S. No. 6/15, measuring 3 acres 6 cents to Rs. 7–4–0 ; the total assessment including cesses comes to Rs. 8–11–6. A road has been cut through one side of these subdivisions and jack trees have been planted on either side of the road. Consequently, the two subdivisions have been converted into garden. The owner does not derive any income from this garden. A number of similar cases can be brought to notice.

(*c*) In respect of kanam lands, the kanamdar is responsible for payment of the assessment. The patta should again be transferred to the name of the kanamdar. In the case of verumpattam lands under the janmi, the verumpattamdar should be held liable to pay the assessment. The janmi should be held liable only for the assessment in respect of the lands in his actual possession.

8. The provisions for fair rent of garden and wet lands are satisfactory. Three times the assessment is very excessive rent for dry lands. It should be reduced to as much as the assessment.

9. No.

10. Yes.

11. Yes. It is immaterial which particular weight or measure is standardized. But it will be advisable to standardize those weights and measures which are used by a majority in Malabar. The 40 nazhis measuring para and the 10 rupees weight palam invariably used in Palghat taluk may be accepted.

12. The origin of renewal fees is the ' Purushanthara-kalcha ' dealt with in the answer to question 1. When, subsequently, it was established by court decisions that the period of the kanam lease was 12 years, the renewal fee, as originally levied, varied from ½ to 2/10ths according to the decrease or increase in the kanam amount. In course of time, the janmi exercised his unrestricted powers and began to levy renewal fees as he liked.

13. (*a*) Yes. This renewal system has involved many kanamdars in heavy debts.

(*b*) The tenant is entitled to fixity of tenure so long as he pays the fixed dues to the landowner above him. No compensation need be paid in lieu of renewal fees. The michavaram has been gradually increased and the janmis have also been collecting unreasonable amounts as renewal fees. This should be stopped in future.

(*c*) It will be sufficient if the provisions in the Malabar Tenancy Act regarding renewal are deleted.

14. No.

15. (*a*) Yes ; but he should furnish security for one year's fair rent before the cultivation season commences.

(*b*) After the passing of the present Act, many janmis have evicted the tenants on the plea of cultivation. Some courts are of opinion that the bona fides need not be proved. The lands should not be evicted for cultivation purposes unless the bona fides is proved. Such an amendment is necessary.

16. (1) No amendment seems necessary to the existing provision in the Act that the under-tenant can be evicted if the land is required for bona fide cultivation or building purposes. When the land evicted is leased out again, the former tenant or his successor should have priority of claim for the land.

17. (*a*) Yes ; and compensation should be paid according to the local conditions or according to the decisions of the Court or Arbitration Board.

(*b*) A distinction need be made only in regard to the payment of compensation.

(*c*) The minimum extent that should be granted in urban and rural areas should depend upon the local conditions and upon the person concerned.

18. It does not seem necessary to raise the present legal provisions regarding compensation for improvements. It is necessary to fix a time-limit for the execution of a decree.

19. There are many levies of a feudal character. For veli (marriage), chorunu (feeding ceremony), upanayanam (sacred thread wearing ceremony), soma-varthanam, pindam (religious ceremony following the death), masam (monthly religious ceremony following death), etc., ceremonies, naduvazhis make collection. Besides landlords make collections like kannokku, kalcha, thotta kula, pattakula, kombu-chakku and many other levies. Although such levies are gradually on the decrease, they should be completely stopped in future.

20. (*a*) Fixity of tenure need not be granted to fugitive cultivators.

(*b*) Pepper cultivators should be granted fixity of tenure.

21. (*a*) & (*b*) Yes.

22. (*a*) No further changes other than proposed above need be made in the provisions of the Act.

(*b*) It will be desirable to appoint Arbitration Boards to make the procedure speedy and less costly.

(*c*) (1), (2) & (3) Not necessary.

23. Much hardship is caused by the lack of irrigation facilities which are denied on the ground that there is abundant rain-water supply in Malabar. Special arrangements should be made for this urgently. There should be provision in the law to enable the kanamdars to claim priority of right when the janmis sell their janmam right.

By the CHAIRMAN :

The kanamdar's right was irredeemable. I produce a copy of a kanam document which is 204 years old. It says 'you be in possession of the land.' There is no mention of redeemability or irredeemability. I have another document of 1051 M.E. which contains no provision for any redemption. Kanam means whatever could be seen every day. It is even now current in Chittur in the Cochin State, in the temples, where persons give money as kanam for a perpetual grant of food at the temple. It is a common saying in Malabar 'Has your grandfather earned any property or owned any kanam ? ', thereby meaning a permanent right. In this document of 1051, there is no mention that the land belonged to the janmi. It simply says 'temple.' Evidently the property belonged to the temple. In the subsequent renewal of 1078, he has mentioned it as his own janmam. What was devaswam property was converted into their own property. I have nothing else to show that the kanam tenure was irredeemable. For the purpose of protection

kanamdars attorned to the local chieftains and kept the lands in their possession. Even if the rent was not paid the janmi had never the right to evict a kanam tenant. The right of eviction was the result of certain decisions of the British courts. The kanamdar was not liable to take any renewal if he wanted to continue on the land. There was the usual custom to go and pay respect to the landlord at every succession. It was more out of fealty to the new janmi. As far as I know, Purushantharam means paying respects to the succeeding karnavan by payment of certain presents. I would confer the right on the Government to take waste lands and grant them to cultivators. If the lands are waste lands they are unassessed now and they are not practically being used. As the janmi has no income from such lands, I do not think any compensation is necessary. If, after reclaiming the property, it comes under cultivation and the tenant gets any profit some rent can be fixed. If the janmi is getting any dues, they must be safeguarded.

By Sri U. GOPALA MENON :

Some people have become janmis by recent purchases of lands. If their purchases include waste lands, they should be given compensation for them. In olden days, the janmams consisted of devaswams and properties of chieftains, and some Nambudiri families. All those people who were in possession of the lands under the chieftains were kanamdars. The soldiery of the chieftains were kanamdars. Some of the homesteads anciently belonged to these kanamdars and they were owners of such homesteads and were also cultivators ; even now 75 per cent of them are cultivators. I cannot say what the condition of the country was before the time of the Perumals. I know of certain Nambudiri janmis having got their lands by attornment for the purpose of protection.

By Md. ABDUR RAHMAN Sahib Bahadur :

Rightly or wrongly, the janmis have acquired some rights over waste lands. Therefore rent should be given to them. The real owners of properties are the kanamdars but the janmis have also to live.

By Sri M. NARAYANA MENON :

When the Perumals left the country they distributed the lands to the chieftains. That is the tradition. The Perumal gave the Zamorin a sword and with that he acquired other lands, by conquest. He fought with other chieftains and conquered and confiscated their properties. Old janmams belonging to devaswams have mostly become private properties. If a waste land belonging to the janmi is taken over by the Government and handed over to the kanamdar or other tenants, and they improve it, nothing particular need be given to the janmi for that.

By Sri K. MADHAVA MENON :

There were no verumpattamdars previously. The old proverb is that a person who has not acquired a kanam for even 10 fanams is not fit to be a man. The agricultural labourer was part of the kanam holding. The verumpattam tenure came into existence after the advent of the British. At present about 50 per cent of the lands are in the possession of verumpattamdars. Kanamdars and similar people left the land for other avocations and so it was given to verumpattamdars. The kanamdar is doing something for cultivation. Forinstance when bunds are breached or some other accident happens, the kanamdar spends some money to reclaim it. Otherwise no landlord or kanamdar does anything for the cultivation of the lands of the verumpattamdar.

By Mr. R. M. PALAT :

Every kanamdar was a soldier as well as an agriculturist. All the kanamdars were not necessarily Nayars. The Thiyas had kanam. The ancient janmis got the lands by force. The Brahman janmis got their lands by converting devaswam properties into their private property. The properties of Nambudris in Palghat are recent acquisitions within the last 50 years by purchase. There are Nambudiri janmis throughout the Ernad, Walluvanad, Ponnani and Palghat taluks. The Zamorin acquired sovereignty. It included janmam rights also. The Zamorin does not get any income from the properties belonging to other janmis in the territories which he conquered, but these people have to go and attend for certain ceremonies. The chieftains had the duty of sending soldiers to Zamorin. If people ask for waste lands, the janmis will give them. If there are waste lands included in a kanam holding of a kanamdar they should be taken and given for cultivation. There is a practice of giving waste lands on kuzhikanam. There are a number of janmi families cultivating.

By Sri A. KARUNAKARA MENON :

Ancient janmis were not cultivators.

By Sri K. MADHAVA MENON :

The tenures in Cochin, Travancore and Malabar are similar. I have heard of the proclamation in Travancore in 1005 M.E. that kanam tenure is irredeemable.

By the CHAIRMAN :

I do not think the intermediaries should be eliminated. If any one of them does not want to continue, the next man may be allowed to purchase the right. Provision may be made to relieve the sub-tenant by giving him the power to pay rent or take renewal. If the intermediary commits default, the under-tenant may be given the right to purchase the former's rights. Compensation should be paid to him for the value of his holding at the current market rate.

By Sri M. NARAYANA MENON :

If the janmi wants to sell, the kanamdar must be given first preference.

By the CHAIRMAN :

The verumpattamdar's share should not be reduced in any way from what it is now. His condition should be improved. The present provision for cultivation expenses should be continued. The kanamdar should be primarily liable for the assessment. Joint registration has not worked satisfactorily. In case of remission it is the pattadar who gets the benefit. For the gardens in Palghat taluk, the rate of fair rent in the Act works hardship. In the case of kanam lands, the assessment is to be paid by kanam tenants. The rent should be one-fifth of the produce besides the assessment.

By Mr. R. M. PALAT :

The verumpattamdar should have the right to pay assessment. For default of payment of revenue by the landlord on any of his lands, the verumpattamdar's produce is attached ; that should not be allowed. The rate of michavaram on kanams should be left to contract between the parties except that there should be a right to abatement of rent for deterioration of prices or loss or destruction by flood, etc.

By Sri A. KARUNAKARA MENON :

If the present verumpattam that is received by the kanam tenant is reduced after 1942, he should be compensated by a proportionate reduction in his dues to the janmi. The present fair rent on dry land is very high, because the assessment is fixed not on the produce but on the land. If crops are raised for three years it is permanently assessed, but if the land is not subsequently cultivated, the assessment remains. The janmi should not be given the power to enhance the rent under the present Act.

By the CHAIRMAN :

I am in favour of abolishing renewals and renewal fees altogether. Very poor janmis who solely depend upon their renewal fees can evict the kanamdars and cultivate the land themselves. The kanamdar is a permanent tenure holder and so there should be no renewal. Fixity of tenure should be conferred on kanamdars without any sort of renewal.

By Sri U. GOPALA MENON :

There should be no renewal fee because it was not in use before.

By Mr. R. M. PALAT :

There is no harm in continuing Purushantharam.

By Sri M. NARAYANA MENON :

If in particular cases the kanamdar is making excess profit, something may be given to the janmi. Renewals have become so obnoxious, because of the arbitrary nature of renewal, that I do not want to hear any more about it. Before the Act, many families were ruined.

By Sri A. KARUNAKARA MENON :

The renewal fee under the Act is in some cases higher and in some cases lower than before. If the renewal fee is abolished, there will be no new kanamdars hereafter.

By the CHAIRMAN :

If the janmi wants to harass the kanamdar, he must have the right to get surrender and get back the kanam and value of improvements.

The landlord refuses to accept michavaram. This happened to me. In such a case, the kanamdar must have the right to get back the value of improvements and the kanam.

By Sri U. GOPALA MENON :

Where the tanant finds it impossible to pay the michavaram fixed, and at the same time has made improvements on the land, he should be given right to relinquish the land and claim the value of the improvements.

By Mr. R. M. PALAT :

I cannot say what we should do in cases of waste or neglect by the kanamdar. My object is not to enable the tenant to compel the landlord to purchase the holding. If it is proved bona fide that a tenant cannot cultivate the land, the landlord should be compelled to purchase the land. The same conditions should apply between the verumpattamdars and the kanamdars.

By Sri K. MADHAVA MENON :

If the holding is a loss, it is sufficient if provision is made to permit the kanamdar to get fair rent fixed.

By the CHAIRMAN :

No security at all is furnished by the verumpattamdar now. If he pays the rent regularly, it is not necessary to take security in order that he may get fixity of tenure. In evictions, the bona fides of the landlord must be strictly proved. There will be no bona fides if he has other lands to cultivate. It is only in cases where he actually wants to cultivate for his livelihood that eviction should be allowed.

By Sri A. KARUNAKARA MENON :

I include the livelihood of the members of the family also. It is very doubtful whether any person will deliberately say that he wants it bona fide for cultivation unless he actually wants it. All kudiyiruppu holders may be given the right to purchase the rights of the janmi. I am in favour of abolishing all feudal levies.

By Sri U. GOPALA MENON :

If the tenant is in arrears for one year, security may be demanded.

By Sri A. KARUNAKARA MENON :

In the lease deeds of devaswams provision is made for the supply of milk, ghee, etc., for use in the temple. All those supplies should be stopped. They should not be converted into paddy or money. The stipulations were put in under compulsion.

By Mr. R. M. PALAT :

I am not aware of verumpattamdars being evicted on unjustifiable grounds. The Melayangadi Nambudiri has evicted some of his tenants from his lands saying it is for his bona fide cultivation. The tenants are not given onam clothes when they take bunches of bananas. That has been stopped long ago.

By Sri K. MADHAVA MENON :

There are very few verumpattamdars who can afford to give security for one year. If a verumpattamdar is capable of conducting agriculture properly and if he has means for it, no security is necessary. Where a tenant wants to continue in his homestead he should not be evicted.

By Sri M. NARAYANA MENON :

If the verumpattamdar does not pay the rent for a year, we will try to get the rent collected. If not he will be evicted. It is better to take security from him for a year's rent before giving him fixity of tenure. Where the tenant has more lands than the landlord has in his possession, the tenant should be compelled to surrender to the janmi only to the extent required for the janmi's maintenance. The tenant has learnt the art of cultivation ; the janmi only begins that art. Therefore he need not be given a very large area of land to cultivate.

23. Sri P. K. Gopala Menon, Arakurissi, Mannarghat.

1. (1) As each local chieftain became powerful, he induced or threatened the occupiers to surrender their lands to him and paid the assessment due to Government and obtained pattas in respect of such lands which he enjoyed as his own. This is one origin of janmam. When the right on the lands was sold for debt, etc., it was purchased by others. This is the second origin of janmam. Both these types of janmam right are now in existence. Most of the lands were acquired by force without payment of any consideration.

(2) In olden days, it was the standing rule that Sudras should not have janmam lands. They therefore gave up their janmam right in favour of the high caste people, Nambudiris and Devaswams and continued to hold possession of the lands as kanam by presenting the janmis with small amounts and obtaining leases of the lands. This is one kind of kanam. There are cases in which the kanam right was purchased for cash. This is the second kind of kanam. In the case of waste lands reclaimed and made fit for cultivation a portion of the reclamation charges was retained as kanam. This is the third kind of kanam.

(3) Kuzhikanam is prevalent in North Malabar and it applies to parambas as above.

(4) The waste lands and parambas which were originally in the possession of tenants were subsequently treated as the janmam of the respective local chieftains. The tenants continued in possession under these janmis on Thiruvezhuthu right, oral lease, agreements, verumpattam chit or munpattam chit and reclaimed the waste lands and converted them into wet or effected improvements or constructed buildings and paid the assessment, pattam, purappad, etc. This right is called verumpattam right. Lands obtained on lease are also included in this. The original system and the subsequent transactions of the janmis in respect of these lands will be clear from a perusal of the cowle pattas granted by Government on application from the occupants of reclaimed wet lands.

(5) Besides these, there are other tenures known as Anubhavam, Adimayavana, Karayma, Karangari, Saswatham, Arkka-Chandra-Avakasam, etc.

2. All the lands belonged originally to the tenants. Subsequently they chose a patron from the local chieftains, Brahmans or Devas (Representative of the religious institutions) on whom they bestowed their janmam right. The improvement and everything else on the land were effected by the tenants. This accounts for the fact that many of the janmis refer to their title as "Ancient Janmam."

3. Eviction for cultivation and levy of $2\frac{1}{4}$ times the fair rent as renewal fees have been decreed by courts.

4. (*a*) No. None has right over them.

(*b*) & (*c*) Yes.

5. (*a*) The term janmi should be completely eliminated. In fact, it is the intermediary who hold possession of the lands by hard labour and by payment of consideration. Enhancements of the pattam and michavaram after 1887 should be ignored and for the balance the janmi should be given compensation at $6\frac{1}{4}$ per cent.

(*b*) (1) The intermediary and the tenants should be allowed to purchase compulsorily at the above rate.

(2) & (3) This is necessary.

6. The tenants also should be authorized to pay the assessment and the michavaram.

7. (*a*) Calculating cultivation expenses as twice the seed and deducting this from the gross yield, one-fifth of the balance should be given to the tenant and one-fifth to the janmi and the balance should go to the intermediary. In respect of reclaimed properties, only half the above need be given to the janmi.

(*b*) Assessment is now more than one-fifth of the yield approximately. Assessment has been increased since the passing of the M.C.T.I. Act in 1887. In some places the assessment has exceeded the yield due to changes in classification.

(*c*) Assessment is paid by the kanamdar, kuzhikanamdar and other intermediaries.

8. Yes; to the intermediary (kanamdar) in respect of the lands under (*a*), (*b*) and (*c*).

9. The assessment of the year 1887 should be restored.

10. Yes. The benefit should go to the kanamdar who is responsible for payment of the assessment.

11. Yes; the para should be standardized in terms of the MacLeod's seer.

12. This arose on account of compulsion by the janmi. Before the Malabar Tenancy Act was passed, the janmi was collecting the renewal fee as he liked.

13. (*a*) Yes; as the tenant pays the assessment and michavaram no other fee need be paid and no renewal need be effected.

(*b*) The kanam tenant should be granted fixity of tenure without payment of compensation.

(*c*) No; there should not be any renewal.

14. The power to evict should be withdrawn.

15. (*a*) Yes. Occupancy right should be granted to the actual cultivator if he furnishes security for five times the assessment in the case of parambas and for one year's fair rent in the case of wet lands, gardens, etc.

(*b*) There have been evictions on the pretext of cultivation. This provision should be abolished.

16. (1) This provision should be abolished.

(2) This should be maintained. The tenant should furnish security for one year's fair rent.

17. (*a*) Yes. The tenant should offer security for five years' assessment and pattam.

(*b*) This is not necessary in urban areas ; kudiyiruppus in urban areas will not be dismantled and removed and consequently the necessity for the janmi or the intermediary to pay the assessment will not arise.

(*c*) The extent should not be less than 10 cents in urban areas and 25 cents in rural areas ; on the conditions mentioned against 17 (*a*).

18. No.

19. There are many such levies—Onam plantains, plantains, curd, buttermilk, ghee. These presents and Ootu, Aattu, Varam, etc., feasts should be completely stopped. These are quite unnecessary and are included in the documents for the pleasure and prestige of the janmis.

20 & 21. No idea.

22. (*a*) The present Act works hardships to the tenant in fixing the fair rent.

(*b*) Pattam and michavaram as shown in the document of 1887 should be restored and the same rate should be adopted for the subsequent transactions. Renewals are absolutely unnecessary. If these suggestions are approved, expenditure and trouble will decrease.

(*c*) (1) Summary trial may be provided. For this purpose, separate boards should be constituted for every firka.

(2) Does not seem to be necessary.

(3) Should be completely taken away.

23. The janmis who bear ill-will against their tenants use all their powers to ostracise them. This practice is even now in vogue. Provision should be made to penalize this practice.

24. No idea.

By the CHAIRMAN :

The verumpattamdar's share should be reduced to one-fifth of the net produce.

If a holding is unprofitable to the tenant, provision should be made to compel the landlord to purchase the right. The landlord must pay for the kanam and improvements. The provision for eviction for the landlord's bona fide cultivation should be taken away. My answer to question 16 is given under the impression that landlord means janmi. All janmis (except sthanis) and kanamdars should have the right of eviction for bona fide cultivation. The present provision may be retained.

By Mr. R. M. PALAT :

The kanam tenant has been in possession of the land for a very long time. The janmi has never been in possession of the ancient kanam holdings. The janmi has evicted the tenant by filing suits for the purpose ; most of the kanam lands are in possession of the kanam tenants either as original holders or as transferees. Many tenants reclaimed waste lands on cowle granted by the Government and subsequently attorned to the janmi for fear of litigation and because of the power and influence of the janmi. If the verumpattamdar has some interest in the land and is put to a loss, he should similarly be able to relinquish and get the value of his improvements. In many cases both the kanamdar and the verumpattamdar are cultivators ; in some cases the verumpattamdars are not cultivators. The kanamdar should be paid compensation ; if he has not improved the land, his predecessors would have done so.

By Sri U. GOPALA MENON :

I have been the agent of Mannarghat Nayar for 28 years. He pays an assessment of Rs. 12,000 and owns 35 to 25 miles of forest lands. I have properties myself and get a rental of 4,000 paras ; the total michavaram I get for my kanam lands is roughly about 600 paras of paddy. I have land in my possession on munpattam right.

By Sri K. MADHAVA MENON :

If the verumpattamdar is given fixity of tenure without security for rent and he fails to pay the rent, the kanamdar will suffer loss and it will lead to litigation between kanamdar and janmi. And the kanamdar is the person who is mainly responsible for the michavaram as well as assessment. The verumpattamdar need not be evicted if he pays the rent regularly. The kanamdar need not be evicted by the janmi if he is in arrears because he has

improvements and kanam as security for his arrears. The janmi has the means of recovering the arrears of michavaram from the kanamdar while the kanamdar cannot do so with regard to the verumpattamdar.

By Sri P. K. KUNHISANKARA MENON :

Eviction should not be arbitrarily allowed on the mere allegation that the landlord wants it for his own purposes. It is only when it is actually necessary for his livelihood that it may be done ; it is only when he cannot get any profit from any other property that he should be allowed to evict.

By Md. ABDUR RAHMAN Sahib Bahadur :

There are various sorts of tenures now. Each may be kept in its proper place.

24 Sri Ambalakkat Ramunni Menon, Chunangad, Walluvanad Taluk.

1. (1) Before the British commenced their rule in Malabar, the native rulers, in whose possession the lands then were, set apart lands for the local Administrators, as a reward for running the administration, as there was no coin current in those days. The lands so set apart are called janmam lands and the land owners are called janmis.

In those days, it was not considered that lands were something which could be purchased for cash. But after the commencement of the British administration, the position of these persons changed so that anybody could purchase anything for cash.

(2) *Kanam.*—Some persons obtained such of the lands, as were in their neighbourhood and within their eyes' reach, on lease from the janmis, on payment of consideration and security, for cultivation and improvement and enjoyment of the yield. Such leases are called kanam leases and such lessees kanamdars. Kanamdar means occupant of land within sight.

(3) *Kuzhikanam.*—The system of obtaining lands on lease, either with or without security, from the janmi or the kanamdar for the purpose of improving them and enjoying the yield therefrom and on condition of payment of compensation is called kuzhikanam and such lessees are called kuzhikanamdars.

(4) *Verumpattam.*—The system of obtaining garden and wet lands on lease, without payment of any amount, from the janmi, kanamdar or kuzhikanamdar for cultivation purposes and on condition of payment of the pattam fixed is called verumpattam and such lessees are called verumpattamdars.

(5) *Other tenures.*—There are many other kinds of tenures for services rendered for specific purposes and on specific conditions such as Anubhavam, Karayma, Karangari, Saswatham, Otti, Palisa-Mudakku, Undarathi, Panayam, Munpattam, etc.

2. The various tenure-holders had the right of cultivating the land, improving it by labour and supervision and enjoying the yield according to the nature of their rights.

3. Yes. Consequently, cultivation has deteriorated, harmony in rural areas has disappeared and poverty has increased.

4. (*a*) Yes.

(*b*) Yes. All facilities for cultivation should be given.

(*c*) If the janmi or the kanamdar does not take possession and reclaim waste lands within a short fixed period, the lands should be given to the adjoining cultivation.

5. (*a*) Yes. A period should be fixed within which the respective owners should take possession of the lands and should be allowed an opportunity of earning their livelihood by cultivation. The compensation to be paid should be the value likely to be fetched by the sale of the improvements on the land.

(*b*) (1) A time-limit should be fixed. If within that period, the owner of the land or the intermediary does not make use of it, the cultivators and the neighbourers should have the right to purchase.

(2) May be limited. In order to earn a livelihood after meeting the cultivation charges, every member of the cultivator's family should have at least 10 acres of wet land and 20 acres of paramba (excluding forests).

(3) Should be prohibited.

6. Yes. But it would be very desirable to reduce the tenant, the janmi and the occupier into one, in course of time.

7. (*a*) Whoever solely depends on the lands in his possession and does hard work or causes hard work to be done on such lands should alone have all rights over the lands. If this is not practicable, deducting interest on kanam amount (reclamation charges should be deemed to be kanam) assessment and cultivation charges from the gross yield, one-tenth of the balance should go to the janmi, six-tenth to the kanamdar and the balance to the verumpattamdar (the actual cultivator).

(*b*) It is one-third of the pattam, excluding cultivation expenses. In the case of kudiyiruppus and some garden lands, the present assessment is excessive. The assessment on the wet lands in sandy places is also excessive. Unoccupied dry lands are permanently assessed if cultivation has been raised on them for 3 consecutive years ; the assessment has to be paid permanently although they are rendered waste subsequently. The fall in the price of paddy is one of the reasons for the excessive assessment. The second reason is the failure of the officers to detect the mistakes committed by the classifiers.

(*c*) The occupier should pay the assessment.

8. The provisions in the existing Act that the fair rent should be fixed by Court Commissioners and the rules framed for this purpose cause much hardship and difficulty. The cultivation charges should be at least 4 times the seed. Deduction has also to be made for the cost of cattle, for the mortality among cattle, for the cost of manure and for the losses on account of excessive or insufficient rain.

8. (*a*) In the case of wet lands, the seed and the out-turn should be fixed with reference to the classification and taram in the settlement register and out of the gross yield (excluding expenses for harvest) seed and four times the seed should be deducted towards cultivation expenses and out of the balance one-third should be given to the cultivator and the residue should be the fair rent.

(*b*) In the case of garden lands, the yield from the trees should be arrived at with reference to the settlement register and one-third of it should be deducted towards maintenance expenses and the balance should be fixed as the fair rent.

(*c*) *Dry lands.*—In the case of lands assessed as kudiyiruppus, the fair rent should be as much as the assessment.

9. (*a*) & (*c*) Not advisable on the basis of the existing assessment.

(*b*) May be as much as the assessment.

10. Yes. But if the former assessment is restored and if the fair rent is fixed as proposed above, there will be no need to grant remission of the assessment or pattam.

11. The standardization of weights and measures is an urgent and absolute necessity. But it should be uniformly used throughout India. Weights may be standardized on the basis of rupee weight and measures on the basis of cart-load. Whether it is standardized to correspond with para or edangali it should be uniformly used throughout and failure to do so should be penalized. It is safer and more advantageous to both the traders and the public to standardize weights and measures. It would be better to standardize a weight on the basis of the weight used by Railway.

12. At the time of renewal an amount in the shape of Thirumul-kalcha might have been given. In course of time, the janmis and the melcharthdars lessees converted this into a profitable bargain. Renewal did not involve a fee in olden days.

13. (*a*) When there is a change in the tenancy, the right may be given to demand one year's michavaram or pattam as stated against 7 (*a*) above.

The existing system should be completely abolished.

(*b*) Fixity of tenure may be granted only if the tenants are in actual possession of the lands and they should be enabled to acquire all the rights of the non-cultivators. The compensation should be calculated on amount spent for reclamation and improvement. Long periods should be allowed for its payment.

(*c*) Amendments will be necessary in the M.C.T.I. Act also.

14. No one should have the right to surrender the land free. For special reasons it may be allowed if necessary.

15. (*a*) Occupancy right alone is not sufficient. He should have all rights. Please see answer to question 13 (*b*).

(*b*) It is not possible to give instances. Provision should be made to enable cultivators and occupiers to get possession of lands from those who do not cultivate the lands nor get them cultivated.

16. (1) & (2) There should be the right for the land-owner to keep possession of his lands so long as his statement that he wants them for cultivation is not malafide and is not the outcome of any ill-will towards his tenants and so long as the necessity to retain

possession is indispensable. There should be the right for eviction also for the default of the under-tenants. In such cases, compensation should be paid to both parties.

17. (*a*) Fixity of tenure may be allowed until the kudiyiruppus used for cultivation purposes change hands. When the kudiyiruppus change hands the adjacent cultivator should have the right of pre-emption. The consideration should be the sale price of the improvements.

(*b*) Yes.

(*c*) (1) Minimum of one-fourth acre in urban areas. The holder should have full rights.

(2) If the kudiyiruppus in rural areas are near the cultivated area, the minimum extent should be one acre. And they should not be sold unless for purposes of cultivation.

18. The fixing of the value in accordance with the M.C.T.I. Act and through Commissioners is hard and causes loss. The value is fixed by the Commissioner and there is complaint from both sides. The value should be that which would be fetched in the open market. If this is done, no one will be put to loss. Lands without any improvements should also be valued. The total value should be distributed among all concerned.

19. Levies such as milk, curd, ghee, oil, leaves, plantain bunches, etc., and the collections for marriage, Varam, Vazhivadu, etc., should be stopped and should be legally declared null and void.

20. (*a*) & (*b*) In South Malabar, there are no cultivators entirely depending on fugitive and pepper cultivation. I have no opinion on this point.

21. (*a*) & (*b*) The intended legislation should be extended not only to Kasaragod taluk but also to portion of Puttur division to Mangalore taluk which should be separated from South Kanara and added on to North Malabar.

It should be extended not only to Gudalur taluk but also to the remaining two taluks and to Coorg. But there should be special provisions in respect of coffee, tea, rubber, etc., cultivation. The Malabar Marumakkathayam Act, the M.C.T.I. Act and the Tenancy Act should also be amended suitably.

22. (*a*) & (*b*) Yes. The amended Act should enable the parties to avoid unnecessary expenditure, trouble and delay. The remedy for all these will be to convert the janmi, the tenant and the occupier into one.

(*c*) (1) No objection.

(2) No objection. Panchayat Courts also should be given powers.

(3) Not necessary. See answer to 13 (*a*).

23. The lands should be split up into blocks in a small scale [answer for question 5 (*b*) (2)] and such blocks should not be further split up on any account, either by suits or by partition. The occupiers should have all facilities to raise loans for improvement of land, etc. The rate of interest should be low.

24. There are not likely to be any differences. There may be many janmis also suffering from disabilities.

By the CHAIRMAN :

I have lands in two places ; in one place wet and dry lands to an extent of 250 acres ; in the other place about 200 and odd acres. I am an actual cultivator. The present cultivation expenses of $2\frac{1}{2}$ times the seed are not sufficient. They should be four times the seed required. I mean the actual seed required. This will be approximately the same as $2\frac{1}{2}$ times the customary description. There may be a slight increase and that amount will go to the benefit of the tenant. If the tenant finds that it is not profitable for him to keep the land, he must have the right to relinquish, and must be given the kanam and value of improvements. No such instances would occur. The landlord may be allowed to evict in order to cultivate the land to maintain himself, if he has no other means of livelihood but cultivation. I will impose a time-limit. If the landlord wants a land for cultivation, he must be in a position to get it within a limited period of, say 3 or 4 years. This may give rise to litigation, but that is no reason why bona fide cultivators should not earn their livelihood and should not be given relief. The tenant ought to get fixity of tenure after the time-limit is over. If a person who is an actual cultivator is obliged to let out his land, it would be a hardship if he is not allowed to get it back.

By Sri U. GOPALA MENON :

I cannot now meet all problems which may crop up in future. I cannot suggest remedies for cases of partition after the time-limit.

By Mr. R. M. PALAT :

If a janmi is not in a position to pay compensation and the kanamdar can purchase the janmi's right, he should be compelled to do so.

25. Sri K. Prabhakaran Thampan, Kadambur, South Malabar.

1. (1) I am not competent to give an opinion on the origin of janmam. One can only conjecture.

(2) Kanam is only a contractual undertaking ; kanams originated (1) when a landlord could not cultivate his lands, (2) when he was in need of money and (3) when he wanted to help one of his favourites.

(3) Kuzhikanam is a right to convert waste land into garden.

(4) Verumpattam is only a simple lease and I suppose it originated when the landlord could not cultivate his land himself and another was ready to take it up.

(5) The origin of other tenures lies shrouded in the hoary past and it can only be said that they originated when the contracting parties chose to create them.

2. (1) The janmi was the supreme and absolute owner of the land. He came by it either through purchase or by inheritance. It was not a gift from the State nor did the State interfere with his rights. Recently I came across an extract from the Grandhavari of my family referring to the purchase of some janmam properties more than four hundred years ago by an ancestor of mine. It was the janmam right that was purchased and for full consideration. The property is still with us. It is in that part of Malabar known as Naduvattam which since that date had been subject to several invasions and changes of sovereignty during the early Hindu period. None of the native Rajas nor the Mysorean rulers interfered with it. It was therefore only natural that the British administrators followed suit in this respect.

(2) The kanamdar's interest in the land was confined to the kanartham advanced to the landlord and the value of improvements effected by him on it. There is evidence that even so early as the 17th century he was entitled to such compensation. He could sell his rights to another, the purchaser either attorning to him or getting back the kanartham, etc., due to the vendor. The land was redeemable by the janmi whenever required. It was only after 1855 when the court of Sadar Adalat declared that kanams should run for a period of 12 years that the kanamdar got this right [*vide* the 'Enaks' in my typical documents].

The rights of other tenures such as "Otti", "Peruartham", "Saswatham", "Anubhavam", etc., were all well defined and always evidenced in writing.

3. So far as I am aware the courts have always stood by the janmi and protected him against the inroads persistently made by the revenue authorities to reduce his position to that of a ryotwari holder; but it must also be said it was only the courts that invested the kanam with a right of irredeemability for 12 years [*vide* the decrees in the above].

4. (*a*) It was not a question of presumption on their part. The facts were such. As I stated elsewhere it was not the early British administrators alone but previous Hindu Rajas and the Mysore Government also have treated them as such.

(*b*) No ; but from the way in which forests are being denuded by their owners throughout the district I am constrained to suggest that something has to be done to prevent it. It would be sufficient if cutting a tree of less than a given girth, say 32 inches, is made an offence and punishable.

(*c*) Certainly not. I have not come across a case in which the owner has wantonly refused permission to make a waste land cultivable.

5. (*a*) I do not think it desirable to eliminate either the janmi or the intermediary nor is the system of Malabar land tenures so complicated as is sought to be made out. It is the result of natural evolution brought about by centuries of economic and social development. The interest of every tenure holder in a particular property is so well defined and clear cut that it does not clash with that of another. And where is the guarantee that the cultivator of to-day will not himself become an intermediary to-morrow ?

(*b*) (1) I have no objection if political expediency demands it, and full compensation is given to the party concerned.

(2) The extent of a holding must be at least such as will maintain a family consisting of an husband, his wife and three children for a minimum period of four months from the profits of its cultivation. I believe 2½ acres of wet land and half an acre of dry land are necessary to meet such requirements. All holdings that are smaller than this extent ought to be excluded from the scope of the Act.

(3) It would not be fair.

6. I have not recently come across any glaring instance of such consequences although it is possible that the under-tenure-holder might be hit hard by the default of his landlord. The only way by which he can be protected is to allow him, if he chooses to do so, to pay directly to his superior landlord on behalf of the intermediary and making such payments valid and binding on the intermediary.

7. (*a*) One-third of the net produce that is given to the tenant under the provisions of the present Act is fair enough so far as the cultivator is concerned. The rest must go to his landlord. If the landlord is a janmi he gets the whole of it. If there is an intermediary his share must depend upon his interest in the property, viz., his kanam or munpattam, the cost of improvements, if any, and the Government assessment if he has contracted to pay it on behalf of the janmi.

(*b*) The Government assessment does not represent any fixed share of the produce. The ratio between rent and assessment of wet lands is roughly from 5 to 25 times.

(*c*) Certainly the janmi. He who owns the land must pay the assessment. Wherever there is an undertaking implied or expressed by the tenant to pay it on behalf of the janmi the tenant must be made to pay.

8. (*a*) The provisions of the present Act are not workable with reference to wet lands. The gross produce for the three years previous to the date on which fair rent is to be ascertained can never be appraised. My own opinion is that if the rent for a holding has been the same continuously for a period of 36 years that may be presumed as fair rent. In other cases the fair rent may be fixed by taking into consideration (1) the gross produce of the year in which fair rent has to be ascertained and (2) the fair rent of the neighbouring lands of the same class and taram.

(*b*) I do not want to hazard an opinion on this subject.

(*c*) The staple dry crops can be raised only in rotation and in particular localities. It is therefore very difficult to lay down a fixed rule. Having decided that the fair rent is three times the assessment it is better to leave it there for the present.

9. No ; for the reasons stated in my answer to question 7 (*b*).

10. There is absolutely no harm in providing for it. Does it conversely mean that no remission need be given by the landlord if he gets no remission in assessment ? In the last fasli in one village alone I had remitted 4,000 paras of paddy among three tenants. I did not get one pie by way of remission of assessment. I know several people who have liberally remitted their rent last year without getting any benefit from the Government.

11. It will be better to do so. I would adopt the Madras 'Padi' as the standard measure so that it may bring our measures into line with the rest of the province.

12. Renewal fee is the share of the profits a tenant gets in his holding. The kanartham advanced by a tenant or the michavaram fixed to be paid to the janmi is not based on the rent of a holding or on any fixed principle. There are nominal kanams as well as large amounts received as kanam. Similarly there are nominal michavarams as well as a large share of the rent of an holding fixed as such to be paid to the janmi. After meeting the interests of the kanam and the michavaram due to the janmi there is a margin of profit enjoyed by the tenant. It is a share of this profit that he gives periodically to the janmi in the shape of renewal fee.

13. (*a*) I am not in favour of abolishing renewals. So long as a janmi is the owner of a land he has got to resettle with his tenants periodically with a view to find out (1) whether his land has been impaired materially and permanently in value of utility for agricultural purposes ; (2) whether a tenant has collusively allowed a stranger to encroach adversely to his interests and (3) whether there are any acts of waste. Periodical renewals alone afford an opportunity for this.

(*b*) There is no need to answer this question.

(*c*) It is now too premature to think of amending the provisions of the present Act as it has not had as yet a fair trial.

14. I have not come across any case in point.

15. (*a*) My own opinion is that so long as an actual cultivator pays his rent regularly no landlord evicts him. Unless I am given specific instances and satisfied there is a real demand for further legislative protection I will not interfere with the provisions of the present Act so far as the actual cultivator is concerned.

(*b*) No.

16. (1) No. That is the only workable provision in the Act which entitles the landlord to resume the land. Between a landlord and a tenant it is the landlord that is more entitled to cultivate the land. He has more interest in it and generally he is more competent to cultivate it. In the interests of agriculture and public weal also it is desirable that the owner himself cultivates the lands.

(2) Personally I consider this provision to be a real hardship. If a tenant pays his rent regularly, why should this burden be imposed upon him ? I will therefore suggest that only when a tenant keeps his rent fully or in part in arrears consecutively for three years that a security need be demanded of him.

17 (*a*), (*b*) & (*c*). The present Act gives sufficient protection to the kudiyiruppu holder. Nothing more need be done.

18. No.

19. I have not heard of any such instance and I believe section 32 of the Act is sufficient for the purpose.

20 (*a*) & (*b*). From the nature of the fugitive cultivation and the cultivation of pepper in the district as revealed in the resettlement scheme I do not think it desirable to extend the legislation to these lands. Possibly it may have adverse effect on such enterprises, apart from the injustice it might inflict on the landlord.

21. I am unable to say.

22. (*a*) It should be borne in mind that the present Act is only a permissive or an optional measure. That is why it makes it possible for the tenant if he cares to continue the holding to apply for renewal when he is sued for redemption. If, on the other hand, he thinks it advantageous to surrender the land on receipt of his kanam and the value of his improvements he is at liberty to do that also. The Act does not aim to help the janmi to sue for the renewal fee because the law as it stood previous to the passing of the Act did not enable him to do so. If the janmi did not want to grant the renewal of the holding his only remedy was to redeem the property. The Act contemplated only to place such restrictions on his right to redeem as to prevent vexatious evictions. If that cardinal principle has to be maintained in governing the relation between landlord and tenant in Malabar I would suggest that nothing need be done before giving the present measure a fair trial.

Though on certain points the local courts have held different views, there has been no time to get an authoritative opinion from the High Court. It might also be said that there are certain lacunæ to be filled up and ambiguities cleared in the Act. I should think that when a suit for eviction is filed, the tenant should be made to exercise his right to take up a renewal before he puts in his defence. At present he does so at the last moment with the result that a lot of public time is wasted and both parties incur ruinous costs unnecessarily. He is the most competent person to assess his interests and there is no harm in asking him to make his choice early.

Some courts have held that even if the contracting parties agree to increase the michavaram in lieu of payment of renewal fee, it is void and illegal, forgetting the fact that the Act does not prevent renewals outside its provisions.

The publication in the District Gazette under section 51 of the Act by the Collector regarding the market price of paddy, etc., for the five years previous to the passing of the Act has been held to be ultra vires.

It is not clear whether in regard to a holding that was demised 40 or 50 years ago the renewal fee to be realized should be for the full period or for a term of 12 years alone.

These are some of the glaring defects in the Act that have so far revealed themselves and called for remedy without impinging upon the main principles of the Act.

(*b*) I should suggest that every procedure contemplated in the Act (barring of course, evictions) should be treated on a summary basis made on applications or petitions by the parties concerned. The courts should be assisted by a Board of non-official assessors selected by the parties from a panel of such nominated persons.

(*c*) (1) The rules have been framed under section 54 (1) to try suits summarily. I have not come across any instances as yet. I am loth to give an opinion before they are given a fair trial.

(2) I do not think it necessary.

(3) As a janmi I should very much like to have it ; but as it is against the principle of the present Act which has not been given a fair trial, it is too early to demand it.

23. The disabilities pressing on the tenant in Malabar are more economic than agrarian. I have been a cultivator myself and know where the shoe pinches. He has not the wherewithal to purchase the cattle and seed required for the purpose. He borrows money at no less than 18 per cent interest and seeds at even 30 per cent. At the time of threshing his creditor comes and squats there and takes away what he has lent. Added to the scarcity of fodder in the district there is the scourge of epidemics among the cattle which make them poor and shortlived. He is unable to purchase manure. Consequently the yield becomes poorer year by year. After the passing of the Act his relationship with the landlord too has been strained. The rent having been fixed and made secure the landlord need not necessarily advance any money to the tenant to meet such requirements. Unless the cultivators' economic condition is improved no legislation intended for his benefit will be of any avail. On the other hand, it may prove harmful to him. My own opinion is that the cultivator in Malabar is far more secure and safe than his confreres in other parts of India and does not require any more legislative protection against oppression from his landlord.

As regards the kanamdars, it is highly presumptuous to think that there are any disabilities pressing upon them. Ninety-nine per cent of them are those that have purchased their rights before the passing of the Tenancy Act when they were redeemable. They have paid only a price valued on that basis and have only to be treated as investors. They never bargained for the privileges conferred upon them, and I still consider that it was a great mistake to have included them within the scope of the Act. Their investments generally fetch 9 to 20 per cent interest whereas Government paper and other securities give only less than 3 per cent. One is surprised to find these people clamouring for more protection which can be given only at the expense of the janmi. Government must think twice before proceeding with any legislation intended to confer further rights on these classes of people in Malabar.

24. I do not know much about the conditions prevailing in North Malabar.

By the CHAIRMAN :

I was for several years a member of the Indian and the Provincial Legislature. I am the third Sthani in my family. My Sthanam properties comprise 1,300 acres of wet lands and 6,000 acres of dry lands. They are all janmam lands. The properties owned by the Tarwad yield an income of about Rs. 60,000. They are all janmam properties. The management of the tarwad property rests in the second seniormost female.

In most cases the big janmis say they have no title deeds because their properties are ancient. I am not prepared to say anything about how these janmis got their rights. I do not want what I have said to be used against me. The kanamdar had only a contractual interest in the land before the British conquest. I think the Joint Commissioners themselves said that the janmis who returned from Travancore might resume possession after paying to the kanamdar the value of his kanam. The tenures existing in Cochin and Travancore are not similar to the tenures existing here. The janmi is not an absolute owner in Travancore or Cochin. It is absolute right which we claim in Malabar. In Travancore the Kshatriya and Nayar janmis have to pay assessment but the Nambudiris did not pay anything. In Cochin also the janmi did not have absolute rights. For instance there are restrictions about the cutting of teak trees in private forests and they are treated as Government property. Further, some of the Malabar chieftains were on a par with the Cochin Rajah, e.g., the Zamorin and the Rajah of Walluvanad. There is a good deal of difference between the janmis of Travancore and Cochin and British Malabar. The kanamdar's position was different in Malabar from Travancore. Even the right of the kanamdar to remain in possession for a period of 12 years arose only after the proclamation of the Sadar Court. In one of the cases in my Select Documents you will find that a lease made in the year 1000 or so was redeemed the next year. The point was raised in the courts and issue was framed and in spite of that, the judge found that the kanam was redeemable whenever the janmi wanted surrender. It was a Nair judge who decreed, a man well acquainted with the conditions. It may be that in all the other decrees the rent was in arrears. The Select Documents were collected for the specific purpose of showing that kanams were redeemable. It was said in the Council by Sir M. Krishnan Nair that there were no evictions before 1852. In the dissenting minute on Mr. Krishnan Nair's Bill it was said " that the documents prior to 1852 or so did not mention renewals." That point was also raised in Mr. Master's Committee. " Sir T. Muthuswami Ayyar said that kanam

documents of 1760 and 1780, i.e., 33 years before the advent of the British, had been produced before them which expressly provided for renewal and Dr. Sankaran Nair's attention was drawn to that." So some documents did mention renewals. It was only when the courts held different views and tenants raised all kinds of unnecessary points that the janmis began to state all these things in writing. The point was raised that a tenant need not pay the increased assessment. After that the janmis began to state so. It is only when these points are raised in the law courts that people begin to think of incorporating them in documents. The idea was the kanam should be redeemable when the janmi wanted it. As this was well known it was not necessary to state it. I am not well acquainted with the term 'manusham' that is used in North Malabar. There was a practice in South Malabar of paying Purushantharam. Probably the sthanis renewed their property only when they came to the position. It was not a form of attorning or a token of fidelity. It was not tirumul kalcha, it was only the exercise of the janmi's rights. My senior uncle became a Sthani in the year 1023. I know for 20 years or so he did not renew at all. He began to effect renewals only in the year 1046 or so. Of course he might have levied a contribution from the tenant for the expenses of any funeral, marriage, etc. At that time on occasions like marriage and death ceremonies, friends and other people made large contributions of money. There was no regular renewal every 12 years. At least in my family it was once in 20 or 40 years. I have not heard that in North Malabar in several big janmi families there are no renewals at all. I can definitely say in the janmi's sense that the Sadar Court's fixing of the 12 years period was wrong. I do not agree that surrender was decreed in the cases I mentioned on the ground of arrears. The British came into possession of the East Coast first and Malabar subsequently. They would not have made the presumption of private ownership without valid reasons. Local chieftains owned forests as their private janmis. It may have been by virtue of their position as such that they came to own these lands. I would have no objection to investing the Government with power to take waste and forest lands and utilize them to the advantage of the people at large provided the janmi's dues existing and potential are safeguarded. The best thing will be for the Government to purchase them under the Land Acquisition Act by giving compensation to the janmis. I do not think it advisable that all the lands should be purchased indiscriminately. All forest lands can be purchased provided reasonable compensation is given.

By Sri U. GOPALA MENON :

Janmis were not transferring lands in ancient Malabar to the extent now prevailing. Janmam right was a subject of transfers. There were other janmis besides chieftains, rulers, devaswams and a few Nambudiris. Sthanams were not in the nature of public offices. Generally, naduvazhis took part in the Government of the country and they generally led a number of troops at the time of war. Some tenants served as soldiers. These naduvazhis or Sthanis became big janmis by purchase and by inheritance. I have seen heaps of janmam deeds in my family relating to the period previous to the advent of the British. Long before the conquest of Naduvattam by the Zamorin the seniormost member of my family was a Sthani and we were holding lands there. After his conquest we were appointed as one of the agents along with other agents, like the Kollengode family, etc.

By Sri A. KARUNAKARA MENON :

Janmis, verumpattamdars and kanamdars existed as contemporaries. Originally if it was convenient to cultivate the land, the janmi cultivated it. We used to keep certain properties directly under our cultivation. I would be surprised to hear that any of the big janmis did not do so. This was 50 years ago ; subsequently the lands were handed over to the tenants. I cannot say that other people besides kovilakams did not possess forest lands. I cannot say whether a major portion of the forest lands in Malabar even now belong to chieftains' families.

By Sri K. MADHAVA MENON :

I do not subscribe to the view of the Landholders' Association that the ancient janmis of Malabar came from some other place, cleared some forests, occupied them and so became janmis. I am not aware of kanams of half a rupee and one rupee and two rupees on extensive holdings. There are certain kanams of the Zamorin absolutely disproportionate to the area occupied by the holdings. The landlord may have leased them according to the ordinary kind of leases in vogue there. That is all one can say. It was not the need for money. I know kanams of 100 years ago which were created because the janmi could not cultivate the land. I can give hundreds of instances where a janmi or a Sthani gave kanams to his favourites. Kanam was a respectable way of investing money ; that was all.

By Sri M. NARAYANA MENON :

Small kanams were a kind of security. One rupee in those days might have gone a long way. The kanam amount is an incident of the tenure ; without that it cannot be a

kanam ; it might be a security. It cannot be a mortgage. If it would increase cultivation by placing all the natural streams and rivers under the control of the Government, I won't stand in the way provided sufficient and reasonable compensation is given to the party affected.

By Mr. R. M. PALAT :

It is an insult to say that the land was acquired by the janmis by force and not by occupation, and they imposed themselves on the kanamdars who were the original owners of the land. There were renewals also after a few years. There was no fixity ; it varied from a few months to a number of years.

By Sri P. K. KUNHISANKARA MENON :

The denudation of forests brings about failure of the monsoons. You may say for 12 years the owners of the forests may be permitted, and then for 3 or 4 years subsequent to that, they may not cut any timber ; then timber of certain growth only may be cut. Nobody suffers by imposing a restriction like that. Anything may be done to ensure against denudation but without liquidating the rights of the janmi.

By the CHAIRMAN :

I have suggested that the only way of protecting the under-tenant is to enable him to pay directly to the superior landlord on behalf of the intermediary. When the intermediary consistently defaults, I have no objection to allowing the under-tenant to purchase the right of the intermediary. From the point of view of the intermediary, without giving due consideration to the subject, I cannot say anything definite. But if this is the only way of protecting the tenant, that point may be considered. So far as the land tenure system in Malabar is concerned, there is no complication at all.

By Sri R. RAGHAVA MENON :

I am for making changes in the present Act for its better working.

By the CHAIRMAN :

The man in possession of the property must pay the revenue. There will not be much difficulty in having joint registration. The Malabar Land Registration Act may be amended to enable him to be jointly registered. Where the rent has been the same for the last 36 years I think it may be taken as the fair rent. There will not be much difficulty in finding out which portion has been reclaimed and which portion not. It is impracticable to find out the gross produce for the previous three years. My suggestion is that the fair rent may be taken as the rent prevailing in the neighbouring land.

By Sri U. GOPALA MENON :

The courts will be the proper authorities for fixing the fair rent.

By Sri K. MADHAVA MENON :

The income from dry lands in Walluvanad taluk is very little. It is only for the purpose of calculating renewal fee of dry lands held in kanam that that provision applies. The fair rent for dry lands is inclusive of assessment. It is only equal to twice the assessment.

By Sri M. NARAYANA MENON :

In certain places in Palghat taluk, groundnut is cultivated ; but in Ernad they grow ginger which is more valuable than groundnut and cotton. The ratio of the revenue will certainly be insufficient in view of the price of the commercial products that are raised in Palghat. The best way to solve that difficulty would be to fix fair rent in kind in those cases.

By Mr. R. M. PALAT :

The verumpattam rent of parambas in Palghat and Walluvanad is more or less the same. We have a uniform rate. In Walluvanad also crops like ginger are grown on these parambas. The Settlement Officer found that the profit from ginger cultivation is Rs. 180 per acre.

By the CHAIRMAN :

There are practical difficulties in spreading the renewal fees over a period of 12 years. It is only at the time of renewal that the janmi goes and examines his lands. Very recently I had an instance. The land was leased by my family to a person in Palghat taluk. The father of the present kanamdar had sold a portion of his property. When I went to examine the properties it was in the hands of a third party ; it was registered in the name of the Government. This can be obviated if once in 12 years the janmi inspects the land. Once in a period there ought to be an examination of the property. I am against the idea of doing away with that.

By Sri U. GOPALA MENON :

If full pattam is given I have no objection to do away with the renewal at all. The full pattam was not fixed when the kanam was given because renewals were made once in 12 years. The kanam pattam is a reduced rate. I cannot account for that.

By Mr. R. M. PALAT :

The annual allowance which is paid to a junior member in my family is only a nominal amount. These renewal fees are of great assistance to them to meet their difficulties. There are only half a dozen janmi families who are not in debt. The rest are all in difficulties. Many of the kanam holdings are very profitable to the kanamdar.

By the CHAIRMAN :

We reserve the renewal fees for special purposes. Our expenses may not be uniform ; now and then, there will be marriages, etc., to be celebrated.

By Sri K. MADHAVA MENON :

The present law relating to relinquishment is hard on the tenant as he has no right to apply for revision of rent. The michavaram fixed according to the Kanam deed will sometimes be very low. I myself own property and the yield is 1,650 paras of paddy. The michavaram to be paid is only 35 paras of paddy. Without knowing what proportion of the income was fixed as michavaram, I cannot say whether a right of revision of rent is necessary. If a provision is made for revision of rent in cases where a tenant is not able to pay rent owing to the deterioration of the land, other people also who are not in need of any such relief will avail themselves of it.

By the CHAIRMAN :

The provision regarding bona fide cutivation should be retained. I want this Act to be given sufficient time to work. Until then, I am not in a position to say one way or the other. If the verumpattamdar is so interested in the land, the janmi would not evict him at all. I am not prepared to give unqualified occupancy rights to every cultivating tenant. The provision was made only for the purpose of preventing vexatious evictions, and not to give fixity of tenure to all classes of tenants. So long as he pays rent regularly, the landlord would not evict him ; the tenant could require nothing more.

By Sri K. MADHAVA MENON :

I do not think the landlord is able to influence the tenant in every matter, because the latter's position is not quite certain.

By Mr. R. M. PALAT :

It is to the janmi's interest that the land should be well improved. In practice, no janmi will evict a tenant if he is a good tenant.

By Sri U. GOPALA MENON :

Tenants are not evicted owing to spite or ill-will.

By the CHAIRMAN :

There is no necessity to give the kudiyiruppu holder fixity of tenure provided he pays rents regularly to the landlord. I have no objection to a provision that as long as the kudiyiruppu tenant pays his dues regularly to the landlord, the former need not be evicted if the janmi is given the right of pre-emption.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

I do not think it is good either for the tenant or the janmi, to legislate in such matters. In the good old times, the landlord himself used to pay for cultivation expenses and make provision for cattle, etc. Nobody does it now, because he is quite sure of the pattam ; he has only to go there at the time of the harvest and get his rent.

By Sri K. MADHAVA MENON :

Credit at low interest must be provided with an agency to supply the funds. No legislation will be helpful. That is my opinion, having moved intimately with the cultivators and having been a cultivator myself. The verumpattamdar has been getting credit for many centuries. It is not fixity of tenure that helps him to get credit, but his conduct.

By Sri A. KARUNAKARA MENON :

If there were common pasture grounds, that would be one solution of the fodder problem. But I believe in most cases there are waste lands in the hands of every tenant. It is open to him to grow fodder on them.

By Sri E. KANNAN :

The disaffection among the peasants is, I think, more in the minds of the agitators.

By Sri U. GOPALA MENON :

I should be glad to be able to file applications for renewals but I am against interfering with the present enactment for any of the parties. There will be repercussions if you alter one part of the Act. There are 93 cases of renewal pending in my sthanam ; the tenant do not come for renewal ; I am much handicapped.

26 Sri Tharakkal Eroma Menon.

Note.—This witness sent the reply to the Questionnaire prepared by the Landholders Association.

By the CHAIRMAN :

It cannot be said that all the lands of all the landholders were acquired by occupation and clearing of jungle. I cannot say whether the Zamorin obtained any part of his lands because he cleared the jungle and brought it under cultivation. The kanamdar was not a mere money-lender to the landlord. In ancient days I have seen in certain records that renewal happened only when either the landlord or the tenant died. The renewal fee was not Tirumulkalcha, but a Devaraharpana. It was in recognition of mutual rights. That took place only in cases where there was a change in the personnel of the tenant or the janmi. It does not mean that the property could be redeemed at the time of such renewals when either the landlord or the tenant died. I have no knowledge of the tenures of Cochin and Travancore. I am against investing the Government with power to take possession of forest and waste lands. All the waste lands are not intended for mere agriculture ; janmis may want to raise forests, or to give them for cultivation. The dues to the janmi must be paid. I have no objection, if that is done, to giving any protection to the under-tenure-holder or to permitting him to purchase the rights of the defaulting intermediary. That is the only way in which relief can be afforded to the under-tenure-holder. The renewal fee should not be made payable in instalments ; it should be paid in a lump sum. Whenever a tenant has to pay the renewal fee he has to mortgage his land. Landlords also have to borrow. It is not advisable to have it spread over. There is no objection even to that. Eviction cannot be confined merely to *bona fide* purposes of cultivation alone. I make no distinction between kanamdar and verumpattamdar in the case of eviction. Whenever a janmi wants the land, he must get it back. I am not in favour of giving any fixity of tenure to any class of tenants. A time limit of three years may be fixed for the landlord to evict.

By Sri U. GOPALA MENON :

The remedy should be given to the janmi to sue for the renewal fee. The renewal is a payment out of the profits made because of the kanapattam being lower than the actual pattam. In origin it was a payment made on the death of the previous holder or the tenant, and it was the rights of the janmi to demand it as it was an amount due to him. That payment used to be made in olden days by all sorts of tenants whether there was any profit or not.

By Sri A. KARUNAKARA MENON :

My information is that in former days if the kanam amount and one panam was given by the landholder to the tenant, then the tenant surrendered the land to the landholder. That is my traditional information. I have not got any record. Before the Act we had a right to evict the tenant. If the janmi is given the right to redeem, I am not particular about the right of claiming renewal.

By Sri K. MADHAVA MENON :

So long as the verumpattamdar pays his rent regularly, no security is necessary. But it will be better if security is given. So long as the verumpattamdar pays his dues regularly we may give him fixity of tenure. An ordinary verumpattamdar cannot afford to give one year's rent as security. Under the present law the janmi can evict the verumpattamdar ; because of that he pays the rent regularly. The present income of the verumpattamdar is not very meagre. The verumpattam tenants in Palghat taluk cultivate extensive areas and besides cultivation they have other sources of income and so they are able to improve their lands and get good profit. One of my tenants in Palghat taluk cultivates land yielding about 2,000 paras as pattam. He has been in occupation of that land for the last 50 years, and has made sufficient profits out of it to purchase janmam properties yielding 12 cart-loads of paddy. In other taluks the verumpattamdars are unable to pay one year's rent as security because they have no subsidiary occupation. Palghat taluk verumpattamdars have got large holdings. The verumpattamdars have not earned good profits because

they have not paid sufficient attention to agriculture, and further as soon as they reap their crops, their creditors take them away for the money advanced by them. The present rent is not excessive. I have cultivated myself a land yielding 500 paras. After I got into possession, within the course of 5 years, I increased the yield to about 1,000 paras. The cultivation expenses including seed will come to 120 to 150 paras for both the crops put together. The revenue is about Rs. 50 which I have always been paying. If it is double-crop land the produce of one crop will go to the verumpattamdar. That will include all his cultivation expenses as well as seed.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

My other tenants are not losers and they have not expressed their willingness to surrender their lands.

By Sri M. P. DAMODARAN :

It is because that tenant has a subsidiary occupation that he has been able to purchase the land which he has purchased. I cannot say that it is because that he gets subsidiary income that he has been able to pay the rent regularly.

By Sri R. RAGHAVA MENON :

I have no objection to giving fixity of tenure to kudiyiruppu holders if they pay their assessment at least. If they pay one or two panams we shall be thankful.

By Sri M. NARAYANA MENON :

I have seen a document in which the kanam and one or two panams were paid to the kanamdar and the properties were surrendered. The panam is called kozhu panam or plough panam and is the consideration for getting the surrender. I cannot say whether there were improvements. In the documents to which I refer, I have not noticed that.

By Mr. R. M. PALAT :

The landholders themselves are giving waste lands to people who want to cultivate them. The landlord who is a man of the locality knows who really requires it for cultivation. The renewal fee was also taken into consideration in fixing the michavaram. The existing Tenancy Act has taken away a very valuable right of the janmi of giving melcharth. It causes considerable hardship to poor landlords. I do not want melcharths to be revived. The tenants cannot get loans because of the Agriculturists Relief Act. People now rather invest in the Post Office Savings Bank or in the safes. They won't pay even to the banks.

By Sri P. K. KUNHISANKARA MENON :

I will send the document where it is mentioned that the kanam and one panam is given when land is surrendered.

By Sri U. GOPALA MENON :

When a private party approaches a janmi for the demise of waste lands, the terms and conditions which he would impose for such demises will depend upon the nature of the land that is demanded, and also upon the nature of the parties and the demand.

27 Sri E. P. Gopalan, President, Walluvanad Taluk Karshaka Sangham, Pattambi P.O.

1, 2 & 3.—The answers to Q. 1, 2 and 3 are to be gathered from history. Various committees enquiring into Malabar land tenure, have expressed conflicting views. In the days of ruling chiefs, the tenancy system did not indicate only right over landed property. It was part and parcel of the system of administration. In this taluk is concerned, Kavalappara Nair, Varikkasseri Nambudiri. Kuthiravattath Nair, Veettikkatt Nair, Tarakkal Variar, Dharmotthu Panikkar and Kannanore Pata Nair who are now janmis were then persons of high status in the political or religious sphere.

With the advent of the East India Company, this system began to vanish gradually and the system of tenancy became based merely upon the landed property. The officers of the Company completely ignored the previous system and were concerned only with safeguarding the Company's interest.

On account of the Court decisions, leading persons began to derive exclusive title to land, the kanamdars were reduced to the position of mortgagees, and the actual cultivator, who had also been a share-holder in the yield, became a mere head-labourer called "Verumpattamdar."

4. (*a*) No.

(*b*) Restrictions are not sufficient. The Government should take up the lands and assign them to cutivators free.

(*c*) Yes. This will help to remove unemployment in rural parts.

5. (*a*) All the intermediaries, other than the Government at the top and the cultivator at the bottom, should be dispensed with. No compensation need be paid ; for intermediaries have other avocations and no connection with agriculture. They use the land only as a means of investment.

(*b*) (1) (2) & (3) In present economicconditions, the suggestions are imprac ticable. The present difficulties can be overcome by the fixing of rent, abolition of renewals and grant of occupancy right to cutivators.

6. The rights of the janmis or intermediaries, should be held liable for their defaults. The rights of the tenants should not be interfered with.

7. (*c*) On the basis of the settled classification, the gross yield should be arrived at ; 1/10 should be deducted for harvest expenses and $3\frac{1}{2}$ times the seed should be set apart for cultivation charges. Half the balance should go to the cultivator and the balance should be taken into account for fixing the fair rent.

On this basis the michavaram should be reduced in proportion to the reduced pattam.

(*b*) There is no comparison between the assessment and the yield. In this taluk, so far as garden lands are concerned, the assessment is far above the yield.

(*c*) The janmi who is the owner.

8. Yes. It is advisable to constitute a Board, with representatives of cultivators, to fix the fair rent. The Civil Courts should be the appellate authority from the decisions of such Boards.

(*a*) Please see answer to Q. 7 (*a*).

(*b*) This does not seriously affect this taluk.

(*c*) The pattam should be as much as the assessment.

10. When remission of assessment is granted by Government, the rent should be remitted in proportion.

11. Yes. Failure should be penalized.

12. In the days of the chieftains, the renewal fees was an amount paid for every 'purushantharam.' Now it has become a renewal fee to prevent limitation. What was then given as free gift by inferiors has now become a compulsory payment.

13. (*a*) Yes.

(*b*) The question of comparison does not arise.

15. (*a*) The cultivator should have permanent occupancy right on condition of payment of the fair rent fixed as proposed in answer 7 (*a*) ; no other condition should be imposed.

(*b*) There are many instances of illegal evidence by the demand of munpattam or on the pretext of cultivation. We are prepared to adduce oral and documentary evidence.

16. (1) Yes. Eviction on the pretext of cultivation should be prohibited.

(2) ————

17. (*a*) Yes. Kudiyiruppu holders should be exempt from payment of assessment and pattam.

(*c*) (2) A minimum of 50 cents should be granted in rural parts.

20. All sorts of levies are included in documents or collected by oral agreements. They should be penalized.

20. (*a*) & (*b*) Yes, so as to include fugitive cultivation and cultivation of pepper.

21. (*a*), (*b*) Quite necessary.

22. Cases should be tried only by Civil Courts. But long delay and undue expense should be avoided.

23. The janmis in their capacity as Uralers of Temples, Trustees, and adhigaris, are oppressing the tenants in many ways. The temples should be brought under the direct control of the Government and the hereditary sanad right of the adhigaris should be abolished. These are the only means of checking such practices.

The grievances to be redressed are to fix the fair rent as proposed by us, grant fixity of tenure for cultivators and kudiyiruppu holders and abolish the renewal system. On the rumour of a Bill the janmis have begun to file suits for renewal, etc. Orders should be issued at once to prohibit this and the proposed legislation should be effected as quickly as possible.

By the CHAIRMAN :

The janmi was not the proprietor of the soil. His present position is due to the wrong decisions of the courts. All persons having any interest in the land ought to be eliminated except the person who is actually cultivating the land. It is not necessary to pay any compensation either to the janmi or the intermediaries. I do not mean that they should not have any source of living. What I mean is that they can also cultivate such proportion of the land as would be required for their livelihood. The janmi or the intermediary may be given the right to recover from the actual cultivators as much as is necessary for his livelihood. All the other lands must be taken away from the janmis and the intermediaries without any sort of compensation. That will be revolutionizing the whole system of land tenure in Malabar. If it is not possible to effect such revolutionary changes, I suggest amendments in the existing Act. The fair rent as fixed in the Act is not sufficient. It must be fixed according to my suggestions in the written memorandum. I belong to this taluk. My family cultivates lands. I am a junior member of a marumakkathayam tarwad. I actually help my karnavan in cultivation. We have double-crop land of five paras seed area ; single-crop land of 5½ paras seed area ; dry lands of 15 paras seed area ; and one kudiyiruppu. We have both kanam and verumpattam right. Our verumpattam paddy lands are about an acre in extent. The yield for the first crop will be about 40 to 50 paras of paddy and in the second crop about 40 to 45 paras of paddy. The cultivation expenses for both the crops will come to about 30 paras of paddy inclusive of seed. We hold directly under the janmi. The assessment may be between 5 and 8 rupees on one acre. The rent is 98 paras and 3 nazhigais. These lands have been in the possession of our family for about 50 years and came into our possession after partition three years ago. Out of the seed bed we get 25 paras. For a land yielding a rent of 100 paras of paddy the market value of the janmam rights will be about Rs. 1,000, if the interest is about 10 paras of paddy. So if you deduct out of the income the cultivation expenses the balance will be 95 paras. Out of the balance of 95 I say half must go to the cultivating tenant. There will be a balance of 47½ worth about Rs. 24 for the landlord. The janmi has to pay assessment out of that. The balance of Rs. 15 will be the interest on the money that the janmi has invested, about Rs. 1,000. If you look at it from the point of view of the present rate of interest it may be said that it is not sufficient. I cannot say that the present provision giving the tenant one-third and the landlord two-thirds of the net yield is unjust but it is not just. The landlord uses the provision of bona fide cultivation very harshly to the disadvantage of the tenant. I would delete that provision altogether. Except for the payment of rent regularly I would not impose any other restriction on the tenant.

By Sri U. GOPALA MENON :

I want every kudiyiruppu holder to have 50 cents of land whether it is not planted with fruit trees or not. I am the President of my Sangham ; there are 515 members in it. Either they are actual cultivators or their families are ; there are a few exceptions to this general position ; the members are petty janmis, kanamdars and verumpattam tenants. I would eliminate all persons except the person in actual possession of the land and not pay any compensation. That is our ideal but it is not our immediate programme.

By Sri K. MADHAVA MENON :

In taking the cultivation expenses as 3½ times the seed, I have not taken into account the purchase or death of cattle, accidents of nature, such as want of rain, etc. Four times the seed will be a fair allowance for cultivation expenses. The total yield of our wet lands is 125 paras of paddy and the total dues to the janmi are 124 paras. On a portion of the property we are able to raise a third crop which yields us something. A large portion of our rent is in arrears which we have not been able to pay.

By Sri A. KARUNAKARA MENON :

There are lands in Malabar which yield six fold and seven fold. If cultivation expenses are taken as 4 times the seed, it may be a loss to the janmi because of the amount of revenue he has to pay. From the point of view of the tenant, it would be a loss to him if he is not paid 4 times the seed as cultivation expenses. There ought to be uniformity in allowing for cultivation expenses and it must be 4 times the seed.

By Sri K. MADHAVA MENON :

It is not true that the verumpattam tenant has no interest in improving the land. It is impossible for him to do so. The person who labours on the land, should be allowed fair remuneration to induce him to improve it. The present remuneration he gets is absolutely inadequate. The verumpattam tenant is rackrented; he takes up the land only with the hope of getting 5 paras of paddy as loan in the month of scarcity, Karkadakam. If fixity of tenure is given to him, it would induce him to improve the land. I am filing herewith a statement containing certain instances of unjust evictions. My Sangham has not fully considered the matter of relinquishment. If the tenant finds that the yield of the property is not sufficient for him to pay the rent, provision should be made for revision of rent. We have not answered the question because such instances are rare.

By Sri M. NARAYANA MENON :

If the cultivation expenses are 4 or 4½ times the seed, there will be very few instances where the share to the janmi is not sufficient even to pay his assessment. If there are such cases, necessary adjustment should be made in the share of the tenant; but it ought not to be made a precedent to reduce the share of the tenant. I have no objection to fixing the maximum land for a person's cultivation as part of a general scheme throughout the country. I have been keeping rent in arrears for a long time. I cannot say how much has been credited to arrears and interest. Last year I paid the full rent of 98 paras. I cannot say what is the general balance every year.

By the CHAIRMAN :

It is not possible to get a receipt as provided in the Act. I have not claimed receipt in the exact form given in the Act because I am sure that I will not get it. I got a receipt last year. It shows present and past arrears.

By Mr. R. M. PALAT :

I stated in my memorandum that many of the janmis have begun to file suits for eviction after this Committee was appointed. What I meant to say was that on account of the appointment of this Committee there was threat of litigation. The wording may not be exactly correct, but notices have been sent on such grounds as a result of the appointment of the Committee. I cannot exactly say that anybody has demanded surrender on the ground of the Tenancy Committee being appointed; but after the appointment of the Committee, a number of notices have been sent. This example was mentioned by me because my land does not yield even the pattam. I do not get any income from the land after paying the 90 paras to the janmi and spending 30 paras as cultivation expenses. I have been in possession of this land for the last 50 years, and for the last 50 years we have been paying some portion of the rent fixed. There are four members in my tarwad. I have no occupation other than cultivation. I cannot say what I get, even approximately from fugitive cultivation. The Sangham consists of 23 primary sanghams. One amsam has got 100 members; in other amsams the number is less. The Sangham began 3 or 4 years ago. We collect subscription of 3 annas per year. There are no salaried people in the Sangham. With the money collected, we hold conferences, issue notices and so on. I did not deposit rent according to the Agriculturists' Relief Act and get relief, because I could not afford to do it. I was President of the Karshaka Sangham at that time. In the case of certain poor and weak tenants, they were not able to reap the benefits of the Act by depositing money because the landlord would be offended if they deposited money. It was not because I did not know the provisions of the Act but because of the difficulties mentioned by me.

By the CHAIRMAN :

If the improvements and reclamations belong to the landholder and the verumpattamdar is in possession of the land, I would give fixity of tenure even in such cases to the verumpattamdars. A proportionate share should be given to him for looking after the improvements in the land. If the improvements belong to the janmi, I am prepared to vary the share of the landlords and tenants.

28 Sri M. P. Govinda Menon, District Board Member, Vakil, President, Walluvanad Taluk Congress Committee.

1, 2, 3 & 4. (*a*) I am not in a position to answer these questions.

5. (*a*) I do not think the stage has reached to eliminate the janmi or any intermediary.

(*b*) (1) I am for giving the right of pre-emption to the tenants.

(2) No limitation is necessary now.

(3) Prohibition is necessary into certain limitations.

6. It is desirable to protect the under-tenure-holder. The improvements made by under-tenure-holder must not be a charge for any default of any of the intermediaries. He must be given fixity of tenure if intermediaries' right is redeemed or evicted for no fault of the under-tenure-holder.

7. (*a*) This is the important question in the enquiry. After deducting the cultivation expenses from the yield—I would assess the cultivation expense as three and a half times the seed required—the revenue must be deducted. Out of the balance, one-third must be left to the tenant and two-thirds to the landlord. In case of kanam lands, out of two-thirds to the kanamdar, one-tenth of that may be reserved for janmi as michavaram. If this ratio is accepted the benefit of the reductions of the revenue, when it comes, will be enjoyed by both the tenant and the landlord.

(*b*) Generally the share comes to 25 per cent. There are cases where it exceeds this share. It is due to the defective classification at the time of the settlement.

(*c*) The janmi in case of direct lease to verumpattam tenants; in other cases the kanamdar or the kuzhikanamdar as the case may be.

8. The hardship generally is the difficult process through court to assess the fair rent. I think it is necessary to appoint rent-tribunals in groups of villages to permanently assess the fair rent. In other respects I do not think any amendment is necessary.

9. I do not agree to have fair rent fixed in some proportion to the assessment at present.

10. This question does not arise if my ratio suggested to answer to question No. 7 is accepted. Otherwise some provision has to be made.

11. They have to be standardized. The MacLeod seer has to be accepted.

12. I am not in a position to answer this question.

13. (*a*) Yes. I am in favour of abolishing.

(*b*) The fixity can be conferred as they are conferred now on the cultivating verumpattam tenants under the present Act. There will be forfeiture of fixity only in case of non-payment of rent. No compensation is called for.

(*c*) The present Act requires amendments regarding the sections dealing with renewals.

14. It is not desirable to revise the present provisions.

15. (*a*) I am in favour of granting occupancy rights to actual cultivators. The only condition for forfeiture is to be non-payment of rent.

(*b*) There were many instances. Section 14 (5) has to be amended. Strict necessity must be proved by the landlord.

16. (1) I am for restricting the landlord's right. The restriction must be the landlord's absolute necessity.

(2) Must be abolished.

17. (*a*) It is desirable. The compensation to be paid to the landlord may be as provided for in the present Act.

(*b*) No distinction is to be made.

(*c*) No minimum extent is to be prescribed.

18. It is not desirable to revise the present provisions or fix a time limit.

19. They are numerous and different in different areas. Their collections must be made penal.

20. (*a*) Not desirable.

(*b*) Desirable.

21. (*a*) & (*b*) The legislation must be extended to both the taluks with necessary modifications.

22. (*a*) The procedure of fixing the fair rent works real hardship. The remedy is suggested in answer 2 to question No. 8.

(*b*) The measures provided for summary trials in the Civil Procedure Code may be adopted.

(*c*) (1) Vide answer 22 (*b*).

(2) Not desirable.

(3) If renewal fees are to be provided for, landlords must be given right to apply for their recovery.

23. I am not aware of any other serious disabilities.

24. Not in a position to answer.

By the CHAIRMAN :

From the standpoint of economic and political development we have not yet reached the stage of eliminating the janmis or the intermediaries. The verumpattamdars as a class have not developed at all. The development and the welfare of the country will depend upon the higher classes. It is necessary to protect the under-tenure-holder against the consequences of default by his immediate landlord. The improvements made by the under-tenant must not be made liable for any default committed by his immediate landlord. In cases of default by the immediate landlord, the position of the under-tenants and their rights must not be disturbed and they must be acquainted with the default committed by the immediate landlord. If the under-tenant behaves properly and has paid his dues properly, he must not be evicted. If the janmi does not get his renewal fee, a suit for redemption and eviction must be only against the immediate landlord and the under-tenant's position should not be disturbed. The tenant in possession may be given the option of purchasing the right of his immediate landlord. But that should not take away his other rights. If the kanamdar who has to pay the assessment has not paid and as a consequence the crops in possession of the under-tenant are attached, under the present Revenue Recovery Act, the under-tenant can only pay the assessment and set it off against his rent. The only other course is to amend the Revenue Recovery Act. According to me, the janmi has not bargained for the improvements made by the under-tenure-holder. He contracted only with his immediate tenant. If the choice is between giving benefit to a larger class of people and a smaller number of people, we have to take the larger number and the weaker classes into consideration.

By Sri M. NARAYANA MENON :

I think that elimination will be a natural process in due course. I am afraid the stage has not been reached to begin that process now. It depends upon the development of society. According to me, the actual cultivator is not sufficiently developed in the consciousness of his rights, and privileges and I would even add, his political consciousness. If the kanamdar by some process becomes a janmi, I would like it.

By Sri C. K. GOVINDAN NAYAR :

I would extend this option of purchase only to the cultivating kanamdars.

By the CHAIRMAN :

By the seed required, I mean the seed 'customarily deemed to be required.' After deducting the cultivation expenses and the revenue from the gross produce, I would give one-third to the verumpattamdar. There may not be very much difference between the present ratio and the suggestion made by me, because I have increased the cultivation expenses. I think if the formula suggested by me is accepted there will be benefit to the actual cultivator, because any coming Government will reduce the land revenue and the benefit arising therefrom will be equally shared by the landlord and the tenant. If the land revenue is not reduced, I am not for the suggestion that I have put forward. I have no objection to retaining the present provision as long as land revenue is not reduced. Even if land revenue is not reduced, the cultivation expenses will have to be increased. In these parts an acre is five or six paras seed sowing area.

There is a difference between the actual quantity of the seed required and the quantity 'customarily deemed to be required.' When I ask cultivators they give different versions. Some say more is required ; some say less. Most persons say less is required. The present provision and the suggestion made by me are not very different. I think it is necessary to appoint rent-tribunals in groups of villages to permanently assess the fair rent. I have seen from some old Government records that properties have been classified, tabulated with all the details regarding seed, area, the rent, name of the tenant, etc. Some such records must be maintained. But instead of giving this work to Government servants it must be done by a Board of Commissioners for a group of villages. In Malabar conditions differ from one small area to another. A group of villages should be under one Board of Commissioners. Representatives of all classes should be included in the Board. From my personal experience of the present position I can say that the whole difficulty is in assessing the fair rent. The parties do not agree regarding the fair rent because it is a matter of guess work now. They go to court also. And the Commissioners appointed by the courts have no sufficient data to depend upon. So, there also there is the guess work. And more often rich persons succeed. So it is better to have the fair rent fixed by some outside body permanently. One objection to the present system is that parties are driven to courts and spend unnecessarily. Another is that a commission visiting a place for that purpose has to depend upon the hearsay information gathered from the locality. The rent tribunal suggested by me would have some direct knowledge. That is why I suggest a tribunal for some groups of villages with persons with local knowledge. My

experience is that in courts parties fight and both sides depart from the truth but before an enquiry of this sort the truth will come out. The fight will not be between individuals and so some people will speak the truth. In an area before the Board of Commissioners go to the place they can easily find out the facts in that particular locality. There will be some injustice whatever method is accepted but this will minimise it. If rent is fixed for all the lands in certain localities, there will be a greater chance of the person who is to determine the fair rent coming to a correct conclusion. The fixing of the rent of all the lands in the locality must be done simultaneously. That will avoid litigation.

By Sri M. NARAYANA MENON :

My suggestion is not to fix the fair rent only when there are disputes. As soon as the Act is passed a machinery should be set in motion to fix the fair rent of every land for all times. Even if there is no dispute between the landlord and the tenant the Board must begin to work. I do not expect to find classes of lands which yield differently in the same subdivision. I would not base the calculations of the rent more or less upon the classifications adopted by the Survey Settlement. Because I don't accept that classification as absolutely correct. If fair rent is fixed for one subdivision and if that subdivision yields varied income in its different parts, I don't think it would be difficult for the landlord and tenant to fix their respective share. If necessary such small matters will have to go to the court. The Revenue Inspector of the firka shall be the President of the Board and one member from each of the three classes, viz., janmis, kanamdars and the verumpattamdars. I do not think rich men will succeed in a Board like this, as they do in courts. If possible, I would say an appeal is unnecessary. It shall be final just like the election courts.

By Sri A. KARUNAKARA MENON :

My experience is that a long purse succeeds in a court. Somehow or other people have the notion that they need not conform to absolute truth in courts. In outside boards I have seen our people conforming to absolute truth.

By the CHAIRMAN :

I want the parties not to spend money unnecessarily in getting their fair rents fixed.

By Sri A. KARUNAKARA MENON :

Provision may be made for deterioration or improvement. Revision of rent might also be done by this Board. One difficulty of the present formula is in finding out the rent of three years consecutively. But my chief objection is that many parties would have come to terms in the matter of fair rent and renewal, etc., but for the fact that there is a chance of increasing or lessening the fair rent if they fight in the court.

By Sri K. MADHAVA MENON :

In no case should the existing rent be increased. The formula suggested by me is to be applied only in cases where the existing rent is higher than that of my formula. Panchayat boards would not be the proper bodies to fix fair rent. The Panchayat board may consist of members who may all belong to a particular class of tenure or no tenure at all. The election of the members of the Board is based upon other matters. You cannot fix fair rent in proportion to the assessment unless there is resettlement and the assessment is based on re-settlement. I have no objection if the assessment is absolutely based on the yield.

By Sri R. RAGHAVA MENON :

I am the President of the Walluvanad Congress Committee. When the Questionnaire was published, members of the Executive Committee travelled throughout the different parts of Malabar including the interior parts ; we had occasion to talk to cultivating verumpattamdars and kanamdars. I issued a circular to all the village committees ; they had their own enquiries and sent reports. On the basis of these reports and with my personal knowledge as Vakil in the taluk, I formulated the principle.

By the CHAIRMAN :

I am in favour of abolishing the renewal fee altogether, without compensation. It is not a main source of the janmis' income ; they take it as a windfall once in 12 years. The result of asking the kanamdars to pay renewal fee, will be the ruin of kanamdars gradually. Renewal means mortgage of the kanam tenure ; successive renewals increase the debt on the property with the result that the kanamdar's right is wiped off. Apart from the question of history, it is absolutely necessary that the rights and interests of the kanamdar should be well protected, if he is not to be ruined. It is a fact that there are some poor janmi families. Renewal fees are not a regular income, but an additional source of income. In South Malabar, the majority of lands are in the possession of very big

janmis ; they will not be affected by the abolition of the renewal fee. Small janmis may suffer ; any legislation will certainly cause some hardship to some individuals. We have to take into consideration the well-being of the whole society and we have to overlook the little hardship that will be caused to some classes of people.

If the renewal fee is not to be abolished, it will be more convenient to the tenant if it is spread over 12 years. If the Committee comes to the conclusion that renewal fee should be retained, I would suggest that one year's michavaram or some such nominal sum should be the renewal fee.

By Sri M. NARAYANA MENON :

It may appear that the kanamdar gets excess profit from the land, over and above the interest on his kanam amount, but if you take into consideration the money he has invested, there will be no excess profit. If a kanam land is purchased now, the income will not be more than the interest on the money he has invested. The majority of the kanamdars have come into their holdings by purchase ; the janmi must be satisfied with getting michavaram. You cannot legislate for two sections of kanamdars, purchasers and original kanamdars. Whatever may be the equity of the case, my view is the janmi should not get anything more than the michavaram. Without going into the historical question, I cannot substantiate that opinion. If the renewal fee is abolished the janmi will have to revise his budget to a certain extent. More harm will be done to society by retaining the renewal fee.

By Sri A. KARUNAKARA MENON :

In other parts of the country there is no renewal fee and still the landlord takes care of his land. We cannot have a system of taking renewal fee from the kanamdar for the purpose of enabling the janmi to survey his land and boundaries.

By Sri K. MADHAVA MENON :

Both michavaram and assessment are fixed amounts. I have not much objection to have either as the renewal fee.

By the CHAIRMAN :

The present provisions for relinquishment may stand.

By Sri M. NARAYANA MENON :

It is very rare that the kanamdar voluntarily surrenders his land. If the kanamdar were able to claim his improvements, a large class of wealthy kanamdars who have made vast improvements would claim the value of the improvements and put poor janmis to trouble. I think the number of cases will be very rare, where the kanamdar is not able to pay the michavaram and realise interest on the amount he has invested. If the land is not worth possessing, there would be no improvements to the land and the tenant would have to his credit only the kanam amount. I am not for surrender of the land, because from the very nature of the kanam tenure, the kanamdar cannot force the janmi to pay for improvements. I am not for the law being altered.

By Sri A. KARUNAKARA MENON :

The tenant may be hit, but it will not be a case of absolute impossibility. Comparatively speaking, there will be some hardship. In such a case, provision may be made for revision of the rent due.

By the CHAIRMAN :

The landlord's right of eviction may be restricted to landlord's absolute necessity. By absolute necessity I mean the landlord requires the land for his livelihood. The tenant's fixity will be qualified to that extent. Some janmis become absolute paupers ; their tenants would be better off than themselves ; in such cases I want a provision for the poor janmi to get a portion of his land for his cultivation. Of course, there is some uncertainty ; the tenant's position will not be secure and there will be no incentive on his part to put forth his best efforts. But I am afraid this uncertainty will have to continue until the day comes when the actual cultivator becomes the owner of the land. I want to minimise the evil by restricting it to absolute necessity. Again I do not want to deprive poor janmis and kanamdars of their land. I would agree to fixing a time-limit within which the janmi or the kanamdar who wants it back may evict the tenant. Such a provision plus absolute necessity.

By Sri M. NARAYANA MENON :

The definition of 'absolute necessity' must be left to the discretion of the Courts. In the case of a janmi living on a big scale, I won't say it is absolute necessity.

By Sri K. MADHAVA MENON :

Absolute necessity will apply to kanamdar also in evicting the verumpattamdar. There are a number of impartible estates. All the impartible tarwads are very big janmis and so this question of absolute necessity will not arise. A limitation of 3 years from the partition of the family subsequent to the legislation will create unnecessary troubles in the future.

By the CHAIRMAN :

All kudiyiruppu holders may be given fixity of tenure and the right to purchase the landlord's rights even though no suit has been instituted against the kudiyiruppu holder. I don't think that a time limit for eviction is necessary. There is some difference between taking care of the property for the purpose of improvement value and taking care of the property for improving it. In the case of a verumpattam tenant I agree to fixing of a time limit. In the case of a kanam tenant, the question of improvements will arise. A time limit may be fixed for all classes.

There are numerous feudal levies. When a fair rent is fixed, there is no necessity to pay anything in addition to it.

I am in favour of enabling the landlord to file an application for recovery of renewal fee if it is to be levied hereafter.

By Sri M. NARAYANA MENON :

The time-limit may be six months and Courts can extend it. In feudal levies, I include collections and forced subscriptions taken by the janmi on particular occasions and not provided for in the deed. I would also include items included in the deed which are produced on the property. Only paddy and money should be included. Even if there are parambas attached to the cutivable land and plantains are raised in them, it is easier to pay in cash.

By Sri A. KARUNAKARA MENON :

In any case feudal levies should not continue. I think fair rent will take all these things into account. If they are part of the michavaram, I have no objection to their being converted into paddy or money.

By Mr. R. M. PALAT :

Though they are included in the contract, they are unnecessary and not called for. Even if it is not part of the contract, I am afraid the janmis by their influence in the society will continue to collect these things unless they are made penal. Janmis give the tenants some presents as a matter of charity. These levies are not charity but a matter of compulsion.

By Sri M. P. DAMODARAN :

It is not desirable to extend the provisions to fugitive cultivation. Even the tenants do not want the same area for fugitive cultivation ; they want a change. I do not know the system prevailing in North Malabar.

29 Manazhi Patinharethil Govindan Nair, Elankulam amsam.

1. (1) The origin of " janmam " as now understood is not very ancient. It arose between 1000 M.E. (1825) and 1030 M.E. (1854–1855). The oldest system of land tenure must have originated from the time of human habitation. From history, old sayings and present practice, it can be inferred that rights over land existed not in individuals but in society. Society can be divided into 3 classes, viz. (1) labourers, (2) Rulers, and (3) religious heads. It is evident that the last two classes are not engaged in cultivation. It is also evident that, even to-day, every one has to depend on the cultivator—labourer—for his daily bread. Originally, there was not so much avarice and selfishness as there is now. We have now to find out a solution for the defects caused by the changes of time, invasion by foreigners and the principle of " might is right." A portion of the net yield (deducting the cultivator's expenses) paid for the maintenance of the abovementioned classes who were not doing any work and who were gladly accepting it was eventually termed as michavaram and pattam. For all these things there was no documentary evidence or special law other than practice ; nor was there so much controversy between them. This amicable relationship did not either contemplate or permit the eviction of the cultivators from their holdings ; nor was there any instance of eviction at all. With the advent of the East India Company, to facilitate prompt collection of revenue, the persons in receipt of michavaram, pattam, etc., were made prominent personages and the judicial Courts were invested with powers to enforce the recovery of such dues which ultimately increased the

hardships of the cultivators. As the cultivators were not in a position to adduce conclusive evidence as demanded by the Court, the janmam title as assessed by the Court became final and such prominent persons became the "janmis" and the labouring class of cultivators became practically slaves to such janmis. In course of time, on account of the wrong interpretation of the rights of the cultivators by the Courts and on account of the total disregard and concealment of their legitimate rights resulting in the increase of poverty, misery and confusion, an enquiry was instituted about the year 1852 into the system of land tenure. Real facts not having been correctly understood during the enquiry, the term janmam and janmi were regarded as if it were a right over the land. Such a right had never been purchased by those persons styled as "janmis" and they had never paid any compensation for it. Such imaginary janmis assisted by the favourable decisions of the judicial Courts gained ground and began to possess all sorts of title to the land to which they were in no way entitled. In the above circumstances, it is my humble opinion that the terms "janmam" and "janmi" do not carry with them such rights and privileges as is made to appear. What was once communal property was eventually converted into individual property.

(2) The terms "Desathirippo Kanapparappo"; "kanam vittum Onam unnam" "Kaikkanam", etc., are very old. The reclamation of lands and their coversion into cultivable soil are known as "kanam" and "kanam right." This will be evident from the registered documents of 1046 M.E. (1871). A copy of a document of that period is enclosed. In spite of the fact that the value of janm right was on the increase and that of the kanam right was on the decrease at that time, the wordings in the present documents are not in accordance with those in the documents for that period. The wordings in the document "Ubhaya Pattam Adharam," "Pattam amount" (present fair rent), the absence of condition to surrender or evict, and the non-liability to pay interest for default of payment of pattam bear testimony to the correctness of my opinion. Besides, the report of Mr. Logan (once Collector of Malabar) supports my view. The right over a land made fit for cultivation is really the kanam right. At that time, kanamdars were the actual cultivators and in spite of various subsequent changes they are still cultivators. Kanam is older than janmam. The definition as well as Judicial decisions of "Kanam right" as "mortgage right" has seriously affected the cultivation in Malabar more than anything else. The Kanamdars had acquired "Saswatham" right by hard labour but the Court decisions restricted their right of occupation to a fixed period of 12 years at the termination of which they were liable to be evicted. No one will require further proof to come to the conclusion that it was the absence of earnestness on the part of the authorities concerned to arrive at the truth that is responsible for the state of affairs. There are instances in which janmis paid compensation for kanam rights purchased by them.

(3) Kanam is the oldest, then comes janmam and then kuzhikanam. Kuzhikanam is the distinguishing term of the joint efforts for improvement.

(4) With the deterioration of the position and status of the cultivators and labourers, the entire benefit of the labour was derived by the parasite land owners. The cultivators were reduced to starvation and misery. They are kanam as "verumpattamdars." Verumpattam right originated only recently, i.e., about 1890.

2. Please see question 1.

3. The Court decisions are contrary to the origin and nature of the relation between janmi and tenant.

4. (*a*) No.

(*b*) Yes.

5. (*a*) No, compensation should be paid if the system is simplified. As stated in answer to Question 1, the rights should be fixed, usurpation should be prohibited and the occupancy right should then be valued. Such value should be paid as compensation.

(*b*) (1) If compulsory eviction is not permitted, the necessity for compulsory purchase will not arise.

(2) This is necessary and was in existence before. Its old name is kanam. If it can be continued, Malabar will become prosperous. For this purpose, the lands evicted by the janmis without payment of compensation (the compensation paid for improvements is not taken into account here) should be restored to the respective tenants or their successors in title. Legislation to this effect should be passed.

(3) Should be prohibited.

6. Yes. I consider protection is necessary. The respective tenants rights should be fixed and such right should be sold for their default.

7. (*a*) On the basis of the situation and taram of the wet lands, 2/10 of the extent should be set apart for maintenance of bunds, fencing, etc., and from the gross yield from the remaining extent, 3 times the seed and harvest expenses should be deducted. Half of the net yield thus arrived at should go to the verumpattamdar and the balance should be apportioned between the janmi and the Government.

(*b*) Assessment has increased in rate. This is mainly due to ignoring the yield and alteration of the taram.

(*c*) The period for payment of assessment should be the harvest season. The occupant may be made liable for payment of assessment provided proper receipts are granted. Kanamdars were paying prior to 1904. It is also feasible.

8. Please see answer to Question 7 (*a*). Much difficulty is experienced now.

9. If assessment is revised, it is feasible to revive the pattam with reference to the assessment.

10. Yes. Remission of pattam should be granted on the basis of the assessment remitted.

11. Standardization of a uniform measure for Malabar is essential. It may either be English or country measures. Separate measures for North and South Malabar should be introduced only if they are absolutely necessary. The existing measures must be changed.

12. Renewal fee is illegal, meaningless and a punishable form of corruption. It must be completely stopped. The 12 years' period was fixed by the Sadar Courts and dates from 1030 (M.E.) (1855). This fact will be evident from the enclosed copy of a document of 1046 (M.E) (not printed). Income from cultivation was apportioned between the actual cultivators and the persons who did not do any work. This apportionment was purely a matter of grace. The conversion of this snare into pattam and the investiture of powers to collect this pattam and to evict the cultivating tenants in accordance with the Judicial Court decisions and legislation by Foreign rulers compelled the weak and helpless cultivators to bribe the pattam collectors. Such sort of bribery was continued as the legislation was in favour of it and under no circumstances can this be allowed to continue. This payment is termed as "Thirumul kalcha," "oppu," "soochi," etc. The poor and honest cultivators are rendered helpless on account of the merchants and other rich persons auctioning such right of payment. This results in misery and confusion. As there is no basis for the collection of such bribery, there is no justification in fixing any rate for it. No legislation should be passed in favour of such payment.

13. (*a*) Yes, because there is no justification and because it was not in existence in olden days.

(*b*) The tenants' occupancy right is self acquired. It was not given by any one nor purchased from any one. Except the periodical payments, the janmi is not entitled to anything more. No compensation need be paid for the right of occupancy.

(*c*) The Malabar Tenancy Act should be amended so as to confer exclusive right of occupancy.

14. Yes. The tenant must be compensated when the janmi evicts under any circumstances. It should be as in the case of acquisition under the Land Acquisition Act. Eviction and surrender should stop, except on payment of compensation. Viewed impartially the tenant should have as much right to collect all his dues from the janmi as the latter has to collect his dues from the former (tenant).

15. (*a*) Yes. No conditions other than to collect the fixed fair rent are necessary.

(*b*) A list of evictions on unjustifiable grounds both before and after the passing of the present Act is enclosed. It is self explanatory. The Acts so far passed have not completely taken away the power of eviction.

16. Yes.

17. (*a*) It is not justifiable to pay compensation for the fixity of tenure for kudiyiruppus constructed by the holders themselves. It is enough if provision is made to recover the fixed rent and assessment in case of default.

(*b*) —

(*c*) The minimum extent should be one acre for each individual in rural parts.

18. The provisions in the M.C.T. 1. Act regarding payment of one quarter of the value of improvements to the janmi should be abolished. All yielding trees should be included in the list of fruit bearing trees.

19. There are collections. Besides pattams and michavaram, there are the following extra collections: Aathu, Oothu, Pattu, Thiyyattam, Thalappoli, oppu, soochi,

Avakasam, Kalcha, Thattu, Vechu kanal, Vasi, Neri, etc. It is enough if legislation is made to confer occupancy right and to prohibit such collections.

20. Yes. Punam and pepper cultivators should also be classed as tenants.

21. South Kanara and Gudalur should be included in Malabar.

22. (a) Yes. If the tenants' occupancy right is made imperative and beyond doubt there will be no hardship.

(*b*) The measures should be adopted through Civil Courts.

(*c*) (1) Yes.

(2) No.

(3) Renewal fees should be completely abolished. There should be no law to collect them.

23. The action of the officers and the interpretation of the law in order to harass the tenants should be stopped.

24. Although comparatively there may be some minor differences, the disabilities suffered by both are more or less the same.

N.B. In these circumstances it is requested that the disabilities and sufferings of the tenants—a fact well known to the Government since 1854 and explained by such great persons as Logan, etc., may be favourably considered and all the properties from which the tenants were evicted without compensation, irrespective of the fact whether it was done under Civil Court decisions, may be restored to the tenants or their heirs if they so desire.

By the CHAIRMAN :

Janmam as understood at present came into existence only after 1,000 M.E. The kanamdar had an irredeemable right in the land. There are instances where kanam right was purchased by the janmi. I produce a document showing such a purchase. There was no necessity for the janmi to purchase if the janmi had a right to redeem.

By Sri M. NARAYANA MENON :

There was no janmam, as now understood, prior to 1,000 M.E. The nature of the right which the person possessing a land had in it was kanam. Janmi means *Pramani*. In order that a third person might not trespass upon the land of the person who was in possession of it, he sought the help of a stronger man. 'I want your help and so I take this land *as from you* and I give you a premium.' That was how the *Pramani* was made a janmi. There was no document executed and the money paid to the *Pramani* was not considered as Kanartham and the *Pramani* got no right over the land. After the death of the original persons, the terms were reduced to writing and the relationship of janmi and kanamdar began. After many years had elapsed, they made this relationship apply to land. It cannot be said that the janmi paid the kanam value in the document I produce in order to avoid litigation.

By Sri K. MADHAVA MENON :

The kanamdar is a parasite. If the janmi also gets something without doing any labour, he is a parasite. Even though the kanamdar has invested some money and made the land available for cultivation and then leased it to verumpattamdar, I still say that the kanamdar is a parasite, if he does no work. If the verumpattamdar employs cooly labour and gets his work done, he is not a parasite, because the wages of the labourer is paid then and there. The wages should be increased a bit.

By Sri M. NARAYANA MENON :

Even if he supervises the cultivation, he is a labourer. He is not a parasite. A verumpattamdar who does not do actual work is a parasite.

Q.—When you said that out of the net produce, 50 per cent should go to all the verumpattamdars, I suppose you were wrong ?

A.—The verumpattamdar uses his intellect and therefore requires a greater payment.

If a very intelligent janmi sets a home and supervises all his cultivation, he must also get something more to his share. Similarly if an agricultural labourer also works intelligently, he should get more.

By Sri A. KARUNAKARA MENON :

If the kanamdar repairs the bunds and does other repairs to he land, he is not a parasite. There are many verumpattamdars who cannot afford to incur expenditure for repairing these bunds and other things.

By the CHAIRMAN :

In my opinion it is necessary to prohibit sales by cultivators to non-cultivators even though they might belong to the same tarwad. The yield of one acre of land will be about 100 paras of paddy. Cultivation expenses will be 30 paras. Out of the balance of 70 paras, 35 should go to the verumpattamdar. The balance of 35 should be divided between the Government, the janmi and the kanamdar. The assessment would be between four to five rupees or 10 paras. The balance of 25 should be divided equally between the janmi and the kanamdar. The janmam price of such a land may be Rs. 500. For Rs. 500 investment he will get Rs. 6½ as interest. It comes to about 1¼ per cent. From the tenant's point of view it is right. But from the janmi's point of view I have no opinion to offer. My opinion is that renewal fees should be abolished. If that is not possible it is better to pay them by instalments.

If a verumpattamdar lets out the land to another on account of his illness and his inability to cultivate on that account, he should be allowed to get back his land after he recovers. The present provision which enables a landlord to recover the land for his own bona fide cultivation may be retained.

By Sri K. MADHAVA MENON :

From the present condition of the tenant my formula will be a proper rent. I take into account that the actual cultivator has to purchase cattle, and there will be deaths among cattle, there will be loss of crops by accidents such as want of rain or excessive rain so that he will not get the net produce every year. Ordinarily he loses. Every year there are vagaries in the monsoon. By bona fide I mean for actual livelihood. The present provision of bona fide cultivation in the Act does not give any real protection to the tenant. I have given a list of cases where evictions have been made without bona fide purpose but on that pretext. The michavaram due to the landlord is not calculated generally as reasonable interest on the present market value of the land.

By Sri M. NARAYANA MENON :

There is no provision for any interest in my kanam. Rs. 5–8–0 is the kanam amount. I am myself cultivating that land. I get from 15 to 25 paras according to the year. The assessment is Rs. 3 to Rs. 5. Each year the assessment varies. My holding is a subdivision of a survey number and the janmi collects from three to five rupees. The janmi collects whatever he wishes. The Government demand also varies.

By the CHAIRMAN :

The yield is 25 paras. Ten paras for cultivation ; six paras for assessment ; out of the balance of 9 paras the janmi gets 4½ and the balance is 4½. I get 4½ paras net after paying the rent and assessment out of the land. This 4½ paras is not interest on Rs. 5. If a tenant is in possession of a large area of lands and wants only five acres for cultivation in order to maintain his family, he should not surrender the rest of the land to the janmi if the latter wants it, because he is only the nominal owner. Part of my kanam holding was improved by me and part by previous holders. My ancestors purchased this land. The janmi did not open up this land. I do not know when the land was opened up.

By Mr. R. M. PALAT :

Many janmis purchased lands at 2 paras as interest for one hundred rupees. I have no documents now but if you require them I will produce them. I will send them to the Committee or give the reference, date, year, etc. I have not actually purchased any land from anybody. I have lent out about Rs. 200. I get 12 per cent interest. The Michavaram was not fixed on the basis that the janmi will also get renewal fee. The landlord had no such idea in his mind and the point was never considered. I know of a kanam granted in 1046 M.E. For some 40 or 50 years afterwards, the landlord did demand the renewal fee. Even to-day there are lands which have not been renewed for 40 or 50 years. The Agriculturists' Debt Relief Act opened the eyes of the janmis and they insisted on their renewal fees. There may have been renewals before the Tenancy Act was passed. This is one of the ways of exploitation of getting money from the people.

30 Sri K zheppat Kuttikrishna Menon, Cherpulcheri.

1. (2) *Kanam.*—Formerly, the present kanamdars were the landowners. Wh n the ruling chiefs began to take over the lands by force, the occupants surrendered the lands to Brahmans and religious institutions and got them back on Kychit in the belief that the lands would not have to go to the ruling chiefs. Michavaram was only nominal and eviction was not heard of.

1. (4) *Verumpattam right* means only right of cultivation for one year. The verumpattamdars cultivated and paid pattam. If there were no arrears of rent they were not evicted. They only served as a sort of help to the kanam tenants. They did not wish to have a permanent occupancy right. The kanam tenants, both in the past and in the present, used to do the necessary repairs to the lands in case they were damaged due to the influx of water or other causes. The kanam tenants alone met the expenditure connected with the survey. They are also paying the assessment. It is the kanam tenants who bears the brunt of responsibility regarding his land.

2. *Janmi's right.*—The janmi's origin is as above. In course of time, it became absolute right. Originally, there was no distinction between the janmi and the kanam tenant. They had equal share over the land.

Verumpattamdar.—They have right of cultivation only for one year. Because they were serving under each janmi for each year, they had no permanent occupancy right. Even now, the pattam chits definitely stipulates the period of occupation to be one year. If there are no arrears of pattam, they and their descendants are allowed to enjoy the lands for any number of years.

3. Judicial decisions account for the transfer of exclusive title of the janmi and the liability of eviction of kanam right. Formerly kanam right was not liable to eviction.

4. (*a*) Yes. Several mistakes have crept in in recording.

(*b*) & (*c*) No.

5. (*a*) No.

(*b*) (1) No.

(2) Need not be limited.

(3) Not necessary.

7. (*a*) The michavaram enhanced in recent times may be reduced and the verumpattam fixed with reference to the Tenancy Act.

(*b*) For a land yielding 100 paras of paddy, the assessment comes to Rs. 10 and in some parts more. Taking, therefore, the present price of paddy, the assessment is 20 per cent or more of the yield. This applies to wet lands.

In South Malabar, the assessment is far above the yield in the case of garden and dry lands. The assessment is fixed not with reference to the actual yield but with reference to the actual extent. Even lands which do not yield at all have been assessed.

(*c*) Kanamdars should pay the assessment for wet lands leased on kanam. The kudiyiruppu holders should pay the assessment for the kudiyiruppus and the actual cultivators should pay the fugitive assessment. The assessment on lands not leased out should be paid by the janmi.

8. No amendment to the existing Tenancy Act is necessary.

9. It is risky to fix the fair rent on the basis of assessment.

10. There is no objection in remitting the michavaram and verumpattam in proportion to the remission of assessment.

13. (*a*) I am not in favour of abolition. The fixing of renewal fees as contemplated in the existing Tenancy Act is excessive. The renewal fees generally paid at the end of 12 years should be made payable yearly.

(*b*) If the assessment and michavaram are regularly paid and the renewal effected at the end of 12 years, the kanamdar may be allowed fixity of tenure.

If the verumpattamdar pays the pattam regularly each year and furnishes security for one year's pattam, he also may be given fixity of tenure.

15. (*a*) As mentioned against 13 (*b*), fixity of tenure may be granted.

(*b*) So far as I know, there are no cases of eviction.

16. (2) I am not in favour of framing rules against eviction.

17. (*a*) Kudiyiruppu holders paying assessment and pattam may be allowed fixity of tenure

18. The present Improvement Act does not require revision. But, mortgagees with possession should not have the right to make improvements. If improvements are effected, rules should be framed not to allow payment of compensation. The improvements of a tenant or a sub-tenant paying rent and assessment regularly should not be held responsible for the default of another.

19. I am not aware of any feudal levies other than those stipulated in the documents.

23. For the default of payment of assessment due by the janmi or the tenant, it is heartrending to proceed against the standing crop of the verumpattam tenant. It is equally heartrending to proceed against the janmi's movables for the default of payment of assessment due by the kudiyiruppu holders and fugitive cultivators. This practice also should be stopped by legislation. Government themselves should afford special relief for loss of crop due to natural causes.

By the CHAIRMAN :

The kanamdar was the sole proprietor of the soil and subsequently the janmi and the kanamdar became co-proprietors. This is the tradition. In olden days we find that documents have been taken from the tenant ; no documents seem to have been given by the landlord. It is necessary to make use of waste and forest lands for the benefit of the people at large. But the present owners themselves can do so. If they do not do so, I have no objection to the Government being invested with power to take possession of the lands and give them to actual cultivators. The present rate of renewal fee is $2\frac{1}{4}$; if it is reduced to $1\frac{1}{2}$ it would be fair and reasonable. As long as the provision for eviction for bona fide cultivation is maintained, the tenant will not have real security of tenure. The landlord must be allowed to recover land for the maintenance of the family, not otherwise. I have no objection to giving fixity of tenure to all kudiyiruppu holders. If the kudiyiruppu of the tenant adjoins that of the janmi, the tenant should not be allowed to purchase. It will ultimately be a trouble to the landlord ; that is my experience.

By SRI M. NARAYANA MENON :

If the janmi wants a kudiyiruppu to build a farmhouse there, it is better to get the land by paying for the improvements than to evict the tenant. If the kudiyiruppu holder is not willing to give the land, it is hard to evict him. Each case will depend upon the circumstances. The renewal fee under the present Act is certainly higher than it was before.

By Sri A. KARUNAKARA MENON :

If the michavaram has been increased it must be reduced. But as far as my lands are concerned, the landlord has not increased the michavaram nor have I increased the rent for my tenants. I cannot give instances of the rents having been increased. The income of the garden lands is not sufficient to meet the assessment. Because the janmi or kanamdar who is liable to pay rent has defaulted, the verumpattamdar's crops are attached. I am speaking from experience. The remedy for it is that the assessment must be made in the name of the kanam tenant. That was so prior to fasli 1311. It is very hard that the meagre profit of the verumpattamdar should be attached for arrears. The movables of the kanamdar may be distrained first. My tarwad possesses property paying an assessment of Rs. 1,500.

By Sri K. MADHAVA MENON :

If a kudiyiruppu holder pays his assessment on the property and the rent due to the janmi regularly, he should not be evicted. In giving fixity of tenure to the verumpattamdar, a year's rent should be taken as security. If provision is made that if rent is in arrears he will be evicted, that provision will give him the necessary inducement to pay, but if he feels that he has got security of tenure he will not pay. I have no arrears of rent from the verumpattamdars. Generally speaking they are not able to pay one year's rent as security. There will be only very few who are able.

By Sri E. KANNAN :

I object to legislation prohibiting the levy of things other than paddy and money in demises because it will lead to a precedent that no rent should be given hereafter. Oil is certainly produced on the land. Milk is provided in most of the devaswam documents. Even if buttermilk and other things are not provided, they are brought by the tenants ; they are necessary for the purpose of the temple.

By Mr. R. M. PALAT :

Ghee, oil, buttermilk, etc., are mentioned in documents. The price of those things is also given in the documents. They are to be considered as part of the rent. I have not refused to give waste lands when demanded for cultivation.

ERNAD TALUK.

MANJERI CENTRE—18th, 19th and 20th November 1939.

31 Khan Sahib V. Kunhi Moyi Haji Saheb, Manjeri amsam, Ernad Taluk.

1. (1) *Janmam.*—According to the ancient custom in Kerala, only the Brahmans (Nambudiris) and other local chieftains should have janmam title. The ruling chiefs distributed the lands among the Brahmans. The Nayars and other occupants of lands who had the utmost respect for Brahmans thought that they could not hold the lands except under the Brahmans and accordingly held the lands only on lease under the Brahmans. This is said to be the origin of janmam.

Since the commencement of the British administration, rich people also purchased janmam right for consideration.

(2) *Kanam.*—When the janmis referred to above happened to be in need of money, the occupants gave small amounts as kanam and held the lands on payment of fixed rates of michavaram in the bona fide belief that they would never have to vacate the land. This is known as the kanam right.

(3) *Kuzhikanam.*—This is very rare in South Malabar.

(4) *Verumpattam.*—This is a right of cultivation under the janmi and the kanamdar on payment of pattam.

(5) *Other tenures.*—Very rare.

2. Please see answer to question 1.

3. In olden days, it was never the practice for the janmis to evict the kanamdars. Since the British administration started, the Courts construed the kanam right to be a mortgage liability and conferred upon the janmis the right of eviction; consequently, eviction and Melcharth were on the increase until the passing of the Tenancy Act.

4. (*a*) Yes.

(*b*) Yes.

(*c*) If the owners of waste lands do not cultivate them themselves nor lease them for cultivation to those requiring them, legislation should be made to lease out such lands through the agency of the Revenue Department. A small amount should be given to the janmis annually.

5. (*a*) No; for, whatever may be the origin of janmam, there are three distinct classes of persons having right over the lands in Malabar from time immemorial, viz., janmis, kanamdars and verumpattamdars; and I am of opinion that these three classes must continue as before without harassing each other and without being a hindrance to the welfare of the country. I am therefore of opinion that the janmam right which was being exercised from olden days should not be taken away.

The intermediaries between the janmi and the verumpattamdars are the kanamdars. The janmis and the kanamdars are the joint holders of lands from time immemorial. I think that it is not correct to call kanamdars "intermediaries" and that it is likely to give rise to misunderstanding. There are thousands of families in Malabar who depend upon their kanam properties for existence on the bona fide belief that they will never be evicted. It is on this assumption that kanam lands are purchased and sold for an amount which is far in excess of their kanam value. Many janmies own extensive lands. They do not generally cultivate the lands. The major portion of such lands is in the possession of kanamdars. Many janmis seldom know the lie and extent of their various lands. The kanamdars either cultivate the lands themselves or when it is found inconvenient entrust the lands to the verumpattamdars. The majority of the verumpattamdars are poor. The kanamdars help them with seed, cattle and cultivation expenses. The kanamdars have to suffer when crops are lost on account of floods, want of rain and other reasons beyond the ryot's control. The kanamdars also are responsible for payment of michavaram and for any increase of assessment made at the settlement. In short, the kanamdars are directly responsible both to the janmi and to the Government for payment of their dues whether they cultivate the lands themselves or through the verumpattamdars. The kanamdar has also to provide the necessary irrigation sources such as tanks, wells, thodus, etc., necessary for cultivation and see to the proper maintenance of the bunds, etc., of the paddy lands.

The majority of the verumpattams are unable to meet the above expenses and they depend on either the janmis or the kanamdars for them.

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(*b*) (1) Need not be allowed.

(2) Need not be limited.

(3) Should not be prohibited.

6. It should be made clear that the right of one tenant is not held liable for the default of another, be he the kanamdar or the under-tenant and that the improvements of the verumpattamdars are not liable for the arrears of michavaram, etc., due by the kanamdars.

7. (*a*) Half the yield should go to the cultivator towards the cultivation charges and remuneration for his labour and the remaining half should be paid to the land owner. The assessment should be paid by the land owner.

But, according to the contract, now in existence, if the michavaram and pattam are increased or decreased, the consequence will be the increase of suits and the resultant hardship to the ryots.

(*b*) Generally, the assessment does not bear any proportion to the yield.

Seeing that it would be worth while to point out the hardships caused on account of the assessment, they are explained below :—

To convert one acre of land into a garden, only ten coconut trees or five jack trees are sufficient. As the yield from these trees is quite insufficient to meet even the assessment, much hardship is caused. In a big subdivision measuring, say, ten acres, if there are trees in any one corner sufficient to make it eligible for transfer to garden, the entire subdivision is transferred as such. This will be clear if enquiry is made through the Revenue officers. In the report of the settlement officer of 1930, he says about jack trees:" The important garden trees in Malabar are coconut, arecanut and jack trees. Not " " only that the garden lands containing jack trees alone are very rare but I do not remem- " " ber to have seen a single garden of only jack trees anywhere in the district. As stated " " in the District Gazetteer, jacks have no commercial value worth mentioning. The owner" " after utilising as much as is necessary for his own use sells the rest if there is a shop " close by " ; and in Chapter IV of the Gazetteer it is stated that jacks are the food of the poor class.

In the circumstances, the system of assessing jack gardens should be stopped. Unless there are 50 coconut trees per acre, a land should not be assessed as garden.

In the case of unoccupied dry lands, modan and gingelly crop are raised one year and chama the next year. As chama is separately assessed, the poor folk, whose main food is chama, has to give up this cultivation altogether.

A land is permanently assessed when a house is constructed, when a permanent fencing is put up and when cultivation is raised for three successive years. It is hard that even small huts are permanently assessed. A wall or a fence is a necessity for cultivating or for planting trees on a waste land. After putting up a fence, the land is first tried with modan, etc., cultivation and then left waste for three or four years and again tried with some other cultivation. Now ryots keep quiet without attempting any such cultivation fearing that the land will be assessed immediately a fence is put up. In the first year, a waste land is cultivated with sweet potatoes or some such things, the second year with modan and gingelly and the third year with some other fugitive cultivation. Now, such cultivations have been given up and the lands are left waste fearing that they will be permanently assessed if cultivation is raised for three consecutive years.

In the circumstances, the rules regarding permanent assessment for the reason that a wall or fencing has been put up or that a waste land has been brought under cultivation for three successive years should be amended. Even if a land has been fenced or walled round, assessment should be levied only when puncha crop is raised on it and, if it has been planted with trees, only when the trees have actually begun to bear. If the rules are so amended, many of the existing waste lands are likely to be brought under occupation with the result that cultivation will increase, the labouring class will find sufficient work and the Government also will get more assessment.

In the case of single crop wet lands, there are many instances in which the land owner gets nothing after payment of the assessment.

(*c*) The person liable to pay according to the terms of the lease.

8. (*a*), (*b*) & (*c*) The existing Act will do. But in the case of lands reclaimed by the tenant and converted into wet, dry or garden, the fair rent should be reduced by half.

9. No.

(*a*), (*b*) & (*c*) The question does not arise.

10. Yes.

11. Yes.

12. A small amount was paid during "Purushantharam" to retain the relationship between the janmi and the tenants. This is known as renewal fee.

13. (*a*), (*b*) & (*c*) No. But the figure $2\frac{1}{4}$ mentioned in section 17 (*a*) of Chapter IV of the Tenancy Act should be reduced to $1\frac{1}{4}$ and if the tenant so desires the amount should be made payable in instalments not exceeding 12 years.

14. No.

15. (*a*) Yes. Suits for eviction have been filed in Manjeri Munsif's Court (and gone up to appeal Courts) by janmis residing in distant amsams on the pretext that they are required for cultivation or building purposes. Eviction is also carried out under threat.

The term "bona fide" is defined by different Judges in different ways.

16. (1) Yes.

(2) A verumpattamdar should be exempted from furnishing security if he has occupied the land for 12 years continuously without leaving any arrears of pattam.

17. (*a*) Yes. The land owner need not have any compensation other than purappad and renewal fee in the case of kanam lands and pattam in the case of verumpattam lands.

(*b*) & (*c*) The minimum extent that is absolutely necessary in urban and rural areas should be granted.

18. No special remarks to offer.

19. Presentation of plantain fruits for Onam, payments for annual festivals, payments for marriages, etc., in janmi's house and such other payments over and above the michavaram or pattam should be stopped even if they are specified in the documents.

20. (*a*) It does not seem desirable to extend the provisions to Punam cultivation.

(*b*) There are no pepper gardens in these parts.

21. (*a*) & (*b*) Yes.

22. (*a*) Although the market value of paddy, coconut, etc., is published in the Gazette as provided for in the Tenancy Act, the illiterate tenants, in the interior parts, have no chance of being aware of such prices with the result that the janmis collect excessive value in cash and issue receipts for kinds and not for the money received. The price of the various commodities should therefore be published in the local publications, public offices and villages. When the collection is in cash, the commutted value of the article should be mentioned in the receipt.

(*b*) In the case of time expired renewals after the passing of the Tenancy Act, the Civil Courts adopt different methods in arriving at the proportionate renewal fees and interest for the period in excess of twelve years. The best course is to exempt any period in excess of 12 years from liability of renewal fees.

(*c*) (1) Provision for summary trials, in order that the land owner and the tenant may be relieved of excessive Court fees and other attendant expenses, is necessary.

(2) No.

(3) The right to file suits or applications may be allowed. But if the tenant is prepared to surrender the land, he should not be sued for renewal fees alone.

23. As according to the existing Act, the tenant can be evicted if the janmi wants the land for his personal use, the tenant's right over the wet lands is valued by the Land Mortgage Bank at a rate which is far below the local market rate. The tenants, therefore, find it difficult to raise loans from the Bank on the security of their rights in the lands.

The provisions of the Land Improvement Loans Act should be extended so as to grant loans for improving the fertility of the lands.

24. Yes.

By the CHAIRMAN:

I was Taluk Board President for ten years, for three continuous terms. For the last 15 years I have been member of the District Educational Council and for 10 years a member of the District Board. I am both a janmi and a kanamdar. My lands are half kanam and half janmam. I am not a big landlord. I have got about 200 acres of land. Most of my properties are in the possession of tenants. This year I am not directly cultivating any land. Before I was cultivating directly about 30 paras seed area of land. From my experience, from the number of documents I have seen, from the historical

information that I have got and from the enquiries that I have made, I have come to the conclusion that kanam is irredeemable. To my knowledge I have not heard of a janmi who has evicted a tenant when he was paying the rent and the renewal fees regularly. In Cochin and Travancore the ruling Prince is also supposed to be the landlord. When the British acquired Malabar they only assumed the Government of the country. But the ownership of land still remained with janmis like the Zamorin.

I have no objection to Government assuming charge of waste lands and collecting the usual rents. The irrigation sources must certainly be taken control of by Government. In the case of forest lands it must be done under certain restrictions and conditions. For example, to take firewood and other such materials from Government forests there are many restrictions. But from the forests belonging to the janmis, people can easily take firewood and such other things by getting a simple permission from them. I have no objection to compelling the private owners to work the forests in accordance with certain rules framed by Government experts. It ought to be done. Proper facilities should be given to agriculturists and cultivators and poor people to take green manure and firewood from the forests, when they want them. I am not particular whether it is done with or without permission. If a person asks the landlord direct for such articles as green manure and the landlord refuses, the agriculturist must be given permission to take such things with the permission of the village officials. If an agriculturist pays a fixed price for the green manure at the taluk office he must be entitled to collect the green manure and firewood. If the landlord does not permit that, the taluk officials must be authorised to permit him to take them. But the people should not spoil the trees or commit any damage.

By P. I. KUNHAMMAD KUTTI HAJI Sahib Bahadur :

Cultivators have to pay for green manure unless there is a specific contract with the landlord. It depends upon the nature of the locality. In the village of Mambad which is a forest area green manure is not costly. In another part of the same taluk green manure is a source of income to the owners of parambas.

By Sri A. KARUNAKARA MENON :

Green manure is of two kinds, green leaves grown on trees like teak and the shrub and undergrowth in the forests. If you remove the shrubs and undergrowth it will not do any harm to the forests.

By Sri K. MADHAVA MENON :

If agriculturists get green manure free, there will be discontent among the owners of the forests. When I said that a price should be paid I meant a very nominal price depending upon the nature of the locality. In forest areas the price can be very low. In other places the tahsildar must be asked to fix the price. People should not be allowed to take green manure to sell it.

By Sri A. KARUNAKARA MENON :

If janmis had been giving waste lands freely there would not have been so much waste land uncultivated. If they give waste lands they impose restrictions. Further the landlords feel that they will not be able to evict the tenants if they make improvements.

By Sri E. KANNAN :

There is a lot of cultivable waste land in Malabar and there is a demand for it. I have no definite data with regard to the origin of janmam. I do not agree with the theory that janmam was acquired by people clearing those forests, cultivating them and occupying them. From my historical researches and readings I have found that people were made to believe that it was only certain castes who could hold janmam right. That belief is still extant in certain portions of Kerala.

By Sri N. S. KRISHNAN :

If the lands are near forest areas, the manure should be given free and if they are very distant some fee should be charged. Cultivation on waste lands is of two kinds; certain crops like gingelly will yield even after a year, whereas certain other crops like coconut will yield only after a certain number of years. In the case of the former, the landlord should be given his due from the very beginning while in the case of the latter the landlord should be given his due only after the trees have begun to yield.

By Sri P. K. KUNHISANKARA MENON :

I am of opinion that if any restrictions or difficulties are created by the private owner of forests the Government should interfere and remove them. That would be sufficient. Kanam is not in the nature of a mortgage. It is a sort of *Tirumulkalcha* which the cultivator gives to the landlord which is regarded as kanam It is desirable and necessary to restrict the cutting of forests to certain limits.

By Md. ABDUR RAHMAN Sahib Bahadur:

Whether it is according to the principles of Islam or any other principles, the cultivator must have a reasonable share of the fruits of his labour.

By the CHAIRMAN :

Even if the right of purchase is given, not even one per cent of the present cultivators will be able to avail themselves of it. I have no objection to it, provided the reasonable market price of the kanam is paid.

By Sri A. KARUNAKARA MENON :

The intermediaries can purchase other lands with that money. The ordinary investment of our people is on land. I do not agree to such purchase in all cases.

By Sri U. GOPALA MENON :

If tarwads are allowed to sell their kanam rights and convert them into money, they will simply be ruined. What I meant was this : If a cultivator had sufficient funds to purchase the rights of his superior and if the superior holder has facilities to purchase other lands, such a case might be allowed. I am not for providing for compulsory purchase of such rights.

By the CHAIRMAN :

No compulsory right should be given in the case of defaulting intermediaries. In such cases the under tenant must be allowed to pay his dues direct to the landholder. If a tenant refuses to renew, the sub-tenant should be permitted to take renewal. If the under-tenant is in possession of only a small portion of the holding, he should be asked to pay the dues proportionately to the area occupied by him. The same principle should apply to renewals. The court should fix it.

By Sri A. KARUNAKARA MENON :

The sub-tenant may be allowed to pay the renewal fee and sue the tenant for the amount.

By Sri U. GOPALA MENON :

No one is prepared to part with any interest in land, except under circumstances of distress.

By Sri K. MADHAVA MENON :

The kanamdar and the janmi are joint proprietors. The old system of joint proprietorship should be restored. That is my demand.

By Md. ABDUR RAHMAN Sahib Bahadur :

I feel it is practicable. Even though British administration has been here for 150 years, the old system of tenure in Malabar had been in vogue for thousands of years before that, and it is still in vogue in certain parts. It is because of that that I say the old system should be restored. I do not mean that the ancient practice of the Brahman not taking to the land should come back. The relations between the landlord and the tenants have become strained because the population has increased, and each man is not getting enough for his labour. The civil courts changed the ancient usage and gave the landlords power to evict the tenants ; when they got the power, they began to use it arbitrarily ; that is the genesis of all this trouble.

By the CHAIRMAN :

Fifty per cent of the gross produce will be equal to the one-third of the net yield as calculated according to the present provision. If there is any difference it should be given to the tenant. The actual seed required will be generally a little less than the seed customarily deemed to be required. I would prefer fair rent fixed at 50 per cent of the gross produce. I would suggest that conciliation boards be formed to fix fair rent. If it is to be done by revenue officials, it should be by persons not below the rank of divisional officers ; in any case it should not go below the Tahsildar. Further, if it is to be done by revenue officials, such revenue officials should personally inspect the spot and they should not depend on reports.

There are three complaints about assessment. Where the paramba is enclosed by a fence or a wall, it is assessed ; or if the paramba is continuously cultivated for three years, it is assessed ; or if in a paramba there are ten coconut trees per acre it is permanently assessed as garden. In some cases, the assessment payable is more than the income the janmi gets. In my own case where I have to get a rent of 3 rupees under a registered document, I have to pay a revenue of four rupees. This is in Irumbuli amsam. I shall try to send a list of such cases giving survey numbers and amsams. Even pallials (seed beds) are permanently assessed. In such cases the owner will not get anything

out of the land after paying the assessment. The tenant after paying assessment and michavaram will have nothing left. Many tarwads have been ruined by the renewal fees; but as it has been long in vogue I am not for abolishing it. The rate should be reduced to one instead of 2¼ and must be distributed over 12 years. It should not be made part of the michavaram. It must be made a separate money payment. If the land becomes unfit for the purpose for which it is intended and has become unprofitable or impossible of improvement, not through the neglect or default of the tenant, he must be permitted to relinquish and must get his kanam and value of improvements. I am in favour of restricting the landlord's right to sue for eviction on the ground that the landlord requires lands for bona fide purposes of cultivation or building. It is only if the landlord says that the holding or a portion of the holding is required for his absolute livelihood for cultivation that he should evict such portion as could reasonably be cultivated by him; and such portion must be near his residence. If the landlord already has other lands available for cultivation, then the tenant should not be evicted. I produce a plaint where a landlord residing in Chirakkal taluk has sought to evict a tenant in Pookothur in Ernad taluk alleging that he wants the land for bona fide cultivation. The landlord's house is more than 100 miles from the place where the land is situated. The registered notice issued shows that the tenant was in arrears of 2½ Edangalis. The suit for eviction was filed after the tenant had paid that. The suit was dismissed in the lower court. But in a similar case the District Court had decreed eviction. The parties being poor, did not want to contest it in the appellate court and they surrendered the property.

The same landlord filed a suit for eviction against Kadath Kunhammad in O.S. No. 59 of 1936 in Manjeri Munsif's Court. Eviction was disallowed by the lower court; but it was reversed on appeal in A.S. No. 386 of 1936. The contention of the tenant was that the landlord had taken money from his enemies with the idea of giving the land to them. The landlord admitted in his deposition that he had taken Rs. 200 from certain people. In another case this identical landlord filed a suit for eviction on the ground that he wanted the property for building a motor shed. He has not constructed the motor shed. The landlord also sought to evict two Nair women from their Kudiyiruppu and as they were too poor to contest the matter they had to surrender and leave the locality altogether. Their assignor had been in possession for ten years. I am of opinion that the provision should be deleted altogether. If the tenant who has actually cultivated is obliged to give it to another, some provision might be made in new leases for him to recover it. But the existing holdings should not be disturbed. If the provision cannot be abolished altogether, it would be sufficient if the tenant who has been continuously in possession for two years is not evicted. Ten years is too long.

A good verumpattamdar, good in the sense of payment of rent, should not be disturbed. In the case of dry lands even if the occupation had been for one year he must be given permanency. If the dry land had been leased to be brought under cultivation he should not be disturbed. A number of Panchayat Courts in my experience are doing satisfactory work. But there are others which are not doing satisfactory work. I think in cases where the amount is below Rs. 100 they may be given jurisdiction for disposing summarily of suits for rent.

By Sri A. KARUNAKARA MENON :

If the Committee decides to retain the renewal fee it would be better to fix it on the basis of assessment.

By Sri N. S. KRISHNAN :

Whatever the unreasonableness of the revenue, it will not come to the present renewal fee. One year's assessment will be a proper renewal fee.

By Sri P. K. KUNHISANKARA MENON :

The rate of michavaram in kanam demises should depend upon the contract. It is usually less than the verumpattam.

By Sri K. MADHAVA MENON :

Cultivation expenses vary according to the time and place. In the case of single crop lands, the major portion of the work is in the month of Karkatagam and the wages will be very low. If the work is to be done in the month of Kanni or Thulam the wages will be increased by one-fourth. As the cultivation expenses vary in many places, I have said that inclusive of the cultivation expenses the tenant must get 50 per cent of the gross produce. That will satisfy the average tenant. But I cannot say definitely what will be the cultivation expenses in proportion to the seed. I have not made allowances for the death of cattle, pests and other accidents. I cannot say definitely what proportion of the seed formed the cultivation expenses in my cultivation.

By Sri E. KANNAN :

I know that after the appointment of this Committee landlords have been bringing pressure to bear on tenants to effect renewals fearing that renewal fees might be reduced, but I am not sure of eviction suits. The cost of cultivation will be more than the seed. The wages of an agricultural labourer are less than those of a cooly. I cannot give the exact proportion. The reason is that his master keeps him on throughout the year and he is therefore given smaller wages. An able cooly will get four annas ordinarily in Karkatagam but in Kanni or Thulam he will get six annas. The lowest wage for a woman worker is two annas and a male worker will get from 3 to 6 annas.

By Sri M. P. DAMODARAN :

Fugitive cultivation is not prevalent in these parts. It is prevalent in North Malabar.

By Sri E. KANNAN :

The prices of banana bunches and other things (given to the janmis on certain occasions) are specified in recent documents ; I cannot say whether they were in the old documents or not.

By the CHAIRMAN :

Some landlords are purposely keeping the rent in arrears so that they may set it off against the value of the improvements due to the tenant. We must provide by legislation that a landlord should not keep his rent in arrears for more than three years and that if he does so, he will lose the rent for those years.

In eviction suits, the minimum Vakil's fee is fixed at Rs. 25 ; it should be reduced and the fees should be *ad valorem* fees.

32 Sri K. C. Manavikraman Raja, Valia Raja of Kizhakke Kovilakam, Kottakkal, S. Malabar.

The witness ageed with the answers prepared by the Malabar Landholders' Association with the following alterations :—

The answers to questions 4 (*b*), 10, 17 (*b*) and 20 (*a*) are substituted by the following :—

4. (*b*) Not at all. (See appendix.)

10. See appendix.

17. (*b*) Municipalities, Unions and Panchayats should be exempted from the provisions relating to the Kudiyiruppus.

20. (*a*) No. (See appendix.)

APPENDIX.

Q : 4. (*b*) But as regards "forests" it should be made compulsory that the "property mark" be registered in the name of the Janmi only. The present practice of registering property marks in the name of all those who have interest on the holding must be stopped. Drains and lanes must always belong to the Janmi and the janmam registry should be in his name.

10. No. As the kanam tenants are bound to pay the assessment themselves whatever remission is allowed is enjoyed by them while in the case of the Verumpattam tenants the Janmi pays the assessment.

20. But in the matter of fugitive cultivation the Janmi ought to get a rent equal to two times the assessment.

By the CHAIRMAN :

I am the Valia Raja of Kizhakke Kovilakam, one of the branches of the Zamorin's family. The Zamorin is the biggest janmi in Malabar. He pays an assessment of over one and a half lakhs. My Kovilakam pays an assessment of about seventy to seventy-five thousand rupees. I cannot say that the Kizhakke Kovilakam became janmis by clearing jungle. Most of the present janmis have come to their janmam either by purchase or by transfer. In the Kizhakke Kovilakam there are many lands which have been purchased. The Zamorin was a ruling power and got his lands by various other means, as for example by escheat. It cannot be said that he got his properties by purchase. Our forest and waste lands were also got by purchase. Kanam was a redeemable right which could be redeemed at any time the janmi liked. I make that statement on the authority of Major Walker. I have not come across any document which shows that a kanamdar was evicted before 1852 although he was paying the rents due by him to the janmi regularly. The tenures in Cochin and Malabar are similar ; but not those in Travancore ; at any rate, those in North Travancore may be similar, but not so those in South Travancore. My

statements about the origin and nature of these tenures are gathered from writers like Major Walker and Logan and not from original documents. I cannot give any particular reason for presuming that all lands in Malabar including forest and waste lands belong to private owners. There are provisions in the Forest Act for controlling private forests. I think Government also can acquire forests for the public good. I do not object to such restrictions as are moderate and reasonable. My only contention is that private owners should be compensated for any injury caused to their rights. If the restrictions will not reduce the price of the property, I shall have no objection. The Government may take charge of waste lands and irrigation sources for the public good, if the janmis are compensated. If a reasonable rent is fixed as regards waste lands, I have no objection. I don't think it is desirable to purchase intermediary rights. I doubt if it is practical.

The fair rent fixed for garden lands is not really fair; it ought to be raised. The present provision for fair rent for paddy lands and dry lands may stand. I shall send a list of cases where the rent realized by the landlord is less than the assessment payable by him and others where the assessment of parambas is more than the income therefrom. I have no objection to spreading the renewal fee over a period of 12 years, but I do not like it. As a last resort you may have it, but it is not to my liking. Renewal fees should be payable for every period that has expired since the last renewal. In some cases the tenant may not be able to pay this. I do not know whether many tenants pay the renewal fee by mortgaging their property.

The words 'bona fide' should be omitted. I am of opinion that it is necessary for the court to be satisfied that the landlord wants the land for his own cultivation. If that is the meaning of the term 'bona fide' they may be retained. I will have no objection even to limit the number of acres which can be evicted for each individual, say to 10 acres of dry land and 10 acres of wet. So if the landlord's family are already in possession of such an extent of land, the landlord should not be given the power of eviction. Personally I do not think there is any harm in extending the provisions to Gudalur and Kasaragod taluks also, as they are part of Kerala.

By Sri U. Gopala Menon :

Kizhakke Kovilakam acquired their properties mostly after the advent of the British. Sthanams were in the nature of public offices and to all the sthanams were attached lands for their upkeep. Until the Mysore invasion, that is during the Zamorin's time, the rules of Hindu polity were very closely observed in Malabar. The kings were entitled to one sixth of the produce. The king's revenue was mostly from indirect taxes. The Kanam tenant has an unearned profit, and that is the justification for the demand of renewal fee. It was existing before; and after the advent of the British. The reports of early English observers about the land tenures in Malabar are my authority. I am not aware of any other authority. I have no objection to restrictions on private owners by which they are prevented from cutting trees below a certain girth.

By Sri K. Madhava Menon :

If fair rent under the Tenancy Act reduces the present income of the non-cultivating kanamdar, let him cultivate the land himself, or let him give it up. The renewal fee is the excess profit that the tenant gets computed not for the next 12 years, but for the past 12 years. If a tenant finds that his holding has become absolutely unprofitable because of cyclones and floods, or the property has lost its value, or prices has fallen. I have no objection to revising rent according to the conditions of the time.

By Sri A. Karunakara Menon :

For every member of the family 20 acres of land should be provided for their livelihood. They want a means of occupation in addition to their livelihood. Persons of other occupation would have to meet other expenses also. We should provide for that. In respect of fair rent for garden lands, the one-fifth and two-fifth shares should be fixed exclusive of the revenue. If the Act is not clear on that point, it should be made so.

By Sri E. Kannan :

It is not every ordinary person that would require 20 acres. I am talking of my Kovilakam members. They have to keep up a certain standard of life, lead a certain decent life that is expected of them with certain servants and meet certain kinds of expenditure that do not obtain among others. I have not considered how much an ordinary person would require for his livelihood. I have private land. For every para of seed, the cultivation expenses will be four times more. We pay Cherumas every day, whether there is work or not, 2 Edangalis of grain to the women and 3 Edangalis to the men. Some tenants may have suffered from renewal fees but those who have prospered are more numerous. So far as my Kovilakam is concerned none have suffered. If a member of my family says 20 acres are not sufficient for him to lead a decent life, I would not increase the acreage which he might evict.

33 Sri E. K. V. Thirumulpad, Amarambalam Kovilakam Valia Raja, Ernad Taluk.

1. (1) *Janmam.*—When Kerala became fit for habitation, all the lands belonged to the Brahmans. The others acquired janmam title from them either on "Anubhava Avakasam" (enjoyment right) or on payment of compensation. Most of the existing janmam lands were acquired for consideration.

(2) *Kanam.*—When all the janmam lands belonged to the Brahmans, they did not themselves work on them as they were engaged in purely religious functions. (Even now according to the social laws and the Smrithi, Brahmans are prohibited from engaging in cultivation). The Brahmans therefore, leased out the lands for cultivation to others on condition of payment of a portion of the yield for their maintenance. In course of time, as the persons willing to take the lands on lease increased and as the Brahmans were in need of money, an amount known as "Kanam" was paid by the lessees and accepted by the Brahmans and a right known as "Kanam right" came into existence.

(3) *Kuzhikanam.*—I do not know as this is in vogue only in North Malabar.

(4) *Verumpattam.*—When the land owners were not prepared to cultivate the lands themselves, they were let out for cultivation, without receiving any amount in advance to those willing to cultivate and pay a portion of the yield. This was, in course of time, known as verumpattam right.

(5) *Other tenures in existence in Malabar.*—(1) Mortgage, (2) Otti, (3) Anubhavam, (4) Kovilakam verumpattam lease, etc. Except those mentioned above, other tenures are very rare in South Malabar. It is not therefore possible to give a detailed description about them.

2. A janmi had absolute right over the land (including everything found over the land and underneath the earth). In the case of the tenants, those who had paid kanam amount had right up to their kanam amount and those who had not paid anything had a right over only a portion of the yield.

3. Yes in some cases.

4. (*a*) Yes.

(*b*) If the owners of waste lands are not prepared to reclaim them and render them fit for cultivation, they may be given on payment of due compensation or of a fixed share of the produce to willing and needy cultivators. Forests and irrigation sources may be made available for use by the adjoining cultivators.

(*c*) Yes, upon payment of sufficient compensation.

5. (*a*) No at the present juncture. If it has to be done, the several rights should be duly compensated.

(*b*) (1) May be allowed.

(2) Not necessary.

(3) Not necessary.

6. The present Act almost serves the purpose. If there is anything wanting in it, necessary amendment should be made in order to safe guard the under-tenants' rights. The most important amendments necessary are that, if the intermediaries do not pay the assessment, pattam, michavaram, etc., due to the janmi promptly, the under-tenants should have the right to pay them to the janmis direct.

7. (*a*) As the fertility of the soil and the system of tenures are different in various parts of Malabar, it is very difficult to fix a uniform rate. It would therefore be easy and advantageous if the yield and pattam were fixed on the basis of the principles underlying the original Revenue Settlement. (Please see Settlement Report). But the grouping has to be altered in many cases. A special enquiry should be held for this purpose and the grouping reorganized with reference to the existing conditions. If so, the yield of each land can be definitely ascertained. As the net income, exclusive of the cultivator's share, can thus be found out, such net income should be fixed as the pattam due to the land-owner. The intermediaries should get an income proportionate to their investment. The balance should be fixed as the pattam due to the janmis. If the intermediary has not invested any money, he should not get any portion of the income.

(*b*) This is different in several places. But, roughly, it is 6/10 of the produce as fixed in the Settlement rules. In some cases, it is more. There are various reasons for this. The important reason is the defect in the grouping and classification.

(*c*) The occupant should pay the assessment. If there is no condition to this effect in the existing leases, the assessment should be paid from the pattam amount.

8. (*a*), (*b*) & (*c*) Yes. This should be fixed on the basis of the settlement principles.

9. (*a*), (*b*) & (*c*) Please see answer to question 8.

10. Yes.

11. Yes. But, the ordinary persons should not have any difficulty in making use of the existing approved weights and measures.

12. It appears the renewal fees originated from two reasons. Firstly, the janmi's share of the annual yield was very little compared with the kanamdar's share. Secondly, the courts fixed the time-limit for kanam right.

13. (*a*) If the majority of the tenants are in favour of abolition, it may be abolished. But, there should be the condition to pay to the landowner a reasonable portion of the net income from the land.

(*b*) Please see answer to question 13 (*a*). If that proposal is accepted, compensation is not necessary.

(*c*) If the renewal fee is not going to be abolished, the existing Act does not require any amendment so far as it relates to the amount of fees. But there should be legislation for prompt payment and acceptance.

14. Need not be revised so far as verumpattam right is concerned. In the case of kanam, etc., right, if the kanamdars allow dry lands to lie waste (without cultivation or growing trees) the landowner should have the right to obtain surrender of such waste portions.

15. (*a*) Yes. The fixed amounts should be paid to the janmi promptly and security for one year's pattam should be paid to the janmi on demand. The janmi's title to the land should not be interfered with and the land should be preserved in good condition.

(*b*) No, so far as I know. No amendment is necessary.

16. (1) & (2) No. But if the tenant has no other lands, he should not be evicted for the reasons mentioned against 16 (1).

17. (*a*) It is desirable to fix the extent necessary for a kudiyiruppu and to allow fixity of tenure on such extent. No compensation need be paid for such kudiyiruppu sites.

(*b*) No.

(*c*) (1) Forty cents.

(2) One acre. If kudiyiruppu sites are used for commercial purposes, there should be the right to increase the pattam on the basis of the income derived from the business.

18. The following changes seem desirable. In the case of improvements which are valued at more than 25 per cent of the market value of the land and which will not yield an income equal to the interest on the estimated value, no compensation towards the value of the improvements should be demanded from the janmi. But if the lands on which such improvements exist are not required by the janmi, they may be leased out to new tenants. It is desirable to fix one year's time limit for the execution of a decree for surrender on payment of the value of improvements.

19. I do not know. It is desirable to prohibit payment and acceptance of any such levies.

20. (*a*) & (*b*) No.

21. (*a*) & (*b*) Yes. In the case of big coffee and tea planters in Gúdalur taluk, no revision of the existing system is necessary. The intended legislation should not be made to apply to the above cases.

22. (*a*) & (*b*) Yes. The pattam should be fixed on the basis of the assessment and the renewal fee should be fixed on the basis of such pattam. It should be possible to recover the pattam by a simple petition to the civil court ; on the authority of that petition, the defaulter's movables or immovables, as the case may be, should be attached as in the case of recovery of arrears of land revenue. If the defaulter has any objection to make, he should put in his objections within a period not exceeding one month from the date of attachment. If the objections are untenable, the property should be brought to sale if the arrears are not recovered in the meanwhile. But, if the objections are reasonable, the janmi's petition should be dismissed with costs and such other compensation to the counter-petitioner (the tenant) as the Civil Court may think fit to award.

(*c*) (1), (2) & (3) See answer to question 22 (*a*) & (*b*).

23. & 24. I do not know.

By the CHAIRMAN :

I own properties paying an assessment of about Rs. 2,000. A large part of my properties are unassessed as they are forest lands. I do not know that there is no presumption of private ownership in the neighbouring States of Travancore and Cochin. I cannot say the reason for making this distinction between lands in Malabar and other parts. But that was the practice in Malabar even before the advent of the British. I have not seen any documents stating that all lands belong to private owners. Government may be empowered to take possession of forests and waste lands and irrigation sources and utilize them for the advantage of the people if proper compensation is paid. I will be satisfied if the present rights of the owners are safeguarded. Provision may be made for the under-tenure holders to pay direct to the landlord. If the tenant does not take the renewal, the under-tenure-holder should have the right to take the renewal direct and he may be authorized to take renewal of the lands in his possession.

By Sri A. KARUNAKARA MENON :

The sub-tenant should get the renewal only of his proportionate share.

By Sri K. MADHAVA MENON :

All my janmam lands were purchased about 400 or 500 years ago, from Brahmans and others. Big landlords like the Zamorin were employed by the Brahmans for the safety of the country and the Brahmans gave them their properties as a gift. They have got vested rights and it is not proper to remove them now. Ancient Brahmans followed the Smrithis strictly. They could not have reclaimed the lands. Other people also were brought along with them to cultivate. Lands were brought into cultivation by Kanamdars and agriculturists. Kanam was not started for monetary considerations. The idea that kanam is a sort of mortgage is very recent.

By Md. ABDUR RAHMAN Sahib Bahadur :

The waste lands belonging to the janmis were purchased by them. I have not heard complaints that janmis are refusing to give lands to prospective tenants. In eliminating the intermediaries compensation should be paid to them on the present market value of their rights.

By Sri A. KARUNAKARA MENON :

If the intermediaries are allowed to purchase the rights of their superior landlords the same complex system will be brought into existence and I do not think it will be good for the country.

By the CHAIRMAN :

For fixing the fair rent there should be a regrouping of all lands for assessment and fair rent should then be based on assessment. For wet lands fair rent should be five times the assessment. For garden lands fair rent can be equal to the assessment. The assessment of wet lands is not really six-tenths of the pattam. In the first settlement it was two-tenths. Five times the assessment would come to the total net yield. It would not be unreasonable to fix the fair rent at that proportion. The assessment in some cases exceeds the income in garden lands. There is no such instance in paddy lands. I do not think that the renewal fee was simply a Tirumulkalcha. I do not know it was at any time called Purushantharam or manushyam. The renewal fee may be spread over a period of 12 years. If the kanamdar is to be paid back the kanam and the value of the improvements when he relinquishes the land, the landlords will not be able to pay the price. The tenant should get them, but under the present circumstances, the landlord will not be able to pay.

If the tenant has no other property he should not be evicted for the landlord's cultivation. If it is proposed to restrict the area possessed by each individual I have no objection. Whether it is the janmi or the kudiyan, if he has that holding and no other, he should not be prevented from holding it. If he is a poor janmi he will not have the means to evict his tenant. If he is a rich janmi he will have other lands. Take the case of a kanamdar who has no other property. Should he not be able to get the land from the verumpattamdar if he wants to cultivate the land himself ? I do not think it would be good to provide that after the passing of legislation if any landlord wanted to get back his land for cultivation, he should do so within a definite period, say six years. I have no objection to giving fixity of tenure to kudiyiruppu holders. The janmis should continue to get their present rents. The kudiyiruppu holder may be given the right to purchase the right of the janmi whether or not a suit for eviction has been instituted against him.

By Sri A. KARUNAKARA MENON :

Fifty per cent of the gross produce may be given to the tenant. I suggested the fixing of a proportion of the assessment to avoid going to court.

By Sri E. KANNAN :

Various families have been ruined in Malabar, but I do not know whether it has been due to renewal fees. This may be one of the reasons. I cultivate directly about ten acres of one crop land. The seed required for it varies from 60 to 75 paras of paddy. I have not kept any regular accounts of cultivation expenses.

By Sri K. MADHAVA MENON :

My cultivation expenses are four times the seed excluding the seed. I get about ten to twelve fold from the land. The fair rent of all lands may be fixed simultaneously by a board in each firka consisting of the Revenue Inspector and four or five people of the locality. Provision may be made for revision of rent in case of loss. That is the best method as far as I know. The average tenant mortgages his land to pay his renewal fee. If the renewal fee is to be retained, it is better to find out some method of fixing it without going to court, if possible. One year's assessment will be very low when compared with the amounts realized by the landholder at present. It will not be improper to reduce the amount but one year's assessment will be too low. I have no objection to fixing it as some proportion of the assessment. I would allow revision of rent according to the circumstances. The average verumpattamdar cannot give one year's rent as security. He may be evicted only if he keeps the rent in arrears for more than one year. I would not take security from people who cannot afford to give it.

By Md. ABDUR RAHMAN Sahib Bahadur :

In the cost of cultivation I have made allowance for loss of cattle, and the labour of the cultivator. If he employs other labourers, he will lose that. I cannot give him any portion of the profit I earn from the land for looking after my land. Ordinarily coolies get 3 to 4 annas a day according to the season. Permanent labourers are given 2 to 3 Edangalis of paddy irrespective of the fact that they work or not throughout the year. Besides that, during the harvest season they have a proportion of the paddy given to them. To raise the standard of living of the people, it is necessary to increase the wages of agricultural labourers. According to me there should be no difference between an agriculturist and an agricultural labourer. There should be a separate enquiry regarding agricultural labourers. It is not within the scope of this enquiry.

By the CHAIRMAN :

After deducting the revenue and a reasonable rate of interest on the investments made by the janmi, there will not be much balance left out of half the gross produce. Four times the seed is not what I am spending. That is what the average cultivator spends. Ten paras seed area does not require 10 paras. It requires from 6 to 9 paras. Very rarely it requires 10 paras. By 'four times the seed,' I mean 4 times the seed customarily said to be required. If the means of recovery is also provided, one term's renewal fee may be collected. It would be unreasonable to collect more than one term's renewal fee.

34. Sri K. Kesavan Nayar, Vakil, Manjeri.

1 & 2. I am not able to say anything about the origin of janmam, kanam, etc. If the idea is to frame a Bill on the basis of the rights of the various tenure-holders as at the time of their origin, it will be against public opinion as far as I could judge.

3. Since the origin of the various tenures is shrouded in obscurity it is difficult to answer this. But the judicial decisions are in accordance with the present-day notions about the tenures except probably about the nature of the kanam. Kanams are popularly regarded as a tenure. Decisions hold that they are in the nature of anomalous mortgage.

4. (*a*) I think so. Any other presumption is wholly against the notions of the people of Malabar.

(*b*) & (*c*) *Waste lands.*—If a person bona fide requires a waste land either for reclaiming or for planting or cultivating, the landlord may be compelled to lease it on condition of paying rent, revenue, etc. But this must be subject to the proviso that the waste land has been in the possession of the landlord continuously for the past ten years without the landlord doing any cultivation or planting, etc. If for three years after the date of lease no work is done by the tenant the property must revert to the landlord.

Forests.—Forests must be controlled since their indiscriminate destruction is a contributary cause for failure of rains.

Irrigation sources.—Irrigation sources must be available for all, subject to rights of easements, rights of riparian owners, etc.

5. (*a*) No. In Malabar almost all families depend on land either as janmi or as under-tenure holders or as cultivators. The income of the lands is thus distributed amongst the several persons. To eliminate the janmi or intermediaries would be revolutionary besides

causing hardship and suffering to the majority of the people. There is further no necessity for such elimination when a fairly reasonable proportion of the produce is given to the cultivator.

(*b*) (1) To give a right of purchase would be an indirect way of eliminating the janmi or other tenure-holders and I am against it for the reasons already given. Further, even if the right of purchase is allowed it is a doubtful benefit to the tenant since in the majority of cases they will not be able to purchase. There is no justice in compelling a person to part with his rights in the property especially when the cultivator gets a fair share of the produce.

(2) & (3) If the right of purchase is to be allowed, the area must be limited, and sales by cultivators to non-cultivators must be prohibited. But it must be remembered that in Malabar it is difficult to draw a distinction between cultivators and non-cultivators. Almost all families will have cultivation—besides owning janmam or kanam lands or other tenures.

6. It is necessary to give protection to the sub-demisees from the landlord's rights to set off arrears of rent payable by the demisee against the value of improvements due to the sub-demisee. Payment by the sub-demisee of the rent payable by him to his immediate landlord must be held to discharge his liabilities.

7. (*a*) As between the landlord and the intermediaries it may be best left for contract between the parties since otherwise it would lead to great complications. As for the actual cultivator one-third of the net profit is a reasonable share. That is also the usual share he gets.

(*b*) I believe the share is not definite. It varies from place to place.

(*c*) Both the janmi and the kanamdar or a kuzhikanamdar must be made liable to Government and as between them it may be left for contract. This is subject to the condition that the cultivating tenant is not given more than one-third of the net produce. When the assessment is increased on account of reclamation or other improvements by tenants the increased assessment must be paid by the tenant.

8. There are difficulties in ascertaining the produce of the three years immediately preceding. The produce of a normal year may be the basis.

9. No. It is not advisable. There will be no change in assessment whether the improvements belong to the janmi or not. But the amount of fair rent is partly dependent on the ownership of improvements.

10. Where remission of assessment is granted on account of failure of crop or other analogous reasons it is but fair that each tenant is granted a proportionate remission of rent by the landlord immediately above him.

11. It is desirable if possible.

12. I do not know.

13. (*a*) No. Kanam tenures are generally granted by the janmis on favourable terms. Hence it is but fair that the janmi gets a renewal fee every 12 years.

(*b*) Does not arise in view of answer to 13 (*a*).

(*c*) There is a complaint that the renewal fees fixed under the Act is higher than that used to be paid before the Act. The amount may be reduced. The tenant may be allowed to pay at his option in yearly instalments along with the rent.

14. Not necessary.

15. (*a*) Yes. Under the conditions laid down in the present Act.

(*b*) Instances are very rare. Evictions on the ground that the landlord requires bona fide for cultivation may be limited to cases where the landlord requires bona fide for earning a decent living. A landlord who gets 10,000 paras of paddy a year may say that he wants the property bona fide for cultivation because he wants to increase his income. Such cases should not be allowed.

16. The present provisions might be retained.

17. (*a*) In the case of kudiyiruppu included in kanam demises or in leases which include wet lands also, there is fixity of tenure. This fixity may be extended to cases when the landlord has leased a dry land only with no improvements and it has been converted into a kudiyiruppu by the tenant's labour.

It is desirable to limit the extent.

(*b*) A distinction ought to be made between urban and rural kudiyiruppus in the extent. A proportion of the enhanced income must be given to the landlord.

18. Not necessary. A time limit for the execution of the decree may be fixed.

19. For thali kettu ceremonies, for festivals in the landlords' temples, for Onam, etc., levies are made. Such rights may be made illegal.

20. (*a*) No.

22. (*a*), (*b*) & (*c*) Summary trials may be held in civil courts. Rights of suit or application for renewal fee may be allowed. Jurisdiction may be given only to civil courts and not to revenue courts.

23. Landlord generally stipulates for 20 per cent or 30 per cent interest in the case of paddy rent and 12 per cent or 24 per cent for money rent. Not more than 6 per cent ought to be allowed.

By the CHAIRMAN :

I cannot give any intelligible reason for the presumption of private property in waste and forest lands. I will only say that absolute proprietorship is recognized throughout. I feel there could not have been any sudden break with the past and the courts could not have given any decision contrary to subsisting rights. Certain rules may be framed by the Government regarding the working of the forests and those rules may be observed even by private owners. As regards irrigation sources and waste lands, I have no objection to giving the Government the right to take possession. I think where a superior landlord wants the land for bona fide cultivation, the under-tenant must surrender it. So far as assessment is concerned, any payment made to the immediate landlord must put an end to the liabilities of the under-tenant. There may also be various other remedies ; but even if there are some disadvantages to the under-tenure-holder, I do not think the remedy is to do away with the kanamdar ; that will bring about ruin to several families in Malabar. If the Government issue bonds, that may enable the verumpattamdar to find the necessary funds ; but I am against the elimination of the intermediary and against the giving of right for compulsory purchase, as I know that most of the families in South Malabar depend on kanam property, and if their rights are compulsorily purchased, they will become utterly destitute. You may help the verumpattamdar in any way, but this is not the way to do it. I have not much objection to giving that right to an under-tenant in the case of a defaulting intermediary.

So far as wet lands are concerned, there is some difficulty in assessing the yield for the previous three years. I think practically there would be no difference between the present provision and 50 per cent of the gross produce ; at any rate, I think it will not work any hardship in the Ernad taluk. It is certainly desirable to have fair rent fixed cheaply. We must have a satisfactory machinery. I don't think the Revenue Inspector should be enabled to fix the fair rent. No officer less than a Tahsildar should do it ; the object should be to inspire confidence in the parties concerned. The principle of local assessors is already contained in the Compensation for Tenants' Improvements Act. Several janmis practically depend on renewal fees for their maintenance. Renewal fees may be fixed at 1 instead of $2\frac{1}{4}$. If the fee is one-fifth of the kanam amount, it will be unjust to the landlord. If the renewal fee is to be retained, it may be spread over 12 years at the option of the tenant. It is not necessary to have renewal deeds executed every 12 years. Unnecessary expenditure on stamps is now being incurred, which can be avoided.

There are two sides to the question of relinquishment. If the landholder is compelled to take back his land, he will have no safety. I think this problem will not arise in the case of paddy fields.

I would suggest that it should be possible for the landlord to take back the land where he requires it for cultivation for earning a decent living according to the standard of living to which he has been accustomed. According to the present provision, even a landlord who wants to enrich himself can recover his land. There may be hard cases ; after all, when a man who gets his rent regularly wants to take back the land, it must be naturally because he wants to earn his livelihood, and in such a case, he must be allowed to take it back. And in cases where there is a definite agreement that the lease will be for a year, after which the land will be taken back, and where there is no dispute between the parties, there can be no hardship caused to the tenant at all. In order to avoid all these complications, I would simply say that the landholder can have the right to evict in case he wants the land for his own livelihood. I do not think it will work hardship to fix a time-limit for evictions because the party should be prepared to pay for improvements when they filed the suit. I would fix six years as the maximum. I am against collecting arrears of renewal fees. The janmi is as much to blame for not taking it, as the tenant for not giving it.

By Sri A. KARUNAKARA MENON :

I thought that if the kanamdars had lesser rights at the time of origin than they have to-day, it was not wise to legislate for their enjoyment of those lesser rights ; but if they had higher rights, I don't think public opinion will be in favour of conceding such rights to them now. I am not in favour of giving occupancy right. I am only in favour of fixity of tenure to the actual cultivator. If you give occupancy right, a landholder cannot get back the land even if he wants it for the purpose of earning his livelihood. It is only fair that each person should be allowed to have the right of applying for renewal of properties in his respective possession. Ordinarily we must presume that there has been a fair partition. In my experience, I have found nobody willing to shoulder the responsibility for other families. I would give the right of renewal to each of the families. The janmi should be allowed to evict his tenant when the janmi wants the land for living in a particular standard. The standard would differ in the case of different persons, and there can be no hard and fast rule. I do not think 'livelihood' means maintenance of a motor car.

If you are going to have a record of rights for all time, the parties should have confidence in the machinery that fixes the rent. I do not think many Revenue Inspectors have got the necessary experience in this matter.

By Sri C. K. GOVINDAN NAYAR :

If a landholder after evicting his tenant lets out the land again, I would penalize him. The tenant need not pay the value of improvements effected by the janmi in case of *mala fide* eviction. It may be an elusive right, and it may be that very many tenants are not able to exercise that right ; but still, some such provision may act as a deterrant in this case. When dry land is converted into kudiyiruppu a small enhancement should be given. But I am not serious about it.

By Sri K. MADHAVA MENON :

It may be in certain cases the janmis have not purchased their rights, but acquired them in some other way. It would be working hardship on them to abolish their rights, and in very many cases it will be very difficult to know their origin. If irrigation sources are taken over, water should be made available to all. Those who are now taking water should not be deprived of it. The average cultivating verumpattamdar is very poor. I do not believe it is due to the fact that the profits are not adequate for his maintenance. My own idea is he was originally poor and he took to cultivation, but his poverty has not in any way abated. There are other people who are poor. The reasonableness of his share cannot be decided by his inability to make money. His poverty is due to some other reasons. I do not believe that the share he gets out of cultivation is not much. I cannot say whether he is spending his money on luxuries or wasting it.

I do not understand the reason for the proviso in Section 17 exempting dry lands. It should be taken away. In the case of paddy flats I do not see any reason for revision of michavaram. Only in dry lands should the kanamdar be given that right. In wet lands the price of paddy may go up or go down ; but in such cases the rent is payable only in paddy, and so the question of price of paddy does not come in there. It will take years for a board presided over by a Tahsildar to fix fair rent. The only other course open is a civil court.

By Md. ABDUR RAHMAN Sahib Bahadur :

I am certainly for safeguarding the rights of the verumpattamdar. I have suggested one-third of the net profit as his reasonable share. Having settled that, he cannot claim any further right. I have not thought out the question of the size of an ideal farm. It all depends upon the size of the family. I do not want any increase of rent by the landlord.

35. Sri V. Raman Menon, Pleader, Parappanangadi.

1. (1) *Origin of janmam.*—First or earliest occupation, exercise or assertion of dominion over property, and obtaining acknowledgment of janmam title from persons who squatted on lands without clear notions of their rights and who had no power to resist. These formed the origin of ancient janmam rights.

(2) *Kanam* had for its origin in grants from janmis or persons who claimed the janmam rights. Tradition is that Malabar was once sea-bed. When sea receded people from the north and the east came and colonised the tract. It is said that it was Sri Parasurama who brought the people for colonisation. Land was plenty and people few. Some of these new settlers claimed large and vast portions as their own. There was no settled Government. He who could retain possession against rivals only could maintain the ownership. It was therefore of utmost importance to the janmis to entrust these properties to reliable persons with some substantial interest in the property. Accordingly, janmis began to entrust these lands on a right known as kanam, on abnormally low rents which they called

purappad or പത്തിനരണ്ട്. This method served as a sort of recruitment of party on a *feudal* basis. These tenants were expected to defend the property in their possession and support the cause of the jarmi in his struggles against his rivals, generally. In fixing the purappad only 50 per cent of the yield was taken into account. Out of this 50, liberal allowance was made for interest on kanam and only 20 per cent of the balance was reserved for purappad. This arrangement was an attraction for tenants to undertake the responsibilities mentioned above and incur the risks involved in such undertakings, such as even physical resistance.

(3) *Kuzhikanam.*—This tenure is of much later origin. It is a lease or permission to reclaim waste lands and plant them.

(4) *Verumpattam.*—This in earlier days related mostly to arable lands and gave the tenant a right merely to cultivate the surface soil.

(5) *Other tenures.*—There are tenures known as otti, karayma, karangari, adima, kudima, vakayola, anubhavam, kudiyirumbad, etc. All these have their origin in grants from jarmis. They are not generally prevalent and the practice of granting them has become now extinct. Karayma, karangari and adima are service tenures.

2. Jarmi was the full and absolute owner originally. 'Jarmam' means existence, body and life. Applied to property, it means substance and produce. But where land had been given away on kanam his right was confined to purappad and an expectancy of co-operation and help, at times of danger and need.

Kanamdar had all the apparent or visible rights of ownership in him, namely, possession, right to improve, alienate and hand it down to posterity by way of inheritance. His right to possession continued so long as he was loyal to his jarmi and did not commit any waste or serious damage to the property. His right was deemed forfeited on denial of the title of the landlord. He could not demand the kanam amount being the stake paid by him as a guarantee of his fidelity and loyalty. It is wrong to say that this amount was a loan. If he quitted the land without the permission of the jarmi or joined a rival claimant in collusion he forfeits the kanam right and his claim for money. Practically he was in enjoyment of all the income of the property except the nominal purappad reserved for the jarmi. The permanent nature of the kanam tenancy would be apparent from the kanam deeds of the years prior to M.E. 1000. Not the slightest suggestion as to surrender or recovery will be found in any of those documents. Copies of innumerable kanam deeds were handed over to the Malabar Collectorate at the time of the paimash of 1825. I presume that they are still there. The wordings of the kanam deeds in those days generally were "പത്തിനരണ്ടിന്ന തരുവാൻ നിരയിച്ചു" or "മിച്ചവാരത്തിന്ന തരുവാൻ വെച്ചു" നെല്ലു അല്ലെങ്കിൽ പണം തന്ന തിന്നുകൊൾകയും ചെയ്യ. Sometimes the wording was "തന്ന നടന്നുകൊൾകയും ചെയ്യ." There was no direction to the tenant to obtain a renewal.

Kuzhikanam tenants could reclaim, improve, plant and claim the value of the improvements effected according to the customary rates that prevailed in the locality at the time of ejectment. In some kuzhikanam deeds no kanam amount is mentioned. In some cases cost of reclamation is calculated in anticipation and the amount so calculated is shown as kuzhikanam amount due to tenant. Kuzhikanam tenancy was not of a permanent nature. Courts have held that kuzhikanam tenure endures for twelve years.

Verumpattam.—Verumpattam tenant was liable to be ejected at the will of the landlord. Rent fixed as payable in the case of leases by Rajas and devaswams amounted to fifty per cent of the annual gross yield. In the case of leases by others it was all a matter of bargain. Ottidar had a right to pre-emption in case of sales by the jarmi in addition to the rights of a kanamdar.

Vakayola was considered irredeemable.

Karangari was perpetual tenancy so long as the holder did not part with possession but on alienation permanency was considered forfeited.

Denial of the rights of the landlord or commission of serious waste or material damage to the property was fatal to all kinds of tenancies. These were some of the old notions of the rights of jarmis and tenants.

3. Court decisions have established the right of jarmi to redeem the kanam after twelve years. This was a whittling down of the most cherished and valued right of the kanam tenant who in olden times fought and risked much to support his jarmi's right and improved the lands sometimes at great cost. It has been held that Vakayola kanam is redeemable. Courts held for a time that kanam was a usufructuary mortgage. Then they held that it was a combination of lease and mortgage.

Finally it was decided that kanam is an anomalous mortgage. It is a pity that the courts did not see that kanam was a tenure of a feudal nature peculiar to Malabar and that it did not expire by 12 years. The 12 years period assigned to kanam was a mere

arbitrary fiction. It is interesting to see how it came about. When British Civil Courts were established in Malabar, janmis began to file test suits for redemption of kanams. Tenants stood for their old rights of permanency and resisted. Janmis were powerful and the tenants were weak. The contention of the janmis were varied. Some of them contended that kanam enured only for the life time of the grantor; others contended that it expired with the death of either the grantor or the grantee and adduced evidence in support of their respective cases. But as these deaths took place at irregular intervals sometimes short and sometimes long and as the evidence in each case was different, decisions were not uniform. Some courts held that the kanam lasted only for three years and some courts held that it lasted for five years and some for six. Tenants became desperate. Hindu tenants resigned themselves to their fate and submitted. Mappilla tenants got wild. There were as many as seventeen outbreaks and isolated cases of murders too. Some of the officers deputed by Government to enquire into the cause of these outbreaks reported that agrarian discontent was at the bottom. But they too were not quite clear or uniform in their opinion as to the duration of kanam. Mr. Strange who was deputed in 1852 to enquire and report also confirmed agrarian discontent as the cause of these outbreaks and gave as his opinion that kanam tenant should at least have a period of twelve years. In 1856 for the first time the Sadar Court of Calicut passed a decision that kanam lasts for twelve years and issued a proceedings to the Subordinate Courts to the same effect. Later on High Court also held that kanam cannot be redeemed before twelve years. This is how kanam tenant's right came to be cut down to twelve years. It is submitted that this is not warranted by the original nature of the kanam.

The last decision is that karangari is not forfeited by alienation. Mistakes arise by looking at these peculiar tenures in the light of the provisions of the Transfer of Property Act. That Act is not exhaustive. It refers only to some of the forms of transfers. Service tenures are neither leases nor mortgages.

4. (*a*) Courts and revenue authorities were perfectly justified in treating Malabar lands (waste and forests included) as belonging to private owners. The origin of janmam rights justifies it. There was no Government or settled Government in Malabar at the early periods, and no Government in Malabar at any time claimed any right to the soil in Malabar.

(*b*) I am not for restricting the rights of owners of waste lands and forests. Natural irrigation sources may be taken under the control of the Government if they are likely to be of greater use to cultivators.

(*c*) I am against Government's taking possession of waste lands. But the Government should have the power to grant permits or cowles, to enterprising people who would improve the land, as the Government used to grant sometime ago.

5. (*a*) I would not eliminate janmis or intermediaries. Some of them have purchased those rights for enormous value and giving up their rights or properties for cash would be their doom, particularly, in this country where there are no other industries or other chances of investment with safety and profit. Cash will evaporate soon. Rights and immovable properties remain longer. Compensation should be more than the full market value as the action is compulsory and expropriatory.

(*b*) (1) Tenants have no money to purchase landlord's or intermediaries' rights. It is folly to finance them also. My experience is that most people who purchased property by taking loans for paying the price had to suffer and regret for inability to repay the debt. Moreover these purchasers may create subsidiary interests in future and that process may go down to any degree unless you are prepared to close all the registration offices or prohibit transfers. That would again be dangerous. For it would be tying down property in perpetuity in the hands of some people and their descendants only. That is not good. Further, the step is expropriatory, for no fault of the owner.

(2) You may limit the area of a cultivator's actual possession. But the need for such cases will be very few. Actual cultivators are suffering the other way. Actual cultivator wants various kinds of lands (dry, wet and garden) of some fair size for a suitable farm which he is not having now.

(3) We should not prohibit sales by cultivators to non-cultivators. The non-cultivator of to-day may be a cultivator for the morrow. Effort should be to induce and encourage well-to-do non-cultivators to take to cultivation. Most of the actual cultivators of the day are penniless and resourceless. This accounts partly for the present low condition of the industry and failure to resort to the more useful modern methods of scientific cultivation which would have increased the output considerably.

6. Under-tenure-holders should be protected from the consequences of default by intermediaries above. This can be done by giving power to under-tenure-holders to do what the defaulters ought to have done and providing for reimbursement from defaulting intermediary by sale of his rights and otherwise.

7. (*a*) A third of net income (after deducting the cost of cultivation, reaping charges and the seed required) will be a reasonable share for the tenant. The share due to the janmi and the intermediate holders must be left to contracts between them. At any rate, an equitable apportionment is possible only after the assessment is reduced. As there are intermediaries and sub-intermediaries the question presents many difficulties. There is no reason for increasing, existing michavaram due to the janmi in future. For engagements as to payment of purappad were made while janmis were having the upper hand and were in a position to dominate.

(*b*) Government assessment in the case of wet lands represents 60 per cent of the balance of the annual gross yield after deducting cultivation expenses, marketing charges, allowances for probable loss of produce, etc., which are incidental and unavoidable (vide B.P. No. 80, page 43, paragraph 1, dated 17th October 1930 and page 156, paragraphs 5 and 6). Besides, one eighth of the assessment has to be paid as local land cess. Government assessment exceeds this professed 60 per cent in all cases due to the insufficiency of the amount deducted for cultivation expenses. Rate allowed by the revenue authorities for cultivation charges ranges from Rs. 12–8–0 to Rs. 4, for a given quantity of the produce. This rate should be increased at least by half and should be fixed with reference to the area covered and not in proportion to the produce. Yield depends largely on the fertility of the soil. Many causes contributed to this undue increase in assessment. One is the bungling made in the classification of the soils and fixing tarams at the time of the first settlement. The proportion claimed by the Government is also too high.

(*c*) The person who has contracted to pay should be the person to pay assessment. Where there is no contract as to who should pay, janmi should pay. Cultivating verumpattam tenants are unable to find the money in most cases but if he has made agreement to pay, he has to. These tenants, generally, are carrying on cultivation, with money and seed, borrowed.

8. The provisions in the Act for fixing fair rent are costly, tedious, and lead to uncertainty in results obtainable ; commission charges and witness expenses come to a heavy amount.

9. It is good to fix the fair rent in some proportion to the assessment. The proportion of fair rent to revenue should be as 66–2/3 is to 40. The assessment should be reduced to at least 30 per cent instead of the professed 60 now prevailing.

10. It is not necessary to provide for proportionate remission of rent by the landlord in case of remission of assessment, in view of the fact that purappads and rents are not to be increased in future ; he who is to bear the burden of taxation should get the benefit of reduction. If tenant has undertaken to pay he must get the full benefit of remission. If there is no such undertaking, janmi must get the benefit. I say this because at the time of fixing the purappad both parties will have taken into account the weight of the burden of assessment and made adjustments with reference to the profits from land and other connected matters.

11. It is desirable to standardize the bulk measurement. Para consisting of 10 MacLeod seers will be preferable. One MacLeod seer is equivalent to one Madras padi. There should be provision in the proposed Act to fix the rent according to this measure in all future transactions and also to grant receipts in future according to this measurement whether the rent agreement be old or new.

12. Renewal fee is a new born child. It has its origin in voluntary gifts or presents. It was customary for kanam tenants to pay condolence visits to their janmis (leige lords) and make a present to them on the occasion of their accession to the sthanam or karnavanship. These presents consisted usually of money and sometimes of articles. These were given merely as a symbol of regard or a mark of honour. It used to be known as sowjanyams which means free present. In some localities the name was Manusham, which means present in honour of the person. In the case of Rajas it was called Thirumulkalcha, meaning present to the august presence. It was also usual on those occasions to enter the name of the tenant in the rent rolls of the janmis if they are not already there. It was also usual on those occasions to give a letter or voucher to tenants informing or intimating that his holding is recognized in the rent roll. The kanam amount and the rent payable were also shown there. These letters of recognition were termed Thiruvezhuthu if granted by Rajas, Thiruadayalam if granted by Swamiars. In the case of Non-Brahman Sthanis they worded the document to indicate that it is an instrument of information or instruction. The wording usually was കണ്ടെന്നാൽ or അറിയേണ്ടും കാര്യം. These letters were never intended to represent a transaction newly effected or renewed. In course of time and particularly after the introduction of a revenue system by Mysore Government known as the Maharashtra paimash the janmis began to insist on tenants to obtain renewals and demand fees which they called renewal fee, as a matter of right based on the custom described above. For, the position of the janmi in regard to the title became more secure by this time as the names of the janmis and tenants were shown in these revenue

registers as against each land. This was the origin of renewal fees and renewal. I have already referred to the struggles and troubles that followed, in my answer to question No. 3.

13. (*a*) Renewals should be abolished.

(*b*) & (*c*) All the various kinds of tenants may be allowed to continue their possession constructive or actual as now, without let or hindrance as long as they please. If any compensation is deemed fit, renewal fees may be continued to be paid to the immediate landlord. But the renewal fee should be fixed by the legislature now. That is at the time when the permanency is accorded by the proposed legislation. The amount should bear a proportion to the revenue. It would be equitable to fix the amount as equal to one year's revenue for the whole holding or a little less, for a period of 12 years. It won't be hard on either party to do so. The amount so fixed may be spread over a period of 12 years and one-twelfth may be made payable every year along with the rent. By this method the cost and trouble and waste of time involved in legal proceedings for fixing renewal fees and obtaining renewals through court can be avoided. Suitable amendments may be made in the Tenancy Act.

14. It is not desirable to revise the present legal provisions regarding relinquishment.

15. (*a*) Yes, I am in favour of granting occupancy rights. But there should be guarantee for regular payment of rent.

(*b*) I know no instance of eviction on unjustifiable grounds, though there were attempts made. I do not think it necessary to amend sections 14 and 20 of the Tenancy Act.

16. It does not seem to be necessary to alter the existing law.

17 (*a*) It is not desirable to give fixity of tenure to all kudiyiruppu holders. For those who have been in possession of the kudiyiruppu for ten years and more, fixity may be given. Others must take permission or must have acquiescence of the landlord for erection of residential buildings. Compensation does not seem to be necessary. It leads to complications and the tenant is often unable to pay. Rent of the kudiyiruppu for which fixity is allowed may be raised to a reasonable multiple of the revenue in respect of that portion. The portion in respect of which fixity is granted should be separable within the meaning of the present Tenancy Act definition. The extent depends on the position of the residents of the house and their needs for convenient living. This can be ascertained by the deputy tahsildar and the health officer and their report after local inspection may be acted upon by the deciding judge. Necessary amendments and provisions may be made in the Act, deleting Chapter VI, which relates to the principle of purchase.

18. No necessity to revise the improvement Act now. It is true that the prices fixed now for improvements are very excessive, and much above the market value of the holding. It is partly due to the high prices of produce, published in the *Malabar Gazette* as required by the rules of the Act, on which the value is capitalized and calculated. Care should be taken to make it a correct average of a third of the sum of prices that prevailed for the three years preceding the year of redemption. It is hoped that this method would suffice to counteract the excess. A time limit for the execution of a decree for ejectment would be a very great hardship to the janmi or landlord, especially in view of the fact that the value they are called on to pay is exceedingly high and unreal.

19. There are many. But they are of a trivial character and are getting out of vogue. Prohibition is not called for. There is laxity found in the insistence of such levies.

20. (*a*) It is not time to extend the Tenancy Act to fugitive cultivation. Such cultivation takes place only once in the same place in three, four or five years, generally on the malarial eastern heights of Chirakkal and Kottayam taluks at the foot of the hills bordering on the east. It may be desirable to extend the Act after the cultivation becomes more, steady and popular.

(*b*) It is not clear to me whether the janmi or the tenant stands to gain by the extension of the Act to pepper cultivation and whether the persons interested call for extension.

21. I am unable to give an answer.

22. (*a*) I have already stated that the existing procedures as to fixation of fair rent, renewal fee, obtaining renewals, and for fixing the value of the landlord's rights for purposes of Chapter VI, are all tedious, costly and dubious in results. All these can be avoided and the way made clear and easy for obtaining results that would be satisfactory to both the parties by adopting my suggestions.

(*b*) My previous answers include my suggestions concerning fixing of rent and renewal fees.

(*c*) (1) Summary trials may be adopted for recovery of rent. But such procedure will not be satisfactory for fixing fair rent, renewal fee, right of purchase under section 33 and for fixing the price of the landlord's rights in the property under Chapter VI. This

last matter is somewhat difficult too when the right in question happens to be that of an intermediary.

(2) It is better not to trouble the revenue courts.

(3) Application for the recovery of renewal fees should be permissible by law, but, the orders should be appealable, unless the amount is fixed by law as suggested above.

By the CHAIRMAN :

I have got some janmam lands, and some kanam lands. Kanam was irredeemable in the documents prior to 1,000 M.E. and not a single trace of right of recovery or surrender will be found. I have seen documents in which no mention of surrender or of recovery could be found. I have not seen any documents in which the tenant has put forward his claim that his tenure is irredeemable. I feel convinced that Government have no right in waste and forest lands because this is a colonised country ; some people came here and settled down here, because they found it was nobody's land. This is not a conquered country. This is a known fact. When there is consensus of opinion that should be regarded as an established fact, I do not think deforestation has taken place to such an extent as is alleged. In some cases for punam cultivation forest trees are cut, and in some cases trees are planted also. There is no need for a rule restricting cutting. It will simply open the door for unnecessary prosecution. Irrigation sources may be under the control of Government. Government should have the power to do all that is necessary in the interest of the public at large, but such power should not be a botheration to the public. The under-tenant placed himself under such hardships with a full knowledge of the circumstances. If he pays rent direct to the janmi it will cause much trouble and confusion. Any one of the many sub-holders may take a renewal of the entire holding for the benefit of the original demisee. It is very difficult to help him. The provision for eviction for bona fide cultivation in Sections 14 and 20 should be taken away altogether. I sympathize both with the janmi and the tenant. There is greater reason to be sympathetic to the tenant. The janmi can get some other land.. If the tenant has been in possession for six years he should not be evicted. If the period is less than that the landlord may if he wants evict him. I have no objection to that.

The provision for the cost of cultivation is inadequate. They should be at least four times the seed including the seed. In this taluk 5 paras an acre is the seed rate. That is 5 Calicut paras or 7½ Palghat paras. The average yield is 12½ times the seed. For two crops at the 5-para seed rate the annual yield will be 125 paras and the cost of cultivation will be 40 paras. The balance is 85. Of this one-third must be given to the ryot, ⅔ of the net yield of the land will be the fair rent. Even in the case of kanam holdings one-third of the net yield should go to the verumpattamdar. If 50 per cent of the gross produce is taken as fair rent, it won't make much difference. The assessment represents 60 per cent of the balance of the gross produce after deducting the cultivation expenses and the cultivator's one-third share. If the net yield is 100 paras, one-third of it would go to the tenant and the balance of ⅔ or 66⅔ paras would be the fair rent. Out of this 60 per cent or 40 paras would be the assessment. Therefore the proportion of fair rent to the assessment would be 66⅔ to 40. Thus in the case of verumpattam lands the fair rent minus the revenue would be less than the revenue. I agree that the revenue is not so high as that in the case of paddy lands. I do not think it would be feasible to have the fair rents of all lands settled simultaneously once for all by a committee for each firka.

Renewals should be abolished, but not renewal fees. Money should not be wasted on stamps and registration fees. The renewal fee was originally simply a voluntary present of honour made on certain occasions. In cases of relinquishment the landlord should pay the kanam to the tenant. Fixity of tenure may be given to kudiyiruppu holders subject to the payment of the revenue and a fair rent, not the ordinary rent but something like double the rent. There is no objection to fixing a time-limit for evictions on payment of the value of the improvements.

By Sri A. KARUNAKARA MENON :

The tenant gets 4/5 of the gross produce and this includes cultivation expenses, interest and so on, one- fth is sufficient to pay the revenue ordinarily. Two acres of coconut garden will yield Rs. 100 a year. The revenue on 2 acres is Rs. 12–8–0. The janmi will get 1/5 of Rs. 100 or Rs. 20. After paying the revenue of Rs. 12–8–0, the janmi will have Rs. 7–8–0. If the revenue is in excess of the 1/5th share, the tenant may be asked to pay.

By Sri K. MADHAVA MENON :

You may make a provision to include dry lands under kanams in section 17 if you think it desirable. If the under-tenure holder is enabled to pay his proportion of the renewal fee and the rent, the holdings will be cut up.

By Sri R. RAGHAVA MENON :

I cannot say what is the average amount spent by the cultivators here by way of cultivation expenses. I know one thing, namely, that the tenant is not spending as much as he should because of his inability. If he spends as much as he ought to, the yield will be more. Verumpattamdars are now maintaining themselves and their families by cultivation, cooly labour and so on. No eviction should be allowed. The whole provision should be deleted. If kanam families want the lands for their own purposes, I would not allow them to evict their tenants. I put the janmi and the kanamdar in the same position.

By Md. ABDUR RAHMAN Sahib Bahadur :

If a man is not able to give security, he cannot aspire to possession of property. Borrowing money for the purpose of acquiring property has always been found to be folly. I know of many instances in which people have suffered by purchasing properties after borrowing. Even people who are oridinarily considered to be prudent have suffered like that. If the Government issue bonds and thus give security to the janmi or the kanamdar whose rights are affected by their being transferred to the cultivating tenant and the latter is asked to pay the interest as well as the principal in the course of say 20 years, he will not be able to pay. I have found it so by actual experience. It is no use financing verumpattamdars. It is all a delusion.

By Sri A. KARUNAKARA MENON :

The highest amount of renewal fee that a janmi can expect under the Act is always less than one year's produce. Much money is wasted in calculating renewal fees. The bulk of the land in Malabar is in the hands of the kanamdars.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

The kanamdar must have been only a cultivator. The renewal fee was a hybrid affair. Presents were made partly because of the prestige of the landlord and partly because of the good relationship between the landlord and the tenant for enjoyment on easy terms. Though supposed to be voluntary, it was not absolutely so. Legally it was not enforceable, but morally on account of good relationship between both parties, it used to be made. That is one reason for my saying that renewal fee should be continued. If it is to be paid in a lump sum, at the rate of 6¼ per cent, Rs. 100 will come to Rs. 175 in the course of 12 years. Instead of that, if he is asked to pay only Rs. 100 and that in 12 instalments, should he not thank the Legislature which makes such a law ? Agriculture pays and it also does not pay.

By Sri E. KANNAN :

Nobody nowadays works for less than 3 annas a day. I am myself paying 3 annas.

By the CHAIRMAN :

I shall be thankful if the Committee will consider the question of renewal fee. Some provision must be made regarding that. You will be avoiding a lot of litigation if you do something for it.

36. Sri Azhakath Kunhunni Nayar, Cheekode amsam,

Post Areacode, Ernad Taluk.

1. (1) *Janmam.*—I have no correct information. It may however be inferred that Kerala was made fit for cultivation after the advent of Parasurama, that the ruling chiefs and the Brahmans claimed the lands for themselves, that such right was known as janmam and that, in course of time, they changed hands in different ways and for various reasons.

(2) *Kanam*, (3) *Kuzhikanam*, (4) *Verumpattam.*—All these three terms apply to those who did hard work and spent large amounts to reclaim the lands during the time of Parasurama. They are reasonably entitled to enjoy the yield from the income. These rights also have changed hands in course of time.

2. The Brahmans and the ruling chiefs of olden days claimed exclusive title to the land and asserted that the under-tenants were directly under their control, bound to obey their orders and to vacate the lands when demanded. The under-tenants acknowledged such rights and thus the janmam and other various tenures came into existence.

3. The courts have up-held and strengthened the rights of the land holders claiming to be janmis but in the case of other tenures, various changes have been effected. It is not possible to explain them here in detail.

4. (*a*) No.

(*b*) Yes.

(*c*) Yes. This is essential for the prosperity of cultivation in Malabar.

5. (*a*) It is desirable to eliminate the janmis and several intermediaries and retain only two rights, viz., land owner and cultivator. In some cases, the existing janmis and in others the existing kanamdars and other intermediaries can be dispensed with. Many of the ancient janmis (those who claim to have been janmis for over a century) are those who claimed janmam right in this manner and the other janmis derived the right by use of force and influence. Such janmis need not be paid any compensation. The remaining janmis may be given compensation proportionate to their income. If this is done, whoever gets less compensation as his share (be it the janmi or the intermediary) should part with his interest in favour of the tenant who pays the compensation and wishes to retain the land.

(*b*) (1) Not necessary if the proposals in 5 (*a*) are accepted.

(2) & (3) These are necessary.

6. Yes. But if the proposals in 5 (*a*) are accepted, further provisions will not be found necessary.

7. (*a*) Deducting seed and twice the seed for cultivation charges, the balance out of the gross yield should be divided by 3 and one share should go to the cultivator, four-tenths of the remaining two shares should be deducted for assessment and the balance should be shared between the janmi and the intermediaries.

(*b*) As this varies with different places, it is not possible to fix a rate. In several instances, the assessment is in excess of the income derived from the lands concerned. Apparently, the mistake was committed at the resettlement.

(*c*) It is desirable to fix the responsibility of paying the assessment on the actual occupier.

8. I do not think so ; but there are many irregularities in its working.

9. As the existing rate of assessment is not fixed with reference to the yield of the lands, I do not think it advisable to fix the fair rent on the basis of the assessment.

10. Yes.

11. Yes. It is sufficient if the weights and measures standardized by the District Board are brought into use.

12. Not possible to say correctly.

13. (*a*) The renewal system will have to be continued until the several rights of under-tenures are dispensed with as suggested above.

(*b*) The question does not arise.

(*c*) No.

14. No.

15. The actual cultivator should always have occupancy right. If he pays the pattam without default and offers sufficient security for one year's pattam, excluding the assessment and cultivation charges, if he does not interfere with the land owners' right and if he keeps the land in good condition, he should not be evicted.

(*b*) The courts have decided that according to the existing Act, mortgagees can be evicted and consequently many tenants who had advanced small amounts as verumpattam have been evicted. For example, the Nilambur Kovilakam has, quite unreasonably, evicted my family from many lands. Many other janmis have also done the same thing. There should be legislation to the effect that no sort of right, including simple mortgages, shall be liable to eviction. And after the passing of the intended legislation, the persons who were so evicted should be put in possession of the lands from which they were evicted.

16. (1) & (2). The existing Act will serve the purpose. But the definition of mun-pattam as mortgage and consequent eviction and the misuse of the term " bona fide " should not be allowed to continue.

17. (*a*) Yes. But the land owner should be duly compensated.

(*b*) Those living in rented houses in towns should not be included in this category. No distinction is necessary between the other urban and rural kudiyiruppu holders.

(*c*) One-fourth acre in urban and one acre in rural areas.

18. No.

19. These levies are very rare now. No legal provisions to prohibit them seem necessary.

20. (*a*) The provisions of the tenancy legislation should not be made to apply to Punam cultivation.

(*b*) Yes.

21. It is desirable to extend the legislation to places having the same languages and customs.

22. (*a*) Yes. The fair rent fixed by the courts for purposes of renewal fees is based on the commissioner's report. Consequently, too much unnecessary expenditure and difficulties are experienced. Legislation should be made to overcome these difficulties.

(*b*) In fixing the pattam and renewal fees, village panchayat committees should be constituted in order to assist the civil courts. If enquiries are made through such committees, unnecessary expenditure can be avoided.

(*c*) (1) Provision for summary trial is necessary.

(2) Revenue courts may be given powers for trial. But such trials should be held in the villages concerned ; otherwise it will be more difficult and costly.

(3) This right should be given to land owners.

23. As the cultivation in Malabar mainly depends upon the rainfall the ryots seriously suffer when the rain is excessive or insufficient.

24. There are some minor differences ; but, generally, disabilities are more or less the same.

By the CHAIRMAN :

I have kanam and janmam lands yielding a rent of about 2,000 paras of paddy. I had more lands but I was evicted by the landholder from an extent of land yielding about 3,000 paras of paddy. The ancient janmis did not purchase the lands ; they are not therefore entitled to any compensation. They do not lose anything by it. A small compensation may be given ; the capitalized value of the rent for the property, with interest at the rate of 6¼ per cent. On an average, it is better to say cultivation expenses will be three times the seed including the seed. Mistakes occur in working the provision for fair rent and various difficulties are felt in fixing it through the courts. It will be fair to fix the fair rent at 50 per cent of the gross produce. It will also save the expenses of having it fixed. Fair rents may be fixed for all lands in a locality at the same time by a Committee composed of a Revenue Officer, not below the rank of a Tahsildar and some respectable persons in the locality. It will be a more satisfactory procedure. There will be less chance of committing mistakes. For the safety of the tenants as well as in the interests of the country, it is better to abolish renewals ; but it may not be fair to those janmis who have become janmis by purchase. I have no objection to the abolition of renewal documents, although renewal fees may continue as before. The money that has to be spent on these documents is a real waste. In cases where the holding is not profitable and the tenant cannot pay the rent out of the profits, provision must be made to revise the rent. Eviction can be allowed only where there is actual necessity, such as the landlord cultivating the land himself for his own livelihood. All kudiyiruppu holders should be given fixity of tenure. The janmi should get only the rent that is stipulated and if it is renewable land, renewal fee also. If there are any feudal levies now in existence, they ought to be abolished.

By Md. ABDUR RAHMAN Sahib Bahadur :

I have personal knowledge of a case in which a landholder sued for eviction of a holding. The tenant pleaded that it was not the landholder's janmam. He succeeded in his contention and got a decree that the land belonged to him. Subsequently when a land which he was himself holding belonging to the same janmi came for renewal, the janmi said " unless you concede my janmam in respect of the land which I lost through that suit, I cannot renew." The tenant had to agree to it or he would have lost the other property which was more profitable to him. I am cultivating lands myself. I said three times the seed only out of my personal experience. If security is not given, it will be very difficult for the landholder to get the rent. He must have some sort of guarantee, at least personal surety. I, however, agree that most of the tenants cannot afford to give security. No security is taken now from the verumpattamdars, but large amounts of rent are in arrears. There have been some cases of eviction even though rents have been paid regularly. But in the majority of cases, there has been no eviction.

By Sri K. MADHAVA MENON :

As security is not demanded or paid now, there is no objection to having a law that as long as rents are regularly paid, the tenant should not be evicted. By ' compensation ' in my reply to Question 17 (*a*), I meant renewal fee and the rent due to the landholder.

By P. K. MOIDEENKUTTI Sahib Bahadur :

I have come across cases where tenants are required to give bunches of banana, ghee, etc., but they are not compelled to pay.

By Sri A. KARUNAKARA MENON :

There are big tanks which will be useful for cultivation for a large number of tenants. There are also some canals where water can be bunded up for purposes of cultivation. Pumps may also be erected for purposes of irrigation. Fifty per cent of the gross produce will come to the same thing as is now provided in the Act. There should be power for revision of rent according to prevalent prices. It is very hard that the landholder should collect the same rents now as the rent which was fixed when the price of coconut was very high. At the time of renewal, even though most of the landholders' trees have perished, they are still taken into account and all tenant's improvements are said to be landholder's improvements and on that basis, the rent is collected. This is unjust. Renewal fees ought not to be calculated for every 12 years which have elapsed. Only one renewal fee should be collected.

By Sri M. P. DAMODARAN :

Rent for fugitive cultivation in South Malabar is 1/10th of the produce ; I do not know what it is in North Malabar. There is no contract in this respect ; the tenant simply cultivates and at the time of harvest the landholder collects the rent. There are two ways of calculating it ; one is, after harvesting, knowing what the actual crop is; another is by making an estimate of the yield before harvesting. If the rate is not fixed by law, it is hard to both the parties. I am not very much conversant with the details of pepper cultivation. I have stated that the Act should apply to pepper cultivation only with the idea that the tenants should be benefitted. Cultivating tenants should be given facilities to take green manure, firewood and grass for the cattle from the forests. Poor people should be allowed to take bamboos, etc., free for building purposes. There may be trouble if such unlicensed taking of these articles is permitted. But Government must make the necessary provision.

By Sri E. KANNAN :

I directly cultivate 10 acres. I keep separate accounts for cultivation expenses on each occasion. I have given the average cultivation expenses from my own actual experience. The yield is ten-fold sometimes, and five-fold on some other occasions. On the lands that yield five-fold, I spend less. The maximum wage is three annas and the minimum two annas.

37. Sri Nallur Gopala Panikkar, Astrologer, Feroke, Ernad Taluk.

1. (1) The origin of janmam is very old.

(2) It is a long-standing right of the intermediary between the janmi and the occupier to pay renewal fees, etc., to the janmi and retain possession of the lands for periods of 12 years.

(3) This is prevalent in North Malabar.

(4) Verumpattam. When the janmi or the kanamdar find it impossible to hold possession of their lands themselves some are entrusted with others. This is called verumpattam.

(5) These are not prevalent now.

2. The janmi has complete right over the lands. There was no fixity of tenure for kanam right. At the expiry of the fixed period, the kanamdar could be evicted on payment of his kanam amount and value of improvements or the lease could be renewed for a further period. Verumpattamdars are tenants liable to eviction at will either by the janmi or by the intermediary.

3. Not so far as the janmis are concerned. As regards the kanamdars, the court decisions, of recent years, are to the effect that they should not be evicted before the expiry of the period of renewal.

4. (*a*) Yes.

(*b*) No. But in years in which there is not sufficient rain, the cultivators should be allowed to use the adjoining irrigation sources.

(*c*) No. The janmis will be prepared to give such lands to the cultivators if they apply to the janmis.

5. (*a*) No. The janmam right of the land owners and the kanam right of the intermediaries originated almost simultaneously. As the occupants do not experience any difficulties or inconvenience owing to the existence of the intermediaries and as the occupants are not likely to derive any special advantage by their being placed directly under the janmis, the existing system of land tenure does not require any alteration ; and, it should not be altered.

(*b*) (1) This is not necessary nor is it justifiable ; and I am not aware of any instance in which any cultivator wanted this. I am therefore against it.

(2) The area need not be limited.

(3) As the people of Malabar are, at some time or other, cultivators, the sales by cultivators to non-cultivators should not be prohibited.

6. Yes. The Committee may deal with this as it deems necessary.

7. In the case of wet lands, if there are no intermediaries, the janmi should get 2/3 of the yield and the janmi should pay the assessment. The tenant may have 1/3 of the yield after deducting the cultivation charges. The cultivation charge, including the seed, is $2\frac{1}{2}$ times the seed. If there is an intermediary, he should be given a reasonable share so as to enable him to pay the assessment and to derive an income on his investment.

(*b*) The rate of interest is gradually on the increase. The rates of assessment for wet and garden lands vary with similar lands situated side by side. As the rate was increased by four times and even eight times at the Resettlement, many lands had to be sold for land revenue arrears.

(*c*) In the case of kanam lands, the kanamdar should pay the assessment. If his sub-tenant has to pay, the kanamdar should account for it. In the case of verumpattam and mortgaged lands, the janmi should pay the assessment. In the case of waste lands reclaimed and made cultivable by tenants, they should be held responsible for the assessment.

8. (*a*) No.

(*b*) Fair rent should be fixed in the case of garden lands.

(*c*) As regards wet and dry lands, the existing fair rent may be taken as reasonable. It does not require revision. So far as I am aware, no one has applied for its revision.

9. The existing system does not require alteration.

10. Yes, in respect of some lands.

11. No. The present practice does not cause any difficulty.

12. It is a portion of the tenants' income from the land.

13. (*a*) Renewal need not be dispensed with altogether. It is a loss both to the janmi and to the Government. But the existing rate as confirmed by the Tenancy Act requires reduction.

(*b*) The question does not arise.

(*c*) No.

14. No.

15. (*a*) The actual cultivator should be allowed occupancy right. But he should surrender the land if he makes default in payment of the dues either to the janmi or to the intermediaries.

(*b*) No.

16. (1) No.

(2) No.

17. (*a*) Yes. Now they have the right to purchase on payment of compensation.

(*b*) Urban areas should not be included in respect of kudiyiruppus.

(*c*) (1) & (2)—It is enough if the existing system is continued.

18. No. It is not desirable to fix a time-limit.

19. Such levies are not to be seen in South Malabar.

20. (*a*) No.

(*b*) No.

21. (*a*) & (*b*). No.

22. (*a*) The present Act requires so much modification as is necessary to enable the janmi to collect the rent easily and the tenant to obtain renewal of the kanam lease without much difficulty.

(*b*) Legislation should be made in such a way that the janmi and the kanamdar can collect their dues without unnecessary expenditure and undue delay.

(*c*) (1) Summary trials should be started at once. All cases should be appealable.

(2) Civil courts should be entrusted with this.

(3) There is no objection to granting right to the janmi to file suits or application for recovery of renewal fees.

23 & 24. I do not know.

By the CHAIRMAN :

I have not heard of any instance where the kanamdar who had been paying his rent regularly to the janmi had been evicted before 1852. If private owners are not giving waste lands to those who demand it then there is no objection to Government taking it up. Similarly irrigation sources which are not used may be taken by the Government to be utilized for the benefit of the general public. Further, Government should make proper facilities for irrigation when the rains fail. The sub-tenants must be protected against the consequence of default by the intermediaries. Only if no other remedy is possible, should the intermediaries be eliminated. No landlord should be able to recover rent for more than three years. That is sufficient to protect the rights of tenants. As long as the sub-tenants pay their dues regularly they should be given protection. The under-tenure-holder should be enabled to pay his proportionate share of the renewal fee to the landlord and get renewal. I have no objection to a holding being divided into ten sub-holdings by this process. There should not be more than one intermediary, if possible, between the landlord and the cultivator. It is hard to eliminate the kanamdar, who has been in existence along with the janmi and who has had vested interests and rights in the land. It will be working hardship if we take away the kanamdar. Land is known in these parts with reference to its yield ; it is not known with reference to the amount of seed. In the case of garden lands if the assessment has been increased because of the improvements made by the tenant, the janmi should be compensated to the extent of the increased assessment by increasing the pattam to that extent. One-fifth of the produce of the tenant's trees is not sufficient ; that is a right which existed before the resettlement ; it is an ancient custom. In the resettlement the assessment has been increased four-fold in some cases and eight-fold in some cases. I shall try to send a list of such cases with the survey number and amsams. I favour renewal if that is the only way of retaining the kanamdar's rights in the property. There may be cases where the landlord will not be able to pay for the improvements when the tenant relinquishes. In such cases it will be hard to compel him to pay. In the case of wet lands the difficulty may not arise. The landlord's right of eviction for bona fide cultivation should be retained as it is. The landlord should be allowed to evict only for his livelihood or that of a member of his family. For every feudal levy there is a return gift from the landlord. So it is not a mere levy. I have no objection to their abolition. I want some procedure for recovering rent and renewal fee by a petition or some other method which would be more speedy and less costly. I am not particular that renewal documents should be executed and registered ; I only want that there should be some authentic indisputable proof that the renewal fee has been paid. Much money is wasted on renewal documents.

By Sri K. MADHAVA MENON :

I have some kanam lands and some janmam property. On janmam property I pay an assessment of Rs. 15 and on kanam property an assessment of Rs. 18. Large extents of waste land are lying uncultivated. Many people are not diligent and industrious enough to take to cultivation. It is not because agriculture is not profitable. People are not willing to work ; that is the reason. If there are people who are willing to cultivate land but the janmi refuses, then he must be compelled to give it. I do not know of any case of ancient janmis directly cultivating the land themselves. The kanamdar has only a monetary interest and not joint proprietorship in the land. I have cultivated myself. To cultivate 10 paras of paddy I had to spend 15 paras excluding the seed. This includes all expenses including harvest. Hire of cattle is included in the 15 paras. The yield was ten-fold. Subsequently I sold my land as I could not cultivate it myself. The verumpattamdar will not get the same amount of yield as I got. He will get only six-fold. After deducting the cultivating expenses, the revenue to Government and rent to the janmi he will have nothing left. In urban areas, when people live in rented buildings, they should not be given fixity of tenure. If the system of tenure and enjoyment of property are the same in the Gudalur and Kasaragod taluks as in Malabar, I have no objection to the extension of the Act to those taluks also. If the tenant pays rent regularly he should not be evicted. I do not want any further restrictions than that.

By Md. ABDUR RAHMAN Sahib Bahadur :

If the meaning of the word bona fide can be changed into 'when he has no other means of livelihood besides this,' it will be all right. When the tenant is very regular in the payment of his dues to the janmi preference should be given to the tenant. Under such circumstances even if the janmi wants the land for his livelihood he should not be allowed to evict. Even from the very origin of the world there have been different standards of measure and no difficulty has been experienced. Even in the same taluk it differs from locality to locality. When a rent is fixed according to the weights and measures accepted by Calicut taluk all the different taluks can adjust in proportion to that.

38 Sri V. Raman Nayar, Representative of Nilambur Village Congress Committee, Nilambur Village Karshaka Sanghatana Committee, Ernad Taluk.

1. (1) *Janmam.*—This originated by the native rulers' exercising their superior powers and continues even after the changes brought about by the British administration. Since the British administration, this right was considered as one over which the Native rulers (Naduvazhis)—who were subsequently treated as janmis—had independent saleable right and their right was acknowledged by the British rulers and thus they are now considered to be the sole owners of the lands. Now, there are also some janmis who purchased the right from the above persons in course of time.

(2) *Kanam.*—There was a class of persons whose only occupation was cultivation. For this privilege of cultivation, they paid to the Naduvazhis and religious institutions a portion of the yield known as Raja-bhogam and janmabhogam and also acknowledged their "Keezhayma" as tenants of such Naduvazhis and religious institutions. They were also the body-guards of the Naduvazhis whose status and prestige, they thought, they were bound to maintain by fighting invaders if necessary. The permanent occupancy right of these Keezhaymas is known as kanam. But, to demonstrate the Melkeezhayma (subordination and superiority) and mutual relationship, an amount known as "kanam" was given to the janmi and, at the expiry of 12 years, another amount towards the renewal of the kanam (mutual relationship) was paid; besides, on festival occasions, special presents were made to the janmis which is known as "Thirumul-kalcha." These were considered to be the duties of the kanamdar. Generally, Naduvazhis, local chieftains, or religious institutions were not kanamdars. The kanamdars were under those who had the authority to pass judgments in social and administrative questions. Such kanam right deteriorated, after the commencement of the British administration, so that the kanamdars in possession of the lands could be evicted at will by the janmis and this state of eviction and Melcharth continued until the passing of Malabar Tenancy Act.

(3) *Kuzhikanam.*—The right of a cultivator to effect improvements on the lands in his possession is known as "Kuzhikanam." In olden days, this was very rare. On account of the eviction of kanamdars, increase in population, partition in joint families and the consequent increasing necessity for kudiyiruppus, this right, which is known as "Kuzhikanam" in North Malabar and "Chamaya-pattam" in South Malabar, is quite common.

(4) *Verumpattam.*—When the kanamdar (who was in possession of the lands) and his mortgagee found it inconvenient to cultivate the lands themselves, they were entrusted to others for cultivation. In return, the actual cultivators paid a share to the kanamdars or their mortgagees and enjoyed the balance themselves. This right is called verumpattam. Although this right was very rare in olden days, it became frequent when kanam lands were evicted, after the commencement of the British administration. Rich persons, who were not actual cultivators, invested large amounts in landed property with the result that, in course of time, they became the owners of the lands. They fixed pattam for these lands at exorbitant rates and many of the cultivable lands are now occupied on verumpattam right. Although under the existing Tenancy Act, the verumpattamdar has been given some protection it is insufficient; and on account of the improper working of the rules framed under the Act it becomes impossible to derive the benefits granted. (Lands have been evicted on the pretext of direct cultivation by the janmi).

(5) *Other tenures.*—In Malabar, there is a kind of mortgage with possession (the possession being merely for purposes of cultivation) which cannot be included under kanam, verumpattam or kuzhikanam. The origin of this is from the period from which the cultivators agitated for fixity of tenure. These mortgage tenants are considered to be not eligible for the relief granted to other tenants. The intention with which the janmis raised such mortgages is to get back possession of the mortgaged lands whenever required so that the mortgagees cannot claim occupancy right even when the kanamdars are declared to have occupancy right. The clever jenmis converted kanam into panayam (mortgage) at the time of renewal of the kanam lease and showed mu pattam amount as panayam amount at the time of receiving munpattam amount with the intention of duping the poor tenants. Generally in these mortgages no condition is made for eviction. The mortgage amount will not exceed two or three years' pattam amount. A kychit will be obtained from the cultivator consenting to the surrender of the land at any time on demand. Many of the lands which had been held on kanam or verumpattam right are thus now held on mortgage right. Such mortgages should have fixity of tenure.

2. The only information available is noted in the answer to question 1.

3. Yes. In ancient times it was not the practice with the janmis to evict their tenants. Before the commencement of the British administration, not even a single tenant was evicted by use of force by the janmi. After the British administration commenced, the High Court Judge, Sir Charles Turner, passed a decree stating that the kanam tenants were merely in the position of mortgagees and that the janmis were the sole owners of the lands. Con-

sequently, the right of the janmis was acknowledged by the authorities and ever since the relationship between the janmi and the tenant was completely changed ; the most valuable kanam right which the tenant once possessed was entirely left to the mercy of the janmis.

4. (*a*) No.

(*b*) Yes. Cultivation is the means of livelihood of the poor folk of Malabar. There are many waste lands in Malabar. It is easy to convert such lands into pucca cultivable lands without much expense. But such lands are now left completely forsaken by the owners. They do not lease out such lands fearing that they will have to pay reclamation charges. And even if any such lands are leased to cultivators it is on payment of heavy pattam and on condition that no demand will be made towards reclamation charges. The cultivators do not take such lands on lease fearing they will have to pay heavy pattam and that they will not be remunerated for their labour (reclamation work). Therefore, steps should be taken to lease out waste lands to intending cultivators on the recommendation of an officer not below in rank than a Sub-Collector and subject to the payment of some pattam to the owner. Or, as an alternative, it is enough if the old system of cowle is revived. There are advantages and disadvantages to the cultivators in forests. The manure necessary for cultivation, the materials required for putting up houses and cattle sheds are all easily procurable for those doing cultivation work in forests. Cattle should be allowed free grazing ground. Permission should be granted for the removal of fire wood. Cultivators should be granted licenses to possess guns to scare away wild elephants, tiger, pig, deer, etc., which are likely to damage cultivation and endanger human life. Besides, cultivation of punam should be permitted by clearing the forests. The cultivator does not want to destroy the forests. On the other hand it is disadvantageous to cultivators. The cultivators will not grudge to pay the reasonable cost of the timber, etc., required for the construction of houses in forests. For the purposes, referred to above, the forests should be made accessible to the public.

Irrigation sources.—The crops are gradually becoming a failure in Malabar for want of rain. Irrigation sources have become indispensable. The cultivators should therefore be permitted to divert the irrigation sources, such as rivers, channels, etc., in such a way as to serve all the cultivable areas.

(*c*) Yes. The above answers apply to waste lands.

5. (*a*) Yes. There should only be one person having independent saleable right over the land. And he should be one who actually holds the land and cultivates it. No compensation need be paid. The cultivator has no objection to giving a fixed portion of the yield to the owner of the land.

(*b*) (1) The tenant is not in a position to purchase. The tenants in Malabar are already highly indebted. The cultivator has more pressing necessities than purchasing lands. Therefore there should be no provision for compulsory purchase.

(2) This is necessary. But there should be sufficient extent to meet the demand of the cultivator and his family. But an intending cultivator who has no cultivable lands should be given priority of claim.

(3) Sales by cultivators to non-cultivators should be prohibited. Because the land owners are not the actual cultivators, they demand increased rate of pattam every now and then ; failing to pay the pattam demanded, the occupants are evicted one by one ; as no particular tenant is allowed to be in permanent occupation, no one takes personal interest to maintain the fertility of the lands. Therefore, the sale of lands to non-cultivators should not be allowed, and it will be against the interests of the cultivators.

6. Yes. The protection of cultivators is absolutely necessary. The intermediary should be held responsible for the arrears due by him to the janmi and if the latter fails to demand the arrears in due time with the result that the arrears exceed the intermediaries' right over the property, the janmi should write off the amount that could not be realized from the intermediaries. The cultivator's right should under no circumstances be held liable for the arrears due by the intermediary.

7. (*a*) The janmis and the intermediaries became the owners of lands either by right of succession or by purchase in cash. They are not skilled in cultivation. The cultivator has to work very hard day and night and has also to make his family and young children work very hard to secure a good yield. All his property has to be invested in cultivation. The investment by the janmi and the intermediary is money and the investment by the cultivator is hard labour. The non-cultivators can attend to other work and afford to lead a luxurious life. The proportion of the yield to be shared between the cultivator and others should therefore depend upon the labour involved. Therefore two-words of the net yield (deducting the cultivation charges and assessment) should go to the cultivator and the remaining one third to the janmi.

(*b*) We think that the assessment is one-sixth of the yield. On account of the fall in the price of the yield, increase in pattam and assessment and of the poor outturn and on account of

the severe and drastic measures taken by the authorities concerned for the realization of the land revenue, it sometimes happens that more than half the yield has to be paid towards assessment. Besides, in the case of dry lands, consequent on their transfer to garden for the mere reason that the land contains two or three fruit bearing trees there are many cases in which the yield is quite insufficient to meet the assessment. Consequent on the changes at the Resettlement, this is the case with some wet lands also. The reason for this increase in assessment is the deputation of inexperienced officers for Resettlement operations. They had no idea of the conditions of Malabar.

(*c*) The assessment is now paid by the janmis. It would be convenient to fix the responsibility of paying the assessment on the cultivator. (It is enough if the cultivation charges and assessment are made the first charge on the yield.) The assessment levied should be in respect of each field, that is, the assessment on more than one filed should not be collected from a single field. In levying assessment, more courtesy should be shown.

8. Yes. The provisions in the existing Act to fix the fair rent are not workable. This has been made clear in all cases in which Courts had to fix fair rent. The Commissioners appointed by Courts for fixing fair rent are inexperienced young vakils who are generally inclined to help the janmis. Inexperience and also the rule, that in fixing fair rent, the average yield for three years should be taken into account lead to severe hardship and result in failure to present the true facts before the Court. If the assessment bears a proportion to the yield then the fair rent also should bear a similar proportion to it.

(*a*) Wet lands.—Fair rent should be one-third of the net yield (excluding cultivation charges and assessment). The cultivation charges allowed by the existing Act are insufficient. At least a minimum of $3\frac{1}{2}$ times the seed should be allowed for cultivation charges. (2 plus $1\frac{1}{2}$ for cooly—the slavish coolies who were available in olden days are no more available). This fact will be evidenced by a reference to Agricultural Department records.

(*b*) Garden lands.—If the improvements belong to the tenant, the assessment fixed for the land prior to its transfer to garden should be fixed as the fair rent. If the improvements belong to the janmi there is no objection in fixing the fair rent with reference to the existing Act.

(*c*) Dry lands.—Fair rent may be fixed as much as the assessment and not more.

9. Yes.

(*a*) In the case of wet lands, fair rent may be fixed up to the assessment.

(*b*) In the case of dry lands, fair rent may be not more than the assessment.

(*c*) If the improvements belong to the tenant and if the land is dry, the fair rent may be as much as the assessment.

10. Yes. In all cases in which remission is allowed on the basis of the loss of crops, the pattam also should be remitted proportionately.

11. Yes. The weights and measures standardized by the District Board and Municipalities may be brought into force and legislation may be passed to use them uniformly. The standardized paras and weights may be made available in Revenue offices.

12. The answer to (2) of question 1 applies to this as well.

13. (*a*) Certainly yes.

(*b*) No compensation need be paid for abolishing the renewal fees. The fixed portion of the yield paid as fair rent to the janmi or the intermediary is sufficient compensation.

(*c*) The provision in the existing Act regarding the renewal fee should be completely abolished.

14. Yes. Under no circumstances should an actual cultivator in possession of a kudiyiruppu, or a kuzhikanamdar who has made improvements be evicted. The existing Act that a tenant can be evicted if he leaves arrears of pattam is not workable. The cultivator's right over the land can be sold for arrears of pattam, if any. The provision in the Act that occupancy right can be claimed only if one had been in possession of a kudiyiruppu for 10 years is not satisfactory. All houses proposed to be occupied including the compounds attached to them should not be liable to eviction.

15. (*a*) Yes. No condition other than the regular payment of pattam should be imposed on the cultivator. The occupancy right proposed to be granted to the cultivator is sufficient security for the one year's pattam due from him. No other security should be demanded from one who is already involved in debts.

(*b*) No. As mentioned against question 14 (*a*), under no circumstances should the actual cultivator or kudiyiruppu holder be evicted.

16. (1) The provision for eviction should be completely deleted. Eviction for "own use" should also stop. The Court has to be approached to decide the *bona fides* and this causes unnecessary suits and expense. For example, please see the answer to question 1 (4).

(2) Eviction should not be allowed for the reason that one year's advance pattam has not been paid. The cultivators who are heavily in debt find it impossible to advance any amount. The cultivator's occupancy right over the land should be considered as sufficient security for one year's pattam. Under no circumstances, therefore, can security be demanded or the tenant evicted.

The land owner's right to evict the tenant should be withdrawn.

17. (*a*) Yes. All kudiyiruppu holders should be allowed fixity of tenure. No compensation need be paid for this to the land owner. It is enough if the fixed pattam is paid to the land owner.

(*b*) Yes.

(*c*) 25 cents in urban areas and one acre in rural areas. No condition other than regular payment of fixed pattam should be imposed.

18. On account of the improper working of the Act and the mis-interpretation of the rules by the Courts, the relief intended by the M. C. T. I. Act is not derived by the tenants. As a result of the recent High Court decisions, the absolute ownership of the tenant over the improvements effected by him has been denied. There should be clear provision in the Act in order that the tenant should have complete right over the improvements. It is desirable to fix a time limit for execution of the decree for eviction when compensation for improvements is paid. The Courts generally appoint Commissioners to fix the value of the improvements. Due to inexperience and "Mamul", the value fixed is very often unreasonable. Although there is provision in the Act to appoint assessors to fix the value, they have not been appointed so far. Therefore the provision to appoint assessors should be enforced.

19. Fines, subscriptions, honorary work on festival occasions are in vogue in a small scale. These should be made punishable.

20. (*a*) Yes.

(*b*) Yes.

No modifications are necessary.

21. (*a*) & (*b*) Yes. No modification is necessary.

22. (*a*) Yes. By asking the parties concerned to pay in kind, some articles which are difficult for them to get and by converting the renewal right into money at the rate at which the prices are published in the Gazettes, much difficulty is experienced. Therefore, the Act should be amended in such a way that the tenants will actually be enabled to enjoy the benefits allowed to them by the amendments. When the tenant is prepared to pay in kinds, it would be hard to ask him to pay the money value. The principles now adopted for fixing the fair rent should be discontinued and it should be fixed either with reference to the assessment or by obtaining expert opinion from the Agricultural Department in regard to yield.

(*b*) If fair rent is fixed with reference to the assessment and if renewal fee is fixed after deducting expenses therefrom, no expense will be necessary. A Court representing each revenue firka may be established to collect the dues and to decide the questions affecting the tenants and the District Courts may be given powers to hear appeals against the decision of such Courts. Under no circumstances, should this work be entrusted to Revenue Courts.

(*c*) (1) It is desirable to provide for summary trials of all proceedings. But the parties aggrieved should have the privilege of getting the summary decision set aside by a regular suit.

(2) Revenue Courts should not be allowed to do this. The powers for trial should be invested entirely with Civil Courts.

(3) The right to recover renewal fees should not be granted. According to the Acts so far passed, the tenant is not bound to pay the renewal fees.

23. Yes. Since the agitation by the tenants was started, the demand for occupancy right for kudiyiruppus has been made. Although according to the existing Act, the kudiyiruppu holder has permanent occupancy right if he occupies a kudiyiruppu for 10 years, this does not completely free him from anxiety. There is now no law prohibiting eviction of a kudiyiruppu in a case in which 10 years have not elapsed since the construction or purchase of a kudiyiruppu. In Malabar, people no longer like the idea of living in a joint family. The Marumakkathayam Act also prompts the joint families to split into branches and live separately. These circumstances and the increase in the population necessitate

increase in the number of kudiyiruppus. With the increase in the demand for kudiyiruppus, the owners enhance the value for the parambas and enforce all conditions to facilitate eviction at will. Therefore, legislation should be made prohibiting eviction of the kudiyiruppu and the paramba required for the kudiyiruppu compound. The existing Act does not prohibit eviction of a tenant unless there are valuable improvements such as coconut, arecanut and pepper plantations. Therefore the tenants are put to difficulty. The value for non-bearing jack trees and other trees according to the M.C.T.I. Act paid to the tenant at the time of eviction is very low. In the case of casuarina plantation, the tenant is particularly a loser when evicted. Provision should therefore be made to include jack, mango and casuarina tress in the category of other garden trees, viz., coconut and arecanut trees and pepper vines and to prohibit eviction in all these cases. These conditions are special to Malabar. According to the Debt Relief Act, the rate of interest has been reduced as a source of relief to the cultivators. But the Act does not provide for any relief from levying interest at the rate stipulated in the kychit for arrears of pattam. The land owners levy interest at the rate of 20 per cent for arrears of pattam. This rate should be brought down as in the case of other debts. There are janmis who have refused to accept (at the specified periods for each year) the pattam for two years tendered under the Debt Relief Act.

24. So far as North Malabar is concerned, our knowledge is incomplete. (This applies to East Ernad in general).

(*a*) Special disabilities.—The wage paid to agricultural labourers are very low. The cultivator is not in a position to pay more wages to the labourers with the cultivation charges allowed by the Act. This leads to the labourers gradually withdrawing from this occupation as they cannot live on the wages paid. Therefore, when assessing the cultivation charges, it should be borne in mind that the labourers should be allowed sufficient wage to enable them to lead a hand to mouth existence.

(*b*) The increasing pattam and assessment has become unbearable. Low price of produce, increase in the number of family members, low out-turn due to deterioration in the working capacity, unfavourable season and inability to raise the crop in good time for want of seed and materials for cultivation cause inexpressible hardship to cultivators. The pattam arrears consequently increase, suits for the arrears and the attendant expenditure increase, and all that the cultivator possesses is sold away and he is reduced to the position of a pauper. To avert these calamities, the tenant's interest over the land should be duly valued and it should not be sold until that value is reached.

(*c*) Instances in which receipts are not granted for pattam paid and munpattam amount are numerous. These should be made punishable.

By the CHAIRMAN :

The kanamdar has no irredeemable right. The janmi and the intermediaries should be altogether eliminated and they need not be given any compensation. I mean only this that the right of elimination must vest only with the cultivator and the kanamdar and the janmi must continue to get fair rent which ought to be fixed. There is no objection to the janmi or intermediary transferring whatever right they have now. If the tenant gets fixity of tenure and the fair rent is fixed, I have no objection to the present state of things being continued. The tenant should be given two-thirds of the balance after deducting from the gross produce the seed, cultivation expenses and assessment. The janmi who has purchased land has other means of livelihood whereas the cultivating tenant has only this source of livelihood. I concede that the janmi who has invested money on the land will not realize reasonable interest under my formula. But he has no business to purchase the land. On my formula out of 100 paras gross produce the janmi will get 15 paras net. If a calculation is made on the basis of the present Act the janmi will get 35 paras, the tenant 50 paras and 15 paras will go for assessment. That is not sufficient to meet the cultivation expenses. In the case of garden lands if the improvements belong to the tenant the present provisions are not satisfactory. Fair rent should be equal to the assessment paid at the time when no improvements were made. In cases where the lands have been leased to the tenant with the improvements thereon made by the landlord, the fair rent may be according to the provisions of the present Act. Even if renewal fees are not abolished, it is not necessary to have renewal documents. I would agree to have the fair rent of all the lands in the same locality determined at one and the same time by a Committee composed of the Deputy Tahsildar or Tahsildar assisted by three or four respectable men of the locality, if that course would not cost the cultivator anything. If the fair rent is fixed according to the provisions of the present Act, the tenant has to incur considerable expenditure. The expenses will be less if the rents are determined by a Committee. A change in the present provisions for relinquishment is necessary. The landlord should be compelled to revise the rent so that it may be fair according to the profits from the land.

But if the landholder is not prepared to do so, he should be compelled to pay for the improvements and the kanam amount also. If the tenant without any proper reason says that he does not want the land, then the landlord should not be compelled to pay the kanam and the value of the improvements. The present provision enabling the landlord to resume the land for *bona fide* cultivation should be deleted altogether. If it is a case of only a temporary lease by the cultivator to another and if subsequently the lessor wants to take back the land because he has no other source of livelihood he may be allowed to take back the land. In other cases where the landlord has no other source of livelihood except the cultivation of his land, he may be permitted to evict the cultivating tenant provided the cultivating tenant has other lands. If he has no other source of livelihood except cultivating his land, the landlord should not be allowed to evict. What I have stated in answer to question 20 is applicable to the fugitive cultivation prevalent in South Malabar such as modan cultivation.

By Sri K. MADHAVA MENON :

Even in the case of modan cultivation, the same land is not cultivated by the same tenant every year. The cultivation is in alternate years. The rent provisions of the Tenancy Act should be made applicable to it. The present rent that the tenant has to pay to the landlord for modan cultivation is 1/10th of the produce. The revenue is paid by the tenant and will be from 10 to 12 annas. What I meant is that if my suggestions are approved the legislation should be made applicable to modan cultivation also. But if the rent for modan lands will be higher than what the tenant pays now I do not want the liabilities of the tenant to be increased in any way.

By the CHAIRMAN :

There is a complaint that the landholders do not give receipts for the rents paid by the tenants. I do not go so far as to demand a provision making it penal for the janmi not to give receipts.

By Sri K. MADHAVA MENON :

Under the present Act the method of calculating the fair rent and the way in which it is done take away the real benefit conferred by the Act. The cultivation expenses provided under the present Act are not adequate. They are much less than the actual expenses incurred by the tenant. The limit of ten years occupation to give fixity of tenure for kudiyiruppus should be removed. If a building has been put up for the actual occupation of the owner he must be given fixity of tenure. There is an attempt by the landholders to evade the provisions of the Tenancy Act and also to prevent the provisions of any other Tenancy Act which may be passed from being made applicable to their lands. They have tried to convert old leases into mortgages, but they are really not mortgages at all. They only show that one or two years' rent has been received as advance. Such practices should be stopped. The landlords in collusion with the village officials are attaching the crops for realising revenue which is not really due on the property which is attached. I have here in my hands proof to show that. (The witness produced some documents.) Such practices should be stopped. The tenant should be relieved of such troubles. The main stay of the country is the kanam tenant : that is the view of my Association. I do not want that class to be wiped out. Our Association was started at the instance of the All Malabar Peasants' Union, but we have independent views and freedom of action. The verumpattam tenant is not able to enjoy the benefits conferred by the existing Act owing to evictions on the pretext of ' *bona fide* purposes of cultivation,' and to the method of fixing the fair rent and the expenses of renewal. Private owners may give waste lands, but they put such restrictions that the cultivation of them is absolutely unprofitable. The conditions under which Nilambur Kovilakam gives waste lands for cultivation are that for the first two years the tenant has to pay a rent equal to the seed and after two years such rent as will be fixed by the landlord. The rent that is fixed subsequently will not be profitable to the tenant to enable him to continue the cultivation. The landlord also insists on some admission by the tenant that all the reclamation he has done to bring the land into cultivation has been paid for by the landlord. Other landlords also make such restrictions in giving waste lands for cultivation. That is the reason why waste lands in the possession of private owners are lying uncultivated. It is not because people are not industrious enough to take to cultivation.

In my own case where the revenue of my property is less than Rs. 100, for the revenue due from the landlord for other properties to the extent of Rs. 225 and Rs. 150, my crops were attached. In that case, I appealed to the Revenue Inspector and he gave me some relief after my paying some amount as anamath.

By the CHAIRMAN :

Such difficulties could be obviated if the person in possession of the land is made liable to pay the revenue on that land.

By Sri R. RAGHAVA MENON :

I am directly cultivating my verumpattam lands. I have no other profession. I work in the fields with other labourers. I have to employ labour for 10 months in the year. On an average about 35 labourers will be working in the fields. I keep accounts for my cultivation expenses. It is six years since I began cultivation. I have to pay a rent of 1,705 paras of paddy. Seven hundred and five paras of paddy is given to me as allowance for looking after my landlord's estate and meeting the incidental expenses. Deducting that I have to give 1,000 paras of paddy. I am paying rent regularly. I have also leased property to four sub-tenants. They give me a rent of 400 paras of paddy. There are three verumpattamdars and one mortgagee. The verumpattamdars pay 310 paras of paddy for 42 paras seed area, that is about 5½ acres. I do not know of kanam families leasing their lands to verumpattamdars for want of male members. I am aware of women kanam holders actually cultivating the lands.

There are about 300 members of the Association in Amarampalam. All members are cultivators ; they include kanamdars, verumpattamdars and panayamdars also. There are also some janmis who cultivate.

By Sri E. KANNAN :

The statement submitted by our Association does not represent exactly my cultivation. My cultivation is really profitable. I pay only low wages. A man is paid three edangalis and a woman two edangalis.

By Md. ABDUR RAHMAN Sahib Bahadur :

For a moderate family consisting of five persons, about five acres of land will be required. One reason why I say that renewal fees should go is that janmis continue to intimidate the tenants and by using undue influence, create greater hardships to the tenants. I have myself suffered such hardships. I can also give an instance. The Karikod devaswam sued to evict my family. The landlord said he would grant renewal only if I admitted his janmam title in regard to other lands of which really I was the janmi. For certain ceremonies the tenants are asked to work. They are not paid wages for the work. Such labour is practically forced labour. It is even a sign of slavery. The verumpattamdar is now giving low wages to the Cherumas. They may be paid more. If reasonable wages are to be paid to the Cherumas, the cultivation expenses would automatically increase. Kanam tenants, verumpattam tenants, landholders and others are members of our Association but the majority of the members of our Association are cultivators. Even among them, the verumpattamdars are far more in number than kanamdars ; and among the kanamdars, the majority are cultivating tenants.

By Sri K. MADHAVA MENON :

The rent that I am taking from my verumpattamdars is not high.

By Sri R. RAGHAVA MENON :

My tenants are paying the rents regularly. If they do not pay, I know how to collect them. They have no complaints to make in regard to rent. They are satisfied.

39. Janab V. K. Ali Sahib Bahadur, Manjeri, Ernad Taluk.

1. (1) *Janmam* (*influence of powerful persons of ancient days*).—When there was no organized and popular administration in Kerala, the religious heads and the prominent persons used their influence wherever they thought fit. They strengthened their right in such places and claimed them as their janmam.

(2) *Kanam* (*the relationship with the mighty persons*).—During the period mentioned above, the cultivators entrusted their lands, for safety, with the powerful persons referred to above and held the lands under them. This system is known as kanam.

(4) *Verumpattam* (*the system of cultivating others' lands on payment of a fixed income*).—This is the system of cultivating lands on payment of a fixed income to the land owner. This system is not very old. When the arable lands and population increased and when some of the cultivators had other engagements, this system came into existence.

2. In consideration of the janmi's prior right over the land and in view of the fact that he was safe-guarding the interests of the country, the cultivators used to pay an amount more or less resembling the present assessment. In due course, the janmi's ruling power declined with the advent of other rulers. As a result, the janmi desired to strengthen his hold on the lands. In the absence of any documentary transactions at that time, the janmis began to receive petty amounts known as Kanappanam (കാണപ്പണം) and the cultivators agreed to hold the lands under them on payment of this amount and on permanent occupancy right.

3. *Sadar Court decision of* 1856.—So far as I know, kanam was a right to be enjoyed for ever and which could not be evicted. But according to the Sadar Court decision of 1856, Kanam was converted into a right lasting only for 12 years. This decision is against the original principles of Kanam.

4. (*a*) Yes; the lands belong to private owners.

(*b*) Yes; waste lands should be leased on cowles. So far as waste lands are concerned, the Government were giving such leases. This system should be revived. So far as forests are concerned, the portions fit for punam cultivation should be made available to cultivators without any difficulty.

(*c*) Yes.

5. (*a*) No; for this will suddenly lead to a financial revolution.

(*b*) (1) This is no good in the case of wet lands.

(2) Now this is not necessary or advisable.

(3) Yes. It is desirable to prohibit sales by cultivators to non-cultivators—the cultivators being those defined in the Debt Relief Act.

6. Yes. One should not be held liable for the default of another. The existing Act should be so amended as not to hold a sub-tenant responsible for the default of a tenant.

7. (*a*) The janmi should get 15 per cent of the pattam, and if the renewal right is going to be abolished, the janmi should get 20 per cent. The occupant should get half the gross produce including cultivation charges; the balance should be paid to the Kanamdar towards his share and to meet the assessment.

(*b*) The assessment does not bear any proportion to the yield.

(*c*) This should be left for the parties concerned to decide.

Note.—At present, there are several irregularities in the mode of assessment. This should be set right at once and an appreciable portion of the assessment reduced. In the case of wet lands, the Settlement rate of 1902 should be restored and in the case of garden lands, the assessment for poor gardens should be remitted. The system of transferring unoccupied dry lands to occupied dry when there is fugitive cultivation for 3 years or when there is a wall or fence and the rule for assessing a dry land converted into garden at the highest garden rate irrespective of the yield should not be allowed to continue. If a reasonable rate of assessment is fixed, it will be easy and desirable to fix the fair rent with reference to the assessment.

8. There should be legislation to fix the fair rent on a reasonable basis. The cultivation charges calculated as $2\frac{1}{2}$ times the seed, according to the existing Act, should be increased to $3\frac{1}{2}$ times. Kanamdars and verumpattamdars have to suffer a good deal as regards wet lands. In commuting the value of paddy, there is vast difference between the local market rate and the rate adopted by Courts. Arrangements should be made by the Revenue Officers of each taluk to certify the price prevailing in each amsam every month and this should be accepted by Courts. The parties are put to undue loss and difficulty by having to resort to Civil Courts for fixing the annual yield of paddy and so this should be fixed by some panchayatdars and some such easy method should be adopted.

9. Yes. But as the present rate of assessment is not in order, it will be very difficult to fix the fair rent of wet lands with reference to assessment.

10. Yes.

11. Yes. A standard measure, viz., para should be uniformly adopted; the existing pound weight should also be standardized.

12. When the period for kanam tenure was fixed, the janmis began to get the kanam leases renewed. They also began to demand some remuneration for this. Fearing eviction, the tenant submitted to this. This is, what I think to be the origin of renewal fees. This was nominal at the beginning but was gradually increased.

13. (*a*) Yes.

(*b*) Kanam, verumpattam and kuzhikanam rights should not be evicted. As regards compensation, please see answer to question 7 (*a*).

14. Yes. In cases of relinquishment, there should be mutual agreement that the person who relinquishes and the person who accepts the relinquishment shall not demand any compensation for their respective rights.

15. (*a*) Yes. A tenant who pays the pattam regularly and keeps the land in good repair should have permanent occupancy right.

(*b*) Yes. I shall quote examples later on. As regards reasons for eviction, section 13, sub-sections 5, 6 and 7 of section 14, sub-sections 5 and 6 of section 20 should be deleted.

But there is no objection in evicting the tenant if the land owner or his family wants the land for a Kudiyiruppu. But the lands to be evicted should be exclusive of the portions occupied by wet lands and by the tenants' Kudiyiruppu and should be only so much as is necessary for the Kudiyiruppu.

16. (1) & (2). Please see answer to 15 (*b*).

17. (*a*) Yes. The 10 years' time-limit prescribed in the existing Act should be deleted. No compensation need be paid except that the existing purappad may be continued.

(*b*) Yes.

(*c*) (1) Fifty cents in urban areas.

(2) One acre in rural areas.

18. Compensation should be paid for casuarina and graft mango trees also. In fixing compensation, these and other mango trees should be included and the M.C.T.I. Act amended accordingly. Three years' time-limit should be fixed for the execution of the decree.

19. Thirumul Kalcha, collections for Onam and marriages, etc., should be prohibited.

20. (*a*) No.

(*b*) Yes.

21. (*a*) & (*b*) Yes.

22. (*a*) Yes ; much hardship is caused in fixing the fair rent, the value of land and improvements and in arriving at the renewal fees to be paid. The costly process of litigation should be avoided and these should be fixed by local representatives such as panchayat boards, panchayat courts, etc.

(*b*) Such matters should be settled by Tenancy Boards to be appointed for each village.

(*c*) (1) This is essential.

(2) This is unnecessary.

(3) If renewal right is to be continued, the janmi should be able to collect the fees on a petition. The tenant should not be evicted or sued for failure to renew. The tenant or his successor and the occupant should also have the right to put in a petition to get the lease renewed.

23. Yes.

(1) The interest for arrears of pattam and michavaram should be $6\frac{1}{4}$ per cent. As the patta is in the name of the janmi, there is no chance for the tenant to know the exact amount of assessment due by him with the result that arrears, though petty, accumulate without the tenants' knowledge. To avoid this, the janmi should claim arrears of assessment, pattam and michavaram within three years failing which the liability for payment will cease.

(2) Fearing that occupancy right may have to be granted, the janmis have converted kanam into panayam (mortgage) interest. Such conversions should be ignored.

(3) When dry lands are mortgaged with possession, and with power to effect improvements, there should be occupancy right except in the case of mortgage of garden lands.

(4) When the lands included in one kanam lease are split either on account of sales of portions or on account of partition, the janmi ignores such transaction and holds every one of the tenants individually and severally responsible for the arrears that might have been caused on account of the neglect of any one or more of the tenants. Innocent tenants are thus put to loss. The partition of a property included in a kanam lease should be binding on the janmi who should collect the proportionate pattam from the tenants directly responsible and should also renew the lease in their individual names.

(5) Besides all these, all facilities for cultivation such as water, supply (Malabar depends entirely on rain water for cultivation), improved methods of cultivation, maintenance of the fertility of the soil, etc., should be afforded ; otherwise it would be difficult to relieve the poor ryots of their misery as they solely depend upon the produce of the land for the maintenance.

(6) Proper receipts should be issued promptly for pattam, michavaram, etc., paid by the cultivators.

By the CHAIRMAN :

I am the President of the local panchayat board. I own between 50 and 100 acres of land. Some under kanam, some under janmam, some under panayam and also under verumpattam. If the kanamdars default, the verumpattamdar must be allowed to make good the rent or the renewal fee or whatever is due. The under-tenant must be empowered to pay the dues direct to the janmi. Each should be made to pay his portion of the dues, according to the area which he holds. If all of them do not agree, they will all lose their rights. The janmi should be made to take the full amount from all the sub-tenants each of them paying only the proportionate amount due by him ; they must all agree to that course ; otherwise, they will lose their rights. I have suggested that michavaram and other dues should be collected from tenants every three years. I am not in favour of each paying his own share and being done with it, because that will create enmity between the sub-tenants and the kanamdar. The sub-tenants will be trying to do away with the kanamdar by not paying the rent to him. Fifty per cent of the gross produce is likely to be more favourable than the present provision, and at the same time it will be easy to make calculations. Moreover, that practice seems to have been in vogue in the olden days. If enquiries are made, I am sure there will be instances where the income is less than the assessment. I will send a list of cases where the assessment exceeds the income or the rent which the janmi gets. If the cultivation expenses are fixed at $3\frac{1}{2}$ times the seed, that will not do justice in all cases. If the produce is great, the tenants will be losers.

If renewal fee is retained, it may be spread over a period of 12 years, but I would like to have it abolished. Renewal deeds need not be executed every 12 years. When the tenant relinquishes, the janmi should not ask for arrears of rent nor should the tenant ask for kanam and the value of improvements. Surrender will come only in the case of bad lands. If the land is to be relinquished for reasons beyond the tenants' control, the janmi will have to suffer. My decided opinion is that neither the janmi nor the kanamdar should be asked to pay.

By Md. ABDUR RAHMAN Sahib Bahadur :

My impression is that voluntary surrender will come only when the land becomes unfit or unprofitable.

By the CHAIRMAN :

The landlord should under no circumstances be empowered to get the land back for his own use, for cultivation or building. If he falls ill for some time and requires it latter, there may be an agreement between the parties to the effect that as soon as the owner recovers from his illness, the land will go back to him. The particular reasons can be stated in the agreement. The existing tenants must get permanent rights. They should not be evicted under any circumstances. Only for valid reasons to be mentioned in the document can the land go back. No doubt, there may be hard cases ; but such a provision must be there. As long as there is loophole, there will be no security for the tenant.

By Md. ABDUR RAHMAN Sahib Bahadur :

I hope it will be possible to give better wages to agricultural labourers in course of time even if it is not possible to do so immediately.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

Every Mussalman who actually cultivates is expected to pay one-tenth of the total proceeds from his land as charity. If some allowance can be made for that purpose, I will be glad ; but I don't think it is possible. I do not want the Government to realize that amount along with land revenue.

By the CHAIRMAN :

I am against a provision that the fair rent should be fixed for all lands in the locality at the same time by a Committee consisting of a Tahsildar and three or four respectable persons in the locality, because it won't work. The Tahsildar and the other members of the Committee will not be able to cope with the work. My suggestion is this : let there be tenancy boards in each amsam, as I have suggested in my written memorandum, and if there are any complaints from tenants about rent, let the boards decide the cases.

CALICUT TALUK.

CALICUT CENTRE—10th, 11th and 12th November 1939.

40. Sri K. P. Raman Menon, Advocate and Landholder, Calicut.

1. (1) *Origin of janmam.*—Looking to the existing physical features of Malabar one can visualise Malabar as being completely covered with jungle without even a single patch of cultivated land in the far back centuries. Patches of cultivation arose when people filtrated into the then jungle, some from the north, others from the east through the various passes in the Western Ghats.

Those bands of immigrants who opened up and first cultivated the land were the first janmis of the land. Under the Hindu law as laid down by Manu the person who first turns the land to use is its owner and thus those early cultivators were the owners or the janmis and they were the full proprietors according to the law as laid down by Manu.

Kerala until it was attacked in the north by the Vijayanagar Kings had not occasion to be disturbed by foreign impacts and probably the northern portion of Ancient Kerala, now forming the Kanara districts came under foreign sway and the land tenures there were modified by the supreme power of the sovereign and perhaps began to be assessed with a regular or irregular land revenue. Further south in what is now Malabar, Cochin and Travancore the local chieftains had not the same autocratic power that sovereigns elsewhere in India wielded ; they were in fact only the most important men in the independent settlements that had been carved out from the jungles and there was neither occasion nor necessity to levy any fund for the defence of the country or for the upkeep of the sovereign. The sovereign or the chieftain who rose from the common people had his own private lands in his capacity as a citizen of the Commonwealth, to which he was adding from time to time and that was sufficient to meet his wants, the defence of the settlements being in the hands of the entire community which constituted the militia, his function being only to lead and direct them. He had his own cultivation either directly or through others and his rise in power never affected his position as a cultivating land-owner. Each cultivating house-owner was thus the owner of the lands in his possession or under his control and those houses were the original janmis. The entire community constituted the thara and each cultivating house constituted a *tarwad* and among them was some particular house which by the cleverness of successive members became the heads of the tharas later developing into chieftains. It may naturally be asked, how were these tarwads holding and cultivating their lands ? I am inclined to think that originally the lands were held jointly by the community except when adventurous tarwads sallied forth singly to form new settlements and attracted others to follow them. Gradually such communal property became split up by the usual process of each family continuing to cultivate and hold the same piece of property without allowing the rotary system to prevail. Even to this day, there are lands in Malabar subject to rotary ownership and cultivation and their survival is a sure indication of communal ownership in ancient days.

What about the uncultivated portions, i.e., the jungle and forests.—Originally they formed probably joint communal property and were held as such, just like other properties but under the supervision of the chief tarwad of the thara who latterly became the naduvazhis or desadhipathis, and the rights of individual tarwads fell into disuse and the forest tract surrounding or attached to each settlement became the property of such tarwads. The forest lands in Malabar are owned mostly even now by chieftain tarwads or by persons who have purchased from them.

(2) *Origin of kanam.*—It is presumed that the question relates to what is known as kanam tenure. When the settler janmi found for reasons beyond his control, or when new immigrants flocked into the settlements the janmi perhaps began to hand over portions of his property to them and thus I presume subordinate tenures had their origin of which, the more important was kanam or ubhayapattam. The word kanam tenure is a very recent change of nomenclature from the old ubhayapattam tenure. What is now known as kanam tenure was formerly known as ubhayapattam tenure and until recently the old documents by which these rights were created or granted styled themselves ubhayapattam deeds.

The word is probably derived from the Sanskrit word Ubhu, to connect. Two derivations can be suggested to the tenure ubhayapattam : (1) The right to collect produce of ubhayama. The word ubhayam even now means either paddy lands or specific kinds of produce (*a*) coconut trees, (*b*) arecanut trees, (*c*) jack trees, (*d*) pepper vines. These are connected with the soil and hence are called ubhayams. It may thus mean a tenure which gives the holder of the tenure the right to collect, or, gather the produce of paddy fields or of parambas where these trees are grown ; (2) It may mean " settled by mutual consent " a concise or abbreviated way of stating a tenure settled by mutual consent the word ubhayam in this connexion, implying duality of persons ; compare the word ubhayasammatham, mutual consent.

Thus the word ubhayapattam tenure in its primary sense means an agreement by which a tenure is created as to the usufructs of land or to a tenure created by mutual consent.

The idea of a money charge is very modern in its origin, and, probably, kanam amounts denote money taken from the ubhayapattam holders by the janmis to meet exigencies. The word kanam by itself means, *Money* and when latterly every ubhayapattam deed concerned itself with some amount of money the tenure itself began to be called kanam tenure. I do not agree with the exponents of the theory that kanam tenure was so named because the holder of that tenure was visible deriving the term from the Malayalam word *kanuka*, to see. This theory is based on the circumstance that the kanari or the holder of the kanam tenure was to be seen cultivating the land whereas the janmi was in the back-ground and never seen. The fallacy of this reasoning consists in the fact that historically, the tenure is not known as kanam but ubhayapattam. Then again, there must have been numerous janmis themselves cultivating their lands who were as obvious and could be seen as the kanam cultivator. Again, no reasonable explanation of the money charge can be given if this is the origin of the tenure. On the whole, I cannot persuade myself to accept this theory.

From what is stated above, it cannot be maintained that ubhayapattam tenures were resumable at the will of the landlord janmi or surrenderable at the pleasure of the tenant. If the derivation of the term is as stated above, one settled by mutual consent, it is not terminable by either. The consent of both would be a condition precedent to the termination of the tenure. In my answer to question 3, I have given some further reasons for holding that such tenures were not resumable at the pleasure of the janmi.

Probably, the kanams in North Malabar may belong to the category of leases of usufructs and those of South Malabar to those of undertakings to cultivate originating in mutual consent. To this day, the difference between kanams in North Malabar and South Malabar persists, those in North Malabar being really mortgages for substantial amounts, whereas those in the south, though called mortgages being really tenures. The fact that no kanam tenant is entitled to sue his janmi for the recovery of the kanam amount shows beyond a possibility of doubt that kanam tenures are not usufructuary mortgages in their usual sense.

There are some authorities who say that kanam tenure is analogous to kaniyachi in the Eastern districts.

(3) *Kuzhikanam*.—The word literally means money utilized for pitting. The tenure is the one by which improvements, viz., coconut, etc., known generally by the term kuzhikoors are made on a piece of land. This tenure is most often found in North Malabar and occasionally in the Calicut taluk. It is an improving lease ; North Malabar being that piece of Malabar where hills have been terraced and planted with kuzhikoors. The tenure must have originated when the land began to be planted. It cannot be predicted whether it was resumable at the pleasure of the landlord or not. Probably, it was not resumable because of the large outlay of capital necessary to carve out planted parambas out of jungly hills.

(4) *Verumpattam* means simple lease and usually means a lease for a year. It probably had its origin in the exigencies of the socio-political life of the Nayars who constituted the tarwads. They being the militia had according to the usages of the country to render military service to the head of the thara, who, as I stated, developed into the naduvazhis, and, when the male members of the various tarwads could not remain in the thara to cultivate the lands, they let them out to their dependants who could cultivate and pay a substantial portion of the produce to the members that remained stationary in the tarwads. Again it may have had its origin from the fact that lands owned by a tarwad either on kanam or janm were lying at inconvenient distances from their residences thus necessitating cultivation by outsiders who were let into possession as simple tenants or verumpattamdars. This tenure was, until the Malabar Tenancy Act was passed, resumable at the pleasure of the landlord.

(5) (*a*) There are various other tenures mentioned in the law books but most of them have become obsolete except *otti* or *palisamudakku*, the former term being used in North Malabar and Calicut, and, the latter in the remaining taluks of South Malabar. The terms indicate an advance of practically the full value of the land to the janmi and imports by its incidents a right of pre-emption in favour of the tenant. In a varied form of the same tenure called perum artham, the janmi if he wants to terminate the tenure has to pay the full market value of the land, at the time of the termination of the tenure, and, not the amounts mentioned in the documents creating tenure. This last form of the tenure is almost obsolete.

(*b*) Besides the above there are what are known as saswatham, anubhavam, adimayavana, Kovilakam-verumpattam, still extant.

The first two are permanent grants with or without money advances of the lands themselves probably granted for services rendered and may be compared to inam grants.

Adimayavana is also of the land itself, but there are two varieties of it, one being equal to permanent grant of the land itself, the other being confined to a portion or the whole of the rent of the land which is the subject-matter of the grant. In the latter case, the land itself is resumable subject to the payment of the amount reserved by the document of grant to the tenant even after the resumption of the land. In the former the lands granted are not resumable.

Kovilakam-verumpattam called customary verumpattam in the Tenancy Act are leases granted by Rajas like the Zamorin to tenants on favourable terms. Probably they were granted originally for services rendered or for the purpose of inducing tarwads to settle on newly conquered territory, the latter inference being suggested from the fact that these grants are found to be very numerous in these portions of Malabar which formed the later conquests of the Zamorin. It is doubtful if this tenure was resumable by the janmi looking to its origin and to the fact that it was usually not disturbed by the Rajas.

2. In the answer to question 1, the answer to this question has already been embodied.

3. (1) *Rights of the janmi.*—There are indications in latter day decisions to question the absolute proprietorship in his holding of the janmi but on the whole his position has not been materially whittled down.

(2) *Kanam.*—The British Courts, ever since 1855, have been treating the kanam tenure as a resumable tenure. I have stated my reasons in my answer to question 1 in support of the position that they were not resumable at the pleasure of the janmi. I may further add that the fact that 90 per cent of the entire property held by the Nayar population who formed the military class was kanam property is an indication of the fact that it was not resumable. Is it likely that with opportunity and inclination to grasp at absolute ownership that they would have contended themselves with accepting an ephemeral interest on the land? Further, it is a fact that many a chieftain held kanam land and do even now hold such lands. It is unlikely that they would have consented to hold tenures that were fleeting in their nature. It is urged by those who hold the opposite view that the existence of saswatham and anubhavam tenures which are admittedly permanent in their nature side by side with kanam shows that kanam was resumable. This argument forgets the entirely different origin of the tenures, saswathams and anubhavams. They are really granted for services rendered or to be rendered whereas kanams have no services attached to them. I have earlier tried to show that the unfortunate importation of money charge in ubhayapattam tenure, has led to the inference that it is resumable and that in considering this question one has to divest himself of the idea of kanam tenure being a mortgage. The courts have further held that kanam tenure for a term of twelve years on the expiry of which they have either to be redeemed or renewed. The origin of this renewal and renewal fee has been dealt with lower down in my answer to question 12 and I do not want to repeat them here. Similar remarks apply to otti and palisamudakku. The other tenures have not been materially affected by judicial decision.

4. (*a*) Deals with the question as to whether the presumption made by the Revenue authorities and the civil courts as to the ownership in the janmi of waste and forest lands was correct or not. I think they were right in so presuming.

What is waste land now must have been originally forest land, and hence, both waste and forest lands may be considered together. To guard against attacks from neighbouring hostile settlements it was to the interest of each settlement to preserve an impenitrable wall of forests around each settlements and these forests therefore became an adjunct to each settlement and as I have stated above, under the control, which gradually ripened into ownership, of the chieftain of each settlement. Again some of the ancient rights of chieftains consisted of what is known as nanjum, nayattu. Nanju the former being the rights to poison waters to catch fish and the latter nayattu being the right to hunt. These rights are inherent in every chieftain in Malabar. Probably these were the only visible ways of exercising ownership in waters and in forests, and these rights being inherent in every naduvazhi the Revenue authorities and later the civil courts were right in presuming that all wastes and forests in Malabar including watery wastes were privately owned.

(*b*) I do not think that restrictions ought to be placed on the absolute rights of the janmis over what is now undoubtedly their private property as to irrigation sources. In my previous answer, I have shown how rights in water originated and those rights having been recognized for over 150 years should not be interfered with just as rights in forests and uncultivated waters should not be interfered with. If these rights are interfered with, it would be spoliation pure and simple, and no civilized Government can be credited with having such a design.

(*c*) I would not confer on the Government the rights to take possession and grant waste lands to cultivators. Throughout the past revenue history of Malabar no janmi

has stood against any cultivator opening up his land and bringing it under cultivation. All that he has done was to levy his michavaram from the cultivator who opens up the land whether he enters on the land after obtaining what is known as cowle from the Government or without doing so, and unless it is shown that janmis or a reasonable number among them have capriciously objected to their lands being opened up, a case for such a species of spoliation cannot be regarded as having been made out.

5. *This question divides into two heads* : (*a*) (1) *Eliminating the janmi.*—Adverting to the first position of eliminating the janmi, I do not think that such a drastic change is called for. If such a course is to be adopted it must be shown that it is for the public good. How can the general public or the State be benefited by such elimination. It has not been shown that he is a rabid dog in the manger to deserve destruction. Granting that agriculture is the main occupation of the people in the district, there must be some one who owns the land. It would be impossible to create a class of persons who owned the land and always cultivated them, because, a person who owns and cultivates his land himself has to do it, either himself, or through hired labour, or by labour under his supervision and, looking to ordinary human nature the moment a cultivator is able to lay by some capital and is able to command hired labour, he ceases to labour himself and tries, if possible, to let out the land to one who would cultivate the land for him. The State cannot force a man to hold the plough, even if it can, to hold it straight, and even granting that it can do so, no individual can cultivate more than 50 cents by his own labour. Thus even if all the janmis or owners are eliminated and the actual cultivator is given the ownership of the land natural evolution will convert him into a janmi with others, his tenants cultivating the land for him. Thus a new class of janmis and their tenants would be created. Again is the cultivator benefited by such elimination ? No doubt if he gets another man's property without paying for it he is benefited, but has he deserved any such preferential treatment—unless the State wants to expropriate a set of people and endow such property on another class for no ostensible reason, I cannot imagine that being done by any Government. Again, there are many janmis who are actual cultivators. Are they to be expropriated with reference to the properties that they do not cultivate. I therefore cannot see how it is possible to climinate the janmis.

(2) *Eliminating the intermediaries.*—As to the intermediary he is often the person who supplies the small capital necessary for the tiller of the soil, while in very many cases, being a cultivator himself. I want to know who is to be benefited by his elimination. Look at the state of society evolved in the zamindaris. The original idea probably was to recognize only a zamindar, and under him a ryot or ryots who directly held and cultivated the land under the zamindar. But is it not a fact that the ryots in zamin lands have cultivators under them who till the land for him and pay him rent, of which a portion alone is paid to the zamindar? Has not the ryot by this process converted himself into an intermediary ? So long as human nature is what it is, I do not think it will be possible to eliminate either the ultimate owner, the janmi, or, the intermediary.

Again, who is it that asks for the simplification of the land tenures of Malabar ? I am not aware of any one, born and bred up in Malabar holding land in Malabar, feeling that the tenure is too complicated for him. If people from other districts feel so, let them leave Malabar people alone. So far as the land tenures in Malabar are concerned, and looking to the fact that every piece of paramba or paddy land now cultivated was originally waste, a system consistent with the development of agriculture has been evolved by the genius of the people, and, any light-hearted interference with it, would be fraught with gravest consequences and would operate as a serious handicap to the land-holding classes of Malabar.

If, after all that can be said against interference, the Government is bent upon doing so, the fullest compensation should be paid to the persons affected by such interferences.

(*b*) (1) *Compulsory purchase of landlords or intermediaries rights by the tenants.*—I am afraid this question arises out of ignorance of the conditions of Malabar—who is the tenant intended in the question ? Dividing lands in Malabar into paddy lands and parambas, who is the tenant meant by the question ? As to paddy land, I presume, the tenant referred to is the actual cultivating verumpattam tenant. He is admittedly a person without any capital. Is the State going to furnish him with the necessary capital. If so, why ? I have shown earlier that if the lands are purchased for him and given him he would, in his turn, cease to be an actual cultivator and then, the State has again to purchase his rights for the benefit of persons whom he would induct on the land. How long is this process to continue ? With reference to parambas they may be divided into two classes : (*a*) those that have been planted and thus having improvements thereon, (*b*) those that have no improvements. As to class (*a*), all the statements made with reference to paddy lands apply to such parambas. As to class (*b*), parambas with no improvements thereon either in the possession of the landholder himself or the intermediary holding under him and if the word tenant connotes a person actually cultivating a particular paramba of this

description there is no tenant for whose benefit the compulsory acquisition is to be made and hence this part of the question does not require an answer.

(2) *Limitation of areas in possession of an ideal farm.*—Unless a definition of the term 'ideal farm' with reference to the conditions in Malabar is given, it is impossible to answer this question. I take an ideal farm to include land where (*a*) paddy or other crops are raised, (*b*) where fruits like coconut, jack, areca and others are raised, (*c*) pasture land for cattle, (*d*) lands where pigs, poultry and other animals are bred. I have not come across any such farm in Malabar; again—the extent of the land that is to be in the possession of a cultivator—that would depend upon the number of souls that such land would feed and keep above want, if it is to be ideal. Now again what is meant by keeping persons above want? This again depends upon ideas of comfort. Thinking along these lines one is led to a maze of uncertainties, and, in my humble view the question has been framed without due regard to its implications.

Again, acquisitiveness is a trait of human nature. Is the State going to lay down a law that no one shall purchase any land except what is regarded as necessary to constitute an ideal farm? If such a law is passed, lands become a non-marketable commodity and would thus strike at the very root of ideas of property.

(3) *Prohibitition of sales of agricultural holding to non-cultivators.*—Here again I am constrained to observe that the question is framed in ignorance of, or, with imperfect acquaintance with, the conditions of the people in Malabar. Except perhaps a very small per cent, the population of Malabar come under the category of cultivators. The inhabitants of Malabar consist of the following classes, (*a*) Brahmans including Pattar Brahman settlers from Tamil, and Telugu districts, (*b*) Nayars, (*c*) Mappillas, (*d*) Thiyyas and (*e*) other classes. Who among these are the non-cultivating classes?

(*a*) *Brahmans.*—I assert that they are a cultivating class. I know of several Brahman families that carry on cultivation. They may not be themselves ploughing the land but they get it done by coolies supervising their work and attending to the usual incidents of cultivation.

(*b*), (*c*) & (*d*) *As to Nayars, Mappillas and Thiyyas.*—I do not know who is a cultivator if these are not. Very many Nayars, Mappillas and Thiyyas actually hold the plough, and, labour in the fields, both men and women, and I have yet to come across an individual who would say that these classes do not form cultivating classes.

(*e*) *Other classes.*—I equally assert, except with reference to about a hundred and so Marwaries, Gujaratties and others whom you find in the sea ports; all the other class of people are cultivators. They do hold and do cultivate lands. There is no class in Malabar which comes under the category of money-lending classes who seem to be an anathema to some law-givers. Then again if agriculture and cultivation are elevating and befitting occupations, why should the poor non-agriculturist be deprived of an opportunity of raising himself to the dignity of an agriculturist? I can find no reason for denying him this right. Further by prohibiting or restricting the market where agricultural holdings can be disposed of, the agriculturist would be hard hit because he can find only a smaller body of purchasers than he now can. I presume it is not the idea of Government to depreciate his property to any extent.

6. *Protection of under-tenure-holder against default by intermediaries above him.*—This difficulty usually arises in the case of kuzhikanam holdings. I am but imperfectly familiar with the condition of such tenants and I am rather diffident about my answers: I would take a concrete case. Suppose *A* the janmi, has ten acres of his paramba granted to *B* his tenant who plants portions himself and then grants on sub-kuzhikanam five acres whether planted or unplanted to *C*, who again sub-leases to *D* and so on. It may be that *B* makes default in paying his rent to *A* or *C* defaults to *B* or *D* defaults to *C*. I presume the question wants an answer as to how this should be provided against. Such cases may happen and so may have to be provided for, and what I would suggest is that the under-tenant may be authorized by law to pay the rent due by him to his immediate landlord, to his landlords, superior, or to the ultimate superior landlord, and, be absolved from his liability to his own landlord. At the same time, the superior landlord should be given a correlative right to proceed against any or all the sub-tenants to the extent of their respective liabilities. In furnishing these answers may I not also suggest that the answer is furnished by applying the principles underlying the doctrine of Privity of Estate and Privity of Contract in such cases.

7. (*a*) *Fair proportion to janmi, intermediary and tenant.*—A general answer cannot be given to the question. The reasonableness of the share that the janmi, the intermediary

or the actual occupant should get would depend upon the labour and capital or both contributed by persons of these categories. These naturally vary and no general proposition can be laid down. If the question is confined to the lands as they are now, and, have no reference to their original conditions, then a tentative answer can be given. The lands may be classified under two heads :—

(1) Lands where there is no intermediary between the actual cultivator who holds and cultivates any land and the landlord janmi.

(2) Those where there are one or more intermediaries between the janmi and the actual cultivator. These are again divisible under two heads (i) Paddy lands and (ii) Parambas :—

(i) *Paddy lands.*—The tenant, the actual cultivator, should first be allowed his cost that is to say, his seed and cost of labour. He should then be allowed one-third of the balance and the rest should go to the janmi.

N.B.—The cost of reaping should be deducted first, and the balance alone can be taken as produce.

To illustrate.—Take an acre of land : Usually an acre is said to be of an area in which ten paras of the Palghat measure or six paras of the Calicut measure are sown. The Ernad para is more or less equal to the Palghat para. The figures given below are according to the Palghat para—

The cost of cultivation is as follows :—	Paras.
To cultivate one acre seed	10
Valli or labour	15
Total ..	25

The gross yield of an acre, after deducting cost of reaping, may be taken to be 100 paras or ten-fold which may be taken to be the average yield in the Palghat taluk. In the Walluvanad and Ernad taluks, the yield is very much higher. The balance after deducting the cost of cultivation mentioned above, viz., 25 paras, would be 75 paras, one-third of this 75 paras should go to the tenant and the balance 50 to the landlord. Be it noted that from out of this 50 paras which may ordinarily be taken to be equal to about Rs. 25 the land-lord has to pay Rs. 8–4–0 as land revenue on the acre. Be it also noted that usually for actual cultivation six paras of seed alone is necessary for what is known and accepted as a ten-para area.

The figures at first sight would show that the landlord gets 50 per cent of the produce. He actually gets only 34 per cent and sometimes less when the Government revenue is deducted.

(ii) *Parambas.*—On an acre of paramba 60 bearing coconut trees may be regarded as being normal. The annual yield of the trees would be about 7,500 nuts. If the trees belong to the janmi then the occupying tenant may be allowed one-third of this, i.e., 2,500 nuts. The balance should go to the janmi. The janmi has to pay the land revenue Rs. 8–4–0 per acre out of this balance. The price of the coconuts being what they are, only about Rs. 15 in towns and as low as 10 or 12 rupees 8 annas in country parts, the landlord janmi has to sell about 2,500 nuts to meet the Government demand and the balance about 2,500 nuts alone form his share, practically the same as that of the occupying tenant. I believe this would be an equitable distribution between labour and capital.

The same proportion may be struck in the case of other gardens, viz., arecanut, etc.

(2) *Where there are intermediaries.*—It is impossible to give a general answer to this part of the question particularly when parambas are considered. Usually there are two or three intermediaries and the best course would be to leave matters alone and allow existing contracts to hold good. Even as to paddy lands where mostly there is only one intermediary, it is difficult to give a general answer. As to what the kanam tenant should get should be left to the agreements under which they are now holding. There will be grave economic trouble if the existing contracts are disturbed.

(*b*) In theory the revenue usually is as I have stated above in my answers to clause (*a*) of this question but there are cases of grave inequalities. I myself own certain lands in the Calicut taluk, where the land revenue eats up practically the whole rent that I get from my tenants. There is one land for which the land revenue is Rs. 50 and the rent that I get is 80 paras of paddy. At the usual rate of Rs. 6–8–0 per 10 paras the price of 80 paras is Rs. 52 and I am paying Rs. 50 as land revenue for that paddy land. There is another item of paddy land that I hold at the same locality for which I get a rent of 70 paras which

equals Rs. 45–8–0 for which I pay a revenue of Rs. 35. Again there are parambas in which only jack trees are grown and from which no profit or rent is derived and for which revenue has to be paid. Under the settlement rules wherever there are five jack trees found in a piece of land, the whole acre on which they stand is brought into the revenue books and assessed according to the rate prevailing in the neighbouring gardens. It is notorious that jack tree gardens do not practically yield, except when they are near towns, any income to the landlord and this fact has been recognized in the Malabar Tenancy Act itself by excluding the produce of jack trees when assessing the janmis' and tenants' share of the produce of any garden. The reason for these glaring inaccuracies and errors is the ignorance of the officers, and the wooden character of the rules regarding the settlement.

(*c*) ***Who should pay the assesssment.***—.—I presume what is meant is who should be made liable to the Government. It was because of the inconvenience of the assessments and the pattas standing in the names of kanam tenants formerly that at the settlement in 1902--4 that pattas were transferred to the names of janmis. But this had led to grave difficulties where there are intermediaries or improvements as partially pointed out above in my answer to question No. 7 (*a*). In the eye of the Government the land is responsible ultimately for the land revenue and the first thing that the Government officers do if there is any default, is to attach the crop on the land, very much to the detriment of the tenant who is completely innocent of the arrears. Where there are intermediaries the matter is still more complicated. For the arrear by the janmi who is the pattadar crops of an intermediary who has already paid his quota of the revenue are attached. Now let us proceed to consider the feasibility or otherwise of the granting of the patta to any of the persons of the categories mentioned in the questionnaire. The grant of patta to the verumpattamdar is out of the question because he has no capital to draw upon and shall have to sell his produce at great disadvantage if he has to meet the Government revenue. The ordinary kuzhikanamdar is not much better than the verumpattamdar and he too would in the majority of cases find it difficult to meet the Government demand without having recourse to selling the produce of the land at low rates. Large kuzhikanam holders may be able to tide over the difficulty but not the small holders. As to the kanamdar, he is perhaps in a better position to meet the Government demand than those mentioned above and there is the fact that until the settlement of 1902 pattas stood in the names of kanamdars The same was the case with the large kuzhikanam holders. The janmi cannot escape being the pattadar whether rich or poor he being the landholder according to Act II of 1864. The patta must therefore stand in his name and to overcome his difficulties and the difficulties of his tenants, kanamdars, and kuzhikanamdars, I would suggest that the consolidated pattas now granted to him in each amsam may be split up into as many or nearly as many holdings under him by tenants.

To illustrate.—Suppose a janmi has one assessment of Rs. 1,000 in a particular amsam and that those lands are held under him by ten kanam tenants, I would suggest that his patta be split up into ten pattas and that joint pattas be issued in the names of the janmi and each particular kanam tenant so that the kanam tenant cannot be victimized by a demand that is larger than what is really due by him on the holding that he is in possession of. The same course may be followed in the case of kuzhikanams with the addition wherever necessary of the names of such kuzhikanamdars as have improvements on the land. This arrangement would safeguard the interests of both the janmi and the more important tenure holders.

8. *Hardship if any in the working of the Malabar Tenancy Act as to fair rent*—(*a*) *Wet lands.*—I have not come across cases where difficulties have arisen in this connexion.

(*b*) *Garden lands.*—There is, I am told, great hardship on the landlords particularly when the improvements have been raised by the tenants, the land revenue which the janmi is called upon to pay being really the outcome of the tenant's work on the land. I learn that in fixing renewals through courts, difficulties have arisen in North Malabar in applying the provisions of section 7, clause 2 and I am told, that in working out the amounts payable to the janmi in some cases, existing rents have to be totally cancelled and in some cases the landlord has been shown to be liable to pay sums to the tenant ! I believe this difficulty has arisen because the section does not provide anything about the land revenue. When the section was before the Legislative Council it was understood that where the improvements belonged to the janmi, he should pay the land revenue from out of the share that he gets without trenching upon the tenant's share, and, that when the improvements belonged to the tenant, he should pay the landlord the amount of the land revenue over and above the share allotted to the landlord under the section. I believe the hardship would be removed if this point is made clear in the section. The same remarks as to the incidence of land revenue apply to cases coming under clause 3 of section 7 of the Tenancy Act.

(*c*) *Dry lands.*—I have not heard of any great hardships in this connexion. Questions as to fair rent on dry lands very rarely arise. Dry lands whenever demised are usually

tacked on to paddy lands with a nominal rent fixed for them ; otherwise they are in the possession of the landlords themselves. These latter are let out for fugitive cultivation once in three years and the rent levied is usually 20 per cent of the produce as assessed by the landlord and the tenant which is usually equal to three times the revenue.

9. *Fixing fair rent proportionate to revenue assets.*—It is impossible to answer this question unless the levy of the land revenue is put on a statutory basis and not left as it now is to the vagaries of different settlement officers. Any system of assessing land revenue without making allowance for a living wage to the population in the district is initially unsound, and this question can be answered properly only after the land revenue is fixed. It is undesirable to make fair rent fluctuate according to the fluctuations in land revenue and thus violently enhancing or reducing the incomes of the janmis, the intermediaries and the occupants.

10. *Remission of rent by landlord when assessment is remitted.*—Logically since the quantum of rent that the landlord gets is not dependent on the land revenue, he need not make any remission. But, as a matter of fact, when there have been failure of crops almost all the landholders remit either wholly or partially their rents though Government has not been known to have remitted the land revenue on this account within known times. Take the notorious case of last year. The entire second crop which is the mainstay of the verumpattam tenant failed in the Palghat taluk and the Government did not see its way to make remission on this account. Even the first crop was below normal in the Palghat taluk last year. The second crop partially failed in the other taluks as well but their condition was not so bad as that of the Palghat taluk. The landlord may be made to remit his rent whenever there is a remission of land revenue in proportion to the remission granted by the Government.

11. *Weights and Measures.*—No particular inconvenience is felt at least by me. I have lands in the Palghat, Walluvanad and Calicut taluks. It is easy to reduce these measures to one denomination by calculation and disturbing the measures prevalent in particular localities would lead to much confusion which may be utilized by unscrupulous purchasers of produce from illiterate and ignorant cultivators.

12. *Origin of Renewal fee.*—There are two or three theories advanced about the origin of renewal fee. One is, that consequent on the mamangam festival which occurs at an interval of 12 years, when it was supposed that the ruling Perumal would be either killed or re-elected, a new era of things would begin ; all obligations including those between janmis and tenants came to an end and new engagements have to be entered and when such new engagements were entered into, a fee was paid to the superior holders and this was what was known as renewal fee.

Another theory is that the renewal fee is really wiping out a portion of the old money charge on the property operating as partial satisfaction or self-redemption of the money claim in such a way that by five or six renewals the entire kanam amount was wiped out. This theory is based on certain slokas in the Smrithis stating how debts are to be wiped out without actual payment. Later instead of allowing a portion of the kanam amount being thus reduced the janmis received an equivalent amount which was called the renewal fee.

Another theory is that the mutual engagement by which the kanam tenant and the janmi agree to hold and to allow the land to be held and which is the subject matter of the grant, ceases to be valid with the death of the grantor, and perhaps in ancient times, with the death of the grantee even. To continue the holding a fee has to be paid and this fee is called the renewal fee. This last theory is supported by the fact that even until recent times the holdings under the Rajas were subject to what is known as purushanthara polichezhuthu which means renewal when a Raja dies and is succeeded by another. Probably when the chieftains were levying renewal fee as stated above other janmis also began to so levy a fee consistently with the tendency of people to ape their betters.

It is impossible at this distance of time to say what exactly was the origin of the renewal fee but I am inclined to accept the last theory because it is doubtful, if the twelve years' term which is now an incident of kanam tenure was originally attached to it. While making the above suggestions, I should not be understood as accepting the position that ubhayapattam holdings were resumable tenures. If the first or the third theories are accepted such fees can be regarded as feudal levies that crystallized themselves as society got settled down and if the second theory is accepted the gradual wiping out of the debt had nothing to do with the stability of the tenure itself, it being always borne in mind that the tenure is ubhayapattam tenure and that the advent of kanam monies therein was really due to adventitious circumstances.

13. (*a*) I am not in favour of abolishing the system of renewal and levying the renewal fee. Whatever be the origin of renewal fee it is now really part of deferred profits that the landlord receives from the tenant and they form a substantial portion of the income of the landlord and no statistics are forthcoming to prove that the levy of such a fee substantially

disturbs the economic condition of the kanam tenant. On the other hand, deprivation of this source of income will work considerable hardship on the janmi. I know of janmis whose major source of income consists of renewal fees. The scale of renewal fees had been standardized by the Malabar Tenancy Act, and before it is shown that by the levy of such fees the tenant class has been pauperised a case for Legislative interference cannot be regarded as having arisen.

(*b*) There is already fixity of tenure granted by the Malabar Tenancy Act and my answer to (*a*) show that no interference is called for. If, on the other hand, fixity of the tenure is to be preserved and levy of renewal fee is to be abolished, compensation should be paid to the landlord, it being presumed that spoliation is not what is intended by the Government It is impossible to commute renewal fee into a definite sum because renewals are expected to take place for generations. Its abolition can be attained only by either purchasing out the janmi or the kanam tenant. It is difficult to lay down a general rule as to such compensation. There are cases where the kanam amount charged on the holdings are ample and there are cases where they are very nominal. I would further say that compulsorily depriving the janmi of his rights and conferring them on the kanamdar would not in any way economically better the condition of the masses, for by so doing a new class of janmis are created, all but so in name, who will be again rack-renting the lands to their tenants even as this process has been going on for more than three quarters of a century. The Nayar community which originally formed the class of kanam tenants and who actually cultivated their lands in former days have mostly ceased to do so and have been letting out their lands on verumpattam to persons who were formerly farm labourers thus adding to a very considerable extent to the class of verumpattam tenants who now cultivate lands formerly cultivated by kanam tenants with disastrous results to the lands themselves. The kanam tenant who originally cultivated their lands had some capital to start with and he cultivated his lands with sufficient cattle and labour whereas, the verumpattam tenant,the quantum farm labourer, has no capital and has not the means to purchase cattle sufficient to profitably cultivate the land that he has taken charge of. If again the kanam tenant is eliminated the janmi would be dealing direct with the verumpattamdars who as a class are not ideal cultivators.

If compensation has, notwithstanding, to be fixed I would suggest it should be done on the following lines :—

I am not speaking about lands that can be shown to have been actually improved. Taking a particular land ascertain the full verumpattam rent and after deducting an amount of paddy equal to the Government revenue, divide the rest by half and this may be taken as the old janmapattam. The remaining half may be regarded as the increment consequent on the improved methods of cultivation adopted by the kanam tenant. Capitalize the janmapattam at 20 or 25 years purchase. Deduct therefrom the actual amount of kanam and the balance should be paid to the janmi. The state should issue bonds carrying 3½ per cent interest to the janmi for such amounts. Reverse, and apply the same process if the kanam tenant is to be eliminated.

If the lands are lands where improvements have obviously been made by the kanam tenant, deduct also their value from the amount payable to janmi. If this is done, gradually the kanam tenant or the janmi will disappear.

(*c*) Speaking for myself the present Act does not require any substantial amendments.

14. *Relinquishment.*—I do not think that any alteration of the provisions as to relinquishment provided for by section 44 of the Malabar Tenancy Act need be made. Relinquishment are very rare and none have come to my knowledge.

15. (*a*) I am not in favour of granting occupancy right to the actual cultivator. I have shown elsewhere that the cultivator of today, if you confer occupancy rights on him, becomes a mere rent receiver tomorrow and I do not think any mockish sympathy towards him should sway me in creating economic chaos in the district. I am in favour of giving fixity of tenure to him and that has already been given to him under certain conditions.

(*b*) *Unjustifiable evictions.*—Very few cases of evictions now come up before Courts of Law and private evictions are practically unknown. If the few cases in which janmis attempted to evict tenants alleging that they wanted to cultivate the lands themselves or for other similar reasons, the courts were astute enough to find out that such allegations were really unsustainable and such suits have been dismissed. About a dozen cases of this description have passed through my hands. I do not think that any amendments of these existing provisions are called for. On the whole, they give sufficient protection to the tenants while at the same time affording facilities to the landlord where he really wants the land back.

16. *Abolition or restricting the rights of the landlord for evictions in certain cases.*—(1) I am not for restricting the right of the landlord if he requires the land bona fide for his own

cultivation. It would be absolutely unjustifiable to deprive a landlord or members of his family from following the main occupation of people in this district, viz., agriculture. Is he to be deprived of this right which is inherent in him to follow an occupation for which he has an aptitude and for which he has an inclination because he had the misfortune to be born in a landlord family. I submit that such a suggestion is outrageous. Further more, after the Malabar Marumakkathayam Act was passed numerous partitions have taken place and janmi families have been split up into various branches. It would be cruel to deprive them of an opportunity of cultivating lands that they are supposed to own thus consigning them to the role of rent receivers and condemning them to a life of idleness. I would further suggest that in view of the Malabar Marumakkathayam Act recognizing the wife and children as members of ones own family the explanation added to section 14 of the Tenancy Act be modified or repealed. The same reasoning would apply wherever the landlord requires his land for building purposes. Numerous new houses are springing up and have to spring up in consequence of partitions allowed by the Malabar Marumakkathayam Act.

(2) *Failure to furnish security for one year's rent.*—I have not come across cases where tenants have been evicted on this ground. As a matter of fact, very few landlords insist upon security for a year's rent but at the same time the clause should be retained because it has the salutary effect of preventing improvident tenants from keeping rent in arrears.

17. (*a*) *Fixity of tenure for kudiyiruppu holders.*—The provisions in the Malabar Tenancy Act enabling Kudiyiruppu holders to purchase their landlords' right is a much more efficacious remedy against capricious eviction than any fixity of tenure that can be conferred on the holders of kudiyiruppu. In this connexion, it must be remembered that in an improving country like Malabar, where new parambas and paddy lands are being reclaimed from jungle almost every day a large number of kudiyiruppu also spring up. Many of them are abandoned by the holders in the course of a few years. It serves no one any good to confer fixity of tenure on such temporary kudiyiruppu holders. Probably, they themselves would not want it when they see that they would be saddled with a liability to pay a rent, however small, to a landlord even after they have migrated miles away from the kudiyiruppu that they once occupied.

As to compensation to the landlord that would depend upon the locality, the acreage, etc. If the kudiyiruppu is in a crowded locality, where the price of lands is high, the compensation should be high; it should be low if the locality is in some remote corners of the district where there is no demand for the land. It may be calculated at the rates usually adopted under the Land Acquisition Act.

(*b*) I do not think that any difference should be made between Urban and Rural areas.

(*c*) It is impossible to prescribe a minimum extent for a kudiyiruppu. It would depend upon the number of members in the family, their habits, and their status. These vary from time to time and it would be futile and irksome to prescribe restrictions as to extent either in Rural or Urban areas.

18. *Revision of Provisions as to Compensation for Improvements.*—The present Act has been working fairly well all these years and looking to the fact that after the Malabar Tenancy Act, evictions have practically been put a stop to, there is no necessity to revise the provisions of the compensation for Improvements Act. I am not in favour of fixing a time limit other than that is provided for by section 48 of the Civil Procedure Code.

19. *Levies of feudal character.*—They have long since ceased to exist, particularly after the term rent has been defined by the Malabar Tenancy Act. In ancient times, it was customary to deliver vegetables for ceremonies in the janmis household and to give offerings to his family deity and also to contribute towards the important ceremonies like kalyanam, pindam or masam. They were so called voluntary contributions rigorously levied by janmis but gradually they have fallen into disuse except where they are expressly provided for in the documents evidencing grants to the tenants. For example, provisions are found for bunches of plantains to be delivered for *Onam* in many documents obtained by Hindu landlords, and in the case of Muslim landlords, I have come across provisions entailing delivery of sheep or fowl and ghee for the Ramzan ceremony. Again provision is found in demises granted by temples for performance of festivals at the expense of tenants on particular days, for delivery of oil or ghee for lamps and so on. In the Zamorin's demises provision is found for payment towards the expenses of the upkeep of the dramatic troups that he maintains and I learn that there is a similar provision in some of the demises granted by the Raja of Kadathanad. But these provisions are scarcely feudal in character. These items are now more or less regarded as items that make up the rent payable by the tenant and part of the produce of the land itself. If the definition of rent is not sufficiently clear it may be modified to exclude levies that do not arise out of the produce of the land.

20. *Extension of the provisions of the Tenancy Act to* (*a*) *Fugitive cultivation* and (*b*) *Pepper.*—I do not think that the Act should be made applicable to either of these. As to fugi-

tive cultivator, the cultivator is usually totally disconnected with the land hailing from varying distances and all that he does is to scratch the surface of the land, sow the seed and reap it and abandon all connection with it thereafter. Fugitive cultivation on parambas is of the above description. The cultivator has absolutely no stake in the land nor does he care what becomes of the land later. It should also be remembered that the rent that he pays is nominal.

At any rate he does not injure the land which is what his brother the man who raises cultivation in forests does. Immense areas of forest land have been deforested and permanently injured by this pernicious system of fugitive cultivation called Punam not to speak of such deforestation affecting climatic conditions. Such cultivation not only ruins the forests themselves but also the neighbouring lands on account of the free unobstinated flow of gravel and worthless soil to the cultivated paddy lands from the denuded forest parambas nearby. I would not advocate the extension of the Tenancy Act to fugitive cultivation. I would rather advocate prohibition of such cultivation.

(*b*) *Pepper.*—When I was in the Legislative Council during the Session at which the Malabar Tenancy Act was passed in my ignorance I strenuously pleaded for the inclusion of pepper gardens among the category of holdings to which fixity of tenure ought to be given. Fortunately for the tenants who cultivated pepper gardens there were members of Council from North Malabar who knew more about pepper gardens and who pleaded that the tenants of pepper gardens should be protected from their friends like myself. It was pointed out that pepper gardens usually last only for about 25 years and that if the tenants who held pepper gardens were compelled to accept fixity of tenure, they would be fixed with the liability of paying rents even after the gardens had ceased to exist. It was under these circumstances that the misguided efforts of myself and others to confer what appeared to us to be a benefit upon pepper garden holders were frustrated and I am unaware of any new facts enabling me to discount the information that I then gathered.

21. *Extension of the Act to* (1) *Kasaragod* and (2) *Gudalur.*—I feel my acquaintance with these taluks is defective and I do not feel that I can make any useful suggestions.

The crops cultivated in the Kasaragod taluk are the same as in Malabar and if the same tenures are found there then the Act may be extended to that taluk. To the best of my information the ryots there are very industrious, perhaps even more so than in Malabar and it is desirable that they should be assured safe enjoyment of the result of their labour.

(2) *Gudalur.*—I am totally ignorant of the conditions there and I do not hazard statements about that taluk.

22. *Procedure under the present Act*—(*a*) *Hardship.*—From the parties who have had occasion to utilize procedure prescribed in the present Act, no substantial complaint has been made to me and hence I cannot say that hardship has been caused thereby, except as to matters stated below :—

Procedure under the Act may be summarized under the following heads—

(1) Procedure in fixing fair rents under the provisions of section 11.

(2) Procedure in connexion with suits for eviction of (*a*) cultivating verumpattam tenants, (*b*) kanam tenants and (*c*) kuzhikanam tenants.

(3) Procedure in connexion with applications for renewal by (*a*) kanam tenants, (*b*) kuzhikanam tenants and (*c*) customary verumpattam tenants.

(4) Procedure in the appeals in the above cases.

As far as I am aware no application for fixing fair rents have been filed by cultivating verumpattamdar and so nothing can be said on the head.

(*b*) *Suits and applications for renewals.*—These are inevitably connected with one another and may be considered together. Usually applications for renewals are made after suits for eviction are filed and usually they are together dealt with by Courts. In this connexion, I may remark that section 20 of the Act is not happily worded. That section lays down that the moment the landlord says that he wants to evict a tenant on grounds other than those in clause 3, section 20, the tenant's application for renewal should at once be dismissed. This position seems to be incongruous. Now what are such grounds :—

The first ground is wilful denial of the landlords title. It could not have been the intention of the Legislature to deny renewal to the tenant simply because the landlord says that there has been a denial of title without an enquiry being made as to the truth of such assertion. Naturally the correctness of the allegation has to be tested and ascertained. This is not provided for in section 23.

Similarly grounds 2, 4, 5 and 6 are grounds that may be urged by the landlord in answer to an application by the tenant for renewal. Why should not the correctness or otherwise, of these statements be tested and be tried by the court when an application has been made. Now let us see what is being done by

courts when they deal with these matters. Though the courts dismiss the applications for renewal made in the course of a suit when the landlord puts in a statement mentioning grounds, 1, 2, 4, 5 and 6, at the trial of the suit itself those grounds are enquired into. Why not make the enquiry in the trial of the petitions themselves instead of waiting till the suit is ready for hearing.

Again where there is no suit for eviction pending and application for renewal is presented by a tenant, why should his application be dismissed under section 23 the moment the landlord sets up grounds other than those in ground 3 in answer to the petition. Why not the court enquire into the bona fides and the truth of the allegations and give the tenant relief. It should be noted in this connexion that the self same tenant who has been so foiled can file an application for renewal when a suit is filed against him.

It would be more expeditious and less costly if these matters are dealt with in connexion with the petition for renewal.

Further appeals are provided for against orders under sections 12, 23, 25, 30, 31, 34, 35 and 36 of the Act—vide section 50. No provision has been made in the Act or elsewhere as to what court fees are payable for appeals under these sections. The High Court has held that advalorem court fee is leviable on such appeals. When the matter was discussed in the Select Committee, I distinctly remember Government Members stating that court fees would be similar to that levied in Civil Miscellaneous Appeals. It was pointedly brought to the notice of the members that constituted the Select Committee that the proposed legislation being intended for the protection of indigent classes of people and not as a source of revenue to the Government, the expenses connected therewith should be brought down to the lowest level. I was one of those that brought this aspect of the matter to the notice of the Government Members and I distinctly remember the Government Members agreeing with me. It is necessary to make the point clear and to make it further clear so that Second Appeals may also be available to the parties to such applications on a court fee similar to those in Civil Miscellaneous Second Appeals.

(*c*) I think that the measures now adopted and allowed by law for fixing and collecting rent are sufficient. With reference to fixation of the rent, cases have not arisen as pointed out earlier, and no useful answer can be furnished without actual experience of how the measures work when such cases arise. As to renewal fee the provisions of section 44 are ample as I propose to show in my answer to (*c*) 3.

(1) *Summary trial.*—If by summary trials right of appeal is to be taken away I am against summary trials. I trust that departmental orders to treat matters under the Act as emergent, to be disposed of expeditiously, will meet the requirements of the general public.

(2) *Revenue Courts.*—I am against investing revenue courts with authority to try proceedings under this Act because (*a*) most revenue courts are circuit courts and it is not in the interests of either the landlord or the tenant to be dragged from place to place for the hearing of proceedings under the Act, (*b*) it would be more expensive to induce lawyers to leave their headquarters to attend such courts and (*c*) the civil courts are more familiar than the revenue courts with the land tenure and civil rights that arise for decision in proceedings under the Act. I may also point out that this matter was discussed when the Malabar Tenancy Act was considered by the Select Committee and it was agreed that revenue courts should not be invested with jurisdiction to try proceedings under the Act.

(3) *Right to file suits or applications for payment of renewal fee.*—This matter was discussed at some length in the Select Committee and in the Council and section 44 is the result of that discussion. It may be noted that under the Malabar Law a janmi is not entitled to sue for renewal fees. An attempt made to recover renewal fee by suit was disallowed by courts. The janmi is bound either to sue to recover the holding or if he so chooses to renew the holding. This is the Malabar Law. If the tenant is willing to keep the land he will apply for renewal. Again if he does not care to apply the janmi can force his hands by suing him and if the tenant wants to keep the land he will apply for renewal under section 23 and the Court will ascertain the renewal fee and order its payment. Really therefore the janmi can get his renewal fee on lands that tenants wish to retain and I am not prepared to allow the janmi the right to recover renewal fee on a holding that the tenant is not anxious to retain, or which the janmi is not anxious to recover because of the existence of large improvements for which he has to pay, before he recovers the land. I am therefore of opinion that such a right, i.e., the right to sue for renewal fee alone should not be freshly conferred on the janmi.

By the CHAIRMAN :

I am a janmi and a kanamdar. My tarwad pays an assessment of about Rs. 2,000, including the lands in Cochin State. The properties I have acquired myself pay a revenue of Rs. 800 and odd. My tarwad owns about 30 square miles of forest near Mannarghat and I have acquired myself about 5,000 acres of forest land.

The ancient janmis of Malabar were those who first brought the waste lands under cultivation. An ancient janmi like the Zamorin of Calicut might not have held the plough himself; he was supervising the cultivation; even to-day I think it is so. I knew the Kolathur Warrier was cultivating 25 years ago. I do not know about the present head of the family. I cannot say if any member of the Zamorin's family has anything to do with actual cultivation. Those persons became janmis because they brought waste lands under cultivation themselves. So far as documents are concerned, I believe the word kanam, kanadharam, crept in within the last 50 years. I have not come across any ancient document in which the word kanadharam is used; it is always ubhayapattam, in those documents of the pre-registration period. The word kanam must have been in use long before the British advent. It was not regarded as a tenure. The tenure was ubhayapattam tenure, and the predominant idea became money charge only latterly when lawyers had manipulation of the documents. The money charge might have been in ancient demises, for I find in janmam paimashes, janmi's name, kanamdar's name, extent of the land, the words janmakaran, kanakaran and so on. The kanam tenure was not resumable. I have given the reasons in my answer. If further reasons are wanted, they would appear in my speeches in the Legislative Council when I was a member of it when the Tenancy Bill was being discussed. In Cochin and Travancore, Sircar lands were the private lands of the Cochin Maharaja and similarly of the Travancore Maharaja and were made into State lands subsequently.

Q.—My information is that the presumption of private property does not hold good in Cochin and Travancore ?

A.—The East India Company wanted a large supply of timber and entered into a contract with the Travancore and Cochin Maharajas for the supply of teak timber. In those troublous times, the Cochin and Travancore Maharajas practically seized on all forest lands and made them their own property, but the British Government never wanted to seize upon forest lands. In one of the reports, I recollect that some questionnaire came from the Government of India asking why forest lands should not be taken away so that there might be a copious supply of timber for the East India Company. The Collector of Malabar at that time supported by the Revenue Board said that no such thing should be done because it would be infringing upon the private right of persons. Then that question was dropped. Afterwards the Malabar Melvaram paimashes came into existence in which the names of all these forests are given Although the Government were very anxious at that time to secure as much timber as possible they dropped the question of ownership of these forests and they did not seize upon the owner's properties. In 3 Bombay, Indian Law Report the question of private ownership with regard to forests and other private lands in the Bombay Presidency is fully discussed. The presumption is the other way in other parts of the presidency. The sovereign power became more and more important there than the rights of private owners; and in the end the sovereign was able to ride rough shod over private rights with the result that it is now presumed that all lands belong to the Crown There was no overriding sovereign power in Malabar I would rather not interfere with private rights over forests. Experts are contradicting one another's opinion. One theory is exploded after ten years' experiment. Some janmis really do not want to cut their timber trees. Indiscriminate cutting of timber trees has been going on for many years. The Timber Transit Rules under the Forest Act may be enforced all over Malabar. I have got forests but if I do not cut the trees, somebody will steal them. So I lease the forests and get something out of it. If the Transit Rules are enforced, then the janmis will be alive to their own interests and would not denude the forests. I do not think it will be advisable to have any further restriction as regards waste lands, irrigation sources and forests. No restriction should be placed upon the janmis.

By Sri U. GOPALA MENON :

I should think that the Nayars were the original settlers and the Nambudiris came in only as later additions. It is only certain families of Nambudiris who were considered as chieftains that came to possess vast tracts of lands. There is a tradition that when the Perumals were invited a few Nambudiri families acquired vast wealth. They are called Thalayathris. Nambudiris may be divided into two classes, viz., the Adhyan Nambudiris and other classes of Nambudiris. Adhyan Nambudiris are persons who perform spiritual ceremonies and are supposed to have nothing to do with the worldly affairs. There are other classes of Nambudiris who have acquired their present rights to the land and who

are supposed to be the descendants of the old Thalayathris. To this class belongs the Nambudiri of Desamangalam. These Nambudiris held lands from Taliparamba downwards to the southernmost portion of Malabar, and by a gradual process of evolution they grasped at these lands and made them their own private property. Then again, these people were given benifices by the Rajas in olden days. I know of one instance in which a Nambudiri showed me a Grandham showing that he was given a certain land in North Malabar for elevating a Nayar into a Kshatriya. There were also escheats of properties. Even now in Cochin whenever there is an adoption in a Nair family, a portion of the property is given to the Maharaja. This applies in theory to adoptions by Nambudiri families also but the Sircar remits the payment. A large share was taken by the ruler as arbitrator for arbitration. The penalties imposed by the ruler in settling these disputes also went not to swell the coffers of the State, but the private property of the Maharaja. There were large confiscations in Travancore State after the insurrection. The Cochin Manual refers to the idea of confiscation prevalent in Travancore which was largely responsible for confiscations of private lands in Cochin State even for the least offences committed during the troublous days after Hyder Ali's invasion. I know of cases where the Zamorin levied fines. These monies collected by way of fines were not considered as State properties but as private properties of the Raja. Ubhayapattam means, in my view, the right to collect produce. My difficulty in accepting the view that it means duality of ownership is that in North Malabar there are four kinds of produce, called 'Nalu ubhayam', the coconut, the jack, pepper and areca, all of which are collected as Pattam. That is why I have said that Ubhayapattam may mean the right to collect the produce of paddy field or the right to collect the produce of parambas where these products are grown. Devastations of forests will come to an end if the janmis abandon their luxurious habits. Some of the janmi families who own forests have expensive habits, so that, they now require more than their ordinary income and the result is that extensive forests are being denuded. I am not quite sure whether it has affected the rain-fall. It is true that the denudation of these forests produces undesirable effects on the soil. It ought to be prevented. Although we prescribe that only timber of certain girths should be cut, when we leave the business to the contractors, they break the rules and cut trees which ought not to be cut. Licences are also given for cutting fuel wood from forests. I believe the solution will be found when all these Marumakkathayam families break up as they are bound to do within 30 or 40 years. The Transit Rules have not been completely satisfactory, but tolerably so. I am doubtful whether the cowle system produced some good in Malabar. Lands were reclaimed not on account of the system of cowle but on account of the increased pressure on the land. The janmi has not deterred any cultivator from entering upon the waste land and reclaiming it. It is a matter of past history that so far as cowle lands are concerned, waste lands have been granted to cultivators and reclaimed under the cowle system. Until these lands fetch a competitive rent there will not be much demand for them. People have not been taking to this system of cultivation for the past 10 or 15 years. Even to-day these lands fetch a very low income when compared with other lands in my Tarwad. Most of the forest was under the ownership of the Naduvazhis' families. Those chieftains' families had only certain defined rights like fishing and hunting. They were in possession and from possession it followed gradually that they became the owners of the land. There was no body to question their right. There was not much timber-cutting in those days. There were no other rights than fishing and hunting. When people began to build big houses of timber they wanted timber and naturally persons who were in possession of land had to be approached for timber and various other rights have now sprung up. Various others have been now recognized as pertinent to the janmam rights. Those were the only rights that could spring up in a primitive state of society and be exercised by the owners or chieftains.

By Sri K. MADHAVA MENON :

In case the state wants to give certain forest lands for colonisation to save unemployment, the present janmi should be given compensation because he has been regarded and has regarded himself as the owner for the last 200 years. Whoever paid for any land except the modern purchaser? The janmis have paid by their blood. There is considerable harm in interfering with what are known as private rights. No state, unless it be a barbarous state, would interfere with private rights.

By Sri U. GOPALA MENON :

Private rights exist under State protection. The State can interfere with any rights but a civilized one does not.

By Sri K. MADHAVA MENON :

Where there are no forests, the cultivators resort to sowing pods of tamarind instead of green manure. In Walluvanad taluk, they go and cut the green manure from the forests. Nobody objects. The present owner can in theory prevent it but in practice he does not. I would never ask for anything to be crystallised into a set of rules. I would leave them elastic so that people can enjoy their benefit. Verumpattam and Ubhayapattam are two

contra-distinct terms. Ubhayapattam is superior, verumpattam is inferior. Verumpattam is actually what the cultivator or the labourer has. Verumpattam means ' mere pattam ', without any rights. It is resumable. That is a salutary provision to keep the verumpattamdar to his land and see that the cultivation is carried on properly. The Kanam was an irredeemable tenure. There is a great deal of harm in making it irredeemable once again, because economic conditions will be disturbed very considerably.

By Sri A. KARUNAKARA MENON :

The higher power need now follow the lower in its injustice.

By Sri M. NARAYANA MENON :

Naduvazhis and Desadhipathis had already become the owners of forests long before the British advent. The village communities ceased to exist in Malabar at least six or seven hundred years ago. Desadhipathis and Naduvazhis could restrict the use of these properties by private individuals because they were custodians originally and that custody developed into rights. It is not proper that the Government should resume them for the benefit of the public. If you interfere with the private rights you are really becoming irresponsible and nobody can say if you once enter upon that field of spoliation where you will stop. The word ' Kanam ' by itself means money. For example in marrying a woman even now among the lower classes the words ' kanam kodukkuka ' are used, that is 'to pay money ' for getting a particular woman married to a particular man. In answer to question 3 (1) I refer to later day decisions. One is the decision of Justice Sadasivayya and Justice Sankaran Nair where they differed from one another in regard to rights of non-navigable rivers, etc. There are indications in the revenue authorities also. For example in the new pattas granted to the janmis instead of saying ' private janmam ' in one of the columns as was the case in 1902 the word now used is ' old holding ' and wherever it is a grant from the Government the tern now used is ' new holding '.

By the CHAIRMAN :

My experience of kuzhikanam tenures and small holdings of kuzhikanam holders is limited. The under-tenure-holder may be protected in his rights, so far as the lands he holds by enabling him to pay rent to the superior landlord and to do everything necessary to secure his position such as obtaining a renewal through the Court. The Act may be amended to this extent that for this extent of land there must be priority of contract between the janmi on the one hand and the tenant on the other. When the intermediary constantly defaults I don't think there is any harm in giving the rights of purchase of the intermediary's rights to the under tenure holder. My experience is very limited in the matter and I don't think it would be safe for me to hazard an answer. As far as I know the mentality of the janmis they would like to have more and more tenants as far as possible. From the point of view of the janmi, I don't think there is anything unreasonable in the under-tenure-holder being made to deal directly with him.

By Sri U. GOPALA MENON :

The under-tenure-holder may be enabled to pay rent to the janmi for the land for which any default is committed by his immediate landlord and take credit for that amount so far as the dues by him to the landlord are concerned. I do not think our system of tenures is complicated. I have never felt any difficulty. There are tenants, sub-tenants and under-tenants everywhere.

By the CHAIRMAN :

My own idea is that these tenures were evolved by the people and have been conducive to the happiness of the people of Malabar. For example you don't find those extremes of wealth and poverty that you come across elsewhere ; In Malabar you can't find a single janmi who is not a kanam tenant. Even the Zamorin, the Kollengode Rajah and some of the biggest janmis are also kanamdars. My difficulty is how are you going to simplify it.

By Sri R. RAGHAVA MENON :

Except in under-tenures, these various classes of tenures have not caused any hardship. I do not think it is practical politics to simplify the present state of tenure. I do not think the verumpattamdar can purchase the kanamdar's right. So long as our present family system is there, outright purchase will be injurious to the family, as the karnavan will waste the money.

By Sri K. MADHAVA MENON :

The under-tenure-holder can go to the landlord and ascertain if there are arrears. If you provide that the landlord cannot allow arrears to be unpaid for more than two years, it would penalise all gentle landlords. Such cases would be very rare ; if you forge a weapon, you will allow it to be used indiscriminately to the detriment of both parties. The right of the Government to demand the assessment is superior to all other rights. The

tenant pays the revenue directly to the Government even now ; if there is any arrear of revenue, the tenant takes care to pay the amount, takes the receipt from the Revenue authorities and preserves it and shows it to the janmi.

By Sri M. NARAYANA MENON :

I may be excused if I say that you seem to be obsessed by the idea that there is a large number of big janmis. There are countless small janmis in Malabar. You cannot legislate for the big janmis and leave the small janmis alone. If the holder of the property, i.e., the tenant is allowed to have the janmam right you will be creating a new class of janmis who in their turn will be creating sub-tenures in another 25 years. It will again accumulate, human nature being what it is. You will have again to distribute it ; this is a vicious circle.

By the CHAIRMAN :

I do not think it is necessary to amend the present provision regarding fixing of fair rent. As regards garden lands, I have suggested certain amendments in favour of the janmi. Assessment payable on account of the tenant's improvements must come out of the tenant's share. In all demises provision will be made for the revenue that is payable ; in some instances the produce bears no proportion to the revenue that is payable on the land and difficulties have arisen. I have a great deal of hesitation to postulate any theory with reference to these parambas. I shall furnish you with a list of glaring instances. I do not think the variation in weights and measures creates confusion. Every man knows what the para is. It is practicable to have common weights and measures; it can be done ; people will have to get themselves accustomed to them. People know their local measures very well.

By Sri U. GOPALA MENON :

It is impossible to stop fragmentation unless you modify the Muhammadan Law. Even Hindus might partition their properties. I cannot suggest any remedy. There will be fragmentation for some time, then there will be conglomeration. We will have to leave it to time and nature. If you restrict the sale to co-sharers, the man who sells the land cannot get fair market value for the land ; a stranger will pay more. It is of course desirable that fragmentation should be stopped. But I am not able to suggest a remedy ; that is why I have left the matter alone.

By Sri K. MADHAVA MENON :

I meant by one and a half times the seed only the actual wages, and not loss of cattle, loss by floods, depreciation, deterioration of agricultural implements, etc. A margin should be kept. Even three times the seed in some places may be below the mark. I do not think that any mathematical process that you devise will meet such exigencies. Three times would be perhaps not excessive. You may put it even higher.

By Sri U. GOPALA MENON :

By ' seed ' I mean the seed customarily deemed to be required. A field in which the customary seed is 10 paras as a matter of fact does not require 10 paras. I have come across lands which have no customary seed description. If you come near towns, for example, Mangad, there is no mention of any customary seed. The present verumpattam rent is not the actual produce of the land. Many people think that the present verumpattam rent is the produce of the land. It is not so. The present rent in some places comes to 75 per cent. It is less than 50 per cent in Palghat and in some places. In other taluks as in Ernad, it is something like 50 per cent of the produce of the land. You may give the actual cultivator any share ; he will still remain poor.

By Sri R. RAGHAVA MENON :

I have myself granted renewals under the Act. I have taken renewals on old terms. Renewals are taking place everyday.

By Sri A. KARUNAKARA MENON :

It is impossible to asesss the cultivation expenses so far as the parambas are concerned. Some allowance might be made. The share that he gets would be the interest on the outlay, whether it is one-third or one-fifth or one-tenth. Mr. Govindan Nayar who is a North Malabar man told me that 7,500 nuts is a fair yield for an acre. From the paramba I hold in Calicut, that is $1\frac{1}{2}$ acres, I get about 10,000 nuts. If you provide for a proportionate deduction in michavaram in cases where the present rents are much higher than what is provided in the Act you are touching the pocket of the janmi.

By Sri M. NARAYANA MENON :

The fall of prices does not affect a single individual or class ; it affects the whole public. If he finds it impossible to pay, he may surrender the land. If you give remission to the kanam tenant who is going to remit to the janmi ? The janmi also has garden land in his possession. If the kanam tenant has no wherewithal to pay, the janmis also have no

wherewithal. Probably you are thinking of big janmis. I know very many instances in which people are not able to pay even the land revenue with the usufructs of the parambas. The janmi has to pay the Government revenue over and above what he gets.

By Sri R. RAGHAVA MENON :

The average kanamdar is as bad as the verumpattamdar. I know innumerable janmis are absolute paupers. I know of one janmi who pays an assessment of Rs. 300 and odd who was keeping my gardens and who cannot get two meals a day.

By the CHAIRMAN :

In North Malabar renewal fee is termed manusham. When a tenant died, the Raja collected something from the heir of the tenant ; that fee was called purushantharam. That might be a sort of renewal fee.

By Sri M. NARAYANA MENON :

The renewal fee is given out of the land. If you want to keep the land you have to pay it. There are one hundred and one ways of enforcing payment. In ancient days, the law was not so very clear. Perhaps an order of the janmi was strong enough to enforce those demands. It is something like succession duty.

By Sri K. MADHAVA MENON :

My main objection to the abolition of renewal fee is that it has become a vested interest.

By the CHAIRMAN :

I would object on behalf of the tenants to having the renewal fee spread over twelve years. The janmis will welcome it. It was mooted in the Legislative Council and also in the Select Committee. The janmis, particularly the Sthanis, would welcome it because they run the risk of actually losing the renewal fee altogether. Even now, the kanam tenants find it difficult to pay the rent. If you tack on the renewal fee, distributed over 12 years, they will find it harder still. According to the present provision of the Act, no janmi can demand renewal fee. By making the provision that you now propose you are indirectly allowing the janmi to claim renewal fee every year. The janmi can claim it by filing a suit for redemption, but that would be unprofitable. The instalment of the renewal fees will amount to something. There will be considerable enhancement in the payment of michavaram. A kanam tenant who is now paying Rs. 20 may have to pay Rs. 25 or so if renewal fee is claimed every year.

By Sri U. GOPALA MENON :

The renewal fee is not very high now. Before the Act it depended upon the pleasure of the landlord and many other things. Many families had to mortgage their property on account of renewals when the renewal fees were so fluctuating.

By the CHAIRMAN :

If you grant that the landlord is the owner of the land, one of the primary rights of ownership is that he should get back his land. So I do not think therefore there is any logic in annihilating his right. If a landlord is in possession of 1,000 acres of land and he is cultivating them and he wants another 100 acres of land for his own cultivation, I would allow it. Such instances will be one in a thousand. The Courts will decide the question of bona fides. When the intention is real, even if the motive is bad, I think the landlord must be allowed to have his land for his own cultivation, because the proprietary right in the land gives him the incident of proprietorship, viz., the holding of his land by himself.

By Sri U. GOPALA MENON :

Instances have come to my knowledge where such evictions have been caused by spite, The proprietary right has not been infringed, though the exercise of the right in some instances has been limited. The present provision is sufficiently elastic as it is. I think it may be left as it is. It will be unfair to legislate for cases where there is spite as the motive behind. These cases can be discovered by the interpretation of the word '*bona fide*'.

By Sri K. MADHAVA MENON :

Q.—If you remove the words 'bona fide' and put instead the words 'for actual necessity' ?

A.—How are you going to define 'actual necessities' ? What you consider necessities may not be considered as necessary by me and vice versa. I am against any loose amendment of the section.

I do not think even one per cent of verumpattamdars have been able to pay one year's rent as advance. I have got about 70 or 80 verumpattam tenants. None of them have

paid me any advance. If you give them fixity of tenure they would not pay the rent. If the tenant is in arrears of one year's rent now, only one year's rent will go. It will not matter much. The fear of being evicted by the landlord must be there ; otherwise he will not pay the rent.

By the CHAIRMAN :

I will have no objection to empower the janmi to file an application for recovery of renewal fee, wherever renewal fee can be claimed now. If you fix a time-limit for eviction that will work hardship. The janmi cannot execute the decree.

By SRI K. MADHAVA MENON :

I am against giving lands for punam cultivation. It is this punam cultivation that has made scrub jungle.

41 Rao Sahib V. Krishna Menon, Standard Furniture Company, Limited, Kallai, South Malabar.

1 *&* 2.—Malabar was a forest area and it consists of hills and valleys. For reclaiming this area and converting it into cultivable lands different agencies were required. Kanam, kuzhikanam, verumpattam and other rights were necessitated by the peculiar nature of the country. The owner of the land, the janmi himself, unaided could not undertake all the operations of reclamation and cultivation and he had to employ different agencies each having special functions. The origin of janmam like ownership in other countries can be traced to the difference in the mental and physical capacities of the people living in the country. The man, more powerful physically and mentally, assumes right and as long as his right is once recognized, he transmits it to his legal heirs. I do not think there is any special peculiarity about the ownership of lands in Malabar.

Transfers and assignments of janmam rights by virtue of sale by Court or by force of circumstances, have made the janmam right a tangible property having a money value.

3. I regret I am not able to say.

4. (*a*) Yes.

(*b*) Restriction or rather public control is required on waste lands, forests and irrigation sources. The necessity for this control is found in other countries and I think for conserving the resources of this country, such control by the Government will be very beneficial.

(*c*) The word " cultivator " has to be defined before I answer this question. If the cultivator is poor and impoverished and unable to invest sufficient capital for reclaiming the land and making it productive, there is no use of leasing waste land to him. The object of such interference should be the improvement of the resources of the country. Moreover, a cultivator after taking possession of the waste land may cease to be a cultivator and he may not be able to fulfil the expectations at the time of transfer of waste land to him. Before the Government interferes in this matter, I think it is necessary to provide for the above contingency.

5. (*a*) It would be simpler if all the lands become Government property, but how this can be done, what compensation will be required and whether it will create complications or not, I am not able to say.

There are many things to be made simple in this world. Our idea of property itself is somewhat complex. That all the inhabitants of the earth should share equally the productions of the earth would be a simple and more equitable proposition than the existing rights of property; but even great thinkers have not been able to devise reasonable methods without resorting to force.

(*b*) (1) Under the existing economic conditions of Malabar, I do not think any landholder who does not cultivate his own land would be unwilling to get a reasonable compensation for his lands as the system of revenue collection, difficulty of collecting rents and low value of the produce have rendered his ownership of low value. It is very good to provide that the tenant who cultivates the land must be the owner but when at any time after the acquisition, he ceases to be a cultivating tenant, the ownership, according to this rule, must immediately pass to another cultivating tenant and if there is no cultivating tenant available, who has sufficient funds to purchase his rights, the tenant who was originally the cultivator loses the value of his acquired right and the whole process will restrict the scope of land sale and it may probably tend to depreciation of the value of the land.

(2) I suppose this questionnaire is introduced for consolidating possession of land held by a cultivator in order to make the unit sufficiently large to make the cultivation pay. According to this idea, limiting of the area is not the important factor. Enlarging the area seems to be the proper method.

(3) Vide my answer to 5 (*b*) (1).

6. Until you extinguish all the rights of the intermediaries, I do not know how this will be possible.

7. (*a*) The best way of approaching the question is to decide first what share of produce of the land should be allowed to the cultivating tenant. By my experience of cultivation, 50 per cent of the produce, roughly, should go to the cultivating tenant. This, of course, is a rough estimate as fertility of a land should make some variation in the above rule. Out of the remaining portion, the Government tax must be deducted and the remainder out of the produce may be left to be distributed among intermediaries and janmis according to the varying conditions of their rights.

(*b*) I am afraid, I do not know. My experience is that land tax on some lands is favourable while on others ruinous to the owner. I think some factors in the calculation of land revenue are based on uncertainties, but I am not an expert in this matter.

(*c*) The cultivating tenant is the proper person to pay the assessment and most of the inequities of the present methods of collecting land tax can be put an end to if the Government tax is made payable by the cultivating tenant.

8. I am sorry I have no practical knowledge.

9. To base fair rent on assessment would be unfair and sometimes unjust for reasons stated in 7 (*b*). I think the system of arriving at the assessment by settlement officers would have been fair, if the settlement officers do not make up their mind before they commence calculation that the total assessment should be increased by a certain percentage. Settlement officers working under higher revenue authorities, who by gradations reach up to the Board of Revenue, cannot exercise their discretions and act impartially in the matter of fixing the assessment as long as the idea that a general increase by a percentage is entertained from the very beginning.

10. Rent should be independent of the Government revenue. The amount payable by a cultivating tenant should be a fair proportion of the produce. When the produce becomes less, the rent must be less. To link rent with the assessment will create complications and delay in settlement of rent.

11. Uniform weights and measures would be better if they can be introduced.

12. According to the old conception, when a land which requires reclamation is given to the intermediary including tenant, the janmi does not demand a large share of produce and very often the intermediary is allowed to appropriate the major portion of the proceeds of the cultivation until he is in a position to recoup the cost of reclamation and cultivation. After the expiry of say 12 years, the janmi renews the lease and demands a share of the profits of cultivation. According to the formula fixed at the last Tenancy Legislation, the renewal fee bears a certain proportion of this profit and if there is no profit, no renewal fee can be demanded according to the above formula.

13. (*a*) I do not think that abolition of the system of renewal fee can be recommended under the existing varying conditions. This question, I think, has been discussed by the last Tenancy Committee and they have provided by fixing the formula against the abuse of the right of demanding renewal fee.

(*b*) I think it would be a better arrangement to make all lands Government property after paying compensation to landlords. What compensation is required is a very complicated question which I am not able to say.

14. I regret I am not able to say.

15. (*a*) I think the actual cultivator has some occupancy right conferred on him by the last Tenancy Act. The occupancy right and compensation to janmi are connected questions and if somebody does not come forward to pay the compensation to janmi, the question of occupancy rights cannot be solved, unless the existing notion of rights are altered by revolutionary notions regarding property. If there are any loopholes in the existing system of partial enjoyment of occupancy rights conferred upon the cultivating tenant, it may be examined.

(*b*) I regret I have no definite knowledge.

16. (1) & (2) Here again the question of compensation crops up. Unless the question of compensation is solved, it will be difficult to deprive the landlord of his rights of eviction.

17. (*a*) A general proposition to confer fixity of tenure on all kudiyiruppu holders does not appear to be necessary. All kudiyiruppu holders may not be able to hold their kudiyiruppu holdings for all time. As long as any holding ceases to be a kudiyiruppu what will become of the fixity of tenure granted ? These questions require examination. I am not able to say what compensation is reasonable.

(*b*) No hard and fast rule seems to be required.

18. The advantages at present enjoyed by tenants in Malabar in the matter of compensation for improvements are sufficiently good for the tenant and I do not think any alteration is required. Very few countries or districts in this Presidency, I think, have these rights conferred upon persons who make improvements.

19. Feudal levies are very small, insignificant and trivial and I do not think any legislation is required on this point.

20 *&* 21. I am sorry I am unable to answer.

22. (*a*), (*b*) *&* (*c*) (1) *&* (2) Legal procedure for fixing and collection of rent and renewal fees may be made simpler and less costly. To make the trial summary, I think, would tend to avoid the ruin of many tenants by litigation.

(3) If renewal fee is a legitimate claim, I think, it is necessary to grant the right to file suits or applications for recovery of renewal fees.

By the CHAIRMAN :

I was a member of the Raghavayya Committee. The Government should interfere in assuming control of waste lands and forest lands. I would not give any compensation to the janmi in such a case. He is sacrificing the interests of the country ten times more than what he gets now. There is no harm in giving him the dues that he is at present getting. I am in favour of simplifying the land tenure system in Malabar by eliminating the intermediaries if that is possible. If the intermediary does not pay his dues to his landlord, I would empower the tenant in possession to purchase those intermediary rights. Fifty per cent of the gross produce may be given to the actual cultivating tenant. When I said 50 per cent, I referred to average fertile land. If the land is poor much more than 50 per cent should be given. I took the ten fold yield land as the normal. It is safer to fix the fair rent in some proportion to the gross yield varying with the fertility of the land. For instance in Walluvanad and Ernad taluks in some cases 50 per cent will be too much for the tenant. In Ponnani taluk where the average yield is five or six times the seed, 50 per cent is hardly sufficient to pay for his labour. I believe one general formula will not be fair. We will have to qualify that by some other step, leaving to the Court to decide, or something like that. You can put it 'subject to the normal variations and subject to the decisions of the Court'. It is better to make the cultivating tenant liable to pay the assessment, even where there is an intermediary. It is easier to collect the assessment by that method and also fairer. The right of the landlord to get the surrender of the land if he wants it for bona fide cultivation was introduced to get over the difficulty of compensation. It was a make-shift. The tenant is not able to pay compensation to the janmi. The janmi's right to be compensated can be settled by enactment that he has no right to the property. Then all these troubles will end.

By Sri U. GOPALA MENON :

I cannot say whether it was the janmi's ancient indefeasible right or a newly sprung up right. At the time there was a discussion between the tenants' and landlords' representatives on this point. To get over the difficulty at least for the time this clause was introduced.

By Mr. R. M. PALAT :

I have got kanam right and janmam right. As far as janmam right is concerned I consider the land as my own. In my capacity as kanamdar I consider the land as my own. It all depends on the capacity. By intermediaries I mean all holders between the landlord and the cultivating tenant. The man who cultivates and gives rent is the actual tenant and not the coolie. Government should assume control of waste lands and forest lands, because the natural benefit that the country ought to derive from the land is not being derived but is being wasted. The waste lands are misused, because the janmis have in their possession waste lands which they won't give to anybody. I can give you an instance of a plot near Parappanangadi, of about 20 to 30 acres of pasture land not given to anybody as far as I know. I do not know if anyone applied for it. There are places where the lands can be improved and more produce can be obtained out of such land. In order to prevent it from being kept waste, the lands could be given to the cultivator if the janmi refuses to cultivate the land. There are cases where waste lands are not utilized to the maximum benefit. If it is uncultivated that shows that the janmi has not given permission. The janmi sacrifices his own interest in the way in which he deals with these forest lands. One tree in a forest was sold for one rupee for sleepers. The tree would have been worth at least 50 or 60 rupees. Even Moppillas who have Makkathayam law are doing the same thing in forest areas. Almost all the landlords who have forests are destroying the forests and depriving the country of the natural benefit.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

If you recognize the land as belonging to the janmi he is not an intermediary. If you consider the Government the ultimate landlord I concede it.

By Sri R. RAGHAVA MENON :

I have not thought of the ways in which the tenure system could be simplified.

By Sri K. MADHAVA MENON :

I am cultivating six miles away from Calicut. I have got a record for the last 20 years. My experience is that twice the seed is roughly the cost of cultivation, and a further two times the seed goes for other sundry expenses, that is employment of cattle, cattle mortality, time spent by the man, etc. It comes to four times the seed in all.

By Sri U. GOPALA MENON :

In a ten paras seed area, if it is good seed, eight paras will be enough ; you require ten paras of ordinary seed.

By Mr. R. M. PALAT :

The cost of labour may be a little higher than what it is further away from Calicut ; the produce and straw also will fetch a higher price.

By Sri A. KARUNAKARA MENON :

The present provision will be more advantageous to the verumpattamdar.

By Sri P. K. KUNHISANKARA MENON :

The denudation of forest should be made penal.

By Sri U. GOPALA MENON :

In Cochin State nobody could cut a teakwood tree ; to conserve the forest is useful.

42 Sri P. C. Unnikumaran Nair, Representative of the Malabar Landholders' Association.

1. *Origin of* (1) *janmam.*—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. The ancient genuine documents published by Mr. Logan who was Collector of Malabar for several years confirm the view that the janmis were the full proprietors at all times. There is absolutely no historical basis or any evidence for assuming that the State or the sovereign, at any time, had any right in the soil in Malabar.

(2) *Kanam.*—Kanam arises from the word "കാണാമ" As the kanam had to be returned on redemption it is one seen as existing till then. The word kanam can be applied to the tenure in one or two ways. It may be that the cultivator's possession and enjoyment was a right which everybody could easily see while the right of the janmi was not one which could be perceived so easily. The right that could be seen was called kanam. Or it may be that for the creation of such a quasi-leasehold right, the tenant had to make the payment of a sum of money called kanam besides many customary payments such as avakasam or fee, oppu and such fee for signing and writing, etc. The kanam amount on redemption had to be paid back by the janmi to the tenant.

(3) *Kuzhikanam.*—The word literally means the money utilized for pitting. The tenure is the one by which improvements, namely, coconuts, etc., known generally as kuzhikurs are made on a piece of land. This tenure is usually found in North Malabar and in some places in Calicut taluk.

(4) *Verumpattam.*—Verumpattam had its origin in the inability of the janmi or the kanamdar to cultivate all their lands themselves. They therefore put others in occupation for cultivation.

(5) *Other tenures.*—Most of them have become obsolete except otti or palisamudakku. The term otti indicates an advance of practically the full value of the land to the janmi and imports by its incidence a right of pre-emption in favour of the tenant. These are permanent tenures like saswatham, anubhavam, and adimayavana. They are grants for services rendered.

Kovilakam verumpattams called customary verumpattams in the Tenancy Act are leases granted by Rajas like the Zamorin to tenants on favourable terms. They were probably granted for services rendered for other consideration.

2. Janmi had absolute ownership in the land. Kanam was not a permanent tenure. It was redeemable by the janmi or could be renewed by him if he so desired. Kuzhi-

kanamdar had the right to the value of the improvements. He could not resist redemption or ejectment by the janmi. Verumpattamdar was a tenant at will.

3. As regards janmi judicial decisions have not effected any changes in his rights not warranted by their origin and nature. As regards kanam no changes have been made by courts except that a period of 12 years was added to the kanam tenure. Originally there was no such period fixed in favour of the kanamdar.

4. (*a*) Yes. If at all they have not fully accepted the allodial character of the janmi's rights in the land.

(*b*) Not at all.

(*c*) No.

5. (*a*) No. No interference with the existing system of land tenure should be thought of. The existence of intermediaries is the result of a long course of evolution of land tenure in the district and should not and need not be interfered with.

(*b*) (1) We are strongly against this proposal. There is no need or justification for such compulsory purchase. Neither is there any demand for it.

(2) Unless one knows definitely what an ideal farm is it is impossible to answer this question. The idea, whatever it may be, seems impracticable. It is not necessary to limit the area in possession of the actual cultivator.

(3) Sale to non-cultivators should not be prohibited. Such a provision would diminish the value of the land. As far as we are aware there is no such sharp distinction in Malabar between cultivators and non-cultivators as might exist elsewhere.

6. If the intermediary commits default in the payment of rent we think the under-tenant may be permitted to protect his interests by paying the rent due to the landlord by the defaulting intermediary and given relief against the defaulter. Thus the provision should be made analogous to the provisions under the Land Revenue Recovery Act II of 1864.

7. (*a*) In the case of paddy lands the cultivating tenant may be allowed to retain one-third of the difference between gross produce and the cost of cultivation. Cost of cultivation may be taken as two and a half times the seed inclusive of the seed. If there is no intermediary the balance two-thirds should go to the janmi who is liable for the revenue. If there is an intermediary his share of the income should be in proportion to the labour and capital invested by him. The same principle can be applied to the parambas.

(*b*) It does not appear that any fixed principle is observed by the Government now. Because the revenue varies from field to field and from taluk to taluk. There are numerous instances where the rent realized by the landlord is less than the assessment payable by him and in some instances the assessment of parambas is much more than the total income therefrom. The reason probably is that the assessment of the neighbouring land or of a block of lands is taken into account in fixing the assessment due to the existence of a departmental rule to that effect.

(*c*) In the case of kanam holdings patta should be jointly in the name of the janmi and the kanamdar and in the case of verumpattam lands patta should be in the name of the janmi alone. In the case of holdings with improvements patta should be jointly in the names of the janmi and the improving tenant. Where there are no improvements the patta should be in the name of the janmi. If the lands are assessed to revenue owing to the fact that the tenants have reclaimed lands and planted improvements then the revenue should be payable by such tenants.

8. (*a*) *Wet lands.*—No case has arisen.

(*b*) *Garden lands.*—Provisions relating to fixing of fair rent in the case of garden lands have worked great injustice to landlords. In cases which have arisen in courts of law the fair rent of garden lands have been found to be very low. This is because the proportion fixed by the Act is very low and inadequate. When the improvements belong to the tenant the janmi should get one-fifth of the gross produce as provided under the Act plus the revenue. Else the tenant must be made liable to pay the revenue. In cases where there are intermediaries the landlord should get one-fifth as provided under the Act without the revenue. If all the improvements belong to the landlord then the rent payable to the janmi should be enhanced to two-thirds of the income inclusive of the revenue. Where some improvements belong to the janmi and some to the tenant rent should be fixed as provided in the Act along with the proportion of the revenue distributed in the ratio of two-thirds and one-fifth respectively.

(*c*) As regards wet lands and dry lands the present rent may be treated as fair rent for another period of 12 years from 1942. There has been no real demand to adjust the present rent of wet and dry lands.

9. No.

10. There is no objection to doing so subject to our answers with reference to assessment.

11. There is no necessity to standardize. No difficulty is being felt now.

12. Renewal fees is the part of the excess profit got by the tenant in the holding.

13. (*a*) No.

(*b*) The necessity for answering this question does not arise.

(*c*) Not much. It must be made clear that the janmi is entitled to renewal fee not only for a period of 12 years but for as many such periods or fractions thereof as have elapsed on the date of the renewal. Renewal fee should be made a charge on the holding.

14. No.

15. (*a*) Fixity of tenure now granted by the Act may stand. We are not in favour of occupancy rights being given.

(*b*) No.

16. (1) No. The word ' bona fide ' in the provision should be omitted.

(2) No.

17. (*a*) No. They have already a right to purchase.

(*b*) Municipalities should be exempted from the provisions relating to the kudiyiruppus.

(*c*) The present provisions may stand.

18. No.

19. No levies are made.

20. (*a*) No. Not possible also.

(*b*) Not desirable.

21. (*a*) & (*b*) No.

22. (*a*) The procedure under the present Act requires some alterations. Sections 20 to 25 are not happily worded and the procedure is made cumbrous. Under section 23 before an application for renewal is dismissed the correctness of the allegations of the landlord should be determined. Such an enquiry should be made on the tenants petition for renewal itself even in the absence of a suit. While the landlord is made to file a suit and pay court-fee the tenant is enabled to file applications. The procedure must be made simpler and uniform. As regards appeals provided for in section 50 the court-fee must be as in miscellaneous appeals.

(*b*) The janmi should have the right to get the rent and renewal fee by an application or petition. A suit is very costly and prolonged.

(*c*) (1) Summary trials may be introduced. But right of appeal must be provided in all cases. Else summary trials will become unjust trials. It will be enough to say that all proceedings under the Act will be petitions which should be disposed of expeditiously. In all such cases there should be appeal as now provided for under section 50.

(2) We are against investing revenue courts with the jurisdiction. The revenue officers camp in distant places and parties and witnesses will have to make long journeys and lawyers cannot appear. It is always better to have these things disposed of by civil courts as both landlords and tenants have faith in them.

(3) The janmi should have the right to file application or suit to get the renewal fee.

23. Don't know.

24. We have already referred to some of the disabilities.

By the CHAIRMAN :

The views of my Association with regard to the origin of ancient janmis are based on hearsay. It is impossible for me to say how janmams arose. Janmams arose from various sources. I know the Zamorin Raja has janmam right over about 1/40 of the assessed lands in Malabar. I cannot say that either he or the members of his family brought

these extensive lands under cultivation. Lands were held by local chieftains and they became janmis. When the janmi was hard up, a kanamdar who was rich advanced amounts to the janmi and made a charge on the property; he became kanamdar in that way. Small kanam holdings might have originated as security for rent. I cannot say that small kanams of Re. 1 or Rs. 2 were taken as security for rent.

The Revenue authorities have treated janmams as ryotwari land in the recent settlement. In 1900 it was put down as private janmam. Recent legislation has affected the rights of janmis to a certain extent. Before that I am not aware of any restrictions on their rights imposed by Revenue authorities or by judicial decisions.

I am of the opinion that ancient rights over forests, waste lands and irrigation sources should be preserved in tact. The Government may supervise the cutting of timber and they may also help janmis with money for planting trees. I have no great objections to Government passing legislation for the preservation of forests.

There has been no case where any janmi has ever refused permission to any prospective tenant occupying the land for improving it. There is no necessity for the Government to take waste lands and grant them to cultivators. If a case should arise where a janmi refuses land to any prospective tenant, then I have no objection to the Government acquiring the land in accordance with the Land Acquisition Act, either the janmam right or the right of occupation. As it will not be possible to acquire all these lands under the Land Acquisition Act, I have no objection to Government taking possession of such lands and giving them to cultivators, provided the janmi's dues are sufficiently safeguarded.

By Sri N. S. KRISHNAN :

What the janmi does not require may be taken.

By Sri U. GOPALA MENON :

The janmi may require the lands not merely for cultivation. For instance lands may have been given to temples which is not necessary for temple use.

By the CHAIRMAN :

Though the janmi may not require irrigation sources now, he may require them sometime later. If the janmi has such a source now, it is all utilized by the cultivators. There are no such sources, as far as I know, which have not been used. If the Government are prepared to surrender them whenever the janmi wants them, I have no objection to the Government's utilizing them for the benefit of the people.

By Sri M. NARAYANA MENON :

The janmam of the Zamorin is an ancient janmam which he had from the very beginning. How it arose I cannot say. I have no knowledge of the ancient state of things.

There has been a good deal of waste land opened up and converted into garden land. It is not advisable to open up all waste lands as they may be required for grazing purposes, for growing of manure, etc. There are very few such lands. I do not mean that all the lands which were lying waste and fit for cultivation have been brought under cultivation and those that are still remaining waste, should not be brought to cultivation.

Except in Palghat and Walluvanad taluks, there are no private irrigation sources. If there are any such rare instances, Government could interfere. The Government should not take over such sources except with the consent of the janmis. All water sources are now registered as Government janmam, as far as I know.

By Sri U. GOPALA MENON :

Janmam right did not arise solely from the original clearing and cultivation. In Calicut taluk, except the Zamorin, all other janmis had purchased their lands at three, three and half and four per cent interest. I cannot say how the tarwad properties of the Mandalath Nayar were got which were not purchased. The Zamorin was a ruling Prince. I cannot say how he acquired his lands before that. After the Kollattiris ceased to reign in Calicut taluk, the Zamorin became the ruler. I cannot say whether the Zamorin had any property before that in Calicut, or not.

I have no objection to Government making rules with regard to felling of timber, but without knowing what the expert's opinion is with regard to the girth of trees which should be cut, I cannot say anything definite.

By Md. ABDUR RAHMAN Sahib Bahadur :

The answer to question one has been prepared and approved by the Landholders' Association. That is not my private opinion. I accept the basis, but I cannot prove it. The person who actually cultivates the land should get the benefit to the extent to which he has done so. He must pay his dues to the landlord and to the Government and then enjoy the result of his labour. The janmi has now got the right of ownership. What I

said was about the ancient state of things. I do not mean to say that the janmi had any right over-riding the rights of the Government. I do not think that in other parts of the Presidency the landlords have the same rights as the janmis here. Government is not the supreme landlord but only the ruler. The janmi is the absolute owner of the land. The superior right of the Government over the land is the right of sovereignty. Government have no janmam right in Malabar. The tax paid to the Government is for the sovereignty and for the protection that the Government affords.

My tarwad pays an assessment of about Rs. 4,000 and I consider myself as one of the minor janmis. I am actually cultivating or getting cultivated lands of a seed area of about 200 paras of paddy. I have no forests. I know janmis who own forests. I cannot say that they got them by purchase or not.

I cannot say whether the ancient janmis also acquired properties by purchase.

By Sri K. MADHAVA MENON :

As I cannot say whether the forests and waste lands of such ancient janmis were purchased or acquired otherwise I cannot say why they should be compensated.

By Mr. R. M. PALAT :

The ancient ruling chiefs of Malabar collected dues by way of customs and other dues. There was no assessment then. The first assessment in Malabar was by Hyder Ali. When the janmis sold their janmam right, they sold the other rights also enjoyed along with it. The chieftains who sold their lands still retained such rights, as customary dues for marriage, death ceremonies, etc.

I agree with the written answer of the Landholders' Association about the origin of kanam. It was a great thing in the ancient days to get a rupee or two for waste lands. This amount was fixed so low with the object of bringing the lands under cultivation. The ancient kanam gave the janmi a right to resume whenever he wanted. The British Courts have by their decisions given a period of 12 years for kanam lands where no period is fixed.

There are some families or Sthanams where partition is not possible that also possess forest lands. Partition of forests is a very difficult process in practice. The Government may take over the forests and waste lands now belonging to janmis. The janmis should get some compensation. Government themselves own waste lands which are not cultivated, in Amarapuram and other places. I am aware, the Government have the Malampuzha irrigation scheme for which estimates have been prepared but nothing has been done. There are waste lands now included in the kanam holdings. The janmis enjoyed those forests by hunting and other things in those days. The forest lands could be enjoyed only in that way in ancient days.

By Sri U. GOPALA MENON :

Kanam was redeemable even before the British advent. I cannot give any instance of kanam having been redeemed before the advent of the British Courts. There was a custom of renewal. It varied. In northern parts to my knowledge it occurred every six years. There was renewal for 12 years in old days. The Manaladi family had forest lands in Calicut taluk. Fishing and hunting were the hereditary rights of Naduvazhis and janmis in forests in the locality.

By the CHAIRMAN :

No period was fixed in the kanam document and whenever the janmi wanted to take the renewal, he did so.

By Mr. R. M. PALAT :

The custom of the country was to take renewals. I have more than 400 kanam tenants.

By the CHAIRMAN :

The under-tenant has to be protected against the consequences of default by the intermediary. He may be permitted to pay his share of the rent to the janmi directly. From the point of view of the janmi there is no objection to that.

There are numerous instances where the rent which the landlord gets is less than the assessment. I shall send to the Committee a list of such instances, giving the names of the villages, the survey number, etc. As regards garden lands, the present position is not fair to the janmi. I can say there are many cases where the existing Revenue assessment is more than the produce of the land. The existing rent is fair rent according to the custom and usage of the localities ; the fixing of fair rent according to the present Act involves going to Court. I cannot say it will be in the interest of either parties to do so. The proposed legislation should not make any change in the existing usage and custom of the country. It is not within my knowledge that the existing rent is high in respect of either

the kanamdar or the actual cultivator. If at all anybody suffers, it is the landlord in the matter of the payment of land revenue. If any change is necessary, it is in the matter of fixing the assessment.

I am personally of the opinion that weights and measures should be standardized. It will be better if the Calicut standard is adopted throughout the district. The District Board has made a beginning in the matter ; if it is adopted throughout the district, it will be good.

I do not agree with the view of Mr. Raman Menon that the renewal fee had its origin in *thirumul-kalcha* which the tenant made to his landlord when he came into the Sthanam. The word manusham is derived from ' manassu ' (mind) ; a man goes and looks at a land and he thinks that it will yield so much ; an impression is created in his mind. The tenants are unwilling to pay the existing rent ; if renewal fee is divided into instalments, the tenants would cease to pay that also.

The word ' bona fide ' must be retained. The value of the improvements generally comes to four or five times the janmam value of the land. If a time-limit is fixed for payment of that, the janmi will have to sell other lands. The present rate of working out the value of improvements is working considerable hardship. If a fair and proper improvements value is fixed I have no objection to a time-limit being fixed. But if it is according to the present law or present practice, I am against fixing any time-limit. I am not in favour of abolishing feudal levies. The provisions of the recent legislation should not be extended to Kasaragod and Gudalur taluks. The law when it comes will certainly cause hardship to the people here. Let the people in those taluks be saved from it.

By P. K. Moideen Kutti Sahib Bahadur :

In the case of single crop lands, as much as the seed will be the cost of cultivation ; in the case of double crop lands, twice the seed will be the cost of cultivation ; that is, besides the seed. One acre of paddy land requires six Calicut paras of seed. There is no description of the paddy field with reference to the customary seed required.

By Sri U. Gopala Menon :

I don't agree to the share of the actual cultivator given in the answer of my Association to Q. No. 7 ; that will apply only to Walluvanad and Palghat taluks. In Calicut, the ratio ought to be different. I am not now able to say what it should be. The fixing of fair rent by Court is not advantageous either to the janmi or the kanamdar or the kuzhikanamdar or the under-tenant. It will be better if it is fixed according to the custom and usage of the locality. I know that this is not the opinion of the Landholders' Association. ' Manusham ' means mental calculation of the yield of property.

I do not know anything about Gudalur taluk. From the enquiries I have made of the people in Kasaragod taluk, I have been able to gather that the tenure there is different from the tenures prevailing in Malabar. Janmam, kanam and verumpattam tenures exist there.

By Sri K. Madhava Menon :

The cost of cultivation for the first crop will be equal to the seed and for the second crop it will be one and half times the seed. This is exclusive of the seed. It includes cost of ploughing, replanting and harvesting and for the second crop manuring also. Usually the cultivators will not purchase manure. They will have their own manure. I cannot say whether an allowance should be made for the loss of cattle, vagaries of season, pests and other exceptional causes. The landholders in such seasons may give some remissions. The tenants are not paying rent regularly. For the last two or three years, they are being advised that there will be legislation which may relieve them from paying rent, or that there will be some difference in their payment of rent. Another reason is that the Agriculturists Debt Relief Act gave relief to those who were defaulting and those who were regular in their payment suffered. Thus the Act gave inducement to others also who were regular not to pay. Another reason is the depression and the low prices of coconuts. The man who used to pay Rs. 10 could at least have paid Rs. 8 but he does not pay that. It is not because the tenants cannot pay, but because generally many people do not want to pay. If they do not pay the result would be their destruction. Both the Kudiyans and the janmis will be causing their destruction themselves if the tenants do not pay their rent.

My individual opinion is that if the tenant pays his rent regularly and there are no arrears of revenue, he should not be evicted, except on special grounds. By special grounds, I mean either the cultivation by the Members of the Janmis' families or for building purposes. I cannot say if the system in Kasaragod taluk is similar to ours. I cannot say why my Association want to make a distinction between Kudiyiruppus in Municipalities and other places.

By Sri U. GOPALA MENON :

I had a part in preparing the memorandum. It was the subject of consideration at a special meeting of the Landholders' Association.

By Sri E. KANNAN :

I cannot give the cost of cultivation item by item. My cultivation is in Tamarasseri, Kunnankeri and Makkada amsams of Calicut taluk. The Revenue Department have by testing the fertility of the soil assessed these lands on a par with the lands in Ernad and Walluvanad.

By Md. ABDUR RAHMAN Sahib Bahadur :

Rents were in arrears for seven years and eight years prior to the Agriculturists Debt Relief Act. The proportion of the depression in prices was greater than 10 to 8 but compared to the profits that the tenant was getting he could have paid the proportion of 8 to 10. Mr. V. Krishna Menon, who gave the cost of cultivation as four times the seed is using a larger quantity of manure and evidently the yield also should be more in his case. I speak with reference to an yield of four fold of the seed. He might be getting six fold. It is not possible for us to do as he does.

By Sri C. K. GOVINDAN NAYAR :

I don't think it will be advantageous to the tenant to fix the rent of garden lands in kind. The cost of transport of all the articles to the landlord will be high. Paddy is not transported from long distances. Even if the value of the rent fixed in kind is paid according to the market rate every year, it will still be inconvenient. It will be difficult for landlords to find out the prices fixed by the Collector.

By Mr. R. M. PALAT :

After the Malabar Tenancy Act there were very few renewals. Practically it may be said there were no renewals. The price of land in the municipalities is larger and growing every day. This increase in price must go to the landlord. Giving fixity for kudiyiruppus will be a source of loss to the landlord. There is a saying in my parts about the cost of paddy cultivation which means that it is the same amount as the seed. But for the second crop it is slightly varied. That is because the first crop does not require transplantation. I had occasion to sell kanam rights of tenants for having kept rent in arrears. Certain levies like bunches of bananas for Onam are found in documents. The prices of these things are also mentioned in the document, and it is part of the rent to be paid to the janmi.

By Sri A. KARUNAKARA MENON :

The reason why renewals are not taken is not that the tenants are not able to pay the renewal fee which is high. It is not likely that, if the renewal fee is reduced, there will be more renewals.

By Sri P. K. KUNHISANKARA MENON :

The Calicut taluk is comparatively less fertile than the other taluks of Malabar. The percentage of yield is five-fold. The revenue per acre in the Calicut taluk ranges from Rs. 6–8–0 to Rs. 7–8–0. In some cases the yield will not be sufficient to pay the assessment. Some amount will have to be added to pay the assessment. With regard to classification I would like Calicut to be classed with North Malabar and not with South Malabar.

I would very much like arrears of rent to be collected by means of a petition without payment of the court-fee, except that fixed for a petition. That will be much better than to file a suit and wait for 5 years to get a decree.

43. Sri E. Sankaran Unni, B.A., B.L., Advocate and Official Receiver of South Malabar, Calicut.

1. I have no theory as to the origin of these tenures. I am, however, quite sure that the theory built up by Mr. Logan is unfounded. It is profitless to speculate on the origin of these tenures. The material available does not enable one to reach conclusions approaching anything like probability.

2. So far as recorded history goes the janmi and the various tenure holders have had more or less the interests which they now have.

3. Judicial decisions have not brought about any change. The courts gave judicial recognition to what was known and proved to be facts. Mr. Logan and the Madhava Rao Committee were under the impression that evictions began only in 1852. The error was pointed out by the late Mr. T. V. Anantan Nayar who drew attention to a large number of cases decided between 1824 and 1848 in which eviction was decreed. In not one of these cases was the plea of co-ownership or non-resumability advanced by the tenants. The truth is, no one ever thought of it before Mr. Logan invented it.

In 1743, fifty years before the British occupation of Malabar, Jacob Canter Visscher, a Dutch traveller, visited the Malabar coast. He wrote a series of letters describing the country, its people and their laws and customs. In Letter No. 10 he refers to the absolute right of the janmi in the land and to the redeemability of kanam.

The reports of British administrators beginning from 1793 attribute to the janmi absolute proprietorship of the soil and describe the kanamdar as a mortgagee. There is no reason to suppose that these early writers were incompetent observers. Their reports were available to the courts and relied upon by all parties. No one appears to have challenged the accuracy of the statements contained in them. The courts in relying upon these reports did no more than accept what no one questioned.

Fortunately for us there is an ancient work in Sanskrit known as Vyavaharamala which is a treatise on Malabar law and custom. The official reports agree in all material respects with the statement of law contained in this work.

We know how conservative the British judiciary has been. It is a familiar charge brought against our courts that they have, by their decisions, prevented society from adjusting itself to changing conditions. It is only in respect of Malabar land tenures that they are supposed to have departed from their traditional leanings. There is really no justification for the charge.

I should like to advert to another important circumstance. The early British administrators had as their assistants and advisers not the Nambudiri or the janmi, but enterprising men belonging to the kanamdar class. When the courts were constituted the subordinate judiciary was recruited from this class. Is it at all likely that these highly interested men carelessly omitted to draw the attention of the authorities and the courts to the wrong they were doing if there was in the minds of these men the remotest idea of it ?

As Mr. Padmanabha Menon says in his *History of Kerala*, the position of the kanamdar was that of a tenant at will until the British courts interfered to protect him.

4. (*a*) I consider that the civil courts and the revenue authorities were right in holding that all land in Malabar belonged not to the State but to private owners.

It must have been a great surprise to the English to be told that the State owned no land in Malabar. Whatever they might have thought of the theory by which so unusual a circumstance was explained, they could not ignore the fact that the ancient rulers of the country had not claimed any interest in the soil. Shaik Zeenuddeen, a writer of the 16th Century says that "they (the Rajas) demand no land-tax from the tenants of the lands and gardens, although they are of great extent." Canter Visscher in his Letter No. 11 enumerates the sources from which the rulers of Malabar derived their revenue. Land is not one of them. That there was no land-tax in Malabar at the time of the First Mysorean invasion or before it is not disputed. The only instance of a levy on land occurred in 1732 when the Raja of Colatiri imposed a tax of 20 per cent on the pattam of all rice lands. If the ancient rulers of Malabar had regarded themselves as owners of the soil would they have voluntarily given up a sure source of revenue ? Land-tax was not unknown in India. And Malabar was out of touch with the rest of the country.

The revenue authorities had the benefit of examining conveyances belonging to dates long anterior to British occupation. Mr. Logan complains that too much reliance was placed on these documents. The complaint is unreasonable. No one who was not the absolute proprietor of land could have conveyed all that was on, above and underneath it. The party who took so all-embracing a conveyance paid for it. It was not a mere matter of form. He got what he bargained for.

Confronted with these undeniable facts the revenue authorities had to concede probably much against their inclinations, that in Malabar the janmi and not the State was the absolute proprietor of the soil.

I have dealt at length with the charge that the courts were responsible for investing the janmis with absolute ownership of the soil—vide answer to Question 3.

(*b*) *Waste lands.*—The extent of waste lands is rapidly diminishing in Malabar. Pressure of population and the large profits offered by the cultivation of commercial crops are causing more and more land to be brought under cultivation. According to the Settlement Report (1930) between 1903 and 1925 the extent of unoccupied dry lands decreased form 1,198,694·78 acres to 1,086,604·00 acres. That is, in 22 years 112,091 acres of new land came under cultivation. The area under cultivation now must be very much larger. This does not include the area under tea, coffee and rubber. It has also to be remembered that land under fugitive cultivation is classified as unoccupied and that large tracts of naked rock and craggy hills are classified as dry land. The janmis have not been slow to take advantage of the opportunities afforded them to bring more and more waste lands under cultivation. Had there been an irrigation system, some portion of the waste lands in the taluks of Palghat, Ernad and Walluvanad would have been converted into wet lands. In the light of these facts it seems to me that there is no reason for interference.

Forests.—I am of opinion that the State should exercise some control in regard to our forests. Private owners are denuding their properties and no provision is made by them for reproduction. They must be compelled to manage their forests more or less on the lines adopted by Government in managing theirs.

Water-sources.—Malabar has never had any irrigation system except in Palghat where a few private anicuts and one Government anicut exist. If Government desire to harness the waters of streams and rivers for the purpose of irrigation I can see no reason why they should not do so, provided that due regard is had to the rights of riparian owners and compensation is paid to the janmi for whatever is taken from him.

(*c*) I do not think it is necessary to do so. It is in the interest of the janmi to bring his lands under cultivation. As I have already pointed out, he has helped to bring more and more lands under the plough. If the State were to resort to the course suggested in the question it will serve as a source of annoyance to and oppression of the land owners. It will lead to avoidable trouble.

5. (*a*) It is not only desirable but absolutely necessary to simplify our system of land tenures. The proposal I outline here has, I believe, the essentials of a satisfactory solution. There may be some difficulty in applying it to North Malabar kuzhikanams where there are more than one intermediary, but, I have no doubt that it can be most successfully applied to kanams in North as well as South Malabar.

Shortly put, my proposal is this :—

Convert all kanams into janmams. Take a kanam holding and ascertain its value according to the current market rate. Say, it is Rs. 1,000.

Next, assess the value of the improvements, if any, made by the tenant and add it to the kanam amount. Say, it is Rs. 400.

Divide the holding in such a way that one part will be worth Rs. 400 and the other Rs. 600. Constitute the kanamdar janmi of the first part. In making the division observe all the equities available in a family partition.

If the kanamdar is cultivating the holding himself, grant him fixity of tenure as a cultivating verumpattamdar in respect of the janmi's portion of the holding : if the kanamdar has a cultivating verumpattamdar under him, let the latter continue on the holding with fixity of tenure, of course. The janmi as well as the erstwhile kanamdar should be allowed to resume their respective portions for cultivation by themselves or members of their families.

The proposal has the following advantages :—

(1) It will get rid of the intermediary as such,

(2) it will reduce the number of people interested in a holding,

(3) it will create a large class of small proprietors,

(4) it will raise the credit of the middle class in Malabar and enhance its prestige,

(5) it is full of possibilities for the improvement of agriculture,

(6) it will relieve the janmis of their indebtedness,

(7) it will make for better relations between classes which have been quarelling for nearly half-a-century,

(8) it can be worked without anybody having to find even a pie for the purpose, and

(9) it will not disturb the actual cultivator.

I would suggest a simple machinery for operating the scheme. Appoint a tribunal for each taluk or revenue division with Revenue Divisional Officer as President and two others as members (non-officials). The decision of the tribunal shall be final and shall not be liable to be set aside except for misconduct on the part of the President or members, a kind of arbitration tribunal.

(*b*) (1) I have in a way answered this question. I do not think it advisable to allow compulsory purchase of the landlord's or intermediary's rights by the tenants. The cultivating classes are not economically in a position to profit by the adoption of this proposal. The purchase money will have to come from the State coffers, or, it will have to be guaranteed by the State. The State will have to go farther and find the funds required for carrying on cultivation. It is common knowledge that money advanced under the Agricultural Loans Act is not always used for improving agriculture. There is no guarantee that the money provided by the State will not be wasted but used for the improvement of agriculture. An expensive and elaborate machinery will have to be organized to supervise the doings of the cultivators. Agriculture will deteriorate. I do not think that this is a practical proposal.

I am opposed to the suggestion for another reason. The janmis and the class from which the intermediaries come have an abiding interest in land. Malabar is what it is to-day as a result of the co-operation, no doubt somewhat marred in recent times, of these two classes. To drive them out of their holdings would spell the ruin of Malabar and its prosperity. It will create a social and economic revolution and set class against class. If any one desired to create a class war in Malabar he could do nothing better than countenance such a proposal.

(2) This is an attractive idea. But, what is an '*Ideal farm*'?

The question assumes that the holdings are generally too large for effective cultivation. This is by no means the fact. The vast majority of holdings are small, often too small for economic cultivation. Fragmentation of holdings has been going on in Malabar for a long time now, especially in Muhammadan-inhabited areas. The problem is not how to limit the extent of farms, but how to consolidate them and make them economic holdings.

(3) The question assumes that the people of Malabar are divided into two well-defined classes, agriculturists and non-agriculturists. The assumption is wrong. All classes are interested in agriculture and are, more or less, in touch with land. We have no professional money lenders here. A professional man or trader who invests his savings in land sends out his son, nephew or other relation to cultivate it. I know instances of retired officials going back to their ancestral or acquired acres.

Further, the cultivator can sell only his right to cultivate. No one who is not a cultivator will purchase that right.

6. If an intermediary commits default his immediate landlord should give notice of the default to the under tenure-holder and give him an opportunity to pay the dues, if the landlord desires to make the interest of the under-tenure holder in the holding liable for the dues. But the landlord cannot do this unless he has notice of the existence of the under-tenure holder.

7. (*a*) *Wet land.*—Take a holding one acre in extent—a double crop land which is placed under taram 3 of the settlement classification. A holding of this description would yield for the two crops together 175 paras of paddy (Palghat measure); deduct 50 paras for cultivation expenses and allow one-third of the balance, 42 paras to the cultivator. Two-thirds, i.e., 83 paras should go to the janmi. Out of this, Rs. 7–8–0 equal to 15 paras of paddy has to be deducted for Government revenue.

If there is a kanamdar on the holding and the kanartham is Rs. 100 deduct 24 paras for interest thereon and divide the balance equally between the janmi and the kanamdar. Each will get 22 paras.

Garden land.—Where the trees belong to the cultivator two-fifths of the produce *less* what is required for Government revenue may be appropriated by the cultivator.

Where the trees belong to the janmi two-fifths of the produce *plus* what is required for revenue should go to the janmi.

Where there is an intermediary and the trees belong to him, he should get two-fifths of the produce and Government revenue and he should pass on one-fifth of the produce and the revenue to the janmi.

Dry land.—The difference between the produce and the cultivation expense should be equally divided between the janmi and the cultivator, provided, that where scrub-jungle or other growths which have no marketable value have to be removed before the land is fit for cultivation, then, for the first year of the tenancy, the cost of such removal should be included in the expenses of cultivation.

Dry lands do not generally entertain intermediaries.

This is how I should like to divide the produce between the janmi, the intermediary and the cultivator.

(*b*) Government assessment generally represents one-fifth to one-tenth of the produce of wet lands. I have not come across any case in which this proportion is exceeded.

(*c*) The janmi should pay the assessment. It is open to him to take advantage of section 14 of the Malabar Land Registration Act if he so desires.

8. (*a*) *Wet lands.*—The provisions of the Tenancy Act relating to fair rent of wet land have not yet come into operation, not even in cases, I am afraid, where renewals have taken place under the Act. It is too early to express an opinion on the working of those provisions.

I wish, however, to make a submission. Section 5 of the Act fixes as fair rent for land reclaimed by the tenant, one-fifth of the net produce which is hardly sufficient to meet the Government revenue. In addition to the one-fifth the janmi should be paid a portion of the produce sufficient to cover the assessment.

(*b*) *Garden land.*—Vide the answer to Question 7 (*a*).

(*c*) *Dry land.*—In a good portion of the dry lands in Malabar valuable dry crops are raised. The net values of various kinds of crops such as moden, gingelly, chama, black-gram, etc., range between Rs. 9 and Rs. 20 per acre. These crops occupy a comparatively small portion of the area cropped. Commercial crops like groundnut and ginger account for a much larger extent under cultivation. The net profit on groundnut in Palghat is Rs. 60 per acre, and Rs. 180 per acre on ginger where it is cultivated. The rates of assessment vary from As. 5 to Rs. 2–4–0 per acre. The Tenancy Act gives to the janmi as fair rent three times the assessment. It is obvious that the janmi is not getting what is justly due to him. As I have said, the difference between the produce and the cultivation expenses should be divided equally between the janmi and the tenant, revenue being payable by the janmi.

9. (*a*) *Wet lands.*—I do not think it is advisable to fix fair rent as a multiple of the assessment. There is very little uncertainty regarding rent in Malabar. "Every Malabar ryot, janmi, tenant and labourer knows three essential facts about his wet land, the amount of seed required to sow it, the number of measures or outturn multiples that each unit of seed produces, and the pattam or rent that is to be paid for the plots." (Settlement Report, 1930.)

(*b*) *Dry land.*—No.

(*c*) *Garden.*—No.

10. I have no objection to the proposal.

11. I would leave these as they are. There are many local variations. It is not desirable to disturb them.

12. The most widely accepted view is that renewals originated in the desire of the janmi to pay off by instalments the loans raised by them on the security of their immovable properties. According to Travancore Janmi Kudiyan Committee renewal fees "represent the periodical deductions from the kanam which the janmi insisted on at renewals." The intervals at which such adjustments were made were generally short. According to early British administrators the longest was six years. The period of 12 years was suggested by Mr. Strange as a matter of public policy and accepted by the Sadar Court. It does not seem to have any connexion with Purushantharam or Mahamagam.

13. (*a*) I think that this is a good proposal. This can be done if the annual michavaram is increased. The net profits of the holding, i.e., what is left after deducting from the rent the interest on kanam and the Government revenue, may be divided between the janmi and the tenant. This should be a great advantage to both the janmi and the tenant. The tenant can avoid payment of a lump sum as renewal fees. Periodical expenditure on stamps and registration is saved. The janmi will get a fixed annual income, which should improve his finances.

Taking all the facts into consideration and particularly bearing in mind that renewal fee is an advance payment and carries interest for twelve years, I think that it would be fair to divide the net profits equally between the janmi and the tenant.

(*b*) Even if renewals are abolished I can see no reason to make any change in the provisions conferring fixity of tenure on the tenants.

If my proposal is adopted no question of compensation will arise.

(*c*) The Act may be amended in the light of my answers to question 13 (*a*).

14. No.

15. (*a*) I am not for granting occupancy right to the cultivator. He would have to pay compensation for it. He is not in a position to undertake so heavy a burden. Further it will do serious injustice to the janmi to deprive him of the right of resumption when he wants the holding for his own cultivation. As a result of the Marumakkathayam Act the big estates are getting divided. I am sure janmis will take to cultivation in increasing numbers.

(*b*) No. The question is a reflection on the judiciary, which is absolutely unjustified. I would make no change except in the explanations to sections 14 and 20. In view of the Marumakkathayam Act the landlord's family should include his wife and children.

16. (1) As I have already said I am not in favour of abolishing or restricting the landlord's right to sue for eviction on the ground that he requires the holding bona fide for cultivation or for building purposes for himself or his family.

(2) I would remove the security provisions from the Act and substitute for them some kind of summary procedure for the speedy realisation of rent, such as is contained in clause 9 of the draft bill prepared by the Raghavayya Committee. I have always been of the view that section 13 of the Malabar Tenancy Act is calculated to defeat the fixity of tenure granted to the cultivator.

17. (*a*) It is not desirable to make any change in Chapter VI of the Act.

(*b*) I would make a distinction between urban and rural kudiyiruppus. In urban areas the number of people who desire to acquire houses for their own occupation is seldom large. Houses are built in towns generally as an investment for capital. In rural areas people build houses for themselves to live in.

(*c*) The definition of a kudiyiruppu in the Tenancy Act is much too wide and vague. As regards rural kudiyiruppus I would limit their extent to twice that of the site of the residential and other appurtenant buildings.

I am not in favour of granting permanency of tenure in urban kudiyiruppus.

18. It is necessary to amend the Improvements Act in view of the provisions of the Tenancy Act relating to fair rent. Section 6 of the Act takes only the paddy produce into account. The income from minor produce is ignored. The landlord will get nothing for the palmyra, mango, tamarind, jack and other trees standing on the holding, when the provisions of the Tenancy Act relating to fair rent come into operation. Section 7 of the Act which omits all reference to the class of trees I have mentioned will cause a similar loss to the landlord. If for any reason under the present Act or under any future enactment the janmi has to sue for eviction he will have to pay compensation under the Improvements Act for this class of trees. If there is a cultivating tenant on the holding, the janmi, after evicting the intermediary, will not get any rent for the trees for which he has paid compensation.

The Improvements Act should be so amended as to deprive the tenant of the right to compensation in respect of trees which are not taken into account in assessing fair rent.

A time-limit of six years may be fixed for the execution of eviction decrees provided that where the decree is in favour of a melcharthdar the janmi, though he is a co-plaintiff, shall not be prevented from suing for redemption within the period allowed by law.

19. So far as I know no such levies are made. There is, therefore, no need for legislation.

20. (*a*) & (*b*) No.

21. (*a*) I do not know.

(*b*) No. Gudalur has more tea and coffee than paddy. The plantations are held on long-term leases and enjoy all the protection they need.

22. (*a*) It does. The procedure places the janmi at a great disadvantage. In regard to renewals if a tenant desires to obtain one he should apply within three months after the expiry of his demise. If he fails to do so and the landlord sues in eviction it should not be open to the tenant to come in with an application for renewal, whatever may be the ground on which eviction is sought.

(*b*) The existing provisions for fixing the fair rent of wet and garden lands may stand. Section 8 of the Act should be amended on the lines suggested by me in my answer to Question 7 (*a*).

I have already suggested some sort of summary procedure for collecting rent.

If the system of renewal is to continue the janmi should have the right to make an application for renewal fee, though no renewal has taken place under the provisions of the Act.

(*c*) (1) I agree.

(2) No.

(3) Vide answer to (*b*).

23. No.

24. I do not know.

By the CHAIRMAN :

I have declined to propound any theory of the origin of Kanam because the material available does not justify the propounding of any such theory. I wish to place before the Committee one piece of information. In the Lexicon published by the Madras University, the word ' kanam ' occurs. Apparently it is a Tamil word. The word occurs in one of the works which belong to the Sangham age of the Tamil Literature. The Academy known as the Tamil Sangham began to work in Madura between the 1st and 3rd Century A.D. This work of the Sangham age is interesting to Malabar because it refers to Chera kings who ruled here. ' Kanam ' is a Tamil word meaning money or a small gold coin and it has absolutely nothing to do with " Kanunnu " ' to see ' as stated by Mr. Logan. The Kanamdar was certainly not attached to the land. He was put in possession of land for the money he lent. Because he was the person who was in charge of the land, he looked after its cultivation ; therefore he was allowed to have a larger share of the profits of the holding than would have come to him in the shape of interest. The shares of the Kanamdar and the janmi in olden days depended upon the amount of money lent by the kanamdar ; if it was small, his share also will be small ; if it was great, his share will be greater than that of the janmi. The Joint Commissioners' Report that out of 10 paras produce the Kanamdar's share was 6 1/6 and the janmi's share was 3 2/6 is wrong. It is a question of fact whether a man was actually cultivating the land or not ; if a kanamdar was at that time found to be cultivating a field, I am not prepared to deny at this distance of time that he was the actual cultivator. The statement in the History of Kerala by Mr. Padmanabha Menon that the kanamdar was a tenant at will refers specially to Malabar. The tenures in existence in the neighbouring States of Travancore and Cochin are similar to those in British Malabar.

Q.—Do you know that a proclamation was issued by the Raja of Travancore in 1005 M.E., that, according to the ancient usuage of the country, the kanamdar was not liable to be evicted as long as he paid his dues to the janmi ?

A.—That might have been the condition in Travancore. Travancore history materially differs from Malabar history. In Travancore after the conquest of the country by Marthanda Varma, the rights of the people to hold land were abrogated and it was open to the King to do just as he pleased with it ; he made his own arrangements to suit the conditions there. Similar conditions have not at any time prevailed in Malabar. I would explain the proclamation by pointing out that the Rulers of Travancore were in an advantageous position ; they could lay down the law because they were the supreme masters. The measure of agreement between the Raja's proclamation of 1005 ME.., and the Joint Commissioners' Report of 1793 may be accidental. If the Joint Commissioners had a notion of what was happening there, they might have thought that a similar statement might be good for Malabar and might have so made that mistake. What the Joint Commissioners stated might not have been true because it was immediately after the conquest. In Mr. Rickard's Proclamation, out of the gross produce, two times the seed was taken as cultivation expenses, and out of the balance, one-third was allowed to the cultivating tenant and the remainder was divided between the Government and the janmi in the proportion of 6/10 and 4/10. The proclamation was found to be unworkable. The term of 12 years originated with Mr. Strange, and subsequently the Sadar Courts accepted it. I don't say that Mr. Strange and Sadar Courts were wrong, but they gave additional strength to that view. I find that the original term was 2 to 6 years. I don't accept what happened in Travancore as justifying legislation here. I admit that it was followed by the Proclamation of 1042, in which the permanent right of the kanamdar was recognized. In the neighbouring State of Cochin also there was legislation in 1914 in which the Kanamdar was granted some fixity of tenure. I would like to draw the attention of the Committee to this matter. In Cochin, 40 per cent of the lands belonged to Pandaram. In Travancore, 75 per cent are pandara lands. Therefore these States legislated for a very small proportion of lands lying in their boundaries.

The Revenue authorities and Civil courts were quite justified in presuming that all lands including forest lands belonged to private owners. In Malabar all lands are private property. It is not a question of presumption ; it is a fact. There is no such presumption in Cochin or Travancore.. We have not got any fact which will justify a sure conclusion in the matter. All I can say is that long before the British came, long before any recorded history, ownership of land vested in private janmis in Malabar and so it did in Cochin and Travancore. Some of the ancient janmis were the local chieftains and many were not. In Palghat there are families which are great owners of land to-day, but I don't believe they came to it by conquest or aggression. These people also describe themselves as ancient janmis. They came to Palghat from the East Coast and settled there. They are called Vellalas. They came from abroad and became great proprietors. If you ask them, they will say their title is ancient janmam, but they must have got their actual

property by paying for it. They could not have conquered it ; they must have bought it just as many others did. The lands of the Zamorin of Calicut were pandara lands. He may not have personally opened up the land, though he may have greatly helped in doing so and it is a mere speculation. Nobody can give you a satisfactory answer. I am a member of the Landholders' Association, but I do not accept a single thing they have said in their memorandum. I am not prepared to contradict it or make any affirmation in favour of any theory. I do not know. That is the simple truth about it.

Q.—Do you think it would be desirable to enact some law to the effect that private owners must work their forests in accordance with the opinion of the Government expert.

A.—You can devise some means that will compel the administration of the forests in a reasonable way because the national wealth ought not to be depleted. I insist that compensation should be given to the janmi for whatever deprivation he is subjected to in regard to irrigation sources.

By Sri U. GOPALA MENON :

The 12 years' rule was introduced by Mr. Strange. I am not willing to hazard any opinion on Kunhikuttan Tampuran's view that the period was Vyazhavatta, the cycle of the Jupiter, and that on each Mahamagam the title to land was renewed. You have to consult astrologers to explain why ancient documents are assigned the date with reference to the motion of Vyazham. I am aware of very small kanam amounts outstanding on extensive properties. The small amounts were not necessarily the original amounts that had been advanced because renewals must have taken place so often that the original amounts might have been reduced. I have not traced any particular kanam which was originally for a large amount but has been reduced since through successive renewals. The question of kanapattam does not arise in every case. It is not everywhere that this kanapattam idea exists. In my taluk very few janmis make any mention of kanapattam. In my tarwad I have never found any reference to it. The late Third Raja of Calicut stated that kanapattam is regarded in some places as half verumpattam. The proverb ' One should celebrate Onam even by selling Kanam ' means ' I will sell the little that I have in order to celebrate Onam.'

By the CHAIRMAN :

The deposits or " Kanachoru " made with devaswams are called kanam in the sense of investment. People invested certain amounts as deposits in the Devaswams to secure at least one meal a day for their descendants.

By Sri U. GOPALA MENON :

The word " Kanam " indicates permanence derivatively, not primarily. These things do not indicate a substantial interest in the land. When marriages take place among certain castes in Malabar, there is the practice of paying what is called ' Kanam Panam ' (Kanam money). ' Kanam ' itself means ' Panam ' and ' Kana Panam ' is merely a duplication of expression. ' Kana Panam ' has no more significance than Sreedhanam. Kana Panam was paid in token of the marriage and as a mark of decency among the parties to the marriage.

By Sri R. M. PALAT :

The Janmi had an equal interest to that of the parties contracting the marriage and just as a husband has the right to divorce his wife, the Janmi also has the right to eject the kanamdar from the land and redeem his rights as against the kanamdar.

By the CHAIRMAN :

It does not necessarily mean that the kanam amount was paid so that the kanamdar should not be ejected from the land. You cannot say that because the word ' Maryada ' is used in the phrase ' Janma Kana Maryada ' it indicates that the Janmi should not get back his land by repaying the money. Maryada is a term which has a wider significance than the rights pertaining to tenancy in Malabar. It means more than that. In Malabar when you talk of Kanam and Janmam they represent certain types of people and the social relations that subsist between the two parties who are intended to be included in those expressions. The relationship was not necessarily as between a creditor and debtor.

By Sri U. GOPALA MENON :

The janmi agreed to being paid half the verumpattam as kanapattam because he wanted to safeguard his own interests and the land was expected to be cultivated. We cannot infer that this concession was given to the cultivating kanamdar and not to the non-cultivating kanamdar. It was thought that they would cultivate. They may have cultivated in the beginning and subsequently not cultivated. The land may have been immediately put in the hands of the kanamdar and then the verumpattamdar may have come into his holding. We can only make guesses. The grants of kanam were made to retainers.

By Sri M. Narayana Menon :

The net result of my investigations is that the King is the absolute owner of all properties. At the time of Parasurama all these janmis became the ruling chieftains and so they are to be considered as the absolute owners of the soil. The text in Manu that ' the first man who broke the sod must be considered as the owner of the land ' is not so authoritative as it is said to be. It is an illustration from a section dealing with the relationship between a man and a woman and is intended to show that a child which was begotten in the wife of another belongs to the husband and not to its progenitor. The Section has nothing to do with the proprietorship of the soil. So judged from the context it is no authority. The illustration may have been intended to be clearer than the thing illustrated but it is not. In the case of Kanam the money was borrowed and the idea was to repay it bit by bit. In the case of Karipanayam he has got the amount without such an idea of repaying it bit by bit. The practice of renewal does not mean that there was no question of redemption of land from the kanamdar, but only a renewal at stated periods The Tenants' Improvements Act was based on the assumption that the right of compensation for improvements made by the tenants was an ancient right. The idea of paying compensation arose only when redemption arose. If there was a common law right necessitating the payment of value for improvements made it necessarily implies the right of redumption. My family was both a Desavazhi and a Naduvazhi. Some lands described as ancient janmam were in fact purchased, but the deeds were destroyed because the purchaser wanted his title to be regarded as ancient and hoary. No old Kanam document in my family states that the property is resumable, nor is there any document which contradicts it. Small kanam deeds may have been executed by the Zamorin for even Rs. 5, for the simple reason that during those troublous days it might have been more necessary for him to borrow than now. I have not seen any instance where the kanam amount has been reduced at the end of twelve years. I say that the statement in the Joint Commissioners' Report about sharing of the produce was not correct, because we do not find any statement on this point in any other subsequent report made by the Government or anybody else. The position is this. When the country as in a disturbed state the enquiry was made and it must have necessarily been difficult for them to have made any very exhaustive or conclusive enquiry. I think they made a mistake and came to a wrong conclusion. There are ever so many reports made and I would like to know whether such proportions as mentioned in this report are mentioned in them. Where the kanamdar was a cultivator he got his share not by virtue of being a kanamdar but being a cultivator.

Mr. Padmanabha Menon's history of Kerala is a treatise based on Canter Visscher's letters. When he refers to the particular letter which deals with the kanam, he focusses all the information that is available about the matter and gives you all the authority.

In Cochin originally the janmam right possessed by the Sirkar was the private janmam of the Maharaja. It has now become Sirkar lands, the Maharaja being paid a certain sum in lieu of the land.

By the Chairman :

The Maharaja still has some private lands. But they were exceedingly small. I do not know if the kanam demises given by the Sirkar or the Rajah were renewable at the end of the 12th year, in the years before 1852. But during the time I know pandaravaka kanams were being renewed at the end of the 12th year. I do not know any instance in which the Maharajah got renewal at the end of the second or third year. I do not know whether the Zamorin had any property in Palghat before he invaded that taluk.

By Mr. R. M. Palat :

Certain classes of persons owned janmam lands in Travancore as private janmis. And such janmam lands are entirely free from assessment. In British Malabar also janmam land was absolutely free from assessment. Zainuddin in the 16th Century says there was no land tax in Malabar. He observes that it was surprising to him that for such large extents of garden lands and valuable lands no tax was levied at all. I have myself given a Choru kanam in Guruvayur in which I asked the food may be given to a Bhattar. I may change it to some other man. It does not stand for the life of the man to whom food is given. It is quite possible that the temple may refund the money and refuse to give the food.

By Sri K. Madhava Menon :

Kanam pattam is not found in documents in my family generally. But another pattam is mentioned there, which I believe to represent the verumpattam of the land.

By the Chairman :

There was no revenue at all before Hyder Ali's conquest. It was the duty of the janmis to supply their own soldiers to the ruling chief, but it would not be in the nature of a standing army. When a necessity arose he would supply a certain number of trained men.

A land revenue includes the idea of a regular annual payment. The supply of military help is not a form of land revenue.

Q.—Payments of the value of the tenants' improvements does not necessarily connote that the land was redeemable ? If there was a recalcitrant tenant who did not pay rent to the janmi regularly, certainly the janmi had a right to evict him. That is the statement of the Travancore Maharaja of 1005 M.E. But if the rents are paid regularly the janmi had no right to evict ?

A.—Probably in a matter like land tenure anybody acted at his own sweet will and pleasure.

It is absolutely necessary to simplify the system of land tenures in Malabar. I have prepared a scheme. It would not be advisable to give a right either to the janmi or the kanamdar to purchase the other's rights, because I do not think it is easy to find funds for either party. If a kanamdar wishes to buy the janmi's rights, borrows money and becomes a debtor, he may not be able to repay the debt. Really he will stand to lose the land.

If the under-tenure-holder happens to hold a very small portion of the property, he would not really get any advantage by having the right of renewal in cases of default by the intermediary. I would ask every tenant who comes upon the land to give notice of his interests to the superior owner which would enable the janmi to give notice to the tenant that rent is in arrears. If he pays the rent that is in arrears he would stand in the shoes of the intermediary. It would be very difficult to ask the under-tenure-holder to pay all the rent. You will be inflicting an injury on the janmi by making him collect this piecemeal. I would even accept injury being done to the janmi, if you are able to help the under-tenure-holder. If the intermediary consistently defaults for a number of years, I would allow the under-tenure-holder to purchase his rights.

I think the present provisions are fair with regard to fair rent. The cultivation expenses which the Act prescribes is really four times the quantity of seed actually required for the purpose of cultivation. I am speaking with reference to Palghat only. It should not be taken that 10 paras of seed will be required for cultivation ; actually only 6 paras and never more are required for the seed. The Government in fixing the assessment allow Rs. 12–8–0 per acre as cultivation expenses. It is regarded as a very liberal allowance ; the present rate allowed in the Act is exceedingly good and very fair so far as cultivators are concerned.

I have no objection to the renewal fee being spread over 12 years.

'Bona fide' is a state of mind. The question is a matter of fact whether a person requires land for his own cultivation. The motive of the janmi cannot be of any account. It may be a bona fide requirement. I do not think it would be advisable to amend the Act so that evictions out of spite could not occur. If a janmi is already cultivating 100 acres and really wishes to cultivate another 100 acres, there should be no objection. Ordinarily you must grant the janmi is a reasonable person. He would not like to cause trouble. The present provision has not given us much trouble. I have had considerable experience. The term 'bona fide' has not worked against the interests of the tenant. For instance I appeared on behalf of Mr. Prabhakaran Thampan in a number of suits ; in every one of these cases I lost. The courts have insisted on more definite reasons. Although the law as it stands is in favour of the janmi, the courts have been denying this right to the janmi. It is better to leave the provision as it is ; if you amend it, you will be inflicting greater injury on the janmi. If a tenant of mine close by my abode has improved the land very well, I will have to pay very heavy compensation to evict him. I should be very reluctant to do so. You cannot cover every possible case. If a time-limit is fixed in the Act within which any person who wants land for his own cultivation should get the land, that is really tying the hands of the janmi. If the landlord has no reason to put forward just now, he will have to think of the future and invent some reason now. You will be fostering trouble in the country. I have not come across an instance where this provision has worked injury. It is difficult to provide for all kinds of wickedness in this world.

By Sri M. NARAYANA MENON :

Land is a thing to which each man is attached. If the janmi does not require that land and is not likely to be put to a loss, he would gladly give the land to the tenant. The kanam tenant will be paying a fixed sum to the janmi every year , the michavaram and the renewal fee if it is spread over a period of 12 years, but this should be subject to the restriction that the janmi might evict the tenant if the former wants the land for his bona fide cultivation. If the janmi is paid the capitalized value of the amount payable to him, his right to resume his land will be lost, and he will be deprived of the value of his estate which will be worth seven times as much. You will be taking away three-quarters of the janmam value. That would be confiscation. The right to evict the tenant for the purpose of his own enjoyment is a very valuable right.

By Mr. R. M. PALAT :

The larger the holding, the more economical it would be to cultivate it. It would be better to accumulate lands in the hands of persons who can work them.

By Sri U. GOPALA MENON :

It will not be possible to replace all the peasant agriculturists by big janmis, by permitting big janmis to recover possession of land. I would welcome Government prohibiting alienation of land and fragmentation of holdings in the general interests of public economy.

By Sri M. NARAYANA MENON :

I am not for elimination but for perpetuation of the kanamdar, rather than for elevating him to the height of a janmi. My proposal will not necessitate litigation in one single instance. If the kanamdar is allowed to purchase the rights of the janmi, I do not think he will welcome the suggestion. He has not the money required for buying out a janmam. If you ask him to do that you will be putting a burden on him which he will not bear. My proposal has this merit. There is no disturbance to anybody on the land. I personally do think that it will contribute to the settlement of the question as nothing else can.

By Sri K. MADHAVA MENON :

If the words ' bona fide ' are changed to ' for the actual necessity of livelihood ', that is confining it to limits which would not be sufficient for the purpose we have in view because it will be difficult to decide what are the actual necessities of any individual. I am for giving fixity of tenure to actual cultivator without security. In cases where the rent is in arrears, the Kanamdar may have the same remedy as the janmi. There are janmis with large verumpattam under them. I have authority also to say that they do not want security.

By Md. ABDUR RAHMAN Sahib Bahadur :

I was an expert member of the Select Committee on behalf of the janmis. The people who wanted security then were the Government and representatives of the kanamdar ; the janmis did not want it on the ground that the poor verumpattamdar was not in a position to find the money. If you pretend to give fixity of tenure and then state that it depends on the furnishing of security you actually deprive him of the benefit of fixity of tenure.

By Mr. R. M. PALAT :

The right to cultivation is the only right he possesses. I do not think any bank will be prepared to advance money to him.

By Sri E. KANNAN :

The members of my family cultivate. Members of my family have always cultivated lands, although we are janmis.

By Md. ABDUR RAHMAN Sahib Bahadur :

I can give the actual expenses of cultivation.

44. Sri V. M. Narayanan Nambudiri, Manager of Desamangalam Mana.

1. (1) It is difficult to trace the exact origin of janmam. It can be seen from all authorities that the janmi has been accepted as the absolute proprietor of the soil. All the European travellers and administrators have recorded that the janmis have been the real owners of the soil. A large number of transactions have been effected on this basis.

(2) *Kanam.*—One theory about the origin of kanam is that it arose from the Malayalam word *kanuka*. Whatever may be the origin, it is certain that a janmi cannot cultivate all his lands. In certain cases the janmi may be a devaswam, a trustee. Kanam may be a lease or it may partake of the nature of a mortgage. If the janmi takes a big amount from the kanamdar as kanam, it is a mortgage. If the amount is small it can be treated as a security for the regular payment of rent.

(3) *Kuzhikanam.*—I am not very familiar with this tenure.

(4) *Verumpattam.*—This is the simple form of lease and this had its origin in the inability of the janmi and the kanamdar to cultivate all their lands themselves. This corresponds to the tenants-at-will in other countries.

(5) The ***other tenures*** such as otti and palisa mudakku have become obsolete and they are not of much importance for any practical purposes.

2. Janmi has been recognized as the absolute owner of the soil and he had the right to get possession of the land. In the case of the kanam, the janmi has the right to get possession of the land on payment of kanam amount and value of improvements, if any. Kuzhikanamdar had the right to the value of the improvements. With regard to verumpattamdar, he is simply a tenant at will, of course, entitled to any improvements he may have effected.

3. I do not think that judicial decisions have effected any changes with regard to the rights of the janmis but with regard to kanam, the courts held that where there is no fixed period in the contract, the lease was for 12 years.

4. (*a*) I think that the revenue authorities and civil courts were justified in presuming that all lands including forests and waste lands in Malabar 'belong to private owners.'

(*b*) I would not place any restrictions.

(*c*) I have no objection to the Government taking possession of waste lands and giving to cultivators if full compensation is paid to the proprietor.

5. (*a*) I think that the existing system of land tenure may continue. It is so well known. No intermediaries—either janmis or kanamdars—can be eliminated without serious confiscation of valuable rights acquired through generations and I do not think the Government would be justified in any such undertaking.

(*b*) (1) I do not think that there is any need or justification for such compulsory purchase ; therefore I am against this proposal.

(2) I do not think it is practicable to limit the area in possession of the actual cultivator.

(3) To prohibit sales to non-cultivators is opposed to the fundamental principles of the rights of property. If it is done land will lose much of its value.

6. The under-tenure-holder may be given the right to pay what is due by his immediate landlord to superior landlord and may be given the right of recourse.

7. (*a*) With regard to paddy lands I think that two-third of the net produce may be considered as fair rent for the janmi and remaining one-third may be a fair compensation for the tenants' labours.

(*b*) It is impossible to say that the assessment always bears a proportion to the actual produce.

(*c*) In the case of kanam holdings, the kanamdar and the janmi may be made joint pattadars and in all other holdings, janmi alone need be made pattadar.

8. So far as the fair rent of garden lands and dry lands are concerned it appears to me that the present provisions in the Tenancy Act affect adversely the landlords in some cases and equally so the tenants in other cases. The present provisions are capable of considerable improvement by making a more equitable adjustment in proportion to the respective parties.

9. I do not favour the idea of fixing the fair rent in some proportion to assessment.

10. I do not think that where there is a remission of assessment a statutory provision for a proportionate remission of the rent is necessary. In really deserving cases, e.g., on account of failure of crops, the average landlord does grant a remission which may be even more than the proportionate remission as contemplated above.

11. No serious difficulty is experienced by the present weights and measures ; but I would add that only such weights and measures as bear a prescribed Government mark should be used.

12. As far as I could make out the origin of the renewals seems to be the periodical recognition between the successor's interest between the landlord and the tenant and secondly, a periodical readjustment of the rent having due regard to the advantages and disadvantages, if any, that the parties had during the currency of the previous term. The rent payable by the tenant is not always the rack-rent and renewal fees paid only represents the payment of a lump sum in consideration of a lower rent.

13. (*a*) I am not in favour of the system of abolishing renewals. If it is abolished both the landlord and tenant will stand to suffer.

(*b*) In view of my answers to the previous questions, this does not arise.

(*c*) There is scope for improving the present provisions of the Malabar Tenancy Act. The present provision seems to be ambiguous in the sense that some courts seem to doubt whether the renewal is to take effect for 12 years from the date of the execution of the document or from the expiry of the previous term and also whether the renewal fee is payable only 12 years or for as many years as have elapsed from the date of the expiry of the previous term.

14. No.

15. (*a*) I am definitely against giving occupancy rights to actual cultivator, if by such grant of occupancy right it is meant to confirm a heritable and alienable right to a person who may for the time being be an actual cultivator, but I favour an actual cultivator should not be arbitrarily evicted so long as he is regular in the payment of rent and so long as he actually cultivates.

(*b*) Eviction on unjustifiable grounds are very rare. I do consider that the Act requires amendment regarding grounds for eviction. Where the landlord requires the property for his own use the words *bona fide* in the provision ought to be omitted.

16. (1) No. As stated in my answer to the previous question the word *bona fide* in the provision should be omitted for the simple reason that the question of *bona fides* appears to be very elastic and incapable of any precise import and also because there are other provisions in the Act to show whether the eviction is *bona fide* or not.

(2) No.

17. (*a*) It is not desirable to give fixity of tenure to all kudiyiruppu-holders.

(*b*) Kudiyiruppus in urban areas ought to be totally excluded from any proposal to give fixity of tenure.

(*c*) In the case of urban areas I have already expressed my view. As regards kudiyiruppus in rural areas anything between 25 cents to 50 cents would, I think, meet the needs of the case ; but I am afraid in actual practice, there would be considerable difficulty on account of the site on which buildings are put up and demarcating off from the rest of the holding.

18. As far as I have been able to observe, there are cases where the value of improvements payable by a landlord according to the existing provisions is wholly disproportionate to the yield and I do not think that cases of this sort were contemplated by the Legislature. The value payable must only be in proportion to the increased yield attributable to the tenants' labour or investment.

19. I am not aware of any levy of a feudal character made in these days and there is no case for making any legal provision prohibiting levies of a feudal character.

20. It is highly undesirable to extend the provisions of the Tenancy Legislation to either or both. In the case of the former it is not possible.

21. (*a*) & (*b*) No.

22. (*a*) The provision in the present Act relating to legal process requires substantial alterations ; many of the sections prove cumbersome in actual working and there is considerable delay and expense. According to the existing provisions, it is the landlord who suffers very great hardship. Appropriate alterations must be made, whereby the rights can be enforced in a simpler, speedier, and least costly manner.

(*b*) Collection of rent and renewal fees should be enabled by making applications and not by driving the landlord to a costly and prolonged suit.

(*c*) (1) Summary trials ought to be introduced with right of appeal to the aggrieved party. All matters are to be determined by application and not by suits. All orders passed on applications should be appealable, and court fees on appeals should be levied only as in the case of Civil Miscellaneous Appeal.

(2) In my opinion it is not desirable to invest jurisdiction on Revenue courts, both on grounds of convenience and cost to the parties.

(3) The landlord should have the right to recover renewal fee by application and should not be driven to a suit.

23. I cannot imagine that the tenants in Malabar are suffering from any peculiar disabilities not common to the relationship of landlord and tenant in other parts of India On the other hand, in my opinion, they are much better off with statutory provisions for getting value of improvements and the like in case of eviction.

24. I do not think there are any noteworthy differences between North Malabar and South Malabar.

By the CHAIRMAN :

I am manager of the Desamangalam Mana. We have not sent statistics regarding the renewal fees collected in the five years prior to 1930. We can send them. The renewal fee now collected is smaller than before. Desamangalam Mana owns extensive properties in Cochin State. There is no difference in the incidence of the tenures as prevalent in the Cochin State and as they are prevalent in British Malabar. I do not know anything of the tenures in Travancore. The janmi will work according to the principles of forestry. If you pay the dues to the janmi, we will then be satisfied for the Government to take possession of waste and forest lands.

By Sri U. GOPALA MENON :

I do not understand how a rule prohibiting the cutting of trees below a certain girth will work and therefore I cannot give an opinion. It will not be advisable to spread the renewal fee over a period of 12 years. It is difficult even to realize the annual michavaram. It will not be advisable to add the renewal fee to it.

45. Sri P. Narayanan Nayar, President, All Malabar Peasants' Association, Calicut.

1. It is not easily possible to get feasible evidence to explain clearly the exact nature and the origin of the different sorts of ownership of lands in existence in Malabar. Due to different causes the interests of owners of lands varied in different periods. Prior to the British rule these interests were dependent on the social status of the people and the present names janm, kanam, etc., were then known as Melkur and Kizhkur. The British Courts changed these social relationships into economic contracts and they explained the word Janm as economic Melkur and not social Melkur. As a result of this change the former janmi who had certain responsibilities to his people became an independant master of the land without any obligation to the people. This brought about a very great change, a great revolution in the ownership of lands in Malabar. This subdued all social obligations under economic pressure. We have, therefore, to assert that though different statuses such as janmam, kanam, verumpattam, etc., existed in olden days, in their present forms they were brought into being only after the British rule began.

2. Janmi was the overlord of all other sorts of land owners such as kanamdar and pattamdar, but this overlordship was not an all-pervading independant economic status as the British Courts defined it later on. A third of the total yield of the land was given to the cultivator and the rest divided equally between the janmi and the kanamdar. All of them were bound under several social and political obligations. Janmis were bound to help the naduvazhis in the time of war and any other troubles, with men and money. Others under the janmi were equally obliged to help him in his troubles. None had the power to deny these rights or to make alterations. The janmi was the head of the society bound by several obligations and responsibilities. It was his duty to uphold these rights. He had therefore no power to do away with the kanamdar or pattamdar or to collect anything more than the usual rent, etc., fixed under moral obligation. As a mark of respect towards the landlord the tenants used to submit themselves to the rightful heir of the landlord at the time of transfers due to death or any other reason and were morally bound to present some gifts to the new heir in the name of Purushartham. Janmi was nothing but a hierarchical head.

3. It is this system that was changed by the British courts. The following are the important changes effected.

(*a*) The janmi can evict the tenant at his will.

(*b*) He can similarly increase the rent.

(*c*) The presents called Purushartham was changed into renewal fee and the janmi got the right to fix this amount.

(*d*) Purushartham was replaced by a 12 years period and the janmi got the right to renew the tenancy at the end of this period. All these reversed the former obligations and rights.

4. (*a*) No. It gave an all-pervading independant power to those whom it was denied formerly.

(*b*) Yes. Nobody should have the authority to leave the waste land as it is, to prevent people from taking fuel free from the forests, leaving cattle to graze and to take water from channels for agricultural purposes.

(*c*) Yes.

5. (*a*) It is very necessary to introduce a system by which all middlemen between the actual cultivator and the Government will be eliminated and it may be introduced as early as possible. But the actual cultivator is not in a position to pay any compensation to such parties nor do those middlemen who take no part in the cultivation deserve any such compensation.

Along with this we beg to bring to the notice of the committee another point. That is to redress the wrongs created by the decrees of the British Courts.

(i) To give permanent rights to all classes of tenants.

(ii) To fix the rate of rents.

(iii) To stop periodical renewal fees. As these are urgent reforms to be introduced and as we realize the difficulty in doing away with the janmis and their

middlemen under the present economic relationship we beg to request the Committee to give special attention to the above facts.

(*b*) (1) We do not agree to this as it is not possible to give the cost and as per reasons noted above under (*a*).

(2) Only if a large section of the agriculturists are given some other employments the remaining men will be able to own sufficient lands necessary for model farms. Therefore this question can be considered only along with the question of developing trade and industry. We disagree with this entirely.

(3) This is improper as long as non-agricultural land owners exist.

6. Yes, if the rent fixed is paid, the tenant should not be liable for any defaults caused by the middlemen including the janmi. The cultivator can be made responsible only as far as the usual rent due from him. The other properties of the cultivator should not be responsible for such defaults.

7. (*a*) The actual cultivator must get his *kozhubhogam* (cultivator's share) at the following rate and only the balance may be divided between the Government and the middlemen.

For wet lands half of the net yield. Net yield means—the quantity after deducting cultivation expenses at 3½ times the seed.

As regards permanent dry lands, gardens and paramba the existing rates need not be changed. But since the rent is to be paid in cash the fluctuation in prices will create a lot of sufferings. Hence the rent is to be paid in kind or if in cash, according to the market rate prevalent at the time. Under no circumstances should the present rent be increased.

(*b*) Though the assessment is fixed on a certain basis, the people to-day find it a heavy burden. There are several lands the total yield of which is not sufficient to meet the revenue.

(*c*) The janmi ought to pay.

8. Answered in 7 (*a*).

9. It may not be proper as the tax itself is not reckoned on a discriminative basis. Besides, it may prove to be an obstacle to the cultivator to get his *kozhubhogam* as explained in 7 (*a*). It will be more practicable to fix the assessment according to the rate of rent when the revenue system is to be revised.

10. Seasonal remission in rent also may be effected when seasonal remissions in revenue are allowed.

11. Yes; measures and weights must be fixed in whatever system it may be and any deviation should be made punishable.

12. Answered in 2 and 3.

13. (*a*) Yes.

(*b*) No compensation to be paid and it should not in any way affect the permanent right of the cultivator.

(*c*) Does not arise.

14. No.

15. (*a*) Yes, the tenant who pays the fixed rent regularly should on no other account be evicted.

(*b*) There are many examples.

16. Yes.

17. (*a*) Yes, no compensation is to be paid. Besides, those who have no employment or other income ought to be exempted from the payment of revenue and rent.

(*b*) Alterations are necessary.

(*c*) There ought to be 75 cents in rural parts and 25 cents in urban areas.

18. Slight alterations should be effected in the rates, etc. Some more trees should be included in the list of bearing trees. The time for executing the decree should not be more than two years.

19. There are many collections for feasts and festivals and Vasi, Nuri, etc. The Committee will be able to get more information and examples of these from different centres. Those landlords who collect anything other than the annual fixed rent ought to be disallowed his rightful rent for a period of three years.

20. Yes.

21. It is necessary.

22. (*a*) All suffer much on this account. It is necessary to introduce such a system as will save time and money.

(*b*) A separate rent fixing board may be appointed in each firka. Petitions, etc. in connexion with this must be exempted from Court fee stamps.

(*c*) (1) & (2) Nothing more than what is said in (*b*).

(3) Renewal fee must be entirely eliminated.

23 & 24. This is explained in a comprehensive manner in the memorandum prepared separately.

By the CHAIRMAN :

I am the President of the Malabar Karshaka Sangham. My authority for my answers to questions 1 to 4 is the Raghavayya Committee's Report. The chief difficulties the tenants are labouring under are with regard to fixing of fair rent, renewals and the right of the landlord to evict the tenant for bona fide cultivation. The cultivating tenant should get 50 per cent of the net yield. The cultivation expenses are more than $3\frac{1}{2}$ times the seed. I am conversant with the position in portions of Walluvanad taluk, and I have had occasion to talk to people. My family cultivates land to the extent of 64 paras of paddy in Cochin State near to Walluvanad taluk ; the seed actually required is 64 paras. I have to employ two men for ploughing and other things for $2\frac{1}{2}$ months for the first crop and another $2\frac{1}{2}$ months for the second crop. I have to engage 5 women labourers for 5 months. The labour charges that I incur for the male and female labourers are $172\frac{1}{2}$ paras, for each crop. The average yield I get will be 10 fold ; for the second crop I get 7 fold ; I get about 1,100 paras of paddy. About 473 paras will be my cultivation expenses ; the balance left over will be 627 paras. I have not included the labour of two people of my own family ; I have not taken into consideration the expenses for maintaining cattle. I have got 30 paras of kanam land on which alone I pay the assessment ; the rest is verumpattam land. The assessment on kanam land will come to Rs. 23 ; the assessment on verumpattam lands will be about Rs. 23 or Rs. 24. The assessment will come to 100 paras ; there will be a balance of 213 for the landlord.

My family has been holding verumpattam land belonging to a Variar for a number of years ; twice he increased the rent and we are paying now 402 paras.

The price of a land producing 100 paras will be approximately Rs. 1,000. The value of the land will be Rs. 6,000 and the janmi will be getting an interest of Rs. 100. The percentage will work out to $1\frac{1}{2}$ per cent or $1\frac{2}{3}$ per cent. It is quite reasonable ; if people invest money on land, they must be satisfied with $1\frac{1}{2}$ per cent interest. People who have recently purchased janmam are comparatively few. People have been holding ancient janmams ; it would not work much hardship in their case. If a man invests money on land and does not cultivate the land himself, he does not deserve anything more.

I have not come across instances where the assessment exceeds 1/5 of the gross produce. I have come across instances where the assessment is Rs. 12 and the pattam the landlord realizes is Rs. 200. I have got instances here. Generally the present assessment does not work much hardship. I am told that the proportion fixed in the Act for garden lands is fair.

By Mr. R. M. PALAT :

I was born in Cochin State ; for the last 17 years I have been in Malabar. I am a journalist by profession.

The kanam amount on my lands will be about Rs. 130. The total yield will be 554 paras for the two crops together. We have to deduct from that this 132 paras for michavaram and 50 paras for assessment. The balance is 372. From this we have to deduct the cultivation expenses, that is, $32 \times 3\frac{1}{2}$ or 116 for each crop or 232 paras. 140 paras is my net profit. If I give it on verumpattam I will get 200 paras. I have never looked at these land tenures from the point of view of investment. My whole point is that this investment right on land must be restricted and the interests of the cultivator must be widened. The kanam amount was paid in ancient days when it meant 350 or 400 paras of paddy. I receive an interest of 30 per cent because I cultivate. For women labourers I pay 3 edangalis a day worth 3 annas, and 4 edangalis for a man for ploughing only for 5 months in the year. During the remaining 7 months, these people are practically unemployed. Their net average income will be, at 4 edangalis or 3 annas a day, about one anna a day. My own people work on the land. I have not calculated wages for them. Even a kanam holding does not pay in Cochin State unless you cultivate.

If the fair rent under the present Act is paid, one or two people may stand to gain. With the prevailing rents, generally the tenants are not able to make much profits, even if the janmi gets only 1½ per cent interest on his capital. There are only a few large holdings that pay. As an economic proposition it is true that small holdings do not pay. So it is better to eliminate them. I am completely for collective farming. I have not proposed in my written memorandum the elimination of all these people and making the property a common property, for the simple reason that you accept property as the basis of the whole thing and you bring forward this question of tenure. If you can eliminate all the different classes of people connected with the land tenure here without paying compensation, I am willing for it, because if the principle of common ownership is applied, the janmi will also be entitled to an equal share of the profit. If there is collective ownership, I will not object to it. I want a general revolution in the system of tenure, but so long as the present Government exists, State ownership is not feasible.

By Sri C. K. GOVINDAN NAYAR :

The rates of fair rent for garden lands under the present Act are satisfactory if the payment is in kind. Personally I have no experience of garden lands. I have heard in many places that the present assessment is very high. There are instances where the assessment is higher than the rent. The rents taken by the janmis are many times more than the assessment in exceptional cases, where probably the janmis have made all the improvements.

By Sri U. GOPALA MENON :

There must be revision of assessment. Failing that I have no alternative suggestion to make in cases where the revenue will exceed fair rent. Our present demands are three :—

(1) Fixity of tenure on payment of fair rent,

(2) Fixing of fair rent, and

(3) Abolition of the renewal fee.

By Sri R. RAGHAVA MENON :

To serve a common basis for legislation we have to arrive at a certain average for cultivation expenses. I am not aware that many kanamdars who are not actually cultivating entirely depend on the produce of the land. My Association has not carried out any statistical enquiry regarding this point. I do not know the correct proportion of janmis who do not cultivate but depend on rent. Let them live but they cannot eat by starving the people who actually cultivate for them. Every class must have enough to live. My idea is that the present actual cultivating tenant must be given protection. According to me janmis and intermediaries go together. I have no actual cultivating experience in British Malabar. In British Malabar there are a number of families who are maintaining themselves by the profits of cultivation now. There may be a few instances where they have been able to save, but the vast majority, 99 per cent of the verumpattamdars have not been able to maintain themselves. I have not conducted any statistical enquiry. My conviction is that cent per cent are indebted. Their indebtedness is due to their altered conditions of life to a certain extent.

By Sri E. M. SANKARAN NAMBUDIRIPAD :

A person who supervises cultivation is the actual cultivator and not the labourers who work in the field.

By Sri K. MADHAVA MENON :

The rent of lands is not generally fixed by estimating the market value of the janmam right. Except in Palghat taluk the verumpattamdar gets mere straw and sometimes not even straw. The present position is not good either for the janmi or for the kanamdar or for the verumpattamdar. I want the condition to be changed so as to be beneficial to the cultivator as also to others. Verumpattamdars who make profits are very rare in Malabar and only in Palghat taluk. Instances of verumpattam rent being increased are many. There may be one or two instances of reductions. The cultivating expenses of the verumpattamdar during the last 10 or 15 years have more than doubled because of the rise in the wages of labour.

By Sri N. S. KRISHNAN :

The only way to eliminate everyone except the Government and the cultivator is by restricting gradually the rights pertaining to property now enjoyed by the janmi and widening the cultivator's interests. Under the present Act there is provision for revision. But it works to the disadvantage of the cultivator and to the advantage of the intermediaries. So this provision should be revised to the advantage of the cultivator and to the

corresponding perhaps disadvantage of the intermediary and the janmi. Finally the State must take possession of the land, without compensation.

By Mr. R. M. PALAT :

There are about 27,000 members for the whole district in my Association. Taluk Peasants' Associations are connected with us. The subscription is two annas per member. And for 27,000 members we collect roughly 3,000 rupees per year. We divide it between the All Malabar Peasants' Union and the branches according to a certain ratio. We spend some of the money on statistical enquiries. But the enquiries we conducted cannot be quite comprehensive because as the Association is constituted at the present time there is the difficulty of access to material. For the purpose of this Committee we have been able to calculate cultivation expenses. Our Association was founded three years ago.

By Sri M. NARAYANA MENON :

There are 400 members of our sangham in the Palghat taluk. It is not as if they have no grievances ; if only people approach them, they would join the Association in large numbers ; the discontent is there.

By Mr. R. M. PALAT :

I was connected with the Justice paper as a means of livelihood ; political views have nothing to do with means of livelihood.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

Agriculture is not paying. I would suggest a tribunal for each firka or taluk ; to fix fair rent it is a matter of administrative convenience to have a tribunal for a number of villages or for a taluk, etc. The whole thing should be worked out ; once fair rent is fixed, it will endure for twenty years.

By Sri A. KARUNAKARA MENON :

The actual cultivators should get half of the produce as the standard of living has increased. Before the British administration the share the verumpattamdars were getting was the same as is now fixed under the Tenancy Act. Most of the improvements of garden lands belong to the tenant and he should bear the burden of the revenue.

By Sri E. KANNAN :

There are poor non-cultivating kanamdars and janmis who live upon their rent. They should not live upon some other's labour without themselves doing any work.

By the CHAIRMAN :

The renewal fee is not a fair source of income ; I do not think it will work much hardship to abolish it. If it is not abolished, tenants will be ruined.

I can give concrete instances of evictions made on unjustifiable grounds. I am in favour of abolishing the right of the landlord to sue for eviction when he required the land for bona fide cultivation. Instances where the cultivating landlord falls ill and has to lease out his land will be rare ; I have not thought of them. We ought to make some provision for such hard cases.

By Sri U. GOPALA MENON :

The tenant is now in possession of the land and he ought not to be deprived of his means of livelihood ; if the tenant has got more than a fair share, then I have no objection to his eviction.

By Sri K. MADHAVA MENON :

I am aware of kanamdars who are actual cultivators. The kanamdar cannot ask for revision of rent under the present Act. He must be allowed to relinquish the land and get the value of his improvements.

By Sri U. GOPALA MENON :

The tenant cannot afford to pay renewal fee. It is morally wrong to compel the tenant to pay it.

By Sri A. KARUNAKARA MENON :

Poor agriculturists may be provided with means. I do not want another class of agriculturists.

47 Sri P. Janardanan, B.A., B.L., Vakil, Sub-Court, Cochin, on behalf of Sub-Court Bar.

1. We would state that this town being a small municipal area with a few outlying pattams, the cases that generally arise for consideration in court are ordinary eviction suits of tenants holding house-sites. The cases of verumpattamdars or cultivating verumpattamdars are very few and far between. The other kinds of tenures are not much heard of in this town.

3 & 5 (*b*). Kudiyiruppu in the accepted sense of the term is non-existent in Cochin town. This town having developed into a big business area with a large proportion of labouring classes, there are many kudiyiruppukars as distinct from kudiyiruppus in the ordinary sense or tenants at will who are permitted by the janmis to put up small huts in the paramba in return for rendering service as watchman of the janmi's coconut trees in the paramba. These people are mostly poor workmen who would find it hard to make both ends meet by the day's labour and they just manage to get the permission of a janmi to put up a hut for a dwelling. In the olden days nothing was paid by these people in the shape of rent to the janmi, who would have thought it demeaning to receive any payment from persons whom he considered more or less as his dependents and watchmen. The income from the yield of the coconut trees (which is the main agriculture here) was sufficient for the janmi. But with the economic depression and on the sudden fall in the price of coconuts to a third of its old level, the janmis were hard to put to, to pay the Government assessment and the municipal tax from the yield of the land. So all possible sources had to be tapped and the erstwhile free kudikadappukars also had to pay a nominal rent. And once payment was insisted upon, the kudikadappukaran began slowly to assert his rights like other tenants. He was no more the watchman of his janmi's land. The old attitude of patronage and dependence was replaced by conflicting self-interest. And when with the increase in population, demands for house sites began to increase, janmis with a business eye took advantage of the situation and began to charge more for these small sites. And whereas before, these kudikadappukars were rarely evicted, changed circumstances slowly necessitated their eviction when it suited the interests of the landlord.

In these circumstances, when the Malabar Tenancy Act came into force these kudikadappukars also claimed the privileges of the Act as the holder of a kudiyiruppu and the court was constrained to grant it. The Act does not speak of kudikadappukars and it is highly improbable that the legislature in defining 'kudiyiruppu' would have intended to rope in these kudikadappus. The owner of the land never considered these kudikadappukars to whom out of compassion he might have given the permission to put up a hut, as a tenant with potential rights (now to purchase the house-site also). The difficulty is aggravated when the janmi's compound of 2 or 3 acres is strewn with a number of scattered tenants like this of many years duration. Invariably they are remiss in payment of the small annual dues to the landlord, partly out of poverty and partly out of the consciousness that the utmost that the landlord could do would be to sue for eviction, when it would be his turn to purchase the house-site and the surrounding site also. The janmi is thus compelled to sell small plots or patches of his land covering area from 2 cents to about 8 to 10 cents to these tenants leaving him only a non-compact winding strip of land which would remain after these small plots are cut out of his old compact homogeneous area and which non-compact small strips and patches here and there become useless for the janmis. And in these days of depression and decline in land value some janmis stand heavily to lose as there are instances (now pending in court) where the janmi who had purchased land at fabulous prices near the sea beach, for instances, is now compelled to part with the same at present market rates as found by the court.

Many janmis would fain try to avoid these suits for eviction if the tenants would pay reasonable rent. The basis of the old rent would not suit present day condition. There must be a right in the janmi to enhance the rent reasonably without being confronted by the tenant with his counter-claim to purchase the janmi's right on his refusal to pay enhanced rent and when the janmi is compelled to file his suit for eviction on his refusal to pay enhanced rent. This contingency has to be avoided.

And as experience here has shown, this right to purchase the janmi's right is not always a blessing to every tenant, in spite of the provision in the Act to direct payment of the purchase money in annual instalments, apart from its hardship to the janmi. In many cases the purchasing tenant mortgages his right as security for the purchase money in the hope of redeeming it later. It is quite possible that he will not be able to redeem this hypotheca after all the struggle and the expense which he had to incur to secure this right. There is the additional advantage to this tenant who developes into a janmi that he has to pay Government revenue and additional taxes to municipality on land also. And if what

the tenant wants is only security of tenure without being turned out by the landlord capriciously or arbitrarily and if that can be assured to him by vesting power in the court to enhance the old rent for house-sites and thus making it possible to the landlord to retain these tenants on the soil without making it a losing concern for him, that would be better advantage to the tenant than this dubious right of purchasing the landlord's right and becoming a jammi. In trying to arrive at a decision as to what would be a reasonable rent the court should have regard for all circumstances, his income from the yield of the land and his liabilities in the shape of taxes, etc. So far as Cochin town is concerned this right to purchase the landlord's rights in the house-site, actually works hardship to the tenant.

16. (*b*) Some landlords especially those who do not own big area have felt the rigour of the new Tenancy Act when they require their land for building purposes, sometimes to extend their own houses or build new ones for their own use and not for letting purposes. In such cases leases outstanding more than ten years have been a legal impediment to the landlord. It works an injustice and it has to be removed. So in these cases areas where the landlord requires the site for building purposes for himself or his family, the present right of the tenant should not stand in his way. The landlord is in a worse position than his tenant in this respect.

The aforesaid suggestions, if they are carried into effect, will remove a good deal of the unhappy relations that now exist between landlord and tenants in this town.

By the CHAIRMAN:

The provisions of the present Act works hardship on the landholder in Cochin especially. I have suggested an amendment. I would say it is called "kudikadappu" and not kudiyiruppu. I want to make this distinction. This kudikadappu is a small area. It corresponds to ulkudi in a way. The occupants of an Ulkudi are more or less watchmen. You will find in the same compound half a dozen families occupying these homesteads who are not in a position to pay the rent. They should not be evicted if possible. At present owing to the fall of prices of coconut the landlords are not getting their rents regularly from the tenants. The landlord is not able to pay the Government revenue and the municipal taxes. So an enhancement of rent for these kudiyiruppus is absolutely necessary. If it was one rupee it may be made three times one rupee. In fact in Mattancheri the ground rent is Rs. 3 to Rs. 5 per cent per month.

By Sri E. KANNAN:

The average rent that these people pay annually is Rs. 2 or Re. 1 and sometimes nothing.

By Sri R. RAGHAVA MENON:

The general rate of rent varies from Re. 1 to Rs. 5 per annum. The extent of the holding may vary from 2 cents to 10 cents. It depends upon the area of the garden. The area of the smallest garden is two or three acres. There will be not more than six kudiyiruppus in a garden.

By the CHAIRMAN:

The practical suggestion I can now make is to increase the rent three times. I will leave it to the court. We may find out how much the landlord is making out from the holding, what he has to pay to the Government, what he has to pay in the shape of municipal taxes and what he has to spend for cultivation expenses such as weeding and so on, and then if there is a balance you may leave that to him as margin of profit. If out of the gross produce, the landlord is not able to pay the public dues and incur the cultivation expenses, the rent that is being paid by the tenants will have to be enhanced, so that the landlord may not be out of pocket. I would be more or less content with that. The present provision of allowing the kudiyiruppu-holder to purchase the landlord's right does not work either to the benefit of the landlord or the tenant. There are one or two cases I know of where the properties have been mortgaged with money-lenders. So even if a right to purchase the kudiyiruppu is given to the tenant, a suit for pre-emption has first to be brought as against the mortgagee, which means that the expenditure incurred in that connection would be an additional burden to the tenant and also a waste of money so far as the landlord is concerned. The conferring of the right to purchase the kudiyiruppu on him would not in any way help him. Moreover most of them are very poor people and are not able to purchase the holding. The present provision does give the tenant relief in this respect. Even in the case of homesteads I want to give the right to the landlord to evict the tenant in possession. If the landlord actually wants to construct his house, after all the landlord has got a preferential right. That is all that I consider. The tenant and the landlord cannot both be put into the same scale when it comes to putting up a building.

By Sri U. GOPALA MENON :

I own lands only in Mattancheri, not in British Cochin. I have been practising there for twenty years. The general term for improvement in Cochin is "Arazhcha." I cannot say how it came.

By Sri R. RAGHAVA MENON :

The municipal tax will depend upon the place. Government revenue depends on the centage. It is better to work it out in each case. These kudikadappu-holders sometimes pay to the municipality if the house is assessed. The building invariably belongs to the kudikadappu-holder. If the house is taxed they pay tax to the municipality. Mere huts are not taxed. Some are not paying the rent to the landlord. There would be three to six tenants in an ordinary compound. Most of them pay rent to the landlord now. The owner himself is in possession of other portions of the garden, other than those occupied by the kudikadappus. He directly takes the usufruct.

By Sri K. MADHAVA MENON :

The landlord out of compassion or generosity did not demand rent from the tenant But when the landlord himself is a loser he can demand it. It is a business proposition. I cannot say more. The municipal tax of this kudikadappu is paid by the tenant. According to the local conditions they can afford to pay more rent. They cannot purchase the rights. That is different. It is a question of paying every year Rs. 100 or more into the court. The landlord cannot file a suit for rent in all cases and ask the court to sell the tenant's holding. There are many who are not in a position to pay. The landlord may sue for payment of municipal tax and rent, but he will be put to great difficulty.

By Mr. R. M. PALAT :

If fixity of tenure is given to these kudikadappu people, it may affect the growth of the town indirectly. My remarks do not apply to the places where the firms may want land. It is out of this area. Cochin being a big town, places may be required for building purposes. The wages in towns are much higher than in the rural parts. The landlords want to see to pay their way. They do not want to send away their tenants. They are not interested in having the property for themselves.

By Sri U. GOPALA MENON :

Almost the whole of British Cochin is municipal area. There are outlying pattams. They are rural areas. The municipality of British Cochin is an urban area.

By Sri K. MADHAVA MENON :

The coconut trees near the kudikadappus are not now well-protected. I find most of the trees are going down in yield. If they are watered properly they are good.

By Md. ABDUR RAHMAN Sahib Bahadur :

The main reason for my suggestion that the rent must be increased is that the price of coconuts has gone down. I don't think the Government will respond to a request to reduce the tax. I only speak from the business standpoint. I have spoken for both the janmi and the tenant. I have suggested that the fixity of tenure should not be taken away. I find the tenancy provision for the landlord a hardship to him.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

These kudikadappu-holders were once the watchmen who looked after the gardens now they are not.

WYNAAD TALUK.

VAYITTRI CENTRE—25th and 26th November 1939.

48 The Rev. V. A. F. De Rozario, S.J., Catholic Chaplain, Vayittri.

1. I cannot speak with certainty about the origin of janmam and kanam, etc.

2. Nor about the nature of the interest which the janmi and the various tenure holders had in the land.

3. I do not know whether there are any judicial decisions contrary to the rights of the janmi and tenure holders.

4. (*a*) I should think that the revenue authorities and the civil courts were justified in presuming that all lands in Malabar belong to private owners.

(*b*) Yes ; some restrictions may be desirable on those janmis who own more than two thousand acres of forest or waste lands. One of the reasons being that an indiscriminate clearing of forests affects the rainfall and consequently the agriculture.

Regarding irrigation sources it is desirable that the Government holds some control over these for public utility.

(*c*) No, but rather the Government should see that all lands are brought under cultivation. If the janmi is unwilling and has more than a thousand acres of waste lands, then perhaps the Government may take possession of the remaining land beyond a thousand acres, after paying due compensation to the janmi.

5. (*a*) It is not desirable to simplify the system of land tenures in Malabar due to inherent difficulties and complications.

(*b*) (1) No.

(2) No.

(3) No.

6. Yes ; also the janmi and the intermediary should be protected from the consequences of default by the undertenure holder.

7. (*a*) About one-tenth of the gross produce, taken for granted that the land has been cultivated with normal diligence, may be regarded as fair rent to the janmi. The proportion of produce to the intermediate tenure holder should be according to the improvements he has effected on the land. The rest should be allotted to the tenant.

(*b*) In 1925 when the Revenue Settlement was drawn up in Wynaad the price of the produce in this area was high ; now it has fallen down to about quarter, and therefore the Government assessment as obtaining now may be considered excessive. Further the Revenue Resettlement of 1925 was very unsatisfactorily done.

(*c*) The person in possession of the land.

8. Since the rent in Wynaad is low, it works no hardships.

9. For dry and garden lands thrice the Government assessment ; for wet lands one and half times.

10. Yes ; if the reduction of assessment is necessitated by the crop in the locality being lower than the annual average.

11. Yes ; some simple metrical system.

12. . . . .

13. (*a*) No ; the system is to be continued due to the variation in the value of the land at different times.

(*b*) The fixity is to be regulated according to the present Malabar Tenancy Act ; but both the landlord and the tenant should have the right to insist on revision of rent according to the value of the land then obtaining.

(*c*) No ; any change in the Malabar Tenancy Act will create confusion and dislocation in the existing state of things.

14. Since the tenant is given a right to the revision of rent, this question does not arise.

15. (*a*) Yes ; under the existing conditions.

(*b*) . . . .

16. (1) & (2) No.

17. (*a*) Not in favour of extending kudiyiruppu rights.

(*b*) Yes, according to the value of lands.

(*c*) (1) In urban area—30 feet by 30 feet.

(2) In rural area—a quarter acre :

Provided the janmi is given a right to buy the property in preference to others at a reasonable market rate obtaining at the time.

18. No ; but the time limit may be reduced to three years.

19. All levies of feudal character should be abolished.

20. (*a*) No.

(*b*) Yes.

21. . . .

22. (*a*) . . .

(*b*) The revenue authorities may collect the rent along with the Government assessment and hand over the rent to the janmis free of cost.

(*c*) (1) Yes, provided the evidence is taken down.

(2) Yes, provided there is the right of appeal to a Munsif's Court, and the court-fees reduced and the employing of a vakil is not insisted upon.

(3) No.

23. Undeveloped lands are registered as developed ; the revenue authorities may be empowered to transfer those developed lands which are now abandoned as undeveloped.

24. . . .

By Sri K. MADHAVA MENON :

The church possesses 200 acres and the diocese 600 acres in Vayittri partly, janmam acquired by purchase and partly leased. We pay 8 annas an acre for uncultivated land and one rupee per acre for cultivated land. In Meppadi the rent will be about Rs. 3 per acre. The leases for our land in Vayittri are for 99 years. The main crop we raise here is tea, coffee and pepper. Orange is cultivated only on a small scale. We have sub-let some lands and levy Rs. 3½ per acre on paper for leases from three to six years ; we don't realize it actually. The leases are registered and cover paddy lands and dry lands. We have stopped granting such leases because the tenants do not give the rent regularly ; and when they fall into arrears we have to go to court. Most of these people have come from Travancore. In Kanniampatti the leases are given to Kuruchiars and in Vayittri to some Panniyas. They require money to cultivate land and borrow. At the time of the harvest, a great deal of the produce goes to pay back the loan.

Janmis should not cut forests as they like. It will be sufficient if some restriction is placed on the cutting of trees below a certain girth. A janmi to live comfortably may require 1,000 acres and another 1,000 acres for hunting, selling timber and similar things. There is not such denudation in these parts as to require restriction of felling. I don't think there is any dearth of water for cultivation in Wynaad. We get enough rain. I am not aware of any instance where people were willing to take up lands for cultivation but landlords were not willing to give them. There are lands here that could be brought under cultivation. In these parts, even if the lease is only for one year, if they pay up the rent regularly, they are continued from year to year. Very few of them are able to pay one year's rent as advance. They do not cultivate only one acre. The difficulty here is that the tenants are not able to pay the rent regularly. Unless you have some janmi, whether big or small, it is impossible to cultivate the lands. With reference to church lands, eviction takes place only on the ground of non-payment of rent. If paddy is sown before Karkatakam, the yield will be 20 to 25 times the seed. If it is after Karkatakam, the yield will be less. The average yield is 15 fold. The seed required for one acre is 1½ pothis and the rent is about 1 pothi per acre. The assessment will be Rs. 2 to Rs. 2–8–0. The price of paddy at the time of harvest is between Re. 1 and Rs. 1–8–0 per pothi. One-tenth of the gross produce will come to about 1½ pothis or 2 pothis. Cultivation is difficult in the Wynaad as we can't get labour and cattle. If fixity of tenure is given to the tenant, it is troublesome for the janmi. It takes a long time to realize the money through a court and meanwhile one has to incur court expenses, vakil fees, etc. The janmi now has a strong hold on the tenants, for if there are arrears of rent even for one year, he will evict them. It would be reasonable to have a rule that should any tenant keep the rent in arrears for two years he is liable to be evicted. The tenant and landlord should be given a right for revision of rent. The land belongs to the janmi, and when the value of the land has increased it is but just that he should get an increase in the rent. The janmi in very rare cases nowadays increases therent. Generally at present he only decreases the rent. If the

lease is for 99 years, the janmi has to put up with the loss, as he has been careless in giving a lease for such a long period. Fixity of tenure may be given to kudiyiruppu holders subject to the payment of rent and with the right of pre-emption to the landlord in cases of sale or transfer. I am not aware of any feudal levies in these parts. The revenue authorities may collect the rent along with the assessment and hand it over to the janmis free of cost. If the tenants are not able to pay the rent at the time of assessment, the janmi can never recover it from them afterwards. The harvest is reaped in January and the assessment is collected in February, March and April. Government should reduce their assessment in cases of failure of crops so that the janmis also may reduce the rent.

By Sri U. GOPALA MENON :

We have ten or fifteen tenants, mostly under written leases. They are simple leases. We have let out ten or fifteen acres, mostly for homesteads. They stay there, go to the estate work and in the evening they do some work at home. We have no pepper gardens but pepper is grown round my lands. Fixity of tenure should be extended to tenants in pepper gardens. The tenant should have the right to surrender when the land has become unprofitable. The rent here is generally low, though here and there, there may be a janmi who asks for a high rent. There are paddy lands lying fallow. It may be due to paucity of labour.

By Sri N. S. KRISHNAN :

The landlord has already a right to revise the rent. In addition to that the tenant also should have the right.

By Mr. R. M. PALAT :

I have not evicted any tenant who has been paying rent regularly. I do not know of any janmi who has evicted tenants who have been paying the rent regularly. I cannot say how much cultivation expenses will come to. We have not brought our tenants. They came of their own accord from Travancore. When Government assign their lands, they charge from five to ten rupees per acre plus tree value. It is relatively high. The assessment is eight annas more than on private land. I cannot say how much the tree value is. We do not hold any kanam land under any janmi. We have only leases for 99 years and janmam lands. In Travancore it was the practice to collect the janmis' rent along with the Government assessment.

By Sri U. GOPALA MENON :

Most of the tenants' yield is taken away by persons who have lent money to them beforehand.

By Mr. R. M. PALAT :

The janmis themselves advance loans against the produce. Sometimes the janmi himself pays revenue for his tenants. I have myself done so. Our plantation is only three or four years old. This year we expect to have an orange crop, and to realize at least a profit of eight annas per tree. I have 70 trees per acre. The tenants fail to pay their rent because they are very poor and they begin the cultivation season by borrowing. If they do not pay the year's rent they are evicted at once. That is what obtains here.

By Sri C. K. GOVINDAN NAYAR :

In 1925, the price of coffee and pepper was high, but now it has fallen, and naturally the tenants suffer.

By Sri M. NARAYANA MENON :

When the janmi has got grass land he can grow grass. I do not see why Government should interfere with the private owner's rights over waste land. It is easier to get land from the janmi than from the Government. There are difficulties in getting land from the Government. You must remember that Wynaad is malarial. People are afraid to come here. If the Government introduce anti-malarial schemes people will flock here.

By Sri R. RAGHAVA MENON :

The tree value for half an acre of Government land will be Rs. 50 ; in the market it will have a value of Rs. 35. I do not see how you can simplify the Government procedure. When the janmi gives land on 99 years' lease he relinquishes it for that period. It is unjust to interfere with the contract.

By Md. ABDUR RAHMAN Sahib Bahadur :

The Government may interfere only where the janmi is really harmful to the public. The increase in the income from estate lands is due to the lakhs of rupees that are invested on them. You must take the investment into account. I do not know what you mean by excess income.

By Sri U. GOPALA MENON :

It is desirable to stop indiscriminate cutting. Government should have some control over the clearing of forests. This amsam now belongs to a person who is poor. If a weaker party to a contract is in the right, he should be protected, but not if he is in the wrong. The weaker party may be a rogue. It depends on each case. Where the money lender is unjust, I would interfere. I have suggested in my answer that the rent may be collected with the assessment. It is a very good protection for the janmi.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

The supply of land here is more than the demand. If people who come here are financed by Government, there will be improvement.

By Sri A. KARUNAKARA MENON :

The rent of the land should be collected from the occupant and part should go to the one who has made improvements and the rest to the janmi. In the circumstances here, I think it is best that the Government should collect the rent. The janmi will get his proper rent and be sure of it and the tenant will have permanent occupancy right. It will also reduce litigation for the recovery of rent. Going to court is troublesome and expensive, especially for poor janmis.

By Mr. R. M. PALAT :

When I say collection of rent should be done by Government, it is for the public good. In the case of collection of rent the right of each party is well understood.

By Md. ABDUR RAHMAN Sahib Bahadur :

The cost of clearing forests depends upon the thickness of the growth. If it is scrub jungle Rs. 100 per acre may be enough. If there are big trees the amount may be more. For wet land generally the rent is low. The janmi is the owner of the land. When you take away the ownership of the land you do serious harm. I do not think there is sufficient cause for this.

By Sri N. S. KRISHNAN :

Rent should be collected free of commission because the present assessment is too high. The janmi takes very low rent. Government gets too high assessment and a part may be set off for collection.

By the CHAIRMAN :

The manusham fixed by landlords is arbitrary.

48 Rev. A. Machado, R. C. Priest, St. Joseph's Shrine, Meppadi P.O., Wynaad.

1. . . . ?

2. . . . ?

3. . . . ?

4. (*a*) I should presume so.

(*b*) Yes ; some restrictions may be desirable on those janmis who own more than two thousand acres of forest or waste lands. One of the reasons being that an indiscriminate clearing of forests affects the rainfall and consequently the agriculture.

Regarding irrigation sources it is desirable that the Government holds some control over these for public utility.

(*c*) No ; but the Government should see that all lands are brought under cultivation. If the janmi is unwilling and he has more than a thousand acres of waste land, then perhaps the Government may take possession of the land after paying due compensation to the janmi.

5. (*a*) No ; it is not possible due to inherent difficulties and complications.

(*b*) (1) No.

(2) No.

(3) No.

6. Yes ; also the janmi and the intermediary to be protected from the consequence of default by the under-tenure-holder.

7. (*a*) About one-tenth of the gross produce, taking for granted that the land has been cultivated with normal diligence, may be regarded as fair rent to the janmi. The proportion of produce to the intermediate tenure holder should be according to the improvements he has effected on the land. The rest should be allotted to the tenant.

(*b*) In 1925 when the Revenue Settlement was drawn up in Wynaad the price of produce in this area was high ; now it has fallen down to about one-fourth and therefore the Government assessment as obtaining now may be considered excessive. Further the Revenue Resettlement of 1925 was very unsatisfactorily done.

(*c*) The person in possession of the land.

8. Since the rent in Wynaad is low, it works no hardships.

9. For dry and garden lands thrice the Government assessment ; for wet lands one and a half times.

10. Yes ; if the reduction of assessment is necessitated by the crop in the locality being lower than the annual average.

11. Yes ; some simple metrical system.

12. . . . . ?

13. (*a*) No ; the system is to be continued due to the variations in the value of the land.

(*b*) The fixity is to be regulated according to the present Malabar Tenancy Act, but both the landlord and the tenant should have right to insist on revision of rent according to the value of the land then obtaining.

(*c*) No ; any change in the Malabar Tenancy Act will create confusion and dislocation in the existing state of things.

14. Since the tenant is given a right to the revision of rent this question does not arise.

15. (*a*) Yes ; under the existing conditions.

(*b*) . . . . ?

16. (1) No.

(2) No.

17. (*a*) Not in favour of extending kudiyiruppu rights.

(*b*) Yes, according to the value of lands.

(*c*) (1) In urban area—30 feet by 30 feet.

(2) In rural area—a quarter acre.

Provided the janmi is given a right to buy the property in preference to others at a reasonable market rate obtaining at the time.

18. No ; but the time limit may be reduced to three years. All levies of feudal character should be abolished.

20. (*a*) No.

(*b*) Yes.

21. . . . ?

22. (*a*) . . . ?

(*b*) The revenue authorities may collect the rent along with the Government assessment and hand over the rent to the janmis free of cost.

(*c*) (1) Yes, provided the evidence is taken down.

(2) Yes, provided there is the right of appeal to a Munsif's court, and the court fees reduced and the employing of a vakil is not insisted upon.

(3) No.

23. Undeveloped lands are registered as developed ; the revenue authorities may be powered to transfer those developed lands which are now abandoned as undeveloped.

24. . . . ?

By Sri K. MADHAVA MENON :

I am in charge of the Roman Catholic Church at Meppadi. I have got about 100 acres of land. It is a recent acquisition. I am directly cultivating the land. I am growing coffee, oranges and pepper but not paddy. The cultivation of oranges has become profitable in recent years. I paid manusham at the rate of Rs. 15 per acre. I have got 15 acres of janmam land. It was taken after 1930. They are all waste lands. The landlord should be paid compensation for his waste lands because the land is his. If he owns over one thousand acres then Government can say that reasonable dues of one rupee per acre would be adequate compensation. The janmi and the intermediary should be protected from the consequences of default. If the under-tenure-holder does not pay his rent, Government will exact all the assessment from them. We got land for one rupee an acre whether the

land is improved or not, because we took a large area. When it is a small area you won't get it for that rent. Thrice the assessment is much more than the janmi obtains now for dry lands. Orange, coffee and tea plantations should be brought within the scope of the Malabar Compensation for Tenants Improvements Act. The landlord should pay compensation for tea factories also.

By Sri U. GOPALA MENON :

It will be impossible for many of the janmis to pay for all the improvements in the case of many of the estates. It will be rather difficult. If the janmi is not able to take the land back at the end of the term he need not take it. He may be content with his rent. The janmi knew quite well when he granted 100 or 200 acres on a lease that the lessee would invest money and start some kind of industry. If the janmi wants the land back he should compensate the tenant for the improvements found on the land. After all the tenant has been paying his rent and manusham regularly and has been looking after the lands of the janmi all these years. I should think that it is but fair that the tenant should be compensated for the improvements he has made, even in the case of tea estates, and even though at the time when the contract was made the law did not require such compensation.

By Mr. R. M. PALAT :

In the case of certain gardens in the plains it is impossible for the janmi to pay compensation and evict the tenants. My landlord is an absentee. No local landlord has charged such high manusham. There have been no instances of people who have taken one year's lease planting oranges, coffee or pepper. I am not aware of instances of orange growers being evicted just at the time when the trees begin to bear fruit. Nobody is going to plant oranges, pepper or coffee unless he makes sure that he has got fixity of tenure.

By Sri K. MADHAVA MENON :

There are cases of oral permission from the janmi to reclaim a portion of the hill and plant pepper or orange. In such cases it is difficult for the janmi to oust the tenant. I do not want the existing burden on the tenant to be increased in any way.

By Mr. R. M. PALAT :

Nor do I want the burden on the landlord to be increased in any way.

50 Janab K. Moidu Haji Sahib Bahadur, Thiruvanna, Manantoddy.

1. (1) Janmam means complete ownership over a property. Janmam prevalent in Wynaad taluk are in three kinds : (1) Tarwad janmam (janmam owned by heirs), (2) Janmam acquired by purchase from (1), (3) Government janmam.

(2) Kanam is a deed executed by interested parties (janmis) who got money for their Tarwad purposes. There are two kinds of kanam in Malabar. The one common in Wynaad is that kind of kanam which gives a right over a property very similar to janmam. The payment of this sort of kanam is very high, equal to the value of janmam right.

(3) As far as this taluk is concerned this is only a term used for " Kuzhikoor " and " Chamayams " (improvements).

(4) Verumpattakaran is a person who gets wet lands from a janmi or Kanari. He must not be a Kanari or Kuzhikanakkaran. His right over the property is called Verumpattam.

(5) " Kayvasam panayam " and Kettiyatakkam Kanam. These are the other two kinds of mortgage deeds prevalent in Malabar. These are not included in kanam.

2. Long ago wild tribes possessed all the lands of this taluk and later on men in the plains came and purchased the lands from them. The poor people who were not able to purchase the janmam right got lands from such owners who got more lands on condition that they would pay an annual rent. The men who owned more properties were called janmis and those who got from them were called Kudiyanavans. These Kudiyanavans gave to their janmis on auspicious occasions fruits like plantains, jack fruits, mangoes, coconuts, etc., as presents of honour. On such occasions janmis also gave to them the necessaries of life. This system is called Chillarapurappad. When the Thamburans were the rulers of this taluk they owned some lands for feeding their soldiers and officers. This became unnecessary when the system of taxation on lands came into force. But the rulers did not give up these lands and when the British came into power they received these lands as Government janmam.

3. Judicial decisions have not effected any changes in the rights of the janmis and the land tenure holders. But the present Tenancy Act and the Madras Debt Relief Bill had made some changes and modifications in the collection of pattam.

4 (*a*) Revenue authorities and civil courts are not justifiable.

Please see answer to the 2nd question.

(*b*) No.

(*c*) No.

5. (*a*) No.

(*b*) (1) No. (2) Kudiyans may be permitted this on payment of fair rent. (3) It is dangerous.

6. It is desirable on conditions which may not do any harm to any of his intermediaries.

7. (*a*) Fair rent is fixed in the present Tenancy Act.

(*b*) In this taluk the lands are classified, measured and taxed. I do not think that the tax is in proportion to the produce.

(*c*) The landholder may pay the tax on the permission of his intermediaries.

8. No.

9. (*a*) On wet lands the rent should be fixed in proportion to seed. (*b*) & (*c*). On dry lands and garden lands the rent may be fixed in some proportion to the assessment.

As the assessment varies in different classes of lands the rent also should vary.

The rent in urban area should be higher than the rent of rural area.

10. Yes.

11. The weights and measures to be used in tenancy and rental transactions should be standardized. Standards introduced by District Board may be utilized for this purpose.

12. Originally the renewal fee was started as the pattam fixed in the former leases was small. Now as there will be changes in ownership the system is to be continued.

The produce is sometimes less and some times increase. In this respect also the system is necessary.

13. (*a*) No.

(*b*) The question is unnecessary.

(*c*) No amendment is required.

14. In regard to relinquishment there should be provision for a single deed of relinquishment in case of a lease containing both dry lands and wet lands.

15. (*a*) There should not be any occupancy right over wet lands. On dry lands the cultivator should have Kuzhikanavakasam.

The Melcharth system should be brought in force.

(*b*) I have no experience.

16. The present provisions in regard to eviction of a tenant should not in any way be altered. Those clauses should be retained as they now stand.

17. (*a*) It is not desirable to give fixity of tenure to any Kudiyiruppu holder.

(*b*) No.

18. It is not desirable to alter the present act.

20. Fugitive cultivation, cultivation of pepper, orange trees and coffee bushes should be excluded from the Act.

21. It is left to the Committee's opinion.

22. (*a*) Not experienced any hardship.

(*b*) There should be an easy and less costly method for fixing and collecting the rent. In my opinion revenue officers may be authorized to do this and Tahsildars may be appointed as munsifs in all taluks.

(*c*) (1) An opinion can be formed only after an experimental trial.

(2) I agree with this opinion.

(3) This also is helpful.

23. I do not think that there are any serious disabilities pressing on tenants not covered by these questions.

24. There may be.

By Sri K. MADHAVA MENON :

Tarwad janmams in Wynaad include Thondur Nambiyar, Kuppathode Nayar, Mungalaseri Nayar, Vellamunda Nayar, Kottayam Raja and a few others. The Kottayam Raja conquered the wild tribes and made the lands his own. He created some chieftains. The Kuruchiars were the first occupants. I do not know that the original settlers found the Kurumbars with their arrows very formidable and therefore they brought the Kuruchiars from Travancore. The Kuruchiars possess a superior status and rights in Wynaad and in the temples owned by the Raja to those of the Kurumbars. The kanamdars of Wynaad are mostly usufructuary mortgagees. " Arakkani " tenure is mostly prevalent in the case of Kottayam Raja and the temples. It is a sort of perpetual tenure. Kani means rent. If a land is ordinarily assessed to a rent of ten pothis, " Arakkani " land is assessed to five pothis. In Northern Wynaad the land is half tarwad janmam and half other janmams. In Southern Wynaad it is mostly tarwad janmam. The Government may take control of big forests and lease the small forests to private owners. Otherwise it will be difficult for the people to get the necessary timber owing to the many technicalities involved in the case of getting timber from Government forests. I am even against restricting the girth of trees for cutting. Janmis give contracts indiscriminately for the cutting of trees only in regard to big forests. There should be restrictions with regard to such felling leases.

Rent according to the Tenancy Act is much higher than the rent which is prevailing in Wynaad. Nobody collects rent according to the Tenancy Act. The existing rent should not be increased or reduced. The average rent is as much as the seed or half the seed. In rare cases it may be $1\frac{1}{2}$ times the seed. The agricultural labourers are mostly Panniyas and it is impossible to carry on cultivation without them. Their wages come to four or five annas a day per head. We pay them 2 to 3 annas. But at the time of the harvest they are given a bonus and some clothing. If a panniya is given a present for Vishu, it is incumbent on him to work for that person for the whole year. It is impossible to compel them. If they go away we engage middlemen to persuade them to come back and work. The Vishu present is paddy worth from Rs. 2 to Rs. 5. There is no distinction of caste or creed in this matter. Vishu is the beginning of the agricultural year. Miscellaneous collections should be continued as it is an honour doing to one's janmi who blessed him by giving his land. The main difficulty which cultivators feel is about the assessment. The last settlement was supposed to have increased the assessment by $18\frac{3}{4}$ per cent. But it really works out to 75 per cent, because waste lands were also taxed and certain other lands which had been exempted from assessment were brought under assessment. The homesteads in the villages were not assessed before but now they have also been included in the assessment. Then no remissions of revenue are given when the land is not cultivated. The technicalities involved in the grant of lands by Government make it difficult for people to get lands. The rent here is very reasonable, but the difficulty in collection is due to the fact that there is no court here in Wynaad. One has to go to Calcut or Kuthuparamba and spend Rs. 25 to collect a rent of Rs. 10. The interest on arrears of rent was 50 per cent. In most cases it is not collected. Some of it is collected and the rest remitted. It is now $6\frac{1}{4}$ per cent in accordance with G.O. Interest on paddy is 10 % to 25 % in accordance with old custom. Kuruchiars directly cultivate land. There is no restriction on panniyas cultivating their own lands. Hardly any renewal fee is collected in Wynaad. Manusham is collected very rarely. Fixity of tenure should not be given in the case of orange, coffee and pepper gardens. In the case of small holdings the tenant should be given fixity of tenure. The tenant does not get full value for the improvements he has made in the case of coffee and orange gardens when he is evicted. Evictions are extremely rare in Wynaad. It will be difficult to find even one or two cases. The provisions of the Improvements Act should be applied in the case of orange, pepper and coffee gardens. The existing rent should not be in any way enhanced. There are no civil courts in this taluk and it will be more convenient both for the janmi and the tenant if the rent can be collected along with the assessment.

By Sri U. GOPALA MENON :

The tarwad janmis have all got janmam lands, kanam lands and panayam lands. They derive scarcely any profits from their lands, in some cases owing to increase in the number of members of the family and in other cases through bad management. Rates of interest are high in Wynaad, even for money transactions. The interest on paddy is up to 50 per cent and is collected in paddy at the price current at the time of harvest, which will be generally a very low price. Many of the cultivators have thus become heavily indebted. The Agricultural Debt Relief Act has not been of much use to the cultivators in Wynaad. Arakkani grants were mostly at the instance of temples and the Kottayam Raja to their favoured tenants. The right of melcharth should be revived. The janmis had the right of melcharth previously. They became indebted because they were able to raise large amounts by giving melcharths. Paddy cultivation has declined. Much land that is fit for paddy cultivation is now lying waste. Many Panniyars have left the country and gone to the estates in Coorg. The present difficulty is mostly due to that. The janmis

are not able to get coolies. The right of Melcharth is necessary not for evicting the former tenant but for collecting the rent and assessment due. If such melcharths can be granted under the Act, nothing more seems to be necessary.

By Mr. R. M. PALAT :

I have janmam lands on which I pay assessment of Rs. 200, kanam and panayam lands on which I pay assessment of Rs. 200 and verumpattam lands also for which I pay a rent of Rs. 100. The Government are not granting lands now. The Government demand a premium of Rs. 5 to Rs. 25 per acre and also tree value, which is sometimes large. Then assessment and Janmabhogam have to be paid. I do not know of any janmi who has refused to let out any land. I know, however, in some cases, they have not given out land, but I cannot say who has asked them for land. I have no objection to allowing the kanamdar to exercise the right of sale. There is no objection to a similar right on the part of the mortgagor to pay off the kanam amount and get back the land. Considerable difficulty is felt in these parts because of ravages by wild beasts. Arms should be given free of licence fees in the Wynaad taluk on account of peculiar conditions here.

By Sri C. K. GOVINDAN NAYAR :

There may be demises for all the three kinds of holding. Under the present Act, if a tenant wants to relinquish, he must relinquish all the three holdings which he holds. Provision should be made to the effect that if he wants to relinquish any one kind of holding, he must be free to do so at his option. He must get the value of the improvements effected in wet lands. The surrender of garden lands will not be of advantage to the tenant, because they are generally more profitable. Pepper gardens are more or less run on a business scale and are not like agriculture. The Act should not therefore apply to them. They are commercial crops and not agricultural crops. A pepper garden will be productive for from five to twenty years. It is difficult to replant in the same garden. What is being done now is not to replant it for some time.

By Sri M. P. DAMODARAN :

It is better to be under private janmis than under the Government. That opinion is confined to Wynaad. I have no knowledge of conditions in the other taluks.

By Sri P. K. KUNHISANKARA MENON :

A man may have ten homesteads ; if permanency is given to all, it will work great hardship. Permanency must be given to only one kudiyiruppu, or one person.

By Md. ABDUR RAHMAN Sahib Bahadur :

I do not do paddy cultivation ; but I attend to garden cultivation directly. I have coffee and pepper plantations and have begun some orange cultivation. I am in favour of the Government taking powers to restrict the power of the landlords who at present enjoy full rights over forest and waste lands ; the Government can control and regulate them for the good of the public at large. I have no objection to the actual cultivator or the kudiyiruppu holder being allowed to purchase his immediate landlord's rights. The tenant should not be permitted to purchase the entire lands comprising the holding ; he may be allowed to purchase the kudiyiruppu alone. I have no objection to restricting the area to be purchased by the tenant on an average to four or five acres of wet land and two acres of dry land ; I think that will be sufficient for him. The intermediary will continue as such for the rest of the area of the holding. The average yield is about ten-fold. The labour required for cultivation is the same as in the plains, but it is more difficult to get labour. The wages come to As. 5 or As. 5½ on an average as they have to be paid even when there is not much work. The wages are higher in the hills than in the plains, all things considered.

By Sri N. S. KRISHNAN :

Provision should be made for remission of rent in cases of failure of crops. If the value of the land increases without any effort on the part of the tenant, a portion of such profit may be given to the landlord , but not otherwise. I get about 200 pothis of paddy rent.

By Sri E. KANNAN :

It will not be in the interests of agriculture to give the janmis a right to sell the land to the tenants. I have not lent out any money on mortgage of crops.

By Sri M. NARAYANA MENON :

The expenditure incidental to agriculture in these parts is high. Cattle mortality is high. There is scarcity of labour for agriculture as most labourers have migrated to large tea estates. If you do it yourself, agriculture is profitable ; but, if others do it for you it is not profitable. Very few people have made money out of paddy cultivation. There is very little Government wet land available.

Q. Are there any feudal dues prevalent here ?

No answer.

By Mr. R. M. PALAT :

If the panniyar is cultivating the land I have no objection to give him fixity of tenure. Our general experience is only remission of rent, though here and there some landlord may collect the rent in a lump for more than one year. Under the present conditions of agriculture, the rent should not be increased, it should be decreased in fact.

By Sri M. NARAYANA MENON :

If men come to this place from other districts, they fall ill, and have to incur additional expenses.

51 Sri H. N. Chakravarthy, representative of 63 tenants, Wynaad Taluk.

1. (1) While the Wynaad taluk was under the rule of the Kottayam Raja, the lands were in the possession of several persons. After his reign ceased, they were registered in the names of the occupiers at the Settlement and they became the janmis. The majority of these are Devaswam lands.

(2) When the janmis were in need of money, rich persons used to help them and instead of repaying money with interest, they were given possession of lands with the right of enjoyment of the income. This is known as kanam.

(3) *Kuzhikanam.*—Because the janmis could not cultivate all the lands in their possession, they had to be entrusted to others for reclamation and making improvements.

(4) *Verumpattam.*—Because the janmis could not cultivate all the *wet* lands in their possession, they had to be entrusted to others for cultivation.

(5) The lease to the favourites of the janmis, with a low rate of pattam, on " Otti," " Arakkani " and " Vettukanam " right is known as saswathavakasam.

2. The tenants had only the right voluntarily granted by the janmis.

3. There were decisions in favour of the janmis to evict the tenants. This is very hard. The amount awarded as compensation is far below that spent on the land. The rate for the value of the improvements should be enhanced.

4. (*a*) No. All these belong to the public.

(*b*) Yes. The existing system requires revision.

(*c*) Yes.

5. (*a*) Yes. So far as this taluk is concerned, legislation should be made to restrict the tenant's or the janmi's possession to 50 acres. The lands in excess of 50 acres now possessed by the janmis should be sold to the tenants for the price for which they were originally purchased or for the price to be fixed by the Government on the basis of the pattam derived.

(*b*) (1) Compulsory purchase should be allowed.

(2) Should be limited.

(3) Should not be prohibited ; otherwise the tenants will be put to difficulty as there will be none to help them with money in times of urgent need.

6. Yes. The actual cultivator should be freed from this liability by holding the intermediary's movable and immovable properties liable for the arrears.

7. (*a*) The pattam payable by the tenant to the janmi should be fixed as half to one pothi per acre for wet lands, and 8 annas to one rupee per acre in the case of dry lands.

(*b*) The present assessment on wet lands is 1/10 of the gross yield and 3/4 of the net yield. As the classification of wet lands was raised without any reason, the assessment has increased.

(*c*) The actual occupier.

8. (*a*), (*b*) & (*c*) In this taluk, the janmis levy " Otta kannu," " Manasam," " Thirumulkalcha," " Bitti Eru, " etc., in addition to pattam. This should be stopped.

9. (*a*), (*b*) & (*c*) Yes. Please see answer to Question 7 (*a*).

10. Yes.

11. Yes. In this taluk, a pothi should be made to be equal to 50 seers and one seer should be 80 rupees weight.

12. The janmi levies "Oppu panam" and "Manusham" as he likes. These are being levied as a legal collection.

13. (*a*) Yes.

(*b*) The pattam to be fixed by the Government according to the existing Act.

(*c*) The Tenancy Act should be amended as stated above.

14. The janmi should not have the right to evict the tenant under any circumstances. If the tenant is unable to pay the assessment and pattam at the fixed period, he should be allowed six months' time after which the janmi may sue and recover only the arrears.

15. (*a*) Yes. The tenant is responsible for the assessment due to the Government and to the pattam due to the janmi. On these conditions, the tenant should be allowed permanent occupancy right.

(*b*) Yes. M. V. Rama Pattar, the adhigari of Pongini-Chikkallur amsam, evicted the pati nilam (the lands just in the neighbourhood of the house) of M. N. Subramania Ayyar. The Act should be amended so as to take away all the powers of the janmi for evicting the tenant.

16. (1) & (2) No.

17. (*a*) Yes. Only the annual pattam.

(*b*) Yes.

(*c*) (1) & (2) The janmi should never have the right to evict. In rural areas, the tenant should be given at least 5 acres for Kudiyiruppu.

18. The rate for the value of the improvements should be enhanced. The janmi should, under no circumstances, be granted the right to evict. The land may be surrendered to the janmi only if the tenant so desires.

19. All levies of a feudal character should be stopped, e.g., Onam, Vishu, Perunnal, Nombu are occasions for Thirumul-kalcha.

20. (*a*) & (*b*) Yes.

21. (*a*) & (*b*) Yes. No modifications to be proposed.

22. (*a*) The right of eviction by the janmis mentioned against 15 (*a*) should be withdrawn. When the tenants voluntarily surrender their lands, they should be paid compensation at a rate higher than the existing one.

(*b*) It is better to recover the pattam through the agency of the Revenue Department. This power should not be granted to an officer lower in rank than a Deputy Tahsildar.

(*c*) (1) Provision for summary trial is essential. This power should be given only to responsible Government servants.

(2) Trial by Revenue Courts is acceptable. But this power should never be granted to one lower in rank than a Deputy Tahsildar.

(3) The janmi should not have the right to demand renewal.

23. The janmi should not have any special rights.

24. There might be.

N.B.—To verify the above statements, the committee should conduct enquiries at least in four or five centres in Wynaad taluk. The important centres to hold such enquiries are (1) Kalpetta, (2) Sultans Battery, (3) Kaniyambatta, (4) Panamaram and (5) Manantoddy.

By Sri K. MADHAVA MENON:

I have ten to fifteen acres of janmam lands which I got by purchase. I have 40 acres of verumpattam lands. Only 1/16th of the tenant population can read and write; the rest are all illiterate. The illiterate tenants have no written leases. The landlord collects the rent and the revenue assessment from them even from the month of October, though he pays the assessment only in the month of February. For the collection the landlord makes, no receipts are granted to the tenants. To all appearance the tenant has a house, but should the tenant offend the janmi's feeling, however slightly, he runs the risk of being evicted. That is why Wynaad is still a wilderness. In the 26 or 28 villages here, the major portion of the population consist of Kurumbars, Chettis and Kuruchiars. There is no difference of creed or caste among the janmis in the treatment meted out by them to the tenants. Immediately the cultivation season is commenced, the actual tenant should be given a joint patta. The revenue should be collected directly from him by the revenue authorities, and the rent should be collected at the same rate as on Government janmam

lands. The private janmis collect twice the amount of seed as rent, which is excessive. The yield from the land from my personal experience is five to ten-fold or on an average seven-fold. For one pothi of seed, cultivation expenses come to three pothis of seed, excluding the quantity of seed. It is four times all put together. The area which can be cultivated with one plough is about 3½ acres. The cultivation expenses on it come to Rs. 15 or roughly Rs. 5 per acre exclusive of the cost of seed. After payment of rent and revenue the tenant will have nothing left for his livelihood. If he loses his cattle by disease, he is completely undone. The wage paid to a cooly is five annas a day. If the land is manured, it will pay, as then the yield will be fifteen times the seed. Wynaad is considered a fertile taluk. The rain water washes away the crop rather than irrigates the land. Only once in three years do we get a good paddy crop. The tenant has no pasture land for his cattle. Originally there was no fee charged for grazing. Then there was a fee of six pies for one pair of cattle ; and at present the janmi is levying a fee of Rs. 3 to Rs. 5 for one acre. In the reserved forest, a fee of six pies per head of cattle is levied for each six months. There is no reserved forest near my village. There are no documents to show the indebtedness of the hill tribes. I pay rent for my wet land at the rate of one pothi per acre. This is six-tenths of the seed required. I have not fallen into arrears of rent till now. As I work myself, the yield from my land is fifteen-fold, because I am using green manure. I purchase green-manure seed from the Agricultural Department. The cultivation expenses for that work out at one rupee per acre. In respect of this taluk I would say that no janmi should hold more than fifty acres of wet and dry lands together for domestic purposes. Since 1938 there has been some difficulty in getting Government lands. Private landlords in Wynaad are not giving lands for cultivation, because they cannot evict the tenants. If the hill tribes ask for land, they give it. There are feudal levies in this taluk. If we do not give them, the janmi will make it a ground for eviction ; or he will launch vexatious civil and criminal proceedings ; or will prevent labourers from working for us. Even now the hill tribes have to do services. For example, from the moment a wild elephant is caught to the time it is completely tamed, the services rendered by the tenants are all free. The renewal fee is collected most arbitrarily and is fixed according to the needs of either party. I have given instances of unjustifiable evictions. Both of them are my neighbours, and yet I do not know the real reason. I know for a fact that the reason for eviction is not arrears of rent. The tenant should not be evicted on any account. The compensation for improvement of garden lands should be increased. I cannot say under which item coffee, tea or pepper falls as I have not studied that. The feudal dues are collected in addition to the rent separately.

By Sri U. GOPALA MENON :

My native place is Mysore. I came to Wynaad in 1916. I am a priest of the Gounders.

By Sri K. MADHAVA MENON :

I came here as a priest and stayed as an agriculturist. I may go to Mysore for a month or two and return. My acquaintance with other amsams is cursory. Lands in Wynaad never yield 20 to 30 fold. Even without any enquiry if we walk along the field, we can say how many fold it will yield. There are wet lands lying fallow owing to losses of cattle and lack of paddy for cultivation expenses. The janmis will only give them on oral leases and not on leases for a term. The rate for oral leases is from half to one pothi per acre. They collect whatever they like. I want uncultivated paddy lands to be taken by Government. The Government should take all the excess over 50 acres per head without compensation, and distribute it to those who want to colonise. I am not referring to gardens improved by the owners. I am against disturbing the present ownership of gardens. I referred to waste lands.

By Mr. R. M. PALAT :

The tenant has to pay 1/10 of the profit as rental to the janmi. The tenant may not get any profit out of his lands. The expenditure that I mentioned is only for persons who employ labour. But in the case of hill tribes the whole family cultivates and so the cultivation expenses do not come to so much. The Maniyankote Gounden has had an untrained elephant for about six months because he has not got hill tribes as his tenants. After providing lands for the actual cultivator the remainder may be taken away by the landlord. The wet land rate is excessive.

By Sri R. RAGHAVA MENON :

If the verumpattamdar does not insist on a written lease there is no difficulty in getting paddy land. But there is difficulty only as to the terms of tenancy. It depends upon the will of the janmis. The janmis dictates and the hill tribes obey. About 30 per cent of the tenants are from outside. They are losing money. I am a member of the Karshaka Sangham. I have been sent as representative on this occasion. I became a member recently for this purpose. I have no sub-tenants.

By Sri M. P. DAMODARAN :

Government lands are in places where the tenant does not go, like Sultan's Battery. Outsiders go to places where their castemen and relations are.

By Md. ABDUR RAHMAN Sahib Bahadur :

In the case of Government lands there is no difficulty whatever after it is sanctioned. On the other hand the private landlord may give land easily. But then the difficulties of the tenants begin.

By Sri M. NARAYANA MENON :

I began with Rs. 1,000 and have been cultivating for the last 23 years. I have purchased 16 acres of land for Rs. 1,200 consisting of 8 acres of wet and 8 acres of garden. I have built a house for Rs. 2,000 or Rs. 3,000. I have 20 to 25 acres of garden land on which I have spent about Rs. 25,000. I have debts. I cannot say how much they are.

By Sri A. KARUNAKARA MENON :

The difficulties of tenants that I stated are those of the hill tribes in Wynaad.

52 Sri M. A. Dharmaraja Ayyar, on behalf of Sri M. K. Padmaprabha Gounder and 15 others, Vijayamandir, Post Kalpetta, Wynaad Taluk.

1. (1) While Wynaad taluk was ruled by the Kottayam Raja, a major portion of the lands was distributed among the several local chieftains. Even after the Kottayam Raja ceased to be the ruler, his heirs and also the local chieftains enjoyed the landed property for themselves and dealt with them.

(2) When the janmis were in need of money, rich persons used to advance them money and instead of repaying the money with interest, the lands were given to these money-lenders with the right to enjoy the income.

(3) Because the janmis could not cultivate all the lands in their possession, they had to be entrusted with the cultivators. This is the origin of verumpattamdars.

(5) Those who were the favourites of the janmis got the lands on "Arakkani" and "Otti" lease.

2. Subject to regular payment of assessment, fixed by the Government from time to time, the janmis had independent saleable right over the property. The sub-tenants could enjoy only the right voluntarily granted by the janmi.

3. Although there were decisions for the surrender of the lands by the tenant to the janmi, the compensation awarded by the Court for payment to the tenant is far in excess of the market value of the property.

4. (*a*) Yes.

(*b*) No.

(*c*) So far as Wynaad taluk is concerned, the cultivators who are not land owners have not experienced any difficulty for cultivation for want of cultivable lands. The right to grant lands to cultivators need not therefore be withdrawn from the janmis and conferred upon the Government.

5. (*a*) No.

(*b*) (1) & (2) No legislation is necessary.

(3) Prohibition of sales to non-cultivators will only result in hardship to the cultivators. For, the cultivators do not get sufficient help, either from the Government or from the Co-operative Department, to carry on the cultivation work with the result that they have no alternative other than to look to non-cultivators for such help. If sale of land to non-cultivators is prohibited, they will stop helping cultivators with money.

6. The properties of the defaulting intermediary (both movable and immovable) should be held liable ; the actual cultivator should be exempted from any liability.

7. (*a*) The rate of fair rent prevailing in this taluk is quite favourable to the tenants. The existing rate does not therefore require revision. It may be said that the practice of collecting michavaram from the kanamdar is not prevalent in this taluk. In almost all the kanam documents, the agreement is to enjoy kanam right including purappad.

(*b*) It is between 1/10 and 1/15 of the gross out-turn. In some cases, it is more.

(*c*) The actual occupant.

8. (*a*), (*b*) & (*c*) In this taluk, the janmis do not get anything by way of renewal fees although kanam deeds and kychits are renewed.

9. (*a*), (*b*) & (*c*) No.

10. Yes.

11. Yes.

12 & 13. The janmis do not collect anything from the tenants by way of renewal fees.

13. (*a*) No.

(*b*) By renewal of kychit.

(*c*) As this system is not in vogue in this taluk, no remarks are offered.

15. (*a*) Yes, subject to the following conditions. The pattam should be paid in time; the land should be surrendered if the janmi or his family wants it for own cultivation or for construction of houses; if the janmi demands increase of pattam, not exceeding 12½ per cent at the expiry of 12 years after the lease, and if the tenant refuses to pay it, the land should then be surrendered.

(*b*) No. Even on justifiable grounds, it has not been possible to evict. The amendments proposed in the answer to 15 (*a*) above should be made.

16. (1) & (2) No. The janmi should have the right to evict the tenant on several other grounds also.

17. (*a*), (*b*) & (*c*) Fixity of tenure may be granted subject to the conditions mentioned against 15 (*a*). The conditions subject to which fixity of tenure may be granted must be different in the case of urban and rural areas. In urban areas, the janmi should always have the right of eviction.

18. The rate fixed for valuing the improvements is high. The rate should be decreased on the basis of the prices of food-stuff and other articles and coolie rate now prevailing. Six years' time-limit should be allowed for eviction.

19. & 20. (*a*) & (*b*) All levies of a feudal character should be stopped. The provisions of the tenancy legislation should be extended to fugitive cultivation and cultivation of pepper.

21. (*a*) & (*b*) No remarks to offer.

22. (*a*) The janmi should have the right to evict the tenant on the grounds mentioned against 15 (*a*). The rate fixed for the value of the improvements should be revised according to the seasonal conditions.

(*b*) It is desirable to recover the renewal fees and pattam through the agency of the Revenue Department.

(*c*) (1) The provision for summary trial is essential.

(2) Provision for trial by Revenue Courts is desirable.

(3) Grant of this right is necessary.

23. Legislation is necessary to safe guard the interests of the janmis in this taluk.

24. Yes, in many respects.

By Sri K. Madhava Menon:

I am the agent of Mr. Padmaprabha Gounder. He got janmam lands by purchase and pays an assessment of Rs. 8,000. I directly cultivate wet and garden lands. I have tenants under me. They are all verumpattam tenants. They are Hindus and other hill tribes. I am a member of the District Board. I am intimately connected with the co-operative movement in Wynaad. The general rate of rent is equal to the seed sown. That would be a fair rent in Wynaad. No lease deeds are taken from hill tribe tenants. But we keep records. In the case of tenants of ancient janmis the leases were all oral. Now people want written leases. Certain janmis do not give receipts. Most janmis give receipts to their tenants including the hill tribesmen. Most of the janmis are heavily encumbered. Calculating the seed the cultivation expenses in Wynaad will be 20 pothis for 3½ acres. The gross yield will be between 40 and 50 pothis. The average yield will be ten-fold. The cultivation expenses come to four-fold including the seed. There are no arbitrary evictions of hill tribesmen. They are generally allowed to continue cultivation. There is no system of renewal as such. Generally the tenants are allowed to continue; the janmis do not want to evict them. If conditions warrant an increase of rent, the janmi must be given it. This may be decided by the Tahsildar assisted by a committee consisting of janmis and tenants. I would give fixity of tenure to the tenants on this

ondition. If you recognize the janmi's right over the land, part of the unearned increment should go to him. Generally leases for wet lands are not for 99 years but for shorter periods. That is done with a view to get a share of the improvements.

I gave my answer to Question 17 under the impression that a kudiyiruppu in an urban area includes shops. I will modify my answer.

Suitable prices should be fixed in the Compensation Act for oranges.

The average life of a pepper garden is thirty years from the date of planting. If fixity of tenure is to be given for holdings with estate crops, coffee and pepper gardens also may be included. The present rate of rent for punam cultivation is very low and it would not be advantageous to apply the Tenancy Act to it. The illiterate hill tribes of Wynaad are exploited. The Kurumbars and the Kuruchiars cultivate large tracts of land, but they do not get the profit which they legitimately ought to get. They are not being exploited by the janmis, but by the money lenders who collect usurious rates of interest which they call *labham*. The only remedy is to have them educated. If the non-granting of receipts for rent is made penal, it will help to a small extent. But that will not stop exploitation by money-lenders.

By Sri U. GOPALA MENON :

All the ordinary cultivators except the large estate owners are in the clutches of the money-lenders. The rate of interest varies according to the ignorance of the cultivator. It goes up even to 100 per cent. I can give specific cases. The story of the man who realized Rs. 150 for a loan of one egg is not a story, but a fact. There are many cases where loans of small amounts have swollen in this way to very huge sums. The only remedy is to make these people literate. A colonization scheme also may be useful. If educated people from other parts of the country come and settle here, they will be of help to these poor people.

By Sri R. RAGHAVA MENON :

The Co-operative Department will be helpful. To get waste lands from the Government we have to pay land value and the value of the trees on it. The value of the land will vary from Rs. 5 to Rs. 25 per acre. For trees there is a schedule of rates which are much higher than the market rates. In certain cases, if the land is thickly wooded the timber value will go up to Rs. 100 per acre, whereas it will be possible to get waste lands from private janmis for Rs. 10 per acre. The janmam right itself can be purchased with all the timber on the land for Rs. 10 to Rs. 25 as against Rs. 100 for the mere right of cultivation of the Government land. From the date of occupation of the Government land, we have to pay assessment at the permanently assessed rate of Rs. 2–8–0 per acre whether the land is cultivated at once or not. But in the case of private janmis the assessment need be paid only after the land has been cultivated. The present rules came into existence after 1932. In Maniyankode estate we have 750 acres of pepper, coffee and orange and 250 acres of paddy. I am managing the estate. Recently an order has been issued by the Government to the effect that in the case of lands entered into without permission after 7th December 1938 the tenants are to be evicted and penalised. Previously the Government were accepting such encroachments on Government lands and collecting the assessment. This order will work a great hardship.

By Sri M. NARAYANA MENON :

Coffee plants begin to yield from the fourth year of planting and will yield for 30 or 40 years. Orange plants yield for 25 years.

By Sri K. MADHAVA MENON :

The provision for remission of revenue where assessed wet lands are left uncultivated for more than one year should be revived.

53 Sri P. C. Krishnan Nambiyar.

Note.—This witness sent the same reply to the Questionnaire as Sri H. N. Chakravarthi.

By Sri K. MADHAVA MENON :

I heard Mr. Chakravarthi Ayyangar's evidence. I was here all the time. I do not agree with him. It is not true that the old janmis do not give receipts for rents paid by the Kuruchiars and the Kurumbars. Many of them have no written leases. I have many Kuruchiar and Kurumbar tenants. Some have written leases. The leases are chiefly oral. Difficulties arise because the tenants have to borrow in order to pay rent or for other emergencies of theirs. They pledge their crop and take the money from the money-lender. The money-lender comes and reaps the crop and the janmi has to go without his rent and the

tenant does not get the profits of his labour on the land because the crops are removed by the money-lender. This applies both to pepper and paddy cultivation. It is the Kurumbars and the Kuruchiars who resort to the money-lenders often. In their cases, if there is a written lease it will be easy for the money-lender to remove the crops of the tenant. If there is no written lease, there is a better chance for the landlord to collect his rent. That is why in the case of these hill-tribes—Kuruchiars and Kurumbars no written leases are given. The janmi help these Kuruchiars and Kurumbars because they are truthful people. Further, the Kuruchiars have customary rights and privileges.

Half the seed will be a fair rent in Wynaad, but rent equal to the seed is collected here. In my opinion that is high.

The kanamdar in Wynaad is in the nature of a usufructuary mortgagee and the landlord is not able to redeem such kanams. The rate of interest on the kanam amount is not fixed here. It must be considered purely as a mortgage and the rate of interest fixed. There was the practice of claiming remission of revenue when wet land was not cultivated. That practice should be revived. If such remissions are given the landlords will give remissions of rent also in such cases. Since such remissions are not allowed, the tenants are not able to pay rent and the landlord suffers doubly, because he has to pay the assessment and does not get rent.

The rate of six pies per acre on unoccupied dry lands works hardship on the landlords. That practice should be changed to what it was before the last settlement.

KURUMBRANAD TALUK.

BADAGARA CENTRE—2nd, 3rd and 4th December 1939.

54 Sri V. K. Raman Menon, President of North Malabar Tenants' Conference, Badagara.

1. (1) There was no janmam or absolute ownership of land in ancient times. That idea arose out of the legend that Parasurama gifted the land of Kerala to Brahmans. Even if that legend is true the subject matter of the gift could not have been the absolute ownership of land but only sovereignty over the land. It is a well-known historical fact that in ancient times Brahmans were reigning over the land. The Princes who subsequently came to rule did not take the absolute ownership of the land from the Brahmans. Probably, they thought that it was a sin to do so. The British Government which stepped into the shoes of those princes followed the same idea and allowed absolute ownership to vest with private individuals. The Government was satisfied with the revenue which the janmis were ready to pay.

(2) *Kanam.*—Kanam tenure had an interesting origin which throws much light on its nature and incidents. The original kanaris were either non-Brahmans or tarwads of non-Brahmans. Non-Brahmans did not like to take the janmam or absolute ownership of land from Brahmans or devasthanams. So, for the money advanced by them for the purchase of land, they were satisfied with a tenure which was less than the absolute ownership of land. Kanam tenures arose in this way. Originally kanam tenure was an irredeemable and valuable right in the land. Old sayings current among the people throw much light on subjects of this kind. The sayings "Your father has not acquired kanam right here" and "Onam is to be celebrated even by selling kanam right" show that kanam tenure was originally irredeemable. Another instance which proves the irredeemability of kanam tenure is the practice still prevalent in Trichur of advancing kanam to devaswams, the kanari getting in return for his kanartham, cooked rice from the offerings of the temple. MacMaughton's report of 1794 states that kanam tenure was irredeemable in its origin. After the advent of British Administration English Judges regarded kanam tenure as a mortgage and therefore always redeemable.

(3) *Kuzhikanam.*—Kuzhikanam is the same as kanam in respect of garden lands. It was also irredeemable as is evident from the old leases from kovilakams.

(4) *Verumpattam.*—When the tarwads or individuals came to possess more lands than they could conveniently cultivate they used to lease out portions of land to others for one year for cultivation. But if tenants paid rent regularly they were allowed to continue on the same conditions.

(5) Other tenures generally prevalent in Malabar, such as otti, kozhu, etc., are only combinations of the above tenure.

2. The question is answered above.

3. Yes, see answer to question No. 1.

4. (*a*) They were wrong in assuming that private individuals had absolute ownership over lands (including wastes and forests). See answer to question No. 1.

(*b*) Yes. All forest lands must be owned by the public and managed by public bodies, the public having free access for firewood, manure and grazing cattle.

Waste lands which are convertible into grazing lands must be treated as above: waste lands which are cultivable must be treated as poramboke lands and parcelled out to individuals who want to cultivate but who have no land to cultivate.

(*c*) Yes. See answer to the question immediately above.

5. (*a*) There should be only three kinds of landholders, janmi, substantial kanari and the actual cultivator. The actual cultivator should have the right to purchase the interests of all the intermediaries above him except those of substantial kanaris, on payment of a value for those interests on a prescribed scale. The actual cultivator must have a right of pre-emption in respect of the interests of all landlords above him.

(*b*) (1) See answer to the above.

(2) Yes. The extent of such a farm should not be below 10 acres of land of each class or kind.

(3) This should not be restricted. If restricted the value of the land would go down and new cultivators would not rise up.

6. The under-tenure-holders must be protected. If the intermediary fails to renew or to purchase the right of his immediate landlord the under-tenure-holder should have the right to purchase the defaulter's interests in the land and deal with the superior landlord directly. He should also have the right to pay from the rent due by him the rents due to all the superior landlords and to get credit from his immediate landlord. There should

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also be a provision that the value of improvements due to the under-tenure-holder should not be set off for the arrears of rent due by his superior landlords except to the extent of the arrears of rent due by him to his immediate landlord. The rights of the under-tenure-holder should always be reserved in a suit for sale of the rights of the superior landlords irrespective of the nature of the claim.

7. (*a*) The provision in the existing Act to calculate fair rent is not adequate. In the case of wet lands the cost of cultivation should be taken as $3\frac{1}{2}$ times the seed required for cultivation. Fair rent in the case of garden lands should be calculated after deducting the expenses for cultivation and upkeep.

The fair-rent due by the cultivating tenant should be apportioned between the jammi and the intermediaries in proportion to the value of the interests which each has in the land.

(*b*) In most cases the present assessment comes to one-third of the profits of the land. In our experience in many cases assessment has gone more than this proportion. Reasons are manifold. In North Malabar paddy lands are usually converted into garden lands. Naturally those lands assessed to revenue as wet lands failed to bring profits even to the extent of two times the revenue. Waste lands when enclosed are regarded as permanently occupied and they are assessed even though no cultivation is raised in the whole plot. This has caused serious handicap to the progress of cultivation in Malabar. People are always afraid to bring forest and waste lands under cultivation on account of the above provision.

The great fall in the price of coconut and pepper has also a great deal to do with this. Revenue is payable in money. Coconut and pepper do not get even one-fifth of the price they were fetching a decade ago.

(*c*) If the fair-rent is arrived at after deducting the revenue the tenant in possession is to pay the revenue. This would be a most convenient arrangement for all parties concerned.

8. (*a*), (*b*) & (*c*) See our answers to question No. 7.

9. We have given our considered opinion how fair rent should be arrived at. So we need answer this question only by saying that we do not regard it as desirable to fix fair rent in proportion to the revenue.

10. Yes. In case the tenant is to pay rent inclusive of revenue.

11. Yes. The standard should be Government measures and weights.

12. We have stated above that kanam and kuzhikanam tenures were originally irredeemable. But there was then a custom that when a landlord died and another succeeded, the tenant should show his allegiance to the new man by paying a sum of money which varies in different parts. Renewal and renewal fee have their origin in this custom. In North Malabar the word used for renewal fee is " Manusham " which means" that which is given for the life time of a man."

13. (*a*) Conditions have changed and there is no reason why renewal fee should be insisted upon. But there must be a provision for revision of rent at periodic intervals, by whatever name we may call it. The system of exacting renewal fee has been the cause for the ruin of thousands of tenants. In our opinion legislative sanction should not be accorded to this custom.

(*b*) This question does not arise in the light of the answers we have given to the questions above.

(*c*) This question also does not arise.

14. If the tenant is to pay only fair rent fixed from time to time and if the provision for fair rent is applicable to all kinds of tenures the present provision for relinquishment may stand.

15. (*a*) Yes, if the tenant is willing to pay fair rent and pays it regularly. But section 116 of the Transfer of Property Act may be made applicable.

(*b*) Yes, but only on the ground that the landlord wants the property for his own use. There should be a provision that a landlord who has a specified extent of land in his possession should not be allowed to evict on this ground. The tenant who is evicted on this ground must be given a pre-emption right to take the property on lease in case the landlord leases or demises after six years.

16. (1) & (2) The provision may stand subject to strict proof of bona-fides and subject to the answers given by us to questions numbers 5 (2) and 15 (*b*).

17. (*a*) In our opinion the provision for 10 years' occupation works hardship. It may be reduced to five years. Further kudiyiruppu right should be made alienable and the assignee should have the right to tack on the possession of the assignor to make up the period required for the purchase of the kudiyiruppu right under the present Act.

(*b*) Yes, the extent that is required for an urban kudiyiruppu must be less than a rural one.

(*c*) Urban—Quarter acre.

Rural—Half acre.

There should be condition that the landlord must have pre-emption right.

18. The present provision for valuing improvements need not be revised. But in our opinion there should be a provision for valuation by assessors, if any of the parties is not satisfied with the Commissioner's report.

Yes. Time must be fixed for executing a decree for eviction. Maximum must be one year. In case of non-eviction the tenant must have the same right as is given to the decree-holder under section 42 of the present Act.

19. In North Malabar, feudal levies are generally the following :—

Coconut leaves.

Coconut, kudiyiruppu, rice, ghee, fowl, bananas, kadhakali panam, therappanam, thariputa (cloth) oil, jackfruit, etc.

There should be provision that these feudal levies need not be paid even if there is a contract to the contrary.

It may be said that section 32 has provided for this. But unfortunately even in demises where there are small kanams the rent payable is treated as michavaram and applying the provisions of section 25, Courts have included these feudal levies in the renewal documents executed by them after the Act came into force.

20. (*a*) It is very difficult to apply the provisions of the Act to fugitive cultivation. But fugitive cultivators deserve great sympathy. The provision with regard to fair rent should be made applicable to them. Our answers to question No. 4 provide adequate remedies for the grievances of these cultivators.

(*b*) It may be extended.

21. (*a*) Yes.

(*b*) Yes.

22. (*a*) Yes. If a petition for renewal is put in under section 22, the landlord, on the hearing date, files a statement that he wants the property for his own use. Under the provisions of the Act the Court has to dismiss the petition without enquiring whether the landlord wants the land for his own use. There is no provision compelling the landlord to file a suit for possession within any fixed period or authorizing the Court to fix, in its order, a time-limit for that purpose. So the landlord, instead of suing for possession, brings a suit for the same high-rent payable under the existing marupat and obtains a decree. Once the above petition is dismissed there is no provision in the Act enabling the tenant to bring another petition for renewal except when the landlord brings a suit for eviction and that too on ground 3 of section 20. So, there should be provision enabling the Court to fix a reasonable time-limit within which the landlord has to file a suit for possession, in case the renewal petition is to be dismissed on the ground above mentioned. If within that time the landlord does not sue for possession the tenant should have the right to renew his renewal petition and the landlord should be debarred from opposing that petition on the ground that he wants the land for his own use.

(*b*) It is highly desirable that the procedure to be adopted under the Act should be as little expensive as possible. Fair rent may be fixed on a petition stamped in accordance with the rules. Fair-rent due under marupats executed after the coming of the new provisions into force may be collected by means of petitions filed after issuing notices to the tenants giving them a time to pay which should not be at least 15 days. Costs should not be allowed if the above provisions are contravened.

No question arises with respect to renewal fee as our opinion is that it should be done away with.

Great injustice is apt to be caused to both the landlord and the tenant if summary procedure is to be adopted under the Act. Summary procedure should be provided for only under strict and strong safeguards. The present rules framed for summary procedure works great hardship as the tenant might be compelled to pay costs twice for the same rent.

(*c*) (1) One and three are answered above.

(2) There must be a judicial enquiry by civil courts and not an enquiry by revenue courts.

23 & 24. Yes. There are many disabilities which are not covered by the questions answered above. In many cases these disabilities are peculiar to Malabar. In some cases they are peculiar to certain taluks. We may enumerate some.

There is no provision in the present Act to fix fair rent in the case of kanam and intermediary kuzhikanam tenures. This works great hardship in the case of garden lands where the rent fixed is not in kind, but in money in view of the price prevailing for commodities at the time. Ever since 1930 there has been a great fall in the price of commodities like pepper and coconut. There is no provision in the Act to reduce the rent in proportion to the prevailing prices. Courts have no power to grant abatement of rent unless the holding is lost or made unfit for the purpose for which it is leased by vismajor. In the case of wet lands only paddy rent is payable and Courts can value paddy in accordance with the price then prevailing. Section 7 of the Act takes into account only the quantity of the produce to arrive at fair rent. So, it is desirable to show that quantity in the documents so that the Courts may have power to value the money-rent in accordance with the price then prevailing.

There is another disability under which the tenants especially of the Kurumbranad taluk suffer. Generally for the purpose of reducing registration and stamp fee small kanams like Re. 1, Rs. 2, etc., are introduced into the lease documents. These are not real kanams. The rent fixed is the ordinary rent as in the case of any other kuzhikanam lease. In accordance with High Court decisions these kanams are to be treated as kanam tenures. The result is such kanam tenants do not get the benefit of the provisions in the Act relating to fair rent. It is therefore highly desirable that provision should be made to apply the fair rent provisions to all kanam tenures of garden lands. If found necessary a distinction may be drawn between South and North Malabar in this respect, as such small kanam tenures of garden lands are not to be found in the former.

The prevalent rate of interest for paddy is 20 per cent and for money 12 per cent. The present Act does not touch the rate of interest contracted for in the documents. Great hardship is caused on account of this. Provisions should therefore be made fixing the rate of interest at 6 per cent per annum both in the case of money and paddy rents.

It is a well-known fact that ever since 1930 the price of commodities like coconut and pepper has fallen to an enormous extent. The profits arising from holdings are not enough to pay the landlord's dues. On account of this many tenants have not secured the benefits of section 15 of the Debt Relief Act. So it is highly desirable that a provision should be made in the Tenancy Act that in case of renewals made for the first time under it only arrears of rent for a maximum period of twelve years need be deposited and that too without interest and rent which accrued after the year 1930 should be calculated on the basis of fair rent allowed under the Act.

It is true that the present Act places some restriction on the rights of a melcharthdar under section 40 but that restriction is not sufficient. His disability under the present Act lasts only till he gets an attornment from the tenant. He can get such attornment if he files a suit for rent which he is entitled to do. Further, if the melcharthdar sues to evict, the tenant has to take a renewal from him. These rights of the melcharthdar should be restricted. Otherwise the melcharthdar would become a full fledged landlord and he can evict the tenant on all heads under section 20. The disability placed on him under section 40 must endure for all times, that is to say, once a melcharthdar he should always be a melcharthdar.

By the CHAIRMAN :

I have 31 years' standing at the bar. I am both a janmi and a kanamdar. My kanam properties are paddy lands. I have 4 or 5,000 paras of paddy lands also. The janmam properties are all parambas. We have not let out parambas. My tarwad is in possession of the paddy lands. The history of Kerala is not recorded. Taking the tradition that Parasurama granted the lands to Brahmans, the Brahmans were rulers and it was sovereignty and not absolute ownership or janmam that was given. By virtue of their position as rulers they came in possession. All forest lands must be owned by the public. With regard to forests and waste lands I do not think any compensation is necessary. With regard to forests from which the janmis derive some income it is different. I want only forests from which the present day owners don't receive any income. The dues they are at present getting must be safeguarded to them . By substantial kanamdars I mean where the kanam exceeds 50 per cent or 60 per cent. Almost all the ancient kanamdars gave full value for their rights, taking into account the value of the land then prevailing. The old kanams are substantial amounts. In question 5 (*b*) (2) I mean " not more than ten acres. " The rights of the under-tenure holder should not be affected by the default

of the intermediary. I would allow only the right of intermediaries to be proceeded against for arrears of rent. I would give the under-tenure-holder the right to renew his holdings direct from the janmi if the intermediary does not renew. In the interests of the janmi it would be better to have smaller holdings as higher rent could be got. The phrase "customarily deemed to be required" has no meaning in this taluk. Fair rent at 50 per cent of the gross produce is too much to the janmi. All the tenants will go to ruin. Paddy lands are held directly under the janmi. The tenure is called Kozhu. If there are intermediaries, they may be given liberty of contract. The cultivator's rent must be fixed. The fair rent of all lands in certain localities may be fixed by a Board at the same time. The rent so fixed may remain say for 20 or 30 years. Manusham means what is given during the lifetime of a man. There is no need to continue the practice of manusham. When manusham is taken the rent will be low. If no manusham is paid the rent will be high. In this taluk it won't work hardship if renewal fee is abolished. If it is not abolished, it may be fixed. In the case of garden lands as one year's fair rent. In the case of paddy lands, it is impossible to fix any amount because it is already rack rented. As a commissioner I found that the rent was higher than the fair rent. No janmi will get manusham out of paddy lands. It is not necessary to change the provisions for renewal fees for paddy lands.

The janmi gets only 1/5 of the produce as fair rent and has to pay the revenue out of it. That provision may not work hardship on the janmi because he gets manusham. The provisions regarding fair rent should be made applicable to small kanams. Small kanams may be defind as those where the kanam amount is below 20 per cent of the janmam value. The kanamdar should be entitled to get his improvements on relinquishment. Unless there is clear proof that the landlord wants to cultivate for his own livelihood the tenant should not be evicted. Ten acres should be the limit of eviction. A purchaser of janmam right should not have the right of eviction. As regards kudiyiruppus it is desirable to give occupancy right if rent is paid regularly. In the case of small kanams it might be sufficient if a provision is made in section 45 of the Act which would enable such kanamdars to reduce themselves to the position of an ordinary verumpattamdar. The difficulty will be only in the case of the intermediary. In the case of garden lands intermediaries also have some pecuniary interest such as improvements.

By Sri R. Raghava Menon :

Big janmis are very few in number here. They are not so numerous as in South Malabar. As regards paddy lands there are no kanamdars. With regard to garden lands there are a good number of kanamdars. Verumpattam leases of garden lands are practically unknown. The rents paid by the lesse s were fixed a number of years ago. As regards wet land, 95 per cent of the gross produce is given by the tenant as rent. I have gathered this information from my experience as a vakil and as a commissioner. Tenants are not making any profit out of wet cultivation. If cultivation expenses are deducted, the tenant does not get anything at all. Cultivation expenses will be 3½ times the seed. For both crops together double crop land will yield eight fold. On account of this paddy lands are converted into garden lands. I cannot exactly say what rent will be for an acre. For each member of a marumakkathayam family, the landlord should have power to evict or redeem to the extent of ten acres, provided the members are separated.

By Sultan Adi Raja Abdur Rahman Ali Raja:

When one janmi dies and another janmi comes in his place what is paid to the new janmi is called manusham. It means the lifetime of one janmi. Sometimes it may be 3 or 4 years and sometimes it may be 50 years. If a janmi dies 2 or 3 days after the renewal has been effected, there would be a renewal again in the lifetime of the succeeding janmi. Renewal is now considered to be a source of income. If there is a land for which the land revenue is Rs. 10 while the janmi gets only Rs. 2 from the tenant, the law will have to be changed so as to make the tenant pay more. The tenants are complaining only when they find it impossible to pay renewal fees, and when suits are filed against them for eviction. At least there are some cases of evictions. There are janmis like you who have not filed any suits. The tenants are not raising an unnecessary complaint. They complain only where there is cause for it.

By P. K. Moideen Kutti Sahib Bahadur :

The janmis were not the real cultivators. The kanamdars were the real cultivators. Fair rent may be fixed in kind provided suitable provisions are made for periodical revision of rent. I do not think that the panchayat board will be a suitable machinery for fixing fair rent. In addition to the rent, the tenant has to pay one rupee for the kudiyiruppu. This is called kudiyiruppu rupee.

By Sri C. K. GOVINDAN NAYAR :

If a Nayar is the tenant of another Nayar, he does not pay the kudiyiruppu rupee. If the tenant is a Thiyya, he has to pay. If the landlord is a Muhammadan, the tenant will have to give rice, fowl and ghee irrespective of his caste. If fair rent is fixed according to the Tenancy Act, it will be less than the prevailing rent. But in the case of punam cultivation it will be better to fix the rent as equal to the assessment.

By the CHAIRMAN :

In the case of Nilambur where big trees have to be cut down punam cultivation may be injurious, but in the case of scrub jungles where there are no big trees, it is good for the forests.

By Sri C. K. GOVINDAN NAYAR :

A tenant of a pepper garden came to me and wanted the provisions of the Tenancy Act to be applied to pepper gardens. By a substantial kanamdar I mean an old kanam tenant. I do not mean kanams of Re. 1 and Rs. 2. They are not substantial kanams. I want these small kanams to be treated as kuzhikanams.

By Mr. R. M. PALAT :

Our Association has been in existence for the last 2 years. I was specially asked by the Association to give evidence here. We held a Conference and the Reception Committee of the Conference was continued as an Association. The Reception Committee has 21 members. The Conference had 500 or 600 members. We keep a register of the Committee members, not the ordinary members. They are all kuzhikanamdars. There is only one kanam tenant. I have no land here. I have gained some experience as a pleader for the last 30 years and as a Commissioner.

If a man has planted teak in his forest and income is expected from it in future, I would give him compensation for that forest. If it is full of wild growth and the janmi does not derive any income from it, no compensation need be paid to the janmi. Most of the janmis in this taluk are in debt. There are some solvent ones. It would be invidious to give names. Kanam tenants used to pay the renewal fees and renew their demises, before the Tenancy Act, but now they generally refuse to do so. They cannot get any revision of rent and they find that there is no object in renewing. The janmi may be given the power to ask for renewal fees, provided provision is made for the revision of rent also. Otherwise the janmi might get the renewal fee while the tenant would have to pay a higher rent. In the case of garden lands, the rents were fixed some ten or twelve years ago when the price of coconut was very high. Now the prices have gone down. But the janmi will not revise his rent. He asks for the renewal fees. In the case of garden lands revision of rent is necessary in the interests of both the janmi and the tenant. But in the case of paddy lands the rent is paid in kind. Rent should be payable in kind in the case of garden lands or there should be a periodical revision of rent. Some kanamdars are actual cultivators, some are not. Usually the lands from which the janmi wants to evict the tenants will be in different parts of the country. I do not know whether it will be more economical to work a large farm than a small one. Provided the landlord wants the land bona fide for cultivation by himself, and provided it is more profitable for him to work it, I would agree to eviction. Before 1930, our courts were inundated with eviction suits. But after that there have been very few eviction suits.

Q.—There are many cases where the assessment is Rs. 10 while the janmi's dues come to only annas 12 ; I know cases where the assessment is Rs. 25 and the janmi's dues are only annas 4 in South Malabar. In such cases, should the landlord be liable to pay assessment ?

A.—I have already answered that question.

All the holdings were in the hands of the Brahmans. Naduvazhis afterwards came into possession of the lands. The Brahman families got the lands back from the Ñaduvazhis by retransfers. Janmis may not refuse to give out waste lands, but there will be the difficulty of renewal, melcharth, etc. There must be a provision for revision of rent and either party may claim an increase or decrease of rent.

By Sri M. P. DAMODARAN :

The word ' Sowjanyam ' is used for renewal fee in South Malabar, not in North Malabar. It means ' free gift.'

By Sri K. MADHAVA MENON :

Unemployment should not increase. The peasants are now in a poor condition. In Kuttiyadi and Wynaad there are large areas which can be brought under cultivation.

There is a demand for such lands. They are lying fallow, because the tenants think that if they reclaim the lands, they will have no protection to maintain them in their own possession. If they are now assured of a sort of fixity and fair profit, they will take up these lands. Lands in this taluk are chiefly gardens. Paddy cultivation is highly unproductive here. The existing rent is not low except in a very few cases. There is no scope for increasing the present rent of kuzhikanams. The courts have decreed feudal levies where they are included in the documents. There are inunmerable intermediaries in this taluk.

By Sri P. K. KUNHISANKARA MENON :

I am in favour of safeguarding the present income which the janmis get from forest lands, even where the janmi has not invested any money. This is similar to other cases where he may or may not have invested any money. Some amount may be fixed as a sort of solatium.

By Md. ABDUR RAHMAN Sahib Bahadur :

It will be revolutionary if we abolish janmam rights without any compensation. I am in favour of giving some compensation to the janmi. I am both a janmi and a kanamdar, but I have no personal considerations when I give out my answers. In deciding on the question of compensation, the present circumstances should be considered. How are the janmis to get on ? I do not agree to leaving the janmi as much land as is necessary for his livelihood and taking away the rest. I would not have much objection to buying out the kanamdar at the market value of his interest. I want the cultivation expenses to be increased to 4½ and two-thirds go to the janmi. If fair rent is fixed, the tenant will not relinquish. But when relinquishment becomes necessary in cases like flood, etc., the fair rent may be reduced. The tenant's position will be permanent. Every body wants the tenant to be tied to his land.

By Sri A. KARUNAKARA MENON :

Cultivation expenses for gardens should be based on the Tenants' Improvements Act. The average rate for cultivation expenses and upkeep should be annas 4 per tree. Fugitive cultivation does not destroy the forests here. The system of melcharths should not be revived.

By Mr. R. M. PALAT :

Feudal levies are mentioned in the lease deeds but when rent is calculated, no amount is deducted for these things. Taking the present conditions of tenancy in Malabar into consideration, I think the small holdings should continue.

56. Sri K. K. Govindan for Sri P. N. Achuthan Vydiar, Badagara.

1. (1) The origins of janmam are two. The first is that mighty persons used force and took possession of lands belonging to poor persons and obtained from them Marupattam, etc., documents. These lands were eventually registered as the janmam of such mighty persons. From these, the lands were purchased for cash ; this is the second origin of janmam.

(2) *Kanam*.—This is also of two kinds. When the janmis were in need of money, they raised loans on the security of their lands ; the creditors were given possession of the lands with the right of enjoying the yield therefrom. The right exercised by the creditors is known as the kanam right. The second kind of kanam amount is only nominal. A very small amount is shown in the kanam deeds in order to reduce the court-fees in the Sub-Registry office and in the Civil Court. This kanam amount does not bear any interest.

(3) *Kuzhikanam*.—This is a lease with or without kanam amount and with the right of effecting improvements such as fruit-bearing trees.

(4) *Verumpattam* :—This is " Kozhu Nilam " so far as North Malabar is concerned.

2. To be brief, the janmam right vests in the janmi and the other interested persons possess right under him. Only the janmi's right has permanency.

3. I do not know.

4. (*a*) In my opinion, the lands in Malabar are not likely to have been private janmam.

(*b*) It is necessary to fix a limit for the possession of waste lands by janmis.

(*c*) Waste lands should be taken possession of by Government and given to cultivators.

5. (*a*) It is desirable to simplify the system of land tenure by eliminating janmis and intermediaries. If this is done, they should be given compensation at the market rate of the value of their interest.

(*b*) (1) The tenants should be allowed to purchase, compulsorily, the rights of the landowner and the intermediary.

(2) There should be a fixed limit up to which a cultivator may possess lands for cultivation purposes.

(3) A sale by a cultivator to a non-cultivator should not be prohibited. If this is done, the cultivator cannot raise loans on the security of his lands.

6. The sub-tenants should not suffer for the default of the intermediaries.

7. (*a*) The proportion of the yield which should be shared between the janmi, tenants and the intermediaries should be fixed on the basis of their respective interest on the land. When the janmi's interest is calculated, 'Ancient janmam' and the janmam purchased for cash should not be considered similar. In respect of land without improvements, the janmi (pattadar) should not be given any amount (as purappad or michavaram) which is in excess of the assessment payable on the land. In cases in which the pattam paid at present is less than this amount, it should not be enhanced.

(*b*) I do not know what portion of the yield the assessment represents. But, in respect of some lands, I find that the assessment is far above the yield.

(*c*) Either the janmi or the actual occupier should pay the assessment.

8. (*a*) The calculation of cultivation expenses in section 6 of the Act as $2\frac{1}{2}$ times the seed "including seed" is not correct. It is not possible to cultivate any wet field without $3\frac{1}{2}$ times the seed. There are many instances in which the courts in North Malabar could not find their way to reduce the pattam in respect of kanam leases renewed by them. At a time when "Melcharth" was in vogue, the janmis threatened to evict their tenants in case they failed to pay any amount of pattam fixed by them and the tenants, fearing ejection from the lands which had been in their possession for a long time, yielded to the janmis' unreasonable and arbitrary demands. This accounts for the exorbitant rate of pattam for wet lands. The amount paid for such wet lands as kanam is nominal and carries no interest. Such kanams are known as "Katta-kanam." The provisions of section 44 of the existing Act prohibits these kanam tenants from relinquishing their rights in favour of the janmi and thus escaping further payment of the exorbitant pattam, because there are arrears of pattam. Therefore, the fair rent as defined in section 5 (*a*) should be made applicable to all the wet lands referred to above. The tenants are also suffering much as no fair rent has been fixed for garden lands. The courts have decreed that the garden lands in North Malabar are kanam lands. The decree is passed apparently because a *nominal* kanam amount is mentioned in the documents. This kanam amount was mentioned merely to avoid the fees payable in the Registration offices and Civil Courts. The tenants have large kuzhikanam and improvements on these lands. To avoid payment of compensation for these rights, the janmis sue only for arrears of pattam although the period of the lease might have expired. And the exhibition of the petty kanam amount in the lease deed operates as a bar to the tenant's claiming renewal after reducing the pattam. In the case of garden lands, which are held on kuzhikanam right, it has not been possible to get the pattam reduced even though no kanam amount has been mentioned in the lease deed. And what the court does, in such cases, is to direct the janmi to state whether he desires to evict the tenant and take possession of the land except under section 20 (3) of the Act. The janmi states that he desires to evict and get possession of the land. The court then rejects the statement summarily under section 23 of the Act. And the janmi does not urge his claim for eviction but proceeds to sue only for arrears of pattam. Either the provisions in section 20, with the exception of sub-section 3 should be deleted or, if the janmi puts in a written statement in court consenting to take possession of the land by evicting the tenant except under section 20 (3), he must file a suit for eviction within 6 months of filing the written statement failing which the court must renew the lease as applied for by the tenant. The clause "the coconut and arecanut trees for which the janmi is bound to pay compensation at the time of eviction" appearing in sub-section 2, 3, 4, 4 (1) and (2) of section 7 of the existing Act should be expunged and the clause "the coconut and arecanut trees belonging to the tenant" inserted. The necessity for this amendment arises out of the fact that there are some High Court decisions to the effect that the M.C.T.I. Act does not apply to the improvements which existed prior to 1886. In the case of garden lands also the fair rent should be considerably reduced. The three times rent fixed for dry lands should also be reduced. In my opinion, the fair rent for the above lands will be an amount equal to twice the assessment.

9. It is reasonable to fix the fair rent on the basis of the assessment. But this should not be done before the existing rate of assessment is reduced.

10. As the circumstance which necessitates the remission of assessment is the fall in the price of the cultivator's produce, especially coconut, what is the benefit to be derived by the remission of assessment, except that it will add to the janmi's income, unless the pattam is remitted ? There must be legislation enabling the tenant to claim remission of pattam to the extent to which the assessment is remitted.

11. Yes. Chiefly, two measures are used to measure pattam payable by tenants. One is " Pattamata " and the other " Mudra Seer ". The former contains 25 per cent more than the latter.

12. I cannot explain the origin of renewal. Any way, the system of renewal requires re-organization.

13. (*a*) I do not say that the system of renewal should be abolished. But renewal should never be made compulsory. No legislation should be made compelling the tenant to get a lease renewed. The janmi has already the option of evicting the tenant under section 20 of the existing Act. Some janmis are trying to deprive the tenants of the privileges allowed to them, in the matter of renewal, under the existing Act. If the privileges are taken away, the tenants will be seriously affected. Therefore, let me once again affirm that the tenant should not be compelled to have the lease renewed.

(*b*) Some amendments to Chapter IV of the existing Act are necessary in respect of renewal. I give below the particulars of the amendments necessary. The provision in section 16 of the Act that renewal fee is three times the net produce arrived at by deducting the annual pattam and assessment from the annual fair rent should be altered and the renewal fee should be defined as the amount arrived at by deducting the pattam and assessment from the fair rent. Similarly in section 17, amendment should be made in order to fix the renewal fee as the amount arrived at by deducting (1) assessment, (2) interest on the kanam amount and (3) michavaram from the fair rent. Section 18 should be so amended as to entitle a kanam kuzhikanamdar or an ordinary kuzhikanamdar to demand renewal of the lease, at the expiry of 12 years, from the landowner or other intermediary just above him, on payment of renewal fee arrived at by taking the value of $\frac{1}{8}$ of the annual yield of the coconut and arecanut trees belonging to such kanam kuzhikanamdar or oridinary kuzhikanamdar and $\frac{1}{4}$ of the annual yield of the remaining coconut and arecanut trees. This means that the provision in the existing section to take into account pepper-vines and fruit-bearing trees, other than coconut and areacanut trees, and to calculate the renewal fee as one-half of the annual yield should be expunged. As regards sub-tenants referred to in section 18 (2), the renewal fee should be reduced to half and the pepper-vines and the fruit-bearing trees, with the exception of coconut and arecanut trees, should be ignored in assessing the renewal fee.

14. No amendment is necessary.

15. I favour the grant of occupancy rights to the kanam kuzhikanam cultivator who is the actual occupier. But, if that cultivator has not invested any money on the property worth mentioning, he should pay to the interested person as kanam without interest, an amount not exceeding three years' pattam. Besides, he should also offer security for the proper maintenance of the improvements belonging to the land owner.

15 (*b*) No.

16 (1) & (2). No amendment is necessary.

17 (*a*). It is advisable to grant occupancy right to all kudiyiruppu-holders. But, the remaining interested persons should be given due compensation at the market rate.

(*b*) Distinction should be made so far as kudiyiruppus are concerned.

(*c*) In the case of urban areas one acre and, if the kudiyiruppu holder wants more and if the landowner has no objection, the entire extent in the possession of the kudiyiruppu holder ; in the case of rural areas, the entire " paramba " in which the kudiyiruppu is situated so far as North Malabar is concerned.

18. There is no need to revise the present legal provisions regarding compensation for improvements. It is desirable to fix a time-limit for the execution of the decree for surrender on payment of the value of improvements.

19. Important landlords are making some levies of a feudal character. On birth-day plantain leaves, plantain bunches, cucumber, coconut, etc., are levied by Hindu landlords and bull-calf, goat, etc., by Muhammadan landlords. These levies are not mentioned in the lease deeds. There are also many other petty collections mentioned in the lease deeds. Instances cannot be quoted. No legal provisions are however necessary to stop all these collections. They will automatically vanish when the Tenancy Act is suitably amended. Some of the articles are presented by tenants to the local chiefs and janmis out of their free will. Only such presents will continue after the grant of permanent occupancy right to the tenants.

20. No. There is a difference between the fugitive cultivation and wet cultivation. A land on which fugitive crop is raised will not be cultivated for six years afterwards. Therefore, if a tenant wants to cultivate fugitive crops every year, he should have permanent occupancy right over 6 acres. There are also various other differences between fugitive cultivation and other cultivation. Although, in the case of pepper cultivation, no change of site is necessary every year, the mode of its cultivation and that of other crops are different. Therefore, in the case of pepper and fugitive cultivation, a separate Tenancy Act is necessary.

21. I cannot say.

22 (*a*) I have referred to this in my answers above.

(*b*) It is essential to devise means to make the procedure in Civil Courts easy and less costly. Especially in the procedure for recovery of pattam, michavaram, etc., it is desirable to permit presentation of petitions instead of regular suits. If the petition is contested, the court should investigate whether the tenants' contentions are well founded. The landowner should be permitted to recover the arrears of pattam by attachment of the standing crops.

23. When a tenant parts with his land or a portion thereof either by gift, sale, or partition, the proportionate kanam amount and pattam are also shared. The janmi does not acknowledge this sale or partition. The tenant is thereby put to much loss and inconvenience. Legislation should be made so that the reasonable division of property by the tenants is duly acknowledged by the janmis and if there is any mistake in the calculation of the proportionate kanam, etc., both the parties should have the right to seek their remedy in a Civil Court.

24. The differences have been pointed out in my answer above.

By the CHAIRMAN :

The owners of forests, waste lands and irrigation sources must be compensated, according to the market value of their rights. Some of the tenants will be able to purchase the landlord's rights and some will not. Most of the tenants are not able to pay even the rent. 95 per cent of the tenants will not be able to purchase. Even if such a right were given, the tenants would not be benefited. The limit of an ideal farm is 50 acres for one cultivator. The intermediary has extensive lands under his demise which he sub-leases to various tenants. Owing to the default of the intermediary, the value of improvements effected by the sub-tenants will be set off against the arrears due by the landlord. That is the main hardship caused to the lessees. Sometimes for the default of the intermediaries the lease-hold right of the tenant will be lost though the kuzhikanam right will not be lost. The kanam amount that he has paid also will be lost. If a provision is made to the effect that the value of improvements due to the under-tenants should not be set off against arrears due by the immediate landlord, it would be a sufficient safeguard for the under-tenant. Cultivation expenses should be taken as 3½ times the actual seed required. I include the seed in cultivation expenses. In this taluk land is known by the quantity of rent that is payable and not by the seed that is required for cultivation. The janmi fixes the rent. The land which is described as yielding 1,000 edangalis to-day will be described as yielding 1,200 edangalis to-morrow. There is no fixity about it. There are some lands which have no description of this sort even. The lands that have very nominal kanams may have the provisions of section 45 extended instead of applying the fair rent. The fair rent of dry lands should be fixed at 2 times the assessment. Now it is thrice. The crops grown on dry lands are paddy, tapioca, plantains and gingelly but not ginger. The yield will be about Rs. 16 per acre if it is paddy. If it is tapioca it will be Rs. 8. Even this amount the cultivators will not be able to realize every year. The provision for the payment of arrears of michavaram and rent before surrender should be deleted. It is not necessary to continue the system of renewing documents if the renewal fee is not to be abolished. The provision regarding bona fide cultivation should be retained. If a landlord who is actually cultivating 100 acres now wants to evict tenants and get another 100 acres, I would not call it bona fide requirements and that ought not to be allowed. What I have taken to be bona fide requirement is that the landlord must require the land for cultivation purposes for the purpose of maintaining himself and his family. It is impossible for most of the tenants to give three years rent as security. I am against giving fixity of tenure to the verumpattam tenant who has no pecuniary interest in the land. The kuzhikanam tenant has got a pecuniary interest because he has improvements. Three years' rent must be given in cases where the tenant is in a position to do so. It is impossible for most of the tenants to comply with this condition and no fixity should be given to such persons. I have no knowledge of pepper cultivation. I cannot say anything about the nature of the special legislation necessary for fugitive and pepper cultivation.

By Sri M. NARAYANA MENON :

If the janmis have purchased their lands, then they ought to be compensated when their lands are taken. The Government in giving lands to the cultivators should not take anything from them, either by way of sale price or premium. The Government must take revenue and rent as an ordinary landlord. If a cultivator is able to purchase the right of the immediate landlord, whether kanamdar or janmi, he must be allowed to do so. Similarly the kanamdar must be given the right to purchase the janmam right. The maximum holding for a big janmi should be 500 acres. He should not be able to resume more than 500 acres. A family of four or five members should have about 50 acres in order that they may live by cultivation. I cannot say if there is enough land for every cultivator to be given at this rate. Lands belonging to the janmis can be taken from their tenants till the extent under the cultivation of each tenant is reduced to 50 acres. The price of coconut before 1914 was the same as now, but the tenant should not be made to pay the same rent as before 1914. I am an actual cultivator. I know my cultivation expenses. The yield here is ten-fold. $3\frac{1}{2}$ times the seed is the cultivation expenses. Generally three or four times the seed (inclusive of the seed) will be the cultivation expenses. If a man of decent means takes to cultivation, his cultivation expenses will be less. The description generally of lands here is by the rent payable. I have a land described as paying a rent of 60 measures of paddy. This description has been in existence for the last 55 years. That rent has not been increased. There are many such cases. But I do not know the state of affairs before the land came into my possession. If a kanamdar relinquishes his land because he is unable to pay the rent, he should be entitled to claim the kanam and the value of the improvements, but in some cases, the janmi will not be able to pay and it is no use legislating when the provisions will not be practicable. Provision should be made for the reduction of rent in such cases. Because the land is the janmi's janmam, some nominal amount may be paid as renewal fee but the present rate is high. The renewal fee may be one year's land revenue. There is no objection to having this renewal fee divided into 12 parts and collected along with the michavaram. I would prefer proceedings to be in the civil court and not in revenue courts.

By P. I. KUNHAMMAD KUTTI HAJI Sahib Bahadur.

I represent all the interests, janmi, kanamdar and verumpattamdar. There are two classes of janmis, those who purchased their janmams and those who got their lands by force. The janmis who got their lands by force should not be compensated.

By Sri C. K. GOVINDAN NAYAR :

Nominal kanam holdings may be treated as kuzhikanam holdings for the purpose of fixing fair rent. If the rent is made payable in kind it will be a very good arrangement. I think, for good cultivation, the holdings should be at least 50 acres. It should be done as far as possible. In my experience I am able to get just enough for my livelihood by cultivating 50 acres. I have got about 6 acres of wet lands, about 20 acres of paramba which I cultivate myself and about 30 acres of garden lands which I have leased to sub-tenants. I am not in arrears of rent to my janmi.

By Sri M. P. DAMODARAN :

In the case of double crop lands, the yield for the first crop will be ten fold and for the second crop five fold. But if there is only one crop, the yield will be fifteen fold. I am speaking of ordinary lands. The measure which the janmis use will be in the ratio of 100 to 75 to the ordinary measure. Even that measure varies with the various janmis. But in courts there is a standard measure. Besides this, when the janmi measures 100 measures, he takes three-fourths of a measure as a reckoner. In the case of some janmis for every 100 measures measured, they take $3\frac{3}{4}$ measures. Documents make mention of this *Alavu Nell*. We are paying this bacause we do not want to involve ourselves in litigation for these small things. It is the custom to give registered leases for one year's punam cultivation. The average rent is ten measures per acre. There is a premium of one rupee per acre. There are also lands given for punam cultivation without this premium and registered leases. But now registered leases are more in vogue. Generally janmis send their agents to find out the extent of punam cultivation and the settlement of the extent will depend on the good nature of the kariyasthan. It will be advantageous to the tenant if some rules are made for fixing the extent and the revenue.

By Sri E. KANNAN :

The janmis are trying to get the right to compel the tenants to take renewal. Giving fixity of tenure will relieve them. In answer to a previous question what I meant by a man of decent means was a person who has got cattle, seed and everything ready.

By Md. ABDUR RAHMAN Sahib Bahadur :

I have only heard of instances where the janmis got their janmams by use of force or intimidation. My opinion is that the majority of the present day janmis are people who acquired their title in that way. I shall try and give a list of such janmis, and their victims to the Committee. When I said that the intermediaries should be paid the market value I meant the value prevailing in the locality. The janmis who have not paid anything for their janmams need not be paid anything. If the Government can purchase all the lands and ultimately there are only the Government on the one hand and the actual cultivator on the other, it will be all to the good. If the Government issues bonds for the compensation amount to be paid to the janmi or the intermediary, and the actual cultivator is made to pay the interest and a portion of the principal by instalments, it will be a good thing. Any legislation that is proposed must cover the relationships of all the intermediaries. The fair rent must be in proportion to the interest of the various intermediaries. A kanamdar who has given only a nominal kanam should have only a nominal interest. Such kanamdars must eventually disappear. Fair rent should not be fixed on the basis of the assessment, because the assessment is high. If the assessment is reduced, fair rent may be fixed on the basis of the assessment.

By Mr. R. M. PALAT :

I am also a physician on a small scale. I have some relations who have about 50 acres of land. Even those who have 50 to 100 acres are in debts. I am an actual cultivator with regard to the lands I am directly cultivating. But I am not an actual cultivator with regard to the lands which I have leased to others. If I give up a portion of my 50 acres, I will be in difficulties. I shall have to live upon the interest of the compensation amount. My relations are in debt because the price of agricultural produce has gone down. I am able to manage but not in a very decent manner. There is a stamped measure only in the Kuttipuram Kovilakam. There is no Government measure. The janmis have to use their own measures, but even in the measures they use, there is no uniformity. The tenants are not able to pay the present rents which prevail at present. Other tenants may say they are willing to pay the same rents in order to spite the existing tenants. The Government should take over all the waste lands and distribute them to actual cultivators. I know of many janmis who have refused to give waste lands for cultivation. My sub-lessees themselves have asked for waste lands. Every year they go and ask and every year they are refused. Even if the tenants have money to pay, there will be many other difficulties. The Government have no waste lands here, except the Koothali estate which is an escheat to the Government. The one fact that janmis are not able to prove how they came by their janmam lands is sufficient authority for saying that they acquired them by force and intimidation. The janmis here are not as much indebted as the tenants ; if they sell a small portion of their lands, they will be all right. Lands are sold for arrears of revenue in the Kurumbranad taluk. The janmis commit default and then when the land comes for sale, they purchase it in the name of their children. The junior members can borrow money and pay off the arrears, but it is difficult for them to do so. If the cultivating tenants are given the right to purchase, many of them will not be able to do so.

By Sri A. KARUNAKARA MENON :

The cultivating tenant wants only to cultivate lands and get some profit. He does not want the landlords above him to become extinct. I myself have lands in my possession and I am also an intermediary. I do not mind my extra lands going out of my hands. Most intermediaries have some land in their actual possession ; let them keep those lands and give up their title to other lands. My idea is that Government should take over all these lands and then distribute them to the actual cultivators. The fair rent for garden lands is only one-fifth of the produce. I think one-fifth of the produce is enough to cover both the rent and the revenue. Even then, I think the rent will be double the revenue. There are certain lands the revenue of which is much more than the produce, and in such cases, it is the tenant who pays the revenue. I shall send a list of such cases.

By Sri E. KANNAN :

Among the intermediaries, there are people who follow some avocation or other ; there are also others who have no other work.

By Sri R. RAGHAVA MENON :

Most of the people in Kurumbranad are living by cultivation. Though they are faced with difficulties on account of the fall in prices, still they continue to live by cultivation. Cultivation of about ten acres of good land will give enough for a family. Even five acres of good garden land will be sufficient for a family. In this taluk, there is more coconut cultivation. Like the janmi and the kanamdar, the cultivating tenants also have begun to use tea, coffee, soap, etc., in their daily lives.

By the CHAIRMAN :

I cannot give any opinion now about the suggestion to have a board to fix fair rents. To have the fair rent fixed at one and the same time in a locality will of course eliminate mistakes.

57. Sri M. Gopala Kurup, Secretary, Kurumbranad Taluk Peasants' Union and Representative of Primary Peasants' Committee, Mokeri.

1. A more elaborate description about janmam, kanam, kuzhikanam, verumpattam, etc., than that of the Logan's theory, is not available.

2. In ancient times, different services were rendered on a communal basis and the produce was distributed among them according to the nature of the services rendered.

3. Yes.

4. (*a*) No.

(*b*) Yes, certainly. The owners of waste lands, forests, and irrigation sources should give them to the public for cultivation and other purposes.

(*c*) Yes.

5. (*a*) Yes. A reasonable pattam to be paid by the cultivators should be fixed. No compensation is necessary.

(*b*) (1) Compulsory purchase is not recommended.

(2) Not practicable under present conditions.

(3) No prohibition is necessary.

6. Yes. Only the defaulter's right need be sold.

7. (*a*) As regards wet lands, the cultivator should get half the net income of the yield. (The net income means the gross yield deducting $3\frac{1}{2}$ times the seed.) For garden lands, a reasonable pattam should be fixed according to the Tenancy Act.

(*b*) It is said to be one-third. Yes, in many cases. The fixing of assessment with reference to the price of commodities then prevalent is, I think, the reason.

(*c*) The janmi.

8. Yes. (*a*) to (*c*) The existing provisions have not been put into practice. In respect of wet lands, the cultivation charges should be increased from $2\frac{1}{2}$ times the seed to $3\frac{1}{2}$. The fair rent should be reduced from two-thirds to half. The fair rent should be made to apply also in respect of the leases with small kanam amounts.

9. No.

10. Yes.

11. Yes. Failure should be punished.

12. Renewal fee means the amount paid to the janmi as a compensation for leasing the lands for cultivation purposes for a fixed period.

13. (*a*) Yes.

(*b*) Fair rent has been fixed.

(*c*) ———

14. Yes. Those who have income above an amount to be fixed should not have the right to evict. The extent required for direct cultivation alone can be evicted. In such cases, three clear years' notice should be given by the janmi to the tenant. The janmi should at once enter the land evicted.

15. (*a*) Yes, on condition of payment of fair rent.

(*b*) I know of stray cases.

16. (1) & (2) For reasons stated in answer to question 14 only and not for any other reasons should the tenant be evicted.

17. (*a*) Yes, without any compensation.

(*b*) ———

(*c*) A minimum of 50 cents should be granted in rural areas.

18. ———

19. There are many varieties. "Kadhakali-panam", "Nirapanam," etc., should be penalised.

20. (*a*) & (*b*) Should be applicable for both.

21. (*a*) & (*b*) Should be made to apply to South Kanara and Nilgiris.

22. (*a*) Yes. The cost of proceedings is increasingly high. The auction sales causes much difficulties. Costly improvements are sold away for small amounts.

(*b*) ———

(*c*) ———

23. In addition to pattam, miscellaneous amounts are also collected each as price of cadjan leaves, jack fruits, coconuts, plantains, ghee, fowls, kudiyiruppu (kazhcha) for Onam and Vishu. In Kurumbranad taluk, although many tenants are kanamdars they cannot be considered as such. For, kanam amounts vary from 4 annas to 10 rupees. In many such cases, the amounts are not generally paid although they are entered in documents. Such kanam amounts are entered in documents with a view to reduce the registration fees, and to reserve the power to demand pattam arrears for a larger number of years than in the case of verumpattamdars. Such tenants also should be included in the class for whom fair rent is fixed.

24. No.

By the CHAIRMAN :

Originally the janmis and the kanamdars came into existence in accordance with certain functions which they had to perform to society. Now they are considered as proprietors even though they do not perform such functions. Previously, rent was a particular share that was being collected since the janmis had certain duties to perform to society ; but now the janmis levy whatever rent they like, without performing such duties. Previously they had no proprietorship, nor were they able to evict tenants ; but they have now got those powers. My statement is not based on any special documents. It is what I have learnt from history and what I have read in the Malabar Gazetteer. The revenue authorities and civil courts were not justified in presuming that all lands in Malabar belonged to private owners ; there are no special reasons for my saying so, except what I have gathered from books. I do not want any compensation to be given for taking away rights over waste lands, forests and irrigation sources from the janmis ; at the same time, I do not want them to lose any other rights which are theirs. As regards irrigation sources, I have no information. As regards waste lands, free grazing has been allowed till recently, but it is now being prohibited. That prohibition must be cancelled and cattle should be allowed to graze freely. If any persons want waste lands for cultivation, they must be given them. It does not matter who gives them ; the cultivators must get them. The janmis must not have the freedom to refuse to give such lands to people who ask for them. There are various grades of intermediaries in this taluk and they should be eliminated. I thought that when fair-rent was fixed, the intermediaries would automatically disappear because they would find it unprofitable to continue, and they would drop out. The value of improvements due to the sub-lessee is being set off towards the arrears accumulated by the immediate landlord and the superior landlord files a suit including both of them. That ought to be prevented. There seems to be nothing else needed. The tenant should get at least half of the net income. The Government dues, the janmi's rents and the rent to the intermediaries should be met out of the balance. The actual cultivator as the man who works in the fields, ought to get half of the net income. The yield of an acre of land of paddy will vary in different places from 500 to 600 edangalis. I have no personal knowledge of it as I am not a cultivator of paddy lands. I have got 8 acres of garden lands, both janmam (6 acres) and kuzhikanam (2 acres). I am holding kuzhikanam directly under the janmi. I am in direct possession of the 2 acres. I got about Rs. 20 for the last two years each year. I have to pay Rs. 16 as rent. The janmi is paying Rs. 3 assessment for these 2 acres. My cultivation expenses are about Rs. 10 to Rs. 12 a year. There are about 70 trees in both the acres together. As regards garden lands, the present provisions of the Act are not brought into force. If they are brought into force, I will be satisfied. The janmi should be satisfied with Re. 1 for the two acres of land. The price of coconuts was formerly higher and the rent would have been a little more. It is not possible for the tenants or the lessees to pay renewal fees. I do not want them to be spread over 12 years if they are not abolished, because it will be troubling the tenant each year whereas it is now only once. Even if the renewal fee is not abolished, it is not necessary to have the renewal document written on each occasion. When the tenant has to relinquish his interest to the janmi, he must be paid his kanam and the value of improvements. As regards bona fide cultivation, the extent required for direct cultivation should be fixed. If a janmi has got 100 acres already, he must not be allowed to evict further, because he will not be able to cultivate a greater extent. A person can conveniently cultivate 5 acres of wet land and 10 acres of garden lands. I would allow fixity of tenure to kudiyiruppu holders.

By Sri M. NARAYANA MENON :

About 40 coconut trees can be planted in an acre. I cannot give the cost of planting 70 trees for 2 acres. A tree will take 10 to 15 years to yield fruit. These 10 to 15 years they have to be tended. The actual expenses come to Rs. 6 per acre. The land is a loss to the janmi. But if the price of coconut rises, it will not be. The tenant also loses.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

I am a cultivator. The Association has 2,320 members. Most of them are kanamdars. Kanams here are not created by substantial amounts but some nominal amounts are paid for certain conveniences. Neither party intended to treat them as kanams. I want them to be treated only as kuzhikanams for the purposes of this Act.

By Md. ABDUR RAHMAN Sahib Bahadur :

No right of compulsory purchase is necessary for the cultivating tenant if fair-rent is fixed. If compulsory right is given, most of the tenants will not be able to purchase. I am not able to say what will be the extent of kudiyiruppu in an urban area but I am for giving fixity of tenure for kudiyiruppus in urban areas. Our Association came into existence 2 years ago. The subscription is two annas yearly. We spend the money on the conduct of the Association and for strengthening the Association. There are cases where janmis have refused to grant waste lands for cultivation. The janmis do not give any reasons for their refusal. They only say that it is their janmam land and they do not like to give it.

By Mr. R. M. PALAT :

After the Peasants' Association was organized, the janmis have been refusing to give waste lands in order to threaten the Association. I object to the Government collecting the michavaram along with the revenue and handing it over to the janmi, because it will be a great hardship to the tenants. The Government will make attachments even for short delays. Collection of rent is better left in the hands of the janmis. I cannot say whether it would be better if the Government took over all lands. I object to the collection of feudal levies even if they are shown in the documents. Such levies may have been in the minds of the landlord and the tenant when the land was leased. I have not heard of the janmi giving any contribution to the tenant; on the other hand, the tenant has always to pay to the janmi. Receiving such levies should be penalised and not giving them. There is a difference between the janmi and the tenant. The tenant will be forced to give. In Kurumbranad taluk, the janmis may be able to pay the value of the improvements if the tenants surrender their lands. I cannot say definitely. I do not think such surrenders will become a trade. Even if the renewal fee came into existence by way of consideration, still I maintain that it need not be paid. The Act must be applied to Gudalur and Kasaragod, because the conditions there are similar. I have gone to some places in South Kanara, but not to Gudalur. I have not studied the tenancy question in South Kanara. If a janmi has only 3 acres and he himself plants coconuts, he is a cultivator, but not a cultivating tenant. He has only to pay his revenue to the Government. He has none of the disabilities of a tenant. I have never said that janmis are not the owners of the lands.

By Sri C. K. GOVINDAN NAYAR :

The wages of agricultural labourers here are very low. They should be five or six annas a day to be a living wage. At present women working in the field may not be getting even one anna. To make it a living wage, it must be at least three annas a day.

The cultivation expenses which I have given are only approximate. They have been arrived at after taking the wages as they are to-day. The wages that the labourers are getting must be tribled in order to make them a living wage. In Kuttiyadi and other places women get three annas. But there is no standard of wages now. Women workers get one or one and a half measures of paddy a day. Agricultural labourers can become members of my Association. I do not know how many of the members are agricultural labourers. The majority of the members of my Association are kuzhikanamdars.

By Md. ABDUR RAHMAN Sahib Bahadur :

I can give the notice published by one janmi of this taluk to the effect that thereafter he is not prepared to lease out lands. The other items in the nature of feudal levies were inserted in the documents, because the tenants could not get lands for cultivation otherwise.

By Mr. R. M. PALAT :

The tenant pays the rent and the revenue. If similar land is taken from the Government, the tenant will have to pay much less. In the case of Kuttali lands, for instance, the tenant has to pay twice the assessment as rent including the assessment. The assess-

ment is 10 annas per acre. What I have been saying till now is about punam cultivation. My experience regarding this matter is confined to punam cultivation. The Government have given the Kuttali forests for punam cultivation. I have no direct knowledge of kuzhikanam lands taken either from the janmi or from the Government. There is no definite scale for kuzhikanam leases. I am not able to say whether it is more advantageous to take the lands on kuzhikanam from the Government or from the janmi.

By Md. ABDUR RAHMAN Sahib Bahadur :

The Peasants' Union have made statistical enquiries about cultivation expenses.

85. Sri E. Govindan Nayar, Advocate, Nadapuram.

1. (1) The origin of 'janmam' seems to be rooted in the original possession or occupation of the first settlers in Malabar. The word denotes origin and corresponds to 'Muli' or root in South Kanara. Therefore it denoted the absolute and full proprietorship in the soil and in all that is above and below the soil. It was 'occupation' ripened into full ownership.

(2) The word 'kanam' has arisen from the Malayalam word 'kanunnu', to see. The possession by or the right of the cultivator or tenant could be easily 'seen'; it was something which the world could easily see; possession or right of the janmi on the other hand was something which could not be seen; it was something which one could not perceive by the eye. The word 'kanam' might have come to be applied for another reason also. A tenant in securing a leasehold had to make several kinds of small payments, for example, a small fee for 'oppu' (signature), 'suchi' (writing fee), 'thirumulkalcha' (a fee for audience with the lessor), and 'avakasam' (premium for the lease). But all these spent themselves out with the securing of the leasehold. They were spent out; they became exhausted, and, in fact, did not remain to be 'seen' later; but if you made another small fee or payment, that remained even after the termination of the lease; this was called 'kanam' because it remained to be 'seen' by the tenant; it had to be returned by the janmi to the tenant and he can thus 'see' his kanam even after the expiration of the lease. Even a payment made by the bridegroom to the bride on the occasion of marriage among the lower castes is called kanam money (kanapanam) because, on divorce (which happened according to the sweet will of the parties) this money had to be returned. Whether the use of the word kanam arose in either of the above two ways, there is nothing in the origin of the word to denote permanency; in fact, the idea of the returnability of the kanam money on the contrary emphasises the redeemability of the tenure.

(3) When a land has been given to a tenant so that he may reclaim it by planting improvements it is called a 'kuzhikanam'. So originally it arose from the grant of land for plantation. It is significant to notice here also that what is 'seen' (from the word kanam) is in pits or 'kuzhi', i.e., improvements planted in pits by the tenants.

(4) 'Verumpattam' means simple rent. A man who cultivates merely to pay over what is gathered to another as rent or 'pattam' and who therefore practically got very little for himself is called a 'verumpattamdar'. It would appear he was originally an agricultural serf who had no interest in the land but who later became dignified into a verumpattam tenant (though a tenant at will). Or, it may be that the word arose in contradistinction to kuzhikanam, because the verumpattam tenant had to go away on the expiry of the period empty handed or with bare hands.

2. The janmi had absolute, full, unfettered private ownership or dominion in the soil. My reasons are briefly indicated below :—

(*a*) Ancient Hindu Law recognized full private proprietorship in the land (Manu. Chapter 9, sloka 44), and the Hindus from the East Coast having migrated and settled down in the West Coast would naturally have carried over and retained the legal notions current among them. Full proprietorship could not therefore have been unknown to them. After having settled down in a locality, the area over which any one could have exercised domination by occupation became his janm.

(*b*) The various ancient documents collected and translated by Mr. Logan and published in Volume II of his Malabar Manual conclusively establishes in my opinion that absolute dominion in land was a well-known thing in ancient Kerala. Such ancient documents from Cochin and Travancore also confirm the same view.

(*c*) I am not aware of any writer or thinker or anybody else who has studied the subject having ever denied the full ownership implied in the right called janm. Mr. Logan almost thought that janm and kanam denoted co-ownership; he thought both together were the full owners. This view is entirely negatived

by the ancient documents published by himself. The late Mr. K. R. Krishna Menon, a stout champion of kanam tenants himself criticises the view of Mr. Logan, then Commissioner in Malabar, vide paragraph 14 of his report above referred to, in which Mr. K. R. Krishna Menon says: 'It would be impossible for the Commissioner to establish his new proposition that no private property existed in Malabar before the commencement of the British Rule.'

Kanam tenants were originally redeemable tenants only:—My chief reasons for this view are shortly indicated below:—(*a*) The existence of special perpetual tenures even in very ancient times (karangari, janma-kozhu, kudima, saswatham, etc., conclusively negatives the theory that kanam also was concurrently a permanent or irredeemable tenure; (*b*) Deed No. 19 in Logan's collections of deeds of the year 1666 A.D. shows a kanam being converted into a 'karayma' or perpetual lease. This would have been a futile proceeding if the kanam was also permanent; (*c*) The existence of the undoubted system of renewals of kanam strongly points to the conclusion that permanency was not a characteristic of the kanam, because a renewal, implying a new adjustment, is improper and uncalled for, if the tenure were permanent; (*d*) Originally kanam tenure carried with it an element of automatic redemption as pointed out by the Board of Revenue in 1818, Mr. Logan and Sir Charles Turner. Under the customary law an amount varying from 13 to 20 per cent would be deducted from the kanam money on every renewal. In other words, this points to the customary way for the gradual extinction or redemption of the kanam itself, showing thereby kanam could not have been inherently a permanent tenure; (*e*) Is it not strange that on the establishment of the British Courts in Malabar not a single tenant set up the irredeemability of his tenure as a defence in a suit in ejectment? Can it be that the vakils of these times and the Munsifs and other Judges belonging to Malabar suddenly forgot that kanam was irredeemable, if it was really so?

3. Judicial decisions have not effected any unwarranted changes in the rights of the landlord and the tenant in Malabar except possibly in one incident, viz., the legal imputation of a term of 12 years in the absence of any fixed term. We have fairly old accounts left by several independent writers as regards the incidents of the tenure some time before or just after the British Courts began to mould or declare the laws relating to the land—

(*a*) A Dutch writer and traveller (1743) Jacob Canter-Visscher is quoted as referring to the restoration of kanam money before redemption is allowed.

(*b*) Mr. Farmer (1793) speaks of kanamdars as farmers who had deposited certain sum of money as security for payment of rent to the 'jelmkars'.

(*c*) Articles settled in 1793 between jelmkars and kanakkars speak of the rights of the former to obtain 're-possession.'

(*d*) Doctor Buchanan's Journal (1800) speaks of the right of janmi to 're-assume' the estate.

(*e*) Mr. Warden's report in 1801.

(*f*) Mr. Walker's report in the same year.

All these show that British Courts have only faithfully given effect to what had been ascertained by impartial observers as the incidents of the various tenures. I believe it was only Mr. Logan and nobody else who thought that British Courts have imported unwarranted notions, but his theories were soon after exploded by the learned criticism of Sir Charles Turner, and at present have no champions to support them (as Justice Sir Sundara Ayyar remarks in his book on Malabar Law). Notwithstanding all these, it is possible that before the advent of the British, the kanam tenant enjoyed practical immunity from ejectment and he and his family hereditarily enjoyed the land. Subject to the liability to renew, the kanam tenant had a conditional fixity, and could be ejected for specific reasons. Renewal was a liability, and not a right as it has come to be now.

4. (*a*) Yes: I have not yet come across any evidence or any circumstance which shows or tends to show that at any time in the history of Kerala, the Government or the then King or the State had or had claimed any right over lands including waste and forest lands, and therefore, I think British authorities were justified in presuming all lands to be private lands. (9 Madras, 175, reflects the correct state of affairs.)

(*b*) & (*c*) I would in public interests place some restrictions on the rights at present enjoyed by the owners of waste lands and forests. I would like to confer on the Government not the right 'to take possession' (as the questionnaire of the Committee suggests but only a right to grant leases to prospective tenants to reclaim and improve waste and forest lands for and on behalf of the janmi, or the landlord entitled to possession subject to the following conditions:—

(1) A grant of such lands should be on lease only (either verumpattam or kuzhikanam).

(2) Though the lease is to be granted by the Government the lease shall be deemed in law to be granted on behalf of the janmi or the landlord then in possession. If the waste land or forest was in possession of janmi, the lease shall be deemed to be a lease granted by the janmi ; if it was included in a kanam or other lease granted by the Government, it shall be deemed to be a lease granted on behalf of the kanamdar or other landlord, who was entitled to possession.

(3) It follows that it should be specifically declared that such lease will not prejudicially affect the right of the janmi or other landlords. We ought not to repeat the mistake committed formerly in granting 'cowles', under which 12 years after the granting, the janmis' rights might be imperilled ; (13 Madras, 89, 21 Madras, 169).

(4) The extent of the area leased to a cultivator should not ordinarily be above 10 acres.

(5) The term of the lease should be forfeited if the grantee sells to a non-cultivator or sublets.

(6) The lease should be drawn up in the name of the landlord and the rent should be made payable to him.

(7) The tenant should have a right to hold for a term of 24 years, if he does not commit default in payment of rent for two years.

(8) There should be an adjustment of rent at the end of the first 12 years and thereafter on the expiration of every 12 years.

(9) The revenue should always be payable by such tenant only.

(10) A premium or fee of Rs. 3 per acre may be collected from the tenant as compensation to the janmi or the landlord. The rent may be fixed at the rate of 8 annas per acre for the first 12 years.

(11) On application by parties, requiring the land for their bona fide cultivation or residence, the revenue authorities may be permitted after notice to the opposite party to grant such lease after hearing the parties ; no appeal from that decision should be permitted. Costs of stamp and registration should be borne by the tenant.

Note.—Chapter VII in Sir Charles Turner's minute and the 'Alternative scheme' drawn up by Mr. Logan as a member of Sir T. Madhava Rao's Commission (1884) where he suggests the grant of occupancy pattas would give us useful hints in drawing up this scheme.

(12) I would also add that these waste lands being unsurveyed and unoccupied might be subject-matter of several litigations. So I would enact that the tenant introduced by the Government could not be actually ejected by the rightful landlord whoever he might be. In other words my idea is such a 'Sircar-lease' should run with the land and be affixed to the land, as it were.

5. (*a*) I think it is highly desirable to simplify the land tenures in Malabar. I had submitted to the Raghavayya Committee a rough draft of my ideas in the shape of a Bill and that Bill which should be available among the printed papers might be considered in this connection. I would give legislative protection only to the tenant in actual possession or cultivation. I would not give fixity or the right of renewal to intermediaries. It would be unjust to give fixity to kanamdars and other intermediaries ; because in effect it tantamounts to compelling janmis to pay interest on kanams. I shall only cite two instances of authenticated accuracy. Kizhakke Kovilakam, one of the biggest janmis of Malabar has 4,606 kanam tenants under it, and the total kanam amount due to the tenants is Rs. 2,68,153, though each individual kanam amount is only a small amount. Surely an encumbrance of more than 2½ lakhs is not a small or nominal amount. The kovilakam annually pays nearly half a lakh of rupees as interest on this. Again take the case of the Raja of Kollengode who is a member of this Committee. There are 232 kanam tenants under him and the total kanam due to them by the Raja is Rs. 1,31,372–2–10 and the interest that he pays is about 30 per cent. If this is the state of affairs in South Malabar, among the big janmis, the condition of small janmis, and the condition, generally, in North Malabar would be certainly worse. It therefore seems atrocious to make kanam an irredeemable debt of the janmi.

I would not eliminate the janmi. I would enact provisions to give fixity of tenure to the actual cultivator or occupant. I would give him the right to eject or redeem the landlord or landlords above him, up to the janmi, on payment of value of improvements or kanam due to those intermediary landlords. I would similarly give right to the janmi to redeem or to eject the intermediaries or tenants below him, up to and exclusive of the tenants in possession. I would leave this double process of elimination of intermediaries to work according to laws of competition and economics. The question of any compulsory compensation does not arise because I do not provide for legislative compulsion in the acquisition. I claim my proposal is not noval ; I believe it is implicit under the familiar sections of the Transfer of Property Act that a janmi can redeem and that an under-tenant could redeem up.

(*b*) (1) In the light of the above, the question does not arise; even otherwise in public interest, I see no reason why it should not be allowed.

(2) I would not limit the area in possession of an actual tenant; if it is found necessary 25 acres of wet and 5 acres of garden land would suffice for a normal Malabar Tenant Cultivator.

(3) I would absolutely prohibit the sale by cultivators to non-cultivators. The land should be made resumable by the landlord on such sale.

(4) A simple tenant who has stepped into the shoes of a kanam tenant by the process above mentioned should under certain circumstances be subject to redemption but not actual ouster or rejection; he might be allowed to hold as a simple tenant notwithstanding redemption by janmi.

6. No; except the actual tenant in possession.

7. (*a*) The janmi should get two-thirds of the net income and the cultivator-tenant the remaining one-third. In this view, the renewal fees ought to be abolished and revenue should be payable by the janmi. I would not specify any share to the intermediate tenure-holder, as I contemplate their gradual elimination. Till such elimination takes place, contracts between the parties would of course operate.

(*b*) I know hundreds of instances in North Malabar where the rent payable to the janmi is much less than the revenue payable by the janmi to the Government. Mr. Brown's estate at Anjarakandi is being yearly ruined mainly by this drain; Valia Purayil Keyi's tarwad at Tellicherry complains about this disparity; I believe, but I speak subject to correction, the Rajas of Chirakkal and Arakkal are not entirely free from this difficulty. There are also several similar janmis who have similar complaints. There are of course several other janmis whose rents have been and even now are very much lower than Government revenue. But in their cases, I believe the revenues have been made payable by the tenants.

(*c*) If the janmis' share of the net produce is two-thirds then, the revenue should be payable by the janmi alone. *If this proportion is not ultimately adopted by this Committee, then, the revenue should always be made payable by the kanamdar or the tenant in possession and their interests in the holding should be made liable for the claim of the Government and not that of the janmi.*

8. I would allow the provisions of the Tenancy Act with reference to fair rent to stand provided that the revenue is not made payable by the janmi. For example, if one-fifth of the produce is the share of the janmi under section 9 of the Tenancy Act, when the improvements belong to the tenant, how can the janmi be called upon to pay revenue out of that one-fifth? We have to take it that in future there will be only tenants' improvements in the land and not janmis'. I believe that when the one-fifth was taken as the share at the time of the Malabar Tenancy Act, it was contemplated or understood that the tenant was to pay assessment. But somehow or other such a provision is now found missing.

9. As matters now stand, especially in view of the existence of a large number of graded tenants like sub-tenants, under-tenants and tenants under under-tenants, between the janmi and the actual tenant in possession, it would not be possible to fix fair rent in proportion to the assessment. This would be possible only if on a particular land we have only one tenant and the landlord to deal with.

10. In case of remission of revenue for failure of crop, the tenant should be entitled to a remission of rent in proportion. But in case of reduction of land revenue, I see no reason why that should be passed on to the tenant, unless he is made legally liable to pay revenue in future.

11. It should be practically immaterial with what measures you measure rent or paddy so long as the quantity of paddy is an ascertained quantity. I do not believe that there are any real or material defects or evils now felt either by the tenant or the landlord with reference to weights or measures. Neither have I any objection to their being standardized, but I wish to emphasize that in the guise or process of standardization you should not below the belt by reducing the rent on the sly.

12. The renewal and the renewal fees have been traced by some persons to the ancient festival called 'mamankam'; it has been traced by others to the change in the personnel of the feudal landlord, thus occasioning the renewal called 'Purushantharam.' But it cannot be said that there is proper evidence or reliable historical material for such views. I believe the system of renewal fee was originally based on a basis of profit-sharing between the janmi and the kanamdar. The kanam was a lease of extraordinary profit to the tenant; and one immemorial incident was that the tenant had to give renewal fees to the janmi out of those profits. In fact, renewal fees amounted to a prepayment of part of the rent every 12 years.

13. (*a*) I am in favour of allowing a renewal or adjustment of rent alone every twelve years, without liability for any renewal fees, but I am in favour of abolishing the system of renewal fees because in my view most of the ills we in Malabar are subject to in respect of the land tenure have arisen from a misuse of renewal and renewal fees coupled with the anxiety of karnavans to provide for their wife and children by extorting large renewal fees. If renewal fees are to be abolished it follows that rent should be enhanced. Otherwise if you retain the present 'Michavaram' and reduce or abolish renewal fee it would be a monstrous injustice to the landlords and would amount to robbery.

(*b*) & (*c*). These do not arise in view of the above answer.

14. No.

15. (*a*) I have answered this in answering to question 5.

(*b*) Evictions have not been made on unjustifiable grounds after the Tenancy Act was passed into law. The grounds for eviction as specified in the Act need not be altered.

16. I am not in favour of abolishing or restricting the rights referred to under this question.

17. (*a*), (*b*), (*c*). The present provision in the Act relating to 'kudiyiruppu' may be allowed to stand, except that 'kudiyiruppu' within the municipal areas may be excluded from the operation of the Act.

18. No change whatever in the present law is called for. No time-limit except the present one of 12 years may be fixed. By non-execution of the decree, the tenant obviously does not suffer; he cannot complain if the janmi does not expeditiously ejects him.

19. So far as I know, none.

20. No.

21. Yes.

22. (*a*), (*b*), (*c*). These questions relate to legal processes. In going through the voluminous literature relating to Malabar Tenancy problems one finds that almost all are agreed that there should be some procedure to expedite and simplify the law relating to recovery of arrears of rent. As a legal practitioner intimately acquainted with the conditions affecting North Malabar, I can say that the tenantry do not pay up their arrears whether they be tenants in possession or intermediaries. The situation in South Malabar seems no better (see page 69 of the opinions published by the Government relating to Mr. Krishnan Nair's Tenancy Bill being the opinion of Rao Bahadur K. Srinivasa Rao who was then Estate Collector and the statistics collected by him). Every year the situation only deteriorates. Huge arrears, I fancy, amounting to crores of rupees would be found to be the arrears if statistics are taken. Something should be done to remove this chronic state of affairs. It injures the janmi and the tenant alike. When once the arrears accumulate there is no inducement to pay further. No doubt the Madras Agriculturists' Relief Act has cut the Gordian knot and relieved agricultural indebtedness, so far as landlords and tenants are concerned, to a very great extent indeed. Therefore, it appears to me that this is an advantageous juncture when something effective ought to be done to prevent the accumulation of such arrears in the future.

In the Bill that I have submitted to the Raghavayya Committee, I believe (I regret, at present, I have not got the reference with me) I have made some suggestions which, I submit, are not impracticable or unduly severe. Of course all are agreed that some summary procedure, simpler and less costly is essential, but I am not aware that any definite details have been put forward till now. The summary procedure till now suggested and enacted under the rules is futile and has benefited none. I may be permitted to suggest the following:—

(1) Though the decree for arrears of rent may declare a charge over the tenancy interest, the elaborate procedure relating to mortgage suits and decrees, preliminary and final should be abandoned. A simple decree and that too, one decree, ought to be made to suffice. As matters now stand a lot of time is wasted in the useless waiting after a preliminary decree is passed till it may ripen into a final decree. Even to take a copy of the decree, now, would cost a couple of rupees. All this is extravagant and a round-about procedure.

(2) I would adopt the procedure laid down in the Civil Procedure Code for Summary Suits on Negotiable Instruments under Order 37. On the first hearing day, the landlord should be entitled to a decree, and the defendant should be allowed to plead only if the Court is satisfied, that he has a proper defence to make, and that he gives proper security for the amount sued for or for the admitted amount, or deposits the same. If the Court, on hearing the defendant, finally finds that the janmi has made a false claim, then the court should be empowered to order an amount not exceeding twice the amount sued for as damages to the tenant.

(3) It must be specifically enacted that the Courts *shall* in such rent suits appoint receivers for the estate or interest of the defaulting tenant if the plaintiff applies therefor.

(4) To avoid frivolous and harrassing pleas, it is also essential to enact that all money payments towards rent should be evidenced either by registered receipts or postal money order coupons, or printed counterfoil receipts only. The trial of proceedings under the present or proposed Act should not be done by revenue courts, but by the ordinary civil courts of the land. If renewal fees are to be perpetuated, then the landlord should have the right to file applications for recovery of renewal fees. I would also suggest that in following the summary procedure the court-fee should be computed as if the suit were of a small cause nature.

By the CHAIRMAN :

I was actively working for the janmis during the time of the Raghavayya Committee. I have been a lawyer for the last 25 years. My Thavazhi pays an assessment of about Rs. 1,000. I am both a janmi and a tenant on kanam and otti right. Otti is a higher right than kanam. Occupation ripened into ownership and that was how the janmam right was acquired. The land over which a person claimed dominion must be deemed to be under his occupation. The various local chieftains claimed dominion over extensive tracts and thus acquired janmam rights. In the beginning it could not possibly have been that they occupied physically or actually cultivated the entire land over which they claimed dominion. I do not believe that kanam tenants were money-lenders as such. They were in actual possession of the lands and cultivating them. Even in the Joint Commissioners' Report you find certain persons referred to as slaves or *adians*, who might be the farm labourers. But for all purposes the kanamdars may be deemed to have been the actual cultivators. I do not suggest that the kanamdar was a tenant at will of the janmi. He had some sort of conditional right. He was less than a perpetual tenant and more than a tenant at will. So long as the kanamdar paid his rents regularly, effected renewals according to the custom of the land and did not deny the landlord's title to the land, he was allowed to continue. In olden times he had also to do some feudal service. Under these circumstances, he was practically though not legally immune from redemption. The records of the Tellicherry Court might be examined. Those records will show that no defendant ever pleaded that redemption was not an element of his kanam tenure. I have not scrutinized the records. A scrutiny of the records of 1,800 to 1,810 might be useful. They are available in the Tellicherry Court. The land tenures in Malabar and in the neighbouring States of Cochin and Travancore are similar. The proclamation issued by the Maharaja of Travancore in 1829 to the effect that according to the ancient usage of the State kanam tenure was irredeemable as long as the kanamdar paid his rents regularly, may be some indication of the incidence of land tenure here also. From a consideration of the shares enjoyed by the kanamdar and janmi as given in the Joint Commissioners' Report you may draw two inferences. You may say that he was a permanent tenant subject to forfeiture under certain conditions. Or you may say that he was a redeemable tenant who had a right to renew under conditions. I agree that Canter Visscher's account of Onam is not correct in all details. Apparently he was under the disabilities which a foreigner would have suffered at that time in making investigations in Malabar. We need not rely on every detail given by him. I cannot say how the presumption of private ownership of all lands in this district arose. Although the kanamdar was the actual cultivator in olden days and his connexion with the land has been more intimate than that of the janmi, I do not see any reason why the kanamdar as such should be protected unless he actually cultivates the land. If he is eliminated he must be given compensation. I would give the janmi the right to purchase the rights of the kanamdar. I would also give the verumpattamdar the right to purchase the rights of the kanamdar. The kanamdar will be placed in a precarious position and will disappear. He has been in enjoyment of the land for the last 100 years and he should be satisfied with it. I do not see any reason why a person who brought the land under cultivation 100 years ago should be legislatively protected now. I do not protect the janmi at all. I only suggest there should be no spoliation of his rights. I take it that as matters now stand, we want somebody as owner of the land. But if you want to abolish all land-owning classes, there is no objection to eliminating the janmis also. If anybody is to be eliminated, I would prefer the kanamdar to be eliminated, because the majority of them may be said to belong to a parasitic class of persons at present, whatever they might or might not have done 100 years ago. I do not suggest the compulsory elimination of the kanamdars. I leave it to economic forces.

If you can make provision guaranteeing the rent to the janmi, I have no objection to protecting the under-tenant. In other words, if the tenant deliberately keeps the rent in arrears and if the sub-tenants' improvements are not liable to be set off, then the landlord goes to the wall. One can easily take a lease from a landholder and sub-demise it to one's wife and children and the tenant can refuse to pay the rent. I have no objeotion to see

that the sub-tenant's improvement value is not set off, but the hardship of the janmi should be guarded against. I may however add with such experience as I have in litigation in the courts here that such instances are very very rare. If the sub-tenant were authorized to pay rent direct to the janmi so that the holding may be free from any further liability, that would to a great extent eliminate the hardship. If this is not done, the law of set off must operate. This hardship will however be reduced if some method can be discovered by which rent can be more easily collected. I have no objection to having the rents of all lands in the same locality fixed at the same time by a committee. At any rate, so far as North Malabar is concerned, that will be a good thing. But I think instead of a committee there may be one officer. Until the kanam tenant is eliminated, renewal fees should not be abolished. It is not necessary to execute documents every 12 years and incur expenses by way of stamps, registration, etc. If a landlord is in possession of 100 acres, I see no harm in his evicting tenants for that purpose. So long as we do not proceed on socialistic or communistic principles, I believe the country will be in no way worse off if the landlord himself cultivates his lands. I do not think he should be prevented from evicting on the ground that some people will be thrown out of employment. All agricultural lands are for agricultural purposes; and so long as A or B goes on cultivating, what does the country suffer? I am in favour of encouraging the owner to take up more and more lands for cultivation himself. I do not believe that all the landlords will cultivate their lands themselves. It is not practical. If the right is to be abolished you should be prepared to pay compensation to the owners and distribute the lands among tenants. Twenty-five acres would make an ideal farm.

So far as North Malabar is concerned, this idea of kudiyiruppu is a fiction. Every paramba has got a house in the centre, and if you are going to classify it as kudiyiruppu, then practically there will be no cultivated garden lands except kudiyiruppus. I cannot suggest a restricted definition of kudiyiruppu. Even the present law works to the disadvantage of the landholder; at any rate I would like to leave the matter as it is for the present.

By Sri M. NARAYANA MENON:

If chieftains came into possession of the lands by confiscation, it must have taken place some centuries ago. Waste and forest lands should be controlled by the Government because there will be greater benefit to the people generally and not because the janmis came into possession through confiscation. Since we find that large extents of waste lands are now left uncultivated, I simply suggest a method by which they can be brought under cultivation, without prejudice to the rights of the janmis. I do not think they were in possession of such lands because at that time they were the custodians of public properties. Such ideas are entirely foreign to our age-long ideas of kingship. I think the system of village communities existed in Malabar. I have not come across cases in North Malabar of grazing grounds being set apart for the benefit of the public. The janmis in North Malabar asserted their rights and there was nobody to deny such rights. It is exactly on the same footing as the law of adverse possession. The kanamdars improved the land and got sufficient compensation by paying only a nominal rent. The tenant invested labour and capital on the land on the understanding that such rights had to be paid for. I do not believe that the janmi's monopoly of land in Malabar has stood in the way of self-assertiveness or the dignity of large masses of kanam tenants who are mostly Nayars. On the other hand, kanam tenants are asserting themselves so much that they want to oust the janmis. It is quite possible that some janmis might oppress the kanamdars, but oppression is not the monopoly of janmis alone. I do not think that is the real state of affairs in South Malabar. There is a clear distinction between kanam and panayam. Kanam is a tenure in land while panayam is something like the relationship between a creditor and debtor. But when you take all kanams of one particular janmi, they represent a debt from the janmi's point of view. Renewal fees were part of the profit. The kanamdar made an enormous profit and shared it with the janmi. It was collected in a lump sum because of the existence of the marumakkathayam system here with the incident of the karnavan managing the whole thing. The karnavan wanted to benefit his wife and children and if he got a lump sum, he could easily give it to them. Renewal was part and parcel of the tenure. Once it is conceded that it is a liability, the incident of renewal negatives the right of permanency; renewal certainly implies redeemability. This idea of renewability which is inherent in the kanam tenure automatically negatives the idea of irredeemability. If it is a question of fact, there are kanam tenants who have been on the land for 500 years. If all the conditions were fulfilled, they were not ejected at all. I think in the olden days, renewal had to take place, whether the tenant wished it or not, when the landholder died. The tenant had to go and make a renewal of allegiance to the successor; and payments made at the time were a token of allegiance. The question whether the kanam was or was not redeemable arose during the time of Logan. I believe that the claim for some sort of fixity for the kanam tenant was first made by the late Mr. K. R. Krishna Menon, Sir C. Sankaran Nayar's father. Mr. Karunakara Menon, Deputy

Collector, took it up. Then Mr. Logan was Collector of Malabar and at that time there were certain agrarian riots. These persons being the outstanding personalities of the time and being the first products of the University, their ideas carried some weight with Mr. Logan. Even Mr. Krishna Menon did not go to the extent of saying that kanam was absolutely irredeemable. He simply said that kanam tenure had something more in it than a tenant at will. The kanam tenant had higher rights and they started with the idea that such persons should be protected. Mr. Krishna Menon also drew up a Bill which was confined to the irredeemability of the devaswam lands. Private ownership of land is not foreign even to ancient Hindu Law. If the people on the East Coast gave up their ideas of the laws of Manu, it is their look-out. In lieu of the revenue people had to contribute labour and soldiers. Revenue simply means a contribution to the State. The absence of revenue does not connote anything in regard to the incidence of kanam tenure and private property. Janmam documents 300 years old show that private ownership was known. Revenue in the shape of money was not felt necessary. There should be a renewal once in 24 years for waste lands on grounds of justice. There must be opportunity for adjustment. Three-fourths of the janmis are recent purchasers. Kanamdars who purchased kanam rights did so with the full knowledge of the implications. If in the public interest the elimination of the janmi is called for I have no objection. If the object of the legislation is to make the kanamdar a janmi, then I do not agree. So far as Malabar is concerned economically and politically I do not think the time has come for the distribution of rights.

By the CHAIRMAN :

I believe the so-called suspense in evictions is imaginary. There is no difficulty.

By Mr. R. M. PALAT :

The tenures in North and South Malabar are not similar. Travancore and Cochin are similar to Malabar to some extent. I cannot say that there are no cases where the verumpattamdar has been evicted when he has been paying his dues properly to the landlord. But it is extremely rare. Similarly kanamdars who are paying their dues properly are not generally evicted. There are various tenures in which there are renewal fees. But the wording in those documents is different from the kanam documents. That accounts for the permanency of tenure. If there is to be no distinction between lands in Malabar and the rest of the Presidency, you must immediately repeal the Tenancy Act. It may be true that in every country which has been the subject of frequent conquest the theory is all lands vest in the crown, and where there was no central power the idea never came in. Some big janmis are cultivating. Many petty landlords are actually cultivating. There are many instances of the karnavan giving money and property to his wife and children. It is quite possible that the kanam tenancies of South Malabar were created by the Nambudiri janmis to favour their children. There ought to be periodical revision in favour of the janmi for economic adjustment. The kuzhikanamdars are heavily indebted. The janmis are more indebted than the tenant class. The junior members of the Kadathanad Raja's family are paid about Rs. 25 per month. There is no particular suspense after decrees have been obtained.

By Sri M. NARAYANA MENON :

I had a lease of six hundred acres. I gave it for punam cultivation. I entrusted the matter to a gentleman in the locality in whom I had confidence. The tenants walked off with the income and did not pay. There is an immemorial rate of rent. It is not fixed arbitrarily. The rate does not vary from janmi to janmi. I think it is 10 seers of paddy per acre.

By Sri M. P. DAMODARAN :

The arbitrariness of punam rents will come in not as regards the rate but as regards the extent. Unless you go by the extent fixed by the Menon there will be trouble. There is an immemorial rate. The exact extent could be found out only from the revenue record. The rate is the same almost everywhere.

By Sri M. NARAYANA MENON :

It is assumed that consent is given for fugitive cultivation. I do not approve of it because it destroys forests. In North Malabar this is practically the only income janmis get from their forests. The so-called agents might cause some sort of trouble.

By Mr. R. M. PALAT :

The janmi often has to pay the assessment which the tenant is liable to pay. The Kadathanad Raja's assessment is Rs. 75,000. All of it is payable by tenants. He has been paying Rs. 10,000 to Rs. 14,000 every year for his tenants. There are several such instances where the landlords have to borrow and pay the revenue which by the contract the tenants have to pay.

By Sri A. KARUNAKARA MENON :

In the case of the Raja it is only a few annas rent while the revenue is 8 or 9 rupees. In the case of new janmis, it may be due to the fall in the price of coconuts.

By Mr. R. M. PALAT :

In the case of gardens the janmi has got all the obligations to the Government.

By Sri R. RAGHAVA MENON :

The yield of the average garden land cultivated with coconut trees will be say Rs. 40 per acre gross income. The expenses will be Rs. 15. This will not include assessment which will be Rs. 5.

I agree that there are difficulties in eliminating the intermediaries. It appears to me you cannot make satisfactory legislation and give fixity of tenure to all and sundry. For example in this taluk between the real janmi and the actual tenant there will be 5 or 6 intermediaries. It may not be a practical proposition to clothe all of them with fixity of tenure. If the sub-tenants are allowed to pay all arrears of the immediate landlords to the superior landlords, that makes the system very complicated. The kanamdars can be eliminated because they are not actually cultivating to-day. That is one reason. Though from the standpoint of the tenant the kanam amount is small, from the standpoint of the janmi the kanam amount can be very very heavy. The total amount is 2 lakhs and odd in Kizhakke Kovilakam. Why should the janmi continue to pay interest ?

By Sri K. MADHAVA MENON :

My complaint is in perpetuating the kanam you are making the landlord pay interest on a large amount. Those who do not actually cultivate should be eliminated. A time-limit will injure the tenants.

By Sri C. K. GOVINDAN NAYAR :

The provisions of the tenancy legislation should not be applied to pepper cultivation. From the nature of the thing the produce is not as stationary or as sure as in the case of the other garden lands. It all depends upon the vagaries of the rain on a particular date of a particular week. It is possible that the landlord or the tenant might lose heavily. From the inherent nature of the cultivation it has to be looked upon as a different thing. Consistent with the nature of the yield and the cultivation if you can guarantee some sort of fixed rent as regards pepper I have no objection. If you clothe the tenant with occupancy right you should not give it to a non-cultivator.

Towns are expanding. Competition is growing. The need for Kudiyiruppus is greater. If you are going to create monopolistic holdings it will cause difficulty. In towns house-sites should be freely available. It is a matter of contract and not status in a town. It will be crippling the expansion of the town and the population and creating congestion. If you permit the tenant to surrender and get the value of his improvements, you will be forcing the janmi to pay the value of improvements to the tenants who do not want to cultivate the land as if the janmi is the debtor. Cases where the holdings have become uneconomic are individual cases. I have no objection to fixing the rent of punam cultivation according to assessment. There must be some principle. Twice the assessment will be sufficient.

By Sri K. MADHAVA MENON :

There are large areas of waste lands here. Those who want it now cannot get it. The landlord has not refused permission but he has imposed conditions. As a general state of affairs you cannot say that the tenants had to borrow to pay renewal fees. The kanam tenant has to pay only michavaram which is nominal. To make things equal there is some extra payment which is the renewal fee. Fixity of tenure may be given to the actual cultivator. I do not want any security for rent. The present provision may be abrogated. Most of them are not able to furnish security. Practical difficulties have arisen in the working of the Act in courts. So far as my experience is concerned it is varied from court to court and judge to judge. I won't restrict the present definition of *bona fides* by narrowing it down to present necessities. Once you assume the landlord is the owner he must have the right to cultivate. There is absolutely no harm for the country if A cultivates or B cultivates. There is no harm if 100 tenants are evicted in that way because you have to offset the advantages derived by scientific cultivation. It is not in the interests of the country to evict a large number of tenants in such a way. With regard to kudiyiruppus, there is some sentiment. Kudiyiruppus in North Malabar are different from kudiyiruppus in South Malabar. I want more powers for the landlord for the collection of arrears of rent than for collecting any other debt he may have, for the simple reason that for some years past, the tenants have in many instances deliberately neglected to pay their rents. The present summary provisions are mere eye-wash. A non-cultivating janmi should be given protection because he is the owner of the land. My scheme is that everyone who is cultivating should be protected. My opinion is that all non-cultivating rights should be eliminated except those of the janmis, who cannot be eliminated.

By Md. ABDUR RAHMAN Sahib Bahadur :

As regards cultivation expenses I am content to take the formula laid down in the Malabar Tenancy Act. I doubt whether actually the cultivators spend so much. If the rent is made two-thirds, then there will be no need for renewal fees. As matters now stand, the janmi has to pay the Government revenue, but there can be no increase in the michavaram he gets from the kanamdar. The Government have now increased the revenue after the resettlement and I ask : " Where is the money to come from to pay the increased revenue ? " So my scheme is that the janmi should get two-thirds and he should pay the revenue. After all one-third and two-thirds is the old mamul rate.

By Sri E. KANNAN :

The kanamdars are parasites because they are not cultivating. I do not agree that the kanamdar is the backbone of the country.

By the CHAIRMAN :

In whatever legislation you may propose, the tenant should be forbidden to convert paddy lands into garden lands in the absence of a contract between the parties to the contrary. It should not be left to the discretion of the courts. No landlord will oppressively stand in the way of conversion if it is necessary. What I suggest is that legislation should discourage such conversion. I think the janmis of North Malabar would be much benefited if fair rent for wet lands were fixed at half the gross produce. I do not think it is correct to say that the ancient janmis of North Malabar were never in the habit of taking renewals even before the Act came into force. Small kanams of half a rupee and one rupee which are really kuzhikanams should be classed as kuzhikanams. I have felt difficulty with regard to the definition of separate and separable kudiyiruppus. That is why I have said that it is difficult to define kudiyiruppus in North Malabar.

KOTTAYAM TALUK.

KUTHUPARAMBA CENTRE—9th, 10th and 11th December 1939.

59. Sri T. K. Sankara Varma Raja Valia Rajah of Kottayam.

Note.—This witness sent answers prepared by the Malabar Landholders' Association to the Committee's Questionaire.

By the CHAIRMAN :

We own extensive lands in this taluk. All the three Kovilakams put together pay an assessment of about Rs. 15,000. All our properties are janmam properties. I am a member of the Landholders' Association and I agree with their memorandum. I cannot say how the ancient janmis of Malabar became proprietors. I have seen kanam documents for less than 12 years such as six years and less. But I cannot give any satisfactory reason for saying that this period was fixed after the advent of the British Government. I cannot give any reason for the presumption of private property in Malabar. I do not want the Government to take possession of all forest lands, waste lands and irrigation sources provided the income that the janmis are getting at present is safeguarded to them. I am not in favour of empowering the Government to frame rules to be observed by private owners in working their forests. I do not think it is good to eliminate the intermediaries entirely. If the under-tenure-holder suffers on account of the default of the intermediaries some remedy may be found for that only. The under-tenure-holder may be given the right to pay his rent direct to the janmi. If the janmi is not able to realise the rent due from all his tenants he must be in a position to proceed against the under-tenure-holder in the last resort. If the under-tenure-holder has already paid his dues to the immediate landlord, it is unjust that the value of his improvements should be set off for the default of his immediate landlord. The law may be amended accordingly. The under-tenant may also be given the right to take renewal of a portion of the holding. The present provision for fixing fair rent of wet lands does not work any hardship. Two and a half times the seed is a reasonable rate of cultivation expenses. Paddy lands are described in this taluk by the seed area or by the amount of rent. The present rate is better than 50 per cent of the gross produce. The present rate of fair rent for gardens will work satisfactorily if an amendment is made to the effect that the tenant should pay the revenue also for his trees. I shall send a list of instances where the assessment is more than the income from the parambas ; I would prefer fair rent to be fixed by a civil court, by a commission appointed by the court, rather than by a board. The renewal fee should be paid in a lump sum. I am against an instalment system. The tenants do not find it difficult to pay the renewal fee in a lump. Before the passing of the Tenancy Act, they used to pay it regularly. There have been very few renewals after the Tenancy Act ; the tenants have no fear that they will be evicted and consequently they don't renew. There are legal difficulties in redeeming them. It is fair to ask the tenants to pay renewal fees for as many periods of twelve years as have elapsed after the last renewal. So far as my lands are concerned, no such difficulty has been felt. It is not necessary that documents should be executed every twelve years and money spent on stamp, registration, etc. There is considerable difficulty to prove *bona fides*. I think the words may be omitted. If the court is satisfied on evidence that the landlord wants the land, then he may be permitted to evict. I am against providing any penalty in cases where the landlord lets out the land after the 6 years period. I have no objection to a provision being made in cases of restoration within the six years period that if the court is satisfied that the landlord effected improvements only with a view to spite the tenant, some penalty may be levied. I am against giving permanency to kudiyiruppu holders provided they pay rents regularly to the janmi. If it is given, the present good relations between the landlord and the tenants will not continue. The landlord should continue to enjoy the right to evict kudiyiruppu holders. It is not necessary to fix a time-limit for evictions. A period may be fixed provided that on proper reasons being shown, the court has the power to extent that period to 12 years. Ordinarily, a period of 6 years may do. The procedure for getting rent and renewal fee should be simplified and made less costly.

By Sri K. MADHAVA MENON :

No change is necessary in the existing Tenancy Act except for some better method of collecting renewal fee and rent. Some other changes also may be made ; for instance, land revenue may be made payable by the tenant ; the calculation of the fair rent may be after deducting the land revenue from the gross produce ; pepper cultivation may be brought under the purview of the Tenancy Act, and so on. There may be difficulty in fixing fair rent for pepper gardens as the yield may differ in different areas ; but there is a custom prevailing in these parts by which if the improvements to the garden belong to the landlord, he will get one-third of the produce, but if the improvements belong to the tenant, the landlord will get only one-fifth of the produce. I think fair rent may be fixed on that basis. In suits for land revenue and such other cases various pleas are taken by the tenants which delay matters. The tenant should be permitted to plead only if he deposits the suit amount

beforehand. The tenants are converting wet lands into garden lands to the detriment of the landlord. They should be prevented from doing so. In dry lands the tenant takes a lease of a particular area and actually trespasses into other areas and cultivates. The landlord knows of this only when he gets the assessment notice. Then the landlord is not able to collect the excess portion of the rent or revenue of the excess portion cultivated without permission. The landlord must be given facilities to collect the excess portion of the rent and the revenue. Another ground for eviction should be added to the Tenancy Act besides the *bona fide* construction of buildings. If the landlord wants to raise money to pay off other debts and if he can get money only by the mortgage of the land he must be permitted to do so if the tenant is not prepared to do so to pay off the debts of the janmi. The landlord should further have the facility to get assessed lands converted to unassessed when the land ceases to yield anything profitable.

I cannot say whether the tenants have difficulties under the present Act. I know that some discontent is prevailing.

By Sri A. KARUNAKARA MENON :

One of the reasons for non-payment of rent on the part of the tenants is that the price of coconut has gone down. In cases where the tenant's petition is dismissed on the janmi's plea that he intends to evict, I suggest that a time-limit should be fixed within which the janmi should bring a suit for ejection. There are many janmis who directly cultivate. I cannot give the definition of the word janmi. A janmi need not necessarily have kanamdars under him. If a person has some land he is a janmi. Some people are collecting feudal levies. I have no objection to their abolition.

By Sri E. KANNAN :

I have janmam properties in Calicut, Wynaad and Kurumbranad. There are records to show that my ancestors lived in all these taluks. There are remnants of our ancient fortresses there. The renewal fee is part of the excess profit enjoyed by the tenant. By excess profit I mean the profit that the tenant derives after making allowance for cultivation expenses and the cost of seed. By excess profit I do not mean unreasonable profit.

By Sri C. K. GOVINDAN NAYAR :

The rents charged by kovilakams are very low. I have no objection to payment being made in kind. Many landlords in North Malabar are in debt.

By Md. ABDUR RAHMAN Sahib Bahadur :

The rent for pepper gardens is calculated as two per ten and it is taken every year.

By Sri M. P. DAMODARAN :

The practice of the landlord taking the entire produce of the best year may be stopped and the landlord given his share every year.

By Md. ABDUR RAHMAN Sahib Bahadur :

The intermediaries have been in existence for a long time and they should not be eliminated. I cannot give instances where janmam right was acquired by original occupation. I cannot say whether my family acquired janmam rights by conquest or confiscation. I cannot say anything about the origin of kanam, but documents show that money has been advanced for the kanam right. Elimination of the intermediaries by purchase may happen in time. But I cannot agree to introduce it now. If it is for the betterment of society and for the improvement of agriculture I have no objection to have the land tenures simplified.

By Sri M. NARAYANA MENON :

I cannot give the average yield of one coconut tree, but I know that some trees yield 200 nuts a year. Arrears of renewals accumulate usually on account of the default of the tenant and so he must pay for his own default. There may be instances where the landlords have not sent notices to all the tenants to renew. Landlords should not be allowed to keep the rents due to them in arrears so that they might file suits later on and set off the value of the improvements made by the tenant towards the arrears of rent. It is difficult to file suits even in cases of arrears of rent. It will be more difficult to file suits for eviction on account of the increased cost of litigation. If non-renewal is due to the default of the janmi, he should be entitled to get renewal fee for only one period. Otherwise he must be entitled to get renewal fees for all the periods. There is no objection to a provision that no interest should be charged on renewal fees which are in arrears for more than one period. If the plea of the tenant is found to be true, the landlord may be asked to pay the interest on the amount deposited. There is a difference between other creditors and landlords. The object here is to simplify the procedure in suits between the landlord and the tenant. It

is enough if the tenant deposits the amount which he admits is due from him and then pleads with regard to the amounts which he disputes. Otherwise there is no meaning in providing adsummary procedure. That is my view.

By Mr. R. M. PALAT :

If a tenant builds a shop on the holding and the rent of the shop increases considerably owing to causes which are not due to the labour or capital of the tenant, the landlord should get a portion of the profit. When I said that the tenant might be allowed to plead if he deposits the admitted amount alone, I knew that it would be against the interest of the janmis. It is always open to the tenant to come and pay the renewal fee. There are instances where the renewal fee under the Act is very low. In this taluk, kanam is practically a mortgage and not a tenure. There are documents in my Kovilakam where the period of the kanam is less than twelve years. Generally janmis lease out lands whenever there is a demand provided the customary rent is given. Waste lands are generally leased out for 12 years for cultivation. The rent collected is from As. 4 to As. 8. The land revenue is paid by the tenant. It is collected after the land is brought fully under cultivation. There is no such thing as mamul rent. The rent is fixed by agreement between the janmi and the tenant. If the Government take over waste lands and forest lands, compensation should be paid calculated on the potential income and not merely on the present income derived by the janmi. The person who improves the land and makes it assessable should be made liable to pay the assessment. If the land deteriorates but the assessment is still due to be paid, the janmi should not be made to pay the assessment. Fendal levies were taken into consideration in calculating the rent. When such feudal levies as Onakula are given, the janmis in return give presents such as Onapudava. If any tenant or a member of his family living very near the janmi dies, the janmi generally gives rice or paddy to the tenant's family. Waste lands belonging to the janmis, the kanamdars and verumpattamdars should all be taken over by the Government. There is no customary rate of rent for punam cultivation. The janmis were the first to occupy the land and so the ownership of the land belongs to the janmi. The janmi showed his right over the forests by not allowing others to hunt in the forests. At present the people in the Kovilakam do not go to the forests to hunt, but we have evidence that they used to go and hunt.

By SULTAN ADI RAJA ABDUR RAHMAN ALI RAJA :

At times I have been in arrears in paying assessment, becausetenants do not pay their rents regularly. Sometimes they are not able to pay. Sometimes they do not pay on account of their impertinence. Most of the janmis have to borrow in order to pay the assessment. There should be either a summary procedure for collection of rent, or the Government should collect the rent along with the land revenue and hand over the amount to the janmi.

60. Sri T. Narayanan Nayar, Advocate, Tellicherry.

I don't propose to answer questions 1 to 5 since I have not got sufficient materials for reference.

5. (*a*) No doubt, the land tenure in Malabar can be simplified if all the intermediaries can be eliminated and only the janmis and the actual cultivators are retained. The best way to bring about this result is either to ask the janmi or the actual cultivator to purchase the intermediaries' rights. If it is the janmi who purchases it, he must be given thereafter some more rent by the actual cultivator than the janmi was getting from his immediate tenant till then. If it is the tenant who purchases it, he need pay thereafter only the rent which the janmi was till then getting from his immediate tenant. This variation in the rent receivable or payable must be a consideration for the new investment which either the janmi or the actual cultivator makes in the purchase of the intermediary rights.

But knowing Malabar as we do, which janmi or actual cultivator can find the money for this purchase, is the question. So the practicability of this procedure is very uncertain. So, I think it is better to leave it in its present condition.

The compensation payable to the intermediary must be the capitalized value on the net income he has been getting from the land, if invested at three per cent interest.

(*b*) (1) Except to the extent mentioned in the answer to the above question, I don't think compulsory purchases are necessary.

(2) I think this kind of limitation is unworkable.

(3) This is also not necessary. If the right contemplated in 5 (*a*) is bestowed, the object of the prohibition contemplated by this question will be attained.

6. The under-tenure-holder is at a disadvantage now if his immediate landlord leaves the rent due by him to his landlord in arrears, in having his (under-tenure-holder's) value of improvements set off against such arrears of rent. This is a matter which requires some redress. I think the best thing will be to give a right to the under-tenure-holder to pay out of the rent due by him, his paramount landlord's dues and a liability cast upon his immediate landlord to give credit to such payments and receive the balance only. This will not injure the paramount landlord or the sub-tenure-holder or the immediate landlord.

7. (*a*) The proportion of the produce going to make fair rent as defined in the Malabar Tenancy Act—Chapter II—is a reasonable share of the produce payable by the actual cultivator to the janmi. But the difficulty arises when the question of the liability to pay the Government assessment is taken into consideration. Let us first take the case of a paddy land. Suppose the extent of paddy land is one acre and it is a double-crop land. For the kanni crop, the land requires 40 seers of seed and it yields ten-fold. Then the total yield for kanni will be 400 seers.

	SEERS.
Seed and cultivation expenses	100
Balance ..	300
Tenants' share	100
Fair rent due to the janmi	200
Seed required for Makaram crop is also 40 seers. Suppose it yields eight-fold. The total yield will be	320
Seed and cultivation expenses	100
Balance ..	220
Tenant's share	$73\frac{1}{3}$
Fair rent due to the janmi	$146\frac{2}{3}$
So, total yield in both crops together	620
Out of this, seed and cost of cultivation	200
Tenants' share	$173\frac{1}{3}$
Fair rent due to the janmi	$346\frac{2}{3}$

Now, the question is in view of the above calculation of fair rent due to the janmi, who should pay the Government assessment of the paddy land. The present basis of calculation of Government assessment does not seem to be the yield of the property but the extent. I have not been able to find out the exact ratio which the present assessment bears to the yield on the property. But I have come across an old basis of calculation of assessment, etc., enunciated at about the beginning of the British occupation of Malabar in Logan's Malabar, Volume II, P. ccliii and it is as follows :—

First—On wet or rice grounds after deducting from the gross produce the seed and exactly the same quantity for expenses of cultivation and then allotting one-third of what remains as kozhulabham to the tenant, the residue or pattam is to be divided in the proportion of six-tenths to the Sircar and four-tenths to the janmakar. When the yield in the above example is worked out at this ratio, this is how it stands :—

Total annual income 620 seers.

Out of this, seed and cultivation expenses—160 seers.

Tenants' share $\frac{1}{3}$ (620—160), $\frac{1}{3}$ of 460.

$= 153\frac{1}{3}$.

Government assessment 6/10 (460—$153\frac{1}{3}$), 6/10 of $306\frac{2}{3}$

$= 184$ seers.

Janmi's share $= 122\frac{2}{3}$ seers.

So, Government assessment + janmi's share. $= 306\frac{2}{3}$ seers.

Now, in the calculation of fair rent according to the Malabar Tenancy Act, the fair rent payable to the janmi has been found to be 346½ seers. So, the janmi gets by way of fair rent nearly 40 seers of paddy more than he gets for the Sircar's share + janmi's share according to the basis of the calculation given by Mr. Logan. So, this shows that there is no hardship in the janmi being asked to pay the Government assessment out of the fair rent he receives. I take it that the present-day assessment on one acre of a double-crop paddy land will not be more than the price of 184 seers of paddy. Calculating value at Rs. 8 per 100 seers, 184 seers will be worth nearly Rs. 14¾. So, in the case of verumpattam tenancy, of paddy lands there is nothing hard in the janmi being asked to pay the assessment of the property out of the fair rent he receives.

Now, taking the case of garden lands, the fair rent prescribed by the Malabar Tenancy Act out of coconut trees belonging to the janmi is two-fifths of the total produce and out of the coconut trees belonging to the tenant it is one-fifth of the total produce. So three-fifths of the total produce in the case of janmi's trees and four-fifths of the total produce in the case of tenant's trees goes to the tenant. Out of this the tenant has to meet the expenses of up-keep of the garden and take the balance for kudiyankur. Here the question of the liability to pay Government assessment gives some trouble.

Now let us take 1 acre of garden land. It is difficult to say how many coconut trees will be contained in this 1 acre. It depends upon the whim of the planter. Though the present Malabar compensation for Tenants' Improvements Act allows 120 coconut trees to be planted in 1 acre, the previous Act allowed 60 trees only. I think 90 coconut trees in 1 acre may be taken as a reasonable number. Calculating the yield of these trees to be 30 nuts on an average, the total yield will be 2,700 nuts. Suppose all the trees belong to the janmi. Then the fair rent which the janmi will be getting will be two-fifths of 2,700—1,080 nuts. The remaining 1,620 nuts will go to the tenant for the expenses of upkeep and kudiyankur. Now who should pay the Government assessment—the janmi or the tenant? Now again the assessment as now levied does not bear a fixed proportion to the produce of the garden. It is assessed on the area. Sometimes, it so happens that the yield from the trees in 1 acre of garden land is very small; whereas the assessment is much more than the total yield itself. If the mode of assessing garden lands is by making a share of the produce payable as Government assessment, there would not be this inequality between the produce and the assessment. Now, I understand that according to the rules of asessment, only very few trees are required to treat 1 acre of land as garden land and assess the entire 1 acre treating it as a full planted-up garden. In some cases, this works out a very great injustice. Such hard cases are very common. This is one reason for causing so much of heart-burning amongst the assessees of land revenue. I remember there was a time when each tree in a garden was separately assessed. I think that will be more reasonable and just to the assessees. As the assessment now stands, it is not possible to find out what proportion it bears to the produce of the garden.

Now, I take it that the assessment of 1 acre will not go above Rs. 8. Setting apart 300 coconuts for this assessment, the janmi gets a balance of 780 nuts. Now out of the tenant's 1,620 nuts, he has to meet the expenses of upkeep also. So I think in a case where all the trees are the janmi's, the janmi himself may be asked to pay the Government assessment.

Suppose all the 90 trees belong to the tenant. In that case janmi's fair rent will be only 540 nuts. If out of this, he is to pay the assessment of Rs. 8 which will represent the value of 300 coconuts, he gets a balance of 240 nuts only. Whereas the tenant gets 2,700 — 540 nuts = 2,160 nuts. So I think in such cases the tenant must be asked to pay the assessment. This is only a hypothetical case that I have taken. In practice, the garden will contain some trees belonging to the janmi and the remaining trees belonging to the tenant. In such cases I think the revenue must be borne proportionately by the janmi and the tenant according to the number of trees belonging to each.

If there are intermediate tenure-holders, the burden of the cultivating tenant cannot be enhanced. He can be made to pay only the fair rent. That should be divided between the janmi and the intermediaries according to circumstances.

(*b*) *&* (*c*) The answer to this question is contained in my answer to 7 (*a*).

8. No, if the liability to pay the assessment of garden lands is apportioned between the janmi and the cultivating kuzhikanamdar as I have stated in my answer to 7 (*a*).

9. This question can be answered only if the assessment is made to bear a certain proportion of the income of the property. As things stand at present, the basis of assessment is different from the basis for fixing fair rent.

10. The answer to this question must depend on the reason for giving remission of assessment. If the reason for giving remission is the low price which the produce fetches or the failure of the crop, it is but reasonable that a proportionate remission must be given to the tenant also.

11. They must be standardized and no janmi should be allowed to have recourse to his own weights and measures in spite of a provision to that effect in the rental agreements.

MacLeod seers may be made the standardized measure and where a bigger measure is necessary some measure containing 10 such seers may be authorized. Standardized weights are of very little use in rental transaction. Anyhow, the ordinary pound may be prescribed as the standardized weights.

12. I have no definite idea of this.

13. (*a*) & (*b*) Renewals are necessary only for the purpose of fixing the fair rent after the expiry of the term under the prior holding. I think on the whole, it will be better to retain it in the case of kanam and kuzhikanam tenants.

(*c*) The provisions of the Malabar Tenancy Act regarding renewal require some amendments.

(1) The renewal fee payable must be made to bear some proportion to the rent or michavaram payable instead of the complicated calculations prescribed by the Tenancy Act.

(2) Under the Malabar Tenancy Act, as it stands, there is no provision entitling the landlord to compel the tenant to take a renewal. In some cases this works a hardship on the landlord. He has to wait till the tenant moves in the matter to get his renewal fees.

(3) Under the Act, the kanam tenant and the customary verumpattamdar are not entitled to have fair rent fixed at the time of renewal. They must also be given the right to have the fair rent assessed at the time of renewal.

(4) Renewals must be made to operate from the date of renewals and not from the date of the expiry of the prior term.

(5) Who are the customary verumpattamdars contemplated by the Act must be made clearer.

(6) When a tenant files a petition for renewal, section 23 says that the landlord has only to express his intention to recover the property for purposes contemplated by section 20, clauses (5) and (6), and the petition is dismissed. The landlords express this intention not with a view to carry it out but for fear of the court granting a renewal to the tenant fixing the fair rent of the property. In most cases, the margin between the fair rent and the rent payable under the prior rental agreement is big enough. In spite of the landlord's expression of intention, he keeps quiet after the dismissal of the petition claiming the same old rent from the tenant. When the tenant puts in a second petition, the landlord plays the same trick and gets the petition dismissed. So some effective check must be provided for, to remedy this grievance of the tenant. I think the best thing will be to provide a period of six months within which the landlord must bring the suit to recover. If not, when the tenant brings a second petition after six months, it must be allowed.

14. I don't think any amendment is necessary on this point.

15. (*a*) Occupancy rights given under the present Act to the cultivating verumpattamdars may be retained. In respect of other classes of tenants, right to get renewal is enough.

(*b*) My experience is that, after the passing of the Malabar Tenancy Act, several evictions have been made on unjustifiable grounds. Whenever any bitterness arises between the landlord and the tenant, the landlord files suit to recover basing his claim to recover on his wanting the property bona fide for his own use. This is a case of bona fide requirement being put forward for the purpose of coming within the Act. In most cases it is not possible to find out whether this statement is bona fide or not. Some Judges always take the view that when a landlord says he wants the property bona fide for his own use, courts have to believe them and if they lease it out to anybody after recovery, there is the provision in the Tenancy Act to get restoration from him. Most of these landlords would not have cared to evict the tenant but for the bitterness that has cropped up between them and the tenant. The question is how to remedy this defect ? If this right of the landlord to get recovery for his own use is completely taken away, it will work hardship in cases where really the landlord wants it for his own use. I am unable to suggest a remedy out of this difficult situation.

16. (1) I would limit the landlord's right to evict to cases where he really wants it bona fide for his own use, if there is a means of doing it.

(2) The right to evict on this ground may stand.

17. (*a*) There is the right to purchase kudiyiruppu given by the Act to the tenant. Several kudiyiruppu-holders are not in a position to take advantage of this provision on account of their poverty. So if fixity of tenure is given to kudiyiruppu-holders instead of this right to purchase kudiyiruppu, it will be more advantageous to them. If the kudiyiruppu-holder has left the rent or revenue of the property in arrears, the landlord may be given the right to evict and not otherwise. The kudiyiruppu-holder must be made to pay the Government assessment of the property over and above the rent he has to pay.

(*b*) No.

(*c*) Ten cents in urban areas and 25 cents in rural areas may be considered as the minimum for kudiyiruppu. But this must vary according to circumstances.

18. The provisions contained in the Malabar Compensation for Tenants' Improvements Act must stand. But I would suggest that a time-limit must be placed for execution of the decrees in such cases.

19. Some jammis are, even now, claiming certain things from their tenants whenever there is any ceremony in their houses and such like things. The only thing that can be done is to legislate that such things are not claimable and that no tenant need pay the same.

20. Not necessary to extend the provisions of the Tenancy Act to (*a*) or (*b*).

21. I am not in a position to say anything on this point. I have no idea of the situation there.

22. (*a*) The hardships that have struck me have been already noted above. I have nothing more to say on the point.

(*b*) Rent suits have been allowed to be filed as summary suits already. That is the only conceivable remedy I can think of to simplify the mode of collecting the rent. Some say such suits may be filed in revenue courts where decrees can be got sooner and execution also taken out sooner as in the case of suits under the Estates Land Act. But I have no personal experience of Estates Land Act and of suits filed under the Act in the revenue courts.

(*c*) (1) & (2) are covered by my answer to (*b*).

(3) There is no objection for filing suits or applications for recovery of renewal fees. But if the landlord is given power to compel tenants to take renewals, the question of renewal fee will be settled in the course of the enquiry of that petition and the tenants will have to pay the renewal fees fixed by courts before the close of those petitions and there will be no necessity to file suits or applications for the same.

23. The one great disability pressing on tenants of North Malabar is that for the garden lands they are holding, the rents they have had to pay in recent years is out of proportion to the income derived from the garden. This is due on account of trees bearing less number of nuts and the value of coconuts going down considerably. In most cases rents have been fixed at a time when the coconuts were selling at Rs. 60 and more for 1,000. Now the value has gone down to Rs. 15 per 1,000. So the tenant finds it impossible to discharge the rent due by him. In some cases, rents due are for the period covered by the marupat; in other cases they are for periods after the expiry of the term under the marupat. In neither case, can the tenants get any relief in courts of law. In cases of holding after the expiry of the marupat term, the tenant comes to court with a petition for renewal and the landlord comes and says that he wants to recover the property for his own use and the petition is dismissed. It is not for the purpose of recovering the property for his own use that the landlord said so and he does not choose to bring a suit to recover. Hence the tenant's liability to pay the old rate of rent. Some remedy must be found out to relieve the tenant from out of this difficulty. This is the one hardship which requires some relief more than anything else. This difficulty can be prevalent only in cases where the property leased out is a garden land.

24. The one difference that I have noted between South and North Malabar is in respect of kanam. Kanam amount in the case of kanams in South Malabar is invariably nominal only and so kanams in South Malabar partakes of the nature of a lease. But in North Malabar kanam amounts invariably are substantial amounts and they are mostly mortgages for securing amounts advanced as loan. So they are in substance mortgages with possession. It is not right to subject both classes of kanams to the same incidents.

By the CHAIRMAN :

I have been practising at Tellicherry as a Lawyer since 1906. My tarwad house is in Palghat. I know more of the conditions in North Malabar. In those cases in which the janmi's interests are next to nothing as compared to those of the kanamdar or the kuzhikanamdar I have no objection to eliminating the janmi. It will not be possible for the tenant to purchase the rights of the intermediaries. I have my doubts whether the tenant will have enough money to pay even in instalments if the purchase is financed by the Government. To protect the under-tenure-holder, I would give the right to him to pay the rent direct to the janmi. It would be sufficient if he pays the rent due on his holding even in cases where the sub-tenant's holding is less than the total holding held by the intermediary. If the present law is amended to the effect that the under-tenant's value of improvements should not be set off against the amount due to the janmi by the intermediary, it will work great hardship on the janmi. The intermediary will not effect any improvements to the property and at the time of eviction, the janmi will be helpless. Such of the sub-tenants as have paid their dues direct to the superior landlord may be protected and the others only may be proceeded against. The under-tenant may pay the amount due on his holding direct to the superior landlord, and to that extent the latter's claim will be satisfied. The superior landlord should not get more rent than is actually due to him. I grant that some adjustments will have to be made subsequently. There must of course be some machinery or other by which the rent due by the tenant should be ascertained. For example, a notice may be sent by the janmi to the tenant as soon as he gets the rent from the sub-tenant, and the question of adjustment may be left to be settled by the janmi and the tenant between themselves. Once the under-tenant has paid the rent due by him direct to the landlord, he must get protection. The under-tenant should be given the right to renew direct from the janmi in cases where the intermediary defaults. The provision for fair rent of paddy lands does not need any amendment. In regard to garden lands, the tenant must be made to pay the revenue in addition to rent payable by him under the Act for his trees. If revision is to be made at regular periods, I don't think it is a harmful proposal to have rents fixed by a Board. I think there will be fewer mistakes committed. if rents are fixed for all lands in a locality at the same time. It may be less costly in the long run and more satisfactory. I have come across cases where the assessment is much more than the total yield. I shall try to send a list of such cases. I am not in favour of abolishing renewals and renewal fees altogether. I do not think it is necessary to have renewal deeds executed every 12 years. I think it is better to pay the renewal fee in a lump sum every 12 years rather than by instalments. Renewal fees should be collected only for one period of 12 years even though more than one period has expired since the date of last renewal. The janmi is allowed to evict only in cases where it is necessary for him to cultivate for his actual livelihood. There will still be scope for people to come forward with such statements. It may be a sort of restraint on the janmi, but according to me, it will not be unreasonable. It would be hard on the janmi to fix a time-limit for the exercise of the right of eviction. I am not in favour of placing any kind of time-limit either for the janmi or the tenant. I quite understand the difficulty ; but there will be great hardship caused to the janmi if we place any restriction on his present rights. It is a difficult question and I have not been able to find a satisfactory solution. In the absence of a better alternative, I think we have to fix a time limit. I favour fixity of tenure being given for the kudiyiruppu holders. There may be cases where it is impossible to cut up the kudiyiruppu ; in such cases, fixity may be given for the whole kudiyiruppu. In regard to extensive holdings, a limit may be prescribed of 25 cents for urban areas and one acre in rural areas. It is not necessary to extend the provisions of the Tenancy Act to pepper cultivation because the crop does not last for 30 years. The first six years it does not yield. It is a temporary cultivation.

By Sri A. KARUNAKARA MENON :

Fair rent for fugitive cultivation may be fixed at twice the assessment.

By Sri C. K. GOVINDAN NAYAR :

After pepper cultivation the land will be unfit for any cultivation. I have heard that the soil itself becomes pungent.

By the CHAIRMAN :

For every 10 seers of pepper the janmi now takes two. I do not think it will work more harshly on the tenant if it is assessed at thrice the assessment. In summary suits for rent, the tenant may be made to deposit the full amount claimed by the janmi. As it is, the pleas put forward are very flimsy. There is no hardship at all in his being asked to pay the amount. The landlord may be enabled to collect renewal fees by applications.

By Sri A. KARUNAKARA MENON :

The renewal fee may be made to bear some proportion to the assessment. No renewal takes place now except through courts. No such right of collecting renewal fee was in

existence before. I want to confer a new right upon the landlords. If a landlord puts in an application for renewal and if the tenant says he is not prepared to take the renewal then that plea should be allowed. The tenant cannot say " I want your land but cannot pay." My suggestion is confined to North Malabar. Attempts have been made to treat Kozhu lands as customary verumpattams. I want to avoid that. I do not want Kozhu holdings to be treated as customary verumpattams. It will be a good idea to state the rents of gardens in kind. The margin given to the tenant is enough for maintenance expenses. The rate of interest for rent should be six per cent.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

I supervise some cultivation. The cultivation expenses are two and a half times the seed. In some cases it may be a bit higher. I cannot say anything about the origin of renewal fees. They have become so much a part of the rent that I do not think they can be abolished.

By Sri C. K. GOVINDAN NAYAR :

The yield of paddy lands depends upon the locality. Tenfold on an average will be fair for the first crop and eight fold for the second crop. The converting of paddy lands into Parambas should be stopped. Tenancy legislation must be made applicable to urban kudiyiruppus.

By Sri M. NARAYANA MENON :

In Kurumbranad kanams for the properties held under the Raja are nominal. Others have very heavy kanam amounts. They are looked upon more as mortgages. In such cases the renewal fees may be abolished. If calculations are made under the Act, no renewal fee is payable for them. For collection of rent and michavaram, we may first follow the summary procedure and get a decree. If the sum is not realized after one or two executions the janmi may be enabled to put in a petition to convert the decree into a charge on the property. No further court fee need be paid. I feel more than six per cent interest is not proper.

By Mr. R. M. PALAT :

The janmi should be allowed to purchase the tenant's right if the janmi is prepared to cultivate. I am not in favour of imposing any limit on the extent of holdings. In the case of substantial kanam in North Malabar, the intention of both the parties that it should be treated as a mortgage may be carried out. Kanams which exceed 60 per cent of the janmam value may be treated as mortgages. Renewals after the Act are not more than 15 or 20 per cent of what they were before the Act. The hardship recently suffered by tenants is high rent. It has been going on here for the last six years because the value of coconuts has gone down. It can be made payable in kind. It must be made penal for the janmi to fail to cultivate in cases of eviction for cultivation. The landlord should not get the value of the improvements on restoration of the tenant in such a case. Though occupancy right is given, the right of the janmi to collect rent will not be lost. He should have the same right with regard to kudiyiruppus as with regard to other holdings. I do not want a higher power to be placed in the hands of the janmi in this case than in the case of ordinary kuzhikanam tenure. The under-tenant may implead the janmi and the intermediary and deposit the amount in court.

By Sri A. KARUNAKARA MENON :

I agree that the following are contributory reasons for the failure to take renewals :

(1) Renewal fees on waste lands and paddy lands are much more than before,

(2) Renewal petitions of landlords with regard to garden lands are usually dismissed, and

(3) There is general poverty and distress in the country.

By the CHAIRMAN :

Fair rent may be fixed at 5 0 per cent of the gross produce, instead of the present method, but I think there will not be much difference between the two methods. Land is not described here as seed sowing area. It is described in terms of rent. In decress for eviction, it is necessary to fix a time-limit of one year within which the landlord should execute the decree.

By Sri E. KANNAN :

For all practical purposes 2½ times the seed is enough for cultivation expenses. Two edangalis of paddy is the usual wage of an agricultural labourer.

61. Sri C. V. Kunhappa Nambiar, President, Mayyil Village Karshaka Sangham, Mayyil Post, Kuthuparamba.

1 (1) *Janmam.*—We are of opinion that, though there had been janmam right, the present system of janmam right was not in existence about 85 years ago. It is known that, in those days, the local chieftains had janmam and ruling rights, that some annual collections were made from the occupants in the interest of administration and that society was given due protection. This position was changed since the Settlement. During the Settlement the above ruling chieftains induced the Survey Officers, by doing them several obligations, to register the lands in their names ; the occupants of the lands included under such pattas became the tenants. In this way, the forests and waste lands were got included under private holding. As the lands now standing registered as private janmam were not all purchased for consideration it follows that they are also not entitled to any compensation. The lands which should have been set apart in the interest of the society are also thus included under private holding. This is what is known as janmam. But our remarks do not apply to small landholders who purchased 5 or 10 acres of land on payments of proper consideration.

(2) *Kanam.*—At a time when there was no chance of getting any income by investments in commercial enterprises, some persons paid consideration for the pattadar's property and leased it out to coolies or sub-tenants for increased pattam purappad. These money-lenders who derived profit from lands in this way are called kanamdars and their right is known as kanam right.

(3) *Kuzhikanam.*—A janmi gives his land for cultivation to a tenant. A stipulation is made to give a fixed annual purappad for the right of making improvements as per the Tenants' Improvements Act of 1900, and for the right of making buildings. This is known as Kuzhikanam. If any of the improvements which existed on the land at the time of the lease are lost, the tenant is held liable.

(4) *Verumpattam.*—A janmi, kanamdar or a kuzhikanamdar lets out his land to an ordinary tenant. Although, according to the Tenancy Act, in force, the period of lease (charth) is 12 years, the lands are actually leased by many for 4 or 5 years. One year's advance pattam has also to be paid for this.

3. Do not know.

4. (*a*) The presumption of the Civil and Revenue Courts that all the lands in Malabar, including forests and waste lands, are private janmam, is unjustifiable.

Example.—If the janmis had purchased the janmam right, over the large extent of their property, for sufficient consideration, have the Courts, which decided janmam right in their favour, any evidence to substantiate their conclusion about the lands extending from Koottupuzha to Pattannur on the west in the possession of Kalliat Nambiar and the forest extending from Utumba Mala to Otathupalam said to belong to Samanthan Karakatt Nambiar. If there is any evidence, it would be interesting to ascertain the year in which, the person from whom and the amount for which the purchase was made.

(*b*) Yes.

(*c*) Yes.

5. (*a*) An intermediary is one who pays no consideration and who leases out a land to more than one tenant subject to the condition of paying once or twice the pattam. The intermediary gains out of the bargain as a go-between. This gain should in fact go to the actual tenant.

(*b*) (1) Should not be compulsory.

(2) This is not practicable now.

(3) Sales to non-cultivators should not be prohibited.

6. The under-tenant should not be held liable for any losses consequent on the default of any intermediary. In cases of default by the intermediary, his right may be sold or otherwise dealt with.

7. (*a*) Half the net income from the land may be given as janmabhogam which may be shared between the janmi, the intermediary, if there is one, and the Government according to the rights of each. This is the justifiable procedure according to us.

(*b*) Do not know. It is known that the assessment was increased on account of Re-settlement, etc.

(*c*) The janmi.

8. Yes. The fair rent for wet and dry lands should be half the net yield and the cultivation charges should be $3\frac{1}{2}$ times instead of $2\frac{1}{2}$. As regards garden lands, the fair rent in accordance with provisions of the Tenancy Act should be immediately brought into effect.

9. It would not be justifiable to fix the fair rent on the basis of the assessment.

10. Yes, certainly.

11. In all transactions relating to tenancy and pattam, the weights and measures should be legally standardized and those mentioned in the marupattam chits cancelled. Any Government measure which has been standardized should be accepted.

12. This system originated from the practice of the tenant's presenting " Kalcha " when he goes to see the janmi. This system is used to fix enhanced pattam and to receive money by the name of renewal right.

13. (*a*) Yes.

(*b*) Fixity of tenure should be conferred by making provisions for fair rent as proposed above.

(*c*) Yes ; on the basis of fixing the fair rent.

14. It is enough if there is right of sale. Therefore it need not be amended.

15. (*a*) Yes. Eviction should not be resorted to if there are pattam arrears. In the event of a suit, it is enough if legislation is made to recover the arrears of pattam fixed on reasonable grounds.

(*b*) Not known.

16. (1) Under no circumstances, should eviction be made.

(2) The right to sue should not be granted.

17. (*a*) All kudiyiruppu holders should be granted fixity of tenure. The question of compensation will not arise if the aforesaid proposal is approved.

(*b*) Distinction should be made.

(*c*) In rural areas, at least half an acre should be given for kudiyiruppus. There is no information about urban areas.

18. Yes. At least three years' time-limit should be fixed for surrender.

19. The levies of a feudal character are detailed below :—In 1114 (M.E.) Mulayilakath Mammad Haji has got marupattam chits executed by lessees of Cherupazhasseri desam, Mayyil amsam, and they contain stipulations for the levy of fowls and ghee during festivals like Perunnal, etc. There are Naduvazhi levies known as " Vasi ", " Nuri ", " Mukkal," " Pulli-mukkal ", etc.

20. Yes.

21. (*a*) Yes.

(*b*) Yes.

22. (*a*) Yes to the tenants. Should not be Summary Courts and Revenue Courts.

(*b*) We have stated above our opinion to render the procedure less costly and easier. Renewal is not at all necessary.

(*c*) (1) The proceedings under the present or the proposed Act should not be tried summarily.

(2) Should not be tried through Revenue Courts.

(3) Suit or application should not be permitted for collecting renewal fees.

23. Some of the difficulties experienced in Malabar and which have not been mentioned in the reply above are given below :—

(1) In the name of " Kozhukanam " on a mere " Kozhu " the janmis levy a considerable amount from the tenants and deceive them by non-payment of interest although the Tenancy Act provides for interest at 6 per cent.

(2) Vasi, Nuri, Karyastha commission, Thotta-kula, etc., practices and levy (Polu) of 3 to 10 should all be prohibited and such levies should be penalised.

(3) As in some places the janmi and the amsam adhigari are one and the same person, the adhigari, compels payment of the janmi's varam, purappad, etc., and even if pattam and purappad are paid, the tenant is held liable for the arrears of land revenue due by the janmi. According to the existing practice, the tenant is a prey to the deceitful exactions of the money lenders with the result that he becomes highly involved in debts. The tenant should be afforded immediate relief from this also. The price of produce fixed by Courts is not in accordance with the market rate and this causes undue hardship to the tenants. The above difficulties are all very clearly noticeable in Malabar.

By the CHAIRMAN :

What was common property was converted into the exclusive property of the janmis. Such things are happening even now. What is one man's property to-day becomes another man's property to-morrow. Forests, waste lands and irrigation sources should be taken over by the Government. The janmis have no right to get any compensation as they are all gifts of nature. I favour simplifying the system of land tenures by eliminating the intermediaries. I am not in favour of the compulsory purchase of the intermediaries' or janmis' rights by the tenants in possession because the tenants in possession will not be able to purchase them. If any tenant is in a position to purchase such right, I have no objection. But there must be no compulsion whether of the janmi or the tenant. The tenant should get half the net produce. I am cultivating half an acre of wet land and 13 acres of garden lands. I have kozhu right. The half an acre of land requires 16 seers of seed. It yields 160 seers. It is a single crop land. The cultivation expenses come to 175 seers, that is more than the income from the land. The rent is 100 seers. It is six years since the land came into my possession. Every year I am a loser to the extent of 115 seers of paddy. That is generally the case in these parts. My village is in Chirakkal taluk. Even in this state of affairs I do not say that nothing need be paid to the janmi. For my land I am prepared to pay 50 seers as rent to my janmi. In my written answer I have said that the cost of cultivation is $3\frac{1}{2}$ times the seed. According to me, the cultivation expenses will be 9 to 11 times the seed while the yield will be five times the seed. I am carrying on cultivation because I have no other occupation. I would abolish renewals and renewal fees. If the renewal fee is not to be abolished, it is not necessary to execute renewal deeds every 12 years. The tenant should not be evicted under any circumstances. If the cultivator falls ill and entrusts the land to somebody else for cultivation for a year, he should not take the land back.

By Mr. R. M. PALAT :

I am the President of the Union. There are 200 members. All of them belong to my village. We collect three pies every month as subscription from each member. The Secretary collects the subscriptions and keeps the accounts. The union is not registered. It is affiliated to the Chirakkal Taluk Sangham. The tenant should not be evicted even if he has arrears of rent. Nobody will refuse to pay rent if fair rent is fixed. The summary procedure should not be on the lines of the Revenue Recovery Act. In the case of defaulters, arrears of rent may be collected through Panchayat courts. The janmi of my garden lands is my father-in-law. I am averse to revenue courts, because from the peon upwards they would not conform to any rule or regulation. In my village no grazing fee is paid. In other villages the fee is one rupee per head of cattle. I am aware that if Government take over the forests, they will levy grazing fees and charges for other things. I have no arrears of rent due from me to my janmi. The average annual yield of a coconut tree in Chirakkal taluk is five nuts.

By Sri C. K. GOVINDAN NAYAR :

The rents of garden lands should be fixed in accordance with the present provisions in the Act. My answer is based on the conditions prevailing in my village alone. I have not enquired into the conditions in the rest of the taluk. I gave my answers to the questionnaire after making enquiries from the members of the Sangham and discussing the matter with them. There are few cases of defaulters in my amsam. I cannot say anything about the taluk as a whole. As far as I know there is no campaign here to the effect that rent need not be paid until it is revised and made a fair rent.

By P. I. KUNHAMMAD KUTTI HAJI Sahib Bahadur :

The rent of my garden land is Rs. 45. Even now I am loser in the case of my garden lands.

62 Sri V. Govindan Gurukkal, Representative, Murphakunnu Village Peasants' Union.

1. (1) On account of the predominance of the ruling chieftains and of the British administration.

(2) To avoid loss of janmabhogam, as the janmis wanted to find means for the new mode of livelihood and as rich persons wanted to make good profit out of land.

(3) Being unable to purchase land for full value but as they were prepared to work hard on the land and so retained some right on it by paying small amounts of compensation.

(4) Being prepared to work hard on the land and at the same time not being in a position to pay consideration.

(5) Melayma, Urayma, Karayma, Pattalithwam, etc.

2. In accordance with the duties and functions which the people had to do in the society, under the old regime of the native ruling chieftains, every one got a fixed share of the yield. The people attached importance not to the ownership of the land but to the share of the yield.

3. It was on account of the High Court decision of 1852 that the tenant's reasonable rights were lost. Melcharth and eviction started subsequently. This will be clear from old documents.

4. (*a*) I do not think so.

(*b*) Yes.

(*c*) Yes, certainly.

5. (*a*) Yes. By fixing the reasonable share of the cultivator. There is no need to pay compensation (after fixing the fair rent).

(*b*) (1) Not necessary to allow compulsory purchase.

(2) Desirable if possible. It is difficult to imagine that such a division is practicable under the existing social conditions.

(3) Need not be legally prohibited. The cultivator should be allowed to do as he likes.

6. Yes. There is provision in law that only the defaulter's right should be proceeded against by the landlord.

7. (*a*) The occupying tenant's right should be half the net income. The balance should be shared between the Government and other owners including the intermediaries.

(*b*) I do not know. It is heard that is $\frac{1}{3}$ of the net yield according to the Settlement principles. The existing rate of assessment is one which has absolutely no connection with the yield. And this has very much increased subsequent to re-settlement.

(*c*) The janmi himself should pay ; not the kanamdar or the kuzhikanamdar.

8. Yes. The occupant should get the following amendments.

(*a*) In the case of wet lands, $2\frac{1}{2}$ times the seed should be changed into $3\frac{1}{2}$. Two-third should be changed into half.

(*b*) In the case of garden lands, so far as coconut trees are concerned, 1/5 and 2/5 should be changed into 1/10 and 2/10 respectively. In the case of pepper vines and arecanut trees, 1/6 and 2/6 should be changed into 1/10 and 2/10 respectively.

(*c*) *Dry lands.*—'Valli' (cultivation charges) after harvesting one of the crops should be altered to two and out of the balance seed and $4\frac{1}{2}$ times the seed should be cultivation charges and out of the remainder, 1/10 should be taken.

9. No ; it may be at the following rate :—

(*a*) *Wet lands.*—Half the existing assessment.

(*b*) *Gardens.*—Half the existing assessment.

(*c*) *Dry lands.*—It should not exceed 12 annas per acre.

10. Yes.

11. Yes. Standard seer (MacLeod seer), 40 rupees weight one pound, 32 pounds 1 thulam should be the standards. Use of others should be penalised.

12. It was in connection with succession. From the desire of the janmis to make more profit from the tenants at intervals.

13. (*a*) Yes.

(*b*) By fixing the fair rent. Compensation need not be paid.

(*c*) Being in favour, this question does not arise.

14. If fair rent is fixed, the question of surrender does not arise. Therefore, no amendment of the Act is necessary in respect of surrender.

15. (*a*) Yes, certainly, on condition of payment of fair rent.

(*b*) Yes. (A Memorandum showing examples is under preparation for presentation when the Committee visits this Taluk.)

It is necessary to amend the Act regarding grounds for eviction. Leaving lands yielding an annual income of Rs. 500 to the tenant, the remaining lands may be evicted for janmi's use. But, a land owner getting more income than this, should not evict under any circumstances. In case of eviction, three years' notice should be given. When evicted the janmi should enter on the land within one year.

16. (1) Under no circumstances should a tenant with an annual income of less than Rs. 500 be liable to eviction.

(2) A tenant having fixity of tenure on payment of fixed fair rent need not furnish security for one year's rent.

(3) May be fixed in accordance with the concluding portion of 15 (*b*).

17. (1) (*a*) It is desirable ; no compensation need be paid.

(*b*) No idea about urban areas.

(2) Fifty cents in rural areas.

18. We are satisfied for the present with the existing provisions. It is desirable.

19. Collection of Vasi, Nuri, Mukkal, Vechu-kanal, Poli, Kadhakali, temple collections, Muthachi Danam, Theyyam koral, Kudi-panam, kathival panam, etc., should be penalised.

20. (*a*) Yes.

(*b*) Yes. Modifications are necessary. (They are mentioned in the memorandum.)

21. (*a*) & (*b*) Yes, because these taluks are similar to Malabar in point of climatic condition, situation of land, customs and manners.

22. (*a*) Yes. Occupancy right, fixity of tenure and fair rent to occupier.

(*b*) The necessity for renewal does not arise if fair rent, fixity of tenure and occupancy right are allowed. A Court should be constituted for fixing and collecting the fair rent.

(*c*) (1) There should not be summary trials.

(2) Revenue Courts should not try such cases. Trial should be by Courts to be constituted.

(3) Does not arise.

23. Yes. We know that they affect Malabar.

24. We do not know the position in South Malabar.

By the CHAIRMAN :

I have heard the Kottayam Taluk Karshaka Sangham speaking about the documents mentioned in my answer to Question 3. I have no further knowledge about them. I am cultivating about six acres of paddy land, i.e., 150 seers of seed area ; each acre yields about 300 seers. I am getting from my lands about 1,800 seers of paddy. The cultivation expenses are about 1,000 seers. I am a simple kozhu tenant ; my superior landlord is a kanam tenant. I have to pay 300 seers rent. My landlord has to pay about 50 seers to his superior landlord. I have been in possession for about 16 years. I have no other occupation. I have left some arrears of rent. Our answers to the questionnaire were prepared in consultation with me ; I have read through them. According to calculations in my written reply, I will have to pay a rent of 667 seers. The rent paid by me is 300 seers per acre or 1,800 seers ; the yield also is 1,800 seers.

By Sri A. KARUNAKARA MENON :

Our Sangham was started 2 years ago. I cannot say how many members there are on its rolls. I do not know who prepared the answers. I belong to the Payam Karshaka Sangham ; it was started 2 years ago. I am the Secretary of that Sangham. An annual subscription of three annas is being collected from the members in monthly instalments. Annas 1½ is handed over to the Kottayam Taluk Karshaka Sangham.

By Sri M. NARAYANA MENON :

A coconut tree yields 5 to 10 nuts in a year. Coconuts are plucked five times in a year ; 1 to 3 nuts can be got at a time. That is in my place ; I do not know the conditions here in Kuthuparamba.

By the CHAIRMAN :

The maximum yield of the best coconut tree is 10 nuts per year in my parts.

By Sri M. NARAYANA MENON :

I have seen the trees here, but I do not know what the yield will be. I used to make enquiries about the grievances of tenants now and again, and it is only as a result of such enquiries that I have now given the figure. An acre yields about 300 nuts. The price of coconuts now is about Rs. 17–8–0 per 1,000. The assessment is Rs. 5 an acre, and the yield is not sufficient even to pay the assessment. One year's expenses for the upkeep of a garden will come to Rs. 50. I live mostly by borrowing. But in my case, we work ourselves. We return the borrowed amounts only by our labour. I am now a debtor to the extent of Rs. 570. I have spent the whole of this amount for cultivation purposes. Our property is good only for borrowing money.

By Mr. R. M. PALAT :

I have arrears of rent for three years. I have been paying the assessment for my garden. Landlords are evicting tenants here. I do not know whether the janmi loses by evicting ; but it is not possible to get more from the land than what I am getting now. If the Government take over forest and waste lands, we expect to have better facilities. Janmis are not now allowing free grazing and very great restrictions are placed by them. The janmis sell timber from their forests ; but they do not allow the forests to be used by the tenants. There are coolies working under me. Pepper cultivation and punam cultivation should be included under the Malabar Tenancy Act. It will be advantageous to the tenants. I say that Kasaragod taluk should be included under the Malabar Tenancy Act because I find from the newspapers that there are tenants' grievances in those parts also.

By Sri K. MADHAVA MENON :

To give relief to the tenants pepper and punam cultivation should be included in the Act. What I meant was that a fair rent should be fixed. Pepper gardens won't yield for more than ten or twelve years. Of late almost all pepper gardens have become unproductive. The assessment also has been increased. Our view is that rent should be the same as the assessment. Again, the janmis collect more rent than necessary and some feudal levies. Even if we take 400 seers of paddy to the janmi's house, it will be found that it is not even 300 seers, because the measures used are not correct. Every month we get letters from janmis that there are kadhakalis, dramas, etc., for which we will have to subscribe. Two of my janmis had kadhakali two years ago and I had to pay something. If I don't pay, they will evict me. The same place may be given to the same tenant for a second punam cultivation after three years. Garden lands are taken mostly direct from the janmi ; but in regard to wet lands, there are intermediaries.

By Sri E. KANNAN :

The wages of a female cooly are one seer of paddy per day. Hundred women coolies will be required for one acre ; and the 28 pairs of bulls I have mentioned is the irreducible minimum required.

By Sri R. RAGHAVA MENON :

I do not remember the demands of the Karshaka Sangham for ameliorating the conditions of the tenants.

By the CHAIRMAN :

At best you will find 7 or 8 nuts on a tree at a time ; at any rate, I do not find more than three in our parts.

63. Sri K. Kunhiraman, Representative, Chittariparamba Karshaka Sangham.

Note.—This witness sent the same answers to the Questio naire as Sri V. Govindan Gurukkal No. 62.

By the CHAIRMAN :

I am not directly cultivating. But people in my house are cultivating. My family has about 45 acres of both janmam and kuzhikanam lands. The kuzhikanam lands are garden lands and we are not cultivating any wet land. I cannot say out of my personal knowledge how much cultivation expenses are, but I have studied the question as the Secretary of the Taluk Karshaka Sangham. The average yield will be ten-fold the seed. The seed required depends upon the place. The average will be about 33 edangalis per acre. The average cultivation expenses will be 4½ times the seed plus the seed. That is the minimum. For 33 seers of seed area, the expenses are at least 182 seers. The assessment ranges from 7 to 10 rupees per acre. The average may be taken as Rs. 8. The price of paddy is 12 edangalis per rupee. The landlord will get only 74 edangalis as rent and he has to pay 96 edangalis as assessment. Our demand is that revenue must be reduced at least by 50 per cent immediately. Without reducing assessment the rent cannot be a proper rent.

By Sri K. MADHAVA MENON :

The calculation of fair rent I suggested is with regard to single crop land. Yesterday in my place the landlord issued notice prohibiting green manure being taken from certain places. The janmis are exacting various things which are not covered in the lease. For various necessities they make demands on the tenants. If the tenant does not accede to those demands he will be put to various difficulties. He will not be given receipt for the rents paid. Paddy is taken to the landlord's house and measured to him. A receipt can be demanded only after measurement. If the receipt is not given the tenant is at his mercy. The market rate may differ and they may refuse a money order saying that the rate is not correct. The rent for fugitive cultivation is in some cases calculated on the yield. In some parts the revenue is converted into pice and for each pice one edangali is charged. If the rent is fixed as equal to the assessment in the case of fugitive cultivation that will satisfy the present demands of the cultivators. The existing cultivation expenses of 2½ times the seed should be increased. Even 4½ is not sufficient in certain areas. The

present practice with regard to pepper gardens is that the tenant is permitted by the landlord to begin cultivation and when it begins to yield, it is leased to him for a particular period the rent being stipulated in this way that the landlord will take the produce once in four years or three years. The landlord himself comes and harvests. In the case of pepper gardens in the first six years there must be no rent and no revenue also. Then it will be yielding properly only for 8 years. The rent must be equal to the assessment. After 20 years there should not be rent or revenue.

By Mr. R. M. PALAT :

The landlords were formerly allowing us to take manure from the forest lands, but now they don't do it. After the Agriculturists' Relief Act came into force, a number of suits have been filed in the courts and the tenants have had to incur unnecessary expenses. Levies are being made now. Now and again, letters are received by the tenants demanding vegetables, firewood, money, sheep, etc. If they are not paid, then the landlord will attempt to evict the tenant on the ground of the land being required for bona fide cultivation. The tenant should be given permanent rights of occupancy. If the tenant has to pay the rent alone and nothing else, then there can no fear of eviction by the landlord. The landlord must continue to pay the revenue. There is no harm in the tenant paying it, but he must be given credit for it in the rent, if he is made to pay it. I have already stated that the land revenue should be reduced. Properties are being generally sold in these parts for arrears of rent. Mostly speculators purchase them. I am the Secretary of the Kottayam Taluk Peasants' Sangham ; it has 200 members ; it was established in the year 1935. It was formed with a view to redress the grievances of the tenants ; once a month, the Working Committee meets and once in a fortnight the Primary Committees meet. Once in a year the Taluk Association meets. There is a monthly subscription of a quarter of an anna to be paid either in kind or in cash. The Secretary collects the money and the Treasurer keeps it. The Sangham is not registered. We have asked the Government to have it registered; we have not yet received a reply.

My family is cultivating. There are not arrears of rent due by my family. The rent for pepper garden is generally taken by the janmi direct. He will collect it in any year he likes during the best season and when the price is the highest. The cultivating verumpattamdar should not be evicted under any conditions. He will not keep the rent in arrears if it is only a fair rent that he has to pay. No tenant will be interested in giving up the property if the rent is fair and he can easily pay it. If however even the fair rent is not paid, some provision may be made for its collection. I have no objection to the continuance of the other clauses in the Act ; I only want permanent occupancy rights for the verumpattamdar. After the Agriculturists', Relief Act came into force, eviction has become common. After this Committee was constituted, suits for eviction have increased. The Raja of Kottayam has recently sent notices of eviction to many of his tenants on the ground mostly that the tenant has damaged a portion of the holding and that he wants to cultivate vegetables in the area. The notice that I have produced shows what can be done by the landlord to oppress the tenants. The landlord has never denied or contradicted the statements therein. As a matter of fact, grazing is not allowed by the landlord in the area referred to therein. There should be no court fee or vakil's fee because the tenant is too poor to pay all that. There are cases where assessment is more than the rent. That is why I say that land revenue should be reduced by 50 per cent. It is better to reduce the revenue instead of reducing the share of the tenant. I do not want that the landlord should pay out of his pocket ; I only say that the tenant's share should not be reduced. I concede that if the land revenue is to continue as it is now, the landlord will have to pay out of his pocket. The area of land necessary to yield Rs. 500 depends on the nature of the locality ; in the coastal areas it may be less, while in the interior of the district, it may be more. Holding land is not profitable, but people stick on to it in the hope that some day they will get relief. Some members in my family are pursuing some trade or other ; some deal in pepper and coconut produce. But such subsidiary occupations are usual in these parts.

By Sri R. RAGHAVA MENON :

The members of our Association are mostly kanamdars, verumpattamdars, kuzhikanamdars and petty janmis ; but all of them are actual cultivators. The non-cultivating kanamdars are generally rich, and they need not depend on the rent ; the small janmis are living on the rent they receive, but they also follow other avocations. Whoever is to be the landlord, I want fair rent to be fixed and the tenant must be given a fair share ; there must be some profit for them. If the tenant is to get half the net profit, and if $3\frac{1}{2}$ times the seed is to be the cultivation expenses. I think it will enable the landlord to pay the revenue and get some profit for himself out of his land.

By Sri E. KANNAN :

If cultivation expenses are fixed at $3\frac{1}{2}$ times the seed, it may not be quite sufficient ; but that will give some relief at least to the poor tenants.

CHIRAKKAL TALUK.

TALIPARAMBA CENTRE—16th, 17th and 18th December 1939.

65. Sri K. Narayanan Nambudiripad, son of Sri Kurumathur Illath Parameswaran Nambudiripad, Taliparamba, Chirakkal Taluk.

1. (1) The waste lands of Kerala were reclaimed and converted into cultivable and garden lands by the Nambudiris, the descendants of the Aryans, who settled in Kerala and who were noted for their culture, civilisation and their advancement in all other directions. They got the barbarous tribes to attend to cultivation. Subsequently, these Brahmans (Nambudiris) set apart the lands to the Kshatriya rulers who took upon themselves to rule the country, to religious institutions and to the leading Nayars who rendered services in the War. It is clear that, in olden days, the Rulers did not give away their janmam right over the lands to others. It is also evident from this that, in ancient days, no assessment was levied for the lands in Malabar. When these persons were in need of money, they sold their janmam right for cash to those who had money. Janmam originated from this kind of possession.

(2), (3) & (4) When the janmis found themselves in need of money they leased out their lands (without parting with their janmam right) for enjoyment as compensation for the money received by them. This is the origin of kanam, kuzhikanam and verumpattam.

The term " kanam " as known in North Malabar corresponds to mortgage right with possession in South Malabar.

" Kuzhikanam " is the right granted to the cultivators, for making improvements on the land, either with or without receiving compensation therefor.

Verumpattam means the practice of leasing out lands for a specified period, subject to the condition that no improvements are effected, and on payment of an annual pattam or varam as the janmi's share of the yield from the land. This is also known as " Verumkozhu ".

(5) Melayma, Karayma, Otti, Kozhukanam, Katta-kanam, etc., are also prevalent. Among these, Kozhukanam and Katta-kanam are the amounts given as security for the varam by the tenant. These are identical although they are different terms.

2. According to the period specified in the document and the local customs, the janmi had the right to get surrender of the land on payment of the value for the improvements effected by the tenant ; the janmi had always independant right over the land. This is the nature of interests.

3. According to the law in force, in different periods, the Courts might have passed decisions which had not been consistent with the original rights of the janmis and tenants.

4. (*a*) Yes.

(*b*) Irrigation sources, channels, etc., are seen registered as Government porambokes. The janmi holds, as his private janmam, only waste forests. The present Act does not allow the use of channels, etc., by diversion for cultivation purposes. In future, for the improvement of irrigation sources, channels, etc., they should be under the control of both the land owner and those who effect such improvements. The idea that the forests should be maintained in such a way that they should be useful both to the agriculturists and to the public in common should be aroused in the minds of the public and the owners of the forests must maintain them properly. As the owner of the forest has to spend much for its maintenance, the cultivators should pay for the manure obtainable from it. If due attention is not paid to the proper upkeep of the forest, private business men will take advantage of the situation and make a profitable bargain out of it with the result that the cultivators will be deprived of the benefit of the existence of the forest. And, there is also the likelihood of the forests becoming completely useless, in course of time.

The cattle are generally grazed on waste lands. And the janmis do not prohibit this. If such lands are taken out of their possession, the grazing of the cattle will be obstructed. This is evident from the fact that the few waste lands in the possession of the tenants are not allowed to be used as grazing grounds.

(*c*) There is no objection to the Government being entrusted with the waste lands on payment of sufficient compensation.

5. (*a*) At a time when the so-called socialists have started what are known as " peasants' movements " and " popular movements " and when such movements have reached their climax in Kottayam and Chirakkal Taluks, it is doubtful whether the existing system of land tenure can be continued. As such, if the janmis are to be eliminated, they should be given sufficient compensation for their rights over the lands. Out of the total compensation the amount due to the intermediary in proportion to his rights should be paid to him and the balance to the janmi.

(*b*) (1) Should not be allowed ; if this is done, the existing good system of cultivation will perish.

(2) So long as the existing family system is continued, the area in possession of the actual cultivator should not be limited to that of an ideal farm. If this is done, the upkeep of the family will become impossible.

(3) As the existing non-cultivators have the intention to cultivate food-crops for themselves, sales of lands to them should not be prohibited. If it is prohibited, it will be an impediment to progress in modern agricultural improvements instead of encouraging such improvements.

6. If the intermediary makes default, the amount left in arrears should be paid to the janmi and should be set off towards the amount due by the sub-tenant to the intermediary and thus the sub-tenant should be protected. If this is not done, the sub-tenant will be deprived of his property on account of the default of the intermediary.

7. (*a*) This matter can be decided only after the rate of assessment and the responsibility for its payment are fixed. The tenant in possession of the land should pay the assessment and, out of the fair rent as provided for in the existing Act, the intermediary should be paid the proportionate share on his investment and the entire balance should go to the janmi.

(*b*) It appears that the assessment is 2/5 of the yield. According to the last Resettlement, in some cases, the assessment is far above the gross yield. The assessment fixed at the Settlement on the basis of the nature of the soil and the yield per acre is far in excess and is wrong. This is mainly due to the inexperience of the persons who were entrusted with the fixing of the assessment and to the negligence of the Inspecting Officers. If this is viewed in the light of the law of diminishing returns, it will be clear that the present rate of assessment is very excessive and that it is due to the decrease in the annual income and outturn.

(*c*) The tenant in possession who enjoys the yield should be made responsible to pay the assessment. If not, the janmi who is not in possession will have to face the difficulties of paying the assessment. In case the tenant makes default, the Revenue Recovery Act should be amended in such a way that his movable properties may be proceeded against for the realization of the arrears.

8. (*a*), (*b*) *&* (*c*) Yes, on the janmi. The fixing of the fair rent as provided for in the existing Tenancy Act is on a basis of the annual yield which is below that arrived at during the Settlement for fixing the assessment. Therefore, in the case of garden lands, the annual yield from all sources should be the basis for fixing the fair rent. If at all any change is effected in the Tenancy Act, the tenant in possession and enjoyment of the property should be held liable to pay the assessment in addition to the liability to pay the pattam to the janmi.

9. (*a*), (*b*) *&* (*c*) An opinion on this point can be expressed only after the baseless rate of assessment is regularized.

10. Yes ; there is no objection.

11. Yes ; there appears to be no objection. The question of standardizing weights and measures was taken up for consideration in Malabar Tenancy Bill No. 7 of 1924. The proposal was however dropped then and also when it came up for consideration in the Tenancy Bill of 1930 because the measures used in Malabar for measuring grains were of different kinds. In cases in which varam and pattam are to be paid in kind, if the existing local measures are to be regularized, care should be taken to see that the quantity due by the tenant to the janmi is not reduced. That is to say, if in the agreement there is the condition to pay 10 seers as equal to a vara-para and if one para is standardized as equal to 11 or $11\frac{1}{2}$ MacLeod seers, then the janmi should get at that rate. This has been acknowledged even by Law Courts.

12. Renewal fee is the fee paid to the janmi for the fixed period of lease to the tenant. That is a small portion, which is paid in advance, of the excess income likely to be derived by the tenant from the land. According to the existing Act, the tenant is entitled to compel the janmi to renew the lease. On the other hand, the janmi has no right to compel the tenant to do so. The janmi should have this right legally.

13. (*a*) No.

(*b*) Not applicable to North Malabar.

(*c*) It requires amendment in respect of renewal right.

14. Yes. When wet lands are converted into garden and when such lands are used for purposes other than cultivation, for trade purposes or for purposes other than those mentioned in the lease deed, the janmi should have the right to evict the tenant.

15. (*a*) The occupancy right as allowed by the existing Act may be continued. The tenant should not be allowed to be in possession of the land if he fails to pay the varam and pattam to the janmi promptly, the assessment due to the Government and the renewal fee due to the janmi.

(*b*) No, as far as I know.

16. (1) & (2) No. The land owner's right should not be taken away.

17. (*a*) It is not clear to what extent the meaning of the term "fixity of tenure" applies to kudiyiruppu holders. According to the existing Act, the tenant has a right to purchase on payment of value. But, according to the Malabar Tenancy Act, the rate fixed for the value of the janmi's share is not correct.

(*b*) Yes.

(*c*) It appears that this need be done only as provided for in the existing Act.

18. Since the passing of the M.C.T.I. Act, it is generally seen that the occupying tenant effects a lot of improvements, because of avarice, and causes decrease in the yield. Strict provisions should be made to prohibit this. It is absolutely necessary that provision should be made, in cases in which lands have been ordered to be evicted, to enable the janmi to proceed against the improvements for arrears of pattam and purappad as a mortgage liability.

19. It is the Village Officers who make levies of a feudal character compulsorily. The Village Officers who belong to the janmi's family are likely to make such levies more severely. Such levies should be prohibited.

If the janmis are invited for the ceremonial functions in the tenant's house, the janmis generally offer presents in cash and in paddy. Similarly, if the tenants are invited by the janmis, the tenants also offer presents in cash and vegetables. According to the status of the tenant invited, he will be given, at times, "Ona-pudava" (present in cloth) in addition to meals, rice or money.

20. (*a*) Not desirable, according to the system so far followed. Generally, fugitive cultivation is raised on the forests only once in seven or eight years. A tenant can raise cultivation only on one or two acres of land. This land becomes unfit for cultivation the next year and therefore he cultivates another site. It is not possible to give fixity of tenure to the tenant when the site for cultivation is frequently changed. Besides, the tenant cannot look after the uncultivated parts and the janmi has no responsibility to take care of those lands. When the forest is burnt for purposes of cultivation, an amount known as Manusham or Seelakasu is obtained in advance as the janmi's share of the income derived from the firewood and in order to save the forest from wild fire and then the land is given for fugitive cultivation. The Government levies fugitive assessment. And the janmi gets one-sixth of the total yield as varam. Therefore, by allowing fixity of tenure to the tenant, besides the fact that he suffers loss, the forest also becomes destroyed and consequently the fugitive cultivation becomes extinct.

(*b*) In the case of pepper cultivation, it is the practice for the janmis to levy 2/10th of the yield annually derived by the tenants from their pepper cultivation. The yield is not systematic in the case of pepper and the market also changes frequently. The existing system of levy does not work any hardship to the tenants. Therefore, the existing law does not require any amendment.

The so-called socialists have caused much agitation by false propaganda with regard to fugitive and pepper cultivation, in Kottayam and Chirakkal taluks, in order to earn a name and money for themselves and thus misguided the poor tenants. But, as the tenants suffer no disabilities on account of this cultivation, it is not desirable to amend the existing Act.

21. (*a*) & (*b*) There is no correct information about the position there.

22. (*a*) Under the existing Act, both the janmis and the tenants suffer from many disabilities. They can be rectified if the remedies suggested above and referred to below are effected.

(*b*) There should be provision to collect pattam easily and to effect renewals at less expense. The janmis should have the facilities to levy varam and pattam through the Revenue Department on payment of reasonable commission as is done in Cochin State, etc. This will be advantageous to the tenants as well.

(*c*) (1) Provision is necessary.

(2) It is necessary to provide for trial by Revenue Courts. But the Civil Courts should have appellate powers.

(3) Quite essential.

22. The activities of the peasants' movements started recently has materially affected the relationship between the janmi and the tenant in Malabar in general and in Kottayam and Chirakkal taluks in particular. By the opposition of the peasants' association to the payment of varam and pattam, the income of the janmis has considerably decreased and it has become impossible for them to pay the land revenue due to Government. For example, there is Government record to prove that many janmis have sold their janmam lands for trivial amounts, that they have mortgaged their lands and that they have sold their movables in order to pay off the land revenue assessment. Therefore, we desire to bring to the notice of the Government the fact that the present condition is deplorable and that there is the possibility of a series of troubles and confusion arising in the country. As the Peasants' movements have caused serious impediments to the elementary human liberties of the janmis, the Government are reminded to check the continuance of such state of affairs and to afford sufficient protection to the janmis.

24. By the passing of the Malabar Tenancy Act of 1930, reasonable protection has been afforded to relieve the tenants of their disabilities in North and South Malabar. It is absolutely essential to test the extent of the advantages likely to be derived from that Act. But, the relief from the disabilities caused by the working of the present Act and some slight modifications as explained above are necessary.

By the CHAIRMAN :

I have read the answer to the questionnaire sent by my father. I own 7,000 acres of land. The assessment paid is Rs. 5,500. All the lands are janmam lands. The Kerala Mahathmyam and the Keralolpathi contain historical truths. The ancient Rajas and the Zamorin did not own any lands in janmam except by transfer. I am not in favour of private merchants felling the trees without getting the formal sanction of the janmi. The janmis should have full authority over the forests. It should not be handed over to anybody without due compensation. Rules can be framed but their rights should not be affected. I am not for destruction of forests. I have no objection to give the Government power to take waste lands with due compensation. I have no objection to eliminating intermediaries if due compensation is given. That will be the full market value. Crops should be liable for the arrears of rent due to the janmis. The value of improvements should be set off against rent due to the janmi. In North Malabar there are very few intermediaries, I think. My tenants cultivate the lands themselves, with very few exceptions. The under-tenure-holders may be authorized to pay direct to the janmi the sum due by the intermediary and not merely their own dues. In the case of garden lands if the trees belong to the tenant the fair rent should be one-fifth of the gross produce and the tenant should pay the assessment. The fair rent of all lands in a locality may be fixed at the same time by a Board, composed of high officers and responsible people. I cannot say why renewal fee is called Manusham in North Malabar. It is not necessary to have renewal documents executed every 12 years. After the passing of the Tenancy Act in North Malabar, and especially in my house, there are very few renewals given. I am not aware that big janmis do not take any renewal fee at all. So far as my estate is concerned, there are no kanam amounts. If the kanamdar is relinquishing of his own accord he should not get the kanam amount. Rents can be revised in cases of calamity. If he thinks he is capable of cultivating the land himself, the janmi should be given the right to evict even if he has 100 acres already. I do not want any restriction limiting the right to necessities of livelihood. I would not fix any time-limit for the exercise of the right. If the land is near the house of the janmi he may like to have the land. I think no restriction should be placed whether in the form of time-limit or of any kind. If the land is not within two or three miles of the residence of the janmi and if the tenant is continuously in possession for 10 or 12 years the janmi need not be given the power to evict. I have no objection to giving fixity of tenure to kudiyiruppu-holders, if they pay fair-rent regularly. I have no knowledge of urban kudiyiruppus. A time-limit may be fixed for depositing the value of improvements in cases of eviction. All feudal levies must be stopped. If the rent for punam cultivation is fixed at twice the assessment, at times it will be a hardship to the tenant. As regards pepper, legislation will be injurious to the janmis. After 30 years pepper vines may not produce anything, but the janmis will be compelled to pay the assessment. The janmis should be protected. I do not think the tenants are put to much hardship at present. The collection of my rent was much affected by the activities of the Peasants'

Associations last year. I have to go to courts of law to get the rents from the tenants. In a particular village I had to file several suits against some tenants and after they were disillusioned they began to pay. It is necessary to have a provision to enable landlords to collect rents by means of applications.

By Sri U. GOPALA MENON :

I consider that there is an element of historical truth in Kerala Mahathmyam. I am acquainted with it. I do not think that it shows that the Nayars or the Nagas preceded the Nambudiris. The socialists are preaching that the tenants will very soon get 5 acres of land each and that all land will be distributed among the people after taking it away from the present owners. That is the illegitimate promise to which I have referred. As regards false statements, I cannot now say what are the false statements. The preachings of the socialists have succeeded to some extent. Their success may be partly due to their grievances. I cannot say exactly. If there are grievances they should be removed. Our punam rent is on an average about 8,000 seers of paddy a year, worth Rs. 60 per 1,000 seers. I cannot say how many acres are under punam cultivation. The punam lands are generally in unfrequented parts. My agents collect the rent. They are paid, three seers for every hundred seers collected. We first send our agents to assess the crop and later on we send bill collectors to collect the assessment. The tenants approach me when the crops are ready and I send my agent to estimate the yield. The rent is assessed not by measuring the gross produce but by the estimate made by the agent of the gross produce when the crops are on the field. As soon as the assessment is made, the tenants will be given intimation and if they have any grievance, they will represent it to me and I will examine the matter. I do not know if the other janmis go to the spot and redress the grievances of the tenants. In regard to pepper gardens, when the pepper is ripe for plucking, the agent goes there and assesses two per ten of the yield. There may be alleged grievances about this. I have not ascertained how far they are genuine. In pepper gardens the crops vary very much in different years. Pepper has more vagaries than paddy or coconut. I have no objection to getting money rents especially for pepper. But to base the rent on the assessment will be very injurious to the tenant. For dry lands the assessment is from As. 14 to Rs. 2–4–0. The rent for pepper may be Rs. 2–4–0 from the beginning of the lease period till the vines begin to yield and thereafter it may be three times the assessment. Punam cultivation is carried on mostly in forest tracts. Only branches and twigs are cut down before the cultivation begins. The whole forest will not be destroyed, but only a small part of it. Punam cultivation should not be stopped because it does not injure the forests in any way.

By SULTAN ADI RAJA ABDUR RAHMAN ALI RAJA :

There are some cases where the assessment is more than the rent. The person in occupation of the land should be made liable to pay the assessment. I mean that the assessment in excess of the rent should be paid by him. I have many parambas where the assessment is more than the rent. I will prepare a list of them and send it to the Committee. We receive our renewal fees after the lapse of the term. If there is legislation abolishing renewal fees, it will cause loss to the janmis.

By. P. K. MOIDEEN KUTTI Sahib Bahadur :

In North Malabar kanam is only a usufructuary mortgage. There are no nominal kanams in Chirakkal taluk. I do not think that the renewal fee had its origin in the custom of the tenants' paying some manusham to the janmis whenever they visited them. I own some wet land. I cultivate them myself. The cultivation expenses are twice the seed including the seed. That is my opinion. But I must refer to my accounts. If the janmis collect their rents for pepper gardens whenever they find there is a bumper crop, it should be stopped.

By Sri M. P. DAMODARAN :

There may be some unscrupulous janmis who do so. I cannot give instances.

By Sri P. K. KUNHISANKARA MENON :

The agitation of the Peasants' Association has not impoverished me. But I had to file several suits for getting rents. On the 26th October last about 1,000 members of the Peasanat's Union came before my father and submitted a written memorandum. Only a few of them were our tenants.

By Sri U. GOPALA MENON.

Where the lease deed says that the rent is 10 paras, then an additional amount of 1 or 1½ paras is demanded. This is called vasi. There are cases where the vasi is provided in the lease deed itself. If the lease deed does not mention vasi, I do not take vasi. I think there are cases where vasi is taken even though the lease deed does not mention it. When 10 par of paddy are measured by the tenant as rent, a handful of paddy equal to half a

seer is taken from the tenant's grain and it goes to the man who measures the paddy. This is called *nuri*. This is done for the purpose of calculation ; none the less, it is an addition to the payment made by the tenant.

Punam lands are given in auction to the highest bidders. The amount for which the right to make punam cultivation is sold is in addition to the rent which will be assessed at the time of the harvest. It is a return for the firewood which the tenant gets by the clearing of the land. The statement in my written memorandum that " there is no exaction of any commission for the karyasthan for measuring out the rent " is a mistake. If a tenant plants some bananas, in some places rent has been claimed for that. If the janmis are bought out, the money paid to them for their lands, may be distribited according to the Marumakkattayam Partition Act. The janmis find it difficult to pay their assessment. They consider that land is not a good investment. The money may be put in banks.

By Sri E. KANNAN :

Before the advent of the Nambudiris, the former inhabitants did not know the art of cultivation. They were living on roots, raw flesh, etc. The Nambudiris got the lands cultivated with the help of the old inhabitants who were taught the art of cultivation.

By Md. ABDUR RAHMAN Sahib Bahadur.

I do not agree that Nambudiris came by these lands as trustees of temple lands. They came by janmam rights by colonization. Compensation should be paid for waste lands, because they have had to pay a lot of money for surveying, etc., and they have been enjoying the lands for so many generations now. I cannot agree to such lands being given up without any compensation. The rate of fair rent for wet lands in the Tenancy Act may continue. I do not want any change in the existing provisions of the Tenancy Act, except in matters of procedure. Till the advent of the socialist movement, so far as my part of the country is concerned, the relations between the landlord and the tenant were very cordial. Now they are not good. I cannot say if the tenant has begun to realize his disabilities and to make his demands. As I have been ill for some time, I do not know who the leaders are who said that five acres would be given to each tenant.

By Mr. R. M. PALAT :

Owners of forest lands in the eastern districts do not allow free grazing but here it is allowed. I said I was prepared to sell my janmam rights if compensation is paid because of the revenue difficulties. The activities of the socialists have increased them. Otherwise there is no reason why we should sell them. It is not possible to give fixity of tenure in the case of punam cultivation as the place of cultivation changes every year. I have not so far evicted a tenant. I have not refused waste lands for cultivation purposes. Such levies as ghee for temples must continue.

68. Sri V. M. Vishnu Bharateeyan, Parachinikkavu Post, Chirakkal Taluk.

1. (I) *Janmam*.—From the impression of the Government and from the system believed and followed by the public, consequent on the decision of the Courts, it would appear that all the persons who have become the land owners in Malabar purchased the lands under their control for cash. The fact is not so. Before the advent of the British, the ruling powers of Kerala were Zamorin, Kolathiri, Porllathiri and Kottayath Raja. Under them were vassals and others who helped them to get on with the administration and to such persons each Nadu (desam) was distributed from which a small amount was collected as assessment. It was not the practice then to increase the pattam and purappad at will as in the case of a merchant increasing the price of his goods. In Kizhur amsam of Kottayam taluk, there is still a janmi tarwad known as " Vazhunnavar " (ruler). There are some janmis in Malabar known as Naduvazhis and Desavazhis. " Arothu Vazhunnavar " and " Kizhikkankottu Vazhunnavar " now found in Kasaragod taluk, which was once part of Malabar, are such persons. Poomulli, Desamangalam, Kurumathur, Olappamanna, etc., janmis became " Desadhipathis " (chieftain of the desam) on account of the advantages derived by their positions as advisors. I am firmly of the opinion that the Zamorin and others, who are believed to be owners of over 8,000 acres of land each, and particularly the first class janmis of Chirakkal taluk, viz., Chirakkal Raja, Arakkal Raja, Vengayil Nayar, Kurumathur Adhyan, Kalliat Nambiar, Kootali Nambiar, Samanthan Karakkattitathil Nambiar, Karumarath Nambudiri, etc., who own extensive landed property, had never purchased the janmam right for cash. And, because they have not paid compensation, it follows that they also are not entitled for any compensation. It cannot, however, be denied that there are no petty land owners who purchased the janmam right on payment of compensation. The origin and the growth of the janmis and janmam in Malabar are as stated above.

(2) *Kanam.*—Persons having small amounts as capital had no chances in olden days of investing their assets on commercial concerns and deriving income thereby. They, therefore, paid these amounts to the janmis, got leases of lands and derived interest for the outlay from the yield from such lands. They are known as kanamdars. These kanamdars collect varam, pattam, etc., from their sub-tenants at double rate.

e.g., A kanamdar paid kanam amount of Rs. 8,000 and obtained a kanam lease of lands yielding 8,000 seers pattam from Arakkal Raja. The lands are known as Naniyur Cherikkal Nilam and are situated in Naniyur desam, Kolacherri amsam. The kanamdar is now collecting from his under tenants 12,000 seers as varam.

The Kanamdar has no right to demand repayment of the amount advanced by him and can receive it only when the janmi is prepared to repay it.

(3) *Kuzhikanam.*—A person who is inclined to work hard, but who has not the funds to purchase janmam right or to get kanam lease over a land, pays a small amount as "Manusham" to the janmi and takes over the land and brings it to a full yielding stage; on the expiry of the period of the lease, the tenant is liable to vacate the land on receipt of the compensation fixed by the Commissioner. This kind of lease is called "Kuzhikanam contract."

(4) *Verumpattam.*—Garden or wet lands are let out without any right. On the expiry of the fixed period, the lands have to be surrendered.

2. This has been made clear in the answers to sub-questions (1) to (4).

3. Yes.

The cultivator in occupation had been paying a most negligible amount out of the income derived by cultivation to the then ruling chieftains, now known as janmis, and had been occupying the land on permanent right (saswatham); the Revenue Officers gave patta for these lands in the names of the janmis taking away thereby the tenant's saswatham right. This action was approved by Civil Courts and consequently the janmis derived the right of evicting the tenants, increasing the pattam and granting melcharths.

4. (*a*) It is a fact that the Revenue and the Civil Courts decided that the waste lands and forests in Malabar are private janmam. But this is one of the gross injustices done to the poor.

(*b*) Under no circumstances should the waste lands, forests and irrigation sources be allowed to be retained in the possession of private owners.

(*c*) Yes.

Example.—Karumarath Nambudiri who is an important janmi in this desam, has in his possession about 1,000 acres of waste lands without any assessment. Annually, he derives a good income by selling the grass which spontaneously grows there and which is used for thatching purposes.

Similarly, many acres of lands are in the possession of Samanthan Karakkattitathil Nambiar, Kalliat Nambiar, Vengayil Nayar and Kurumathur Adhyan and they are enjoying large income. The cultivators are denied the right of removing the bark, etc., of trees, required for cultivation purposes, and are sometimes prohibited from grazing cattle on these lands.

5. (*a*) Without paying any compensation and on condition of payment of a fixed annual pattam to the janmi, the lands are obtained on lease and sub-let to more than one cultivator for one or two times the pattam. As a commission agent, the intermediary gets a profit. This profit should actually be derived by the cultivator. No compensation need be paid to dispense with such intermediaries.

Example.—Vengappurath Bhattathiri and Morongalath Kunhappa Nambiar collect excessive varam from their sub-tenants in respect of Malatu, Pallil, etc., lands in Kayaralam amsam and desam belonging in janmam to Trichambaram Devaswam in Taliparamba amsam.

(*b*) (i) There should be no compulsion; but the tenant should have the right to purchase if he can afford to do so.

(*b*) (ii) Should be limited.

6. The under-tenant should be protected and the intermediary should be held responsible for the default.

7. (*a*) Half of the net yield from the land may be paid as janmibhogam and it would be desirable to provide for sharing this between the janmi and the intermediary tenant.

(*c*) The janmi.

8. (*a*) As stated in Chapter 2, the cultivation charges should be 3½ times the seed instead of 2½ and out of the balance the fair rent should be half instead of 2/3.

(*b*) In respect of garden, the janmibhogam should be reduced from 1/5th to 1/6th.

10. Yes.

11. Yes.

When measuring the pattam now, the janmis use various kinds of measures. The Government should restrict this and uniform weights and measures should be introduced in Malabar urgently.

12. Renewal is used as a weapon to increase the pattam and varam due by the tenant to the janmi and to deny occupancy right to the tenants.

13. (*a*) Yes.

(*b*) Besides the payment referred to in the answer to question 9 (*b*), I am not in favour of making any other payments to any one.

14. Yes.

15. (*a*) Yes. A tenant paying fair rent should not be evicted.

(*b*) Yes.

Example.—(1) Edavalath Nambudiri belonging to Chirakkal taluk filed a suit for eviction in respect of the lands in Calicut taluk on pretext of self-cultivation ; the lower Court dismissed the suit but, on appeal, eviction was ordered on the plea that the land will be cultivated by the Plaintiff's karyasthan on behalf of the plaintiff. The eviction was made for the sake of the relatives of the plaintiff.

(2) Manippuzha Nambudiri evicted Kitaran Vadakke Veettil Chandu by force.

(3) Samanthan Karakkattitathil Nambiar has given notice of eviction to 20 tenants on the plea of self-cultivation. They were evicted under threat.

16. (1)&(2) A tenant should not be evicted on these grounds.

17 (*a*) Yes.

(*b*) Yes.

Fixity of tenure need not be granted in urban areas. It should be allowed in rural areas.

18. No.

19. Besides pattam and purappad, the janmis are making several kinds of levies from tenants ; they are in some cases, mentioned in the lease deeds and in other cases they are not. Janmis making such levies should be liable to punishment by law.

Evidence of several kinds of levies :—

Examples.—Collection for marriage, funeral ceremonies, and for kadha-kalis, demanding plantains, bananas and other vegetables for rice-giving ceremoney ; if the janmis are muslims, demanding fowl and ghee during Ramzan ; they demand this by letters and the tenants comply with their request. Muslim janmis also set apart the yield from the parambas in the possession of tenants for mosque purposes.

Janmis use to write letters to their tenants to comply with the request of their friends. Chirakkal Raja and Kalliat Nambiar have collected school fund from the public.

Chirakkal Raja has collected funds to purchase elephants. This Raja also makes collections in temples during Utsavam (festival) and other annual collections in his native place.

Some documents are sent in support of the above statements.

Conditions in the registered marupattam :—

Evidence for the demand of plantains and other vegetables for household and temple purposes ; this demand is a stipulation in the document itself.

Marupattam executed by Koyatan Komath Cheriya Anantan and Raman of Kurumathur amsam and desam to Samanthan Karakkattitathil Valiya Nayanar of Ellarinha desam, Kanhileri amsam, Chirakkal taluk, on 28th January 1932. It is stipulated in the deed that they should give to the janmi, besides the pattam and purappad, 100 banana fruits and other vegetables, which should be as much as two men could carry, for purposes of conducting the pattu festival in Pulimbatavu temple. The agreement is to take them to the janmi's granary and obtain receipt. This is registered as document No. 1468 of 1932 of the S. R. O. Taliparamba, pages 113 to 115 of volume 616 of Book I.

Similarly, according to the agreement executed by the tenants in favour of the above janmi on 9th November 1933 as per document No. 1973, registered at the sub-registry office, Taliparamba, pages 217 to 223 of volume 625 of Book I, the tenants have to pay, in addition to the varam purappad, 75 banana fruits and four yams on Onam and Vishu days.

It is not possible to produce the original deeds as they are with the janmis.

20. (*a*) & (*b*) Yes. The janmis should get purappad only after eight years. It should not exceed one rupee per acre. It should be mentioned in the Act that the purappad should be remitted when the gardens become past yielding.

21. (*a*) & (*b*). Yes.

22 (*a*) Yes. Eviction on pretext of self cultivation, deposit of one year's varam, pattam, etc., in advance and the system of collecting renewal fee should be stopped by suitable amendment of the existing Act.

(*c*) (1) Not necessary.

(2) Not necessary.

(3) Need not be granted.

23. Now, when the janmis sue for arrears of pattam, the Courts fix a value which is above the market rate.

The janmis harass the tenants by interfering in social activities.

It is not possible to procure the manure necessary for cultivation purposes as the forests and hills are under the control of the janmis. It is regretfully submitted that, under the system prevalent today, it is not possible even to protect the chastity of females against some of the janmis. As, in most of the places, the adhigaris are janmis, they misuse their powers and harass the tenants. A real cultivator will have no relief unless the seed and pattam are fixed with reference to an acre. Chirakkal Raja and Samanthan Karakkat-titathil Nambiar of Chirakkal taluk are collecting four pies per seer in excess of the mun-pattam, in the name of Jasthipanam and vara-panam, ever since 1060.

By the CHAIRMAN :

I have some lands which I cultivate ; for the past few years I have been a political worker. I have about 50 acres of wet and dry lands. All are janmam properties. Some are pepper and coconut gardens, and I am cultivating them myself. I own wet lands of about 200 edangalis of seed area. There is no necessity to pay compensation to the janmis for their forests and waste lands because most of the lands were obtained by the janmis at a time when might was right. Many documents are available to prove what I have stated ; I do not say the intermediaries need not be given any compensation. There are documents which prove that they paid money for coming into possession. I have no suggestions to offer to protect the under-tenant against the consequences of default by the intermediary. I am cultivating an one-crop land which yields ten-fold. But generally, the yield depends on a variety of causes. If the land is to be properly cultivated with manure, etc., about 400 seers of paddy will be required as cultivation expenses. I am spending about 300 to 350 seers for a double-crop land. Eighty seers of seed will be required for both the crops. The expenses are for both the crops. The net income from the land will be about 500 seers. Half of it must go to the tenant and half to the janmi, to the intermediaries and to the Government. The assessment for this particular double-crop land is about Rs. 14. The price of 250 seers of paddy will be Rs. 20 to 22. The lands were purchased in janmam, but I cannot say how much was paid for them by my ancestors. The price of the land at present will be about Rs. 800 to Rs. 1,200. I think my ancestors must have paid about Rs. 2,000. If it is properly cultivated, it will give a higher yield. If half the net yield is to go to the tenant, the janmi may get nothing at all . There are many poor janmis in North Malabar, but most of the lands here are in the hands of the big janmis. Fair rent for garden lands should be fixed at one-sixth of the gross produce. The tenant will pay the revenue in addition. The revenue is more than one-sixth of the gross produce. The present provision is favourable to the tenant and need not therefore be changed. If one-sixth is to be the janmi's share, the tenant must pay the revenue. If improvements are effected by the janmi, it will be better if the janmi pays the assessment. There is a complaint that assessment is high, in these parts. For one acre of good garden land, it is Rs. 7 to Rs. 8.

By Sri M. NARAYANA MENON :

About 40 trees are planted in an acre ; on an average I am getting about 30 nuts per tree per year. There are cases in which we find 60 trees planted in an acre. One acre of good coconut garden will yield about 2,000 nuts per year. The rents of all lands in a certain locality may be fixed at the same time by a committee or board consisting of the Revenue Divisional Officer and three or four respectable persons in the locality. It will be less expensive and it will be good if the persons on the board are influential and popular

persons. I would abolish renewals and renewal fees. If the renewal fee is not abolished it is better to spread it over a period of 12 years. There is no necessity for renewal documents to be executed every 12 years. In cases of relinquishment, the tenant must get the kanam amount and the value of improvements, but if he relinquishes because of the heavy rent, it is enough if some abatement of rent is allowed. If I entrust my land to another, I do not want the right to take it back. There must be some difference made between the big and the small janmis in this respect. The big janmis should not be allowed to evict tenants; but in the case of a small janmi owning say 10 or 12 acres only, he will be put to great difficulties if he is not to get back his land for eking out his own livelihood. In the latter case only, such a right should be given. There must be some restraint on the janmi to evict the tenant. No fixity should be given for rented buildings in towns; but fixity may be given for kudiyiruppus. It is not necessary to change the existing provision regarding the janmi's right to deposit the value of improvements in cases of eviction. I would make the collection of feudal levies penal. Even interest is calculated on the feudal levies and courts allow it. This should be stopped. As regards pepper and fugitive cultivation it is enough if the provisions of the Tenancy Act regarding fair rent is made applicable. That is our main complaint. Rent should not exceed one rupee per acre with regard to pepper cultivation. As regards Punam cultivation they can pay rent equal to assessment. It is impossible to fix the yield of pepper. The yield will be 15 fold for paddy. In rare cases it is said even 50-fold has been obtained. One acre is about 20 seers of seed area. The price of seed is Rs. 1–8–0 per acre. It is enough if some sort of fixity of rent is given in case of pepper gardens. If 12 seers are given receipt is given only for 10 seers. That is one kind of vasi. Having taken once he will again take it. When the forest is cleared for punam cultivation, the firewood is taken by the janmis, not by the tenants. If one acre of forest is cleared for punam cultivation it will yield firewood worth Rs. 1–8–0.

By Sri K. MADHAVA MENON:

There are lots of waste lands here. There are many tenants willing to cultivate them. They are not getting them because the terms are very high and they are not in a position to pay this high rate. They are not even in a position to pay even advance rent. A limit should be placed for depositing the value of improvements in a decree for eviction without detriment to the interests of the tenant. It may be from six months to three years. Punam cultivation is far more difficult than the other cultivation. Expenses also are greater. Wild beasts also come and interfere with the crops. Cultivation expenses are greater than the ordinary paddy cultivation. The rent is now collected on the basis of the total yield. If the yield is 100 the rent is from 20 to 25. It should be equal to the assessment, which is 14 annas per acre. The janmi interferes in social matters. If the janmi is in reality against the tenant and if the tenant marries he will say that the tenant is not married in the same caste and so he must be socially ostracised by preventing washermen from taking *Vannathimattu*. Last year Kalliyathu Nair did not give his land for punam cultivation. So there was no punam cultivation last year. There are many oral leases in the hilly parts. The lease-holders pay feudal levies out of the moral fear of the janmi. Even under registered deeds the tenant must get the permission of the janmi to harvest the lands and for getting such permission he has to make certain presents to the janmi.

By Md. ABDUR RAHMAN Sahib Bahadur:

I have not heard the socialists preaching that each man will be given 5 acres of land. We have only spoken about the grievances of the tenants. There was no deliberate refusal on the part of the tenants to pay rent. By the preachings of the socialists there has been an awakening amongst the tenants as regards their rights. Except this there has been no intimidation or coersion on the part of the tenants. We are against any bad customs. Till yesterday if a tenant saw a janmi's karyasthan he bowed to him. To-day it is not exactly like that. He stands a little erect because of our propaganda. Now rent is given only after obtaining the receipt. The Adhigari and Menon measure the Punam cultivation area when the harvest is ready and thus some damage to the crop is done. It may be done earlier.

By Mr. R. M. PALAT:

The tenants have not done anything. In Manipuzha there was a case that some tenants forcibly entered the Illam and then forcibly removed the crops. I have not incited the tenants to enter the forests and cut trees. There was a case against me on that score. I told the people to take dry wood for cooking the tenants rice as usual because since the starting of the Karshaka Sangham the janmis prevented the tenants from taking firewood from the forests. So the case was filed and I was convicted. I did not prevent the taking of the corpse of a person because he refused to join the Karshaka Sangham. There was no no-rent campaign here. I am a member of the Chirakkal Taluk Association. The subscription is two annas. It is not registered. We are thinking of registering it. It was in 1935 that it was started. The real work was done from 1937 only. Subscriptions were collected from 1937 onwards. Money was spent in conducting cases. I do not think

that the law of adverse possession is applicable in these cases. I have let out some portion of my land to others. My case is that the man in possession must be given the land. I am cultivating the land by engaging coolies. He does it for profit. The janmi should not be permitted to take more lands. The tenant has no profit. He cultivates, because he gets at least something. In the lease-deed the rent will be fixed at 100 seers of paddy. But according to the measurement of the janmi, it will be more than 100 seers. If the lease-deed states that the rent should be paid according to the para of the janmi, and the janmi changes his para, then the tenant will have to pay more than what is mentioned in the lease-deed. We have no objection to paying rent according to standard measures. If the janmi wants, let him write 120 paras in the lease deed instead of 100. He need not juggle with the measures. I have no direct experience of punam cultivation. I have made enquiries about it. The expenses of punam cultivation are not less than those for ordinary cultivation. Last year the people did not take lands for punam cultivation because they wanted to spite the janmis. I would object if Government took over the lands without the intention of giving it to the tenants for cultivation at reasonable rents. There were cases over two years ago where the janmi has refused land for punam cultivation, except on the janmis conditions. Some years ago, I had some money transaction at 8 or 9 per cent interest. When a tenant relinquishes his holding he should be paid the value of the improvements. He will not make this a business because he will leave his holding only in the last resort. He will not leave his home easily. So he should be paid some compensation. Even if it is impossible for the janmi to pay, he should pay.

By Sri E. KANNAN:

The size of the measure is not generally shown in the lease-deed. Only one janmi does it.

69. Sri K. A. Keraleeyan, Secretary, Chirakkal Taluk Karshaka Sangham, Post Kalliyasseri.

1. (1) In olden days, the lands were all the janmam of the ruling powers. None else had ownership over the lands. In Kerala, in ancient times, there was predominance of Brahmans. It is seen that, when the feuds and quarrels between them increased, Perumals were sent for and administration was run by them. It is also seen that, subsequently,the administration was run by creating two classes among the people—one the ruling chieftains and the other the desavazhis. On account of the power of those who captured lands by force, on account of the predominant power of the Brahmans and for fear of the mighty persons, the tillers of the soil themselves relinquished their right in favour of the temples to satisfy God and in favour of the Brahmaswam to satisfy the mighty Brahmans. The rulers and native chieftains who were then in power let out the lands to their dependants for enjoyment of the annual yield and on condition of rendering the necessary social services. Carpenter, bell-metal maker, black-smith, gold-smith, store-keeper, curry maker, writer, etc., are all such persons. At that time, there was no pay roll. In those days, when there was no ownership over the lands, the special yield from the lands was adjusted towards their pay. The special permission of the ruler and the local society was necessary for selling or leasing the lands. There were Nayars who were bound to enrol themselves as soldiers, in accordance with the ruler's call, and there were military agents and local chieftains who were bound to arrange for the necessary mobilisation on demand.

As stated above, it was when the rule by the Nambudiris became intolerable that Perumals were brought in to run the administration. When the last Perumal partitioned the country among the local chieftains, this taluk and the adjoining Kasaragod taluk are reported to have been given to Chirakkal Raja. For convenience of administration, the Raja entrusted the collection of raja-bhogam and the discharge of the duties connected with the social and political matters to the Nambudiris, Samanthans and Nayars under him. Thus, it will be evident that the old janmis were also Desavazhis (local chieftains).

Thus it is seen that, in Chirakkal taluk, Chirakkal Raja had under him, Kolathiri, Karakkatitam, Puthiyatam, Vangat Uninhiri, Erumbala, Varikkar, Patikkal, etc., predominant classes, and prominent Nayars as in Ayillath, Arayath, Kandoth, Palliyath, etc., who had as their subordinates and to obey their orders for mobilisation, local chieftains known as Nambiars, Nayars, etc. Persons attending to religious functions, military duty, manual labour, social services, etc., had each their own share of the yield from the lands. It is also seen that if they failed in their duties, disciplinary action was taken against them. It is also clear that in those days there was no system of ownership of lands which was in conflict with the ruling power. A though there was exchange of lands on account of succession and dying intestate, everything was done with the full knowledge and consent of the ruling power and the social leaders.

It was with the advent of the British Government that the present system of land tenure came into existence. The British proclaimed their main right over the lands and

appointed special agencies for collection but many quarrels and suits ensued on account of the claims of several persons to the land. This was the state of affairs from 1800 to 1845; when the British Government found that administrative help was necessary, they thought it essential to win over the mighty persons and, in pursuance of this, an High Court decision was passed in 1852 conferring ownership over the lands on the janmis and empowering them to evict their tenants at their pleasure. It is since then that the existing system of land tenure and janmam title came into existence.

In winning over the janmis, the ownership over the lands was bestowed upon them; not only that, it was ordered that only half the usual rate of assessment will be levied and such lands were given on "Ardhamanyam"; it was also ordered in other cases that the entire assessment will be remitted and such lands were given on "Sarva-manyam." The janmis gladly acknowledged this concession. There is evidence of this, in this taluk, from the fact that there are "Inamdars" now in existence.

(2) *Kanam.*—The kanam said to have been in existence in olden days originated out of the appointment of karyasthans, writers, persons for enlisting warriors, agencies for doing propaganda work connected with education and for collecting offerings at the temples, all under the Naduvazhis. As remuneration for these duties, lands were leased out to them with the right of enjoying a fixed portion of the produce. The kanam system, which was in existence prior to the advent of the British Government, is said to be the practice of leasing out lands to those entrusted with the discharge of the several social functions with the right of only enjoying the produce from the land. It is also seen that that system has no connection with the existing system. The origin of the existing kanam tenure is the practice of leasing out lands by the persons who chanced to acquire janmam title, in their own interest, in order to keep up their prestige and status without incurring any loss and to derive profit out of such leases.

(3) *Kuzhikanam.*—The system of obtaining lease of lands, on payment in advance, and of effecting improvements on them is known as Kuzhikanam.

(4) An ordinary person, without any property, obtaining lease of lands with the idea of effecting improvements is known as verumpattamdar.

(5) (*a*) There is a system of tenancy known as petty kanam tenure. The majority of these are in Kurumbranad taluk. They enter into kanam leases showing petty amounts as 4 annas or 8 annas as kanam in order that they will have to pay only a reduced rate of court fees when further transactions with the lease properties take place. (Apart from the fact that the registration fees will be reduced, the stamp duty required is only 12 annas.) This kanam is similar to verumpattam. According to this kanam, there is occupancy right for 12 years. Because he is placed in the position of a kanamdar who has no right to increase or decrease the pattam according to the provisions in the Tenancy Act (there is High Court decision to prove this) he finds his position very unsafe under this system of tenancy. As in the case of big kanamdars (kanamdars who have paid large kanam amounts) even if the system of fair rent as provided for in the Tenancy Act is brought into force, the 4 annas kanamdar will not be allowed the privilege of enjoying similar benefits. This is really hard. The remedy for such tenants is to amend the law in order to treat them as verumpattamdars.

(*b*) "*Escheat*" *tenants.*—They are a set of cultivators in Kannapuram amsam of this taluk. Fifty years ago, when the Mozhan tarwad there became extinct, the tarwad properties were taken possession by Government and sold in auction to tenants. A period of twenty years was fixed and if within this period, interest at 5 per cent per annum on the bid amount was paid, it would be considered that the entire bid amount was paid up, that then the exclusive right over the land will vest on the tenant and that until then assessment and interest should be paid. This was the condition at the time of sale. But, at the expiry of twenty years, the tenants agitated. Except that the 5 per cent interest was reduced to $2\frac{1}{2}$ per cent, the ownership of the lands was not given to the tenants; even though 22 years have since elapsed, the unfortunate tenants have not yet acquired janmam right. They, who are not now in a position even to pay the assessment, are labouring hard to pay the assessment inclusive of interest.

(*c*) The tenants of the Estate of the late Mr. Brown are very unfortunate as they have to pay annually to the Government the assessment and pattam due from the lands in their possession.

2. The intention of janmi is to retain his local ruling powers, status and prestige and an elevated position among the general public and to enjoy a luxurious and easy life in society. And, it is his desire to procure ownership of the lands, lease them out to tenants, collect varam and purappad annually and thus lead a pleasant life.

Those who aspire to become prominent figures among society hunt after honours and titles and, although they are not owners of lands, want to exercise their supremacy over the under-tenants under them. With this in view, they see janmis placing before them a small amount and fixing a small amount as pattam and obtain leases of lands

which they divide into bits and sub-let each bit to several persons thereby receiving manusham and kanapanam from them besides fixing excessive varam and pattam. They thus earn a good lot from the sub-tenants and pass for "efficient" men in society. This is the position of kanamdars.

A kuzhikanamdar is one who works hard on the soil, effects much improvements, pays the annual fixed share of the yield to those above him, renews the lease whenever the time expires, submits himself to the demand of increased varam pattam, pays advance pattam and manusham and thus holds possession of land under the janmi and the intermediary for the purpose of eking out his livelihood.

A verumpattamdar is one who pays pattam in advance, makes presents in kinds and offers Thirumul-kalcha to the landholder above him whenever demanded, obtains lease on condition of being evicted by the janmi or the intermediary at will, and works hard on the land to derive something for livelihood. His daily life has now become unbearable as he is highly involved in debts. His relief from such a miserable position is what is now urgently required.

3. Yes. The High Court decision of 1852 completely changed the system till then prevailing. The Naduvazhis became mighty janmis. Arathu paramba and other similar parambas in this Taluk, which were used as grazing ground and from which grass was freely removed for thatching purposes, were registered at the Settlement in the names of prominent persons who converted them as their janmam. The power to evict was given to the janmis by the British Government

4. (*a*) No.

(*b*) Yes.

(*c*) Yes. There are forests and waste lands here. The majority of the population have to depend upon them for their livelihood. It is the duty of the Government to find work for the unemployed. Hearing that the existing law is being amended, the janmis have already begun to lease the waste lands on Kozhukanam.

5. (*a*) Yes. The tenant is not in a position to purchase the intermediary's right. The existing system, which enables any one to purchase lands, should be stopped. The share of the yield due to the cultivator and to the Government (this is already fixed) should be fixed and the balance alone should go to the intermediary. The question of compensation does not arise at all. No sort of compensation need be paid.

(*b*) (1) We do not agree to compulsory purchase.

(2) This is not practicable.

(3) This need not be prohibited. It is not practicable. To-day, lands are sold with a view to make some profit out of the transaction. If fair rent is fixed, non-cultivators will only very seldom come forward to purchase land. If the exhorbitant profit which the intermediary is now making is restricted, sales to non-cultivators need not be prohibited.

6. The intermediary should be held liable for his default. The kanamdar pays the janmi. The verumpattamdar pays the kanamdar. For the liability of the kanamdar, the verumpattamdar should not be held responsible. (The present system of attaching the tenant's crops for the land revenue arrears due by the janmi is not at all desirable.) Occupancy right should be granted to sub-tenants. The right of the person who makes default in payment should be held liable for it. The cultivator's right should, under no circumstances, be made a charge.

7. (*a*) At least 3½ times the seed should be deducted for cultivation charges and half the net produce should be given to the cultivator. With the other half, the Government may do as they like (i.e., one-fourth to the Government and the balance to the remaining interested persons).

(*b*) According to the principles of Settlement, one-third of the yield is said to be the cultivator's share, one-third to the janmi and the remaining one-third to the Government. It appears that it was in 1915 that the Collector remarked that the janmis were levying 16 times the assessment as pattam. The assessment has now increased. With the re-settlement, many lands have been assessed at garden rate and assessment has been considerably increased.

(*c*) The janmi who is the pattadar should pay the assessment.

8. Yes. It will be a relief, for the present, if fair rent is fixed and brought into force in such a way that , in the case of dry and wet lands, 3½ times the seed should be deducted for cultivation charges and half the net yield should go to the cultivator and, if in the case of garden lands, the existing provisions in the Tenancy Act are brought into force immediately.

9. No. It is enough if fair rent is fixed and brought into force as stated above.

10. Yes. Now, although assessment is remitted, pattam is not. In accordance with the remission of assessment, the pattam up-to-date should also be remitted.

11. Yes. There should be uniformity. Use of false weights and measures should be penalised. For the mere reason that the size of the measure has not been specified in the contract, the local measure is used. This is fictitious and defeats the object of the law.

12. In olden days, on the death of the karnavan of the Tarwad, the tenants had to go and see the new janmi when they had to make some presents. This is the origin of renewal fees. The janmis were considering this as a sort of death duty. This was also considered as an assessment on account of hereditary right. Successive deaths rendered the tenants unable to take these presents to the janmi and see him. It finally resulted in hardship. Hardship increased and led to mediation. Mediation resulted in fixing this at once in 12 years (Purushantharam). The amount fixed was one-fifth of the total. It is seen from the old kanam leases that there was no renewal system. Now, the position has changed from renewing the lease of the property to renewing the tenant himself.

13. (*a*) Yes, certainly.

(*b*) On payment of fixed fair rent annually, fixity of tenure may be conferred, without payment of any compensation.

(*c*) Yes. That section should be deleted. On the basis of fixing the fair rent.

14. There is a difference between eviction and surrender. There should not be compulsion. Powers for transactions and sale are only necessary. Therefore, no amendment is necessary.

15. (*a*) Yes ; on condition of fixing the fair rent and granting occupancy right.

(*b*) Yes. It is the practice to evict on the following grounds, viz., janmi's disputed ownership, damage to ridges and fencing, failure to pay advance pattam, self cultivation, etc. When a suit is filed for arrears of pattam, the remedy is not eviction. The suit must be for pattam arrears. When a suit is filed, the question of eviction should be dropped if the arrears of pattam are paid into Court.

16. I am in favour of restriction. It should be as follows :—

(1) Firstly, one who has an income in excess of an amount, to be fixed, should not have the right to evict. If he is a small janmi, he may have power to evict but there should be a condition that eviction should be confined to a particular extent to be fixed. An extent above 25 acres should not be evicted. The janmi should cultivate the land himself immediately eviction is carried out. Three years' notice should be given prior to eviction. Even if one is a small janmi, he should not evict provided he has the means to get on otherwise.

(2) When fair rent is fixed, the tenant will regularly pay it ; hence, munpattam is not necessary.

17. (*a*) Yes. No compensation whatever should be paid.

(*b*) Kudiyiruppu should be in the middle of the paramba ; if it cannot be in the middle, a convenient site should be allowed on any other side. Even if the improvements have to be sold, the kudiyiruppu holder himself should be allowed possession of the kudiyiruppu.

(*c*) The rent will, of course, increase according to the importance of the town. Therefore, an extent of 25 cents in urban areas and 50 cents in rural areas should be allowed.

18. The M.C.T.I. Act is satisfactory on the whole. But, the mode in which the fruit-bearing trees have been differentiated, and the principle of fixing their value have to be amended. Although the provision in law is that assessors should be engaged for commission work, young vakils are entrusted with commission work and consequently no justice is done. The provision regarding the adjustment of the court expenses and commission allowance from the value of the improvements due to the tenant should be deleted. On payment of the value of improvements, there should be an interval of three years to enforce the decree for eviction.

19. There are many levies. (Examples—Taluk sangham printed notices Nos. 1, 2, 3 and 4 enclosed will reveal them.) All these should be made punishable.

20. Yes.

Amendment necessary.—Varam, pattam and purappad not in excess of the assessment.

A cultivator who has rendered a land fit for fugitive cultivation should be allowed to cultivate it at least seven times (after the first year's cultivation, it can be cultivated a second time only after 4 or 5 years).

All forests fit for cultivation (including Government forest) should be given for cultivation.

No places other than reserve forests should be retained as forests.

Each cultivator should be granted a gun licence to protect him from the attack of wild animals.

The booking of fugitive cultivation should be done in Meenam and Medam months instead of in Chingam and Kanni. (On account of the Village Officer's booking the occupation at a time when the crops are growing, much damage is done by treading over the crops. This is very painful.)

The Government should give sufficient protection to the family of the cultivator when his life is lost by the attack of wild animals.

The forests intended for pepper cultivation should be leased free of manusham.

The site should be exempted from assessment and purappad for eight years commencing from the date of the lease.

The unauthorized levies and mamuls of village officers, janmis, karyasthans and other go-betweens should be stopped; such levies should be penalised.

Only a purappad not exceeding one rupee per acre should be levied for pepper gardens after 12 years of plantation.

The assessment and purappad should be paid only for 10 years.

21. Yes. What is required is only to extend the intended legislation to Kasaragod taluk adjoining Chirakkal taluk. Also, to Gudalur taluk, where there is no protection at all by law, the intended legislation should be extended.

22. (*a*) Yes. According to the existing Act, the suits filed in village courts for arrears of pattam amounting to one or two rupees are got transferred to Munsif's Court. This causes hardship to the tenant. When the lands mortgaged with possession are got back on marupattam chit from the mortgagee by the mortgagor, a suit brought in for arrears of verumpattam renders the mortgagor liable to account for the entire mortgage amount. This results in even evicting the tenant, who is also the mortgagor. The system of recovering renewal fee by litigation, the provision that the tenant should pay for the encumbrance certificate in respect of the land when it has to be obtained in the interest of the janmi, the system of attaching and selling the tenant's crop and right by court for arrears of varam due to the janmi in spite of the tenant having paid kozhu-kanam amount in advance (the kozhu kanam amount is retained as it is), the sale in auction even though no sufficient price is fetched, the levy of poundage for the property sold and other similar hardships caused by the working of the existing Act should be stopped.

(*b*) It is essential to simplify the existing system and make it less expensive. There should be a Commission consisting of law experts in connection with the fixing of fair rent.

(*c*) (1) As summary trial will cause hardship to the tenant, it should not be provided for.

(2) If the trial is provided for in the Revenue Courts, some refinement is necessary. To enter the Court premises, the tenant has to incur heavy loss by way of stamp duty, court fees, etc. Therefore, the trial need not be in revenue courts. The defendant should certainly have the right to defend himself through the Civil Court. The Court expenses and the Vakil's fee should be reduced. The procedure in Courts should be simplified.

(3) Certainly not.

23. Yes. There is difference between the market rate and the rate fixed by Courts. The Courts should not fix the rate on the basis of the average for the past 12 months. The value fixed by Court should be the market value prevailing in each locality at the time of giving varam pattam. The value of the wet paddy is different from that of the modan crop paddy. Their value should therefore be fixed separately by Court. The facilities for taking water from irrigation sources which the janmis in olden days had been allowing and the diversion of water through thodus in order to avoid loss of crop should be allowed. Permission should also be granted for removal of fuel from forest; there should also be facilities for thatching. The interference of the Police in the quarrels between the janmi and the tenant should stop.

24. There is some, but not much difference in the collection of michavaram and the recovery of arrears.

By the CHAIRMAN :

I am not an actual cultivator. My mother has lands here. I am a Congress and Kisan worker. I have no other occupation. I have no experience as an actual cultivator. I have read in Logan's Manual that the High Court decision of 1852 effected a change in the rights of the parties. I do not know anything more than that. The cultivation expenses should be 3½ times the seed. If fair rent is fixed at half the gross produce it will not give much benefit to the tenant. It will be the same as in the present Act. I agree to the suggestion that the fair rents of all the lands in a locality should be determined at one and the same time by a Committee composed of the Revenue Divisional Officer and 2 or 3 respectable gentlemen of the locality. I cannot consider the continuance of renewal fees at all. There are 5 or 6 instances in Chirakkal taluk where the janmi evicted the tenant on the ground of 'bona fide cultivation' and then gave out the land to others. I shall send to the Committee a list of such instances. Feudal levies must be abolished.

By Sri M. NARAYANA MENON :

We submitted a memorial on 12th October 1938 to a janmi regarding the rent on pepper gardens. That was a matter of grace which we asked of the janmi then. The landlord did not give any such relief. But what we ask now from the Government is a matter of right. We have referred to that memorial to show that we approached the landlord first to have our grievances redressed. Pepper should be assessed after the 12th year and that too at the rate of one rupee per acre for 10 years. One acre can be planted with 350 pepper vines. I am filing the annual cultivation expenses for one acre of pepper garden and one acre of paddy cultivation. The tenant gets no profit from one acre of pepper after the assessment and the rent are paid.

By Sri E. KANNAN :

For the last six years I have been a Karshaka Sangham worker. Now I am the Secretary of the Sangham. Even though I am not an actual cultivator, I know the conditions of the cultivators. I have visited all the villages of the taluk. The Vara Para is the measure used for the payment of rent and is larger than the standard measure. The Kongazhi para is the measure used for the payment by the janmi and is smaller than the standard measure.

One Tambayyamma died. The Adhigari and the janmi of the locality did not allow the dead body of the woman to be cremated. It was made out that the peasant workers did not allow the dead body to be removed. The two brothers of the woman who died were not allowed to come because the Adhigari would not permit the messenger to go and fetch them. They came to the place but they did not go to the house of the woman at all.

By the CHAIRMAN :

The two brothers were not members of the Karshaka Sangham. It was the Adhigari who got the dead bodies cremated later on.

By Sri E. KANNAN :

I can't say whether Mr. Kelappan, the District Board President, came here, made an enquiry and put it in the Mathrubhumi that it was all done by the Karshaka Sangham. The Chirakkal Taluk Peasants' Union has not done any such atrocious thing.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

The average yield of a coconut tree will be about 10 nuts. If the previous witness said it would be about 30, probably his garden is more fertile. I own garden lands and I know that on an average a coconut tree will yield about 10 nuts ; the best coconut tree will yield about 20 nuts and not more.

70. Sri Vengayil Raghavan Nayanar, Bar-at-Law.

1. (1) It is impossible to trace the origin and development of janmam. One can only say that it existed in the earliest known state of society in Malabar of which we have any historical knowledge. The janmam was highly prized and afforded great prestige and honour. All lands were private property and consequently every bit of land had an owner. Hence the significance and importance attached to janmam ownership.

(2) Owing to impoverishment, on the heavy calls of great feasts like Thali Kettu which had to be celebrated on an imposing scale, or of tournaments like Anga Pada (അങ്കപ്പട) in which Nayars revelled, karnavans had to raise large sums of money on particular occasions. Thrift was a rare virtue and any annual surplus was invested in the acquisition of more land. To meet the need for liquid cash and at the same time

retain the cherished janmam right, kanam was resorted to. On the other hand, the lender would not advance money on a mere simple mortgage when there was no system of registry of documents and regular law courts. His safety lay in getting the land in his possession and meeting the interest from out of the rent. Thus the origin of kanam lay in the necessity for the janmi to get liquid cash at particular times.

(3) In order to get his land quickly developed, the janmi leased it out for the making of improvements by way of planting coconut or areca trees or pepper vines or jack trees.

(4) Both janmi and the kudiyan found it more profitable to them to have the arable land tilled by the reliable kudiyan who lived nearest to it. The kudiyan did not make any improvement in the land. This was verumpattam or verumkozhu tenure. Similarly the usufructs of trees of gardens were often rented out to the kudiyan living close by as this was profitable to both parties. This is also known as melpattam or verumpattam.

2. The janmi had absolute and complete ownership of the soil including the right to the treasures and minerals in the soil. In early times there was something sacrosanct about the janmam right. As all land was private property and every piece of land had an owner, it was felt that for every sale of janmam a reasonable and fair value must be paid. It was considered unfair to take advantage of man's need and drive a hard bargain. Thus going through the old cadjan records I found that a piece of land sold for arrears of land revenue was again ' purchased ' from the original owner. The new buyer felt he would really get the janmam right and be blessed to enjoy it only if he gets a transfer freely from the owner. The janmi could always expect and was entitled to a share of the produce from the land. Thus even in forest land if honey were extracted from the bee-hives, or if wild animals were hunted, the janmi was entitled to a share of the honey or a haunch of venison or pork.

The kanamdar in North Malabar simply steps into the shoes of the janmi. When the term is over and the janmi clears the amount, he must relinquish the land. Then the tenants pay the janmam share to the janmi who had handed over that right to the kanamdar for the kanartham received.

The interests of the kuzhikanamdar and the verumpattamdar are those derived from the absolute proprietorship of the janmi. Thus the kuzhikanamdar was entitled to develop the land. But at the end of the period, the janmi was free to get back the land into his possession after paying the value of the improvements.

3. No changes have been effected by the judicial decisions before legislative interference.

4. (*a*) They were perfectly justified in presuming so.

For in Malabar there were no State lands. The village system did not flourish in Malabar and as there were no communal lands. All land was private property.

The ballads, especially the Thottam (തോറ്റം) sung by the devil dancers (തെയ്യം) in Malabar often refer to various hills and extensive forest tracts as belonging to or owned by particular families. Moreover the very names of some of the hills and forest tracts suggest the ownership of the land. Thus ' Kokkott Pathi ' comprising about 1,500 acres of forest land once belonged in janmam to the Kokkodan family. On closer enquiry one learns that the present owners derive their title from this family.

(*b*) Regarding waste lands no restrictions should be placed. But regarding forest lands and irrigation sources, some control over indiscriminate destruction of forests (as in Switzerland) would be advisable. Irrigation sources tend to dry up if the forests surrounding them are cleared.

(*c*) No. I do not agree to the suggestion. But Government may buy up waste lands for afforestation. Most waste lands are fit only for grazing and an occasional fugutive crop once in 6 years, which, however, sadly impairs the grazing value of the land. No useful purpose would be served if the Government were to buy up this land and distribute it. For no one would be able to live on what is grown on the ' waste ' land that is given to him. Most of the fertile portions are already occupied; it is only highly developed agriculture on a scientific basis that might make it just paying to cultivate the waste lands.

5. (*a*) It is not possible to simplify the system of land tenure in Malabar by a process of elimination of any class of tenure holders. It will be injurious to all classes and it is not at all desirable to do so. If any attempt is made it must be on compensation to the class to be eliminated. But it is extremely complicate to fix the compensation which make it impracticable and unworkable.

(*b*) (1) I do not agree to this suggestion in the case of verumpattam lands. But in the case of kuzhikanam lands, where the tenant has made improvements, when the period fixed in the kuzhikanam lease is over, the tenant may certainly be allowed to

compulsory purchase the landlords' rights. This would be very beneficial as it would tend to create a class of yeoman farmers. But it is doubtful whether there will be many persons willing to take advantage.

(2) Not practicable. There are no ideal farms as such in Malabar, for the holdings are not consolidated in one block. They are usually in strips and scattered all over the place. Further as the Malayali generally follows the Marumakkathayam Law, the family of one cultivator may have far more labour at its disposal than that required to work an 'ideal farm.' It would be indeed hard if such a family were restricted from keeping sufficient land for its support in its possession.

(3) Consequences would be disastrous, for it would deprive the cultivator of any power to raise capital to work his holding. It would be very difficult to draw a line between the cultivators and non-cultivators.

6. The under-tenure holder should be protected provided he makes good to the ultimate landlord the consequences of default.

7. (*a*) Considering the variety of tenures, it is rather difficult to answer this question satisfactorily. In the case of kuzhikanam lands, where the tenant has made all the improvements, the share allotted to the janmi may be fixed at one-fifth of the gross produce and free of land revenue, i.e., the kuzhikanamdar will be liable to pay the land revenue out of the four-fifths left to him.

In the case of verumpattam paddy lands, the janmis share may be put two-thirds of the net produce (gross—cost of cultivation = $2\frac{1}{2}$ times seed including seed). The janmi will be liable for the land revenue. Intermediaries, if any, must share out of the share allotted to the janmi in proportion to the capital invested or contract with janmi.

It is very difficult to estimate the gross produce as much depends on proper and timely cultivation. It is regretful to note that cultivators do not pay proper regard to essentials of cultivation these days—proper seed, manuring, and ploughing. The cattle are stunted creatures and attention is not paid to seed selection. Manuring is neglected, i.e., most manure pits are exposed to the sun and rain with the result that ammonia is lost and the manure is of little value.

As it is difficult to assess the gross produce, as far as possible it is best to rely on the old rent rates that have been followed.

(*b*) It varies considerably. With reference to wet lands in North Malabar, my experience is that the Government assessment varies from Rs. 15 to Rs. 20 for thousand seers rent-yielding lands.

Regarding garden lands, it varies from Re. 1–2–0 to Rs. 9 per acre. Here again it has no reference to the actual yield. I could easily cite any number of cases where the gross produce is insufficient to cover the Government assessment.

The reasons for Government assessment exceeding gross produce are mainly three in number.

The rule observed in Malabar by the Revenue authorities that five jack trees or ten coconut trees on a piece of land result in the classification of an acre of the land as garden. The rate of the garden was to be fixed from the highest rate in adjoining land.

This rule worked great hardship. Gardens on river banks had luxuriant coconut topes. But when the cultivator extended his cultivation into less fertile areas adjoining his garden, a very heavy rate of assessment was imposed. Thus the assessment was based in many cases not on the basis of the fertility of the soil, but arbitrarily. In all such cases there have been considerable hardship.

Thirdly no provision has been made for reduction of Government assessment when the fertility of the soil decreases. This is specially felt in regard to pepper gardens where within 25 years the land loses its fertility and it will have to lie fallow for a number of years before any plantation can be successfully attempted.

(*c*) In the case of lands in the possession of kanamdars in North Malabar, it is the kanamdar who should pay the revenue. In all other cases the janmi should pay the revenue.

But where it is proved to the Revenue authorities that the tenant has defaulted payment of rent to the janmi, the Revenue authorities may be allowed discretion to collect it from the tenant.

The present system of joint pattas where the janmi desires to make the tenant pay the revenue or in cases where the tenant volunteers to pay it, is very convenient.

8. (*a*) *Wet lands.*—No hardship to either party.

(*b*) *Garden lands.*—Great hardship to the janmi. Very often fair rent fixed according to the Act is not sufficient to cover the land revenue. When all the improvements

belong to the tenant the proportion fixed according to the Act was one-fifth of the gross produce. This may be amended to one-fifth of the gross produce plus the land revenue.

According to the Act the janmi is unable to calculate rent for jack trees or cashew trees grown on the garden. This is a great hardship, especially when realizing the value of jack trees the Government have laid down a rule that an acre of land with only 5 jack trees must be classified as garden.

With the rise in price of cashewnuts acres of land have been planted with cashew. When the tenant gets a goodprice for his cashew crop, it is most unfair that the janmi cannot calculate the yield of the cashew trees in fixing rent. Similarly acres of land have been planted with graft mangoes.

The Act must be suitably amended so that in fixing the rent of the garden, the yield of all different kinds of trees in the garden may be taken into consideration.

9. It is not advisable to fix fair rent in any proportion to the assessment so long as Government is not prepared to accept revenue in kind.

10. If the remission of assessment is for failure or partial failure of crops, provision may certainly be made for remission of rent by the landlord in proportion to remission of assessment he gets.

11. It is certainly advisable to introduce standardized weights and measures. The illiterate ryot is put to considerable difficulty. Ten MacLeod seers may be calculated as one 'para.'

12. Renewal fees is the part of the share of the janmi reserved in the hands of the tenant to be paid to the janmi in a lump sum regularly in the course of a fixed cycle of years. Usually when these renewals fall due, the janmi will have some heavy call for money.

13. (*a*) Yes. But provision must be made for a revision of rent in view of the abolition of renewal fees.

(*b*) Compensation would take the form of enhanced rent. As regards such tenants fixity of tenure may be granted in that they cannot be evicted unless they default rent payment.

14. It is not desirable to do so.

15. (*a*) Occupancy rights cannot be given to the actual cultivator, but he may be given fixity of tenure.

(*b*) To my knowledge there has been none. Regarding grounds for eviction, no amendment seems to be necessary.

16. I am not in favour of abolishing or restricting the right.

(1) Permit me to draw your attention to one specific instance. A former samudayi of the Payyanur devaswam had leased out certain paddy lands close to the temple. These lands adjoin the residence of the chief shanti who is forbidden to see members of the fair sex during the period of his service. Hence a tank and a lavatory have been constructed in his compound which is next to the temple. The Health Officer recently pointed out that the site of the old lavatory was unsuitable as it was too close to the tank. The verumpattamdar in possession of the adjoining paddy fields was requested to surrender a portion of the lands to the devaswam for the purpose of building a latrine. He refused to do so. The only course left to the devaswam is to evict him.

(2) As verumpattamdars do not make any improvements on the land, it is necessary that provision should be made for furnishing one year's rent as security when the janmi asks for it.

17. (*a*) It is not necessary. The procedure contained in Chapter VI does not require any change.

(*b*) Municipalities should be exempted from the provision relating to kudiyiruppu.

(*c*) No hard-and-fast rule can be laid down. Each case must depend on the particular circumstances.

18. It is not desirable to do so. The existing law is quite sufficient. But the value of improvements must not be too wide off their market value.

19. There are hardly any feudal dues or levies. The provision contained in Section 32 of the Act is quite sufficient.

The (വെളിച്ചപ്പാടൻ, കോമരം,) etc., of various communal sthanams annually go to present themselves before their 'Kozma.' It will be surprising to note that some of them may not be tenants at all nor have anything to do with the Kozma's land. Further as most families owing to the depression have stopped giving "വിഷുകൈയിട്ടം" and "ഓണപ്പുട" any presents to them in the form of vegetables, ghee, etc., are rare.

20. (*a*) Not desirable. In the very nature of fugitive cultivation in North Malabar the area cultivated by a tenant in one year will have to be abandoned by him next year and he goes to another spot. The dry jungle cut down has to be burnt and often large areas of adjoining forest or jungle are burnt down.

In order to preserve the forest wealth of Malabar, fugitive cultivation must be controlled. I would suggest that only persons living in the amsam or the janmi be allowed to do fugitive cultivation of paddy and other annual crops on lands in the amsam. Nowadays persons find it so profitable that considerable numbers trek from distant amsams and sojourn in the forest amsam till their crop is harvested.

It is difficult even to fix the rent to be paid, for a flat rate would be very harmful. Thus in Panapuzha amsam the Vengayil tarwad generally collects at the rate of 20 seers per acre, the tenant paying the fugitive assessment of about 14 annas per acre. In parts of Poringom amsam where the jungle is most luxuriant in growth and more fertile the rent is 30 seers per acre, and in the dense forests of Vykara amsam it is 40 seers per acre. The kariyasthans go round to fix the rent. They cannot go above this rate, but they reduce it wherever the crop is poor. I may add that the rate of fugitive assessment is lower in Vykara than in Panapuzha.

(*b*) Not desirable. At present the tenant pays the janmi one-fifth of the gross produce and the assessment on the land. The pepper vine begins to bear from about the sixth year, and it may remain in fair condition for about another twenty years. By that time the vines absorb all the fertility of the soil and begin to wither and die out. Then the land must lie fallow for at least ten years before any successful plantation can be attempted.

The yield of the pepper vine is very irregular. So it is always of doubtful advantage to both parties to fix a rent. Payment of one-fifth of the gross produce, or the janmi plucking the whole yield once in five years has proved quite a satisfactory arrangement. There has hardly ever been a case of eviction.

It must always be borne in mind that the pepper crop does not respond to manuring and that it drains the fertility of the soil very rapidly unlike coconut gardens.

There are now acres of jungle land which were once pepper gardens and for which year after year the janmi is paying assessment as the tenant has given up the garden.

21. (*a*) & (*b*) No.

22. (*a*) To my knowledge the procedure as such does not cause any hardship to any.

(*b*) Revenue courts may be given power to do these things; or by mere original petitions courts may be given the power to collect the rents.

(*c*) (1) Summary trial does no good as at present provided for.

(2) It is a good idea.

(3) It is necessary.

24. The lack of Registrar's offices within convenient reach of the villagers is a great disadvantage. This is specially felt in the northern part of the Chirakkal taluk, where at times one has to march over 20 miles over roadless country to get to a Registrar's office.

By the CHAIRMAN:

I am a Graduate of the Madras University and a Barrister-at-Law. I am managing the affairs of my tarwad. The extent of my tarwad lands is about 40,000 acres. We have an income of 3 lakhs of seers of paddy. We pay an assessment of Rs. 12,000. I do not know of any particular reason for the presumption of private property in Malabar. I can only say, so far as my tarwad is concerned, that most of our lands were acquired and bought. The history of our family shows that the first karnavan was a betel leaf seller. When a Muhammadan committed sacrilege in temple precincts, the karnavan killed him and he was rewarded for it. From that time onwards, i.e., before the British came and before Tippu Sultan, our family has been in enjoyment of the properties. It is said that even during the time of Tippu, we had a small fort at Kottur and we put up a strong fight with his army. There are records to show that all these lands were purchased from time to time. Another proof of our not having come into possession by other means is that, adjoining our family house, there are parambas and houses belonging to other families. If we had not bought our properties, then even those parambas and houses could have been taken. The Committee may know something about the history of our family by reading the "Life of Kesari." Government must have some control over private forests, in order to prevent indiscriminate destruction. I understand that in Switzerland, people should get the permission of Government before cutting down trees

and that the owner of a certain area of forest land must have an officer qualified through some Government training school in forestry appointed as forest officer. Some such control here also may be desirable. Most of the waste lands are fit only for grazing purposes or for occasional crops. Existing paddy lands are not properly cultivated and yielding; these waste lands must be worse. I doubt whether there are large areas in these parts fit for paddy or coconut cultivation; on the other hand, I think it is unwise to allow people to cultivate paddy continuously, because after three or four years, the land becomes unfit and in the meantime the Government put a high assessment. No doubt there may be areas here fit for pepper cultivation, but not paddy or coconut cultivation. I do not think there are many intermediaries in North Malabar. I deal directly with 80 per cent of my tenants and there are no intermediaries. I do not know the conditions in other taluks; but here, except where the kovilakams come in, the janmi deals directly with the tenants. I do not know how the intermediaries can be eliminated so long as they have an interest in the land. If the persons in actual possession purchase the intermediaries' rights by paying full market value and can sub-let, it will be rather unfair. In case of default, the janmi can easily inform the under-tenant who may then pay the janmi directly. The right of purchase should be given only in the case of the *defaulting tenant*, not otherwise. I would also stipulate that the land so got should not be sold again or sub-let, if we are to avoid the same condition of things after some time.

By Sri M. NARAYANA MENON :

If the janmi's right to collect is limited to three years' rent, we will be simply increasing litigation. Janmis here do not generally go to court often. Once a tenant is taken to the court, the good relationship between the landlord and the tenant is broken and there will be great trouble.

By Mr. R. M. PALAT :

I don't think it is necessary to put a limit on the amount that can be accumulated.

By the CHAIRMAN :

If the sub-tenant pays the rent for his holding only, there will be some difficulty. A tenant may lease out a few acres of land, one portion of which may be good and the other bad, although the rate may be the same for both the portions; it may not be possible to recoup the land revenue from the portion of the land which is not good; and there have been instances where Government had to buy the land in sale for one anna even. The janmi however could not refuse to pay the land revenue.

The present rate of fair rent for garden land is hard on the janmi. Along the Kuppam river there are jack trees which will bring in something. Here we go to the garden with the tenant and with five or six respectable persons, look at the number of nuts, take the land revenue into consideration and then fix the fair rent. That is the method generally adopted here. Jack fruits also should be taken into consideration in fixing the fair rent.

By Sri M. NARAYANA MENON :

The assessment for jack gardens depends on the assessment in the neighbouring land.

By the CHAIRMAN :

I shall send a list of cases where the Government dues are higher than the income from the land.

By Sri M. NARAYANA MENON :

I have found in many places the assessment has been very high mainly because in some corner you will find very good fertile land. Just on the river banks coconut trees grow well. On that basis the whole land is charged.

By the CHAIRMAN :

If the rent of all lands is to be fixed by a sub-divisional officer and 3 or 4 respectable persons of the locality in a group villages, I wonder whether he will have the time. In that case the officers should not be transferred from Malabar. It will not be possible for the committee to go round each Paramba and fix the rent. At the time of the visit of the committee all lands might not have been sufficiently developed. It will be rather difficult in working. It will be a sort of settlement operation. It cannot be done all through the year. Coconut gardens have to be visited in Kumbham and Meenam. It will not be possible for the committee to go round all the parambas within three months. If it is done properly it will be better.

By Mr. R. M. PALAT :

The local men will be partisans. Persons of the Agricultural department will know the yield of the land but they must be men with high salary.

By Sri M. NARAYANA MENON :

From the way in which we are running the co-operative societies, I think it is very difficult to get impartial persons to form the Committee. The renewal fee may be divided into twelve equal instalments and added on to the rent every year. Very often it might be paid in kind too. There is one advantage in having renewal documents executed every 12 years, because very often some of the improvements made by the janmi might have been destroyed or died out. So it is better to have them readjusted. Provision might be made if necessary making it optional to either party. The existing provisions for eviction for bona fide cultivation may be retained. Now the janmi has to satisfy the court. The court is not entitled to go into the motives. There are 80 members in our family. If any member wants to cultivate and is not able to get land, what are we to do ? If it were restricted to cases of necessity, that is an elastic term. Scientific cultivation increases the wealth of the country. I would not object to the tenants working as labourers and earning more.

By Mr. R. M. PALAT :

If the tenant has got other means of livelihood, it is fair for the janmi to evict.

By the CHAIRMAN :

The proposal that the landlord is to be given the right to evict the tenant within a period of 12 years does not allow for future needs. It is unfair that a man should not get his own property whenever he wants. Generally in North Malabar evictions are very rare.

By Sri M. NARAYANA MENON :

If a man has waste lands, he may still need to evict others for his own cultivation. I do not grant the premise that waste lands can be easily cultivated. As long as rent is paid regularly there is no objection to giving fixity of tenure to kudiyiruppu holders. In the value of improvements the janmi must have some share. So there must be revision of rent. Some tenants bring gifts when they are neighbours. If these are called feudal levies it is a hardship. I have no objection to saying that the tenant should not be compelled to give them. There are no such provisions in documents in our family. Whenever there are some ceremonies in the houses of tenants we have to give some usual perquisites like salt, cloth, provisions and others according to custom. After all these are all ties between the landlord and the tenant. There are poor people who come and take them. You can ask the sub-registrar not to register such documents. The rent of pepper and punam cultivation must be fixed according to the yield and not according to the assessment. The amount of rent can be fixed on the paimash. All that the Karyasthans can do is to reduce but not to increase it. The average yield will be 300 to 400 seers and the seed required will be 15 to 20 seers. The cultivation expenses will be 100 seers. In waste lands there are some fertile portions. The northern slopes will be fairly good. The moisture in the southern slopes will be drawn off. Government assess at the same rate. In the more fertile amsams the assessment is low. The rent per acre must be fixed according to the fertility. Where a crop is bad you won't be able to get any rent. Where a crop is good the tenant will get very good profit. In certain cases they cultivate and run away and the landlord has to pay out of his pocket. Fugitive assessment is not always collected before harvest.

By Sri K. MADHAVA MENON :

If punam cultivation is abolished to some extent it will affect both janmi and tenant It is difficult to get lawyers to revenue courts. But it is worth giving a trial to them.

By Sri A. KARUNAKARA MENON :

If a tenant wants waste land, he can go to the janmi. The janmi won't fix the terms arbitrarily, because he wants income and as many tenants as possible. He won't demand exorbitant rent. The law of supply and demand will work automatically. If the Government distribute waste land, they must remit the revenue if the tenant gives up the land. The first preference should be given to the janmi. As far as our lands are concerned, with regard to pepper and coconut cultivation they have simply to enter and start cultivation. If it is a pepper garden we charge rent after six or seven years. But if you ask the tenant to register the document he says he cannot go to the registrar's office. The apprehension of permanent assessment is one reason for my objection. Secondly they won't give the rent properly. We must work out the cultivation expenses of paddy according to the fertility of the soil. Each jack tree on the river side will fetch one rupee a year. If more roads are opened they will pay. Except in out-of-the-way places the jack tree has a value. The social system in Kasaragod is similar to that in Malabar. But Government is the owner of the land there.

By Sri N. S. KRISHNAN :

It is understood that the janmi should be asked for permission for fugitive cultivation and the permission is given generally. Last year I told them that they should not enter for Punam cultivation. But 3 or 4 people entered the land. I filed suits. They apologised and said that Karshaka Sangham people said it could be had free.

By Sri P. K. KUNHISANKARA MENON :

The Karshaka Sangham agitation is greater in this part of Malabar because there are few roads and schools and the people are ignorant. There may be a large body of educated unemployed here, but the people who are likely to be misled are all ingnorant. Last year a labour school was started here and at once there was some change. Once you give them some knowledge and make them realize their responsibility, they will not be easily misled.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

Just because there are four or five jack trees, you cannot assess a holding to rent. The janmi wants only a share, because he is the owner of the land. The janmi wanted a lump sum and so he let the land on kanam for a low rent.

By Sri K. MADHAVA MENON :

Demands for lands for cultivating paddy and coconut are very rare. There is demand for lands for pepper cultivation. In our estate, the cultivator can start pepper cultivation even before asking for permission. So no manusham can be collected. I carry on paddy cultivation also. The cultivation expenses are 2½ times the seed. If bone-manure from the Agricultural Department is used, the cultivation expenses will increase, but the yield also will increase correspondingly. I do not agree that the fear of eviction is a cause of land deteriorating, because the tenant has no interest in the land. Some of you may go round and ask the tenants whether they fear eviction. For 50 years and 100 years the same tenant or his family has been in possession of the land. Has there been any improvement in Saswatham lands held on permanent tenure ? The tenants can see that the cow-dung is not exposed to sun and rain. They do not do it. I have a breeding bull, but very few cultivators bring their cows for service even though they have not to pay for it. The landlords give green manure free to their own tenants. Provision should be made whereby both the janmi and the tenant can ask for revision of rent. Often the tenant who cultivates pepper has more than one paramba. He has 4 or 5 parambas. In one year he allows the landlord to take the produce of one paramba, in another year another paramba and so on. Even if the tenant has got only one acre of pepper garden, it may be arranged that the landlord takes the produce of one part of it one year and the produce of another part of it the next year and so on. The tenant has also the option of asking that the rent be taken every year. The janmi and the tenant can go round the garden and assess the crop every year.

Before leasing out my lands I see that the verumpattamdar has got some other rights such as kuzhikanam rights. I do not ask for security. If a man takes a verumpattam, it means that he is a man of some standing. My policy certainly does not deter people. I have found that our verumpattamdars are in a position to give security. I should insist upon security for one year's rent in order to give fixity of tenure, because if a man disposes of his other property we will certainly require some security.

By Sri C. K. GOVINDAN NAYAR :

Verum Kozhu is generally for 4 years.

By Md. ABDUR RAHMAN Sahib Bahadur :

You must give the right to the janmi to ask for fair rent. If that is given there will be no question of renewal fee. If the intermediaries are eliminated then no question of renewal fee arises.

By Mr. R. M. PALAT :

If the tenant is too poor to pay manusham to the janmi and take lands for cultivation, he will not be able even to fence the land. There is no use asking the Government to take over the lands from the janmis unless they have a sufficient number of peasants in view with enough capital to work the land. Otherwise cultivation will not be carried on properly. If the tenant has not got the kuzhikanam right, the janmi must be given the right to enter the tenant's land and replace his trees. We have one paramba in Cannanore. I cannot speak from personal experience about the tenures in urban areas. During a festival in my house certain persons were placed at my gate by the Karshaka Sangham people to prevent my guests from entering the house. If Government takes jack trees into account in fixing the assessment, the janmi should take them into account in fixing the rent. Moreover the trees give a good income.

By Sri M. NARAYANA MENON :

Under the Tenants' Improvements Act, when a tenant is evicted from his holding, he is given the value of jack trees also if they are found in his holding.

71 Sri K. V. Krishnan Nayar, B.A., B.L., Advocate, Taliparamba, North Malabar.

1. (1) The origin of the 'janmam' is not exactly known beyond the tradition that Kerala was reclaimed by Parasurama and given to Brahmans who were brought by him from North Kanara or Andhradesa, about which there are different opinions.

(2) *Kanam.*—There is much difference between a kanam in South Malabar and one in North Malabar. The former is a tenure under which nominal amounts are received by the janmis mostly as security for rent but in the latter case it is really a mortgage with possession.

(3) *Kuzhikanam.*—This is a tenure under which the tenant is allowed to make improvements. The janmis as a class, originally, being aristocratic Brahman families were unwilling to undertake manual labour and happened to allot properties for making improvements to people who were mostly labourers.

(4) *Verumpattam.*—This is the name given to simple leases of wet lands for cultivation in South Malabar. In North Malabar the corresponding name is verumkozhu. Verumpattam in North Malabar, on the other hand, means lease of trees alone which is otherwise known as melpattam. The origin of this tenure is the same as kuzhikanam.

(5) *Other tenures.*—These are combinations of the above or service tenures. The origin of the service tenures must be attributed to the constitution of the village system in which different caste people had distinct and separate functions to perform.

2. The nature of the interest a janmi possessed is absolute proprietorship in the property. The various tenure-holders possessed rights carved out of it according to the nature of the tenure—all subsidiary to the janmam right.

3. No changes have been effected by the judicial decisions before legislative interference was made.

4. (*a*) They were perfectly justified in presuming so.

(*b*) No restrictions should be placed. To place any restrictions would be to ex-propriate private owners.

(*c*) I do not agree to the suggestion.

5. (*a*) It is not possible to simplify the system of land tenures in Malabar by a process of elimination of any class of tenure-holders. It will be injurious to all classes and it is not at all desirable to do so. If any attempt is to be made it must be on compensation to the class to be eliminated. But it is extremely complicate to fix the compensation which make it impracticable and unworkable.

(*b*) (1) I do not agree to the suggestion. It will be substituting another class of janmis and intermediaries.

(2) I don't agree to this suggestion also.

(3) Not necessary. By a sale to a non-cultivator another actual cultivator will be benefited.

6. The under-tenure-holder should be protected provided he makes good to the ultimate landlord the consequences of default.

7. (*a*) Considering the variety of tenures it is impossible to answer this question satisfactorily. The terms of the contract have to be respected, but in case the rent is going to be assessed with regard to the nature of the soil or yield the same proportion of rent fixed in the contract has to be settled upon.

(*b*) It varies considerably. Regarding wet lands in North Malabar, my experience is that the Government assessment varies from Rs. 12 to Rs. 20 excluding cess for 1,000 seers rent-yielding lands. What proportion this bears to the gross produce is not known to me.

Regarding garden lands, it varies from 9 annas to Rs. 7 per acre. Here again, it has no reference to the actual yield. There are cases where the gross produce is insufficient to cover the Government assessment.

(*c*) In the case of lands outstanding in the possession of kanamdars, at least in North Malabar, it is the kanamdar who should pay the revenue, kanams there being in the nature of mortgages. In all other cases janmi should pay the revenue, unless a system of reassessment of rent is going to be introduced in which case it would be better the actual cultivator is asked to pay the assessment.

8 The present mode of fixing fair rent is fairly satisfactory for all parties concerned. I don't think any change is necessary.

9. It is not advisable to fix fair rent in any proportion to the assessment so long as Government is not prepared to accept revenue in kind.

10. If the rent is in any proportion to the assessment the remission of the latter must affect the former also. Otherwise not.

11. It is advisable to introduce standardized weights and measures. Ten MacLeod seers may be calculated as one *para*. Forty rupees weight as one pound may be taken.

12. It seems to me that originally the tenancy was to continue during the will of the janmi. This was found to be inconvenient and a fixed term was given. If the tenant was to continue after that, he has to pay a fee in the nature of a present to the janmi and this was known as renewal fee.

13. (*a*) No.

(*b*) Does not require any answer.

(*c*) No

14. It is not desirable to do so.

15. (*a*) Occupancy right cannot be given to the actual cultivator, but he may be given fixity of tenure. For this he must have been in actual cultivation for at least ten years.

(*b*) To my knowledge there has been none. Regarding grounds for eviction, no amendment seems to be necessary.

16. (1) & (2) I am not in favour of abolishing or restricting that right.

17. (*a*) It is not necessary. The procedure contained in Chapter VI does not require any change.

(*b*) No distinction need be made between urban and rural kudiyiruppu.

(*c*) No hard-and-fast rule can be laid down. Each case must depend on the particular circumstances.

18. It is not desirable to do so. It is also not necessary to fix a time-limit for execution of a decree for surrender on payment of the value of improvements. The existing law is quite sufficient.

19. Feudal levies vary in different parts, viz., vegetables, fowls, goats, cadjan, ghee, etc. The provision contained in section 32 is quite sufficient.

20. (*a*) & (*b*) It is not desirable to extend the provision to either of these. In the very nature of fugitive cultivation in North Malabar the area cultivated by a tenant in one year will be abandoned by him next year and he goes to another spot. As regards pepper, there is scarcely a suit for eviction of pepper garden. Any other rent than a share in the produce as at present obtains will affect injuriously both janmi and tenant, as the yield is so very fluctuating.

21. (*a*) & (*b*) Not necessary.

22. (*a*) To my knowledge the procedure as such does not cause any hardship to any.

(*b*) Revenue courts must be given power to do all these things, or, by mere original petitions courts must be empowered to collect the rents.

(*c*) (1) Summary trial does no good as at present provided for. The tenant will be given permission to defend suits on all imaginary grounds and rent suits will be unduly protracted.

(2) It is a good idea.

(3) It is necessary.

23. None.

24. My experience is mainly of North Malabar. The relationship between janmi and tenant in North Malabar was of a very cordial nature till the Malabar Tenancy Act was passed. After the Act, the tenants have commenced to think that they have obtained peculiar rights which they never claimed before. Instances of stray cases of unjustifiable eviction, no doubt, took place in North Malabar also before the Act, but such a drastic legislation as Malabar Tenancy Act was uncalled for so far as North Malabar was concerned. Malabar Tenants' Improvements Act was quite sufficient to meet all hard cases. The kanam tenure as obtains in South Malabar is absent in North Malabar. Customary verumpattamdars exist in North Malabar only under kovilakams, Arakkal Raja and rich devaswams, who alone granted renewals and collected renewal fee. Other janmis leased out properties when the circumstances of the family did not enable direct cultivation, but took back properties for direct cultivation when they permitted it. Small janmis of the North Malabar are in as bad or poor circumstances as the ordinary tenant or cultivator. As fixity of tenure has been given to simple lessees in North Malabar, the tendency has been to deliberately make default in the payment of rent and allow the property to be recovered under section 14—the tenant thereby gaining two or three years' rent. In my experience there has been no case where a janmi in North Malabar claimed security for one year's rent under the provisions of the Act. The reason is probably that the janmi has to pay 6 per cent interest on the amount. The small janmis cannot make a proper investment of this money and realize interest.

By the CHAIRMAN :

My answer to Question 4 was based mainly on certain decisions of the High Court. I have no further knowledge. I have no objection to placing some restrictions for the purpose of seeing that forests where there are valuable timber trees are not denuded. If waste lands are allowed to lie uncultivated, I have no objection to investing the Government with power to take them over, provided proper compensation is given to the owners. I am not for the elimination of intermediaries. I am for protecting the under-tenure-holder from the consequences of the default of the intermediary. The right of the landlord to set off the value of improvements effected by the under-tenure-holder against the arrears of rent due from the intermediary, is a necessary evil. If the immediate landlord does not pay his rent regularly, the under-tenure-holder may be given the right to pay his portion of the rent direct to the janmi. If he does so, the improvements he has effected should not be liable to be set off against the arrears of rent. If the intermediary does not take renewal from his landlord, the under-tenure-holder may be given the right to take renewal direct from the janmi. In fixing fair rent, jack trees also should be taken into consideration If the assessment comes to more than 1/5 of the gross produce, the rent should be increased. The fixing of fair rents of all lands in a locality by a committee consisting of the Revenue Divisional Officer and 2 or 3 influential members of the locality, would be more satisfactory and less costly. There will be less chances of mistakes being committed. 50 per cent of the gross produce seems to be a fair rent for wet lands, but I cannot say more about it from my personal experience. If renewal fees are retained, it is not necessary to execute renewal documents. A simple receipt is enough. I do not know of any case where the renewal fee calculated on the present provisions comes to nothing.

By Sri M. NARAYANA MENON :

Kovilakam customary verumpattamdars for the last two or three years have not been inclined to pay the renewal fee and janmis are obliged to file suits. The suits are dismissed. The janmi will then get only the rent as before, and thereby he is put to a loss. In that very same suit, for customary verumpattams, the fair rent may be fixed. I do not think it is proper to distribute the renewal fee over a period of 12 years. It may be convenient to the tenant, but sometimes it may also cause hardship. So far as the janmi is concerned, I think there may not be much objection to that course.

By the CHAIRMAN :

The tenant must be asked to pay renewal fee only for one period. But it should be paid promptly. If the kanamdars holding is unprofitable, he must be given power to get the holding re-assessed. As regards *bona fide* cultivation, I am in favour of giving the landlord unrestricted right to take as much land as he wants for his cultivation. There is sufficient safeguard for the tenant. It is not practicable or necessary or desirable to limit the landlord's right in this respect. Such a restriction on the landholder is not known anywhere. I do not think the tenant will feel that the land may be required at any time by the landlord. I can't think of a better provision than the existing one. If the landlord is to evict the tenant whenever he feels the necessity, then the necessity should be met, whether it is within six years or after a hundred years. If we say that a tenant who has been in continuous possession for 15 years or so should not be disturbed, so far as this taluk is concerned, the majority of tenants have been in occupation for more than 50 years, and so, possession could never be got back by the landholder in these parts at any future time.

Kudiyiruppu holders may be given fixity of tenure so long as they pay the rent regularly. The maximum may be fixed at 25 cents in the rural areas. If power is given to the janmi to apply for assessment of the land (to fair rent ?) I have absolutely no objection to fixing a time-limit for payment of value of improvements. There may not be great hardship caused to the janmis if feudal levies are abolished, but I am sure, in spite of the abolition presents will continue to be given by tenants to the landlords in the hope of getting some return presents. In some cases the janmis give even more than what the tenants give with the result that the janmis themselves are in favour of abolishing these levies. They may be done away with. The rent for punam cultivation may be fixed according to the nature of the soil at 40 to 50 seers per acre. It may be fixed by the revenue officers. It should not be fixed with regard to the revenue ; that will be faulty. It may be fixed with regard to the extent. In this taluk, some localities yield better and the yield for each holding will have therefore to be ascertained if it is based on the yield.

By Sri M. NARAYANA MENON :

In the case of a registered contract between the parties to the effect that the fifth year's pepper crop should go to the janmi, the janmi refused to take on the ground that the tenant have neglected that year's crop and so he would suffer if he accepted it. But the court held that as a matter of contract the janmi was entitled only to that year's crop. The greatest leniency is shown by the landlords generally in these parts. I think the tenth year's crop may go to the janmi. I do not think any tenant grudges paying assessment.

By the CHAIRMAN :

In the matter of collection of rent, there is considerable hardship for the janmis. The procedure may be simplified ; simple O. P. applications will be better. Perhaps a time-limit may be fixed for filing suits.

By Sri M. NARAYANA MENON :

In the case of pepper leases, if there is a registered document, that will restrict the rights of the tenants ; it may not be advantageous to them. For some years past, I know some janmis have been insisting on having registered documents ; I am sure if registered document is introduced, some levies will be made by the janmis.

By Sri A. KARUNAKARA MENON :

I don't advocate the complete stoppage of punam cultivation.

By Sri K. MADHAVA MENON :

In allocating the shares for the janmi, the tenant and the intermediary, the terms of the contract should be respected. If fair rent is less than the current rent the other shares should be reduced in proportion. I have not much experience of Kasaragod taluk.

By Mr. R. M. PALAT :

Under the Act, a janmi cannot sue for renewal fee. He should be allowed to do so. Whoever enjoys the fruits of the holding must pay the revenue. Large areas are rented out for nominal rents. In those cases, a provision should be made that unless the man cultivates the land within a certain number of years, he must return the land. There must, I think, be some strong reason why lands in Malabar alone were considered to be private property while such lands in the rest of the world belonged to the Government.

72. Sri K. P. Anantan Nambiyar, Kurumathur Village Congress Committee, Chirakkal Taluk.

1. (1) *Janmam.*—Previously, there was no janmi system here. The present janmi system originated with the beginning of the British administration. They realized that they could continue their administration here only if the janmis, who were ruling chieftains in olden days, were invested with more powers and accordingly introduced the present system.

(2) *Kanam.*—Some of the extravagant janmis, finding that their income was insufficient for their requirements, leased their lands (which were notified to be their janmam property by the British Government) to money-lenders and received money in return. The property need be surrendered only when the money is repaid. This is the origin of kanam.

(3) *Kuzhikanam.*—As all the lands belonged to private owners and as the hard-working cultivators did not get sufficient lands for cultivation, they obtained leases, either oral or written, from the janmis for purposes of cultivation and kudiyiruppu and held possession of such lands on payment of purappad, etc. This is the origin of kuzhikanam.

(4) *Verumpattam.*—The poor cultivators whose only aim was earning their livelihood depended upon the janmis and the intermediaries and got leases on enhanced rate of pattam. This is the origin of verumpattam.

2. (1) The janmis are a class of persons who lead a luxurious life without doing any work and, in their capacity as owners of lands, claim several kinds of collections from the hard-working tenants, such as purappad, varam, pattam, melvaram, etc.

(2) The intention of the kanamdar is to invest money, enter into agreement with the janmi, obtain supreme control over the janmi's lands and derive profit therefrom by sub-letting them at a higher rate of pattam than that due by him to the janmi.

(3) Hard-working cultivators obtain lease of waste lands on condition of effecting improvements and convert them into very good yielding lands. If anything remains after paying the janmi's and intermediary's dues, they take it for themselves. This is the position of a kuzhikanamdar.

(4) Finding no means of earning a livelihood the miserable cultivators depend upon the janmis or the intermediaries for obtaining lease of the improvements on the lands in the hope that they will have to get some income from the yield after paying the dues.

3. Yes.

4. (*a*) No.

(*b*) Yes.

(*c*) Yes, certainly.

5. (*a*) Yes. The cultivation charges should be three and a half times the seed and out of the remaining net yield half should go to the tenant and the remaining half to the janmi; no compensation need be paid.

(*b*) (1) Need not be allowed.

(2) An ideal farm is no doubt good. But the existing cultivators have only a few acres. And that too lies scattered. Therefore, this is not practicable.

(3) Need not be prohibited.

6. (*a*) Yes; it is essential to protect the tenant from attaching his crop for the land revenue arrears due by the janmi.

(*b*) Yes; when the rights of the janmi and the other interested persons can be proceeded against, the attachment of the tenant's crop should be prohibited by law. Only the land owner's right should be liable to attachment.

7. (*a*) Three and a half times the seed to be set apart for cultivation charges; out of the balance, half to be given to the janmi or to the intermediary and the remaining half to the cultivator. This is justifiable.

(*b*) So far as I am aware, the assessment is far above the yield. The indifference of the Settlement Officers and the inability of poor peasants to approach the big officers and represent their grievances are responsible for the increase in assessment.

(*c*) The janmi.

8. Yes. The fair rent fixed for garden lands in the Malabar Tenancy Act proposed to be brought into force in 1942 should be brought into force at once. In the case of wet and dry lands, three and a half times the seed should be deducted for cultivation charges and fair rent should be fixed in such a way that the tenant gets half of the net yield.

9. The pattam should be fixed in proportion to the yield. It should not be in proportion to the assessment.

10. Yes, certainly.

11. Yes. Weights and measures to be used uniformly throughout the district should be standardized and should bear the Government seal.

12. This is a system which was in existence even at the time of local ruling chieftains. The system originated from the increase of pattam and purappad according to written agreements.

13. (*a*) Certainly yes.

(*b*) Fixity of tenure should be conferred on the tenant by fixing the fair rent. No compensation whatever need be given to the janmis.

(*c*) This provision should be completely deleted.

14. Yes.

15. (*a*) Occupancy right should be granted to the tenant by fixing the fair rent.

(*b*) Yes, there were a number of cases. Amendment is necessary. Those who have about 25 acres of lands in their possession should not evict. Notice of eviction should be given 3 years in advance. If eviction is sudden and without notice, three times varam, pattam, and purappad should be paid to the tenant in addition to the value of the improvements. Properties in distant places should not be evicted.

16. (1) As stated in 15 (*b*), the janmi may evict if the land is a paramba and is required for kudiyiruppu for the janmi.

(2) This provision should certainly be abolished.

17. (*a*) Yes.

(*b*) I do not know.

(*c*) Kudiyiruppu holders should be granted at least 50 cents in rural parts.

18. No. As now the improvements are valued by petty vakils, this system should be changed and a Commission representing the public should be appointed for the purpose.

19. There are many. Such levies should be made punishable.

20. Yes.

(1) Varam and purappad not exceeding the assessment.

(2) A cultivator who has rendered a land fit for fugitive cultivation should be allowed to cultivate it at least seven times. (After the first year's cultivation it can be cultivated a second time only after a lapse of five years.)

(3) All forests fit for cultivation, including Government forests, should be given for cultivation.

(4) No places other than reserve forests should be retained as forests.

(5) Each cultivator should be granted a gun licence to protect him from the attack of wild animals.

(6) The booking of fugitive cultivation should be done in the months of Meenam and Medam instead of in Chingam and Kanni.

(7) The Government should afford sufficient protection to the family of the cultivator when his life is lost by the attack of wild animals.

(8) The forests intended for pepper cultivation should be leased free of manusham.

(9) The site should be exempted from assessment and purappad for eight years commencing from the date of the lease.

(10) The unauthorized levies made by the village officers and janmis should be stopped; such levies should be penalized.

(11) Only a purappad not exceeding one rupee per acre should be levied for pepper gardens after twelve years of plantation.

21. (*a*) Yes.

(*b*) No idea about Gudalur taluk.

22 (*a*) Yes.

(*b*) All proceedings in Court should be free for the tenant.

(*c*) (1) Summary trial is undesirable.

(2) If the trial is in Revenue Courts, the proceedings should be free for the tenant.

(3) Should not be granted.

23. Yes. In ancient times, the janmis had seen to the facilities for irrigation sources. But, today, as there are no such facilities, the tenant is put to heavy loss. Such irrigation sources should be given back to the tenants free. Waste lands should be made freely available for grazing ground. The tenant should be allowed to remove firewood from the forest free. The tenant should be allowed to remove the bark of trees, etc., required as manure for cultivation, free of charge. The tenant suffers much on account of the difference in the market rate and the value fixed by Courts. The value of varam and pattam to be fixed by the Court should be the market rate prevalent at the time of renewal. The Police should not interfere and harass the tenant in any quarrels between the janmi and the tenant.

24. The position in South Malabar is not clearly known.

By the CHAIRMAN:

Fair rent should be half the net produce, i.e., gross produce minus cultivation expenses. The cultivation expenses will be six times the seed; the yield will be ten-fold the seed. The average yield per coconut tree will be 25 a year and 35 in the case of a good tree. I don't want the fair rent on garden lands to be changed. I am for giving fixity of tenure to kudiyiruppus. The landlord may continue to get the present rent. But feudal levies may be abolished. The Congress Committee has authorized me to give evidence here.

By Sri A. KARUNAKARA MENON:

The punam assessment is made in Karkitagam or Midhunam; if it is stated in the reply that it is in Chingam or Kanni, it is not correct.

By Mr. R. M. PALAT:

Some eight years ago, one or two persons were evicted. Recently, Manjeri O. Kammaran Nambiyar and O. Kannan Nambiyar were evicted.

By Sri C. K. GOVINDAN NAYAR:

I am a cultivator myself. I cultivate about 1,500 seers of rent area. I have garden lands also. All are kuzhikanam lands. I am not a member of the Karshaka Sangham.

73. Sri M. P. Madhavan Nambudiri, Taliparamba, Trichambaram, President of the temples in Kanhirangat, Chirakkal Taluk.

1. (1) *Janmam.*—Correct information regarding the origin of janmam is not available. But, from what has been heard from generation to generation it is understood that the whole of Kerala belonged to the Brahmans, that no Government had claimed the janmam right for themselves and that it passed into the possession of other persons from the Brahmans. for proper consideration, either by private sale or by Court auction.

(2) *Kanam.*—When the janmis were in difficulties, they got money from those to whom they mortgaged the land with possession ; this is known as kanam. This is how kanam originated in North Malabar. The kanam tenure of South Malabar is reported to be not like this. I have no correct information about this.

(3) *Kuzhikanam.*—When the Brahmans were janmis most of them were engaged in religious profession and hence found it impossible to work on the land. Therefore, the dependants and the servants were entrusted with the lands for the purpose of making improvements. Following this, those who acquired janmam right subsequently followed the same practice.

(4) *Verumpattam.*—What is known as verumpattam in North Malabar is the practice of leasing out on pattam only the improvements on the janmi's land. In South Malabar, this term is used for wet lands leased for cultivation. In North Malabar, this lease is known as " verumkozhu." The origin of this is the same as that of kuzhikanam.

(5) *Other tenures.*—In North Malabar, there are no other tenures worth mentioning. But in the case of " verumkozhu " tenants, one year's varam is obtained from him in advance, before the land is leased out, for the security of varam payments. Besides, the houses belonging to the janmi are leased merely for kudiyiruppu purposes. Also, there is a kind of tenancy by which the lands are leased on " karayma " right to temple employees. I am not aware of any other tenures in addition to these.

2. The janmi's right over the land is absolute ownership and the tenants' respective rights are those given by the janmi according to the different system of tenancy. The tenants' rights are less than that of the janmi.

3. No. But, with the amendment of the law, there has been some slight change, e.g., the Malabar Tenancy Act has slightly decreased the powers of the janmi to evict the tenant at will and to grant melcharths.

4. (*a*) Yes.

(*b*) No.

(*c*) No.

5. (*a*) No. It is not possible to simplify the system of land tenures in this way.

(*b*) (1) Compulsory purchase should not be allowed.

(2) Should not be limited. This is a sort of restricting the rights of sale. This will lead to difficulties to the cultivators also in due course.

6. If, on account of the default of the intermediary, the janmi has to resort to eviction, and if then the sub-tenant offers to compensate the janmi, it would be desirable to afford him protection.

7. (*a*) It is reasonable to allot shares in this way. Such a system cannot practically be brought into existence.

(*b*) The system of the present assessment does not give any basis to fix a proportion of the assessment to the yield. The assessment is of varying rates for the yield.

(*c*) Either the janmi or the kanamdar. Neither the kuzhikanamdar nor the occupant should be made liable to pay the assessment. On the pretext of having the liability to pay the assessment, they will leave the purappad due to the janmi in arrears.

8. No. Therefore no answer is necessary to (*a*), (*b*) and (*c*).

9. No.

10. No. For, sometimes, the tenant gives a purappad which is less than the assessment.

11. Yes. It is desirable to standardize one pound = 40 rupees weight and 10 MacLeod seers = 1 para.

12. On the expiry of a term of lease, the janmi is at liberty to evict the tenant and lease out the land to any other tenant. When such right is forsaken and the land is leased out again to the former tenant, an amount is received from the tenant as compensation. This amount is known as renewal fees. The amount fixed will depend upon the nature of the land and the yield therefrom. The demand of such amount is an innate right of the janmi.

13. (*a*) No.

(*b*) No answer to this question is necessary.

(*c*) The provisions of the present Malabar Tenancy Act do not require amendment.

14. No.

15. (*a*) There is no objection. Occupancy right may be granted according to the provisions of the existing Tenancy Act.

(*b*) No. No amendment is necessary.

16. (1) & (2) No.

17. (*a*) No.

(*b*) No.

(*c*) It is not desirable to lay down a general rule on this except to fix the extent required on the merits of each case.

18. No.

19. The levies are vegetables, leaves, straw, etc., among Hindus and ghee, fowls and goat among Muhammadans. The existing provisions in the Act are sufficient to prevent such levies. I do not think any amendment is necessary.

20. No. In the case of fugitive cultivation, the tenants vacate the land after one year's cultivation. None of the provisions in the Tenancy Act applies to this. There are no instances, to my knowledge, of eviction of cultivators of pepper. Now the janmi demands, as his share, two-tenths of the annual produce of pepper. The yield of pepper varies very much in accordance with the seasonal conditions every year. It will be disadvantageous both to the janmi and to the tenant to fix a permanent purappad. The present system is for the tenant to pay the assessment and two-tenths of the produce to the janmi.

21. I have no objection to the Committee's decision on this point as it likes.

22. (*a*) No, so far as I know.

(*b*) The fixing and levy of pattam and renewal fees, without suit, and with the aid of Revenue Courts or on application to the Civil Courts, are very desirable.

(*c*) (1) There are no advantages worth mentioning on account of summary trials.

(2) This is desirable.

(3) The janmis have now no means of recovering the renewal fees. Its levy by means of an application is desirable.

23. No, to my knowledge.

24. There is vast difference between the system of land tenure in North and South Malabar. Before the passing of the Tenancy Act, the janmis and tenants, in North Malabar, were getting on very amicably. There was no need to apply the Act to North Malabar. In particular, no provision is necessary in respect of kanam in North Malabar.

By the CHAIRMAN :

I am a landlord. I pay an assessment of Rs. 1,500. I have some small kanam properties also. Last year the Peasants' Association ill-treated me and my family considerably and put me to various difficulties. They prohibited the tenants from paying me rent and varam. They obstructed the services of washermen and such other services that I required according to Hindu Sastras. I filed a complaint about it. They were convicted. Even after that I am not able to collect my rent or varam properly. I have not ill-treated my tenants. I intended to construct a matam in a compound of 8 acres. Till the matam was constructed I put one Chundi Thiyyan as watchman. But he stole from my compound. So I asked him to vacate the compound. Subsequently he petitioned the Peasants' Association. The Peasants' Association asked me to lease the land, which I wanted to use for constructing the matam, to him. I said I wanted the place to construct the matam. As I did not yield to their demands they created all sorts of difficulties and troubles for me.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

The peasants' agitation is not due to grievances. It is a deliberate attempt to cause trouble to the landlord.

By Sri R. RAGHAVA MENON :

Many of the landlords who have not yielded to the demands have suffered.

By Md. ABDUR RAHMAN Sahib Bahadur :

My experience is that the tenants want to harass all the landlords in this area simply for the sake of harassing them. The landlords in this place have not committed atrocities at all.

By Sri E. KANNAN :

The Peasants' Association prevented barbers and washermen from serving me. They prohibited the collection of rents and varam. I do not get labour or coolies for my own cultivation. In every way all the wants of a man are denied. One special point I have to make. I have paid money on the basis of the rent I collected. It will be a great hardship if the rent is reduced. All our properties have been so purchased. We have paid at the rate of seven thousand rupees for seven thousand seers of paddy.

NILGIRI DISTRICT

GUDALUR TALUK.

GUDALUR CENTRE—27th and 28th November 1939.

74. Sri K. Gopalakrishnan, Planter and District Board Member, Nilgiris, P.O. Devala.

4. (*b*) Yes, it is necessary to impose such restrictions on the owners of forests, irrigation sources and waste lands as will promote general good. These are at present looked upon and controlled by their owners from the point of view of their own good. The Government should exercise a decisive voice in such an important matter as deafforestation now carried out by private agencies without consulting its effect on the country's economy. So also with irrigation sources. The only way to make any restriction effective is for the Government to take over these on payment of compensation to their owners.

(*c*) Yes, the Government should have the right to do this.

5. (*b*) (1) The cultivating tenant should have the right to purchase the janmis and or the intermediary's rights, if he can afford to do so. What in this case, each (the janmi and the intermediary) is entitled to must depend on his present rights in terms of his actual investment and income.

(2) In the present state of cultivators, it is not advisable to limit the area in their possession to that suitable for an ideal farm. This will automatically come about when the cultivators come into prosperity or prosperous people take to cultivation.

(3) It is not desirable to place any restriction on sales.

7. (*b*) 10 to 15 per cent. It does, because of market fluctuations, as payment is in cash and not in kind.

(*c*) The person in possession should pay the assessment.

10. Remission of rent should be granted in proportion to the remission of assessment.

11. Yes, it is necessary to standardize weights and measures. Those now used and understood by the majority of the people should be the standard.

12. Probably an acknowledgment of the janmi's right over the land.

13. Yes, but renewals may be made as and when the lands change hands.

16. Yes, I am in favour of abolishing the right, as the provision can lead to abuses. As long as the tenant pays up or is in a position to pay up the stipulated dues, he should be allowed to continue in possession.

17. (*a*) Yes.

21. (*b*) The intended legislation should be extended to Gudalur taluk, because conditions here are analogous to those obtaining in Malabar. Certain modifications which I consider necessary are given below :—

(1) The Tenancy Act was extended to this taluk from 1931 onwards. Leases entered into previous to that date do not come within the purview of the Act and are thus deprived of the benefits that accrue from the Act. This should be amended, so that there will not be distinction between one class of tenants and another. Certain leases were in vogue in this taluk according to which the tenants had to surrender the land in their possession on the expiry of the lease without claiming any compensation. Whatever might have been the considerations which prompted such leases at that time, it will indeed work great hardship on the tenants, if they have to be honoured now. The position must be regularized on the same lines as the leases executed after the extension of the Act, so that the tenants will become eligible to the fruits of their labour. The janmi on his part should be satisfied with an enhanced rent.

The lands in Gudalur taluk may be classified under three heads :—

Wet lands suitable for paddy cultivation.

Dry lands suitable for growing coffee, tea, orange, etc.

Forests suitable for cardamoms, pepper and similar crops.

Wet lands.—Paddy cultivation in this taluk is in a very poor condition. It is so because of the poverty of the people, the comparatively high capital outlay required and to some extent it is also due to lack of interest on the janmis' part. To remedy this, suitable areas should be leased out to intending cultivators free of any premium and without charging rent for the first three years. Therefore a rent which will not exceed 5 per cent of the net produce or the Government assessment which ever may be lower may be charged. Renewals (if they are to continue) should be free of any fees. There is a very strong case for fixing a very low Government assessment for wet lands. Labour charges are high, losses from wild animals are considerable and the place is very unhealthy. On account of these causes

cultivation is carried out under difficult conditions and the margin of profit is very narrow indeed. Further , every cultivator should be entitled to the dry lands adjoining his field the proportion of dry to wet lands being $\frac{1}{2}$: 1. The terms will be the same for dry and wet lands in a tenant's possession.

Dry lands.—These are mostly occupied by big planting concerns. One difficulty expressed by prospective planters is the abolition of the provision for long-term leases. If this difficulty is removed, there is considerable scope for expansion in the planting line. The premium that is charged on these lands must be treated in the same way as the 'Kanasamgya' in Malabar, which will remain the landlord's liability to the tenant. The rent on dry lands may be fixed at 8 annas per acre for the first four years and Rs. 2 thereafter (per annum). On the expiry of the lease period, the tenant will be entitled to renewal on payment of a year's rent. The landlord should under no circumstances have the right to enhance the rent. If the tenant desires to surrender the lands, he must be allowed to do so, but without claiming any compensation.

Forests.—These should also be available for cultivation to intending cultivators on the same terms as dry lands. The trees will of course remain the landlord's property and will be available for purchase to the tenant at their market value. Trees may, however, be removed by the tenant for purposes of cultivation. This is in accord with some of the existing leases.

House-sites.—In rural parts the rent on these should not exceed the Government assessment, but in urban parts a higher rent may reasonably be claimed. Ten per cent of the net annual income derived or derivable by the tenant will be a fair rent on these.

22. (*b*) The rent and other dues may be collected along with the Government assessment by the revenue authorities and made over to the janmi.

(*c*) There does not seem to be need for change in the present arrangement.

By Sri P. K. KUNHISANKARA MENON :

I am a member of the Nilgiris District Board. I have been in Gudalur for twelve years. I am connected with some planting companies and I have a cardamom plantation of 200 acres of my own.

By Sri A. KARUNAKARA MENON :

My plantation has not yet begun to yield, but I expect about Rs. 100 yield net, under the present market conditions. The plantation will begin to yield in the fourth year and probably from the fifth year onwards, it will be regularly yielding. The investment required is about Rs. 200 an acre. The plantation is in Devala, eleven miles from here. There is no scarcity of labour, but we have to meet competition, because there are many estates which pay higher wages than we do. We pay ordinarily 7 annas ; in order to attract labour, we sometimes pay more, because we cannot give all the amenities which the other estates provide. Occasionally we have to pay 8 annas. The estates pay 6 annas plus 10 per cent commission. In Gudalur taluk there are about 1,000 or 2,000 acres suitable for cardamom cultivation. In other places, we have to plant tea. The primary cultivation is tea. The cultivation of wet lands suffers from the difficulties of scarcity of labour, destruction by wild animals and malaria. The whole taluk is more or less malarial. There are plenty of waste lands fit for paddy cultivation. Health statistics show that malaria is going down and perhaps consequently, more people are coming and settling here. The yield of wet lands is about eight to ten fold. But they cultivate in a primitive way and do not employ any improved methods. Nobody has taken to improved methods. The Government have recently appointed an agricultural demonstrator. There are a lot of cattle in these parts, but a large number are killed by tigers. Cattle diseases occur periodically. A few elephants are found, but tigers, wild pig and bison are plentiful. If the landholders here are a little more lenient, I am sure it will improve the condition of the peasants. The rent at present is only about Rs. 2 per acre for paddy cultivation, and it cannot be said to be very high. I would expect them to give greater financial help to the cultivators. It is very difficult to obtain Government assistance here. There are no banks or money-lenders here ; the tenants have to sell their paddy at very low prices. They lead a very poor life. Their needs are few and so they manage to carry on.

By Mr. R. M. PALAT :

I do not actually belong to this taluk ; I come from the Walluvanad taluk. Lands in Gudalur taluk belong mostly to the Government. I do not know the price per acre of janmam rights ; but Government lands are available at Rs. 5 per acre, plus tree value. It is as much as janmam value. For private janmam dry lands, the rate of premium will vary from Rs. 5 to Rs. 10 ; then we have to pay a rent of Re. 1 if the land is uncultivated and Rs. 2 to Rs. 3 from the date on which it begins to yield. As regards wet lands, to my knowledge, no premium is at present charged. They charge one pothi per acre for paddy lands which comes to Rs. 2 or less.

By Sri N. S. KRISHNAN :

I want the rent to be collected along with the assessment. The Government can charge some commission. When we place so many restrictions on the janmi, it is only fair that the janmi should have some sort of security. The value of land may go up only as a result of the tenant's labour. Since the tenant does not claim any reduction of rent in times of adversity, there is no need for any enhancement of rent so far as the janmi is concerned. Under normal circumstances, the janmi should not claim any increase in rent at all. If there is an increase in the produce, that will be to the tenant's advantage. In times of emergency the janmi should be prepared to make a proportionate reduction in rent. I should think that the janmi should be entitled to his rent for twelve years ; but the tenant should be entitled to any reduction if any unforeseen events occur.

By Mr. R. M. PALAT :

No janmi has refused to let out wet land fit for cultivation. The demand here is always for dry lands. I have known instances where such lands have been refused. I myself was refused when I applied for some lands from the Nelliyalam Arasu.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

Government should pay compensation and take over all waste lands and forests. It can be done more or less on the same lines as the Government exploit forests ; they may have some rules and regulations. There cannot be indiscriminate exploitation of the forests by the janmis ; something should be done to prevent it.

By Sri R. RAGHAVA MENON :

It is not customary here to speak of the area of land for which one pair of cattle is necessary (as in Wynaad taluk). We go by acreage. A small family, all the members of which work on the field, can cultivate less than five acres. The seed required for one acre will be about two pothis. The average cultivation expenses will be about six pothis. I have no wet cultivation. I have ascertained the cultivation expenses from actual cultivators. The yield per acre is about 20 pothis. But there are cases where the yield is much more, due mostly to the man incurring greater cultivation expenses. The rent is one pothi which is one-twelfth of the net yield. Lands fit for coffee and tea plantations have all been leased out for long periods. The rent paid for leases for estate purposes in recent instances, is Re. 1 for the first four years and thereafter Rs. 2–8–0 to Rs. 3. The assessment comes to Rs. 2–8–0, after the fourth year. But when cultivation has not commenced, Rs. 6 is to be paid. There is plenty of free grazing available here. There is no restriction placed now either by the janmi or by the Government ; there are no reserved forests. Government generally give only five acres of land. When there are trees, tree value has to be paid. I do not know the rate of tree value. Private janmis do not take tree value ; but there are certain restrictions. The tenant is not allowed to cut down certain classes of trees. Other trees can be cut by tenants only for purposes of cultivation. I would prefer to get land from the janmi, because no tree value has to be paid to him. About 80 per cent of the cultivators are inhabitants of this taluk and about 20 per cent come from outside. I think they are able to earn their livelihood through cultivation. But, their needs are very few. If we aim at a higher standard of living for them, there are many things that can be done. If their standard of living is to be improved, they would require more money.

By Sri C. K. GOVINDAN NAYAR :

They will not be able to purchase the janmam rights if they are empowered to do so.

By Sri E. KANNAN :

The tenants invariably default. It is only their poor economic condition that is responsible.

By Md. ABDUR RAHMAN Sahib Bahadur :

If the Government are not able to give compensation at the market rates for wastes and forests some restrictions may be imposed on the janmis whereby an intending cultivator may be able to obtain lands on reasonable terms. Compensation under the Land Acquisition Act would no doubt be enormous. We must assume that the janmi has invested capital ; otherwise he would not have come into possession of the land. Government may take over the lands and then lease them out to the tenants. I merely suggested that the janmi should be compensated ; I do not say that the compensation should be under the Land Acquisition Act ; my only point is that there should be no cry that there has been an arbitrary taking away of the land. Renewal fees can be abolished altogether.

By Sri K. MADHAVA MENON :

The conditions in the Gudalur taluk in regard to dry lands are practically the same as in the Wynaad taluk. In regard to wet lands, they are more or less similar. The present grievance of the tenants here is that the Compensation Act has no retrospective effect. The

landholder should not be in a position to get back the land ; the tenant's need must come first. As far as possible, eviction should not be permitted. There is really no serious problem between the landholder and the tenant so far as estate cultivation is concerned, because except for leases after 1931, the major portion of the leases are for 48 or 99 years. The parties concerned have no grievances at all in the estate areas. In regard to estates, these long-term leases may continue. I cannot say how the members of a marumakkathayam family can be protected if long-term leases are permitted. I do not know of any cases in which tenants had to go away without any compensation because the Improvements Act had no retrospective effect. There is some complaint among a certain section of the people. If it is possible to get land on as easy terms from the Government, as from the janmis, I think I need have no objection. The person in possession should pay the assessment, so that he may not suffer if the janmi defaults. When the tenant takes out a lease, it is always understood that he has to pay a certain revenue. The person in possession can pay even now by applying for a joint patta. It is only in special circumstances that remission of assessment is allowed ; in those circumstances, the tenant also should have a portion of that remission. There are no renewal fees for wet lands. For dry lands, there is a renewal fee every twelve years, though the leases are for 48 years and 99 years. In other words, an additional rent has to be paid to the janmi every twelve years. The landholder should get an enhanced rent even in cases which arose after 1931 as a consolation. In regard to forest and waste lands taken by Government, the compensation I mean is only for the vested interests the janmi has at present. A person who gets Rs. 700 from dry lands pays only Rs. 2 per acre revenue. But a man who gets only Rs. 40 or Rs. 50 from paddy fields, pays the same Rs. 2 an acre. By cultivating wet lands alone, a family cannot secure a reasonable standard of living. It will be more profitable to have dry land cultivation also. They can grow some fruit trees. The restrictions on granting leases for more than twelve years are discouraging new planters.

By Sri N. S. KRISHNAN :

If a tenant desires to surrender he must be allowed to do so. If the landlord is prepared to take a reasonable rent he need not relinquish it.

By Sri K. MADHAVA MENON :

It will be a hardship on the tenant to apply coercive methods. There is no harm in collecting at a suitable time. I have no desire to increase the burden of the tenant.

By Mr. R. M. PALAT :

I am not a member of the Karshaka Association. There has been no eviction of tenants by the janmi but there has been some trouble between the janmi and the tenants. My lands were leased out to me after the Marumakkathayam Act. I asked only for twelve years.

By Sri K. MADHAVA MENON :

Verumpattam alone prevails here. Most of the plantations occupy dry lands.

76. Sri R. Rajagopalan, President, the Gudalur Tenants' Association, Gudalur, Nilgiri.

1. It is not possible to trace the origin of the tenures. They appear to be ancient.

2. For the reason given to question No. 1, it is not possible to state the nature of the interest.

3. Since the origin and nature are unknown it is not possible to state if judicial decisions have effected any changes. Speaking generally it can be said that judicial decisions have not brought about any material changes. Decisions have recognized the original rights invariably.

4. (*a*) Yes ; at the time of the decisions there must have been valid grounds put forth on behalf of private owners. Either there were no rival claimants or their claim would not have been put forth on substantial grounds. Till this day no real attempts appear to have been made to alter the decision.

(*b*) *Waste lands.*—During these days of unemployment waste lands should not be allowed to be waste even though the owners are not willing to part with temporary possession. Janmis must be made to allot small portions in favour of applicants who wish to cultivate and improve the waste lands. This will increase the income of janmis and will give food to starving people. If janmis are unwilling, necessary legislation has to be made for this purpose without seriously endangering the rights of janmis.

Forests.—The janmis must not be allowed to cut forest trees indiscriminately. Wholesale cutting is likely to reduce forest area and this may to some extent reduce the quantity of rainfall. Provision must be made for proportionate replanting. Trees above 75-100 years alone can be permitted to be cut except in the case of trees with defects. Janmis must be made to give concessions to the people of the locality for taking grass for cattle

of cultivators and for taking head loads of firewood for one's own use. The people must also be given necessary concessions for constructing buildings for agricultural purposes by permitting them to take timber, grass and such other materials.

Necessary provisions must also be made permitting tenants to take water for drinking, household and cultivation purposes from irrigation sources belonging to the janmis free of cost or at least at a nominal cost without injuring janmis' interests. Restrictions in the above lines should be placed on the rights of the janmis.

(*c*) Yes, subject to the following proviso :—

The Government need interfere only in such cases when the janmis refuse to allot lands on application by cultivators. Till such a contingency arises, the Government need not take possession of waste lands.

5. (*a*) Yes. Simplification is necessary. Many persons between the janmi and the actual cultivator are unnecessary. The cultivator must be brought into actual relationship with the janmi. A cultivator in Gudalur must be given in general all the privileges enumerated in the Malabar Tenancy Act with such restrictions on his liability consistent with his residence in the malarial area of Gudalur with its other disadvantages, such as troubles by wild animals, scarcity of labour, difficulty of clearing dense forest areas at heavy cost. A tenant is not able to get sufficient profits from paddy lands which are single crop lands on account of the difficulty of cultivation. The yield in coffee and pepper gardens are not proportionate to the investment and the price is very low for the produce. In fact every circumstance is adverse to the tenant at Gudalur. It is not necessary to eliminate the janmi, but his demands from the tenants should be restricted and modified.

(*b*) (1) Yes. There must be provision for this if a tenant so desires subject to janmis' right to possession for his own cultivation or for his family.

(2) This is also necessary. A tenant can be allowed only such an area which he can cultivate properly. If he is given any larger area, his interest in the cultivation will be lessened and his liability to his landlord will become increased. This will finally lead to his destruction.

(3) This is also necessary. The object of the proposed legislation is to do some good to the cultivator. Hence non-cultivators must not be allowed to enjoy the benefits and concession intended only for cultivators. If not, prohibited cultivators may be tempted to dispose of lands on profit by sales to non-cultivators.

6. Such a protection is absolutely necessary. If not, by collusion between a janmi and his tenant a sub-tenant may be deprived of his rights in the property. A sub-tenant must always be given the opportunity by a notice in writing by the janmi or landlord, to carry out the obligation of his landlord who has committed default before a janmi is allowed to take proceedings against his tenant. A time-limit should be fixed in the notice for compliance. This opportunity should be given to the sub-tenant only after the tenant has been informed of his default; otherwise he may be put to loss and inconvenience if the sub-tenant makes any voluntary payment to the janmi by colluding with him to defeat the tenant. Enough safeguards must be provided to protect the interests of all parties, janmi tenant and sub-tenant.

7. (*a*) In answering this question the case of Gudalur tenants must be given special consideration on account of their poverty and the various disadvantages mentioned in answer to No. 5 (*a*). There is no comparison with lands in Malabar and lands in Gudalur. In Malabar we have vast areas of fertile lands lying almost in one level unlike that of Gudalur where lands lie between hills all round. In Malabar even if any land is not cultivated for one or two years, there cannot be any harm. But in Gudalur if a land is left uncultivated for a year or two, it becomes overgrown with grass and bushes and the same can be cleared only at a heavy cost. So also in respect of garden lands. The yield also in Gudalur is comparatively very low. Since the Gudalur tenants have to fight against these adverse circumstances their case have to be viewed with much consideration.

The paddy lands.—The present rent for michavaram paid to the janmi is half a pothi (pothi = 30 seers) for an average extent of one acre. Even this, a tenant is not able to pay regularly because of his not getting the crops. Hence this rate cannot be increased.

Garden lands and kudiyiruppus.—We have stated in answer to question 9 that the rent may be equal to the Government revenue. No rate higher than this a tenant can afford to pay. Even the present rate of As. 8 for uncultivated lands and Rs. 2 for cultivated lands is very high in Gudalur.

There is no uniform rate now for kudiyiruppu sites. Various rates are fixed in various places. It is better to have a fixed and uniform rate of As. 4 per cent in urban and bazaar areas and As. 2 for rural areas for all leases now in force and for future also. It is also necessary to fix a minimum area of 10 cents in urban areas and half an acre in rural areas for one kudiyiruppu.

(*b*) The proportion is not uniform in all places. This will depend upon the nature of the soil and its fertility. On enquiry it is found that in some places it comes to one-sixth of the produce, while in other places to one-twelfth. In some places the proportion varies from one-sixth to one-twelfth.

We could not get instances where the assessment exceed the abovementioned share.

(*c*) The pattadar should pay the revenue. This question may not strictly arise at present for provision is now made for issue of joint patta at the instance of the janmi both in the name of the janmi and the tenant, so that both become pattadars and both are liable to pay the Government revenue.

8. The provisions referred to herein may not be made applicable in toto to Gudalur tenants. The grievances of Gudalur tenants have been stated in answer to question Nos. 5 (*a*) and 7 (*a*). Subject to such grievances the provisions that are not harmful to the tenants can be adopted.

9. In Malabar it is not necessary. The rent due to the janmi must have reference to the produce out of the property. This is the criteria. It has nothing to do with Government assessment. But in Gudalur for garden land and kudiyiruppu a sum equal to Government revenue can be paid to the janmi. For paddy lands the present rate must be allowed to continue for reasons already given.

10. Yes. Remission of revenue is generally granted when the tenant actually suffers any loss by the failure of crops and other adverse circumstances. When the Government itself is prepared for a sacrifice it is but fair and only reasonable that the landlord also be prepared for similar sacrifice.

11. Yes. This is highly necessary for a uniformity. Since there are various standards, the standard now prevailing in the major portion of the district must be adopted. Since in Gudalur, there are more of Tamil speaking people, standards adopted in Malabar may not be convenient. Hence standard adopted both in Malabar and Tamil districts may be adopted.

12. We are not in a position to say.

13. (*a*), (*b*) & (*c*) No. To the best of our knowledge there is no general demand for the abolition. The question of renewal does not appear to be peculiar to this country alone. This is prevalent in other countries. Since no peculiar hardship has been pointed out the system need not be abolished, but sufficient safeguards may be provided to prevent the landlord from claiming renewal fees according to his whims and fancy. This has been done as far as practicable by the provisions of the Malabar Tenancy Act. Since there will not be profits from lands in Gudalur, the janmis may be directed to grant renewals without premiums, renewal fees and other avakasams as are now levied and collected.

(*d*) No. Sufficient provision appears to have made under section 44 of the Malabar Tenancy Act.

15. (*a*) No. Various provisions have been made in the Malabar Tenancy Act to protect the interests of the cultivator. If occupancy rights are conferred upon them now, this will prejudice the rights of a janmi to recover possession of the land for his own purpose—a right specially conferred on the janmi considering the various disadvantages to him under the said Act.

(*b*) This does not arise in Gudalur. We are not in a position to say of any instance.

16. (1) No. For the reasons already given above.

(2) No.

17. (*a*) Yes. This is necessary. This also may be under the terms and conditions in Chapter VI of the Malabar Tenancy Act.

(*b*) Yes. Some better concessions should be given to rural kudiyiruppu.

(*c*) It is necessary for convenient enjoyment to have open space all round if possible. This will again depend upon the space occupied by the kudiyiruppu. Roughly it may be stated that twice the area occupied by the kudiyiruppu may be granted free.

18. Yes. This is highly necessary in Gudalur taluk. The Malabar Compensation for Tenants' Improvements Act was made applicable to Gudalur taluk by Act XII of 1931. But this Act XII of 1931 specially lays down that the provisions shall be applicable only for

improvements made after 5th October 1931. The Act does not give any adequate protection for tenants in respect of improvements made before the said date and in respect of those improvements the landlord—the Raja of Nilambur—has been enforcing the provisions of the contract by filing suits in the District Munsif's Court, Gudalur, with the result that the tenants have to give possession with all improvements without receiving any kind of compensation. This works great hardships upon the poor tenants who have invested large sums of money on the improvements. Even though the Government did pass legislation for the benefit of the poor tenants, in practice, no real advantage is conferred on the tenants. Hence it is necessary to amend the Gudalur Compensation for Tenants' Improvements Act by giving it a retrospective effect from 1886.

Yes, the maximum time that should be allowed to a janmi for depositing the value of improvements should in no case exceed three years. Otherwise the tenant is likely to suffer heavy loss.

19. In Malabar no special legal provision is necessary hereafter because sufficient safeguards have been enacted by section 32 of the Malabar Tenancy Act. But since this Act applies to the whole of the district of Malabar, no protection is given to Gudalur tenants. It is necessary therefore to extend the provision of this Act. Malabar Tenancy Act of 1930 should be made applicable to Gudalur taluk also subject to such general alterations in favour of Gudalur tenants and special modifications indicated in the answers herein given, under various headings.

20. No.

21. We cannot say about Kasaragod taluk. As far as Gudalur taluk is concerned we have indicated in general in the answer to the questions herein.

22. (*a*) Gudalur people cannot say.

(*b*) Speedy and less costly summary procedure may be prescribed as is done for the recovery of Government revenue under the Revenue Recovery Act.

(*c*) (1) May be done.

(2) Not necessary.

(3) Yes. It is necessary.

23. & 24. We are not in a position to say.

By Sri P. K. KUNHISANKARA MENON :

I am the President of the Gudalur Tenants' Association which was started in 1935. Almost all the tenants in Gudalur are members. I am a qualified doctor, though I am not practising now. I am doing some business now. I have been here off and on from the year 1921, but I have settled down here for the last ten years. I cultivate a few acres of tea and coffee. I have no wet lands. There are at present no restrictions on taking water for drinking, household and cultivation purposes. I have studied the Malabar Tenancy Act to a certain extent. I think this taluk is almost identical with Malabar. The Chettis here speak Malayalam. About 99 per cent of the wet cultivation is in their hands. The janmi does not collect any premium for wet lands. The rent is about half a pothi per acre. A pothi is about 30 seers and is worth approximately Re. 1-4-0. In a joint patta, both janmi and tenant are responsible for the revenue ; in some areas of Gudalur taluk, the janmi pays it. The land revenue for an acre of wet land is about Rs. 2. I have no personal knowledge of the cost of cultivation, but I have gathered some data. Two and a half pothis of seed are required approximately for cultivating an acre of wet land. The cultivation expenses come to three pothis.

By Sri A. KARUNAKARA MENON :

The number of active members in our Association will be 200 and odd. They pay no subscription regularly. Approximately the yield will be tenfold the seed. After paying the Government revenue and rent, the balance will go to the cultivator. Government should take over waste lands only in case the janmi refuses to give the land.

By Mr. R. M. PALAT :

I do not know of any janmi who has refused to give waste lands. I was told that this taluk once formed part of Malabar and from what I have seen of conditions in Malabar, I may say that the conditions here are almost identical with those in Malabar. There is no kanam or kuzhikanam or intermediaries here. The crops grown here are chiefly tea and coffee. The crops grown in the Nilgiris taluk are not similar to those grown here ; I think they grow potatoes and wheat there. I do not think anybody has tried potatoes here so far. The main crops here are tea and coffee and paddy to a certain extent. But the main crop here is tea. Tea is the main crop in the Nilgiris district also. I personally believe that Gudalur is not in any way the same as the other parts of the Nilgiris district. The janmam

value varies in different areas of Gudalur. Some land was recently acquired by the panchayat board here and the cost was Rs. 750 per acre. I do not know what the cost in the outlying parts is. Both the janmi and the Government should be made to give concessions to the people of the locality near their forests. I think the janmis made a small charge for grazing some time ago, but I don't know whether it continues now. I think Government also charge something, but I do not know what it is. A tenant should be allowed only such an area as he can cultivate properly, because I know there are some people who have taken big areas but are not able to cultivate them. I do not know if the landholder gives remission to the tenant when there is failure of crop even if there is no remission of revenue.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

There are lands lying fallow here.

By Sri C. K. GOVINDAN NAYAR :

The Chettis are generally the cultivators here. There are some people who do not cultivate.

By Sri R. RAGHAVA MENON :

I do not think anybody has come here for cultivation and changed his profession afterwards. The local Chettis, about 99 per cent of them, are agriculturists.

By Mr. R. M. PALAT :

Tamil-speaking people form only a floating population. The Chettis are non-Malayalees, but they talk Malayalam.

By Sri C. K. GOVINDAN NAYAR :

There are large areas which are available for big people. Individual cultivators should be allowed to live and their rights should not be bought by others. The actual cultivator should not be allowed to alienate his land under any circumstances as far as possible.

By Md. ABDUR RAHMAN Sahib Bahadur :

I can have no objection if the cultivator is going to be benefited by the sale.

By Sri R. RAGHAVA MENON :

My answer was given with the idea that the landholder should not evict the cultivator. The cultivators here employ local labour also ; but most of them use their own labour and the labour of their family members. Wages are always paid in kind to the Paniyas. We have no statistics about wet lands. The small cultivators of wet lands are not in very good condition ; they have not got the necessary money to improve cultivation. Most of them are in the hands of moneylenders. By the time the harvest is over, almost all the paddy is taken for paying off the loans. For the purchase of provisions and necessary materials of life, they get into debt. They are not able to put by any reserve or improve their cultivation. They lead a hand-to-mouth existence. The landholders' share can be reduced, and the Government should reduce the assessment. The Government may also teach them some scientific method of improving their cultivation. At present they raise only one crop a year. The provisions of the Agricultural Debt Relief Act do not help them.

When a man wants to get a lease of dry land, he has to pay the landholder a premium. Sometimes it is Rs. 5 and sometimes it is as much as Rs. 50. Then there is the rent ; there are cases in which rents of Rs. 2 and even Rs. 5 have got to be paid. At the end of every twelve years, there is a renewal fee ; in some cases the renewal fee is fixed at one year's gross rent, and in some cases two year's gross rent. A rent of Rs. 5 is high. The premium should be much less. Rs. 10 to Rs. 15 may be fair. The rent should be fixed uniformly at Rs. 2. I would prefer no renewal fees to be paid at all ; if however the practice is to continue, they may be restricted to one year's rent. Renewal of documents may continue but renewal fees may be abolished. There are two kinds of coffee, Arabica and Robusta. Arabica yields after eight years and Robusta after five years. An estate of 30 acres yielded to my knowledge about two tons. That is a very good harvest. One ton is worth about Rs. 600. It works out at Rs. 35 per acre. The rent and assessment come to Rs. 7–8–0 per acre. The cultivation expenses the first three years will be Rs. 150 including removal of forest, planting the plants, etc. After it begins to yield, the recurring expenses will come to Rs. 20 per acre every year. These are all approximate figures. The life of a coffee plant is quite a long time. I have no definite idea. There are plants living even after 60 years.

By Md. ABDUR RAHMAN Sahib Bahadur :

Coffee planting is practically a loss at present.

By Sri E. KANNAN :

The Gudalur Tenants' Association was formed in 1935. I keep a register of members. In the last three years we have held about 35 to 40 meetings. We had a meeting at which our replies to the questionnaire were considered and approved.

By Md. ABDUR RAHMAN Sahib Bahadur :

I cannot give the actual number of cultivators in the Association. The fair rent for paddy lands is half a pothi. I would rather change my answer to Q. 15. Occupancy right should be given.

By Sri K. MADHAVA MENON :

Except that they want fixity of tenure there is no complaint with regard to wet lands. I know of one eviction suit of wet lands in the course of the last twelve years. I do not know why he was evicted. There is some discontent about wet lands. It has nothing to do with the treatment of the tenant by the landlords. Our Association has nothing to do with tea estates. The major portion of the coffee grown in Gudalur is held by bigger holders with more than 50 acres. Our Association represents mostly kudiyiruppu holders of urban areas. Their chief grievance is that the Improvements Act has no retrospective effect. Coffee holders have long leases earlier than 1931. The major portion of the existing leases were before the Marumakkathayam Act came into force. There are some for 48 and some for 99 years. I took a lease in 1928 and paid a premium of Rs. 660 for 66 acres. I have to pay Re. 1 per acre on uncultivated land and Rs. 2 per acre on cultivated land for the first five years ; from 5 to 12 years Rs. 5 per acre on all cultivated land and after twelve years five rupees per acre for all the land. I should not cut down rose wood or teak. I pay a renewal fee every twelve years, of one year's rental amounting to Rs. 330. Cases like my lease are more or less investments for business and not like that of the tenant leases for livelihood. At the present price of coffee the renewal fee is too much. To the best of my knowledge there have been nine suits for eviction of kudiyiruppus after 1931. In certain cases there had been no default. In certain cases they have been asked to pay a lot of premia. In some cases the rentals have been increased. We should prefer not to have renewals. I understand there were some feudal levies in the form of lime pickles. I do not know of anything here. Our written answer was prepared and came to me last. I have the implied authority of the Association to amend it. I amend the answer to Question 14. I would enable the tenant to get his rent reduced if the holding is not profitable.

77. Sri T. V. Chathu Kutty Nayar, Gavipara Estate, Gudalur P.O., Nilgiris.

The questionnaire issued by the Committee covers mainly points relating to tenancy in Malabar. The tenancy in Gudalur taluk differs in several respects from tenancy in Malabar. By answering in the affirmative or negative the question whether the intended legislation should be extended to Gudalur taluk of the Nilgiris district, the tenants of Gudalur will not benefit. Therefore replies to the questionnaire will not help. I may hence be permitted to state in brief the conditions of tenancy in Gudalur, the difficulties of the tenants and the possible redress of their grievances.

The major portion of the Gudalur taluk comprising of about 178,443 acres is held in janm by (1) the Thirumulpad Raja of Nilambur, (2) the Rani of Nelliyalam and (3) Wandur Manakkal Nambudiripad. Of these three janmis; the Nilambur-Thirumulpad Raja owns the largest extent. Tenancy in this area may be generally divided into the following categories :—

(1) Wet land cultivation.
(2) Dry land for ' Kudiyiruppu ' or house-sites.
(3) Dry land for house-sites and petty shop sites.
(4) Dry land for Estate purposes (extensive coffee, tea and similar cultivation).
(5) Dry land for commercial use.

Into these five categories, can generally be divided the various tenancies prevalent in this taluk.

Origin of the janmam and how it came to be possessed by these three janmis is not clear, but tenancies as old as 90 years are found to exist. Coffee, cinchona and tea were mainly the agricultural enterprises on dry lands and paddy in wet lands from very early days.

Owing to peculiar difficulties for cultivation special rates of rent and terms came into existence for tenancies in the area in those days.

The dense forests, the unhealthiness of the place, the great difficulty for labour, the poor population of the place, constant ravages from wild animals, the difficulties of the extremities of weather, all these made agricultural enterprise in this area extremely

difficult. Hence in those early days, tenants were sought after by the landlords as may be evident from many of the old leases. In one instance, a perpetual lease for coffee cultivation of about 10,000 acres was given for a nominal rent of Rs. 20 per annum and on payment of a premium of Rs. 1,500. Wet land has been rented in some cases for rents varying from 4 annas worth of paddy to one rupee worth of paddy per acre. Though the rate of rents for wet lands have remained more or less the same even now, conditions for lease of dry land and the rate of rent for dry land has changed very much to the disadvantage of the tenants. One peculiar feature that may be mentioned about tenancy here is the complete absence of the intermediaries between the janmi and the tenant. Almost every lease is held direct from the janmi by the cultivating tenant himself. Therefore it is easily possible to adjust differences between the janmi and the tenant by some definite indication by legislation fixing the terms of relationship between the parties. With this in view tenancy under the abovementioned five convenient classifications may be dealt with and terms indicated as follows :—

Fair rent in case of these classes of holdings if fixed in the following terms, may be considered equitable to both parties and very near the existing conditions.

While giving the tenant fixity of tenure in return for regular payments, rent may also be assured for the landlord in return for definite and standardized terms.

Wet Lands.—Rent on wet land cultivation should not exceed in any case one pothi (pothi is the customary measure of this locality equivalent to 3 paras of paddy in Ernad taluk in Malabar). No renewal fee nor any premium should be charged for wet land cultivation. Sufficient extent of dry land on the sides of the wet land should be allowed to the tenant free of premium and for a rent not exceeding Re. 1 per acre. The tenant may be made joint pattadar with the landlord at the time of the lease.

The lease may be for a period of 12 years with option to renew for further periods on application. If the tenant of his own will relinquishes the land, he shall in such case be not entitled to any compensation for improvements. But in a case where the janmi has necessity to evict a cultivating tenant from a holding, compensation for all the improvements thereon shall be made payable by the landlord to the tenant.

The 'pothi' measure shall be standardized and shall be equivalent to 30 seers of the local recognized seer measure.

Dry land for 'Kudiyiruppu' or house-site.—Rent for leases of land not exceeding one acre for petty house-sites used exclusively as dwelling places by the tenant shall be in no case more than twice the land revenue assessable on the same. A premium of Re. 1 shall also be paid by the tenant for the lease. The lease may be for a period of 12 years with option to renew for further periods on payment of a renewal fee equivalent to the amount of rent payable for the immediately preceding year when the renewal fell due.

Dry land for house-site and petty shop site.—As in this area quite a number of tenants make use of certain convenient holdings for purposes of house-sites as well as shop-sites, this class of holdings shall be treated for assessment of rent in the following manner. The tenant shall be made payable a premium of Rs. 5 and rent for the house-site (not exceeding one acre) amounting to twice the land revenue payable thereon, together with an amount equivalent to twice the profession tax, sales tax or such other tax payable by him for his trade thereon to Government. The lease may be for a period of 12 years with option to renew for further periods on payment of a renewal fee equivalent to the amount of rent payable for the immediately preceding year when the renewal fell due.

Dry land for Estate purposes (Extensive coffee, tea and similar cultivation).—Rent shall be charged for the first four years of the lease at As. 4 per acre and thereafter rent not exceeding the land revenue payable thereon shall be charged for the plot. A premium of Rs. 5 per acre shall also be payable by the tenant for the lease. A renewal fee equivalent in amount to the immediately preceding year's land revenue on the plot when renewal fell due shall be charged and lease shall be renewed for a period of 48 years. Renewals and leases of dry lands for coffee, tea, orange and similar produce shall be for periods of 48 years as the conditions of agriculture in Gudalur require longer periods for the tenants' reaping a fair return of his investment on the land. In this respect Gudalur shall therefore be exempted from the provisions of the Malabar Marumakkathayam Act of 1933.

Trees on the lands to be demised shall be permitted to be used free of cost for Estate purposes on the premises and they shall be permitted to be cut for purposes of cultivation in which case the janmi shall have the right to sell or remove the same, say within a period of three months from the date of felling. In cases where the tenant desires to purchase outright all trees on the leased premises, they shall be sold to him at the customary market value of the same prevailing in the locality.

Dry land for commercial use.—Rent for dry land not exceeding 5 cents for commercial use shall be Re. 1 for the first two years of the lease and thereafter twice the land revenue, profession tax, sales tax, income tax and such other taxes payable to Government. A premium of Rs. 10 shall be paid by the tenant for every plot not exceeding 5 cents.

Improvements.—If the tenant of his own will relinquishes the lands or if he is not willing to execute the renewal lease on the terms indicated above he shall not be entitled to any value of improvements. But in a case where the landlord has necessity to evict the tenant from his holding, compensation at the then existing market value shall be made payable by the landlord to the tenant for all the improvements.

Land revenue and such other charges.—Land revenue and such other charges payable on the plots shall always be paid by the tenant without any deductions being made therefor from the rents due under the leases.

Renewals of old leases.—All leases that are at present due for renewal and coming within items 1, 2, 3 and 4 shall be renewed on payment by the tenants of a renewal fee equal in amount to one year's rent payable under such lease when renewed as per terms indicated above and on payment of all the arrears of rent and land revenue and such other charges due, with interest, under the old lease, even though any of such payments may be legally barred by limitation.

In the case of renewals of leases relating to sites for commercial use, the rent to be fixed shall be one-tenth of the annual gross income realized by the tenant. Renewal fee equal in amount to the one year's rent payable for the year immediately preceding the year when renewal fell due shall also be paid. The renewal fee and rent may be fixed as shown below.

Exhibit in 1880–A leased a plot of 50 cents for an annual rent of Rs. 5 for 12 years. He built a line of shops and rented them and got an average rent of Rs.20 per month for nearly 55 years up to date. The building cost him nearly a thousand rupees. Rent was regularly paid but lease was not renewed. Janmi now insists on renewal or in default threatens eviction. The following solution may be accepted in this case :—

1880—1892—Rent Rs. 5.

	RS.
Renewal fee in 1892, i.e., one-tenth of gross income of the year 1891.	24
Rent from 1892—1904	24×12
Renewal fee in 1904	24
Rent from 1904—1916	24×12
Renewal fee in 1916	24
Rent from 1916—1928	24×12
Renewal fee in 1928	24
Rent from 1928—1939	24×11
Renewal fee in 1940	24
Rent for 12 years 1939—1951	24

Thus on payment of Rs. 1,013 and agreeing to pay annual rent of Rs. 24 the tenant shall have the right to get his lease renewed, showing the improvements existing on the plot as belonging to him.

Gross income in this case should be the whole amount of rent receivable by the tenant from the shops.

The leases may be for periods of 12 years with option to renew for further periods on payment of the required renewal fee and agreeing to payment at the rate indicated above. Lease shall be renewed on these terms and for these payments though any of such payments may be legally barred by limitation.

Improvements effected by the tenants though on holdings held under old leases shall also be treated as entitled to compensation whatever the recitals in the respective documents may be relating to these. But in cases where the tenant of his own will relinquishes the land or is unwilling to renew the lease on the usual terms he shall not be entitled to any compensation for the improvements.

As the landlords are few in this area and as the collection of rent has been causing considerable difficulty to the landlord it is fit and proper that the janmi gets the payment of his rent assured. Therefore it is suggested that fair rent thus fixed may be made a liability of the tenant in the same manner as the land revenue payable to Government. If an arrangement is possible to have the collection of rent made by the village officials alongside the collection of the Government kists, it will be beneficial to both the parties. The tenant will be saved the liability of accumulated rents and the landlord will be assured of his dues without resort to civil courts and putting himself to avoidable expenditure and delay in realizing his janmabhogam. In effect, this suggestion may amount to the Government having virtually to act as the janmi's Agent for the collection of the janmabhogam. But I should think that the Government should now seriously act to intervene between the idle landlord hoarding unused extensive tracts of cultivable land away from the cultivator, eager and willing to toil for his livelihood on the land if allowed on a fair and equitable basis. I may even state that my suggestion for the Government intervening at this stage as an Agent and arbitrator between the janmi and the tenant may be only treated as a timely warning to the landlord of the growing tendency in the world in favour of the democratic ideas and the state owning all land as its property to be shared and used for the good life of its people.

By Sri P. K. KUNHISANKARA MENON :

I am the Agent of the Nilambur kovilakam but I am giving evidence in my private capacity as an agriculturist. I have been here for about eight years. I have a plantation of about 150 acres of coffee and tea and a few orange trees. I have about 40 acres of wet land which I cultivate directly. I spent Rs. 1,000 on my wet cultivation during the first ten months by way of value of seeds, bulls and agricultural materials. My yield was worth nearly Rs. 2,800. It was a bumper crop. I realized my investment and I had a little more to carry on for the next year. I had to pay one pothi per acre rent and an assessment of Rs. 75. The yield was higher than 20 fold. But the wastage is great because labour is scanty and unskilled, and the methods of cultivation are very primitive. About 10 per cent goes to waste. My labour was only 16 strong including five or six women. Threshing is done by cattle as paddy is required. With labour better equipped we may get a better yield. On an average from 30 acres 2,800 pothis might be the yield. Paddy is the most profitable form of cultivation. The Chettis are poor. They live in kudiyiruppus adjoining their fields. Their labour and cattle are poor and their methods of cultivation are primitive. Indigenous cultivators cannot afford to pay for imported labour, because they cannot compete with the planters. When the planters do not require labour, these cultivators pay two or three annas a day and engage those labourers.

By Sri A. KARUNAKARA MENON :

The Malabar Tenancy Act will do great harm if it is applied to this taluk. People from other parts do not come and take to agriculture here because of the fear of malaria. I can say from personal experience that the fear is unfounded. The seed which I used for 35 acres was 100 pothis. The running cultivation expenses will come to double the seed. This is exclusive of the initial cost of cattle. One pair of bulls at Rs. 50 would be needed for two acres. It is not because agriculture is unprofitable that the tenants of wet lands are mostly in arrears. The rent on wet lands does not exceed one pothi per acre and should not be increased above that. There need not be any fees for renewal in the case of wet lands. On account of the Marumakkathayam Act, people are reluctant to take lands for plantations because they can get the lands leased only for twelve years. The Marumakkathayam Act should be amended in this respect, at least so far as coffee and other plantation products are concerned.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

The Kovilakam has about 5,000 acres of wet land from which we get a rent of about 3,000 pothis. The total assessment is Rs. 13,000 on lands held directly by the Kovilakam. This includes the assessment at six pies per acre on undeveloped dry lands. On the estate lands they pay separately. On the whole the assessment comes to Rs. 36,000. This is an ideal place for a colonisation scheme.

By Sri C. K. GOVINDAN NAYAR :

If a tenant takes a bit of undeveloped dry land, improves it and transfers it to the class of developed dry land, the Government assessment on the land will have to be paid by the janmi. That is why I say that the janmi should not be punished for the fault of the tenant in bringing an unsuitable land into the class of 'developed dry.' If the holding is made uneconomic through flood or storm, and if the Government can give a remission of the assessment which the janmi has to pay, there will be no difficulty. If on the other hand

the janmi has to pay compensation for the improvements on the land and also the Government assessment, it will be a double hardship on him. Only certain regulations are necessary for the betterment of the relations between the tenant and the janmi, but no Tenancy Act as such is needed. The tenant requires protection in the matter of fixing rent and renewal fee. The renewal fee should be regularized. Fixity of tenure should be granted to tenants who pay their rents regularly. Tenants should not be evicted from their homesteads or wet and dry lands so long as they pay the rent regularly. We cannot say that the janmis will not require lands for direct cultivation. The Nilambur Thirumulpad is the biggest janmi here, but he has a growing family. If members of his family want to colonise some of these parts, they may require lands bona fide for direct cultivation. I would not discourage a member of that family from choosing any particular site he likes provided he wants to become a bona fide cultivator. All the conditions and restrictions imposed with regard to 'bona fide' cultivation should be applied here also.

By Sri K. MADHAVA MENON :

If a member of the Nilambur family wants to have my estate which is Kovilakam land in order to settle down here, there must be nothing in the law to prevent him from doing that after payment of fair compensation.

By Sri R. RAGHAVA MENON :

The Government should have model farms for paddy breeding, potato growing and so on. A colonisation scheme will solve the unemployment problem. At present the discontent is due more to imaginary difficulties and hardships than real ones. No reliance can be placed on statements made by interested persons who come forward as champions of the tenants. Any legislation based on such statements would not be beneficial to the tenants at all. Generally speaking, after the passing of the Debt Relief Act, the people here expect that the Government will bring in more legislation to solve their imaginary difficulties. Some educated people here have made them think that the Government would take away what belongs to others and give it to them.

By Sri K. MADHAVA MENON :

My position as an agent has enabled me to understand that there is nothing much in conflict between the interests of the Raja and the interests of his tenants. Even with all his handicaps and wastage the Chetti is able to make both ends meet. The Chetti is a man of considerable indifference and idleness and he carries on a pastime of cultivation for ten months. Renewal fees are a customary ancient thing. I think one year's rent will not be heavy as renewal fee for kudiyiruppus. I will modify my answer this way: With regard to petty kudiyiruppus no renewal fee need be paid, but with regard to bigger kudiyiruppus, the renewal fee may be fixed at one year's rent. In my opinion it is not too much to ask for a premium of Rs. 100 from a man who wants to take to the venture of agriculture on an area of ten acres. The premium will prevent frivolous applications from people who have no idea of settling down here. For granting renewals we make a modest demand of one-tenth of the profit which a man gets on the investment he made on our land. If even that modest demand is refused, we have no alternative but to sue for eviction.

By Sri P. K. KUNHISANKARA MENON :

With few exceptions, no Chetti has taken advantage of the Debt Relief Act.

By Sri R. RAGHAVA MENON :

There are wet lands here not cultivated or forsaken by the tenants, owing to dearth of labour. The remedy is only to colonise.

By Sri E. KANNAN :

The wage that a Paniya is paid is two kolagams of rice which is equivalent to annas $2\frac{1}{2}$.

78, Sri K. C. Ettan Raja, Diwan of Nilambur.

1. (1) Whatever belongs to one by birth is his janmam. *Origin of janmam.*—Some are of the opinion that the technical term "Janmam" originated from either of the two reasons, viz., by taking possession of lands in places uninhabited till then or driving the occupants by use of force. This cannot be proved. Foreign invasion and occupation were rare in Malabar unlike in other parts of India. The present customs themselves bear testimony to this. In South Travancore which was ruled over by the Cheras, Cholas and Pandiyas, janmam and janmis do not exist. This itself is evidence. Tarwad janmam must have been founded either by the members of the Marumakkathayam families who, not finding means of subsistence for the large number of members in such families, must have reclaimed waste lands and brought them under cultivation or by local ruling chieftains and prominent persons reclaiming waste lands by engaging coolies. Land revenue was not in existence during the reign of the Zamorin. The janmam lands belonged to the janmis. They did not belong to the Government.

Subsequently, janmam lands were purchased by others and changed hands by similar transactions. This is the origin of the existing janmis. In course of time, the word janmi was used to refer only to landed property.

(2) The word Kanam means 'something calculated' (Kandu-Vechathu). Lands are given to dependents, etc., by prominent persons for cultivation allowing them to enjoy a portion of the produce. This was given for the purpose of keeping them under the janmis' influence. Whenever such tenants were evicted or they themselves relinquished the lands, the condition was to repay to them a portion of the produce so far enjoyed or its commuted value. This condition was imposed at the time of the lease. The lands leased with the amount so 'calculated' are known as kanam lands.

There are various reasons for inferring that this is the origin of kanam lands. The kanam amount of the old kanam lands does not depend on the extent or fertility. The kanam amount is seen decreased and the interest increased according to the attachment towards the dependants. This is evident from the kanam rights possessed by the families dependent on the royal families of Malabar from time immemorial. These lands also are those purchased in course of time by payment in cash as in the case of other janmam lands.

(3) The system of "Kuzhikanam" is very rare in South Malabar. I am not well conversant with this system.

(4) Verumpattam. Until the commencement of the British administration, there were quarrels and wars at frequent intervals. The adult male members were therefore engaged for war, etc., and others who did not join the army and low caste people and slaves had therefore to be entrusted with cultivation. This entrustment was generally for one year. These cultivators were known as verumpattamdars. In those days, the system of obtaining munpattam was not in existence. In course of time, this was also converted into a right which was sold and purchased and which thus changed hands.

(5) Other tenures. The other varieties of tenures are mainly seen in the case of some kovilakam estates as in the case of Zamorin's Estate.

Santhathi Brahmaswam, Karangari, Yavana, Adima Yavana, Saswatham, Anubhavam, Kovilakam Verumpattam, Aarukalam Verumpattam, etc., etc.

Santhathi Brahmaswam means leases given to Brahmans for permanent enjoyment of income on account of pattam.

Karangari means leases granted to persons belonging to other communities as well as to Brahmans on the above condition.

"Yavana" and "Adima Yavana" mean the lease granted to certain families for enlistment as warriors.

"Saswatham" means the lease granted to respectable persons to assure their loyalty and obedience.

"Anubhavam" and "kovilakam verumpattam" mean the leases granted to persons with perpetual right for enjoyment of pattam for services rendered in times of war, or for maintaining peace and safety of human life in times of unrest.

"Arukalam Verumpattam" means the lease granted on payment of half or one-third of the gross yield (including the assessment) at a time when the land revenue assessment was not so high as it is now. In these days, the above pattam commuted to money value at the current rate is barely sufficient to meet the land revenue demand. This system is particularly noticeable in the "Aarukalam" near Kottakkal in Ernad taluk, belonging to the Zamorin's Estate.

2. This has been made clear in the answer to question 1.

3. The M.C.T.I. Act, the Malabar Tenancy Act and the Agriculturist's Indebtedness Relief Act, etc., have nullified the agreements and contract in the lease deeds between the janmi and his tenants. And this statement is supported by the Court decisions based on the above Acts.

4. (*a*) Yes. Vide answer to question 1.

(*b*) No. The present practice does not cause any difficulty.

(*c*) No. I do not see any necessity. If this right is conferred upon the Government there will be no special advantage to the public. It will also lead to disadvantages. For example, the experience of the tenants in Muthumala acquired by Government is alone sufficient.

(*b*) & (*c*): If the Government propose to acquire or encroach upon the janmam lands, the question of paying sufficient compensation should be specially considered.

5. No special advantage will come out by amending the existing Tenancy Act. Some janmis might be satisfied if they get their janmam value. But, this will be a destructive

step to many of the janmis in Malabar. Sthanam properties, Devaswam properties, Swarupams and other big noble families which are held in esteem and respect by the Malayalees will become mere names.

Even if one set of tenants is dispensed with, it will only lead to the creation of three or four sets of "mortgagees of landed property." If absolutely necessary, kanam tenants may be dispensed with. Their kanam right and right over the improvement may be retained as mortgage right. Being firmly of the opinion that it is dangerous to amend the existing system, I do not say anything about the question of payment of compensation.

(*b*) (1) Compulsory purchase will not work satisfactorily. It is no use compelling weak parties. Even today, for settling family difficulties, and for raising loans in the interest of the family, this is being done with the consent of the family members. The question of legislating for this does not arise at all.

(2) This may perhaps work only if the Government brings in legislation for family limitation. Even then, it is impossible. There is also no special necessity.

(3) With the introduction of the Agricultural Indebtedness Relief Act, the cultivators do not find persons to help them with seed and other necessaries for cultivation. The tenant's right as well as his agreement either oral or written and registered do not carry any weight. Although the tenant has no malafide intention at the time of executing agreement, it is the policy of the Government that is responsible for these state of affairs. Questions (2) and (3) are conflicting. A cultivator cannot find time to do any other work. If the extent to be possessed by a tenant is limited, his earning also becomes limited. Borrowing will depend upon the loss in cultivation and family difficulties. If the borrower has no property, the creditor will have no means of recovery.

6. There is no point in doing good to a particular class of cultivators. But, at the same time, it is hard that the sub-tenant's right is held liable for the default of the kanamdar to the janmi. The best possible course for the sub-tenant to safeguard his interests over the land, in a case in which the kanamdar has defaulted in paying the dues to the janmi, is to pay so much of the pattam as is due to the janmi from the kanamdar direct to the janmi, on receipt of a notice from the janmi demanding such arrears. Legislation should be made to legalise this system.

7. The general saying is that in the case of double crop lands, the pattam from Kanni crops is 6/10 and that for Makaram 4/10. The understanding is that Kanni crop yield will meet the requirements for paying the pattam due to the janmi and for meeting the cultivation expenses, and that the Makaram crop yield is intended for assessment and for the tenant's profit. And the straw is an additional profit to him. The net income, after deducting the cultivation charges and assessment, may be shared between the janmi and the tenant in the ratio of 2 to 1. This is reasonable. Straw (by products) should also be included as an income. If there is a kanamdar as an intermediary, a share of the income not exceeding the Government rate of interest on his investment (kanam amount) should be paid to him. This should be met from the janmi's 2/3 share.

(*b*) It is not possible. It will depend upon the market value of the produce. Out of the income calculated at the present market rate, more than one-fourth will have to be paid for assessment. In some places more than 50 per cent is to be paid as assessment. The best course is to fix the assessment as 1/6 of the net produce and recover it in kind instead of in cash. But this may perhaps be impossible. At the last resettlement, when the prices of materials were not so low as they now are, the janmis or the tenants did not raise any protest regarding the fixing of the assessment and the mistakes in re-classification and the fixing of assessment on the basis of the market value of the produce at that time account for the present difficulties.

(*c*) The occupier should pay the assessment. The pattam in all pattam chits, lease deeds and agreements, should be exclusive of the assessment.

8. Yes. In the western parts of Malabar, which are sandy, the out-turn of paddy is not more than 5 or 6 times. Out of this, deducting the cultivation charges and seed, 2/3 of the net income will be practically a negligible figure.

In the case of wet lands converted into garden without the consent of the janmi, the pattam due to the janmi decreases as the tenant has to be compensated for the improvements belonging to him. This is objectionable. The cultivation charges will be less in sandy parts. As the seed sown in such parts does not take long to become ripe for harvest, the labour involved is comparatively less.

(*a*) The cooly charges should be decreased.

(*b*) The loss of pattam incurred by the janmi on account of the convertion of wet lands into garden, should be compensated from the tenant's improvements. Occasions are very many in which the Courts do not take into account the loss incurred by the janmi consequent on the increase in assessment by the tenant making the improvements. If the assessment is increased, the pattam payable to the janmi should also be increased proportionately.

(*c*) A fixed percentage of the net income (excluding assessment) should be payable as pattam to the janmi.

9. The assessment is fixed with reference to the settlement classification. Fields yielding from 10 to 100 times out-turn are all included under the same classification. Therefore, the fixing of the fair rent as proposed in this question will cause hardship to the janmi. It would be advisable to fix the fair rent, in respect of wet, occupied and unoccupied dry lands, after deducting the assessment and cultivation charges from the gross yield. The rate has already been stated above.

10. Yes. This is reasonable. This should apply also to cases of mortgage with possession, if the liability to pay assessment is on the mortgagee.

11. Yes. The para should correspond to the MacLeod's seer. This change should be insisted on in the case of new renewals and pattam chits.

12. Renewal is based upon the ancient practice in Kerala of acknowledging the janmam title of the Koyma (ruling chief) in consonance with Mamamkam every twelve years. Those renewals were not in accordance with the nature of the land. It depended upon the status and respectability of the tenant who went and paid his respects to the janmi.

There is evidence to substantiate this origin of renewal. Until the passing of the Act, when the Sthani changed, the tenants used to renew the lease for so much of the period as had then expired.

In course of time this depended upon the kanam and the pattam amounts. It is on the basis of this change that sales and other transactions have taken and are now taking place.

13. No. So, the answer to question (*b*) is not necessary.

(*c*) An amendment of the Act is absolutely necessary in this respect. The janmi has now no right to sue for renewal fee alone. The land should be got surrendered. To collect a petty amount, the janmi is unnecessarily dragged into Court and asked to deposit the cost of the improvements. In case an ordinary tenant finds it impossible to pay the amount in a lump, a portion of the renewal fees may be paid by the tenant every year along with the michavaram and the janmi should be made to accept such payments.

14. No.

15. (*a*) Yes. There should also be compulsory provision to pay assessment and michavaram. Failure to pay regularly should render the occupancy right liable to confiscation.

(*b*) No.

16. The existing Act requires amendment. The members of the Marumakkathayam family should also be regarded as persons interested in the land. As the janmi families in Malabar all consist of a large number of members and as there is no corresponding increase of property with the increase of members, in order to find employment for the members of the family, who have no other job, the janmi should have the right to evict the tenant without any other special reason.

(2) Provision is absolutely necessary for payment of munpattam.

17. (*a*) If the kudiyiruppu belongs to the janmi, and if the tenant is willing to pay the price of the kudiyiruppu along with the value of the paramba fixed with reference to the assessment, the situation of the land, etc., there is no objection in selling the janmam right over the kudiyiruppu to the tenant.

(*b*) Yes. It is not possible to give a clear distinction. As the land is very dear in commercial centres, the grant of site for kudiyiruppu and compound is a loss to the janmi.

(*c*) The extent of the kudiyiruppu and compound will depend upon the status of the tenant. It is not possible to fix this. The situation of the land has also to be taken into account.

18. Does not seem to be necessary.

19. So far as I know, this practice is dying away with the advancement of civilisation. Even if it continues, the tenant is not a loser thereby. In return to such levies, here is a practice called " Onapudava ".

20. This is not practicable.

(*a*) The only possible course is to fix the " Varam ".

(*b*) I do not know.

21. (*a*) I do not know the tenancy system in Kasaragod taluk.

(*b*) A major portion of the Gudalur taluk is the janmam of Nilambur Kovilakam. The rest belongs to Nelliyala Rani and Naduvath Mana. There are no other janmis. It is not the practice for the Nilambur kovilakam to lease out the lands to planters. They are given on contract.

Gudalur taluk is fit for tea and coffee cultivation. It is advantageous both to the janmi and to the tenant. The majority of the planters are not Indians. If permanent occupancy right is granted, the whole of Gudalur taluk will become the janmam of Europeans in due course.

Poramboke lands also are permanently assessed. In order that the janmi may not have to pay assessment himself, the cultivation of paddy is permitted every year (so long as the Planters do not want them). Deducting assessment, the verumpattam derived is not more than 2 paras an acre. And if permanent occupancy right is granted in respect of such lands, it will be a loss to the janmi as well as to the Government. It is not possible to find out tenants who will pay fair rent and renewal fee as provided for in the tenancy Act and take up lands for paddy cultivation.

Malabar Compensation for Tenants' Improvements Act: Since the passing of the Act, the provisions in it apply also to lands in respect of which renewal of time-expired lease has been made. If the renewal is not effected, the improvements will pass over to the janmi at the expiry of the lease period. In case the renewal is made compulsory, it will be advantageous to both the janmi and the tenant. In this taluk, it is sufficient if it is regarded as Plantation area and a fixed rate is adopted for fair rent and renewal fees. It is not a taluk where there is large demand for land and where there is large population as in the case of Malabar. The general practice with the Nilambur kovilakam is to take an agreement on a premium of Rs. 5 to 10 for an acre of plantation, and a rent of Rs. 2 per year till the fourth year of cultivation, Rs. 5 in the fourth year exclusive of assessment and Re. 1 per acre in the case of waste lands. The renewal fee was one year's pattam till the commencement of the Compensation for Tenants ' Improvements Act.

For wet lands, the average is half a pothi of paddy per acre. There is no right of renewal. The verumpattam is not even as much as the assessment.

The Malabar Tenancy Act and the Marumakkathayam Act are conflicting in some respects. As the Gudalur taluk is comprised of plantations of tea, coffee, etc., the practice of leasing on contract for a term of 12 years has to be amended. (The old contracts for plantation are for 12 years.) It is not possible for the tenant to grow the plants and reap the fruits in the course of 12 years. In this and similar cases, the janmis following Marumakkathayam law should be given, as formerly the right to lease out the lands for a longer term.

22. (*a*) Yes. As the janmi has to sue for the realization of the pattam and michavaram, it will be loss of time for the janmi and unnecessary waste of money to the tenant for court expenses. Some sections of the Revenue Recovery Act should be made to apply in such cases. The amount should be leviable by summary process. The janmi should have the right to sue for the renewal fee alone. The janmi has to suffer heavy loss by being asked to deposit the compensation for the improvements.

(*b*) The defect in the existing Act is in the fixing of cultivation charges. It will depend upon the fertility of each soil. It is reasonable to fix 2/3 of the net income, deducting cultivation charges and assessment, as fair rent. Along with this, there should be provision to pay the renewal fees in 12 instalments along with the pattam instead of in a lump amount at the end of 12 years.

(*c*) Parts (1), (2) and (3) of this question are answered by (*a*) and (*b*) above.

23. Yes. It is special to Malabar. There are places where purappad had been fixed years ago so as to include assessment. By lapse of time, the assessment has exceeded the purappad. Not only does the janmi not get anything from the land, but also he has to pay the excess of assessment from his own pocket. In such cases, there should be provision for the janmi to get purappad at least equal to the assessment in addition to the assessment.

Avakasam lands, etc: In the case of these leases, as the help and service expected from the tenants at the time of the original lease are forthcoming and are also not required, they may be made similar to the other tenures.

Inam lands : Instances of the assessment in respect of the lands possessed by one janmi having been given as Inam to another janmi and of the assessment of one's own property having been given as Inam to oneself are found in the case of the Zamorin's estate, Devaswams, certain royal families of Malabar, in the estates of some local chiefs like Kondotti Thangal and also in the case of some Muhammadan religious institutions like Quilandy Palli, etc. It is absolutely essential that legislation should be made in order that the assessment in respect of these lands is collected by Government and given to the Inamdar and that the janmi gets the fair rent.

24. I cannot say anything about this as I have no knowledge of the tenure on the other side of Pandalayani.

General : Before bills are passed into law it has become the practice with those who take up the initiative to do propaganda work. It is done on the pretext that the poor class will be benefited by these laws. But the result is quite the reverse.

The same is the case with the Debt Relief Act introduced by the Congress Ministry. The gainers are those kanamdars who were the worst defaulters in paying michavaram. There is a time-bar of 3 years for arrears of verumpattam. Neither the janmi nor the kanamdar allows the verumpattam arrears to accrue for a longer period. And, even if there be arrears, they will be for the maximum period of 3 years. But the arrears due from the kanamdar relate to a very long period. The kanamdar derives the advantages. As the kanamdar had collected the dues from the verumpattamdar in full, he got the exorbitant rate of interest on kanam amount (30 to 80 per cent) specified in the old document, and he escaped payment of anything to the janmi. The janmi purchased the janmam right at the rate of 4 to 5 per cent. Anything more than that is not heard of. At the present market rate, the rate is 1 to $1\frac{1}{2}$ per cent. And so the janmi is a loser.

As the verumpattam right for one year is not good security, large amounts are not advanced as loans on that security. As the kanam properties are good securities, large amounts can be obtained as loan. The result is that the kanamdar derived the benefit out of the scaling down rules.

With the collapse of the janmi, the verumpattamdar also met with the same fate. The capital set apart for relief might already have been spent. But it is very doubtful whether relief was granted to deserving persons. There are many complaints about this.

The fate of the existing Tenancy Act is the same.

The reason is said to be that the representatives in the Assembly from Kerala are all kanamdars and that therefore they do not care for the complaints and grievances of the janmis and verumpattamdars.

This state of affairs require special mention at this juncture.

By Sri P. K. KUNHISANKARA MENON :

I have sent these answers as the representative of the Raja of Nilambur ; but the Raja has allowed me to give evidence from my experience of the management of the Zamorin's estate and other estates also. The Raja has perused and approved the answers.

By Md. ABDUR RAHMAN Sahib Bahadur.

The Nilambur Raja is a member of the Madras Landholders ' Association.

By Sri A. KARUNAKARA MENON :

The lands in the possession of the Raja are partly reclaimed lands. Both reclaimed and unreclaimed lands were given to kanam tenants. Most of the ancient janmis of Malabar do not cultivate lands. The Nilambur kovilakam cultivated part of its lands. Similarly, Kizhakke kovilakam cultivated lands at Kottakkal until about 40 years ago. Most of the big kanam tenants are not near their lands. They are not, most of them, cultivators. They are not even supervising cultivation. They have invested a lot of money in kanam lands. Most of the verumpattamdars are poorer than the kanam tenants. Some of the janmis, some of the kanam tenants, some of the verumpattamdars are on the same level. 75 per cent of the janmis, 75 per cent of the verumpattamdars and 75 per cent of the kanamdars are poor. Nilambur Kovilakam can show accounts to the effect that most of the lands belonging to Nilambur Cherikkal were reclaimed. They were mostly waste lands before. I cannot say whether other janmis did the same. They might have reclaimed lands long ago. They got possession of the forest lands in the same way as they got other lands. They might have come into their possession either through their influence or through other means. Whenever there is demand, the janmis are giving waste lands for cultivation. If the Government take up these waste lands, I know there will

be difficulty felt by the public. For example at Nilambur and Pudumalai the Government prohibit the taking of firewood and green manure. Such things are being freely allowed by the janmis. The conditions imposed by each janmi are almost the same. In the interests of the country, when there is demand by the public for waste lands, they may be brought under cultivation. I do not know very much about forests in North Malabar ; but so far as South Malabar is concerned, I do not agree that denudation of forests has anything to do with climate. The Government are clear felling trees, but the Malabar janmis do not do so.

By Md. ABDUR RAHMAN Sahib Bahadur :

The timber merchant is a businessman ; he looks after big trees as they will give him good profit ; the small trees are left alone. Some control is being exercised by the janmis. In Nilambur for instance, such control is being exercised.

By. Sri C. K. GOVINDAN NAYAR :

The Nilambur kovilakam employs local people who know something about the forests, but not those who have had forest college training.

By Sri R. RAGHAVA MENON :

The conditions in Gudalur taluk are not the same as in Malabar. There are a lot of lands here which can be reduced to cultivation. All the three janmis here are quite ready to lease out the lands whenever anybody expresses a desire to cultivate them. In regard to Malabar, the tenants suffer mostly for want of irrigation facilities. If Government were to control irrigation as far as the Palghat taluk is concerned, it would be all right. Even there some water sources are reserved in the leases for the cultivation of specific lands. I have heard nothing in Gudalur about scarcity of water ; there is no necessity for the Government to interfere in this respect. The diversion of water sources in the hills will be harmful to the timber trade. These water sources jointly supply the river with water and the timber merchants depend on the river water for floating timber. The water sources should not be disturbed because timber merchants will find it difficult. In the hills, timber is a major business as compared to cultivation. On account of the peculiar climate, we get only a single crop in the hills. That is why timber gives better profit than paddy cultivation. Every year we give licences to fell certain varieties on a limited scale. We particularly reserve some variety of trees, and we do not allow people to cut such trees ; we replant a particular portion of the forests every year. We specify the area in which alone every year trees should be cut. A limit is put for each licensee ; we generally give the name of the forest in which the cutting should take place. We have 600 sq. miles of forests and all the areas cannot be worked in the same year. We will not also allow the whole area in a forest to be worked in the same year. In the past 12 years, we have done about three or four square miles of replantation.

By Sri C. K. GOVINDAN NAYAR :

The felling of timber from our estates depends on the demand for timber, the demand for money on the part of the janmi. The janmis do not denude forests wholesale. The Government give parts of forests for clear felling . Moreover, Government cut and stack wood and sell by auction.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

Before the Improvements Act and the Malabar Tenancy Act came into force, evictions were going on.

By Md. ABDUR RAHMAN Sahib Bahadur :

I do not agree to the Government taking over janmam lands at all. There is no question of Government taking over the lands when the janmis are already holding them and giving them out freely to all those who want them. If the cultivator takes land from the janmi, he has to pay the assessment and the rent. In the case of Government he has to pay the assessment and janmabhogam which will be less than the rent he may have to pay to the janmi. I do not think it would be better for the Government to take over these lands, because I think there is no necessity for the Government to come in here.

By P. K. MOIDEEN KUTTI Sahib Bahadur :

To some extent there is indiscriminate felling of timber by some private owners. Indiscriminate felling must of course be stopped. I do not consider that the kanamdar was ever a moneylender, nor was he ever a cultivator. He was never a cultivator.

By Sri E. KANNAN :

The janmi actually acquired lands and gave them for cultivation to kanamdars and verumpattamdars.

By Sri R. RAGHAVA MENON :

The vast majority of the agricultural population are verumpattamdars. The kanamdars are more than the janmis and the verumpattamdars are more than the kanamdars. 95 per cent of the population in Palghat are cultivators. In Walluvanad taluk there are some poor kanamdars who cultivate ; the others have given their lands to verumpattamdars. There are some janmis also who cultivate, but such cases are rare. There are some kanamdars in Palghat taluk who cultivate lands, while there are few in the other parts of Malabar. Conditions are entirely different in the other taluks of Malabar, as compared to Palghat. If there is no moneylender in any particular place as in Gudalur the verumpattamdar might approach the kanamdar or the janmi for help. This is the case not merely in the Palghat taluk but also in the other taluks. I am aware of the system of Kandukrishi whereby the landlord supplies seed and cattle and the tenant works on the land and the produce is divided half and half between them.

By Sri P. K. KUNHISANKARA MENON :

With regard to the fixing of fair rent, my answers do not refer to Gudalur taluk. The ruling power had nothing to do with renewal fees. It was merely a custom by which a payment is made to the new sthani when he assumes office on the death of the old sthani. Leases for more than 12 years came into existence only recently. Even before the Zamorin became a ruling chief, he had janmam lands. Ruling powers and janmam rights had no connection with each other. At that time there was no system of land revenue. Instead of that there were some duties collected. If a tenant fails to pay rent, his occupancy right or fixity of tenure should be confiscated. Any reasonable time-limit may be fixed, say three months. I do not want to give permanent occupancy right to the big estate owners. I will have the same standard for big estate owners owning 10,000 or 20,000 acres as for small holders owning 5 or 10 acres.

By Sri K. MADHAVA MENON :

There is no immediate necessity to change the Tenancy Act except in one or two respects which I have mentioned, such has the janmi's right compulsorily to get rents and renewals. I am not in favour of extending the Tenancy Act to Gudalur, because the conditions here are entirely different from those in Malabar. My knowledge of the affairs of the Nilambur kovilakam is only two or three months old. Renewal fees were not a regular income of the landlords of former days. The renewal fee which prevailed just before the Act came into force must have been much more than those which prevailed long ago. Before the Tenancy Act, janmis had the power to give melcharth, which virtually gave him the right to recover the renewal fee. Now that power has been taken away. The melcharth system was sometimes arbitrary.

By Sri A. KARUNAKARA MENON :

All that the janmis now want is some power to recover the renewal fee alone instead of being obliged to sue for recovery of land. Before the Malabar Tenancy Act, we had the power of giving melcharth, by which we could recover the renewal fee. If there is necessity for land for any member of the family to cultivate, eviction should be allowed and in other cases also if they are reasonable. I cannot now specify such reasonable cases. If kudiyiruppu-holders pay their rents regularly, I have no objection to giving them fixity of tenure. The Marumakkathayam Act has affected the demand for the lease of lands for plantation purposes. Planters want lands on long leases, because the plantations will begin to yield only after 10 or 12 years. Both the landlords and the tenants suffer on account of the restriction imposed by the Marumakkathayam Act. The period should be extended at the shortest to 48 years.

By Sri R. RAGHAVA MENON :

In cases where the michavaram includes land revenue and the land revenue has increased, the michavaram also should be increased proportionately. No increase of michavaram is necessary in cases where the kanamdar is liable to pay the land revenue. I have not come across any cases where the michavaram is very high. The proportion of cultivation expenses to the seed depends on the fertility of the soil and the position of the land. It will be between 2 and 2½ fold the seed. It is not better to distribute the produce without deducting the revenue, because on the default of the kanam tenant and the janmi to pay the assessment, the standing paddy will be confiscated and the verumpattamdar will suffer. It is better to reserve that amount for the payment of land revenue and make the verumpattamdar pay it. The verumpattamdar should not be made to suffer on any account for the defaults of the kanamdar. I would welcome legislation intended to save the sub-lessees from the failure of the landlords whether kanamdars or janmis.

By Sri C. K. GOVINDAN NAYAR :

Nobody forces the kanamdar to relinquish his property. In ancient times the kanamdar was entitled to get back only his kanam when he relinquished his land and not the value of improvements. The kanamdar may assign it to somebody else. If the janmi does not want the land, why should somebody force him to pay something for the land which he does not want at all. I have no objection to restoring the old custom. It will be fair.

By Sri M. P. DAMODARAN :

I included *modan* cultivation also in fugitive cultivation and thought that it was not possible to fix fair rent. For modan cultivation, a plot of land is given for three years and the tenant cultivates any crop he likes and we collect a certain percentage of the produce as rent. That was why I said it was difficult to apply the Malabar Tenancy Act to this cultivation.

By Md. ABDUR RAHMAN Sahib Bahadur :

If a kanamdar has to pay Rs. 1,000 to the janmi and a verumpattamdar under the kanamdar has to pay only Rs. 5 to the kanamdar, I do not mean that the verumpattamdar should pay all the Rs. 1,000 to the janmi. He need pay only his proportionate share. If he pays his proportion of the dues to the janmi, he should be allowed to hold the land. I have no objection to retaining the kanamdar. Half the gross yield or 1/3 of the net may be given to the tenant. The assessment must be deducted before calculating the net yield. The agricultural labourer gets 10 or 12 rupees a month for his working season. I carried on agriculture myself for some time. I was paying six annas a day in Ernad. If the labourer is paid 6 annas, 2 fold is enough for expenses. Some kinds of labour are paid in paddy and some in cash. We pay cherumas for the 365 days in the year and not for the cultivation season alone. Fair rent could be settled by arbitration. I would prefer the creation of some machinery by legislation.

By Sri K. MADHAVA MENON :

My answers refer more to the plains than to Gudalur. The Tenancy Act should not be applied to Gudalur. The main reason is that this is a plantation area and if the Tenancy Act is applied to Gudalur, European planters will get the janmam right. It is a question to be decided whether the Tenancy Act should apply to plantations. The janmi gets better terms from the plantations and the wet land cultivation is only a temporary device by which janmi could avoid trouble. Wet land cultivation came before planting cultivation. When I said that most of the members were kanamdars, I meant the members of the Select Committee of Mr. Krishnan Nayar's Bill. Only slight alterations were made to that Bill. I do not know who were the Select Committee members. I had a lot of experience and I say that most of the kanamdars are not cultivating. In the Tenancy Act permanency has been given to the kanamdar and not to verumpattamdar. The cause of the verumpattamdar has not been looked after. Most of the verumpattamdars are so ignorant that the kanamdars are taking advantage of it and the verumpattamdar is suffering. The fair rent under the Act will be less in some cases and much more in some cases. I myself cultivate a plot and I get twice what I pay to the janmi. The yield of the property is 24 fold. There are michavaram arrears for 70 years. In the case of the verumpattamdars the arrears become time barred. The verumpattamdar is entitled to improvements, but his improvements are liable to be confiscated for the default of the kanamdar. Where the tenant has made improvements there is no limitation. The majority of the verumpattamdars have got only houses on their compounds. In Malabar the Debt Relief Act works to the benefit of the kanamdar. You work on the idea that the janmi has not invested money. The janmis have lost more than the kanamdars, because the janmis have invested at a much lower rate of interest. The verumpattamdar's rent must be guaranteed. If recovery could be effected with much less cost, I do not even press for the security. The kanamdar also must give security if the verumpattamdar is to give security. I do not however press for security ; what I want is that the recovery must be guaranteed and it must be effected more speedily.

79. Sri M. Sankaran Nair, Vakil, Gudalur.

1. There are various theories about the origin of janmam in Malabar such as Parasurama having gifted the lands to Brahmans for their absolute enjoyment, thus creating janmam title in them, or the man first coming in as a " Squatter " and improving the land owed allegiance to his local chieftain for protection creating janmam right in the Chieftain himself.

Simultaneously with the occupier's owing allegiance to the local chieftain for affording protection, a subordinate right was created by granting " Kanam" to the occupier which was a vested right in the property. It is the right of an occupier subordinate to the right of the janmi, who is the absolute proprietor of the soil.

When waste lands and forest areas were given to persons for converting them into gardens, these are called kuzhikanam.

When janmis owned extensive lands in janm, the necessity for leasing them on rent arose, and thus verumpattam tenure came into existence. Here the liability of the tenant is to pay the stipulated rent to the janmi, and enjoy the surplus produce himself. The tenant has no pecuniary interest in the land unlike the kanamdar.

The two other common tenures are Saswatham (permanent occupancy) and Anubhavam (service rendered).

2. The interest of the janmi was to get a share of the annual produce of the land.

The right of the kanamdar was to cultivate the land as his own as an absolute owner for an indefinite period, and he was not liable to be evicted by the janmi.

The Anubhavam tenure holders possessed lands for performing particular duties, such as temple service, etc.

3. The judicial decisions brought about considerable changes affecting the rights of the janmi and the kanamdar. Kanam came to be regarded as mortgage and lease by virtue of judicial decisions. Redemption and eviction were the consequences when kanam was treated as a "Mortgage." In olden days, no kanam deed could be found with a stipulation for redemption or eviction, nor was there any period fixed for the kanamdar to hold the property on tenure. The question of renewal was also quite unknown. The judicial decisions gave the janmis a power to demand renewal fees and other annual dues as they pleased or else, melkanam was granted.

4. The Revenue authorities and Civil Courts are not justified in presuming that waste and forest lands belong to private owners, for they are intended for the benefit of all people residing in the neighbourhood. Pasturage for cattle, firewood for domestic use and timber and other materials for house construction are supplied from these. The janmis cannot be said to have acquired any janmam right over these portions. These were declared to belong to private owners on account of Revenue authorities making a record of the same in favour of janmis.

In good old days, it is said, people made free use without anybody's consent—and no consent was necessary—of the waste and forest lands for earning their livelihood, and it is only recently that the owners have begun to make exactions from persons who want to graze their cattle or cut firewood for their use or for a livelihood.

(*b*) I am of opinion that any restrictions on the rights of the owners will not work satisfactorily, and it is for the common good if the Government will take up and administer these for the people's benefit, especially forest lands and irrigation sources.

(*c*) Subject to the payment of an annual rent, the janmi may be directed to grant waste lands to cultivators. The Government need not take possession of the waste lands.

5. It is desirable to have a simplified system of land tenure, but it is doubtful if it is practicable under the existing conditions. So far as Gudalur taluk is concerned, the intermediaries do not exist as in Malabar. I am of opinion that the existence of intermediaries is not the cause, as is wrongly supposed, of rackrenting if it exists at all in Malabar.

Since each tenure holder in Malabar has a vested right in the property and depends upon the income from the property for livelihood and since the system has been existing for ages, it is not advisable to revolutionise the whole system merely because it will result in simplification.

(*b*) (1) It is not desirable that a tenant should be allowed the compulsory purchase of the right of the janmi or intermediary in the land.

(2) This is not feasible considering the conditions of Malabar.

(3) I do not think that there should be any prohibition of the kind suggested, because it may defeat the purpose desired. A bona fide cultivator may not be willing to pay the price which a non-cultivator may offer, a non-cultivator may purchase it in the name of a cultivator, or he may pay a higher price—in all these cases the proposed prohibition will have no effect.

6. The actual cultivator's rights should not be affected by the default of any of the intermediaries.

The tenant in possession may be made to pay all charges on land, such as revenue, michavaram and other dues to all persons entitled to them as and when they are payable.

7. (*a*) There are no intermediaries in Gudalur. The tenant should pay the fair rent which should be divided between the janmi and other tenure holders in proportion to the rights they have in the land.

Having regard to the peculiar conditions of Gudalur, namely dearth of labour, unhealthy climate, damage to crops by wild animals, etc., the existing rent per acre may be considered fair and reasonable rent.

(*b*) There is no uniform proportion to the share of the produce. The rate of assessment varies from place to place, and roughly it may be estimated as ranging from one-sixth to one-twelfth approximately, in Gudalur.

(*c*) It is desirable that the man in possession should be made to pay the assessment.

8. The Malabar Tenancy Act is not in force in Gudalur taluk, but the formula of arriving at the fair rent has to be modified when it has to be applied to Gudalur.

9. It is not advisable to fix rent of wet lands in any proportion to the assessment, as the yield greatly depends on the fertility of the soil and other causes. The rate of assessment does not give a sure indication of the productivity of the lands, and in my view cannot be accepted. For lands in Gudalur, the present rate of half to one pothi per acre may be regarded as fair.

With reference to dry lands, the rent may be fixed at half the amount of assessment, the tenant being made liable to pay the assessment.

10. It is bare justice that the tenant is allowed the proportionate remission of rent, when the janmi gets a remission of revenue. But it is clear that it is not always that the Government grant remission of revenue, even when it should be granted.

11. It is absolutely necessary that standard weights and measures approved by the Government are used in the transactions, as the present measures are not uniform or quite accurate.

12. The practice of payment of renewal fee has been in existence in Malabar for a long time. In Gudalur taluk, the demand appears to be recent.

13. It is not necessary to abolish the system, as the amount of fee has been fixed under the Act.

14. On relinquishment, it is but just and fair that the tenant should get his kanam amount and the value of improvements effected by him. It is not likely that a tenant will surrender his holding under section 44, when his right can be assigned.

15. The actual cultivator should be allowed fixity of tenure so long as he pays the rent to the janmi without any default, subject to the landlord requiring the land for his use or for the use of any member of his Tarwad. The right of the janmi in this regard should not be restricted in any way. The janmi should of course give compensation for the improvements, made by the tenant.

The Tenancy Act is not in force in Gudalur taluk, but it is necessary that the Act is made applicable to this taluk.

16. (1) No restriction on the landlord's right to sue for eviction on the grounds referred to in the question is called for, and the said right is only equitable.

(2) In Gudalur taluk, the payment of kattakanam or furnishing security for one year's rent by the tenant is unknown, and therefore this provision need not be applied.

17. (*a*) It is proper to grant fixity of tenure to kudiyiruppu holders in Gudalur, and the market value of the site on which the kudiyiruppu stands should be paid to the janmi.

18. Compensation for Tenants' Improvements Act, 1899, should be made applicable to Gudalur in respect of leases prior to October 1931. There are many lessees under the Nilambur Raja, who are not entitled to claim value of improvements as they are holding properties under leases prior to 1931. The above Act was extended to Gudalur only in 1931, and lessees after 1931 are entitled to improvements.

As regards old leases, eviction suits were filed and decreed and the tenants had to surrender properties without any compensation. Hence the extended Act of 1931 may be given retrospective effect regarding Gudalur taluk.

A-time limit of two years may be fixed for depositing the value of improvements.

19. Nothing over and above the rent should be given by the tenant to the janmi.

20. No.

21. (*b*) As far as Gudalur taluk is concerned, the legislation may be extended in the light of the answers given above.

22. (*b*) Speedy and summary procedure may be adopted in Civil Courts.

(*c*) 1, 2 & 3. Speedy disposal of these can be done by Civil Courts.

By Sri P. K. KUNHISANKARA MENON :

I have been practising here in the Gudalur Munsif's Court for the past twelve years. The cultivators are not inclined to improve the land because the Tenancy Act and the Improvements Act do not apply to this taluk. The land is not considered to be valuable at all. There is no fixity of tenure. If the Improvements Act is given retrospective effect, and fixity of tenure also is conferred, I think about 90 per cent of the grievances will disappear. I don't think there will be any harm in granting fixity of tenure even to planting companies. If we concede the position that the big companies are in the position of tenants, and if you seek to apply one set of principles to tenants, they should be held to apply to these companies also. For the small holders it is imperatively necessary. I do not see why there should be a distinction between a tenant owning more than 100 acres and one who owns less. If a tenant has spent labour and invested money, on eviction he should be entitled to compensation. The wet land cultivator's lot is very hard indeed. It is not because of rackrenting by the janmi, but because of their illiteracy, want of finance, climatic conditions, etc. If these conditions are improved, their lot will be better.

By Sri K. MADHAVA MENON :

The discontent among the kudiyiruppu holders is not confined to the urban areas. I believe there was one case of eviction of wet lands. It was a case of default. The evictions have generally been of kudiyiruppus. Most of the people here speak Malayalam. Their manners and customs are practically the same as in Malabar. In one case of eviction there were no arrears of rent at all; probably it was a case of demanding higher rent. The janmis are coercing the tenants to pay bigger premiums.

SOUTH KANARA DISTRICT

KASARGOD TALUK.

KASARAGOD CENTRE—19th, 20th and 21st December 1939.

81. Sri A. C. Kannan Nayar, Hosdrug, P. O. Kanhangad, S. Kanara.

At the outset, I must make mention of the fact that my remarks apply only to Kasaragod taluk. Apart from the fact that I have absolutely no knowledge of either the Malabar Tenancy Act or of the system prevailing among the janmis in Malabar, I have no complaints against the tenancy system there.

The right of the landowners in Kasaragod taluk is quite different from that in Malabar. In Kasaragod taluk, the assumption is that all lands are Government janmam. The " ryotwari " system prevails here. There is not the class of " Janmis " as known in Malabar. All are " Warghadars." In column 5 of the application for revenue registry of lands, there is a heading " Government or Inam." The reply under this heading is shown as " Sircar." What is known as " revenue " payable to Government in Malabar is known as " rent " in this taluk. The difference is not in the expression only. The rate of assessment here is generally 30 per cent and, in some parts, 50 per cent more than it is in Malabar. In some parts, the assessment is far aove the value of the yield. With the request that the Committee will be pleased to bear the above facts in mind, I began to answer the Questionnaire as follows:—

1. (1) Janmam means the exclusive right over the land purchased on payment of proper consideration or in an auction sale by Government for arrears of Government dues or in Court auction in satisfaction of decree debts.

(2) Kanam is a possessory mortgage in which the period for the repayment of the loan is either fixed or not fixed.

(3) Kuzhikanam is the system of leasing out lands, for a fixed period, with right to effect improvements and with a stipulation to pay compensation for the improvements on eviction and subject to the condition of payment of half, one-third, one-fourth or one-fifth of the annual net yield from the lands.

(4) Verumpattam is a lease of lands on payment of fixed rent with the right of cultivating the wet lands and deriving the yield from the garden lands on condition that the land is surrendered at the fixed period without demanding any compensation. In this case, the improvements on the garden lands will be those of the landowner (janmi) and the wet lands will have been reclaimed by the landowner.

(5) No.

2. The " Warghadar " in permanent occupation is known as the janmi. The tenants are to pay the assessment and to enjoy the land on the conditions imposed by the janmi.

3. I do not know.

4. (*a*) With the exception of the lands acquired by the " Warghadars " as mentioned above, all the other lands are under the direct possession of the Government.

(*b*) Yes, in some places. But waste lands and forests are granted on dharkast to those requiring them. Irrigation sources are under the control of Government registered as poramboke.

(*c*) Waste lands are assigned by Government to cultivators.

5. (*a*) Yes; I think so. The payment of compensation is necessary. But the tenant cannot afford to pay. The Government should pay it. But this is not likely to be done in view of the present system of administration.

(*b*) (1) The tenants who can afford to purchase the landowner's right are very few. It is not ' therefore ' desirable to make compulsory purchase.

(2) A limit is desirable.

(3) Prohibition is necessary; but until means are found to enable cultivators to raise loans otherwise, this prohibition is dangerous.

6. Yes. When the tenant pays the fixed pattam, he should have no other liability. The attachment of the movables and immovables and of the standing crops of the tenant for the arrears of assessment due by the janmi should be prohibited. For the default of the intermediary (the janmi will be the intermediary sometimes) the tenant's rights should, under no circumstances, be held liable.

7. (*a*) The conditions imposed on Kuzhikanamdars in the existing documents are in no way unreasonable. The improvements found on the lands in the possession of the verumpattamdars were made by the landowners themselves. Therefore, a separate rate need not be fixed for verumpattamdars. Still, the verumpattamdar should be allowed

some concessions in respect of his kudiyiruppu. The rent payable should be fixed with reference to the market-rate prevailing each year or the rent should be made payable in kind.

(*b*) In the case of three-quarters of the parambas, the assessment is in excess of the annual yield. In the case of wet lands also, the assessment is very excessive. The main reason for this is the " assessment " is considered to be as much as the rent derivable from the land; it is also due to the classification of the lands without going into the details regarding the fertility of the soil, etc. The fixing of assessment for the whole of Kasaragod taluk with reference to the yield from the most fertile lands in Puthur, Karakkal, Udipi, etc. (situated on the north of Kasaragod taluk), is mainly responsible for this enhanced rate of assessment.

(*c*) In these parts, the landowners generally pay the assessment. It is desirable to transfer the jama in the name of the kanamdars. As the sale of land for revenue arrears is not binding on the kuzhikanamdar, there is no need to transfer the jama in his name.

8. Please see answer to 7 (*a*).

9. As there is no definite basis for the settlement of assessment, it is not possible to answer this question.

10. Yes.

11. There is a standard measure (para) in this taluk; but there is no standard weight corresponding to it. The use of weights and measures not standardized should be penalised.

12, 13 (*a*), (*b*) & (*c*) Renewals are not customary in this taluk.

14. No.

15. (*a*) Yes. There should be provision to evict the tenant who does not pay the fixed pattam.

(*b*) The Malabar Tenancy Act was not in force in this taluk so far. The tenants are evicted even on flimsy grounds, by force (and not through Courts). There are many such instances. The amendments are proposed above.

16. (1) The landowner should have the right to evict for cultivation himself and for construction of buildings. In such cases, the owner should put up buildings within two years of eviction and reside there. The Court should also be satisfied that the necessity for eviction is bona fide.

(2) The law requiring the tenant to furnish security for one year's fair rent should be repealed.

17. Yes. Poor kudiyiruppu-holders should be exempted from payment of compensation.

(*b*) Yes.

(*c*) Fifty cents in rural areas and 10 cents in urban areas.

18. No.

19. Levies of a feudal character are very few here. If such levies are insisted on by the janmi, he should for go two years' rent as a penalty.

20. The necessary stipulations are made in the verumpattam lease deeds. Special provisions do not seem necessary. In the case of fugitive cultivation, the rent (varam) is fixed with reference to the yield of each crop. As in Malabar, no collection other than varam is made here. The janmi himself is to pay the assessment on fugitive cultivation.

21. Yes; legislation is urgently needed here. Although the janmis are known by different names, viz., " Warghadar " or " Rahithar ", there is practically no difference between the janmis of Malabar and this place. In some places, the tenants are put to trouble by these " Warghadars ". Legislation is, therefore, necessary.

22. (*a*) Yes.

(*b*) If legislation is made granting occupancy right to the tenants, as suggested above, legislation should also be made to collect the pattam arrears through the agency of the Deputy Tahsildars and if tenants have to be evicted, this should be done through Civil Courts.

(1) & (2) It would be desirable that provision is made for summary trials by Revenue Courts without undue expenditure.

23. So long as there is an intermediary between the Government and the tenant, there will be one disability or other. It is, therefore, difficult to make laws which will

satisfy both the parties. Especially, in these parts, some tenants are in a far better position than janmis. The janmi has to experience much difficulty to collect his dues from such tenants.

24. There must be.

Along with stressing the need for a Tenancy Act here, I must also mention that the system of land revenue should be completely changed and made similar to that of Malabar.

By the CHAIRMAN:

I am a member of the Etikalath family. Our family pays an assessment of Rs. 16,000. I am directly cultivating paddy lands as well as garden lands. I am not cultivating any dry lands. Unjust and arbitrary evictions are common. That is the main grievance of the tenants. There is a grievance that the rent is high. There is the grievance due to the intermediaries also. I want the legislation to extend to the whole of this taluk. I do not know the law now obtaining in Malabar. The actual cultivating tenants as well as the kudiyiruppu-holders should be given fixity of tenure. The assessment is very high in these parts. A law to fix the rent throughout is necessary. I consider the present rent rather high. The seed for an acre will be about $7\frac{1}{2}$ paras and the rent for that will be about 40 paras of paddy. There is a customary seed area in these parts, usually a pothipadu. A pothi is three paras. But a pothi of paddy will not be required. Twenty edangalis will be sufficient ordinarily. One pothipad will yield about 50 paras of paddy for both the crops together. One acre is $7\frac{1}{2}$ paras of seed area. An acre will yield about 130 paras of paddy. On an average 10 paras of paddy will be the cultivation expenses of one pothipad. Fifteen paras will be too much. The rent for one pothipad will be 20 paras of paddy. Where two crops are taken, a rent of 20 paras of paddy is not excessive. I do not think the rents for paddy cultivation are excessive. The assessment will be about Rs. 7–8–0 per acre. The real complaint is about unjust evictions. The landlord should be given the right to evict the tenant for his own cultivation. Some sort of restriction ought to be placed in such cases. In the case of wet lands, the limit for each janmi may be 15 acres. If the landlord has already that extent in his occupation, he should not be allowed to evict further lands. If the landlord wants to evict for the purpose of actual livelihood, he may evict to the extent of 15 acres. The system of renewal is not prevalent in these parts. There are certain difficulties in these parts. The tenants are suffering in Malabar because of the default of the intermediaries. Here there are no difficulties owing to the existence of intermediaries. I meant merely that in several cases the assessment exceeds the rent the janmi gets, and in the case of wet lands also the assessment exceeds the rent. In the case of garden lands the fall in price is the main grievance of the tenants. If the rent is payable in kind, that will remedy the grievance. Kudiyiruppu-holders should be given fixity of tenure and should pay the rent agreed upon. There should be a time-limit of two years to deposit the value of improvements and execute the decree. It will be better to penalise feudal levies. Nowadays no such levies are made. Formerly for purposes like Kathakali levies were made. In punam cultivation there is some definiteness about the rent even now. In the eastern portion of the taluk, they collect 10 paras, whereas further west it is only 3 paras. This is an ancient customary rent. The tenant takes a permit from the landlord before he cultivates and in the terms the rent will be stipulated. No other collection is made from the Punam cultivators except this rent. The assessment has to be paid by the landlord. For pepper the usual rent is 2 per 10. It is collected in two ways. Two per ten every year or the entire crop once in five years. There is the complaint that the rent is collected every year by assessing the produce and collecting 2 per 10. If a provision is made that in all cases it should be once in five years, that will be more advantageous to the tenants. But the tenant should not be without anything in a particular year. We would prefer the assessing of the produce each year. The tenant will not neglect the crop in the year when the landlord takes it because if he does so, he will have no crop the next year.

By Sri M. NARAYANA MENON:

My family has forests and waste lands. Waste lands are assessed. The rate is from one anna to four annas. It is in such waste lands that Punam cultivation is raised. The extent of cultivation is ascertained after it is harvested. The Revenue authorities do not come and ascertain the extent, because there is no necessity for it. Ordinary agreements are taken. There has been no dispute over the measurements effected by the janmis. It is possible to distinguish the amsams in which different rates of Punam rent are levied. There are oral leases for Punam cultivation also. Pepper gardens begin to yield from the fourth or fifth year. For the first ten years from the date of planting the tenant takes the entire yield. The assessment during that period will be paid by the tenant to the landlord. The yield for the eleventh year may be taken by the landlord and he pays the assessment. After the eleventh year the landlord takes the yiled in the fifteenth year, and so on, till 30 years after planting. After 30 years the yield diminishes.

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So long as the tenant is in possession of the land he pays the rent. If the tenant leaves the holding, the landlord has to continue to pay the assessment. The assessment varied from three to five rupees. Since last year it has been reduced and it is now from 8 annas to one rupee. In Kizhakkainad lands have been sold for the non-payment of rent after the tenant left. Punam cultivation and other crops like chillies are raised on kumari lands. Such lands are also sold for arrears of revenue. Six thousand acres were sold last year for arrears of revenue. I can give a list of cases where the assessment is more than the rent. Even in cases of coconut gardens there have een revenue sales. A big estate on which the owner had invested about two lakhs was sold for Rs. 10,000 as it was not profitable. The janmis find considerable difficulty in collecting the rents because of the economic depression. After the partition of our family, the members of our family have taken to cultivation. Each member of the family must have about 15 acres of land.

By Sri K. MADHAVA MENON:

The tenant is simply forced to clear out of the property even though he has been in possession of the land for 100 years. The tenant does not get a pie for the improvements he has effected. I know personally of many instances and I am prepared to submit a list of such cases. They are very poor; besides there will be no record to show their possession. It will be difficult for them to get evidence in many cases. But in cases where the tenant also is able to resist by force, the landlord dare not evict him by force. It is only in cases where the tenant is poor that the landlord evicts him by force. The court language is both Malayalam and Kanarese, but the pleaders here generally write the documents in English. Oral leases are much more common than written ones. The tenant under an oral lease has no protection at all now. He must be a budmash to have any protection. There are marupats for leases of land for pepper cultivation. It will be better to have marupats for all leases. No receipts are given to the tenants when rent is paid.

By Sri M. P. DAMODARAN:

Tobacco is usually cultivated on single-crop wet lands. After the usual crop is taken, tobacco is cultivated. The janmi is entitled to only the usual rent on the single-crop wet land. I do not know whether *Seela Kasu* is collected for tobacco cultivation.

By Mr. R. M. PALAT:

The landlord pays the assessment for kudiyiruppus. They are assessed as garden lands. The highest garden rate is from Rs. 6 to Rs. 7–8–0. If there is a marupat, the usual practice is to charge two-thirds or half the yield as rent. Some landlords directly cultivate lands in these parts. I am doing so. In the partition of my family, the forests were partitioned by acreage. There are not many timber trees in our forests. The average extent of land in the possession of a cultivating tenant in these parts is about 10 acres. The landlords also directly cultivate about 10 to 15 acres. There are uncultivated waste lands in the hands of the Government and in the hands of the landlords. The Government used to give such lands on dharkast to people who asked for them, but for the last two years it has been stopped. The landlords also will give such lands to whoever asks for them, because it is no use keeping them waste. Usually a premium of Rs. 5 to Rs. 10 will be collected. There is no definiteness about it. Usually the tenants are asked to do some service and if they do not do that service they are evicted. For instance, they are asked to vote for a particular candidate in an election and if they do not vote, they are evicted. There may be cases of eviction by the janmis for non-payment of rent, but they are very rare. There should be provision for revision of rent in some cases, e.g., where the trees may be lost by lightning. Rent should not be increased. But it will be better to have provision for either case. Ordinarily it is stipulated in the marupat that in all cases of enhancement of revenue, the tenant will have to pay the increase also.

By Md. ABDUR RAHMAN Sahib Bahadur:

Along with the introduction of the Malabar Tenancy Act to Kasaragod, certain reforms have to be made here on the basis of the Malabar Revenue Assessment system. I want Kasaragod to be included in the Malabar district. The condition of the tenants will be improved if Malabar Tenancy Act is made applicable to Kasaragod also. The Government is really the janmi in this taluk and the landlord is only an intermediary, and should be bought out by the Government.

By Sri P. K. KUNHISANKARA MENON:

The relations between the landlords and the tenants will improve if this taluk is included in Malabar.

By Sri A. KARUNAKARA MENON:

If a tenant is evicted through a court, he is entitled to get the value of the improvements. In the case of houses and wells the entire value has to be paid. In the case

of coconut trees, it is according to the agreement in the marupat. Where there is no stipulation in the marupat the court fixes the value of the improvements. If there is a clause in the marupat that the tenant is not entitled to the value of the improvements, I do not know if he will be entitled to it. I do not know the provisions of the Malabar Compensation for Tenants' Improvements Act. But irrespective of the merits of that Act we are prepared to sink or swim with Malabar. The rent of coconut gardens is not fixed on any definite principle; it is a matter of agreement between the landlord and the tenant.

By Sri E. KANNAN:

If a labourer works till noon, he will be paid 2½ to 3 edangalis of paddy; in the case of women only half the rate is given. Three pothipads will be the minimum given to a tenant. The Karshaka Sangham has not conducted any no-rent campaign. The miseries of the tenants are longstanding. But recently they have become bold enough to express them.

By Mr. R. M. PALAT:

There are not large arrears of rent in these parts. Because of the depression, there may be some arrears.

82. Sri A. V. Narayana Menon, B.A.. B.L., Vakil, Representative of the Landholders of Kasaragod taluk.

[Representation of janmis.]

1. That the memorialists being the residents of the Kasaragod taluk of the South Kanara district are primarily concerned with the question 'should the intended legislation be extended to the Kasaragod taluk and if so, are any modifications necessary' incorporated in the Questionnaire issued by your Committee for the information of the public and inviting opinions from the members thereof and that the other questions so far as the memorialists are concerned are only of subsidiary importance until the main question is decided one way or the other.

2. That the memorialists are opposed to the extension of the Malabar Tenancy Act to the Kasaragod taluk of the South Kanara district for the following among other reasons :—

(i) Although the bulk of the population of the Kasaragod taluk consists of Malayalis, speaking the Malayalam language and following the customs and manners of the people of Malabar and perhaps ethnically the same as the Malabar Malayalis, so far as the ownership and tenure of the land are concerned the position and status attached to the landholders of the Kasaragod taluk are entirely different from those occupied by the Malabar Landholders (janmis). It is well known that while the property in the soil in Malabar belongs to the private individuals known as janmis, in the South Kanara district including Kasaragod taluk there is no such proprietorship of the soil vested in the landholders. This distinction is recognized both by the highest tribunal of the land and by the Government with the result that the relationship existing between the landholder, the tenant and the Government in Malabar and in South Kanara districts has given rise to features peculiar to each district. Customs and usages have also grown round these features differentiating the landholder of Kasaragod from the janmi of Malabar in the matter of his bargain with the tenants on the one side and the Government on the other.

(ii) From the early past during the historic time, Malabar proper enjoyed complete freedom and isolation from foreign attacks and conquests till its invasion and subjugation by Hyder Ali. The private property of the janmi in the soil was recognized by the Native Rulers of Malabar and the janmis did not pay anything to their native rulers by way of land revenue or tax. The native Governments did not claim anything as their due in respect of the lands in Malabar and the money for carrying on the Government was raised from other sources. The land tax for the first time was levied as such only by Hyder Ali and he did so on the footing that the landholders should pay their sovereign something for the peace and order and good Government which they enjoy under the ægis of the ruler of the land, without questioning the proprietary right of the janmis in the land. The old controversy whether the tax is paid as revenue or rent was solved in Malabar in favour of the theory that what the Malabar janmis paid to their new foreign ruler was revenue and not rent. The history of the landholders in South Kanara district including Kasaragod taluk had run a different course. South Kanara district had not enjoyed the isolation from foreign domination which Malabar did.

Far before Hyder usurped the powers from the Mysore Rajas, the Bednore Kings, more popularly known as the Ikkeri Naiks, extended their conquests from the Mysore plateau beyond the Ghats and brought under their subjection the North Kanara and South Kanara districts and at one time, for a short period, their sphere of influence reached up to Baliapatam within almost a call's distance from the palace of the Kolathiri Rajas. The Ikkeri Rajas never recognized proprietorship of the soil as a right vested in the landholders and they levied the tax from the subjects not as revenue but as rent. Their successor Hyder Ali continued this practice.

(iii) Thus when the East India Company came to the scene both in Malabar and in South Kanara they stuck on to the practice adopted by their predecessors. In Malabar the lands continued to be the 'private property' of the individuals and in South Kanara the 'lease-hold' property of the people. Perhaps this was also the reason why the portion of the South Kanara district, viz., Kasaragod taluk, notwithstanding its Malayali features and its domination by the Malayalis, was tacked on to the South Kanara district which is otherwise alien to Malabar in several respects.

(iv) That the distinction that the tax is levied in Kasaragod taluk as rent and not as revenue is evidenced clearly by the following facts, viz., (1) That the rate of revenue assessed and levied in this taluk is far higher than the rate prevailing in Malabar. It is 20 or 30 per cent more than what prevails in Malabar. The same flat of paddy fields lying contiguous both in the Malabar and the South Kanara districts is assessed to land revenue at different rates, the portion lying in South Kanara district being assessed far more than the portion lying in Malabar. This disparity can only be explained by the theory that the Kasaragod landholders pay 'rent' and in Malabar people pay 'revenue.' (2) In the approved and recognized form of application in South Kanara for transfer of patta or revenue registry of lands, the fifth column headed 'Whether sircar or inam' is always filled up by the word *Sircar*. This supplies evidence in no uncertain terms that the pattadar in South Kanara district is only a tenant under the Government, the complete property in the soil being vested in the Government. But in Malabar the term janmi is found in the corresponding column. (3) In Malabar all the waste lands are unassessed while in South Kanara district there is not an inch of waste land which is not assessed. Further, in Malabar there is always the presumption that all waste lands are the lands of the janmis whereas in South Kanara the presumption is just the contrary. This presumption is upheld both by the High Court and by the Privy Council. (4) In the matter of enacting the Madras Agriculturists' Debt Relief Act, the Prime Minister proceeded upon the presumption noted above and differentiated the Malabar janmis from the landholders of the other districts. (5) In Malabar there was nothing like grant of land or bestowal of proprietary right in land to the landholders by the sovereign authority. Whereas in South Kanara district the whole of the lands were parcelled out among a large number of people in the 14th century (vide South Kanara District Manual, page 118) by the Government and brought into being a class of landholders known by the name of 'Warghadars' (the holder of a *Warg*), 'Warg' meaning the leaf account of the lands allotted to a person and maintained by the Revenue authorities.

3. Since the Malabar janmis and Kasaragod landholders (Warghadars) are widely different so far as tenure and proprietorship of the land are concerned the extension of the Malabar Tenancy Act, either as it is or in a modified form, to the Kasaragod taluk is highly unjust and inappropriate and is calculated to work out the greatest hardship to the landholders of the Kasaragod taluk. If the Government intends to bring about a uniformity of law in Malabar and Kasaragod taluk the memorialists beg to submit that such unification land of the law should be preceded by changes and alterations in the rate of revenue levied in this taluk and in the rights and interests of the landholder in the lands and in his relationship to the Government. To extend the Malabar Tenancy Act before the suggested reform is carried out will be tantamount to introducing an exotic plant into the native soil resulting in injury both to the soil and to the graft.

4. The memorialists beg to urge in this connexion that there was a clamant agitation throughout the Kasaragod taluk among the Malayalis including the Mappillas for the separation of the Kasaragod taluk, at least the Malayalam speaking area thereof, from the South Kanara district and joining the same to the Malabar district. A great mass meeting attended by thousands was held at Nileshwar and passed resolutions requesting the Government to effect the union of Kasaragod with Malabar. Subsequently a deputation was also sent to Madras and waited upon the Minister urging upon him the necessity of making Kasaragod part of the Malabar district. But for some reasons of which the deputationists were not

fully aware, the matter was shelved. The memorialists, therefore, submit that the extension of Malabar Tenancy legislation to Kasaragod should follow and not precede the lines of reform suggested above.

5. If the Kasaragod taluk is to be included within the ambit of the proposed legislation the memorialists submit as follows.

6. With regard to the fixity of tenure and evictions the memorialists beg to submit that in this respect also there are peculiar features existing in Kasaragod taluk.

(*a*) Till the time of the settlement in this taluk in 1903 the holdings of tenants, who were enjoying the properties under the landholders were not in any way improved by the tenants. All the improvements and all the repairs to the properties and the actual cultivation were done by the landholders spending their own moneys, and that the tenants were simply occupying the properties as nothing more than care-takers. It is only after the settlement of 1903 that the landholders, in some cases, executed registered leases to the tenants and allowed them to make improvements in the properties on their own account. In view of this fact it will be unjust to grant occupancy rights to the tenants of Kasaragod taluk. Practically, it will be nothing short of bestowing upon them all the benefits arising from the labour and investment of money of the landholders.

(*b*) In Kasaragod taluk, unlike the conditions prevailing in Malabar, the landholders seldom receive any *Manushams* or premiums from the tenants. If any sum is received from the tenants it is received as a kuzhikanam or mungeni (advance rents) and is shown in the document and is accounted for by the landholders at the termination of the lease-hold transaction.

(*c*) It is again very rarely that melcharths are effected by the landholders to the detriment of the tenants. Eviction too, by resorting to courts, is indeed very uncommon unless it is brought about by the misconduct of the tenants.

(*d*) Memorialists further submit that no utilities or levies of a feudal character are collected by the landholders in these parts. The perquisites, if any, given by the tenants to the landholder are given of their own accord, without any compulsion on the part of the landholders and not in virtue of any obligation arising from the contract of lease, and even in such cases the landholders are not gainers but losers, since the tenant who pays the perquisite has to be given clothes and rice of the value far exceeding the price of the perquisites. The tenants further make the periodical visits with perquisites in order to make some requests to make extra gains from their lease-hold property. The memorialists have no manner of objection to the abolition of the system altogether if it is found detrimental to the interest of the tenants.

(*e*) That the memorialists beg to submit that there are large tracts of kumari and waste lands and forest lands in Kasaragod taluk and that the tenants who enter upon such lands and improve them may be granted the occupancy rights and no objection is laid by the memorialists against such a procedure.

(*f*) That in cases where the tenants fail to pay in time the rents that may be fixed, they may be liable to be evicted and made to pay the arrears by a summary procedure by initiating proceedings before the tahsildar or the deputy collector or before the munsif.

(*g*) The assessment of the properties should always be made payable by tenants.

(*h*) If the assessment of the properties is not paid in time by the tenants the landholders should be given powers to collect the revenue from the tenants by a summary procedure aided by the revenue authorities in an expeditious manner, and in such cases only the tenant's improvements should be sold and not the rights and interests of the landholder.

(*i*) The kanam tenure obtaining in Kasaragod taluk is different from the kanam tenure existing in South Malabar. The relationship of the mortgagor and mortgagee in South Kanara is that of a creditor and debtor and that to bestow fixity of tenure upon the verumpattam tenants under the kanamdars is practically to expropriate the mortgagors and the mortgagees for all times.

(*j*) In the majority of cases of lease-hold transactions in this taluk the properties were made over to the tenants claiming only a pepper-corn rent from the tenants. Such tenants should be given occupancy rights, if at all, after a reasonable rent is fixed payable to the landholders. The rent sometimes in such cases at present is not sufficient even to cover the assessment of the lands in the possession of the tenants.

7. That, in fine, the memorialists beg to submit that a person belonging to Kasaragod taluk who has knowledge and experience of local conditions may be co-opted as a member of the Committee, which will greatly help the Committee in the solution of the problem so far as it relates to the Kasaragod taluk.

By the CHAIRMAN:

I have been practising here for more than 22 years. I belong to Chirakkal taluk. I own about half an acre here; but my tarwad has got properties only in the Chirakkal taluk. The Malayali portion of this taluk extends right to the Chandragiri river south of Kasaragod and to some extent beyond the river also towards the east. The boundary here is the Chandragiri river; from the Thekkil ferry the Malayali portion extends towards the north of the river. The villages north of the river which are purely Malayali are Karadka, Bedadka and Bandadka. They form the boundary villages and there the Malayali population, customs and manners predominate. The extension of the Malabar Tenancy Act to this taluk is not necessary. As representative of the janmis, I am of opinion that no hardship is imposed on the tenants by the janmis generally; there are no unjust evictions here. During my experience as vakil, I have not filed any suit where unjust evictions have been sought. But of course there have been cases of eviction in the case of consistent and persistent defaulters in the matter of payment of rent. Provided there is a summary method prescribed for enforcing the payment of rent, I have no objection to fixity of tenure being granted in respect only of those holdings which have been completely improved by the tenants; as a matter of fact, they are occupying in most cases only lands improved by the tenants; as a matter of fact, they are occupying in most cases only lands be taken into consideration in fixing the fair rent. As regards waste lands, we have no objection at all. There are six or seven big janmis here who own thousands of acres. The tenures here are entirely different from those prevailing in North Malabar. Here the janmis are tenants under the Government. But so far as the relationship between the janmi and the tenants is concerned, there is little difference. There is considerable complaint here regarding the assessment payable by the janmis to the Government. I have not had occasion to go through the provisions of the Tenancy Act. There is no renewal here at all. I cannot say how the term 'Manusham' came to be applied to renewals. When there is the advantage of fixity of tenure for the tenant, a corresponding advantage should be conferred on the janmis; in other words, renewal fees ought to be paid. If any method can be found by which this expenditure can be avoided, there is no need for a registered document. That fixity must be subject to the right of the landlord to claim back the land for the benefit of his tarwad or family. After the Marumakkathayam Act came into force, Malabar tarwads have been split up into small families and each of them wants to have its own properties, establishment, etc. The maximum extent liable to eviction on this ground should be fixed, having regard to the number of members in the family or in the tavazhi. The individual requirements, as Stalin has said, may be 4 acres and one cow. If we fix a time-limit within which the janmi can enforce this right, it will lead to difficulties. The janmi's family may multiply and each member may require some land. If the janmi requires the land bona fide, I am afraid the tenant must give it up. I don't think there is any serious complaint on the part of tenants with regard to punam and pepper cultivation. My experience is that till fifteen years ago, the landlords were levying ten paras of paddy for every acre brought under cultivation; but now owing to the loss of fertility in the soil, or for other reasons, they are levying only eight paras. There is no objection to fixing the rent for punam cultivation. If you want to have a bumper punam crop, you must cultivate it once in ten years, and the janmi should get a para of paddy a year. If the land is cultivated once in ten years, it will be in the interests of both the janmi and the tenant; and while the tenants will get large profits, the janmi also will have an opportunity of collecting the rent. I have no objection to conferring fixity of tenure on kudiyiruppu holders provided they pay the rent regularly and provided also that the houses in the kudiyiruppu are built and all improvements thereto are made by the tenant who claims permanency. There too, the maximum and minimum extent should be specified. We do not want to agree to fixity of tenure for kudiyiruppus in towns; we will be otherwise losing all the money invested in the towns. In urban areas, in 99 cases out of 100, the janmi must have built the house and not the tenant. But where the house has been constructed by the tenant himself, there is no objection to fixity being given provided the maximum area is fixed. I think 20 cents in urban areas and 50 cents in rural areas will do. In my personal view—not as a janmi—I think it is reasonable. I have no objection to Government being invested with power to take possession of waste lands and granting them to the cultivators, the janmis being safeguarded whatever is due to them. There are cases in which the rent derived from the property is not even sufficient to pay the assessment. In some villages there are many cases while in others they are not so many; but actually, in the case of lands belonging to rajas and devaswams, the rent paid by the tenant will not cover the assessment even. There have been not less than 300 or 400 sales for realizing the revenue during the past four or five years. Every year we used to have some 75 or 80 such sales. The properties fetch ridiculously low prices the other day the Government purchased 6,000 acres of kumari land for one anna; I may not be quite correct, but it was such a small sum. The mamul rent now paid for pepper cultivation is one-fifth. The janmis themselves are willing to receive it once in every five years; that is the most satisfactory thing.

By Sri K. MADHAVA MENON:

There is a large tract of country north of the Kasaragod taluk up to Ullal river, occupied by the Thulu people, most of whom although speaking Malayalam, use it only as a second language. Some of the Chalgani tenants have been enjoying the property for more than 40 or 50 years. They can be evicted at will. The kridhagani lease corresponds to kuzhikanam, while the mulgani is the permanent leasehold or saswatham. Fixity of tenure should be given to kuzhikanam tenants. We are opposed to giving any fixity to verumpattam tenants as we consider them only as licensees and not lessees. By verumpattam I mean melpattam. In cases, however, where the tenant has been in continuous possession for, say, 25 or 30 years, he may be deemed to have earned the right. One necessary condition is that the rent must be paid regularly. We are making a great sacrifice in giving fixity of tenure to the tenant and we want some return advantage. We ought not to wait indefinitely to get money. In the case of kuzhikanam or chalgani leases, the landlords do not take a premium or manusham at the time of the first lease. The janmis will be satisfied if they get two times the assessment in the case of punam for the extent under cultivation every year. If the uncultivated area is not liable to assessment, then we shall be content with this rate. I don't think the landlords will agree to kumari cultivation being stopped. It is a source of benefit to them. It is not for me to say whether kumari cultivation has or has not spoiled the land. We want renewal fee if fixity of tenure is to be given, because we will be losing the weapon of controlling the tenant and we will be losing our birthright. Fair rent in the case of wet lands will be two-thirds of the net produce, after deducting the cultivation expenses. Out of the two-thirds the landlord will have to pay the assessment. In the case of a double-crop land, there will be an yield of 80 paras for the first and 60 paras for the second crop. Forty paras will be required as cultivation expenses for both the crops. The approximate quantity of seed required is two pothipads or six paras of seed for an acre; the actual quantity depends on the fertility of the soil. Double the seed, including the seed, may be fixed as cultivation expenses. It is not fair to fix $3\frac{1}{2}$ times the seed. The value of improvements is fixed under the customary law; it depends more or less on the opinion of the commissioner who inspects the property. Any change in this respect should not have retrospective effect in the case of existing leases. There will be the difficulty of ascertaining the improvements. There are a number of oral leases. If it can be proved that the tenant has been on the property continuously for a long number of years. there can be no objection to giving fixity of tenure. There have been no cases where the landlord forcibly evicted the tenant holding on an oral lease.

By Sri M. NARAYANA MENON:

In rural parts 50 cents may be given for a kudiyiruppu. The kudiyiruppu-holder should pay the revenue. Besides that he must pay the rent. It will be a great hardship on the janmi if he has to pay. If the kudiyiripu-holder does not pay, his rights should be sold and not the janmi's right. In Kasaragod taluk coconut trees are found only on the banks of the perennial rivers and also on the sea-shore where there is backwater. You may take the annual yield as 100 or 120 nuts per tree. I think 60 trees per acre is the regulation sanctioned by the Government. But the tenants plant between 80 to 90. To that extent there will be less yield. The revenue will be Rs. 9 per acre. If the trees are planted by the tenant, the janmi will claim one-third of the rent. Not one-third of the produce. The assessment must be paid even now by the janmi. It does not work much hardship on the janmi. But there must be a reduction of assessment as it is too much. The second class of gardens are found in the sandy tracts away from the water. The rent in some cases will be nil. They bear nothing now. No tenant will take it up. One European gentleman had planted at a cost of one lakh and he had to give it up as he could not get even the revenue out of it. Mr. Kidavu, the Agricultural Expert, planted a garden here. It consisted of 10 to 12,000 plants. They were planted 22 years ago. It was sold for arrears of revenue because he could not get a pie out of it. I think Government itself took it up. I think it is a mile from the sea-coast. It is called Trikarpoor. East of the coast coconut plantations are not a success. In the case of coconut plantations completely planted by the janmi, before 1930 first-class gardens fetched one rupee per tree. Now it is difficult to get four annas. At that time coconut was selling at Rs. 60 per 1,000. Now it is selling at Rs. 25 or Rs. 30 for the last so many years.

By the CHAIRMAN:

Vayudageli is a term lease. It depends on mere contract. There is no renewal at all. In tobacco cultivation, 3,000 plants are planted per acre. The yield will be $1\frac{1}{2}$ bharams of leaves. That will fetch at the rate of Rs. 15 per thulam. For every acre the tenant will get Rs. 450. The expenditure will be about Rs. 150.

By Sri C. K. GOVINDAN NAYAR:

The revenue in the northern portion of this taluk is less than it is here.

By Sri M. P. DAMODARAN:

The tenures in Kasaragod and the southern parts of South Kanara are the same.

By Mr. R. M. PALAT:

The cultivable waste in Kasaragod taluk is more or less the same as the cultivable waste in Chirakkal taluk. The tenancy law does not seem to have any bad effect on cultivation. The assessment of garden lands will be more than one-third in some cases. It will leave only a very narrow margin to the tenant. I should welcome the proposal that the assessment should be always payable by the tenants. Punam cultivation is confined to this taluk. The janmis in other taluks have not got as much forest land as here. Because 95 per cent of the waste lands are taken by the Government as reserved forests. Some grow cardamums. Perhaps that is more profitable. If the Act is to be extended here, 12 years should elapse before rents are revised. The janmis were till recently themselves very large cultivators. They cultivated 2,000 pothi seed area. Even now many people cultivate large areas. Janmis have very recently given up cultivation because of partition among themselves. In Nileshwar Kovilakam they cultivate themselves. So the position here differs very much from Malabar.

By Md. ABDUR RAHMAN Sahib Bahadur:

We do not give waste lands free to those who want them. They must pay some rent. We do not give previous sanction. As a matter of fact we know that they are cultivating when the time for harvest comes. With regard to pepper land also we do not take anything. There is no initial payment. It may be taken in the case of feudal janmis. Ashaghat Nair is a premier janmi. I do not think they take anything. I have not heard of janmis evicting by force. I heard that Neelama Nambudiri was evicted by the tenants from his own lands. There was a complaint also to the Collector. The leader of these socialist young men went to take possession of the property of 15 acres. He divided into 15 parcels and each was given an acre. I have not heard that in Pulikode and Padana patel the janmi evicted a large number of tenants. I may also tell you that where the janmis are Muhammadans the tenants are very submissive. The Hindus are very afraid of them, not because they are janmis of patels but because they are Muhammadans. Most of the tenants are Hindus. All the different features obtaining in Malabar must be introduced here—the assessment, the right of the janmi, the relationship between the Government and the janmi and the relationship with the tenant—before the tenancy legislation is extended here. We have to pay higher rent. The assessment is far higher here. In Malabar there is the janmi and the intermediaries.

By Sri K. MADHAVA MENON:

Even now there are a number of Government lands. When they are given, the man who gets the assignment has to pay one rupee per acre.

By P. K. MOIDEEN KUTTI Sahib Bahadur:

Some persons have now raised cashewnuts. The rent fixed in these cases is the same as it was before. I do not own any coconut plantations.

By Sri E. KANNAN:

I have no paddy cultivation. I have knowledge of paddy cultivation by my intimate association with the janmis. The expenses all together for an acre must be about 40 paras of paddy.

By Sri K. MADHAVA MENON:

There is some peasant agitation in Kasaragod taluk in recent times. There is no agitation in the rest of South Kanara. I attribute that agitation to the greater literacy of the people of Kasaragod taluk and not to any other grievance.

By Sri E. KANNAN:

There is no uniformity at all in measures. We want uniformity established.

83. Sri T. S. Subrahmanian Thirumumpu, President, Kasaragod Karshaka Sangham, Charvathur P.O., South Kanara.

1, 2 & 3. The first portion of our memorial is prepared in the light of the evidence, which could be gathered by the general public, in respect of these questions. It is not, therefore, proposed to state them in detail here.

4. (*a*) The Taluk Sangham does not consider that the decision that waste lands, etc., are private janmam lands is correct. For, even a layman can imagine that it is not

likely that a single individual would have purchased them on payment of compensation or would have earned them out of hard labour, especially in view of the waste condition of the lands. In this taluk itself, it will be seen that waste lands consisting of many acres are included in the janmi's patta. It is unjust that such extensive lands were given away to some individuals. At the Revenue Settlement, some mighty janmis must have claimed all the waste lands for themselves and accordingly the Revenue Officers included them under those janmis' pattas.

(*b*) Placing restrictions is only a preliminary provision of law. The cultivators should have the facilities to get the necessary lands for cultivation, manure, water and grazing grounds. There are many persons in the eastern parts who depend mainly on fugitive cultivation. As now such lands are under the control of some individuals, the cultivators are put to much difficulty. Only if previous permission of the janmi is obtained, entry on "kamari" lands is permissible. No basis has so far been fixed for the rent levied for fugitive cultivation.

Removal of bark of trees for manure is also objected to by the janmis to-day. It does not mean that all the janmis in this taluk do like that. But, at any rate, they have got the power to obstruct. We are, therefore, of opinion that there should be a legal provision to check this. If the janmis should be given special Thirumul-kalchas in order to obtain their permission for removing manure from forests, for diverting water and for grazing the cattle, the question certainly arises as to what the basis for paying the rent is. It is not possible to cultivate without manure, water and cattle. If the janmi is not going to afford necessary facilities for this, what is the point in his entrusting the land alone for cultivation? Although, however, so far as this taluk is concerned, there is not much restriction for water, manure and grazing ground, the janmis are at liberty to restrict their use, at their pleasure, unless there is a legal sanction behind it. We wish to refer to one more point in this connection. Here, waste lands bear fixed assessment. This is quite unjustifiable.

(*c*) Yes, certainly. Then the janmis will not complain that it is because they have to pay assessment for waste lands they have to collect excessive varam for fugitive cultivation and special fees for manure, etc.

5. (*a*) Under the existing conditions, this does not seem to be practicable. But fair rent has to be fixed. In the case of wet lands, deducting the cultivation charges and seed from the gross yield, half the balance should be fixed as the fair rent, the other half being the tenant's share. Cultivation charges should be at least three and a half times the seed. (To speak the truth, what the cultivators say out of their own experience is that the cultivation expenses come to 10 times the seed.) In the case of garden lands, 2/5 of the total produce should be fixed as the fair rent due to the janmi and 3/5 to the tenant.

(*b*) (1), (2) & (3) These are impracticable under the existing economical and social conditions.

6. (*a*) Yes; it is necessary to protect the under-tenure. It is not at all justifiable to hold the tenant's crop liable for the arrears whoever may be the defaulter. The right of the person who causes default should alone be proceeded against. We will quote an instance on this point here. According to the provisions in the existing Revenue Recovery Act, it is the janmi who should pay the assessment. Even when a tenant pays the assessment in respect of his holding, the village officers grant a receipt showing only that so much amount has been received towards the demand against the janmi's patta. The janmi will have to pay a large assessment. The amount that the janmi leaves in arrears in respect of waste, wet and dry lands is recovered by attaching the crops of the very same tenant who had paid up his share already. Therefore, even if the assessment in respect of the property in the possession of the tenant is paid up and the varam and pattam in respect of such property are cleared, the crop raised by the tenants is proceeded against and sold in auction if the janmi leaves any assessment in arrears. In this taluk, and particularly in Hosdrug sub-taluk, this crop attachment system works much hardship and loss to the tenants.

(*b*) It is not possible to say that there is any definite basis for this. So far as this taluk is concerned, the principle underlying the Land Revenue Settlement appears to be wrong in view of the unbearable nature of the rate of assessment. It is not with reference to the yield but with reference to the soil that the assessment is fixed and hence it will not be correct to say that there is any proportion between the pattam and the assessment.

(*c*) (1) The janmi should pay the assessment. For, at present, the assessment is not fixed with reference to the yield.

(2) Because the assessment is on the land and because the primary right on the land vests in the janmi, the janmi himself should be liable to pay the assessment. So far as the tenant is concerned, he only claims that he should himself get a return for his labour.

But one thing may be dont if necessary. It will be desirable to provide for joint this. For, there is no basis or povision of law in this talk for fixing the fair rent. And ment if the janmi makes default. But, if there be land revenue arrears, the right of none else other than the janmi should be sold.

8. (*a*), (*b*) & (*c*) So far as we are concerned, we have, for the present, no interest in this. For, there is no basis or provision of law in this taluk for fixing the fair rent. And if it can be said that there is any, it is only the janmi's might and power. To-day it will be seen that the mighty janmi tarwads derive excessive pattam and that the weak janmis get only a somewhat moderate pattam.

9. No. The basis for fair rent should be the annual yield. But it is our opinion that the assessment also can be regularized on the basis of the annual yield.

10. Yes. There should be provision in law to compel this.

11. Yes. The use of any weights and measures other than those recognized by Government should be penalised.

12. The system of renewal originated only after the janmis became the sole owners of the lands. We have made it clear in our memorial as to how they became the sole owners. The intention of renewal is to re-fix the pattam after a specified period. This is an opportunity availed of by the janmis to seize the land from the possession of one person and to hand it over to another and thus make undue profit.

13. (*a*) The renewal system should be completely abolished. Its foundation itself is unjustifiable. It unduly harasses the tenant.

Although, in Malabar, after the passing of the Malabar Tenancy Act of 1929, the renewal on the fifth year.
renewal on the fifth year.

(*b*) No compensation need be paid.

(*c*) The system of renewal should be completely taken away and the Malabar Tenancy Act amended accordingly.

14. Yes. There should be some restrictions. It has been stated, in reply to question 16, that eviction should be resorted to only under special circumstances and for specific reasons. The Act should be amended accordingly.

15. (*a*) Occupancy right should be granted to the tenant in actual possession without any condition other than the payment of the fair rent fixed. The Act should be suitably amended. It is undisputed that the slight concessions allowed with the bona fide intention of causing no harm to either parties, are used to the fullest extent by the strong to oppress the weak. The poor tenants will therefore be relieved of their distress only if they are granted fixity of tenure in unequivocal terms which will not lead to future complaints.

(b) Even in Malabar, where the Malabar Tenancy Act is in force, eviction is very common. The provision in the Act that the janmi can evict for his own cultivation is used in season and out of season and for good reasons and bad reasons with the result that the poor tenants are practically strangled to death.

If this is so in Malabar, in this taluk where the janmi is legally entitled to evict the tenant without any reason, eviction has become a matter of daily occurrence. This is not, of course, surprising. What we have been able to understand is that the eviction, either by force or through courts, has considerably increased fearing that the Tenancy Act will be extended to this taluk also. This fact will be evident from an inspection of the recent case files of the District Munsif's Court, Kasaragod.

16. (1) The position of the tenants is not going to be improved in any way by granting them occupancy right if the janmis are given the uncontrolled right of eviction for their own cultivation. Therefore, it is essential to provide for some limitations and restrictions in respect of this. We note below some of our restrictions:—

(*a*) No family with an income of Rs. 1,000 and above should have the right to evict.

(*b*) There should not have the right to evict if he already cultivates some lands

(*c*) A person should not have the right to evict if he already cultivates some lands himself.

(*d*) There should be provision that eviction should not be made in excess of a certain number of acres to be fixed, so that the eviction of an unlimited extent will be restricted.

(*e*) If, immediately after eviction, the person who carried out the eviction does not cultivate the land or entrusts it for cultivation to somebody else, without

cultivating it himself, the person who was evicted should have the right to claim back the land.

(*f*) There should not be a right of evition for family purposes except for one's own purposes.

N.B.—There are special reasons to state that such restrictions should be provided for. The families which were impartible till yesterday have naturally become split up with the passing of the Marumakkattayam Law. When the property in a family was jointly held, there was no information as to what exactly the share of each was. But when partition began to be effected, it is found that the individual share is not sufficient enough even for daily bread, in the case of some families. Such individuals will earnestly desire to earn their livelihood by cultivation and for this purpose they will entertain the reasonable desire to evict so much land as is absolutely essential for the purpose; the above provisions are suggested with a view to allow such individuals some concessions. In order that this *bona fide* intention may not be abused, all the necessary restrictions should be placed in the matter of "eviction."

(2) The provision to furnish one year's security should be abolished altogether. Eviction should not be made on the ground that security has not been furnished.

17. (*a*) Yes. Kudiyiruppus should be exempted from assessment and pattam. There should be no provision to pay any compensation to the owner (janmi).

(*b*) We cannot say anything definitely whether any distinction should be made between rural and urban areas; for, we have not made sufficient enquiries into this.

(*c*) At least half an acre in rural areas.

18. It is absolutely necessary to fix a time-limit.

19. Besides the fixed fair rent, vasi, nuri, mukkal, ozhavu, chira, pattam-vaka, etc., levies and the mamul collections on festival occasions, viz., Thirumul-kalcha, poli, vechukanal, nattu panam, kattu-pass are made by the janmis in rural parts. We have referred to this in detail in our memorandum. Such levies should be penalised.

20. Yes. The cultivators should be granted occupancy right in these cases also.

21. The grounds on which the Malabar Tenancy Act should be extended to Kasaragod taluk have been discussed in our memorandum. In short, the main reasons are two:—

(*a*) The system of tenancy is the same in this taluk and in Malabar. Although slight difference in the language may be noticed in some parts, there is practically no material difference.

(*b*) The cultivators are granted occupancy right on their lands. It has become a mere hobby to evict the tenants as there is no Tenancy Act for this taluk.

22. (*c*) Summary trial and trial by Revenue Courts to levy fair rent from the tenants are most dangerous and will lead to complaints. If this system is going to be introduced, it is difficult for the poor to obtain justice. The necessity for this procedure is, of course, reduction in the expenses and prompt disposal of cases. These defects can be set right by reducing the court expenses and court-fees and finding out means to dispose of cases quickly.

23. (*a*) Experience has shown that there is absolutely no comparison between the market rate and court rate of paddy. Therefore, it will cause hardship to the tenant if the court rate is not fixed in accordance with the market rate.

(*b*) The court should fix the value of paddy at the market rate prevailing at the time when the tenant made default in payment of varam.

24. Although we are not in a position to say definitely whether there are any differences in the disabilities from which the tenants in North Malabar and South Malabar are suffering, it can be said that the disabilities are the same here and there.

By the CHAIRMAN:

I am the President of the Kasaragod Karshaka Sangham. I am not cultivating lands myself. I own extensive lands in this taluk. I am a member of the Tharaikat Mana. The revenue paid will be about Rs. 20,000. Some portion of it has been sold for land revenue. As I am not in touch with the management I can't say the extent of the land sold for land revenue. I am a schoolmaster of an aided elementary school. In my opinion, tenancy legislation should be extended to Kasaragod taluk. The tenants have no fixity of tenure and are being evicted by the landlord. As there is no definiteness about the rent the landlord can collect anything as rent arbitrarily. Those are the main grievances. Besides rent, many other collections are being made by the landlords as feudal levies. There is no complaint as regards renewals and renewal fees. There are renewals in some parts of the taluk. My tarwad grants renewals. Renewal fees have been paid to my tarwad. The intermediaries are collecting excessive rents from the actual cultivator. So if the proposed legislation is extended to the Kasaragod taluk it would benefit the tenants and it would be necessary in their interests to do so. There is no difference between this taluk and Malabar, so far as I know. The tenures prevalent here are similar to those prevalent in Malabar, particularly in North Malabar. I do not know about South Malabar.

It is necessary to have some provision for protecting the under tenure holder from the defaults of the intermediary. The provision of fair rent should be amended. Two and

a half times the seed will not be sufficient for cultivation expenses. I have inquired of more than 100 tenants in detail about the cost of cultivation. I have taken statements from them. The cost of cultivation will be much more than two and a half times the seed. It may even go up to 10 times the seed. The average yield will be 10 fold. It may go up to 15 fold. Cultivation expenses must be $3\frac{1}{2}$ times the seed *excluding* the seed. The seed required for an acre of paddy land is 40 seers. One seer is equivalent to $1\frac{1}{2}$ edangalis; the cost of cultivation will be 60 × $4\frac{1}{2}$ or 270 edangalis per acre. That is about 27 paras per acre as against 25 paras allowed under the present Act. If fair rent is fixed at 50 per cent of the gross produce, I cannot say whether it will be more favourable to the tenant. But if it is, it may be preferred. In the present Malabar Tenancy Act, the provision that a landlord can evict a tenant for 'bona fide cultivation' of the land by himself has been prostituted in many cases and as such that will not give fixity of tenure. Even if it is made absolutely clear that the landlord can evict only when he wants the land for his own cultivation, I will not be satisfied because it would give him a loophole. I have mentioned the conditions under which a tenant can be evicted in my written memorandum. With these conditions, mentioned in my memorandum, I have no objection to retaining the present provision in the Malabar Tenancy Act. All kudiyiruppu-holders should be given fixity of tenure. Kudiyiruppus should be exempted from revenue and rent. If rent is being paid now, it should be cancelled. The landlord should not get anything for kudiyiruppus. The extent of a kudiyiruppu should be half an acre in villages. I have no idea about towns. I do not know the provisions of the Malabar Compensation for Tenants' Improvements Act. I am only concerned that the tenant should never be evicted. Feudal levies should be abolished and their collection made penal. Renewal fees should be abolished. The fair rents of all lands in a certain locality may be fixed at the same time by a Board consisting of the Revenue Divisional Officer and two or three respectable persons of the locality, if the tenants have equal repesentations on that committee along with the landlords.

By Sri K. MADHAVA MENON:

I have no detailed information about the other taluks, but the tenants in this taluk have certain difficulties which the tenants of the other taluks do not have. There is much less, if any, peasants' agitation in the other parts of this district. The Warghadar has not at any time purchased land from the Government. My family has not at any time got a gift of land from the Government. Whether he be big or small, the Warghadar did not purchase lands from the Government. My family and the families of other landholders are called janmis. It is only in the revenue records that we recently find the word Warghadars. My tarwad possesses lands in 16 villages in this taluk and grants renewals throughout the villages. In some parts of this taluk there are renewals. The limit that I would put for the landlord to evict his tenant would be three acres. If I want to take to cultivation, I will be satisfied with three acres because I have nothing to pay to the owner of the land. I can pay the assessment and the other things. I am not willing to encourage landlords themselves to take to cultivation.

By Mr. R. M. PALAT:

The main difference is that pepper cultivation and kumari cultivation are prevalent only in Kasaragod taluk and that too in the southern portion. I have also heard that there are irrigation facilities in the other parts of the district and that the yield there is much more than the yield in this taluk. These are the differences to my knowledge.

I am the President of the Peasants' Association. There are 5,500 members in the Sangham. The subscription was annas 3 last year and annas 2 this year per head. The Sangham is not registered, because we have not felt the necessity for it. The Congress is working both for the economic and political uplift of the country while the Sangham is working for the economic uplift of the country mainly. Out of the subscription of annas 2, one-anna is retained by the local peasants' union, six pies are given to the Taluk Sangham and six pies to the All-Malabar Peasants' Union. The latter body pays two pies out of its share of six pies to the All-India Peasants' Union. These amounts are to be spent according to the resolutions of the committee. The expenses are in connexion with the running of an office, for issue of circulars and so on. The members of the committee do not get any remuneration. The President also does not get any remuneration. I have my janmam property. I get a maintenance allowance of 300 paras from my tarwad. For the last two years I have been a teacher in the Kodakkal school. We do not collect any paddy subscriptions. Our Sangham did not tresspass on the property of Nilamana Illam and divide it among the members of the Sangham. There was no complaint to the Collector to that effect. Many of the tenants of Nilamana Illam are members of our Sangham. They are paying their rents regularly. If they do not pay, they cannot hold the property. The Sangham is not ostracizing people who do not join it. The Reserve Police came to Cheruvathu, but I do not know that it was because of the activities of the Sangham. Every member of the cultivators' family is directly labouring

on the field and, therefore, they are able to get something out of it. It is only if they borrow cattle and seed and employ outside labour that they will lose. After deducting 4½ times the seed for cultivation expenses, half of the balance may be given to the tenant and the other half will be more than ample to pay the assessment. The janmis are now filing suits to evict the tenants for fear that the Malabar Tenancy Act might be applied to them. If a tenant's holding is larger than three acres, the janmi should not evict the tenant from the excess. Out of the produce of three acres, the janmi has nothing to pay as rent, but in the case of the tenant, unless he cultivates more acres he will not have sufficient to pay rent and have something for his livelihood also. A tenant certainly requires more than 3 acres. He may have up to 50 acres if necessary, because practically he will have no profit. I object to summary procedure to collect rents, because that will be more harmful to the tenants. There have been complaints even in the collection of Government assessment.

By Md. ABDUR RAHMAN Sahib Bahadur:

In the Kottayam tarwad it is customary to pay something to the landlord when the tenant takes land for cultivation.

Evictions are quite common in this taluk. Oral leases are more common in this taluk. For instance in the Kodakad amsam of the Nilamana Illam, all lands are held under oral leases and the landlord evicts the tenants as he pleases.

By P. K. MOIDEEN KUTTI Sahib Bahadur:

There is a lot of cultivable waste land in the hands of the Warghadars. The Government may take it over. There is no need to pay the landlords any compensation. The rent for punam cultivation should be as much as the assessment.

By Sri P. K. KUNHISANKARA MENON:

Because the method of assessment here differs from that of Malabar, that should not be made a ground for withholding from us the benefits of the Malabar Tenancy Act. If the Act is applied to this taluk without changing the revenue system also, the hardships of the tenants will not be greater than now.

By the CHAIRMAN:

The assessment for waste lands varies from four annas to one rupee per acre. The rent also should be from annas four to one-rupee per acre. For pepper cultivation for the first eight years, there should be no assignment and no rent.

84. Sri A. Kunhikannan, Secretary, Kodakkad Peasant's Union, Kasargod taluk.

As regards questions 1, 2 and 3, we have sent the evidence, so far as we have gathered it, to the Taluk Sangham and the All-Malabar Sangham who will be referring to it in their memorials.

4. (*a*) No. In this taluk also, thousands of acres of lands are seen registered in the names of private janmis. The lands which were unregistered prior to Revenue Settlement were either included or got included in the pattas of big pattadars.

(*b*) Yes. The essential lands for cultivation, manure, water, grazing facilities should all be freely available to the cultivators.

(*c*) Yes.

5. (*a*) Under the existing conditions, this does not seem to be practicable. But, fair rent has to be fixed. We accept the rate of fair rent proposed by the All-Malabar Sangham. When it is so fixed, the michavaram due by the intermediary to the janmi and the assessment due by the janmi to the Government should also be reduced in proportion to the reduced fair rent.

(*b*) (1), (2) & (3) They are impracticable under the existing social conditions.

6. It is essential to afford protection to the sub-tenants. The present system of snatching away the improvements effected by the tenant, whoever may be the defaulter, should be stopped and the law should be amended so as to proceed against the right of the person responsible for the default.

7. (*a*) This has also been estimated by the All-Malabar Sangham. So far as wet lands are concerned, deducting cultivation charges and seed from the gross produce, half the balance should go to the janmi and the other half to the tenant; and so far as garden lands are concerned, 2/5 of the total yield may go to the janmi and the remaining 3/5 to the tenant.

(*b*) It is not possible to say that this has any fixed basis. It is said, in Kasaragod taluk, it is not with reference to the yield but is with reference to the nature of the soil that assessment is fixed.

(*c*) The janmi should pay the assessment. If the janmi makes default in payment of the land revenue, there is no objection in making provision for joint registry so as to enable the kanamdar, kuzhikanamdar or occupier to pay the dues. But, for arrears of land revenue, the janmi's right alone and the right of no one else should be sold in auction.

8. (*a*), (*b*) & (*c*) We have nothing to say on this. For, there is no existing provision in this taluk to fix the fair rent.

9. (*a*), (*b*) & (*c*) It will not be advisable to fix fair rent in any proportion to the assessment. The fair rent should be fixed with reference to the annual yield. And, in accordance with the fair rent so fixed, there appear to be no objection to revising the assessment.

10. Yes. The janmis should be compelled to remit the pattam in proportion to the land revenue remitted.

11. Yes. Infringement of the condition should be penalised. The weights and measures should ear the Government seal.

12. The system of renewal fee originated only after it was established by Court decisions and otherwise that the janmis had exclusive right over the lands. As the janmi is considered to have absolute and independent saleable right over his landed property, it is the presumption that he has the right to get back the lands under his tenants, to exchange them, to increase the pattam and to do anything with them. If, therefore, the period of renewal is 12 years in Malabar, it is in the fifth year in the case of some janmis and every year in the case of others.

13. (*a*) Yes for the complete abolition.

(*b*) No compensation need be paid.

(*c*) Amendment is necessary.

14. Yes. There should also be some limitation for that.

15. (*a*) Yes. The law should be amended in such a way that the sub-tenants, who are the real occupiers, should have occupancy right without any condition other than the payment of the fair rent fixed.

(*b*) The Tenancy Act is not in force here. There had been many cases of eviction both lawfully and unlawfully. The lands in the possession of tenants are those entrusted on lease either in writing or orally. In the case of oral leases, if the janmi happens to bear any ill-will against the tenant, he will lease it out to a different person. And in the case of written lease, eviction is carried either by force or through courts. Examples have been quoted in our memorial.

16. (1) No family with an income of over Rs. 1,000 per annum should have the right to evict. At least there should be three years' notice of eviction. Besides, the notice giver should not have any other cultivable lands of his own. There should be a limit for the extent to be evicted. Immediately on eviction, the janmi should enter upon the land and start cultivation. If he fails, the eviction should be declared null and void.

(2) The provision to furnish security for one year's fair rent should be completely abolished.

17. (*a*) All kudiyiruppu-holders should be granted fixity of tenure. No compensation need be paid to the land owner.

(*b*) We cannot say anything about this.

(*c*) So far as this is concerned, a kudiyiruppu-holder should be granted, on permanent tenure, at least one acre of land in rural parts. These kudiyiruppu sites should be exempted from rent and assessment.

18. Yes.

19. Thirumal-kalcha, Pori, Vechu kanal, fuel money, natta-panam, kattu-pass (punam pass) pattam and others are examples of such levies. Such levies should be penalised.

20. Yes, in such a way that the fugitive cultivators and the pepper cultivators get relief.

21. The system of occupancy in this taluk is similar to that prevailing in North Malabar, especially in Chirakkal taluk. Therefore, it is highly essential that the amended Tenancy Act is extended to this taluk also.

22. (*a*) & (*b*) As the Malabar Tenancy Act is not applicable to this place, the defects in its working are not known to us. The All-Malabar Sangham will propose the necessary amendment.

(*c*) Summary trials and trials in Revenue Courts for collection of fair rent are likely to lead to complaints. What is wanted is to reduce the court-fees and court expenses and to provide for trials which will not cause delay and difficulty.

23. & 24. The Taluk Sangham and the All-Malabar Sangham will be making mention of these in their memorial.

By the CHAIRMAN:

I am cultivating about 81 cents of paddy land. I have also got garden land of 1 acre and 35 cents. These lands are all my own. I am directly cultivating them. I also hold paddy land on verumkozhu and garden land on kuzhikanam. The tenancy legislation may be extended to this taluk. The grievances of tenants in these parts are that we have no fixity of tenure, there is no definiteness about our rent and certain feudal levies are being collected by the landlords. Our main complaints are unjust evictions and excessive rents. Intermediaries collect excessive rents from the tenants. A good number of janmis take renewal fees. The yield of the paddy land that I cultivate is 10-fold, 32½ paras per crop. There are two crops. The cultivation expenses are 80 paras of paddy. I get an income of only 65 paras of paddy. I am still managing because I have not got to pay for my manure and cattle; I do the labour myself taking the plough, and I do it much better than the ordinary labourer. No rent could be paid as it is. I can only pay the assessment. As regards punam cultivation, the yield is five-fold while the expenses come to ten-fold. I am actually paying 61 paras of paddy as rent. I get 65 paras from the land, pay 61 paras to the janmi and spend 80 paras as cultivation expenses. I am somehow getting on.

By Mr. P. K. MOIDEEN KUTTI Sahib Bahadur:

My garden contains 51 coconut trees with a yield of about 600 nuts a year. The rent that I pay for it is Rs. 10–8–0 and the assessment is Rs. 3–7–0 which is paid by the landlord. The cultivation expenses will come to Rs. 5. I am paying the rent regularly. The price of 600 coconuts will come to Rs. 9.

By Mr. R. M. PALAT:

I have debts. I do not know whether the peasants in Kambalur trespassed into the property of Kotayil Nambiyar and cut trees. There was a complaint that the tenants went and cut the trees in a forest area for punam cultivation without the janmi's permission; but the case was later withdrawn. I do not know whether it was settled by mediation or not. Cultivation is my only source of livelihood.

By Sri E. KANNAN:

The cultivators here are called *Olavanmar*. The Olavan has to pay three seers of paddy to the janmi for one pothi of seed area, and that is said to be 'Olaval.' This is in addition to the rent that is paid. I have got a correct account of the cultivation expenses.

By Md. ABDUR RAHMAN Sahib Bahadur:

Throughout the taluk, 15 edangalis of seed area is called pothipad.

85. Sri Poravankara Kunhambu Nair, c/o Kannan Nair, landholder and agriculturist, Vellikkoth, Ajanoor village, Kasaragod taluk.

1. The term "janm" is a Sanskrit term. The legendry Parasurama when he reclaimed the land of Kerala from the sea made a gift of all the lands to the Brahmans who were brought from the Chera country. The gift was outright that it might be an inducement to them to continue to stick to the newly created land. The term "janm" in sanskrit means life, creature, or anything that has life. It has no connotation whatsoever conveying an interest in land. But the absolute nature of the interest which the gifted properties vested in them was regarded by the donees as something akin to the liberty and freedom which is associated by them with their life. Hence "janm" came to be regarded as an absolute interest in land corresponding more or less to the "fee simple" tenure in England.

2. Whatever may be the origin of the term *kanam*, it is now nothing more and nothing less than a transaction between a creditor and a debtor where there is security of land for the repayment of the money borrowed.

Kuzhikanam is a term under which a person who is put in possession of the property, is authorized to make improvements in the property spending his own money. The value

of improvements is to be paid to the tenant at the time of eviction. What that value should be depends upon the terms of the contract of lease.

Verumpattam.—This term denotes nothing more than a person who is let into the property as a care-taker thereof. It should therefore be considered as a precarious tenure.

3. The answer depends upon the answers given for the previous questions.

4. (*a*) This question does not interest the people of the Kasaragod taluk.

(*b*) The janmis of this taluk are not against entrusting the property to the tenant, which is either a waste land or the land already improved by the janmis. Such a system is prevailing here even before.

5. *Intermediaries.*—The janmi in these parts is even now an intermediary, the proprietorship in the soil being vested in the Government. Therefore there is no reason or ground for interfering with the rights now enjoyed by the landholders of this taluk. The real intermediaries of this taluk correspond to the Kanamdars of Malabar. As both types of intermediaries are persons who have invested money in the lands, it will be hard and unjust to cut down the rights which they enjoy now. Their rights should be maintained.

6. The intermediaries have invested money in the land as pointed out above and hence they should be allowed to enjoy the benefits arising therefrom. The intermediaries are not to be regarded as persons who are inclined to do anything detrimental to the tenants as it would be detrimental to their own interests and if any such charge is brought against them or proved against them they (intermediaries) are prepared to suffer whatever penalty is to be imposed upon them.

7. (*a*) The rate of rent may be fixed at two-thirds of the net produce. The same rate may also be claimed by the Kanamdar if there is a Kanamdar.

(*b*) The rate of assessment in these parts is out of proportion to the income of the property. Sometimes it comes to 50 per cent of the net produce. Thirty per cent is the ordinary rate and owing to the fall of prices of commodities, the assessment is left as something unbearable by the tax-payer.

(*c*) The answer to this question depends upon the rate fixed as rent payable to the janmi or kanamdar by the tenant. If the rent fixed is two-third of the net produce, the janmi or kanamdar is liable to pay the assessment and if it is less, the assessment should be made payable by the tenant.

8. We are not concerned with the question.

9. No. The rent should be fixed with reference to the yield of the property and not with reference to the assessment payable in respect of the property.

10. We are of opinion that it is not unnecessary.

11. It is essential that it should be standardized. Further it is necessary that the use of other measures and weights than those that are standardized should be penalised even.

12. & 13. There is no practice of effecting renewals in these parts and therefore these questions call for no answer from us.

14. It is unusual in these parts to evict tenanats if they pay rents regularly. There are no instances in which unjust evictions are made in these parts. Private grudge and personal spite play little part in contributing to the motive for eviction.

15. The term tenant should mean and actually means the person who bestows manual labour and money in his holding for improving the same. In such a case if the fair rent as proposed by us is fixed, granting of fixity of tenure will not be objectionable to us.

16. The liberty for enforcing the rights of the janmi under these conditions should be always vested in the janmis.

17. (*a*) The fixity of tenure for *kudiyiruppu* may be granted provided that the house therein and the improvements as well, are made and effected by the tenants. In cases where the janmi has spent money and effected improvements and built the house, the granting of fixity of tenure would work great hardship to the janmi and cause unjustifiable loss.

(*b*) In the case of *kudiyiruppn* in the towns and their suburbs, fixity of tenure cannot be thought of. It is a clear case of robbing Peter to paby Paul. In the villages the extent of kudiyiruppu land should not exceed 30 cents or in certain exceptional cases 50 cents.

18. We are not concerned with this question directly. The value of improvements payable should depend upon the terms of the contract of the lease.

19. The decree in such cases should be executed as in the case of ordinary decrees.

20. We do not collect anything by way of feudal levies and if it is proved that such collections are made, we are prepared to forego such levies.

20. (*a*) We are not concerned with this question. In our district the relationship between janmi and the tenants should be regulated by the terms of the contract of lease already in existence and to come into existence in future.

21. We are not of opinion that the Tenancy Act should be extended to Kasaragod taluk, and we refer you for further information to the Memorial submitted by the Landholders of Kasaragod taluk.

22. (*a*) We are not competent to anwer this question.

(*b*) In the matter of the collection of rents from the tenants a summary procedure should be adopted and not drive the janmi to filing a suit in the Civil Court and to incur a protracted trial, causing great expenditure and trouble. A measure akin to the method of collecting the land revenue should be adopted. A petition to the Revenue Authorities, viz., to the Tahsildar or Revenue Divisional Officer or to the Munsif should be deemed sufficient for the purpose and the disposal of the petition should not occupy more than three months.

22. (*c*) Vide the answer given to question 22 (*b*).

22. (*c*-1) It may be either in the Civil Court or Revenue Court provided that the trial is not protracted.

23. We are not competent to answer this question.

24. We have no knowledge.

By the CHAIRMAN:

I am both a janmi and a cultivator. The assessment that I pay for my janmam lands is Rs. 94 and that for both janmam and kanam lands is Rs. 376. I am cultivating directly. The tenancy legislation should not be extended to this taluk for the present. I think the tenants have no real complaint. There is no case of eviction out of mere spite. If rent or varam is kept in arrears and if there is no chance of collecting it, then the landlord wants to evict. If proper safeguards are made for collecting rent or varam then there may be no harm in granting fixity of tenure. That is with regard to garden lands. As regards verumkozhu tenants, I am against giving them any fixity of tenure. As long as they pay the rents regularly, they are not evicted. I am definitely of opinion that in the case of verumkozhu tenants, fixity should not be given. According to the nature of the soil, the seed required may vary from $4\frac{1}{2}$ to 6 paras per acre. My land which is a good land yields about 80 paras of paddy for the first crop and about 60 paras for the second crop; so, on an average I get 140 paras of paddy for one acre. The cultivation expenses for the first crop are 25 paras inclusive of seed and for the second 15 to 20 paras. For kuzhikanam land, until the land begins to yield, the rent will be 2 to 4 annas, and after it begins to yield, one-third of the yield goes to the janmi. The janmi pays the assessment. I have made enquiries and prepared a list of about 300 subdivisions in one villagew here the rent will not be sufficient even to pay the assessment. The rent is not in any proportion to the yield. The majority of leases here are oral leases, not supported by any documents. There are some minor differences between the relationship of landlord and tenant here and that in North Malabar. When the land is first leased out, the tenant gives something to the landlord, but there is no definiteness about it. Usually, waste land is given for cultivation for thirty years and there is no renewal after thirty years. Even if the lease is terminated, the tenant will continue to hold with some revision of rent, but it will all be an oral arrangement with the landlord. Even in the case of leases running for four or six years, no renewal fee is collected at the end of the period. The rate of rent alone will be revised. Fair rent may be fixed at two-thirds of the net produce. I have no objection to fixity of tenure being given to the tenants. I have no objection to fixity being given to kudiyiruppu holders except that the rent and the assessment should be paid regularly. I have no knowledge of kudiyiruppus in towns. I do not know the conditions obtaining in Malabar. The improvements made by the tenant should of course be paid for. But I have heard that the value under the Improvements Act is somewhat high, and I do not therefore want that provision to apply here. A time-limit should be fixed within which the landlord should execute a decree for eviction and deposit the value of improvements. At the most, a year's time may be allowed; not more. Feudal levies should not be collected. They should not be penalised. It is desirable to fix the rent for punam cultivation. It must be based on the acreage. In cases where the land has

been classified as first class land paying an assessment at 3 annas per acre, the rent should be 10 paras of paddy; for the second class where the assessment is 2 annas per acre the rent should be $7\frac{1}{2}$ paras; for the third class where the assessment is one-anna per acre, the rent should be 4 paras per acre. The value of ten paras of paddy will be Rs. 4. The assessment will be fair rent in the case of punam. In addition to this the tenant must pay ten paras assessment making a total of 20 paras. In short the rent should be 20 paras plus eight-annas, the landlord paying the assessment. In the case of pepper gardens, the rent is already defined as 2 per 10. In this part the janmi takes the entire produce of the fifth year.

By Sri K. MADHAVA MENON:

For one edangali seed area I get one para rent. That is for punja lands. It comes to about 4 per cent interest on the amount that I have invested. I get 5 paras of paddy for Rs. 100 so that it works out to $12\frac{1}{2}$ per cent. My tenant also will get one para as his share of income. From this one para which he gets he has to meet the cultivation expenses.

By P. K. MOIDEEN KUTTI Sahib Bahadur:

One acre has sixty coconut trees. The yield depends upon the place. Some trees yield five and some even one hundred nuts each.

By Md. ABDUR RAHMAN Sahib Bahadur:

The janmis should be made absolute proprietors as they are in Malabar. I hear slogans 'down with landlordism.' That must stop. The slogan means that both landlordism and the landlords should be destroyed. These slogans are wrong and the ordinary man is misled. There is really no reason for such slogans.

By Mr. R. M. PALAT:

There was an incident in Kamballoor village. The Peasants' Association in disregard of the landlord entered the forests and conducted punam cultivation without paying him or paying the assessment. This is the information I heard. I have also direct knowledge of the complaint. The lands of the Kamballoor people were sold for arrears of revenue because the tenants did not pay the rent. Six thousand acres were sold for one anna. If we say that the shouters of these slogans are unemployed young men, they may get offended. But their profession is crying out slogans.

By Sri A. KARUNAKARA MENON:

The interest for arrears of rent in cases where there were contracts before is only 6 per cent. We have no objection to fixing 6 per cent interest.

By Md. ABDUR RAHAMAN Sahib Bahadur:

In the northern part of Kasaragod, where there are no such associations, there is no revenue sale.

By Sri E. KANNAN:

The slogan is obnoxious to me. I feel it is wrong. It is against Dharma to be so ungrateful to the landlord who has been of use to the tenant. I have personally suffered no difficulty because of the association. I cannot say how many people there are crying out these slogans. I have never said that they have no profession. What I suggested is that their main profession is this agitation, because I have seen them go about every day. They may have other professions, but they will even forsake them and go in for this.

By Mr. R. M. PALAT:

They don't do anything against me because I am a cultivator. They do it against the janmis. Before the Karshaka Sangham began there were very few revenue sales. The fall in prices began in 1932. The Peasants' Association was started in 1935. It is because of the agitation that the landlords do not get rents properly and they have to keep the assessment in arrears. If the landlord files a suit for arrears of rent, it will take three or four years to get a decree. Even if he gets the decree the petition before the Debt Relief Board will take some time.

86. Sri M. K. Nambiar, Bar.-at-Law, Manalore.

1. It is necessary to preface these answers with a word of explanation. The Questionnaire that is issued has obviously been modelled on the frame-work of the conditions obtaining in the District of Malabar. The extension of the Committee's labours to the taluk of Kasaragod in South Kanara appears to have been a last minute resolve. The

Questionnaire does not, except under one or two heads, envisage the conditions prevalent in South Kanara. With that part of the Questionnaire dealing solely with Malabar, it is idle for me to claim any competency to speak. I am a Malayali not of Malabar but of Kasaragod ; and ever since my enrolment as an advocate, I have been practising in South Kanara and not Malabar. I am again not sure whether the Committee has the entire Kasaragod taluk within its view. The Malayali portion of this taluk is entirely distinct from the Kanarese portion. I believe I shall be of more assistance to the Committee if I confine my answers only to the Malayali portion of Kasaragod taluk.

2. *Historic back-ground of the Malayali portion of Kasaragod taluk.*—The Malayali portion of the Kasaragod taluk lies mainly to the south of the Chandragiri river, and was called Bekal taluk of old. Before the British conquest the south of the Chandragiri river was an integral part of Malabar proper, within the domain of the Raja of Chirakkal. Owing to certain historical accidents which are not relevant at the moment, the political boundary of the South Kanara district happened to be drawn to the north of Payyanore. But that does not alter the fact that the people to the south of the Chandragiri continue to be Malayalis, speaking the Malayalam language, observing the Malayali customs, and following the Malayali tradition. More than a hundred years of contact with the Kanarese peoples in the district has produced no change in their customs or culture. They are still bound by the same law of Malabar in marriage, inheritance and succession. They still have nothing in common with the rest of the district except that they have been politically grouped with communities whose customs and tradition are totally different from theirs.

3. *Land tenures origin and nature of right.*—Yet in the process of time the system of tenures in the area has considerably changed. The Malayali landholder was and must have been originally a *janmi*. He still is styled and called a janmi in plaints, affidavits, and other documents. The word 'janmi' is even now the only word current to denote the 'right in fee simple' if it may be so called. But while the word subsists it has altered essentially in its content. The Kanarese revenue subordinates who came into contact with the people interpreted 'janmi' as 'warg' which alone they could understand. In the Kanarese portion of South Kanara the person who holds rights of sale in the land is called warghadar. Such right is spoken of as warg right, and the land 'warg' land. The historic explanation for the term 'warg' land is that it was denoted as that included in the warg or 'leaf' of a particular holder. But 'warg' and 'janmi' are not synonymous terms. They differ in their legal incidents as now understood. The janmi in Malabar is considered the absolute proprietor ; but the warghadar makes no such claim. The result was the Malayali janmi in Kanara was gradually assimilated to the position of a warghadar. He lost the superior status of the Malabar janmi. Ignorance and apathy prevented him from recognizing the subtlety of the change. Unlike as in Malabar, he paid land revenue for the forests and waste lands in his holdings. And unlike as in Malabar, he paid much higher land revenue on his holdings, though they were not superior in soil or productivity.

More remarkable was the consequent change in the land tenures in these areas. Kanam, kuzhikanam, verumpattam are terms in vogue in every day use. But kanam here is now no longer the kanam of Malabar. Kanam in Kanara is nothing but a usufructuary mortgage, pure and simple. The period is a matter of contract and not of custom. The twelve years rule does not obtain. Only rarely the kanam deed reserves a 'purappad.' But the document is not the less a usufructuary mortgage. For the purappad is but the balance of the usufruct after deducting the interest on the mortgage amount. None of the peculiar incidents of the Malabar kanam thus attach to the kanam in Kanara. In fact 'kanam' and 'Ilidarwar', the Kanarese word for usufructuary mortgage are convertible terms.

Kuzhikanam of course is just the same. But it is a term lease with the right of creating improvements in which the rights of parties with respect to rent and compensation for improvements are provided for in detail.

The land tenures obtaining in Kanara are (i) Ilidarwar, or usufructuary mortgage, (ii) Vaidegeni or term lease, (iii) Chalgeni or tenancy from year to year. In the Malayali portion, except for the kuzhikanam, the tenures are identical. For Ilidarwar there is the kanam ; mulgeni is quite the same ; term leases are common ; and chalgeni is called verumpattam. I may add that 'Mulgeni' in every part of South Kanara is controlled by the provisions of the Mulgeni Rent Enhancement Act, Act XIII of 1920.

There are, however, two outstanding features in the Malayali area which must be mentioned. The first is the *kumri* or punam cultivation which does not exist in the Kanarese parts of the district. The second is pepper gardening which again is confined only to the Malayali area of the district. Both are normal pursuits of the agriculturist in Malabar. In the kumris, forest tracts are cleared and paddy grown. The rent per acre varies from 5 to 10 para of paddy. As for pepper the conditions again are almost identical as those in North Malabar. The pepper gardens are mostly, though not exclusively, raised

by tenants and not the landholder. They obtain lands on kuzhikanam, generally on 25 or 30 years term on a rental of two per ten of the pepper yield twelve years after planting, and the payment of the assessment from the commencement of the lease.

Before passing on, it might perhaps be useful to extract portions of a judgment of the Judicial Committee of the Privy Council in a case that went up from the Malayali portion of this district. It is reported in 47 Mad. 572, and is an answer to the claim of proprietorship of the Kasaragod Malayali janmi in the soil. "The lands in suit are situated south of the Chandragiri river, and as already stated, in the Kasaragod taluk, formerly Bekal taluk. In the low lands below the forest ridges there lie the farms and holdings of the ryots, which are called 'wargs.' It appears from the record that the wargs the ryots hold in their own right are called 'muli wargs.' These ryots and farmers, it appears, are in the habit of going upon the forest lands, clearing a part of the jungle and raising a temporary crop on it. After the crop is reaped, this patch is abandoned and some other part is taken up. For the privilege, they have been paying a small fee to the Government. These patches are called 'kumries,' and the lands so desultorily cultivated are designated in the proceedings relating to the subject as 'kumri lands.' The wargs do not constitute a farm or an estate of a compact character, the component parts often lying apart from each other. The plaintiff's case is that he has a number of kumri lands in the forest, attached to the various plots or wargs which he holds and he claims that his tarwad has acquired an absolute title to these lands, partly by long possession, partly by adverse possession against the defendant, and partly by purchase and usufructuary mortgages. He also claims that the Government recognized his title and are now estopped from denying it.

"The first question, then, that emerges from these allegations is what is the nature of the forest tract, and secondly, what are the incidents of the kumri lands. It has been held in two cases, Bhaskarappa *v.* the Collector of North Kanara, and the Secretary of State for India *v.* M. Krishnayya, one decided by the Bombay High Court from North Kanara under not dissimilar conditions, the other decided by the High Court of Madras from South Kanara, in both of which the identical question arising in the present appeal was involved, that the Government had an absolute title to all the forest tracts which belonged absolutely to the Crown. Their Lordships consider it would answer no useful purpose to travel, as they have been invited to do, in the regions of ancient history. Whatever may have been the custom in ancient India, or under Muhammadan rule, what they have to see is how these lands were treated since the British acquired this part of the country. Ever since 1800, when South Kanara was conquered from Tippu Sultan, the Muhammadan ruler of Mysore, the British Government, in a series of documents which have been carefully examined in the cases referred to above, asserted and exercised their right in the forests."

To assume therefore that to the Malayali portion of South Kanara could be extended the same legislation as for Malabar would be to ignore the fundamental differences in the land tenures of the two districts.

4. *Is legislation necessary for the Malayali portion of the Kasaragod taluk.*—It is thus necessary to consider whether any legislation is necessary to regulate the relationship of landholder and tenant to the Malayali portion of Kasaragod taluk in South Kanara, and if so on what lines.

The object of legislation, it is elementary, is to redress social evils and ameliorate social conditions. Any intended legislation should, therefore, be undertaken with this twofold object in view. But it cannot, in fairness, be one sided. It cannot benefit the tenant at the expense of the landlord, or the landlord at the expense of the tenant. Social justice demands that the scales be held even. Nor do I imagine would the Committee countenance any suggestions that would involve the complete expropriation of all vested rights. There may of course be exponents of Marxist views to whom the only legislation that may be attempted is to nationalize all land and give the toiling farmer the full fruits of the sweat of his brow. Possibly such views may be right. But I do not think the Committee at present would be inclined to entertain much less canvass suggestions that would alter the fundamental framework of society as at present constituted.

What is, therefore, necessary to consider is the present economic condition of both the landholder and the peasant, and not merely of the one or the other.

As far as the landholders in this area are concerned, their present state is extremely deplorable. In 1931 it may be recalled, the prices began to fall. The reactions were immediately felt. The landholders waited on the District Collector in deputation and submitted a memorial. 'It is an open secret,' it said 'that some of the wealthiest among the ryots (not to speak of the middle classes) who would be ashamed to borrow a rupee, have had to seek the assistance of Mangalore Banks for loans after exhausting the village moneylenders. The position is acute.' If that was the position in 1931, the position in 1939

may well be imagined. Since then their indebtedness has increased and is increasing. The landholder is hardly able to meet the heavy assessment that he has unfortunately to bear in this part of the district. The numbers of revenue sales in this area have been steadily rising year after year since 1931. The prices fetched in the sales are hardly proportionate to their value. Just recently 6,000 acres of land are reported to have been bought in revenue sale for one single anna by the Government itself for want of bidders.

The reasons for this unhappy state of affairs are not far to seek. They are two fold. Firstly the faulty system of land revenue and secondly, the peculiar conditions to which the Kasaragod Malayali landholder has been subject. When the ancient kings exacted their dues they confined themselves to a fixed share of the gross produce. Whatever that share was, the payment was permissible in kind. Secondly it was only a share of what the ryot actually gathered. It was fair to the ryot, and fair to the suzerain. For if he got nothing, he paid nothing. Further the fluctuations in price had no effect on the incidence of the tax. The fundamental principle observed was that a tax on land was really a tax on the actual yield of the land. The mode of collection may have been primitive; but the soundness of the doctrine is incontestable.

But the settlement under British rule proceeded on entirely different lines. Modern conditions made an impost in kind an impossible task. At the last settlement the lands were classified into wet, garden and dry. Paddy was adopted as the standard grain for wet, coconuts as the standard product for garden and ragi dry. The outturns of an experimental acre were first converted into money value at a fixed commutation rate, and deductions were made for vicissitudes of season and cultivation expenses,' the balance was taken to be that net profit derived by the ryot from the lands and half of this was the share fixed.' The predominant factor in the whole calculation was the commutation value. Even the cultivation expense was assessed in money. But it is well known that in all the villages at least beyond the south of the Chandragiri wages are paid in paddy. Rent again, except an infinitesimal portion, is collected in kind; and in general the vast majority of holdings are leased on verumpattam which are varied from year to year. The pepper rent is *pathinurandu*; that is to say that the landlords' share is one fifth of the yield every year, or the entire yield of one year every five years. Even maintenance allowance and salaries are fixed in kind. Most of the necessities of life in the villages are still bought in paddy. Practically all the dealings of a ryot in the village, both what he receives and what he pays are in paddy. Assessment is therefore the big item in the bill that has to be met in cash.

If therefore the actual value realized by the ryots should fall below the commutation value any one year, the results to him would be disastrous. It is undoubted that the ordinary ryot in the villages is not flushed of money. Even in years of bumper harvests and favourable prices his savings are but small. When therefore any one year the market should fall, even the thriftiest gets into the toils of the money-lender and his final redemption is an impossible adventure.

If the commutation value could be guaranteed by the Government as the price of the commodity every year, then it would of course be a different matter. But the complexities of modern life, of exchange, of tariffs and of quota have reduced markets to a gamble. We also know that events in Berlin or in London or Warsaw may raise the value of our cereals or lower them. The prices of our produce are no longer in our hands. Life in this interdependant world is such that we cannot predict the prices of the next two years much less of thirty.

To found the whole system of revenue settlement on a fixed commutation value of the produce is to found it on the uncertain currents of the future. At the time of resettlement, the Settlement Officer took for his guidance the average prices of the twenty years from fasli 1323 to 1342, which resulted in an increase of 84 per cent over the commutation price at the last settlement. But we know that for the last eight years the inexorable facts have been just the other way about. The prices prevailing for this period have had absolutely no relation to the basis adopted by the Settlement Officer.

One further fact remains to be mentioned. The last resettlement proceeded on the old classification, as far as garden lands were concerned. They were neither raised nor lowered. "Transfers from garden to dry are to be made at resettlement, subject to the conditions that they are to be made only on application, and that the Settlement Officer is satisfied that the land *has become permanently unfit for garden cultivation owing to causes beyond the* ryots' control." There are thousands of acres of coconut palms, classed as garden land which in the process of time have become old and decrepit. The soil too has deteriorated. The landholder finds it difficult to collect a rental adequate to pay even the present assessment. These are not re-classified under the first rule, and they generally fail to conform to the stringent tests in the second portion of the rule. The tenant will not pay a rent that does not correspond to the yield, but the landholder would still have to pay

the Government assessment whether he is able to get any rent or not. It is impossible to prove that a garden has become permanently unfit for any cultivation. It is equally impossible to show that the deterioration in many gardens is due to *vis major*.

There are two factors which obtain exclusively only in the Malayali portion of this district and which have contributed no little to the downfall of the Kasaragod Malayali landholder. Unlike the landholder in the rest of the district he owns large forest lands as the janmis of Malabar. Secondly he owns large pepper plantations on the hills. But while in Malabar the janmi pays no assessment at all on waste lands, in South Kanara he is compelled to pay revenue on such tracts from one anna to a rupee. Equally on pepper gardens he has had to pay at garden rates varying between Rs. 2 to Rs. 6 an acre. In Malabar pepper vines are classed as 'dry' and the assessment is only a rupee an acre. Persistent agitation by the Kasaragod Malayal landholder has at last led to the recognition of this invidious treatment, and within the last few months assessment on pepper gardens has been revised to dry rates. But forest and waste lands are still subject to assessment. The land revenue has thus been heavy, far more heavy on the Kasaragod Malayalee landholder than on his brethren to the south or north.

Nor is this entirely foreign to an examination of the relationship of the landlord and tenant, as indeed it might at first seem. For if the state cripples the landlord by its undue exactions in the shape of revenue it is but inevitable that the landlord should seek to transfer the trouble to the tenant in turn. The basic assumption of the settlement in this district as seen earlier is that the state is entitled to half the net produce from the land. To calculate the Government's share on the net profits of the cultivator is to assume that all landholders cultivate all their holdings. This we know is untrue. Ninety-nine per cent of the land is tilled not by the landholder but by the tenant. What should then be the share of produce collected as rent on the land ? It has now to include of course half the net produce for payment of revenue. It must secondly include also the interest on the capital invested on the land, or its purchase price. In that event the rent is apt to cease to be fair. What is worse, when the market falls far below the commutation price adopted at the settlement, the share of the produce that must go towards the revenue rises as it must rise proportionately. Its repercussions must tell on the tenant. That is to say, when the land revenue becomes oppressive the land-rent becomes necessarily oppressive. It is a vicious circle.

The lot of the vast majority of tenants is certainly not a happy one. He has no fixity of tenure ; and he has no incentive to improve the land. He must quit the land at the whim or caprice of the landlord. It may be that if the landlord is wise he will not generally turn out a tenant who is regular in the payment of his dues. But the dependence on the landlord for the continuity of his daily bread tends to dwarf and stunt his soul and rob him of that free outlook on life which is so necessary to the advancement of a nation. It does not conduce to the healthy development of any country that any of its members should live in an atmosphere of dependence.

Nor is it possible to say that the rent on the land is always fair. I have emphasized the close interdependence of revenue and rent. But what is worse is that sometimes as conditions now obtain, a clever landlord is able to deprive a tenant of his entire crops through the coercive processes of the Revenue authorities. Both land and its produce are a charge for revenue. A tenant pays the rent to his landholder, but the landholder does not pay the revenue. The crops are about to be harvested by the tenant or are gathered and stored by him. But despite the payment of rent and the discharge of all his dues to the landlord, such crops, cut or uncut are still liable to attachment and sale for the revenue due from the landlord. Nor is even the payment of the assessment due on the particular holding of the tenant any answer to the threatened attachment of crops. The landlord generally owns a number of holdings in one and the same patta. Any arrears of assessment due from him may be recovered by attachment and sale of the crops or the corpus of any survey field. If Rs. 700 is due from a landlord on his patta of which Rs. 7 is the revenue on one plot rented to a tenant, the payment of neither the entire rent due to the landlord, nor of the assessment of Rs. 7 to the Revenue authorities would secure his crops and produce immunity from attachment. Such cases where the tenant is made to suffer for the default or fraud of his landlord are by no means rare ; and an appeal to the higher Revenue authorities generally elicits the reply that the produce of the land is always liable to attachment and sale for the land revenue. The judgment of the High Court in I.L.R. XVII Mad., 404 is a clear authority in support. Their duty is to collect the revenue by all the available processes of the law. Of its legality there may be no doubt. Equally also of the injustice to the unfortunate tenant.

Again, there are quite a large number of holdings particularly garden lands the gross yield of which would be insufficient to meet the revenue on the particular holding. If the Committee would be pleased to hold a local inspection, illustrative types could be pointed out easily accessible from the railway stations.

The nature of the problem in the Malayali portion of South Kanara though in some respects similar is largely different from that in the rest of the district or in Malabar. The landholder has become the ryot or the tenant of the Government ; the tenant properly so called is really a sub-tenant in relation to the Government. The relationship between the landlord and tenant cannot be placed on a lasting basis unless the relationship between the landlord and his superior is revised and secured on equity and justice. The two are integral parts of the same problem. Of the necessity of the Legislature to step in and remedy the evils there can be no two opinions.

5. *On what line should the intended legislation proceed.*—The first and foremost need then is to revise the present settlement. The share of the state in the produce of the land should be fixed with reference to the rent the landholder receives, and not the net produce of the land. What should therefore first be determined is the fair rent on each holding. For such a purpose the definition of fair rent as given in the Malabar Tenancy Act may be accepted as a working basis. The revenue should be a share of the rent. It would be just to the landlord. The rent is the income of the landholder. And it is hardly fair that the State should collect from the ryot, anything more than what it receives from the merchant and the professional man. That is to say land revenue must be at the same rate as income-tax, the tax being collected on the rent received by the landlord. Tax on land must be tax on the rent received. The commutation price again should be fixed every year according to the then market value and not any artificial rule of averages which has no relation to actualities. Nor should the process of the fixing of the fair rent, and of the tax give rise to much difficulty in a province where the sales tax that entails a more complicated administrative machinery is levied. As far as waste land is considered it should not be taxed except when it is made arable.

The provisions of the Revenue Recovery Act that may now be operated to deprive the tenant of his harvest for the default of the landlord should certainly be amended. The patta of each leasehold should be registered in the joint names of the tenant and the landholder. The primary liability for the revenue should be on the tenant and the secondary on the landholder. That would prevent the tenants' crops from being attached for the revenue on other lands of the landholder. The rent that is payable by the tenant should take into account the assessment paid by the tenant.

Fixity of tenure to the cultivating tenant is absolutely essential. The problem has been considered in its various aspects in framing the Malabar Tenancy Act. Chapters III, V and VI may be made applicable *mutatis mutandis* to the cultivating tenants in the Malayali portion of Kanara. I should however suggest a change in Chapter VI. For the tenant to pay the market value of the holding either in a lump sum or in instalments may often prove a vain ambition. In Southern Ireland the problem was solved by the Government issuing bonds for the price of such holdings, and collecting the amount as land annuities back from the tenants. Such a system would indeed redeem the tenant from the clutches of the landlord for ever, and secure just compensation to the landlord.

6. The main points that I would submit for the consideration of the Committee are these :

(*a*) Any Legislation to regulate the relationship of landlord and tenant in the Malayali portion of the Kasaragod taluk should have regard to the peculiar conditions prevailing therein.

(*b*) Those conditions vary from those in Malabar chiefly (i) in the difference in the status of the landholder, (ii) in the elimination of the intermediary kanamdar and (iii) in the rate of land revenue.

(*c*) The landholder or the ryot, or his representative in interest in South Kanara is only an intermediary between the paramount land owner, the State, and the occupying tenant. The relationship between the landlord and tenant is conditioned by the relationship between the landlord and the State. The two are integral parts of the same problem.

(*d*) No legislation is likely to secure permanent redress to the tenant or the landlord unless it remedies the evils of the present settlement by levying land revenue on a percentage basis on the fair rent on each holding, commuted according to the market value of the basic produce each year, and abolishing all assessment on waste lands as in Malabar.

(*e*) The patta of each holding should be in the joint names of the landlord and the tenant, so that the tenants' crops may be saved from revenue sale for the default of payment of assessment by the landlord on other holdings of his.

(*f*) Fixity of tenure, and payment of nothing more than fair rent should be secured to the cultivating tenant in conformity to the existing provisions in the Malabar Tenancy Act.

(*g*) Chapters III, V and VI of the Malabar Tenancy Act might be made applicable, with the necessary changes, to the cultivating tenants in the Malayali area of Kasaragod taluk.

By the CHAIRMAN:

I am a Barrister and LL.M. of the London University. I have been practising for the past 18 years and am at present the Government Pleader and Public Prosecutor here. I own lands in this taluk and my tarwad also owns lands here. Personally I pay an assessment of about Rs. 100; my tarwad was partitioned some time back. Before partition, it was paying an assessment of about Rs. 500. Some legislation is absolutely necessary and some provision of the Tenancy Act may be taken as a tentative basis. The grievances of the tenants in this taluk are unjust evictions, excessive rent and feudal levies. I think it would be sufficient if the provisions of the present Tenancy Act regarding fixity of tenure are extended to this taluk. I would add that if a tenant commits waste in the property allotted to him, it may be an additional ground for the janmi to evict him. I would also add that there should be some provision to ensure the regular payment of rent of the janmi. I do not know whether there is a practical alternative to the right of eviction for bona fide cultivation. On the one hand, if you say that the landlord cannot have his land for his own cultivation, you will be expropriating his land without compensation; on the other hand, if you say that the landlord can evict the tenant at his pleasure, it will be unjust to the latter. The present provision is therefore a via media as it is. After all, the capacity of a landlord to cultivate himself is limited. In America the landlords have got many corporate farms; whether the landlord's here will think about the utility of starting such corporate farms is a question to be decided. If a maximum extent is fixed, that would be curtailing the right of the landlord to deal with his own land. Whether the land is required for a bona fide purpose is a matter to be decided by the court. A provision that the landlord may be allowed to evict only if he wants the land for his own cultivation for the purpose of earning his livelihood, will be a great restriction. First of all, the landlord may not cultivate the land for his own livelihood. In fact, the word 'landlord' implies that he earns his livelihood only by leasing out the land to somebody else and not by cultivating it himself. I won't like the landlord's right to be restricted in that way. A time-limit within which the landlord may take back his land will cause difficulty. Suppose two or three years after the landlord got back his land, the tenant is able to prove that it was not a bona fide case, the land will go back to the tenant and the landlord will suffer.

The present provision fixing the fair rent as two-thirds of the net yield may be taken as a tentative basis for these parts for the present; I would never agree to persons of local influence being added on to a committee to fix rents. There may be all sorts of party-feelings roused. I have no objection to having the rents of all lands in a locality fixed at the same time, in order to avoid mistakes. But I do not know whether a right of appeal to a civil court cannot be given. So long as kudiyiruppu holders pay the rent regularly, I do not see why they should be evicted. Lands in this taluk are very heavily assessed. If only the committee can move out of Kasaragod I shall show many gardens in respect of which the produce will be found insufficient even to meet the assessment. I shall be glad to send a list containing illustrative cases. It is desirable to extend the provisions of the Improvements Act to this taluk. In most of the kuzhikanam documents, you will find that two-thirds of the improvements will have to be paid to the janmi. I am in favour of abolishing all levies of a feudal character. Right of occupancy should not be dependent on any of these levies. At the same time I may say that after the Marumakkathayam Act was passed, several tarwads have been split up and the status of the tarwad has gone down, with the result that feudal levies are now much less than they used to be. Pepper cultivation is mostly on kuzhikanam and the terms are mentioned in the document. As regards kumari or punam cultivation, the rent depends on the custom; it is 5 paras of paddy in some places and 8 in some others. It depends on whether the forest is a new or old one. After thirty years, the pepper plants will go; therefore, fixity of tenure will be no use. The mode of payment of pepper rent may be left to the terms of the contract between the parties concerned. According to statistics, in South Kanara, only 3·4 per cent of the landlords cultivate the land themselves. If you are going to fix the rent on the basis of the assessment, you will be assuming that the present assessment is fair and just. That is not so. I am not for fixing the rent on the basis of the assessment.

By Sri K. MADHAVA MENON:

If we provide a penal provision to the effect that if the landlord does not use the land for his own purposes, he will have to surrender it to the tenant without getting the value of the improvements he has made or that he should pay mesne profits. I am not sure whether it will not be after all in excess of the requirements of the case. In the non-Malayali portions, you don't have fugitive cultivation; again, there is not much pepper cultivation. And bananas also somehow or other do not seem to thrive in the non-Malayali portions of this district. I don't think there is after all any desire on the part of the people to have it extended to the other portions of the district.

By P. K. Moideen Kutti Sahib Bahadur:

If the extent of the land which can be evicted is fixed, you will be restricting the rights of the landlord.

By Mr. R. M. Palat:

The customs in the Malayali and non-Malayali portions of South Kanara are different. There is no kanamdar intermediary here. Legislation ought to remedy social evils wherever they exist and I have stated some evils which exist here such as (i) no fair rent, (ii) no fixity of tenure and so on. I think it will be to the benefit of the Malayali portion if the Act is extended to it. The same reasons would justify the extension of the Act to the other taluks also as regards fixity of tenure, but as regards fair rent, it does not obtain at all in the non-Malayali portions of the district. I won't say that evictions have increased recently, nor would I go to the extent of saying that such evictions as have happened have been unjust. I do not know that on account of the proposed legislation, janmis have begun to evict tenants. I am not competent to speak about conditions in Malabar, but I may say that in the Malayali portions of this district, the status of the janmi has been rising and the condition of the tenant has been going down recently; the treatment accorded to the tenant is not what it should be. In the non-Malayali portions, a chalgeni document is always executed, but in these parts, leases are mostly oral and everything depends on the caprice of the landlord. There have not been many evictions through the courts, but evictions have taken place without going to court. I myself know that before 1931 tenants have had very good treatment and the rent collected was also fair; but since 1931, the fall in prices has driven the janmi to the wall, with the result that he wanted to transfer his troubles to the tenants. The fall in prices is one of the causes of the unrest here. The present economic conditions have demoralized the once fair-minded janmis. After all, the main difference in tenure as between the Malayali and non-Malayali portions is in respect of pepper cultivation; and this pepper cultivation has been our ruin. Large number of janmis here pay their assessment mostly from income derived from pepper cultivation. Before 1931 pepper prices were high and the standard of living of the janmis naturally rose. But after the fall in the price of pepper, the janmis are suffering. There is not much pepper cultivation in the other parts of the district and the janmis there have been depending upon arecanuts, paddy and coconuts. They have not been hit so hard. The present provision for fair rent may be introduced here immediately with the proviso that it will be subject to revision after three or four years. The problem of the relationship between the landlord and tenant is an integral part of the problem between the landlord and the State; and the fair rent that he is to get and the assessment he has to pay should be taken together. I am not suggesting that we should straightaway embark on a piece of legislation. If the Act is extended to this taluk, the janmi will be assured of a fair rent hereafter. I know there are several janmis who are not able to collect even one-twentieth of their dues. The summary process should form a part of the provision. If we are not to have the summary procedure, I think it will be tantamount to driving the janmi further to the wall. The present rent is sometimes fair and sometimes not fair. The janmis here own very few forests.

Each holding should be registered in the joint names of both the janmi and the tenant and the tenant should be primarily liable to pay the assessment. Since 1931 there have been many sale of lands by the revenue authorities especially in the Malayali portion of the taluk.

By Md. Abdur Rahman Sahib Bahadur:

A definition of the Malayali portion of South Kanara is a very controversial question. Some of us would like to have the whole of South Kanara tacked on to Malabar. For the present I have drawn the line at the Chandragiri river because the Raja of Chirakkal's dominion extended up to there. I know several people who have settled down here, who started money-lending and finally ended by buying up the land. The complication of the kanam does not obtain in South Kanara. The kanamdar here is practically a usufructuary mortgagee and even where a purappad is fixed, it is only the excess of interest. You cannot view it in the same way as Malabar kanam.

87. Khan Bahadur Mahmud Schamnad Sahib Bahadur and Sri H. S. Mallayya.

Note.—The witnesses did not answer the Committee's questionnaire.

Khan Bahadur Mahmud Schamnad Sahib Bahadur: (Witness volunteered.)

Mr. Chairman, I may say that the janmis here wanted to boycot this Committee because no member of this district has been appointed as a member of the Committee.

By the CHAIRMAN:

They said they made some representation to the Government. I only wanted to give an explanation as to why the janmis have not appeared in large numbers before the Committee. The Malabar Tenancy Act should not be extended to this taluk. We cannot say that the tenants here are houseless or landless. Evictions are so very rare that many tenants do not ask for a written lease at all or a receipt for the payment of rent. There is so much confidence between landlord and tenant. On the other hand the landlords are at the mercy of the tenants if they do not take any written leases. If a provision is made to the effect that they should not evict the tenants arbitrarily, it may induce some tenants not to pay rent. I object to a provision that as long as rent is regularly paid the tenant should not be evicted, because if the tenant does not pay his rent regularly, the landlord will have to go to court. It will take three or four years and instead of one year's rent the landlord will lose four years' rent. Before I can see what sort of a summary procedure is provided, I cannot say if it would suffice. If it succeeds in Malabar, we will see whether it will be beneficial to introduce it in South Kanara also. Human nature being what it is, I do not think it will be good to give fixity of tenure.

Sri H. S. MALLAYYA: Our objection is that the relation between the landlord, the tenant and the Government in Malabar is different from the relation in South Kanara.

Khan Bahadur MAHMUD SCHAMNAD Sahib Bahadur: The tenures are different in several respects. There is no kuzhikanam here at all. An ' Improvement lease ' is called ' Kritha chit ' here. A man may be given the land for 10 or 15 years and during that period he may improve the land.

By Sri U. GOPALA MENON:

In South Kanara there are both Malayalam and Thulu speaking areas. According to tradition, Malabar is the land colonized by Parasurama. This is Thulu Nad. Thulu was written in Malayalam. Thulu is not now a written language. The usages and customs are very similar generally. But there is some difference between the Marumakkattayam system here and the Marumakkattayam system there. There are tenures here like verumpattam, term leases, saswatham and the North Malabar kanam. I do not agree that there is a lot of discontent among the tenants. Only in a few villages adjoining Malabar there is some agitation of ' Down with the janmis.' No janmi arbitrarily evicts a tenant. A good janmi should not exact more than his due share of the rent. There are no mamuls here. Some of you may hold the view, that no good janmi will protest if legislation discourages arbitrary eviction, fixes fair rent and abolishes mamuls. But that is not our view.

Sri H. S. MALLAYYA: (Volunteers.) The Malabar Tenancy Act should not apply to Kasaragod taluk as the conditions here are entirely different from the conditions in Malabar.

I am a Kanarese Brahman. In the Thulu taluks, the Thulu Brahmans and Thulu Bhatts mostly hold lands. I shall be more clear. Kasaragod, Puttur, Mangalare and Udipi taluks. It is only in the southern villages that the Nair janmis are predominant. There are many Mappillas in the Kasaragod taluk and in other taluks they are sparse. In the above four taluks Malayalam is known. The official language is Kanarese.

By Mr. R. M. PALAT:

I am definitely of opinion that no portion of the Act should be introduced in the south of South Kanara.

MADRAS CITY.

MADRAS CENTRE—13th, 14th and 15th January 1940.

89. Sri B. Sitarama Rao, Government Pleader, Madras.

1 & 2. I do not at all believe that the nature of these tenures was at any time substantially different from what it is at present. Janm represents the proprietary interest in land and corresponds to Warg right in Kanara. Kanam would seem to approximate to a lease in South Malabar though one does find also kanams which are in substance usufructuary mortgages. In North Malabar, they approximate to mortgages. They resemble the ildarwar mortgages in Kanara, though the periods for which the ildarwar mortgages are held are generally much longer. Kuzhikanam is only a species of kanam given with the express object of improving the land. Verumpattam is the ordinary precarious lease and corresponds to the Chalgeni lease in South Kanara. Right to the value of improvements is recognized to the same extent in South Kanara as in Malabar. Mulgeni or permanent leases are much more frequent in South Kanara than in Malabar. For all that, it has never been suggested in South Kanara that these interests represent the kudivaram interest in land. It is not unusual that the same tenant or family of tenants holds the land uninterruptedly for a considerable number of years. The distinction between kudivaram and melvaram is unknown in the West Coast. There is no reason to believe that the history of proprietary right was different in Malabar from that in Kanara, or elsewhere in India. The janmi right is not confined to small and opulent class of proprietors. Land is held on this tenure by a large body composed of all classes and some of them of very humble means. The possession of a more beneficial interest secures regularity in payment of rent. This and the unbounded capacity of land for improvement with the corresponding necessity for a capitalist to advance funds for the purpose can easily explain the prevalence of such tenures. It is also the expedient adopted to favour relations, dependents, etc., at the expense of the family. Sometimes that form of landholding is recognized as a means of providing maintenance to the family. Periodical readjustment is implicit in the very nature of such tenures and can be naturally explained without reference to feudal precedents. The occasion for such readjustments is presented not unnaturally by the succession of a new heir with right to terminate old arrangements. The historical materials available in respect of these tenures were subjected to a close and critical examination by Chief Justice Turner and no new material has since come to light, to invalidate the conclusions of learned Chief Justice.

3. The changes effected by judicial decisions like the 12 years period were in amelioration of the condition of the tenant. Eviction on terms of payment for the value of improvements was not an innovation but in accordance with time-honoured custom. Not to disturb a tenant in occupation without good and valid reason must have been a point of honour in Malabar quite as much as with landlords elsewhere. Modern conditions have made an inroad upon such rules of etiquette, but courts had to enforce legal rights.

4. (*a*) The application of presumption of private ownership to immemorial forest lands in Malabar would seem to rest on very slender foundation. In this matter, the claim of janmis in Malabar stands more or less on the same footing as that of the Warghadars of Kanara and the grounds on which the claims of the latter were rejected would seem to hold equally in the case of janmis of Malabar. It is only when you have occasion to investigate the foundations of the claim in individual cases that their unsubstantial nature becomes apparent. Perhaps, matters have now gone too far to reverse the conclusion taken such long time ago, without reservation. Except to the extent there is proof of enjoyment for appreciable periods of time, the claim of the janmi might perhaps without injustice be disallowed. So far as ordinary waste lands are concerned, it may be too late now and there was at all times, possibly less justification for the Government to claim right in respect of them. But in public interests the Government may well take power to overrule janmis and kanamdars' refusal to grant for cultivation and residential purposes on fair rent without good and sufficient reason such as the interests of his own cultivation or as being necessary to aid previous cultivation, etc. The Government used to make a claim to settle tenants on forest land but this claim had no encouragement in courts. So far as irrigation sources are concerned, now that the janmis' right to intervene is taken away, the Government may well take powers similar to those conferred by the Estates Land Act in the case of Estates to interfere for the purpose of improving or conserving irrigation sources though the need is not imminent, the Government so far not having paid any attention to the improvement of irrigation in the West Coast.

5. It may be desirable to simplify the system of land tenure in Malabar, but there is no justification to eliminate the janmi. The janmis' interest corresponds to the normal type of proprietary interest. The tenure that may properly be eliminated is the kanam—an anomalous tenure with many complex features. The verumpattamdar is bound to be a permanent feature and can never be got rid of as the members constituting that bodybe come more affluent or are attracted by other occupations, there must necessarily arise a new class of sub-lessees. The problem will thus be a recurring problem. Again, janmis are, many

of them, poor people, and with the recently introduced Nambudiri and Marumakkathayam Acts, with the rule of partibility, there should be many more people among them desirous of cultivating their own lands, as deserving of the solicitude of the legislature as kanamdars and verumpattamdars. It cannot be right to deprive the janmi of his age-long rights to favour the other classes. Claims of both janmis and the kanamdars can perhaps be satisfied on the one side recognizing the janmi's right to a fair quantity of land for his or their personal cultivation, due regard being had to the number of members in the family, and on the other allowing a compulsory purchase by the kanamdar of the janmi's interest by paying thirty times the michavaram and the balance of fair rent after making deductions which forms the basis for the renewal fee (calculated in terms of a year). Subject to the right of the kanamdar to a fair holding, the sub-kanamdar may similarly be allowed to purchase the interest of the janmi and the kanamdar and so forth. The process may continue till at last you have only the cultivating verumpattamdar and the janmi left In the interests of sound agriculture, some limit may be fixed as to the minimum extent of a holding. This scheme might become impracticable if every kanamdar should be disposed to make an application, for want of requisite quantity of lands. But, it may reasonably be expected that there may not be a full complement of applications. The right may be confined to an area which may be considered requisite for a normal farm. Beyond that, the old rights must continue. There may be no more any question of kanam rights in that land.

6. I think so. He must be given power to protect their holding by paying so much of the dues as are fairly apportionable on his holding and he must also have power to recover from the higher tenure-holders benefited to the extent they are benefited.

7. (*a*) There is a customary rate which may be adopted though much would depend on the fertility of the field, etc.

9. I do not think it is advisable to fix the rent by reference merely to assessment. In actual working it may work great injustice though it may have the advantage of facilitating the work of settlement. Fertility varies from place to place and for the matter of that even from field to field.

10. I should think it is but right that the benefit should be distributed among the various interests.

11. There may be distinct advantages in standardizing measures and weights. Much confusion might be avoided which is the result of each part of the District or Taluk having a different standard of its own.

12 & 13. Renewal is the method adopted by the customary law for periodical adjustment of the benefit derived from the land by the kanamdar between himself and the janmi. Its abolition can properly be secured only by payment of due compensation. My answer to query No. 5 answers also this question.

14. Forfeiture of the entire compensation and kanam amount would seem to be too harsh a provision. Abatement of 20 or 25 per cent must suffice ; such a view would throw a duty on the landlord of redeeming to which he is not normally subject. Justice may be done to him by allowing him at his option either to pay by instalments or to require the tenant to enforce payment by sale (the landlords' interests being secured by reserving him a proportion of the sale price in any event).

15. There has not been much time to test the effect of the Tenancy Act. The provisions of the Act may be given a fair trial instead of venturing on a fresh experiment.

16. The landlord was given this right because he was being deprived of the unqualified right to evict which had been long recognized by courts as vesting in him and should not be deprived of it without due compensation. The scheme adumbrated by me might satisfy all interests. This right reserved in the landlord undoubtedly detracts considerably from the permanence secured by the Act.

17. For the future, I would recommend a system of compulsory grant on fixed rent system permanently or for a long period by the landlords in suitable area fixed by Government as previously suggested. With respect to grants in the past, I would not interfere with the provisions of the Act.

18. No modification is called for in respect of the provisions as to compensation. According to certain recent decisions, it is open to the landlord to sue again and again on the basis of the statutory tenancy recognized in sections 5 and 6. This is intolerable and should be put an end to.

19. I am not aware of any feudal dues. There are usually provisions as to lighting lamps etc., for which deduction is made from the rent. There are also provisions as to presentation of bunches of plantains, etc., at onam or other festivals. These provisions are found all over the West Coast and do not partake of any feudal character.

20. It is impossible to apply the provisions of the Act to either of these kinds of cultivation. But if lands under such cultivation are included in a kanam document along with other lands, there is no reason why the rule should not apply.

21. There is no justification for extending the legislation to the Kasaragod taluk especially to portions of that taluk north of Chandragiri river where the conditions prevailing are precisely those existing in other parts of South Kanara and have no resemblance to those in Malabar. In fact kanam, kuzhikanam and verumpattam are terms unknown in those parts. Malayalam itself is unknown to the bulk of the inhabitants, the spoken language being Thulu or Kanarese. More or less similar is the condition between Nileshwar and Chandragiri river. To the south of Nileshwar, the conditions approximate to those in Malabar. But even so, I doubt if they are precisely similar to the conditions in Malabar.

22. (*a*) to (*c*) The procedure of the Act leaves much to be desired. The landlord must be given the right to apply to the court to call upon the tenant to renew and on his failure to do so, the right to sue in ejectment. Under the Act, as it stands at present, he has to file a suit in ejectment before putting the tenant to that necessity. He must not be made to file a costly suit in ejectment before he can enforce his rights to renewal fees. He must have the cheaper remedy provided of recovering his rent by attachment and sale of tenants' holding, through application made to court or to revenue authorities after the manner of the Estates Land Act. Summary trial cannot be a satisfactory method of dealing with important questions, as is often the case, of improvements and property rights of great value. Revenue courts can never give satisfaction unless they are made stationary courts. On the whole, civil courts are likely to give greater satisfaction.

23. The two Acts are fairly comprehensive and I am not aware of any further disabilities they are labouring under which remain to be redressed. Their condition is much better than that of the tenants in other districts. But one thing I would point out and that is, now that the tenants' interests have become practically permanent, the landlord must be bound to recognize transfers of the whole as well as of part and in the latter case, provision must be made for subdivision and apportionment of liabilities summarily through an application to courts.

By the CHAIRMAN:

I have been practising for the last about 35 years. I am at present the Government Pleader. I thought that it was absolutely clear, from what I read of the earlier reports, that the landlord could evict the kanamdar at any time. The custom prevailing in Travancore may have been otherwise. But I am afraid that it is not possible to follow the Travancore customs. The presumption of private property does not stand on more solid foundations than on declarations made by careless administrators. The Government may be given power to compel the janmis to assign waste lands to the tenants on cowle system. Excepting that restrictions on the girth of trees to be cut would be slightly interfering with rights of private ownership, I do not think there will be any serious objection to such a procedure. It may be in the interests of the owners themselves. Under the Estates Land Act the Government is given power to make irrigation channels, etc., in the Estates for the benefit of the tenants. Some such power may be given to the Government here also. In almost all the cases, the cultivating tenant would be unable to purchase the intermediary's right. Even if the property itself is physically divided in the proportion of the janmi's share, the intermediary's share and the tenant's share, we cannot altogether solve the problem. We have at all times the problem of the verumpattamdar. That will be a recurring problem. If the division of the property fairly represents the interest which each one has, there will not be any injustice in theory. But there will be only practical difficulty in assessing the value. Once you create that state of things, then you will go back to the same old condition, viz., that the verumpattamdar will be the man who will have to actually cultivate the land. You cannot expect either the janmi or the kanamdar to cultivate. If the intermediaries' rights are allowed to be purchased, it may lead to gradual elimination of them. So far as the verumpattamdar is concerned, I think it is the same problem in every part of the country. He is a cultivating lessee. So it is not a question concerning Malabar alone. The kanamdars may in the usual manner be dealt with and their interests may be allowed to be purchased by and by. Devaswams and sthanams should be placed on a different footing. They may be treated as impartible estates. Theoretically whenever the landlord demands his land for his cultivation, the tenant has to surrender, but practically the landlord has to pay compensation for improvements. So far as the tenant is concerned it is the same condition that prevails throughout the Presidency. If a man cultivates the land well, there is no reason why he should be evicted. He should not be evicted except for very good reasons and unless the landlord wants it for his own cultivation. The kanamdars have been improving the lands all these years. Theoretically if it is your own land, you will improve it much better than you would otherwise do. But, nevertheless, people do improve the lands although they

are not certain of permanent occupation of the lands. There should be a *quid pro quo*. I think without compensation, to take away that right is not quite justified. I do not think in practice that provision works so badly, because the landlords have got to pay for improvements and so people do not generally rush to courts. They cannot evict the tenants without paying huge compensation and they must also prove to the courts that they want the land for *bona fide* cultivation. This right does not apply to sthanams and devaswams and it is quite sufficient that holders of these lands are given permanent rights. My suggestion is that you can allow a certain area of land as home-farm land and give the landlords certain rights in respect of those lands, and with regard to the balance you may introduce any change you like. They may be given the choice of selecting the lands. About five acres for each member of a family would be enough. If we fix in that proportion, possibly we may not have any balance at all. In fixing this you must have reference to the opulence of the family to whom you wish to apportion the acreage. So you cannot go merely on per capita basis. I suppose we may fix the maximum at not more than five acres for each family and each family will have to select. This would be some *quid pro quo* for the loss the landholders sustain by forfeiting their rights. If the under-tenure-holder pays his share of the rent thereof, he should not be affected by any default of the intermediary. It would be advisable for fair rent for all lands in a certain locality to be fixed at the same time by a committee. Some procedure as outlined in the Estates Land Act or some sort of record of rights may be prepared at the same time. This preparation of record of rights would involve a large amount of expenditure. It must be borne by the parties concerned as under the Estates Land Act. The renewal fee, whatever appears to be reasonable, may be divided into 12 equal instalments and added on to the rent. The execution of renewal deeds every twelve years is wholly unnecessary. The provision that arrears of rent should be paid before the property is relinquished is unnecessary. There is no objection to giving fixity of tenure to all kudiyiruppu holders provided they pay the rent regularly and that the right to revise the rent is preserved. It would be advisable to prevent second suits and place a time-limit for the deposit of the value of improvements. I do not know whether there is any point in making feudal levies penal. It is only on account of the self-importance of the landlords that they insist upon these presents. It may be commuted into rent and the whole difficulty is solved.

Even in the Malayalam speaking portion of Kasaragod taluk, I do not believe the tenures of Malabar prevail. Only the name of kanam occurs. Otherwise I do not think the conditions are similar. However, the proposed legislation may be made applicable to the Malayalam-speaking portion of the Kasaragod taluk. I think that fragmentation of holdings should be recognized in all cases. If fair rent is fixed, it will not be difficult to deal with these holdings; otherwise it may lead to complications.

By Sri U. GOPALA MENON:

There are intermediaries between the actual cultivator and the full owners, but elsewhere you do not have this complicated system of tenures as it is in South India. All these interests can elsewhere be resolved into the well-known conceptions of mortgagee and tenant. You have not got the same kind of relationship between the janmis, the kanamdars and the verumpattamdars in Malabar.

By Sri N. S. KRISHNAN:

It is no doubt very difficult to divide the whole land. There will be the question whether future lessees should be given permanent right of occupancy. It is a very difficult problem. Practically you value the land and distribute it as between these various interests. The Land Acquisition Act gives 15 per cent as solatium. There is considerable difficulty in the practical working of this scheme. I am not in favour of it.

By Sri M. NARAYANA MENON:

There is no point in getting rid of the janmis of permanent tenure-holders especially when their rights are of such an attenuated kind. Feudal levies seem to be regarded as part of the rent. If it is commuted into rent, there is no difficulty. The kanamdars may be allowed to purchase the rights of small janmis. Big janmis may be treated as impartible estate holders. The small janmis can start some small industries. If the janmi wants to raise money on his estate, he can sell his janmam interest.

By Sri K. MADHAVA MENON:

I am aware of arbitrary evictions in Kasaragod taluk. But sensible people do not evict their tenants arbitrarily. It was arbitrary evictions that led to the agitation for a legislation in Malabar. I have not heard of the peasant agitation in Kasaragod. I have no objection to extending the provisions of the proposed legislation to portions south of the river Chandragiri.

By Sri A. KARUNAKARA MENON:

The janmis' rights should be preserved. Not that I say that anybody's interest should be prejudicially affected. But my suggestion is the kanamdar becomes a janmi.

There is no necessity to eliminate the kanam tenant. These several kinds of tenures constitute one way in which wealth was distributed among the people of Malabar, but whether it will continue in the same fashion hereafter I cannot say. You have got many ryotwari areas where people are in the same situation; for example, in the Tanjore district. My impression is there are more people with no means in Malabar than in other districts. If there is default by one intermediary, the under-tenure-holder can pay the dues and recover it from the next intermediary. He should pay only once. I think hereafter all leases will be in writing. In such cases some of the provisions of the Estates Land Act must be made applicable, for example, distraint of movables and the sale of the holding. Of course, some modification is necessary in order to make it applicable to Malabar land tenures.

By Mr. R. M. PALAT:

The Hindu theory that land was private property was extant in Tanjore and other districts. But in the subsequent years under Muslim rule this theory disappeared; whereas in Malabar this Hindu theory remained intact as it was free from Muslim invasion. South Kanara was the freest of all districts from invasions. The invaders did not come down beyond the Chandragiri practically. To the very last the old standard of assessment of the Hindu system continued there, and that is why settlement did not take place till very late. Simply because one family owns a large number of acres of land, you should not generalize that all land is in the hands of a few people. I would suggest that the janmis should be allowed to evict to the fullest extent if it is in the interest of the nation. My knowledge is not great in these things. But I know in certain cases people do cut trees indiscriminately. My experience of the Debt Conciliation Board and similar bodies is that they do not work any good to the people. But the settlement of fair rent has to be done in a judicial way. I think it is better if local officials are entrusted with this work. In cases of relinquishment, if the landlord is not in a position to pay for the improvements, there must be the right to sell on the part of the tenant, or the landlord should get an order for sale. So far as the landlord is concerned, I cannot conceive of cases where he will be entitled to revise the rent. Such occasions are very very rare; anyhow at the end of every 20 years he can have the rent increased. The land is not likely to become extra productive in the near future and it is an orthodox position of law that you can ask for surrender but not ask for an increased rent. When you are limiting the landlord's holding, the tenant's holding also should be limited in a similar way. Assessment is not all that the landlord is getting from these kudiyiruppus; he is getting something more. Impartible families stand in the same category as sthanams and devaswams. There is no likelihood of their personally cultivating, and so there is no harm in having the same conditions, as are applied to other estates, applied to these also.

86. Sri K P. Ramakrishna Ayyar, B.A., B.L., dvocate, Lala Gardens, Brodies Road, Mylapore.

1. (1) *Janm.*—The early origin of janm is shrouded in mystery. The janmi has long been treated as the absolute proprietor of the land. Without going to mythical or legendary sources, one may say that there is definite historical evidence to show that up to the middle of the 18th century, there was a sort of military hierarchy in the country. The King was at the head, and under him, there were a number of Naduvazhis or local chieftains with an army behind them to help the King. Below the Naduvazhis were the Desavazhis, who were the chiefs in the villages. The King and the Naduvazhis had their Crown lands or Demesne lands for their support, which were either cultivated by themselves or through slaves or by hired labour. These lands were called their janm. The Desavazhis also had their janm property. The Desavazhis and Naduvazhis paid no tax but had always their army of men ready for military purposes to help their King. The Brahmans must have obtained large gifts of lands for religious services from the Chiefs and the King. Such gifts to Brahmans are common in the Eastern districts. Large gifts of land were also made to temples in which Brahmans were trustees. This is the source of large janm property held by the Nambudiris. Some of the temples even now have a large extent of janm property. Subsequently even the Muhammadan invaders have granted inams to temples. This shows that when the country was ruled by the Hindu Rajas, their sense of religion must have compelled them to found famous temples and endow them with large properties.

As the Kings and Chiefs had their military preoccupations, they would have naturally let their lands for cultivation to their retainers, mostly Nayars, who formed a military class, on favourable terms. Hence the origin of the various forms of tenures.

The earliest tenure must have been the verumpattam, the ordinary lease from year to year. When the Chief or Raja wanted to reward a follower for services rendered, he used to grant anubhavams or adi mayavana which are perpetual tenures on a small nominal

rent. These anubhavams must have been very common in the early days. On looking into certain old cadjan documents of 954 M.E. of a well-known janmi, I found that about half of his lands were then held by tenants on anubhavam tenure and the rest on kanam or ubhayapattam tenure.

(2) *Kanam.*—The kanam was a favourite tenure in the ancient days, as the kanamdar was one who would regularly pay his rent or michavaram and would be easily available for military service. The kanam he gave was a security for the rent due and the janmi was sure he won't run away from his service. Hence the kanam tenant must have been a favourite tenant and would rarely be evicted. In most of the ancient kanams, the amount of the kanam will not be large and the michavaram payable to the janmi will be nominal. An examination of the kanams under the Zamorin or Poomulli Mana will make this clear. As the janmi found in the kanamdar a reliable and prosperous tenant, he must have found that the kanamdar was in a position to lend him money, instead of men, as necessities of military life diminished. The kanamdar in turn found it advantageous to lease his property to a sub-tenant on verumpattam, when he had more lands than he could cultivate himself. Thus as the kanam amount increased, it became a mortgage amount, to be returned to the kanamdar on redemption.

(3) *Kuzhikanam.*—This was a lease for making improvements, or a garden lease. The lands must have been either waste or jungle tracts and the lessee undertook to raise a garden consisting mostly of pepper, coconuts, jack fruits, etc., and other fruit-bearing trees.

(4) Some other tenures, like otti, were of later origin and had distinct features of their own. The perpetual tenures have already been referred to.

2. (1) *The janmi* had complete proprietary right in the land and soil. This has been affirmed again and again by all ancient writers.

Sir Charles Turner, an eminent Chief Justice of Madras, considered all these authorities in his minute in 1886, and says as follows :—

> "I have, I hope, established that Hindu Law allowed almost as complete a property in land as is recognized in England, and that although in many parts in India, this right had become practically valueless, when the country passed under our rule, it subsisted in full vigour in Malabar, prior to the Muhammadan invasion probably for the reason that revenue was raised, if at all, only occasionally by an assessment of the produce."

It is unnecessary to dilate on this matter further, as all subsequent authorities have recognized that the conclusions of Sir C. Turner, C.J. were correct, and the courts have adopted the same.

Absolute proprietorship in land has been recognized in various districts and provinces in India under different names. In the Eastern districts, the mirasidar had the same powers as the janmi. In South Kanara they were called the Mulgars or Mulis. In 12 Bom. H.C.R. (app. 1), page 210, the learned Judges observed that the Muli, the Mirasi, the Kariatchi, the Swastyiam and the Janmakari tenures were so many names for the ancient proprietary rights of the ryot in the soil recognized by Mr. Ellis, Mt. St. Elphinstone, Lord William Bentink, Prof. Wilson, the Board of Revenue and other authorities and that this right was subject to the payment of a share of the produce as revenue.

(2) *Kanam.*—There has been a long controversy as regards the nature of the kanam and the position the kanamdar occupied in relation to the land. The theory was advanced by Mr. Logan that the kanamdar was practically the owner of the land and that the janmi was only a rent-collector, but all subsequent writers and earlier writers who have examined this question have been of opinion that the kanam was only a form of mortgage or lease and that the janmi had always a power of redemption. The earliest writer who has dealt with this question, one Mr. Jacob Canter Visscher, a Dutch traveller, who visited Malabar in 1743, said that the kanam is a mode of loan which was very common and that the janmi could redeem him by paying the kanam amount. In 1793 when the British occupied Malabar, they issued a proclamation in which they say that if the kanakkars do not consent to pay their rent, the janmis may sue them in the Adalat Kutcheri and resume possession when the time expires. Similary in 1800 Dr. Buchanan said that when a man agreed to advance money on a mortgage' he was called kanamdar who took possession of the land. He deducted the interest out of the net produce and paid the balance to the proprietor and the proprietor always reserved his right to resume the estate by paying the original kanam amount. In 1801 Mr. Warden said that the kanam is a species of tenure resembling a mortgage on the land and always redeemable on janmakkar's repaying the money to the original kanakkars. In 1803 the Board of Revenue treated the kanam as a mortgage and declared that at the expiration of the lease the janmakkar had a right of resumption on paying the renter for buildings and wells according to appraisement and for the plantations at fixed rate. All subsequent writers also have adopted this view of the kanam. In 1856, the Suddar Court instituted an enquiry at the instance of the Board of Revenue and passed certain

proceedings relating to the Land Tenures in Malabar embodying the result of their investigation. These proceedings are considered to be of very high authority and have practically settled the law relating to Land Tenure in Malabar.

(3) *Kuzhikanam.*—The Kuzhikanam is an ordinary lease of waste land granted to the tenants for the purpose of making improvements. It is generally for a period of 12 years and it is forfeited by the denial of the landlord's title.

Other Tenures.—As there is not much dispute regarding the other tenures like otti, anubhavam, etc., they need not be gone into here but reference may be made to the Suddar Court proceedings of 1856 which deal with them in detail and discuss other incidents.

3. From the answers already given to the second and third questions it will be more or less clear that judicial decisions have only confirmed the rights of the janmis and the kanamdars as they found them in the respective parties. Mr. Wigram in his book on Malabar Law published in 1882 has referred to various authorities on kanam and refers to the absence of the judicial decision from 1800–1853. (See page 108.) This is not quite correct. Mr. Moore also repeats the same (in his Book on Malabar Law at page 214). As a matter of fact a number of decisions by the courts in Malabar relating to the question have been subsequently found out. These decisions establish that the kanamdar was bound to surrender the land after the expiry of the usual period on payment of kanam and value of improvements. These decisions are collected and published by Mr. K. Prabhakaran Thampan in a small pamphlet and the judgments which were originally in Malayalam have been translated into English. The judgments relate to the years 1817, 1825, 1826, 1827, 1828, etc.

4. (*a*) In Malabar all lands are presumed to be private property. The same principle applies to waste and forest lands. In ancient days it must have been almost impossible to take actual possession of waste and forest lands, but as the proprietorship must vest in some one or other, the landlords and the chieftains as owners of the janm land also claimed proprietary right to the waste and forest land. The British Government, on their taking charge of the district, did not assert any right to waste and forest land. On the other hand they expressly recognized the rights of the janmis as has been stated by various writers like Dr. Buchanan, Major Walker and Mr. Thackeray. In 9 Madras 175, the Madras High Court went into this question elaborately and held that in the district of Malabar there is no presumption that the forest lands are the properties of the Crown and that the right of the sovereign was only to assess the occupier for revenue. This suit related to some forest lands in Attappady Valley. Their Lordships say that it was the policy of the Government at that time to allow all lands to become private estates and they refer to the despatch of Lord Wellesley and despatches of the Governor-General in 1799 and 1801. Thus the Government adopted the Hindu Law and did not lay any claim to waste lands. In their despatch of 1813 the Directors of the East India Company said that they have no property in land except the lands got by escheat and by forfeiture. This policy was continued in Malabar although the Government adopted a different policy in other districts. This view was approved in 13 Mad. 369. In 26 M.L.J. 385 Mr. Justice Sankaran Nayar held that the beds of the natural streams which are not navigable vest in the adjoining proprietors or janmis. At page 397 Justice Sankaran Nayar refers to various authorities on the point and comes to the conclusion that the Government had no right to the beds of non-navigable rivers. In 12 L.W. page 371 it was held that the janmis who are riparian owners and therefore the proprietors of the soil on the banks are the proprietors of the river beds in their estates and that there is no presumption in favour of the Government. Such being the state of the law, it is difficult to see how the Government can claim any right at this late stage to waste and forest lands. It may be that the Crown has been asserting such rights in other places but so far as Malabar is concerned, it may be taken that the janmis have established their rights as against Government and their rights have been upheld by all the courts for about a century.

(*b*) It is now too late to think of placing any restrictions on the rights of the owners of waste lands, etc. If such restrictions are to be placed, then it must be with their consent and after paying them sufficient compensation.

(*c*) It is difficult to see how the Government can now take possessionof waste land and grant them to cultivators when the courts have declared that the Government have no right to the waste lands. The Government may acquire them under the Land Acquisition Act, if necessary, and sell the lands over again to cultivators.

5. (*a*) It is difficult, if not impossible to change the system of Land Tenures in Malabar by a stroke of the pen. The system has been existing for many centuries and the intermediaries are as large in number as the actual cultivators, but it must be admitted that by redemption, by transfers, by division of the holdings and by the increase of population, the simplification of the system of land tenure has been going on. If the janmis are to be extinguished, the intermediaries will take their place and become janmis in their turn. If the intermediaries are to be extinguished, a large class of middle class persons who hold

lands on kanam will be turned out of their lands which form their only source of living. Taking the case of one big janmi, namely, the Zamorin, who can easily redeem the kanam tenants, it will be seen that about 50,000 families will be turned out of their lands on redemption.

(*b*) To allow compulsory purchase of the landlord's or intermediaries' rights by the tenants, is very difficult, if not impossible. It is also impossible to limit the area and possession of the cultivators to that suitable for an ideal farm, because it is not known what an ideal farm is and it differs from place to place. It is also not advisable to prohibit sales of lands by cultivators to non-cultivators as this will necessarily bring down the price of lands and non-cultivators are deprived of a chance of becoming cultivators if they choose.

6. It may be desirable to protect the under-tenure-holder from the consequences of the default of the intermediaries. This may be effected by creating a privity of estate between the janmi and the under-tenure-holders. As matters stand at present, there is no such privity of estate. If such privity of estate is created by law the tenure holders will become liable to the janmi for the rent due by the intermediary and the janmi can give notice to a sub-tenant if there are any arrears due to him by the intermediaries. If the janmi informs a sub-tenant that any arrears are due, the sub-tenant should not pay his dues to the intermediary but pay them to the janmi.

7. (*a*) It has been generally recognized that the net produce of the land should be divided between three persons, viz., the cultivator, kanamdar and the janmi after making provision for the Government revenue. When there is no intermediary, it has been generally accepted that out of the net produce of the land the cultivator should keep one-third and pay two-thirds to the janmi who has to pay the Government revenue. When there is an intermediary like the kanamdar, he should get a fair interest on his kanam amount and also some portion of the net produce out of the two-thirds share given to the janmi. Since the kanamdar gets a fair interest on his kanam amount and also makes a profit, he must pay the Government revenue. Usually out of the two-third share of the net produce given to the janmi, the interest on the kanam is deducted and the balance divided equally between janmi and the kanamdar. The kanamdar therefore gets one-third of the net produce and out of this he has to pay Government assessment. It will be about one-fifth and therefore what the kanamdar gets will be about one-sixth of the net produce out of which he has to appropriate some portion towards the interest on the kanam amount.

(*b*) It appears that the Government should not have more than one-sixth of the net produce for revenue. As a matter of fact in many cases the Government revenue exceeds this share. This is so particularly in the case of garden lands in North Malabar. The profit which the janmi gets from the garden lands is very small but he has to pay a heavy revenue and most of the janmis of the North Malabar who own garden lands suffer heavily and many of them have to pay out of pocket. The commutation of paddy into money for revenue works great hardship.

(*c*) The person who is liable for Government revenue should ordinarily be the pattadar or the owner. When the kanamdar has undertaken to pay the revenue, his name should be entered as joint pattadar under the Malabar Land Registration Act III of 1896. Even in other cases when a tenant or a sub-tenant undertakes to pay the revenue, the janmi must have an option to request the Government to enter the name of the tenant as joint pattadar, so that the latter may be liable to the Government direct. Under the present law, as the verumpattamdar and kanamdar have a fixity of tenure, the tenants have no objection to have their names entered as joint pattadars liable to pay the revenue direct whenever they have undertaken to do so. Madras Act III of 1896 may be suitably amended.

8. (*a*) *Wet lands.*—The provisions regarding fair rent as to wet lands in the present Act have not yet come into operation and the courts had not to determine how far they are beneficial or injurious to any party. The Raghavayya Committee have given good reasons for arriving at the formula in section 6 of the Act as regards wet lands and one should presume it is reasonable.

(*b*) *Garden lands.*—The formula given in section 7 of the Act for garden lands omits to take into consideration the Government revenue. In the case of trees belonging to the tenant, he pays only one-fifth of the gross produce to the janmi. If the Government revenue is more than the one-fifth, the janmi has to pay the revenue out of pocket. Besides, in calculating fair rent, the produce of jack, mango, tamarind, palmyra and cashewnut are not taken into consideration, but these are taken into consideration in fixing Government revenue. The North Malabar janmis are very much handicapped by this provision. In such cases, the tenant must pay to the janmi the Government revenue also.

If the trees belong to the janmi, there is no reason why the formula for wet lands should not apply. Else the tenant must pay two-fifths of gross produce plus the Government revenue.

(c) *Dry lands.*—As regards dry lands converted into wet, for the first 20 years the tenant pays only one-fifth of the net produce under section 5 as fair rent. The janmi will have to pay the whole of this for Government revenue. In such a case, the tenant must bear the revenue, and may pay the janmi a lesser fraction, say one-sixth of the net produce.

As regards other dry lands, the formula in section 8 of the Act seems to be fair in the case of pepper, ginger, etc., in North Malabar. But in the Palghat taluk where groundnut is now grown as dry crop in many places, this works a great loss to the janmi. An acre of groundnut will produce about Rs. 80 worth of groundnuts net. The revenue will be only Rs. 2 or 3 an acre. At this rate the janmi will get only one-tenth of the net produce. It will be much better to fix a proportion of the net produce plus Government revenue in all cases. If there is no produce in any year, the tenant may be given a remission.

9. It is not at all advisable to fix fair rent in some proportion to assessment. In fixing Government revenue, Government have given various concessions in order to enable the tenant and the janmi to make some profit. A person who invests money in land must have some fair return as interest. It is better, as far as possible, to leave the parties to contract regarding fair rent, but a provision like that in the present Act may be made to enable the tenant to apply under the Act if he thinks the fair rent under the Act is more favourable.

10. There is no objection to this provision being made. As a matter of fact, it is only in extreme cases that the Government grant any remission. And in such cases, it is almost certain that the tenant will get greater percentage of reduction than what the Government grants. The failure of crops last year is a typical case. Many janmis have had to give large remissions to the tenants, but Government did not grant any remission of revenue to the janmi. If a hard-and-fast rule is made, it may work hardship to janmis and tenants.

11. There is no objection to standard weights and measurements being introduced. But a comparative table of local weights and measures in each taluk must be prepared and published and the tenants must be familiarized with the new weights and measures and their rents adjusted proportionately.

12. There are various versions regarding the origin of renewal fees. According to Mr. Logan it was customary for the Kanakkaran to remit a portion of the money advanced at every succession of a new janmi. Hence after a few successions the whole of the kanam would be wiped out. Sometimes the kanamdar used to pay the portion instead of having it wiped out in fraction, thus maintaining the original kanam. Sir Charles Turner agrees with this view. The existence of periodical renewals and levy of renewal fees are recognized by all the ancient writers like Mr. Farmer, Mr. Walker, Mr. Graeme and by the Board of Revenue in 1818. Originally the period for renewal was not fixed and it varied according to the circumstances. Since certain class of verumpattams also were subject to renewals, one would presume that the renewal fee is not connected with the kanam amount. It must have been in the nature of a succession duty, but the 12 years period was later recognized as a proper period for renewals. When Mr. Strange was appointed as Special Commissioner in 1852, he mentioned in his Report that the kanam generally enures for 12 years. This 12 years' period was recognized by the Suddar Court in 1856. As the customary verumpattams were usually granted by Rajas to their followers on favourable rent they insisted on a renewal fee at the end of the usual period ; the tenant who was making a large profit never grudged to pay it. Later on the renewal fee came to be regarded as part of the profit made by the tenant which he was bound to pay to the janmi. (Vide Graeme's report, Wigram's Malabar Law, pp. 106–8.)

13. (*a*) It is too late in the day to think of abolishing renewal fees. In big estates like that of the Zamorin or the Poomulli Mana, renewal fee is a substantial income every year, and the estates will be put to great difficulty if the renewal fees are abolished. Till now, there was never any proposal to abolish the renewal fees altogether, not even before the Raghavayya Committee. It was recognized on all hands that the customary verumpattamdar and kanamdar were bound by custom and law to pay a renewal fee to the janmi. The existence and payment of renewal fees have been recognized by legislation in Travancore and Cochin. Hence it will be very unwise to think of a total abolition of renewal fees.

(*b*) The Raghavayya Committee considered that in view of the fact that they were conferring a Fixity of Tenure on kanamdars and customary verumpattamdars, they should fix a fair renewal fee as compensation to the janmi (see pages 44 and 48 of their Report). If this compensation is now to be taken away, then it must be substantiated in some other form. The compensation has in a way been fixed by the Raghavayya Committee. If the renewal fee is not to be paid in a lump sum it may be divided into annual instalments and made payable along with the rent to the janmi. If this is done, the trouble of applying for renewal at the end of 12 years will be saved.

(*c*) The provisions of the present Act as regards renewal fee are fair and have worked well. The only possible alteration is that the renewal fee, as suggested above, may be

divided into annual instalments and made payable along with michavaram. I think this may meet with the approval of the majority of the janmis and tenants.

14. Cases of surrender are very rare. It may seem rather unjust to deprive the tenant completely of the kanam and value of improvements. This may to a certain extent be remedied by allowing the tenant half the amount, and giving the janmi time to pay by anuual instalments.

15. (*a*) The question does not make it clear in what further respects it is sought to widen the rights of the tenant by calling it occupancy rights.

(*b*) After the passing of the present Act, suits for eviction have considerably gone down. And I am not aware of any suits on unjustifiable grounds. The grounds for eviction mentioned in section 14 and section 20 seem to be fair and reasonable.

16. (1) I am not in favour of abolishing eviction on this ground. In many janmi families, we are now witnessing partition owing to the operation of the Marumakkathayam Act and the Nambudiri Act. Owing to partition individual members get small plots of land for themselves and if any of them want to cultivate the lands themselves, there seems to be no reason to prevent them from doing so. The same applies to cases of eviction for building purposes.

(2) The tenant has been specially directed to provide security for one year's rent in his own interest to avoid attachment and distraint proceedings later which will make things very hot for the tenant. This provision regarding furnishing of security was considerably debated upon in the Legislative Council and His Excellency the Governor insisted upon the provision and returned the Bill to the Council. The Raghavayya Committee was strongly in favour of the provision. In practice, however, I understand the janmi and kanamdars don't insist upon security and suits consequent on failure to furnish security are rare.

17. (*a*) Section 33 of the present Act does not seem to require any revision. It provides that a tenant should have been in occupation for 10 years to claim the right to purchase the kudiyiruppu. If this period is reduced, the consequence will be that every new tenant who comes in will build a kudiyiruppu and it will become very inconvenient for the landlord to keep all of them and sell portions of the holding. The Raghavayya Committee recommended that the right should be given only to tenants who were in occupation for 15 years, but this was reduced to 10 years in the Council.

(*b*) As regards urban kudiyiruppu, it is not necessary to give any right to purchase to the tenants, as the latter can easily get new houses. Besides, this system of compulsory sales to the tenant will work great hardship to the landlord in urban areas.

(*c*) No fixed area can be prescribed. It depends on the nature of the holding, and the necessities of the tenant.

18. The present legal provisions for compensation for improvements (Act I of 1900) require modifications as follows :—

(1) *Section* 6.—It is not clear whether there should be a preliminary decree and final decree. In such cases it is better to have a preliminary decree and final decree as in the case of mortgage suits and partition suits. After a preliminary decree is passed the tenant should be directed not to make further improvements and the commissioner should value the existing improvements and their value embodied in the final decree. The final decree may give certain time for payment, and if money is not paid, the improvements shall be sold. This right of sale is usual in mortgage decrees and may be extended to all ejectment suits. This will prevent janmis from keeping a decree non-executed for a long time and will enable tenants to realize the value of improvements quickly. This answer will cover the second part of the question. See 45 M. 202 at 204, 36 M., 32 and 43 M. 835.

The provision for re-valuation of improvements again in execution should be deleted. This will expedite execution. If the tenant goes on making improvements even after final decree, the appointment of a further commissioner for re-valuation will prolong litigation indefinitely.

(2) *Section* 10.—It is not clear who is entitled to spontaneous trees. If the trees belong to the tenant he can cut them during the tenancy. If not he cannot cut them. See 28 M.L.J. 184. This should be made clear.

(3) *Section* 18.—Regarding planting of coconut trees, the Raghavayya Committee say at page 72 of their Report (section 132) that 120 coconut trees on an acre are too many and this should be reduced to 80. Section 18 may be altered in this respect.

(4) *Section* 19 has given much room for litigation and the High Court has found this section so badly worded that four Full Benches had to consider the questions arising therein. These questions must be set at rest. See 40 M, 594 F.B., 32 M. 1 F.B., 33 M. 218 F.B. and 40 M. 603 F.B.

19. There are no feudal levies now demanded, to my knowledge. Hence no provisions are necessary to prohibit them.

20. *Fugitive cultivation and pepper cultivation.*—If the lands in a lease or kanam contains lands for fugitive cultivation or pepper cultivation also besides nanja or punja, the Act may be applied to them also. Else not.

21. This depends on the general views held by the tenants and janmis of the two localities, viz., Kasaragod taluk and Gudalur. Their views may be examined.

22 (*a*) The procedure under the present Act requires amendment in the following respects :—

(1) If the provision as to fair rent is to be brought into operation immediately, a special revenue officer may be appointed to fix fair rent in all estates where the tenants or the janmis require them. This must be subject to revision by a civil court.

(2) Whereas the tenant is given the right to claim renewal, the landlord is not given the right to claim renewal and renewal fees, except under section 27. This should be amended.

(3) The procedure under sections 20 to 25 is not very clear. The landlord is made to file a suit in ejectment, and then if the tenant claims renewal the suit is dismissed. Both the landlord and the tenant must have the same right, viz. to apply for renewal and to have matters settled if possible before a suit is filed. If it is finally settled that a renewal is impossible, then a suit for eviction may be filed. If a renewal is effected the landlord must have the right to get renewal fees in the application without being driven to a suit. The procedure may be simplified and all orders passed on applications.

(4) There may be a general direction to courts that matters under the Tenancy Act should not be pending for more than one month.

(5) Section 28 may be altered so as to bring fair rent into force immediately if the janmi or tenant requires it.

(6) In *Section* 29, the kanamdar must be made liable for Government revenue, as well as a tenant who undertakes to pay it, and provision should be made to have their names entered in the patta under Act III of 1896.

(7) *Under section* 30, the right to revision of fair rent must be given to the landlord also. Take the case of a cultivating kanamdar. The section makes no provision for it.

(8) Just as the fair rent is fixed, under the Act, the michavaram payable by a kanamdar and by a customary verumpattamdar may be fixed. The interest on the kanam amount in most of the existing kanams is over 9 per cent. This should be reduced to six per cent. There is no reason why the janmi should pay a higher interest than 6 per cent which itself is high in relation to agriculture.

(9) As regards appeal under section 50, the court-fee payable must be made similar to that on miscellaneous appeals.

(*b*) I have already suggested in the previous answer to question 22 (*a*), some of the measures to be adopted for fixing and collecting rent and renewal fees. In particular I may suggest the following :—

(1) For fixing rent: A special officer or officers may be appointed for fixing fair rent as and when necessary. His orders must be revisable by civil courts.

(2) As regards collection of rent and renewal fees landlords may be given power of distraint as under the Estates Land Act. *Vide* also section 48 of Cochin Tenancy Act, 1938 (Act XV of 1113) and section 33 of the Travancore janmi Kudiyan Regulation V of 1071 (1896).

(3) The tenant should be allowed to split up holdings only when splitting up is possible or advisable. Cases occur where a Muhammadan Moppilla tenant having 2 or 3 acres of land, dies leaving 5 or 6 male children, a widow and 2 daughters. The 3 acres if divided between the heirs, will become entirely useless for cultivation. Where the Moppilla is a kanamdar or verumpattamdar the same difficulty occurs. It is impossible to divide the kanam amount and the lands under Muhammadan Law and the janmi has the greatest difficulty in getting any rent.

(4) Tenants should not be allowed to split and assign portions of holdings without landlord's consent.

(5) If the landlord refuses to receive the rent or michavaram, the tenant may deposit it in court as in redemption cases under the Transfer of Property Act. *See* section 27 of Travancore Regulation V of 1071.

(6) Provisions should be made for increase or reduction of rent and michavaram —*vide* sections 33 and 34 of Cochin Tenancy Act of 1938.

(c) (1) Summary trials may be provided but there should be a right of appeal in all cases. Else the trials are likely to be very summary and arbitrary and even liable to corruption.

(2) It is better to avoid revenue courts as far as possible. Revenue officers are often in Camp and parties and witnesses find it very difficult to get at them. They are also not acquainted with judicial procedure. All people have confidence in civil courts.

(3) Right to file applications for recovery of renewal fees may be provided, as already stated above.

23. There are some serious disabilities pressing on tenants in Malabar. Some of them are common to tenants throughout India :—

(1) Difficulty in selling paddy and getting cash.

(2) Absence of irrigation facilities in times of drought and failure of monsoon.

(3) The abnormal fall in the price of paddy and agricultural produce.

(4) Want of facilities to adopt improved methods of agriculture.

(5) Absence of facilities to improve breed of cattle.

(6) Absence of dairy farms in Malabar to teach the tenants improved methods.

One of the chief factors which have made the position of all agriculturists very critical *including landlords* and tenants is *the abnormal fall in the price of paddy.* The present price of paddy is that which existed in 1900 whereas the necessities of life of both landlords and tenants have risen considerably. In 1900 a good cow can be got for Rs. 10 but now you have to pay Rs. 50. Gold has trebled in value if not more and the agriculturists have little or no gold ornaments left. In fact, *agriculture has ceased to be a paying profession.* Therefore if something can be done to remedy this, conditions will improve. The war probably would increase the price of paddy. But this may be only temporary. A better system of marketing, facilities to export agricultural produce, starting of more industries to consume raw produce, providing extra occupations to cultivators like opening dairy farms, increasing irrigation facilities, etc., are some of the remedies suggested.

The present condition of the janmis also is not enviable. There are about 220,680 pattadars in Malabar (*vide* Raghavayya Committee Report, page 26). Of these except about 6 or 700 janmis, the others are all in distress. There are only 269 landholders paying an assessment of over Rs. 1,000 (*vide* Legislative Council Voters' List).

24. There is some difference between North and South Malabar both as regards tenants and as regards janmis. The average holding for a janmi in North Malabar is only about 10 acres. There are a large number of kuzhikanam tenants in North Malabar and there is also fugitive cultivation and cultivation of pepper. The tenants in North Malabar are in other respects similar to those in South Malabar.

By the CHAIRMAN :

The earliest tenure must have been verumpattam. It is more or less inference from the facts I have given. It is a surmise. Comparatively I am acquainted well with the Estates Land Act, and I find that the tenure under the Estates Land Act is as much complicated as the Malabar tenures. Every one who has understood the tenures under the Estates Land Act is able to understand the Malabar tenures. The question of land tenures generally is very difficult to understand. In England also the land tenure system is very difficult to understand. And I find, comparatively, the difficulties in the Malabar Land Tenures are not more than what you find elsewhere. The difficulties of the under-tenure-holder are all minor difficulties which can be solved easily. Certainly it is advisable to eliminate intermediaries as far as possible and practicable. I think the process of elimination is going on already without legislation, because when intermediaries get no profit, they sell their right either to the upper man or the lower man. You can give the right of pre-emption to the janmi or to the kanamdar to purchase the property. The question of bona fide cultivation arises only in the case of small janmis. It is only in North Malabar such cases of bona fide cultivation arise; and in my opinion it is unjust whether a provision excluding the big janmis is necessary. If a big tarwad is divided

whether a provision excluding the big janmis is necessary. If a big tarwad is divided

into ten divisions, they may require some land for bona fide cultivation. Can you prevent them from doing that? I admit that no tenant can feel at present that his position is secure. He should be made to believe that his position is secure. and that he will have the enjoyment of whatever improvements he makes on his property. You can say in the case of devaswam property and sthanam property and perhaps in some big janmis, the tenants should not be evicted. But you cannot bind the hands of the smaller janmis. Or roughly, you can say, in the case of janmis paying an assessment of Rs. 1,000 and more, the tenants should not be evicted. There is provision in the present Act to prevent spurious instances of bona fide cultivation. You can add a provision in the Act to the effect that if the janmi, after evicting the tenant does not cultivate it himself within six years, the tenant can take back the land and the janmi can never afterwards evict the tenant from that land. In the case of small janmis a physical division of the property is entirely impracticable. Further I think the scheme is not practicable because you want everybody to be a cultivator. You cannot say, people should not invest in lands without being cultivators. As it is, most of the kanamdars are absentee landlords. Too much of fragmentation of land will reduce the value of land, as there will be no money in anybody's hands to purchase it. The idea that people should not invest money in lands is contrary to public policy. You must have a general formula for fair rent. If the general rule is unworkable in certain taluks, alter the general rule with reference to those taluks only. Half the gross yield will be a fair rent with some exception in certain cases, as in some cases it will be too much. To avoid injustice, where the rent on garden land is less than the land revenue the tenant should be made to pay the difference between the rent amount and revenue amount. In North Malabar that is the case in very many cases. As regards dry lands, it is not necessary to change the present provisions. I think some committee may be appointed in each taluk to fix the rent officially with a right of appeal to the civil court or the Collector just as in the case of settlement. In fact, the Settlement Party itself may be asked to fix the rent. That party may be asked to tour round and fix rent for all holdings. There is no objection to having respectable persons of the locality along with local tahsildars or revenue officials. It is advisable to fix the rent for all the lands at the same time. That will solve most of our difficulties very easily. Some sort of record of rights is the thing we want; and if that is done, there will not be so many of our present controversies. There will be no necessity for renewal document being executed. Whatever may be the amount of the renewal fee, it may be divided into 12 equal instalments. That will be better. When there are improvements on the land the provision regarding payment of arrears of rent before relinquishment is not quite necessary. Provided they have been on the land for a definite number of years, kudiyiruppu-holders can be given fixity of tenure. So long as they continue on the homestead as cultivators they may be granted fixity of tenure. But these people sometimes sell their kudiyiruppu rights to those who are not cultivators. It is necessary to see that the kudiyiruppu is attached to the cultivator and nobody else. Only cultivators should have fixity of tenure for kudiyiruppus. I agree that every cultivating tenant should have a kudiyiruppu. In urban areas the position is different. There, people can get any number of houses to live in and therefore there is no necessity to give fixity of tenure. House-sites too are available in plenty. It is possible to get good built houses. There is no objection to giving fixity of tenure to kudiyiruppu-holders provided they pay rent regularly to the janmi.

I am in favour of fixing a time-limit for the execution of decrees. The tenant must be given the right to sell his improvements. Section 19 has to be amended in consonance with the Full Bench Rulings. There should be a provision in the Act declaring feudal levies illegal. As regards fugitive cultivation, I have no objection to fixing the rent by legislation. Provision may be made to make it a little more liberal to the cultivator. I have no experience of the tenures prevailing in Kasaragod or Gudalur.

By Sri M. NARAYANA MENON:

The kanamdar was bound to render military aid to the janmi. I cannot say whether any particular janmi was getting military service from his tenants. *Naduvazhis* and *Desavazhis* were probably in possession of lands which were generally utilized for the benefit of the village communities. Probably waste lands were used as grazing grounds and the forest lands were utilized for purposes of fuel, etc., by the public at large. If such lands were being used for the purpose of the village communities previously, they may be put to that use now also. The Government may compel the janmis to grant Cowles as in the old days. In other districts the Government asserted their rights but in Malabar they gave up their rights in regard to waste lands and forest lands. They have alienated those properties in favour of the janmis and cannot, therefore, exercise those rights. Most of the janmis have mortgaged their rights and all that. There is no point in saying that you will now assume those rights. The Government cannot set right their mistake for the good of the public, because the property has increased in

value in the hands of the donee. If the legislature wants to get back those rights to the Government, provision would have to be made for compensating the janmis. If the kanamdar compulsorily purchased the janmam right, it would not be beneficial to either. The tenant would have to find the whole amount, and the janmi may not like to have the amount paid to him in a lump. You must give the option to the janmi also in the same way. You will otherwise be doing harm to one class and that is against public policy. The janmis have been on the land and the kanamdars have been on the land as investors and not as cultivators. Except for the reasons mentioned in the Act the janmi cannot now redeem his lands. The provisions of the present Act are quite sufficient protection to the kanamdar and the janmi.

By Sri K. MADHAVA MENON:

I have made personal enquiries and found that 2½ times the seed is more or less fair for cultivation expenses. Most of the verumpattamdars are very poor. The provision for security has been a dead letter all along. I have no objection to making a provision that kudiyiruppu-holders ought not to be evicted at all, provided they pay rent.

By Sri A. KARUNAKARA MENON:

The renewal fee is only a portion of the profit which the tenant is actually making. If he is not making any profit, there is no renewal fee. I cannot say whether the renewal fee on wet lands is higher now than it was.

By Sri P. K. KUNHISANKARA MENON:

If the renewal fee is not there, the rent would have been much higher. The renewal fee is justified because the michavaram or rent in the kanam is low. That is the main reason. There are very few modern kanams. All kanams are fairly old. In many of these kanams, the michavaram has gone on increasing. To-day in the kanam deeds the contract is not with reference to any old customary kanampattam but with reference to the pattam as assessed in the district. Even now when a kanam is granted, they take into consideration the fact that renewal fee is payable once in twelve years.

By Mr. R. M. PALAT:

The value of land has increased in proportion to the general productivity of the soil. Tenants make default in the payment of rent. .We know also that many of the janmis are unable to pay assessment. In certain cases the value of improvements would be so high that the janmi himself cannot purchase them. When this happens the janmi's right would be practically lost. When the tenant's right is sold, in such cases the janmi's right is also affected and may be sold too. Kanams were formerly evicted. The existence of permanent tenures such as *Saswatham* is one reason for saying the kanams are not perpetual. As it is in the interests of the janmi himself to grant cowles and take money, he can be expected to grant them.

91. The Raja of Nilambur.

Having followed the evidence given before the Committee and not having yet been able to express any views either in the form of answers to Questionnaire or in the form of a memorandum I shall feel grateful if you would kindly place before the Committee before it concludes its labours, this statement of case on behalf of myself and my Nilambur Kovilakam, of which, I happen to be the present karnavan and manager. I hope this representation from me also would receive due consideration at the hands of the Committee.

As early as in January 1903, the merit of the kovilakam as an exemplary landlord has been recognized by a Sannad granted by His Excellency the Viceroy and Governor-General of India. I am glad to be able to say that this tradition has been happily maintained till now.

I am mostly confining myself to the question of Forest lands in this memorandum. As my Kovilakam owns extensive forest areas and as any legislation about same is sure to affect my Kovilakam more perhaps than many others, I am placing my case before the Committee.

Though I have said that my Kovilakam forests are pretty extensive, considering there are 80 members in my Kovilakam and when further considered in the light of the 'explanation' to section 20 of the Malabar Tenancy Act which includes the "wife or husband and the children of the landlord" as members of the "family having proprietary and beneficial interest in the holding," there would be about 200 in number—a hypothetical division of the forests would give but a negligible area to each, and even here since

portions may be either rocky or permanently devoid of trees, it could not well be taken that large forests have become vested in one owner. The parties referred to herein are as much citizens as any others and their individual needs have to be considered in finding out if there is any excess of large forest lands in the possession of one owner.

Luckily, as things are, the Kovilakam is joint in status and is one included in the list of Impartible Tarwads in the schedule to the Madras Marumakkathayam Act. So, it has till now been possible to deal with and manage the forests as a whole.

For the last several years, I have been having as my Agent or Diwan, either retired Deputy Collectors, or retired Tahsildars or others of varied experience to help me in the management of my Kovilakam Estates. There is a separate establishment as far as the Forest department is concerned, consisting of a Forest Officer, clerks under him, foresters and forest guards. It is the duty of this department working unde the Agent or Diwan as the case may be to supervise forests, forest growth and forest work in all its details. In addition, occasionally experts in the line are called in to inspect the Kovilakam forests and offer adequate advices for their upkeep. I am mentioning this only to show that very serious importance is bestowed by the Kovilakam on the upkeep and working of the Kovilakam forests.

The forests of the Kovilakam are either in Ernad taluk of Malabar or in the Gudalur taluk of the Nilgiris district. Big portions of forest areas in Gudalur have been leased out decades ago for tea, coffee and other plantations and are accordingly now covered up by different estates—the O'Valley Estates, Limited, managed by Pierce Leslie Company, Limited, the Devarshola Group of Estates of India, Limited, Clifton, Mayfield and other estates under the Malayalam Plantations, Limited, etc., to mention only a few for instance. In recent times, some areas have been leased out for Cardamum plantation.

The areas left over are enjoyed as forest areas and are, generally, enjoyed by cutting trees and bamboos, trapping elephants, gathering minor produce, etc.

The forests continue in the direct possession of the Kovilakam. Regarding timber working, the Kovilakam does not transfer possession of lands, but only issues licences from time to time to work specific number of logs or trees on payment of Kuttikanam or ' Stump fee.'

Even here, only sale of so much timber as is absolutely necessary to equalize the family's modest budget is done annually. The species of timber-trees worked would vary with the needs of the market from time to time. Even this is becoming more difficult year by year since timber in Government forests is old at much cheaper rates than the usual rates adopted by the Kovilakam.

In the effecting of cutting, there is nothing like ' clear felling ' in any given area, but the cutting is widespread and since it is obviously to the interests of the contractor to have the biggest trees, it is generally the oldest trees that are felled. No injury to the forests in general is caused by this cutting and, if anything, this cutting just tends to help the regeneration and to improve the general forest growth, since, if the big trees here and there are removed, the existing smaller ones could and would grow and thrive in the spaces.

Some idea of the alleged injury, if any, to the forest by this usual course of enjoyment can be gathered from what is stated in the paragraph below.

Mr. H. A. Irwin, retired Utilization and Exploitation Officer to the Government of Madras was asked to inspect the Kovilakam forests and give a report with regard to the potentiality of the forests regarding timber. The purport of the report is to the effect that " the deciduous forests in the accessible portion have no doubt been subjected to intensive exploitation in past years. Yet they do contain a large quantity of timber of the species mostly in demand and it is worth extracting this major stock both for economy and for relieving the existing suppressed regeneration. Of course, the purpose of my inspection is mostly for finding out the possibilities of extraction; but one cannot help remarking that the plentiful regeneration both in the evergreen as well as in the deciduous forests require light and growing-space. Incidently, therefore, I may assure the Raja that exploitation of certain areas would only tend to enhance the value of such areas as they are so well stocked with regeneration of the valuable species." This shows that the present enjoyment of the forests by the Kovilakam is not carried on in a way, which would injure the forests or forest growth in any way at any time.

What does this timber work mean? There are innumerable poor people who get a living by being employed to cut this timber, to drag them, to work them to shape, to raft and float them, etc. Between the contractor and the merchant, there are ever so many who are benefited and make out profits and earn their living, as large number of merchants carry on a flourishing trade by making supplies to these people. Even the shandy at Nilambur is run at night time unlike other shandies to suit the men coming from forests after work. In fact, Nilambur owes all its importance to the working of the Kovilakam forests. Work of bamboos, collection and disposal of minor forest produce, etc., give work and therefore food to many. In the circumstances, any legislation which would

hinder the present enjoyment of the forests not only would cause disaster to the Kovilakam's well-being—the Kovilakam could not continue to live without working the forests—but would cause ruin to thousands of people who form the permanent as well as the floating population in the Nilambur area.

The Kovilakam has never abused its position as a big forest owner. Whenever and wherever, without detriment to the welfare of the Kovilakam, public causes could be helped in the area covered by the forests, the Kovilakam has never stinted its help. The site of the public road, Nilambur-Nadughani Ghat road and beyond up to Gudalur, is one given away free by the Kovilakam without taking any compensation. The Health Camp at Gudalur and other sites of public buildings have been given free.

Headloads of firewood and green manure for cultivation are generally given free.

Whenever any area could be made cultivable and it is found the area is not fit for growing good timber, such area is given for cultivation on very modest rent.

These instances are mentioned as illustrative of the mode of uses of its forests by the Kovilakam.

Regarding the constructive side, it has always been the anxiety of the Kovilakam to plant wherever possible teak so that it would add permanent value to the estate, simultaneously as a sure source of supply of that species of most valuable timber. As one motors to Nilambur, just after crossing Vadavaram river which constitutes one boundary of the Kovilakam lands, on either side of the road teak plantations could be seen standing and flourishing. Year after year, great attention is bestowed for planting as many teak plants as possible. About 50 acres are being newly planted with teak year by year. In recent times, cashew-nut also has been planted over large areas which are *prima facie* unfit for the growth of other kinds of timber. Rearing and protecting forest growth is a subject which vitally interests the Kovilakam and maximum attention is and used to be bestowed in that direction.

Capturing of elephants from Kovilakam forests is a practice as old as the Kovilakam itself. Elephants would generally continue to stay only if the forest growth is thick. This idea is always borne in mind in selecting the areas from which timber is worked. I have heard it from that school of thought which wants to deprive the forest owner of his forests that rainfall would be affected if forests are worked by the private owner. This is not a serious criticism. There are innumerable different elevations which could and would arrest rain clouds. Timber also on high elevations is not generally worked as that is unworkable, and if worked, unprofitable, since transport is difficult. As mentioned by me, in spite of timber work for decades by the Kovilakam, rainfall has not as yet been affected. There is no fear of any such calamity happening in the circumstances in which the Kovilakam is enjoying its forests and as every prudent forest owner is bound to be doing. If anything, clear felling alone might have given bad effect. It is only in Government forests this practice of clear felling is going on.

No punam cultivation is in vogue in these areas.

These are some of the points I have to urge against the plea of trespassing into long recognized individual rights of ownership of forest areas by hindering the necessary and honest enjoyment of forests by their owners.

By the CHAIRMAN:

The extent of my properties in Malabar and Gudalur is about 600 to 700 square miles. I pay an assessment of Rs. 75,000. The assessment I pay for the plantations in Gudalur is included in this amount. My paddy lands will be less than half of all my lands. I have the greatest possible objection to placing restrictions on the powers of janmis with a view to see that trees are not cut indiscriminately and the forests denuded. If that is done, very many janmis will be put to great hardship. More than three-fourths of my income comes from forests. The janmi has to look to the local demand; sometimes small logs are required by people, sometimes big logs. I cannot see how all forests can be or will be destroyed.

By Sri U. GOPALA MENON:

Any scheme may be adopted if it is necessary, but my own estate should be excluded because I take proper care of it.

By Sri A. KARUNAKARA MENON:

Rivers and streams will not be affected even if there is indiscriminate cutting of trees. I may agree as a principle that disafforestation may be bad; as a matter of fact, no harm is done.

By Sri N. S. KRISHNAN:

For the last 45 years I have travelled throughout Malabar. I have not seen any forest denuded; some areas were cleared of trees; it does not mean that the forest has been destroyed.

By the CHAIRMAN:

Even now we are allowing the ryots to take green manure from forests. I have the greatest objection if the ryots are given the right of taking green manure from forests. Why should the Committee or the Government think of placing any restrictions on the rights of janmis, when the latter are willing to give manure to ryots. The ryots will damage the forest. I have no objection to the ryots being given this right, subject to certain restrictions.

By Sri U. GOPALA MENON:

Many of our forests were purchased. The forest acquired by purchase is a minor part of my estate. I have got title deeds for the forests belonging to the family.

By the CHAIRMAN:

I asked for a loan from the Government for improving irrigation sources. I did not get it. I am not for the Government taking possession of them. I can myself utilize the whole of my resources, improve the works and allow the public to use them. Why should the Government take away any income I will get from the irrigation sources? If there are persons who are not making use of irrigation sources, the Government may be given the power to look after them. But my rights should not be touched. I have objection to Government taking over big irrigation sources. If the owners are willing, I have no objection; but all janmis will not agree to such a proposal. I am not in favour of the introduction of the cowle system. The present rate of rent, one-tenth of the gross produce, is fair in Gudalur now. Generally all the lands in Gudalur taluk are leased for 48 years and more; every 12 years the ryots have to pay a renewal fee equal to the rental of the previous year. That is one of the conditions of leasing the land. After 48 years the document will be renewed. We get the rent from the actual licensee at the time. The janmi's future should be safeguarded. You should consider the condition of the janmi also; now a large number of janmis have become poor. In some cases the tenants are in a better position than the janmis. There should be whole-hearted co-operation between the janmis and the tenants. Rent must be collected from the tenant every year; if it is in arrears for more than one year, it will be difficult to collect it from the tenant and the condition of the tenant will not improve at all.

By Sri M. NARAYANA MENON:

There must be legislation on that point empowering the Government, if necessary, to interfere.

We sought the aid of the Government in protecting our timber from theft committed by various persons. Eventually as a result of such representations and a conference the Timber Transit Rules were framed. The rules are very severe now. The old state of things was more beneficial. I lost more than Rs. 50,000 in a year; my Kovilakam is entirely dependent on the goodwill of the forest officers. I am willing to give occupancy right, on condition that whenever I want the land, I must have it. It is an absolute necessity, for if I want to purchase lands from others, it may be more costly.

By Sri N. S. KRISHNAN:

If it is proved that the cutting of trees will affect the rainfall, we will all co-operate to provide remedies. This must not be harmful to the owner.

By Sri M. NARAYANA MENON:

In my opinion, restriction of cutting may injure the forests. Sometimes you will have to cut small trees and whole trees for the better growth; unless you cut a certain number of trees, growth will be retarded. Any rules will curtail my liberty; that is my objection.

By P. K. MOIDEEN KUTTI Sahib Bahadur:

Most of the janmis have handed over their forest lands to others on long lease. So practically they have not got to do anything with them. I have not the least objection to hand over my whole estate to the Government if they give me my money. On the other hand, I will be grateful to them.

By Mr. R. M. PALAT:

The forests are properly governed now. I wanted Mr. Irwin, the forest officer to get me expert opinion as to the quantity of trees to be cut and if I wanted a million cubic feet, every year, how long could I continue in that way. He selected a few areas and one

particular fifty-mile area. His opinion was that at several places cutting of timber is good for the growth of the forest and that for at least 75 years I could go on like that. Every year there is some replanting. The main source of the Kovilakam's income is from forests. There has been no diminution of rainfall in my experience. Want of rain has in no way affected the crops in Malabar; it is not on account of the timbers cut. There has not been any case in my Kovilakam where any application for waste land has been refused. I wanted a thousand families to take a hundred acres each; only half a dozen came forward. I told them that for five years I did not want any rent. If a poor tenant is given any land, in two or three years he will sell it and go away. In Gudalur taluk our verumpattam is given on 20 years' lease.

By Sri N. S. KRISHNAN:

The rain is not becoming less and less. In two or three years there will be less rain, while in others there will be more rain. You must take figures for a hundred years to draw any inference.

By Sri A. KARUNAKARA MENON:

Rent may be collected by summary methods like Government revenue, by attachment.

By Sri M. NARAYANA MENON:

I don't think there will be any danger in Ernad taluk if Government makes an attempt to collect rent by distraint. They are collecting revenue like that; there is no danger.

By Sri N. S. KRISHNAN:

The Government may collect the rent and pay it to the landlord. It will be a very good thing. I am willing that a commission also may be taken by them.

92. Sri P. Govinda Menon, Advocate, 64, Poonamallee High Road, Vepery (Post), Madras.

1. (1) *Origin of janmam.*—The word signifies absolute right and in my opinion the janmis of Malabar had been the absolute owners of the land even before the conquest of Malabar by Hyder Ali and Tippu Sultan. There are no reliable data available showing the origin of the janm right prior to that period. But both Hyder Ali and Tippu recognized the absolute right of the janmi in the land.

(2) *Origin of kanam.*—In South Malabar kanamdars had been the actual cultivators of the land and in possession of the same before the Mysorean conquest and more or less the tenure was a permanent one so long as the janmis' dues were paid.

(3) *Kuzhikanam.*—This tenure is prevalent mainly in North Malabar and corresponds to the kanam tenure in the south, the kuzhikanamdars being the persons in actual possession.

(4) *Verumpattam or simple lease* came into existence after the conquest of Malabar by the British. This sort of tenure was very rare before the 18th century.

(5) *Other tenures.*—Numerous other tenures prevailing in Malabar have come into existence on account of the peculiarities of the various localities where they exist. Some of them owe their origin to Royal grants, others as remuneration for past or future services.

2. (1) As I have already mentioned in answer to question 1, the janmi was the absolute proprietor of the soil; the kanamdar in South Malabar and the kuzhikanamdar in North Malabar were the actual cultivators whose tenure was more or less permanent so long as the dues were paid.

3. The judicial decisions have rightly recognized the proprietary right to the soil in the janmi but have mistakenly considered the kanamdars and kuzhikanamdars as more or less mortgagees. Judicial decisions had also wrongly given the janmis unfettered right of ejectment after the expiry of the period of kanam or kuzhikanam. This was contrary to the law and custom prevalent before the advent of British rule. So far as other tenures are concerned, judicial decisions have not made any radical innovation.

4. (*a*) In my opinion the revenue authorities and civil courts were perfectly justified in presuming that all lands in Malabar including waste and forest lands belong to the private owners. The State did not have at any time proprietary rights or ownership in the land in Malabar.

(*b*) So far as I know there are no important sources of irrigation in Malabar owned privately. Here and there there are small tanks constructed by either the janmi or the persons in possession and they belong to such persons. Except a few streamlets in the taluks of Palghat and Walluvanad, there are no irrigation sources worth mentioning in Malabar. With regard to waste lands and forests I am of opinion that the adjoining

cultivators of forest land should be allowed to get green manure from the forest especially where the owner of the forest has no cultivation at all. I do not think any restriction need be placed on the rights enjoyed by the owners of waste lands.

(*c*) In my opinion the Government should not, except by the application of the provisions of the Land Acquisition Act, take possession of waste lands and grant them to cultivators.

5. (*a*) I do not think it desirable to eliminate either the janmi or the existing intermediaries. But I do think that the cultivator or the person in actual possession should be given a right by statute to purchase at a proper and reasonable price, to be fixed by a court of law, the rights of one or more of the intermediaries above him and also of the janmi. Proper amendments may be introduced in the Malabar Tenancy Act for conferring this right on the actual cultivator. The cultivator should be given the right to eliminate the intermediaries and the janmi only on payment of proper and reasonable compensation.

(*b*) (1) The answer is the same as 5 (*a*).

(2) It is not practicable to limit the area in possession of the actual cultivator to that suitable for a ideal farm.

(3) I do not think that sale and purchase of cultivating land should be restricted. If a non-cultivator purchases cultivating lands, he will become an intermediary who will be liable to compulsorily sell the land to the actual cultivator. This in my opinion will be sufficient safeguard.

6. The under-tenure-holder should be protected from the defaults of the intermediaries. Legislation can be introduced for making the rights of the intermediary alone, responsible for the dues payable by him. Provisions of the Malabar Compensation for Tenants Improvements Act will also require amendments.

7. (*a*) In the case of paddy lands where the actual cultivator or intermediary has not effected any improvements to the land the actual cultivator should be entitled to one-third of the balance remaining of the net produce after deducting the Government revenue assessed on the land for the same. The net produce should be calculated by deducting from the actual yield all the cultivation expenses. The remaining two-third should be allocated between the janmi and intermediaries in proportion to the number and interest of the intermediaries. When there are no intermediaries at all and the actual cultivator is only a verumpattamdar he should be entitled to two-fifth of the balance of the net produce and the janmi three-fifths. When the kanamdar is the actual cultivator, his share should be not less than four-fifths of the net produce arrived at after deducting the revenue. The allocation of the two-thirds of the produce between the janmi and the intermediaries should be left to the decision of revenue officers subject to a right of suit. Where the lands are garden lands in which the trees belong to the person in possession, the janmis and the intermediaries together should not be entitled to more than one-tenth of the balance of the net produce after deducting the Government revenue. Of course in this and in the previous instances where there are kanam amounts charged on the land or other encumbrances, the interest on such amounts should be deducted out of the share of the party liable to pay the amount. In the case of garden lands also the allocation should be in proportion to the interest, possessed by the janmi or intermediary as the case may be.

(*b*) The system of Government revenue in Malabar is not at all based on the produce of the particular lands. Lands have been classified according to various *tharams* and the amount of revenue per acre is fixed irrespective of the actual produce of the acre. This kind of classification has worked great hardship so much so that in very many cases the Government revenue comes to much more than half the produce of the field. In my opinion the system of revenue settlement requires radical change and the actual produce derivable from the land should be made the basis of fixing the Government revenue. The quality of the soil should never be made the basis of revenue settlement.

(*c*) As I have already stated, the Government revenue should be deducted from the net produce and it is only the balance that ought to be allocated between the cultivators, intermediary and the janmi. The actual cultivator should be made liable for the payment of Government revenue as the division of the produce is after deducting Government revenue.

8. The provisions of the Tenancy Act fixing the fair rent are rather complicated and can be simplified. The fair rent should be the balance of the net produce after deducting the Government revenue and the cultivator's share from the actual net produce. A revenue officer not below the rank of a deputy tahsildar may be given power to fix the fair rent in cases where the parties do not agree and his decision may be made final subject to the result of a civil suit.

9. As the settlement of Government revenue is not based on the actual produce of the land, I do not think it advisable to fix the fair rent in any proportion to the assessment.

10. As I am of opinion that the Government revenue should be deducted out of the net produce and should be payable by the person in possession, there is no necessity for any remission of rent as contemplated in this question.

11. I am of opinion that the weights and measures should be standardized but my knowledge of the subject is not sufficient as to warrant my giving any opinion about it.

12. Renewal fees are the payments of the rent to the janmi in a lump sum. In many cases the michavaram is fixed at a low figure and the renewal fee is enhanced. The system of impartibility and the existence of sthanams as also the existence of trusteeship in temples owning large properties are responsible for evolution of the renewal fees as it is understood to-day. It may have a historical origin but that is of no practical importance now.

13. (*a*) As I am in favour of allocating the net produce between the janmi, intermediary and the cultivator, the system of renewal fee can be abolished.

(*b*) So far as the janmi is concerned, when he gets his legitimate share of the net produce the abolishing of renewal fee does not work any hardship. So far as the intermediaries and tenants are concerned, fixity of tenure can be conferred by preparing a record of rights with respect to each survey field in a village showing the names of the janmi, intermediary and the cultivator and revising the same once in every three years. A copy of this record of rights should be the title deed. This record must show the proportionate produce enjoyed by the janmi and the intermediary. This can be done by the revenue officials and in cases where parties are aggrieved, a right of suit in a civil court can be given. The record of right should show the rights of the different categories of owners and holders.

(*c*) Provisions of the Malabar Tenancy Act regarding renewal fees can be repeated as in my opinion renewals will be unnecessary.

14. Any person who does not want the land should be allowed to relinquish the same, but the janmi or intermediary should not be compelled to pay the value of improvements in case of relinquishment.

15. (*a*) The actual cultivator should be given occupancy rights provided he pays the proper share of the net produce due by him as fair rent and he should be compelled to give up the land if he keeps the amount due from him in arrears for two years consecutively.

(*b*) I do not think that after the passing of the Malabar Tenancy Act there have been evictions on unjustifiable grounds. Instances of eviction are very rare. I do not think it necessary to amend the Act regarding the grounds for eviction. Non-payment of fair rent for two years should be a ground for eviction.

16. (1) The janmi or intermediary should be allowed to evict the person in possession provided he requires the holding bona fide for cultivation or for building purposes ***for himself***. I would not allow it for the members of the tarwad.

(2) As the janmi or intermediary can evict the person in possession if he keeps two years dues in arrears, a tenant in possession need not be compelled to furnish security.

17. (*a*) to (*c*) I do not think any change in the present Act is necessary.

18. In my opinion the present provisions of the Malabar Compensation for Tenants Improvements Act do not require any change except to the extent I mentioned above in answer to question No. 6.

19. Except in certain interior parts of North Malabar, feudal levies are not generally prevalent in the district. In view of my opinion regarding the proportionate allotment of the net produce between the various categories of persons, all kinds of feudal levies or payments of sundries can be prohibited.

20. (*a*) I do not think it desirable to extend the provisions of tenancy legislation to fugitive cultivation.

(*b*) It can be extended to the cultivation of pepper but the cultivator should be entitled to at least nine-tenths of the net produce.

21. As Kasaragod taluk of South Kanara and Gudalur taluk of the Nilgiris districts are, in fact, parts of Kerala where the same system of land tenures obtain, I do think the Act should be applied to those places as well.

22. (*a*) The procedure of the present Act does not work any appreciable hardship on the parties concerned except that in some cases the procedure is a bit complicated.

(*b*) As I am of opinion that the renewal fee should be abolished the question regarding the procedure for collecting it does not arise. But if renewal is to remain, the janmi should be given a right to collect it by a petition to a court.

(c) With regard to the collection of the proposed share of the produce due to the intermediaries and janmis, civil courts may be given power to try such suits summarily. With regard to the trial of proceedings under the present Act, no change is necessary. With regard to the proposed Act, as I am for abolishing renewal fees the right to file suits or applications for recovery of the same need not be provided for, but revenue officers may be invested with the right to fix the net produce of the land subject to a right of civil suit. With regard to the allocation of the share of the net produce between the janmis and intermediaries, a civil suit may be provided where parties are aggrieved by the revenue officer's decision.

23. I am not aware of any serious disability peculiar to a Malabar tenant. His condition has very greatly deteriorated in recent years on account of the economic depression and poverty. It is not due to any peculiar incidents of land tenure.

24. As I have already stated, in some parts of North Malabar feudal levies are even now collected. They may be prohibited by suitable legislation.

By the CHAIRMAN:

Before the advent of British rule, ancient janmis were in possession of lands. Later on some of them purchased or acquired lands by some other means, as in the case of the Zamorin Raja, who owns extensive lands in all parts of Malabar. I have looked into the matter only from 1792. There is no presumption of private ownership in other parts of the Presidency. But for Travancore and Cochin, I am not sure. As for the reason for their making such a distinction, there are various features such as the Marumukkattayam system which are peculiar to Malaar. The land tenure system also is different. Private ownership is referred to in the books of the Morrish traveller, Ibn Batuta of the 14th century and of Marco Polo. I have not investigated the matter. It would be desirable to give the cultivating tenants the right to take green manure from and free grazing in private forests. Waste lands are prevalent only in very few parts of the district. If unoccupied dry lands are considered as waste, even that will not be more than 10 per cent. They will not be fit for cultivation unless large sums of money are spent over them. In the case of such lands, some compensation might be given. I am not aware of any need for the Government to be given the right to take possession of irrigation sources. I refer to streamlets in Palghat and Walluvanad taluks only. An actual physical division of the property is not a feasible idea. The janmi may be somewhere else and this division will make him let out the land to somebody else. So it will be subdivided again. I do not think it is practicable to give the future lessee in such cases no fixity of tenure. The best way is right of purchase. The lands of those who do not actually cultivate may be purchased and some kind of Government bonds may be issued to them. Subdivision is not advantageous because the land will again be subdivided. If a provision is made that fragmentation below 5 acres will not be allowed, that will work a great hardship for people who have invested money in the purchase of janmams. I know very many instances both in South Malabar and North Malabar where tenants have come into existence very recently. It is only State Socialism or Communism or Collectivism that can solve the land monopoly. The power to evict for one fide cultivation must be there. The Court should decide whether the land really requires it. When there is a conflict between the landlord's bona fide requirement and the tenant's bona fide right of purchase, I have no objection to give preference to the latter. The provision regarding bona fide cultivation should remain even if the right of purcahse is not given. Otherwise it will work a lot of havoc. My experience of ten years of the working of the Malabar Tenancy Act has convinced me that this bona fide cultivation has not been even 2 per cent of the whole litigation of the district. I don't know whether there are similar provisions in the Agra Tenancy Act. But the conditions are quite different. The whole question is as to whose interest ought to prevail. The bona fide requirement of the land by the janmi depends upon the circumstances of the case. It should be left to the courts to decide what is bona fide requirement.

By Sri M. NARAYANA MENON:

I am for leaving the term ' bona fide ' as it is. It depends upon the individual who wants the land; one man's requirement is not the same as another. Well-being is a vague term. A man's requirement depends upon the mode of living to which he is accustomed, the way in which he is going to live hereafter and things like that. If a Nambudiri wants to take to cultivation, and his circumstances are such as to compel him to take to cultivation, I would give the land to him.

By Mr. R. M. PALAT:

If the tenant is allowed to have only as much land as he requires for his own bona fide cultivation and required to surrender the rest to the janmi if the latter wants it, it will create hardship.

(*Witness volunteered*): If a janmi pays an assessment of Rs. 1,000 and more, he is not likely to take to cultivation; he is supposed to have sufficient status.

By the CHAIRMAN:

Half the gross produce comes to the same thing as the present provision. Cutlivation expenses depend upon the soil. All round Malappuram, the land is very fertile; you need not put any manure at all; in those parts the present rate will be quite right. The rents of all kinds of lands in the same locality may be fixed at the same time by a Revenue Commission including three or four persons of the locality. A record of rights also might be prepared at the same time. The revenue official should be one not below the rank of a Deputy Tahsildar; it would be better to appoint Divisional Officers for this purpose, but it will be more costly.

By Sri M. NARAYANA MENON:

If the tenant does not pay the rent regularly, you may resort to a summary suit. I do not think that the tenant who wants to stick on to the land, will not pay the rent regularly.

By the CHAIRMAN:

The janmi may be allowed to evict the tenant for building purposes for himself and not for the members of his family.

By Sri M. NARAYANA MENON:

The junior members of the tarwad should not be given the right of purchasing the rights of the person who is in actual possession of the land.

By the CHAIRMAN:

The present provision for kudiyiruppus is quite sufficient. My experience is that very few kudiyiruppu holders are evicted. I have no objection to giving fixity of tenure to kudiyiruppu holders who have held for ten years, as it is now.

By Sri M. NARAYANA MENON:

When the land becomes more valuable, the landlord must have a share.

By the CHAIRMAN:

It is necessary to fix a time limit for execution of decrees in ejectment.

By Sri M. NARAYANA MENON:

I have no objection to have a provision made for revision of michavaram in exceptional cases. But that is only half a per cent. The Transfer of Property Act allows it and the provisions of the Act may be suitably amended to include all such things.

By Sri A. KARUNAKARA MENON:

The tenant should be given the right to defend a summary suit, only if he shows good cause. Fair rent may be fixed for each survey field. A subdivision may be a minimum. There may be periodical revision.

By Sri N. S. KRISHNAN:

If the fair rent is to be divided in proportion between the janmi, the kanamdar and cultivator, then renewal fee need not be paid because the rent will include the renewal fee to be collected every year. But if the existing conditions are to continue, then the janmi must be given the rights to recover the rent. My solution is there is a record of rights which gives the title to the holder. Then no renewal is necessary at all.

93. Sri K. G. Sivaswamy, Member, Servants of India Society, Royapettah, Madras.

1. Investigations of historical origins is not a wise method for solving questions relating to tenures. It will increase present day controversies and prevent proper legislation on the basis of the needs of agricultural economy. Enquiry in every country will show that the ancestors of the aboriginals of to-day were the first squatters. The origins of equitable property in Roman, English and Hindu Law are traced to the rights of possession by the first occupants of a property.

2. At the time of the advent of the rule of the East India Company there were proprietors of land called janmis and mortgagees called kanamdars. Cultivators were paid certain customary compensations for the improvements they made on the land and were

entitled, as tenants, to a third share of the profits after deducting the miscellaneous payments on the harvest floor and cultivation expenses, called profits of the *Kozhu, Kozhu labham,* and the tenants were not ejected so long as the customary rents were paid.

3. Judicial decisions have hardly made any change in the tenures.

4. The State has always the inherent right to take possession of waste and forest lands and develop their resources.

The larger interests of national production and employment of the rural population require that the State should have the power of resuming lands habitually left uncultivated and of admitting new tenants into possession.

5. (*a*) If fixity of tenure at a fair rent is granted to the cultivator, the intermediaries will not find it to their advantage to maintain their interests in the land and will take to direct cultivation. The extrication of the agricultural organization from kanams and other tenures is an extremely complicated one. The heirs of the old kanamdars who existed about 1850 and the heirs of transferees who existed about 1850 might be given fixity of tenure at fair rents, even though they are *rentiers* to-day. For after 1850, judicial decisions have made clear that kanam is a mortgage for twelve years. To satisfy existing interests, cultivating kanamdars and kuzhikanamdars may be granted occupancy rights on similar terms as verumpattam tenants. But the kanam amount should be returned to the kanamdar (vide minute of Mr. H. R. Pate in the last Committee report). It is not enough if all cultivators are given security of tenure at a fair rent. Their subletting in the future should also be prevented. This means that legitimate subletting should be permitted and renting profit should be penalised both in respect of a janmi and a cultivator. (Vide C.P. Tenancy Bill No. 50 of 1939 Clause 40.) The home-farm of a janmi should be defined and the rest declared a tenancy land.

(*b*) (1) Tenants, if they want, may purchase the melvaram right of the janmi. But tenants may find it more convenient to pay the rent than pay the capitalized value of the rent by borrowing elsewhere.

(2) When tenant rights are granted for the first time in lands in excess of that which can be cultivated by a janmi, and wherein tenants have not been cultivating a definite area, it is possible to limit the area of land given to them to that suitable for an ideal farm. In other cases a tenant will hardly agree to a reduction in the area of his farm when legal protection and status are conferred on him. It is also possible in the future, as has been provided in the Bombay Tenancy Bill of 1939, to prevent subdivision of tenancies below a certain minimum holding and regulate their succession to a single heir.

(3) Sale of land should be restricted to agriculturists who cultivate lands either personally or by hired labour or by members of their families. It should be prohibited to the money-lenders, lessors of agricultural land, those in learned professions drawing monthly salaries, lawyers, those who pay income-tax on non-agricultural incomes, and those who pay profession tax above a certain limit. A buyer of land may be an agriculturist to-day, but he may sublet tomorrow. Hence leases should be regulated.

6. In the proposals mentioned above only one intermediary of the janmi is recognized. The question of default by intermediaries other than the janmi does not arise. The revenue payer should be the cultivator.

7. (*a*) Assessment being based on net incomes, the best method of fixing rent is to fix it as a multiple of assessment. In Malabar, custom and legislation have approved one-third share of profits after deducting miscellaneous payments out of the harvest and cultivation expenses, as due to the tenant. Cultivation expenses have been calculated at six or seven times the seed by Mr. Moberly. Deductions for unprofitable areas, vicissitudes of the season; and cartage and merchants' profits in the conversion into money rates have to be made. Cultivation expenses should include the following:—The Burma Committee says, " We consider that the cultivator should retain for his own use same part of the crop over and above the minimum required to maintain himself and his family in reasonable comfort as that is understood by this class of cultivator in the district in which he lives." The same principle is mentioned in U.P. Tenancy Bill. The Taxation Enquiry Committee says that ' return for enterprise ' should form part of cultivation expenses. The recent Bombay Bill says that profits of agriculture of similar lands in the locality should be considered. When Hindu and Moghul administrators fixed the land revenue, it was one-sixth of the gross produce. Sir Thomas Munro fixed it for the cultivating owner at half the net produce. The idea was that the balance would go to the cultivator to meet losses due to crop failures and death of cattle. The C.P. Land Revenue Settlement Act mentions that " depreciation of stock and buildings, interest on their cost, and remuneration for supervision should be considered in determining cultivation expenses."

When land revenue is revised so that it will be for the soil and not for improvements, fair rents will also become based on soils, and will not be in proportion to improvements.

(*b*) The assessment should not exceed the share of the Government fixed in settlement rules. Landholder's rent should not be more than double the land revenue. (Vide G.O. No. 245, dated 15th March 1905, recording report of Revenue Department by Mr. N. Macmichael, paragraph 69. " If as seems likely, legislation on behalf of the janmi will be required, it might perhaps take the direction suggested by Sri Henry Winterbotham fifteen 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.") But the scheme settlement report of 1930 (page 34) says that ' the rent generally ranges between five or six times the assessment to between ten and twelve times the assessment.'

(*c*) The cultivator should be responsible for paying the land revenue.

8. The existing provision regarding fair rents entails the greatest hardship for the cultivator. According to the customary law of Malabar, Warden's proclamation, the Malabar Tenancy Act and the land revenue rules, rent connot be more than land revenue. Hence the fixation of rent at twice the existing land revenue will be the fair rent. Two other considerations should also be borne in mind. The one is that a minimum wage for the days of work should be assured. The second is that one-third of the net produce should go to the tenant as profit.

The calculation of cultivation expenses on the basis of seed is an extremely unwise method as certain lands may require more expenses than others irrespective of their ratio to the expenditure on seeds.

There should be provision for alteration of rent in years of fall in prices. Local Government should have power to reduce rents in the interest of public order or local welfare. (Bengal Tenancy Act, section 112.) Provision for remission in scarcity years should be embodied in the Act and not left to rules. (Vide sixth schedule to U.P. Tenancy Bill, 1939.)

9. This question is answered above. Where a cultivating kanamdar is recognized as a tenant under a janmi, his rent shall be similar to that of other cultivating tenants, interest not exceeding 6 per cent for the future being paid to him on the amount advanced to the janmi.

12. Renewal fees were nothing more till 1930 than periodical adjustments of sums due between a mortgagor and mortgagee. Unfortunately since 1930, mortgagees with possession have been recognized as tenure-holders by the recent Malabar Tenancy Act. Every Tenancy Bill has attempted to control mortgages, so that subletting may be also controlled. In order to redeem the debts of Agriculturists, Tenancy Acts and Mortgages Redemption Acts have not only restricted the period of mortgages, but have given retrospective effect to such a provision, thereby annulling old mortgages. But Madras has deliberately gone the other way of declaring mortgagees as permanent lessees at certain defined rents. If this section of the Malabar Tenancy Act is not repealed early, Government would only be nursing by their action a future revolution among the peasantry.

13. (*a*) Renewal fees should be abolished. The kanamdars and other intermediaries should not be recognized in law, excepting cultivating kanamdars.

(*b*) No question of compensation arises in case of kanam intermediaries. The kanam mortgage will show the amount due. The kanam amounts cannot be annulled on the basis of the duration of the mortgages, as they have been renewed consecutively. But in the case of small janmis whose annual income from land is no more than Rs. 600 and whose main source of income is land, there is no reason why they should not be helped.

Janmis, kanamdars, and kuzhikanamdars who are cultivators, with incomes below Rs. 600 should be allowed to redeem kanams and mortgages from persons with incomes above that sum. Provision for complete liquidation of debts of these agriculturists should be made; the formula for scaling down as provided in the Madras Debt Relief Act for debts incurred before 1932 should be applied to these kanams and mortgages. In addition the provision under the Agricultural Loans Act of calculating interest at 6 per cent and crediting the excess payment under interest to the principal should be made applicable to these mortgages and kanams. This relief will release a large number of small holdings from debt, particularly of the North Malabar janmis.

But legislation for the future against abuse of mortgages to evade regulations against leases should be provided for. The period of mortgages with possession within which the debt should extinguish itself should be defined in law. Mortgages which convert the mortgagee into a perpetual tenure-holder will be thereby prevented. In order to reduce the need for making usufructuary mortgages for raising credit, there should be provision in law for a charge on the produce on a definite area of land and for the same period for which

usufructuary mortgages are permitted, along with a simple mortgage in favour of the mortgagee. When a mortgaged land is brought to sale through courts, it should be sold only to agriculturists thereby again preventing the passing of land to non-agriculturist *rentiers*.

14. The Malabar Tenancy Act should make it clear that a relinquished land is a tenancy land and cannot be added to the private lands of a zamindar. In cases of surender of the holding, the under-tenure-holder (or the incumbrances) should be allowed to take the land on the terms on which the intermediary held it. Surrendered lands should vest in the State. [Vide Royal Edict of 1005 (1830) quoted in Janmi Kudiyan Committee report of Travancore, 1916 page 61.]

15. The tendency in recent tenancy legislation has been the grant of occupancy rights to cultivating tenants irrespective of their period of settlement on the lands. The whole history of tenancy legislation proves that landholders are sure to evict their cultivators in order to prevent the accrual of tenancy rights if the latter is based on a certain defined period of occupation.

16. Eviction should not be allowed on any grounds in the case of cultivating tenants. In the case of non-cultivating kanamdar, customary verumpattamdar, or kuzhikanamdar the small cultivating landholder should have the right to sue for redemption even before twelve years, and the payment of the renewal fee should be no ground for continuing them as tenure-holders. The only one ground on which evictions may be justified is the non-payment of rent. But eviction is not necessary in such cases. The holding may be brought to sale.

I am for abolition of landlords' right of resuming tenancy lands for personal cultivation and of one year's rent as security, as the former interferes with the larger right of a cultivator to develop his land, and the latter is nothing more than a purchase price or compensation which certainly cannot be claimed as no property is sold to a tenant by a landlord. Rent can be claimed only when there is an yield and not before the land is put into use.

17. (*a*) The State should set apart a certain portion of the land of the proprietors as kudiyiruppu for its inhabitants, free of any rent. Such a site should be heritable but not transferable without the consent of the revenue officer, though the materials on it may be transferred.

The principle of homestead legislation is that the land should comprise the area of a house, an adjoining space, a backyard and a small pond which can supply fish and also be useful for irrigation. The area should be fixed between 50 and 100 cents. The homestead portion should be exempt from forced sales not only for rent but also for debts.

(*b*) Urban kudiyiruppus are really non-agricultural lands and there can be no objection to a landholder collecting any rent from the occupier according to contract provided it is dealt with as non-agricultural land by the municipality which has every right to claim the unearned increment in these lands as well as to regulate rents.

18. Compensation for improvements arises only in case of eviction. When once tenancy rights are granted for all occupants on the land, and when no landholder is permitted to raise the rents or to bake improvements on the land, there is no need for "Compensation for Tenants' Improvements Act."

20 & 21. The Tenancy Act should apply to all forms of cultivation. It should be extended to Kasaragod and Gudalur taluks.

22. (*a*) & (*b*) In the case of smaller agriculturists the implements and materials of husbandry, animals kept for husbandry and the produce and cattle necessary for the maintenance of the cultivator and his cattle respectively till the next harvest should be exempt from attachment. Distrained crops or distrained cattle shall be in the custody of the tenant. The date of sale should fall in the dates when the crops mature and they can be sold. Distraint should be restricted to standing crops or products ungathered or gathered on the holding, deposited on a thrashing floor or the like (vide U.P. Bill). Where rents could not be collected by attachment of a portion of the produce raised from the land whose rents are in arrears, the alternative of selling a portion of the land may be adopted. But enough holding as is necessary to recover rent on the basis of a fair price should alone be auctioned. Interest of mortgagees should be protected as far as possible. Distraint processes should be permitted only during the year in which the rent falls into arrears. Rent should be fixed by settlement officers and not left to courts for decision.

The best method of avoiding the interference of the landholder in the collection of arrears is the collection of rent by the State and its payment to the landholder.

(c) (1) Distraint proceedings should be undertaken for arrears for a single year and during the year in which they fall due. Other rent suits in case of disputed rents should not be for rents older than three years on the date of the suit and should be recovered within three years from the date of the decree. The procedure of the Civil Procedure Code in respect of recoveries of civil debts should apply in these cases.

(2) The agency for trial of all proceedings should be revenue courts.

23. The tenancy problem has been complicated in Malabar by granting rigths to mortgagees and intermediaries. This is the serious disability pressing on tenants in Malabar.

By the CHAIRMAN:

My native place is Tinnevelly. I have been a member of the Servants of India Society for the last 20 years. Whoever is the cultivator, give him security. That is my idea. If you go into the historical question we cannot adjust the rights now. If the kanamdar is a cultivator, he gets the right. If he does not cultivate, he is not doing the very work for which he was given the right. That shows that so long as he is industriously cultivating he should be on the land. If he has put industry into it, let him take the return. I don't object to any historical facts; but can we stop giving fair rent legislation for the cultivation on the grounds of proprietary rights? No tenancy legislation has taken into account the existence of proprietary rights. If you find that the kanamdar was really the proprietor till 1850, and if his heirs exist to-day, I would give them proprietary rights. The people who purchased kanam rights after the dicisions of the Suddar Adalat courts did so definitely knowing that it was a mortgage and should be treated as mortgagees. If they are cultivators to-day, we cannot dispossess them. If you want to give any security of tenure, give it to the heirs of kanamdars who existed before 1850 without going into the question whether they are cultivators or non-cultivators. But in the case of others, it must be different. I know there are some kanams of one panam and one and a half panams. But there are also kanams which are mere mortgages mostly in North Malabar. The old kanamdar is gone and the new kanamdar who has paid thousands has come and he is rackrenting. The kanamdars who were on the land prior to 1850 were practically tenure-holders but those coming later do not come under that category as the High Court interpreted their position differently. In theory the kanakaran could be deprived of his lands and they could be taken back by the janmi but that power was not exercised. It has not been stated anywhere that the kanam is a thing which could not be taken back by the janmi. Nobody was dispossessed as there was plenty of land.

The rate of fair rent which I suggested was worked out on the historical tradition. Whatever is land revenue, two-thirds is fair rent. I am not laying down a formula to be strictly followed. I only want the Committee to bear all this in mind in regulating the relationship between the actual cultivator and those above him.

By Sri M. NARAYANA MENON:

I do not place Kaivasampanayam and undarathi mortgages on the same basis as the kanam. Kanam was a sort of grant but subject to the right of the janmi. I do not think the provisions of the Debt Relief Act should be applied to kanam transactions and the principle of damdupat applied and the land made over to the janmi.

By the CHAIRMAN:

Subject to the rights of the kuzhikanamdar or the verumpattamdar, if there is any excess land, the melkanakaran who has not been cultivating may be given a portion. Even in the case of home-farm lands, I would give them some time limit within which cultivation should be undertaken failing which the land will become tenancy land and only tenancy rights will accrue. The home-farm might be given so as to give from Rs. 400 to Rs. 500 for each member of the family. In the event of restoration of all lands wherefrom ejections have taken place during the last ten years, the condition for the restoration should be that the land should not have been given to another tenant and the purchase price should be repaid.

By Sri A. KARUNAKARA MENON:

The kanamdars' interest in lands should be measured by the maintenance of cattle and providing against failures of crops and not merely keeping the land in a cultivable condition as a means of getting a return. I favour collection of rent by the Government. The idea of the home-farm is that the landlords should take to cultivation themselves within a stipulated period and in addition to that they may receive rent from their other lands. Rent should be reduced if there is a fall in prices but no such adjustment seems called for in the case of rents in kind.

By the CHAIRMAN:

In the statement filed by me, in some cases the yield is $3\frac{1}{2}$ to $2\frac{1}{2}$ times and in no case does it exceed seven times. I have put it in to show the number of evictions. The statement cannot be relied upon for fixing fair rent, the main purpose being to show the increase of rent and evictions.

Supplementary Memorandum.

The written memorandum already sent comprises mainly principles relating to tenancy legislation. Since then I had occasion to study the conditions on the spot by a six weeks tour in the interior of Malabar, Gudalur and Kasaragod taluks. The following is a supplementary memorandum. It is based on statements of cultivating tenants. About 300 of these statements were taken down by me personally. One hundred and ninety were sent to me by post. I am submitting herewith these latter to the Committee. I shall forward the other statements as soon as I have transcribed them in English or Malayalam.

The Malabar Tenancy Act of 1930 gave some security of tenure to the kanamdars by not permitting their eviction except on grounds of non-payment of renewal fees. It gave also a very large right of fixity of tenure to the cultivating verumpattamdar, whoever was on the land. This fixity of tenure has not been of much help to him.

Arrears of rent and evictions.—Owing to certain reasons which he cannot control, he has been in arrears of rent and been evicted too from his lands. Surrender deeds are taken from the cultivator and that ends his security of tenure. These deeds can be easily taken in the case of tenants of wet lands as they have, generally speaking, no improvements to claim. The price fall since 1929 has automatically doubled the rent. Again in Malabar the quality of lands changes owing to floods and rains. They become a pool of water or gravelly, or are affected by salt water for want of bunds, or the second crop fails for want of water. A number of other reasons are given by tenants for low yields and arrears of rent in their statements to me which I have tabulated below:—

(1) The trees reared by a tenant spoil the wet land of an adjoining tenant.

(2) Pullu (grass which grows in December) is mentioned as a case which destroys the crops round about Karlamannà (Walluvanad taluk).

(3) Death of cattle seems to be a common thing in Wynaad and round about Karimbuzha (Walluvanad taluk).

(4) There is no fencing, cattle are let loose on crops at nights, and there are the ravages of the wild animals.

(5) Rents too have been increased on various grounds. With the purchase of gardens by money-lender janmis, or kanamdars, a higher rent so as to equal the investment on the land has come into vogue.

(6) In certain areas more rents are recovered than the rent fixed so as to cover deficiencies in the payment of rent in lean years.

(7) Rents have been increased on parambas and wet lands in proportion to improvements made in them.

(8) In Wynaad the janmi has increased the rent on dry lands in consequence of his paying land-tax for all such lands, which he was not doing before the re-settlement. What he pays to Government is negligibly little, while he is free to collect a higher rent than before from the tenants.

(9) Where small artificial constructions are required for irrigation, they are not made by the janmis owing to conflicts among themselves (Kumaranallur).

(10) The tenants have not the wherewithal to make tanks in wet lands (Karimbuzha area).

(11) A special rent is collected for plantains raised in palliyal lands.

(12) The yield of land is so poor that the tenant could not pay the second-crop rate of land-tax and also pay rent, and make an income.

(13) Lands have been destroyed by sea and yet rent is collected.

(14) There are large areas of marginal lands which cannot yield more than the cultivation expenses (Podanur and Nariparamba).

(15) The market nilavaram for prices as notified by the Collector becomes difficult to pay as compared with the village prices in certain areas.

(16) The rents for Palliyal, Punam and Modan are high as compared with costs of cultivation.

(17) The rate of interest on arrears of rent ranging between 20 per cent and 24 per cent on cash loans is a rate which agriculture can hardly bear.

(18) A bigger measure is used for measuring the janmi's rent.

(19) A certain portion of paddy is taken by the janmi as deduction for dryage. There is also the cost incurred in transporting the grain from the field to the landlord's house, particularly when it is distant.

(20) When lands are measured in terms of seed, the measurement is inflated so that more rent may be collected. Similarly when one-fifth of gross produce is taken by the janmi in North Malabar in pepper gardens, he exaggerates the yield which thereby increase the one-fifth ration to two-fifth.

(21) The janmi asks the tenant to keep the paddy on the ground that it is not yet dry, or that prices have not gone up.

(22) The original ratio of verumpattam to janmipattam has never been maintained. The latter has remained stationary in many cases, while the former has been increased.

(23) The provision in law that the tenant give a kychit agreeing to an increased rent has never been adhered to, for payment of the increased rent for a single year is treated as an approval of the increase.

(24) It is difficult to know to whom rent should be paid where there are many Thavazhies (partners for receiving rents).

(25) Tenants suffer also for want of receipts. The landholder says that they should wait till the payment of the full rent, or he does not give it on the ground that rent is irregularly paid. Receipts are given for more amounts while a tenant pays less, so that the right of the landholder to collect increased rent may not be lost. Patta-chit is not immediately given. The tenants may have to wait for even three years to get it from a kovilakam. The manager of the latter waits until he gets a sufficient number of patta-chits for registration at one and the same time.

(26) When new Sthanis succeed on the death of the old Sthanis, they do not adhere to the old rents, and certain payments too have to be made to them.

(27) Twenty years back a portion of the paramba was used to be given to wet land tenants to raise dry crops. This practice has gone into disuse.

(28) Bad and good lands, palliyal and padam lands, dry and wet lands are given mixed so that low quality lands may give a better rent to the landholder and the tenant may be induced to take such lands. Rent has to be paid for tarisu along with garden while the landholder pays little for tarisu. In the end arrears of rent accumulate. A wet land and garden land are taken together in the hope that, with the profits of the wet land, the garden should be raised. But the tenant sometimes loses also his improvements in the garden for arrears of rent due on wet lands.

(29) Payment of premium for palliyal and modan has come into vogue.

(30) Rent itself is high as it ranges between two-thirds and four-fifths of the yield.

(31) It is defective to calculate cultivation expenses on the basis of the seed used. The tenant has to pay for manure and cattle feeds. Secondly, he is paid by being permitted to take a certain amount of paddy in the straw in lieu of wages for his labour for raising the second crop. If these expenses are deducted, the net produce will be little.

For these various reasons the tenant is not able to pay rents. The Act gives ample powers to evict him. But he cannot wait till he is evicted by the Court for he is afraid of accumulation of arrears of rent. So he himself surrenders the wet land.

In certain areas certain landlords do not give receipts nor registered deeds in the hope that accrual of tenant rights may be stopped thereby. The non-issue of receipts gives power in the hands of the landlords to sue for arrears of rent for a period of three years. One should not judge the dispossession of cultivators merely by the number of suits in Courts. The cultivators themselves surrender their wet lands in many cases owing to difficulty to pay rent, and their fear of losing what little they have, if such arrears accumulate.

2. *Surrenders due to munpattam.*—The second cause of surrenders of land has been the existing provision for paying Munpattam. Certain madhyavarthis (intermediaries) have come into being in the areas of Manjeri and Nilambur kovilakams who have taken large areas of wet land at low rents and distributed them in bits to kizhverumpattams. The Nilambur kovilakam has given large areas of wet lands to its servants on verumpattam who in turn give it to kizhverumpattams. The provision for munpattam for wet lands has brought in its train the same evils that exist as a result of kanartham. There

is the temptation to adjust it to rent arrears. The principle of munpattam ill-assorts with the agricultural economy whose unsteady incomes can only admit of crop-sharing in a certain ratio after the crop is harvested. It has proved a handle for increasing the rents as an alternative to paying munpattam. It has led to surrender of portions of land by a cultivator as he could not pay munpattam for all his lands. Cases have occurred of munpattam being asked for a second time when a heir succeeds to the land. It will be an interesting investigation to find out in how many cases munpattam has been adjusted to rent. And when of late crops have failed, and even under such conditions, the munpattam is adjusted, the peasant's condition becomes extremely desparate. The idea of advance rent has no meaning if it is to be reimbursed each time as a result of its constant adjustment to arrears. Finding that a second munpattam could not be had from the same tenant, the landholder looks to another tenant to get another munpattam, the consequence being the dispossession of the existing tenant. The munpattam is a terrible weapon. Fearing its adjustment, the tenant mortgages or sells his improvements and pays the rent for the wet land. Or again, he mortgages his kudiyiruppu.

Munpattam has taken other forms too. Where cash cannot be given, the tenant gives the kudiyiruppu as panayam in the place of munpattam. This again is another terrible weapon in the hands of a landholder to dispossess a tenant from his house. Pro-notes are also taken as munpattam. The result of munpattam has been surrenders of land by cultivating tenants, and the growth of a class of investing tenants who can make big advances of munpattam and take large extents on lease.

3. *Other causes for eviction.*—Cultivating verumpattamdars have also been ejected when a new kanamdar buys lands or when the janmi changes. Sometimes karyasthans evict according to their whims and fancies. Evictions largely occur in the case of palliyal lands. Tenants change in modan and punam krishi and in marginal lands.

4. *Resumption of lands by landholders.*—In addition to these, the verumpattamdar has either surrendered or been evicted from his lands because of the new provisions empowering the landlord to evict a tenant for own cultivation.

5. *Evictions, a result of pending legislation.*—A new factor has also entered into the situation. Since the passing of the Act the tendency has been to evict verumpattamdars with the aid of the provisions of the Tenancy Act for arrears of rent or non-payment of munpattam, or for own cultivation. The interpretation of the words in the Act " direct or supervise cultivation " by the Calicut District Court in a suit that cultivation by karyasthan is also meant by these words, has made it easy for rent-receiving landholders residing elsewhere to take advantage of the provisions in the Act relating to " own cultivation." Shrewd landholders began to put pressure on tenants to surrender their lands from the time the Congress was expected to come into power. The appointment of the Committee on Tenancy in Malabar has also provoked a certain number of evictions. The fear that fair rent clauses will be operated from 1941 has also led to evictions, or to the exercise of just enough pressure to surrender the lands.

Proposals.

Restoration of verumpattamdars ejected from wet lands.—(1) For the future the position of the cultivating verumpattamdar should be protected by modifying the definition of the word " cultivation " in the Act. A cultivator should either cultivate the land himself or with the aid of his family or hired labour and where he directs or supervises, it should e himself or members of his family.

(2) Every cultivating kanamdar and cultivating verumpattamdar should be given permanent occupancy rights in his land or paramba subject to the following provisions:—

(*a*) Eviction of kanamdars has been largely stopped by the present Act. Where they have been evicted, it is not possible to restore the old tenants in parambas as new tenants might have made investments in them. But verumpattam cultivators in wet lands may be restored if they have been dispossessed during the last ten years. Even here restoration may not be possible where munpattam has been received from a new tenant. In other cases, the verumpattam cultivator who can show a longer period of possession during the last ten years as against another verumpattam cultivator may be given occupancy rights.

(*b*) It is quite possible too that kanamdars might have dispossessed the verumpattam or kizhkanam cultivators of wet lands and taken to direct cultivation. In such cases too the period of cultivation, say for a period of 12 to 15 years, may be looked into and whoever has cultivated for a longer period should be given security of tenure.

(*c*) *Restoration of lands resumed for own cultivation.*—Landholders (janmis or kanamdars) who have resumed lands for own cultivation or for building should restore them to the original cultivator unless they could show that they had no other lands with them for these purposes. Landholders who have kept to

the provisions of the law by retaining the lands for six years but have again let them to a tenant should restore them back to the original tenant if he wants it.

(*d*) *Restoration of lands on payment of* 50 *per cent of rent.*—If a paramba or a wet land from which a cultivating tenant has been evicted, or which he has surrendered owing to arrears of rent since 1929 now remains with his immediate superior holder, it should be given back on condition that 50 per cent of the rent due at an interest rate of $6\frac{1}{4}$ per cent per annum is repaid. This principle has been followed by the Bihar Government in relation to Bhakast lands. (Act IX of 1938.)

If these lands are in possession of others than the immediate superior holder, these others should restore it if the purchase price paid by them and the value of their improvements are repaid to them by the dispossessed tenant.

This proposal is based on the fact of the fall in prices and the need for helping those who have lost their holdings to be restored to their lands on payment of rent in proportion to the fall in prices.

(3) *Stay of proceedings.*—While these provisions might mitigate the evil of enormous evictions of the cultivating verumpattamdar during the last ten years, evictions should be prevented for the future. Rent decrees should not be permitted to be executed. Secondly, future decrees of eviction should not be allowed to be granted. Thirdly, some guidance should be given to courts in the decision of rents which I shall deal with in the next para. The stay of proceedings proposed above might follow the Central Provinces and United Provinces Acts which preceded the introduction of Tenancy Bills. Fourthly, all surrenders of lands by tenants should be declared invalid in law from the enactment of Stay of Proceedings Act. This will be on the lines of the Bombay Moratorium Bill of 1938.

(4) *Future rents.*—Rents for the future should be reduced by a percentage in proportion to fall in prices.

Proposals in paragraphs 3 and 4 require immediate action to prevent more and more evictions.

(5) *Clauses to apply only to cultivators.*—The proposals in 1, 2, 3 and 4 of paragraph 5 are to apply only to cultivators who cultivate with or without hired labour and who direct and supervise personally or with the aid of their family.

(6) (*a*) *Fixity of tenure for intermediaries.*—It now remains to discuss whether along with the verumpattam cultivator and the cultivating kanamdar, the non-cultivating intermediaries above them should be given any fixity of tenure at fair rents. This should be avoided as far as possible. In so far as historical claims may be put forward in the case of the ancient kanamdar, and in so far as kanams after 1854 were known to be mortgages, the heirs of any kanamdar who existed before 1854 and the heirs of any transferee who existed before 1854 may be given permanent occupancy rights at a certain fair rent fixed in law, without prejudice to the rights of the cultivating verumpattamdar or cultivating kanamdar. Secondly, a non-cultivating kanamdar might argue that the security of tenure granted to him under the Act of 1930 was the cause of his handing over a land for tenancy. If such a person could show proofs of cultivation before 1930, he might be granted fixity of tenure but subject to provisions of renewal fees and michavaram as in the Act of 1930.

(*b*) *Home-farm for intermediaries and janmis.*—The fixing of fair rent for the cultivator may affect the melkanamdar. The present Act regulates renewal fees. It regulates the rate of interest on kanam, but not the michavaram the kanamdar has to pay to the landholder. Renewal fees being a portion of rent on a kanam tenure, it may be abolished; and it may well be regulated by including it in the michavaram. The rate of interest for an agriculturist has been already fixed in the Debt Relief Act of 1938. It will be not making any radical change if we fix no fair rent for intermediaries. But we may go further than the existing Act, and give some relief to the melkanamdar (intermediary) on condition that fair rent is fixed on the lines in which it is proposed below. We may abolish renewal fees. We may give a minimum land for direct cultivation for each of the existing members of the family, if they want it, provided (*a*) that they can get out of land including other sources of incomes at least an income of Rs. 300; (*b*) a minimum of garden lands, wet lands, or dry lands, or of all put together is assured for the existing cultivating sub-kanamdar or verumpattamdar, and (*c*) that either the husband or wife get a share of the land and not both. But those who have brought melkanam after the Act of 1930 should have no more rights than those mentioned in that Act.

(*c*) On the same principle of granting rights of cultivation even to those who have been rent receivers, small janmis holding about 25 acres may be permitted to redeem their kanams or verumpattams and take to direct cultivation, on condition that they will maintain cattle and take to cultivation with the aid of their families.

(*d*) The area of home-farm of a janmi holding above 25 acres might be fixed so that the balance of his land may be declared tenancy land. This will be an alternative provision in the place of the present rights of the landholder to resume lands of tenants for cultivation. This provision is based on that of the United Provinces Tenancy Act.

(7) *Rents and Debts.*—The kaivasam panayams in Malabar are only expressions of the accumulated debt which have grown as a result of unsteady incomes, high rents, and high rates of interest. Pro-notes are taken for rents and thus the latter become debts. This has become more common in consequence of the provision in the Tenancy Act for taking securities for rent. A surrender of land or renewal of a deed is preceded by a settlement of accounts and taking of pro-notes for rents due. Payments by a tenant may be adjusted to these debts, and in consequence rent falls into arrears.

The following proposals are made in order to relieve indebtedness and to reduce the tenures that grow out of debts—

(*a*) As provided in the Central Provinces Tenancy Act any payment by a tenant to his 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.

(*b*) In the case of usufructuary mortgages in which interest alone is adjusted year after year, interest should be calculated at $6\frac{1}{4}$ per cent per annum and the total repayments need not exceed twice the principal as in the Debt Relief Act.

(*c*) In the case of undarathi mortgages, the period of possession should not exceed fifteen or twenty years as provided in the Bengal Tenancy Act of 1938. These provisions should apply to existing debts. Redemption of mortgages even before the due date should be permitted.

(*d*) For the future, undarathi mortgages (and not kaivasampanayams) should be permitted for a period of 20 years, and this too only to cultivators.

(*e*) The kudiyiruppu, a minimum holding and implements and animals used for husbandry and a portion of the produce necessary for the maintenance of the cultivator till the next harvest should be exempt from attachment for debts (vide Bihar Money-lenders' Act and United Provinces and Central Provinces notifications of exemptions under Civil Procedure Code).

(*f*) Where lands are sold for debts, they should be sold at the price prevailing on the date the debt was incurred.

(*g*) The number of annual instalments for repayment of debts in the case of a holder of a minimum subsistence holding should not exceed three or four.

(*h*) Provisions (*a*), (*b*), (*c*), (*e*), (*f*) and (*g*) mentioned above should be made applicable to all pending suits and decrees.

(*i*) Regarding those who have lost their lands or houses during the last ten years as a result of debts, the debtors might be put in possession of them if they remain with their creditors subject to the repayment of the loan according to the above provisions.

In the other cases the debtor might repay the amount paid by the purchaser and the value of improvements, and be permitted to repurchase the house and lands.

(*j*) These provisions are to apply only to cultivators as defined already; clauses (*c*), (*e*) and (*g*) are only to apply to small cultivators who hold lands paying a land revenue of Rs. 50 and below.

(*k*) Legislation introduced in other provinces to regulate money-lending and to liquidate debts should also be introduced in Madras.

(8) *Sub-leases.*—Not only a new class of sub-tenants under panayakars have grown as a result of debt, but kizkaivasampanayams (lease back) also exist. An indebted kanamdar also borrows on usufructuary mortgage. The garden cultivator of Malabar is his own sub-tenant in many places as a result of kaivasampanayam. He has to pay the adi-janmi for the land and the mortgagor for the loan. He is easily dispossessed from the land by the mortgagor owing to the high rate of interest he has to pay.

Another kind of lease that is beginning to grow is that by the verumkozhukaran or verumpattakkaran. Illegitimate sub-leases should be prevented and legitimate sub-leases should be permitted.

(9) *Fixing of fair rent.*—Fair rent should be for the soil and not for improvements. Land revenue should be so fixed that the rates would not tax the improvements, and not be more than half the net income from unimproved lands. An amount equal to it may be fixed as rent for the land, thereby preventing the levying of rent on improvements. But

fixation of fair rent for parambas will be difficult as the claim to trees in it has to be settled between the cultivator and the superior holder. This is discussed below.

Pending the fixing of land revenue on the lines mentioned above, fair rent for dry, wet and garden lands may be fixed at two-thirds of the existing land revenue (as land revenue in Malabar is fixed at three-fifths and the janmi's portion at two-fifths, of the fair rent paid by the cultivator), or the present rent whichever is lower.

(10) *Compensation for improvements.*—The various difficulties regarding claims to trees and to compensation are given below. Though at present tenants have learnt to insist for kychit, many relying on oral promise have improved parambas in the hope of getting compensation. This happens in forest areas, and in relation to backward communities. The latter cannot go to court and claim compensation. In the end they do not insist on vettukanam or value of improvements in parambas. The court has decided in a certain case, in Wynaad that where tenants agree in writing to forego value of improvements, they cannot claim later the benefit of compensation. The successors of tenants let into land orally may not get tenancy rights at all in the areas of certain janmis near forests.

The setting off of improvements to rents was an amendment proposed to the Compensation Act by Mr. C. Vijayaraghavachari on 14th November 1899 in the Madras Legislative Council and objected to by Mr. H. Winterbotham on behalf of Government. It is doubtful how far the law permits adjustment of improvements to renewal fees and arrears of rent. But the practice has been in vogue and, in order to evade law, the reasons for the adjustments are possibly not mentioned. Round about Badagara there has been a further practice too of entering two trees as belonging to the janmi at each charth, though in fact they are not his. The common saying is that by the time a tenant has paid four polichezhuthus, his polichezhuthu will also be over.

In North Malabar there is another practice also of asking for manusham if coconut trees are planted in wet lands. In Verumkozhu lands (five year leases without premium) if plantains are to be raised, additional rent should be paid. There is also the practice, in the case of the ignorant cultivator, of levying from him rent for the trees planted by him, if there was no kychit for that period. The claim for trees planted by the tenant is easily made in forest areas as the janmi might say that those trees were of spontaneous growth. It also happens that a tenant cuts off trees thinking they are his, while he is sued in a court by the janmi for wilful damage to janmi's trees. Again tenants dig wells in certain areas and are satisfied with a little compensation from the landholder.

Kanachits generally mention that the tenant should replace the destroyed trees. The common saying is that the janmi's trees are always young. Though in law a tenant may intimate the number of trees of the janmi that are lost, there are janmis or kanamdars who make no deductions on this account. The tenant too hardly intimates the losses. Recognition of losses will mean deduction in rent. So loss of trees is not recognized. Again when tenants' trees are adjusted to arrears of rent, they are calculated at very low rates, while for janmi's trees the calculation is at a higher rate.

Vettukanam is generally adjusted to rent. Its payment is also evaded by adding more lands difficult of breaking along with a small land.

The kanachit also says that all the ' jathi ' trees belong to the janmi. It also happens in case of oral leases that the landholder may ask the tenant to take his kuzhikur and leave the garden, thereby forcing him to pay a higher rent. Instances occur where a janmi may not agree for the conversion of a wet land into a garden. One case was explained to me of a janmi permitting a tenant to plant trees, when the latter represented that the adjoining tenant was spoiling his wet land thereby, and in the end, sending him a registered notice for rearing trees in the wet land without permission.

The janmi in certain areas is free to cut trees for building houses and for cattle-sheds.

Improved wet lands are taken over by a kanamdar when there are no registered deeds to show one's possession.

Trees affected by storms, and old trees of the janmi have to be replaced by the tenant.

Rents are increased if more improvements are made in the land.

Settling the rent on parambas.

Before fair rent is fixed for gardens, the claim to trees should be settled once for all. The trees mentioned in the first charth as due to the janmi may be taken as the basis for calculation. To this may be added the trees which are specifically mentioned as adjustments for arrears of rent or for renewal fees. The trees lost till to date may be deducted. The balance of trees may be estimated as due to the janmi and they may be valued. The interest on the value may be added to rent.

(11) *Rent recoveries.*—(1) There should be no prevention of harvesting the crop either by the landlord or by the village officer as the crops are damaged thereby and consequently no one gains by this method.

(2) The particulars exempted from attachment for debt should equally be exempt in the recovery of rent.

(3) The village courts should have no powers either in deciding rent suits or in attaching movables for the collection of rents.

(12) *Classes of tenures and kinds of cultivation.*—Fair rent should be fixed both for unreclaimed lands as well as for reclaimed and developed lands. The modan, the punam, the palliyal, the kol, in all these cases of cultivation fair rent should be fixed. In the case of modan, security of tenure may be granted to cultivators who along with their existing holding may be able to make an annual income of Rs. 100 from land.

Murichakrishi in Wynaad is nothing more than the exploitation of a tenant by a moneylending landholder. Rates of interest on the grain advanced and for use of cattle by tenants should be fixed at $6\frac{1}{4}$ per cent. In the case of punam, the last cultivator should be given security of tenure. In the case of pepper, tenants dispossessed since August 1938 when the Madras Government proposed security of tenure for pepper cultivators should be reinstated.

(13) *Settlement of rent.*—Rent should be settled for each holding along with land tax. Government should have power to grant remissions both for land tax and rent, and to reduce or increase the same when the soil is affected for good or worse as a result of natural conditions.

(14) *Estates and big holdings.*—Government need not interfere in the existing leases for long periods granted to estates. The principles of fair rent as applying to agricultural lands may apply to estates also. Retrospective effect may be given to Compensation Act in their case too, subject to the provision that all landholders with incomes of Rs. 1,000 and above should pay a graded agricultural income tax.

Non-agricultural kudiyiruppus too may be subject to the same rules of fair rent as prevail for agricultural lands. Any taxation of unearned increments regarding these kudiyiruppus should go to Government and local bodies.

(15) *Gudalur taluk.*—Here Chettis have been treated similar in status to ryotwari holders by Government. Some of them are paying no rent to kudiyiruppu. Some of them are paying a lower rate of rent than others to the Raja of Nilambur (7 seers per acre). This lower rent for lands and also free kudiyiruppu should be ensured for all. The rent collected should be spent for the temple. The kothas have got certain janmam rights over the lands round about Gudalur. These have been recognized in certain civil court decrees. These rights should be legalized by a statute, preventing thereby the inroads of the Raja of Nilambur into the rights of these ancient inhabitants of Gudalur.

The original rights of cultivators to use the natural facilities of the forests should be restored.

The Tenancy Act should be applied to the whole of the Gudalur taluk.

(16) *Kasaragod taluk.*—Here the tenant has lost his customary rights by the non-application of the Malabar Tenancy Act to this area. The application of the Act till Ullal will improve the condition of tenants. The Compensation Act might be applied as in Gudalur pending the enactment of a comprehensive Tenancy Act.

(17) *Wastes and forests.*—Government should make provision in every amsam for communal lands for the benefit of the cultivators.

The janmis were chieftains of Malabar and never proprietors of land. In Travancore the Royal Family is entitled to a home-farm called Kottaram. They can never claim a portion of the land tax on all lands. On the same principle, no contribution need be paid to janmis for the existing unassessed unoccupied dry lands as well as forests and they may be taken over by the State. In regard to lands which are uncultivated but on which janmis are paying land tax, they may be given a small contribution of 1/8 as janmibhogam. As regards the other cultivated lands, even though they are not entitled to collect any rents for their own private expenses but only for State purposes, they have been allowed to do so for long. Hence the rents on these lands may be controlled by law without being cancelled. As regards their right of cultivation, a certain home-farm may be allowed for their use as in the case of royal families.

(18) *Surrenders.*—During my visits a number of cases came to my notice of tenants requesting a surrender of their lands either owing to high rents or deterioration of the land, and janmis refusing to take it back. If a tenant surrenders, he is not entitled to the kanam amount and value of improvements. If he keeps the land, he is unable to pay the michavaram owing to fall in prices and a sudden deterioration in the land. Until

legislation is passed, some measure should be devised to save these cultivating kanamdars. Rent should not only be reduced in their case according to the fall in prices, but also in proportion to the change in the quality of the land.

(19) *Big holdings and estates.*—One result of tenancy legislation will be conversion of tenants to labourers. Particularly in Wynaad, big estates are growing. Tea and rubber estates neither engage daily labourers nor let their lands on tenancy. But they pay piece wages on the basis of the work executed. Wages and hours of labour have to be regulated by statutes as in Ceylon. In the case of big holdings where garden cultivation is carried on, minimum wage legislation is equally necessary if feudal conditions are not to be exploited by landholders. The abolition of perquisites and fixation of fair rent will release the Paniyars and Kurumas from their thrawldom to janmis in forest areas.

94. Sri R. Suryanarayana Rao, Servants of India Society.

The trend of tenancy legislation all over the world is in the direction of affording protection to the actual cultivator. That is as it should be. In a primarily agricultural province like Madras, the need is great for affording such protection to the cultivator as to enable him to carry on the agricultural operations unhampered by galling restrictions. This need seems to be even greater in Malabar when it is remembered that the density of population to its total area and to cultivated area is the highest in the presidency, scope for extension of cultivation owing to its peculiar physical features is extremely limited and the percentage of cultivating landowners to the total population is practically insignificant. Much of the land is cultivated by tenants holding land on different tenures which are in many ways peculiar to this part of the country. An outsider—not the casual visitor —who lives in Malabar will be surprised at the chronic poverty and unemployment to a degree almost unknown in other parts of the presidency. The anomaly of poverty in the midst of plenty, as nature is generally kind and the rain fall is heavy, seems to be exemplified in Malabar. The general economic condition is comparatively so poor that failure of one crop or even partial failure calls for demands for relief such as remission of assessment, grant of Takavi loans and even organization of other relief measures. We noticed this phenomena only recently. Those who believe that monsoons make or mar the prosperity of an agricultural country like India would be surprised to see the amount of suffering caused by poverty and unemployment in Malabar even in normal times. This makes one feel that apart from other causes which are not pertinent to this enquiry, the system of land tenures in Malabar is to some extent—I cannot say to a large extent now after the passing of the Malabar Tenancy Act—responsible for this state of affairs. Agitation for tenancy legislation has yielded but poor results, for in my opinion the various Acts of legislature have been designed more to safeguard the interests of those who contribute little or nothing to the prosperity of the agricultural industry than to afford real protection to those who toil and raise the crops. The utter dependency of Malabar even for her food supplies—rice being the staple food—must at least open the eyes of all interested in Malabar to devise measures not only to improve and extend paddy cultivation, but also increase the production of valuable commercial products such as coconuts, pepper, ginger, tea, etc. I am not certain if even the copra required for consumption in Malabar itself is produced in sufficient quantity. At any rate the West Coast, and Malabar in particular, should be able to supply all the copra required at least for this presidency and the imports from Ceylon should cease. Yield of paddy per acre is comparatively poor. I am told it is so even in regard to other crops. If the cultivator is to be induced to adopt improved methods of cultivation and make use of the rich store of scientific knowledge available, he should be made to feel that he will secure unrestricted and undisturbed enjoyment of the fruits of his labour and the fear which still lurks in his mind that even the existing protection given to him is being deprived by circumventing law in various ways should be removed. I shall show how the law is ineffective in regard to protection afforded to him. Moreover, recourse to registration offices and law courts which the law demands, takes up much of his valuable time especially just at the cultivation season or the harvesting period.

As the Act of 1930 deal with fair rents first, I shall deal with them. The formulæ for fixing fair rents may in certain quarters be considered as advantageous to the cultivator as the rents paid till then were deemed generally higher than those which were fixed under the Act. But these intricate formulæ baffle an ordinary layman and are unknown in any part of the world. What the tenant understands is a certain definite proportion of the produce raised by him is the due of the landlord. What the proportion should be, must depend on the costs of cultivation and on whom such costs fall. It is not understood why such intricate formulæ had to be devised for Malabar alone. Is it because

of the anxiety on the part of the Government and the legislature to safeguard the interests of other parties whose main interest is to earn without contributing anything towards cultivation simply because they are vociferous, influential and organized? The argument that the costs of cultivation are borne by the immediate landlord, be he a kanamdar or the janmi, is more theoretical than practical. Either such costs are recouped or in fixing rents they aret aken into account. It is also to be remembered that the settlement of fair rents will take place only if an application to the court for fixing the fair rent as preferred and the tenant is prepared to go through the travail of litigation. If, as already stated, the rents received are in most cases higher than the fair rents, it is not to the interests of the landlord to prefer an application. The tenant only has to seek redress. I often wonder if the legislature could not have devised a more simple method for fixing fair rents and that too one that is easily understandable and applicable without basing it on indefinite data which is capable of being questioned at every step. It has been suggested that it should bear some relation to the Government assessment. In fact it should be equal to the assessment, and any revision of assessment would automatically revise the rents. While in the ryotwari area the claimants to the net produce are only the Government and the pattadar, in the case of Malabar the claimants are the owner, the Government and the cultivator. Where the owner is also the cultivator the share of the cultivator is enjoyed by the owner. The existence of the non-cultivating owner seems to have been recognized by the Government in fixing the assessment. It is understood that their shares in the net produce are as 5:4:6 in paddy lands and as 5:5:5 in dry and garden lands. While I do not plead that the Government's share should be increased in regard to paddy lands if such a claim is not now preferred, I would certainly advocate the increase of the cultivator's share to 7 at least making the share of the landlord and the Government to 4. This may be adopted even in the case of dry and garden lands. It would be seen then the rent will be equal to Government assessment. This formula is easily understood and is based on equity and justice. If it is necessary to assure regular payment of rents, the Government may collect the assessment and rent together and pay the landlord his portion. This may also save the landlord the trouble and the odium he now incurs. Whenever remission is granted by Government, the benefit will then go to the cultivator, who is the person really entitled to relief. At present though remission may be granted by Government, there is nothing to prevent the landlord from collecting his rent which includes also the Government assessment. It may be argued that as the Government have given up the policy of resettlement, the rents due to landlords will therefore remain constant. They should be so, for such increase in the productivity of the land is due to the efforts of the cultivator. If, however, the landlord contributes for the productivity of the land, he will get the increase in rent in proportion to his contribution. That will certainly be a ground for the revision of rents. Such cases will be very rare for often impecunious landlords will be hardly in a position to bear any portion of the expenses of cultivation.

The introduction of section 13 was practically forced on the Legislative Council by His Excellency the Governor. As the Select Committee on the Tenancy Bill pointed out this provision regarding deposit or security practically tantamounts to a denial of fixity of tenure. Though it is true the demand for deposit or security comes into effect only if the landlord demands it, it is too much to expect a landlord to forego it. What is the necessity for such a deposit and why should it be insisted upon only in regard to Malabar tenants? In most cases the tenants will not be in a position to comply with the demand and the result is proceedings in Court. Imposition of this condition does more harm than good thereby emphasising the superiority of the landlord. Protracted proceedings following failure to comply with the demand creates bad blood. In fact the landlord may in collusion with a prospective tenant make the demand, start the proceedings and during the period of litigation the cultivation will suffer. In view of the authoritative opinion of the Select Committee, it is better this provision is removed. Moreover, if as suggested, the Government undertakes to collect rent as arrears of land revenue, much of the point, if any point exists at all, in favour of the provision loses its force. It is stated the deposit will carry interest at 6 per cent. Is the tenant entitled to deduct the interest from the rent? Is he to depend on the sweet will and pleasure of the landlord to collect it? Has he also to go to Court to obtain it? It is just possible that if the tenant deducts the interest from the rent, the landlord may institute eviction proceedings under section 14 (3) and the landlord is technically correct in doing so. The legislature could have devised some other method for the collection of rent instead of enforcing the demand by threat of eviction.

Section 14 (5) and (6) confers large rights on the landlord. It is very diffieult to question whether the particular purpose for which the landlord proposes to resume the land is *bona fide* or whether the particular member for whose benefit the land is to be resumed is a member of his family as defined. Moreover, the tenant's right to sue for restoration

of land conferred by section 15 is illusory, for the period after which he can enforce his claim is six years and even then he has to adduce evidence against the landlord whose tenant he is to be again. What is to happen during these six years. The tenant will have to wait like a watch dog to pounce upon the landlord. Practically no suits for restitution of the tenant's rights will be launched especially as they have to satisfy so many conditions before they can prefer their claims. So the landlords can with impunity get rid of their tenants and let out their lands to others. Though the provision has been introduced to put a wholesome check on the landlord's power of eviction under section 15, it will practically remain inoperative. It will be interesting to know how many suits have been filed under this section.

The payment of standardized renewal fees has been legalized. The demand of renewal fee is based on the assumption that the lands have been let at very low rents and the landlords are entitled to a share of the profits earned by the tenant. When the fair rents are settled under Chapter II—Fair rents, the question of landlord sharing in the profits of the tenant would not arise. Moreover, it is opposed to all sense of justice that a landlord who does nothing to increase the profits of the tenant should come forward to demand a share in the shape of renewal fees. Renewals should be granted automatically except if any, for specified reasons. As far as I am aware—I am subject to correction—there is nothing in the Act to show that the Chapter dealing with fair rents is applicable only to cultivating verumpattamdars. If I am not wrong, I would suggest the deletion of provisions relating to renewal fees and the application of provisions dealing with fair rents in the case of customary verumpattamdar, kanamdar and kuzhikanamdar and other classes of tenants. To my mind this chapter relating to renewal fees and other chapters have found a place in the Statute because of the anxiety displayed by the Government and the interested parties to retain various classes of tenants other than the cultivating verumpattamdars. These parties also have accepted these provisions only to stabilize their position. Left to themselves, I am sure they would be as averse to them as anybody should be. If fair rents are settled in respect of cultivating verumpattamdars and such rents are liable to revision after a period of twenty years, the same period for revision of rents in respect of other classes of tenants should be deemed sufficient. Why should these intermediate landlords be required to pay renewal fees once in twelve years? It is unjust to ask even the cultivating kanamdar or kuzhikanamdar to pay renewal fees. In the case of non-cultivating tenants of all classes, the demand for renewal fees amounts to sharing of unearned income among the various parties as none of them contribute to the prosperity of agriculture.

I am of opinion that except the cultivating tenant, be he a verumpattamdar or kanamdar, no other class of tenants should be given fixity of tenure. Even in the ryotwari area, the movement for abolishing absentee landlordism and granting of occupancy rights to cultivating tenants is gaining support. My entire sympathies are with this movement. Therefore, I cannot reconcile myself to any suggestion calculated to safeguard the interests of those who are not even landlords, but are intermediaries who have somehow managed to occupy, what, to my mind, appears to be an anomalous position, finding investment for their monies and obtaining all kinds of leases from the landlords. Whatever might have been their position in the past, they now appear to be mere interlopers and their existence, so far as rent is concerned, affects both the janmi and the actual cultivator. Unless these are eliminated and the position of the actual cultivator is strengthened and he is enabled to enjoy the fruits of his labour, there will be no solution for the tenancy problem in Malabar. The more the number of intermediaries, the greater is the subtraction from the income of the cultivator. In order to safeguard his interests, the landlord also joins in the game. It should be the endeavour of this Committee to find a solution for the problem in this direction rather than attempt to safeguard the interests of the intermediaries against the demands of, what they have often chosen to say, the rapacious janmis.

The chapter on kudiyiruppus needs revision. The tenant now shall be entitled to offer to purchase the rights of kudiyiruppus only when the landlord seeks to evict him. In view of the grievance that the landlords seek to evict tenants from the homesteads without rhyme or reason and that the option to purchase can be exercised only when the suit for eviction is filed, the right to the tenant to offer to purchase the rights in the kudiyiruppu should be available at all times even without the suit for eviction. It is laid down in section 33, that the tenant can purchase at the market price on the date of the institution of the suit. This places the tenant at a great disadvantage. The price should be that prevailing on the date the tenant came into possession of the kudiyiruppu.

These are some of the particulars along which tenancy reform should take place. As they have been put forward often before, I cannot claim any originality for them. But as already stated, the trend of tenancy legislation is to give protection to the actual cultivator. My proposals are designed to afford this protection. There is no need to exercise meticulous

care to safeguard the interests of those who, in my opinion, do not need any protection. It is the desire to protect the intermediaries that has made the Malabar Tenancy Law so very complicated. It is high time such attempts are given up and the actual cultivator's interests receive greater attention.

By the CHAIRMAN:

I stayed in Malabar for more than ten years as a member of the Servants of India Society and had occasion to study the tenancy problems of Malabar. I gave evidence before the Raghavayya Committee. The percentage of agriculturists to the total population is insignificant and ought to be increased. Cultivation and production of crops should be increased and the cultivator should be allowed to enjoy the fruits of his labour. If he were not deprived of the fruits of his labour, a greater number of people would take to cultivation in spite of the fact that agriculture generally was not paying. They should be given fixity of tenure and a reasonable amount of rent should be paid. As the landowners have lost the habit of cultivating themselves, a physical division of the property would lead to their letting out their portion and the problem would not be solved. I would suggest that once the division is made, the future sub-lessee should not be given fixity of tenure, his liability to pay rent being retained. Even there it is possible that a certain class of people will not cultivate the lands. I would delete the provision in the present Act enabling a janmi to get back lands from his tenants if he requires them for *bona fide* cultivation. When a tenant is on the land, he should get fixity of tenure and the should under no circumstances be disturbed. I would not make any distinction between permanent and temporary leases, for an arrangement for a temporary period is likely to become a permanent feature and the purpose in view would be frustrated. Extraordinary cases where the person falls ill, might be provided for; but that will be very rare. In the case of minors, provision may be made for the retention of the right for fixity of tenure till the minor comes of age. But in any arrangement that may be made to meet such cases, the cultivating tenant should not have the feeling that he is likely to be ousted at any moment and disturbed from the land. So long as the intermediataries remain, the position of the cultivator will always be in danger. The existence of certain rights cannot be ignored and they should as far as possible be respected. Even in ryotwari areas, I am in favour of giving occupancy rights to actual cultivators even though the present pattadars may have invested large amounts of money to bring the lands under cultivation. My proposition does not apply only to Malabar. If the kanamdar is to be eliminated, the cultivating tenant should not pay compensation, for it was not with his consent or knowledge that the kanamdar came in between himself and the janmi. Most of the verumpattamdars are not in a position to purchase the intermediary's rights even if they are willing to do so. So long as they pay their rent and cultivate their lands, they should not be disturbed. The under-tenant should not be penalised for the lapses of the intermediary. If the law sanctions this, it should be altered so as to give security to the under-tenant so long as he is regular in his payments. As regards waste lands, no rent should be collected. The Government should take power to distribute waste lands for cultivation purposes on the cowle system. In the interests of the general well-being of the country, some restriction should be placed against indiscriminate disafforestation. In the Ceded districts, we have even recommended the abolition of forest panchayats, because they have allowed the forests to be denuded. Cutting of green manure and grazing of cattle can be permitted under certain conditions. Indiscriminate felling of trees should be discouraged. For every tree to be felled, some more should be planted. Expert advice should be taken as to the best means of preserving the forests. In Japan the preservation of the forests is being carried on methodically and good use is made of the timber for telegraph posts and sleepers.

The present provisions for fixing fair rent are very complicated. I suggest that it should bear some relation to assessment which is based on certain data scientifically worked out and applicable to the whole country. The rent might be equal to the assessment. If the pattadar himself happens to be the cultivator, he is in an advantageous position and in that way an actual agriculturist is helped.

By Mr. R. M. PALAT:

There is a difference of view regarding the economic advantages of large scale farming. So far as Malabar is concerned, small scale farming is better than large scale farming. It may differ from locality to locality; but ordinarily three to five acres of wet land may be considered the proper size. Even if its is proved that it is economical to have large farms, it should not entail any dispossession. Nobody need become a wage-earner when he can lead an independent life and enjoy the fruits of his own labour. In an agricultural country, whatever may be a person's income, it is not on the basis of income alone that his status was judged; the possession of lands adds much to the person's social

standing. We cannot have co-operative farming in Malabar because conditions vary as between Malabar and the ryotwari areas. I do not know whether the cultivator in the Cochin State is more prosperous than the one in Malabar. People in British India say that people here are less happy and less prosperous than people in Indian States. On the other hand the people in the Indian States say that they are not happier and more prosperous than people here. When once landless people become owners of land, they will be able to carry on cultivation. The co-operative societies will give the necessary credit. Even if the co-operative societies come into possession of large tracts of land, they will give them back to the cultivators and collect the amounts in small instalments spread over a number of years. The lands would not belong to the cultivators till all the instalments were paid by them. The fear of eviction itself is enough to make the tenant feel uncertain about his tenure. Then there is the provision for eviction on the ground of *bona fide* cultivation.

By the CHAIRMAN:

Ten years is too long a period for the exercise of the right of eviction for *bona fide* cultivation. One year is quite enough. The property may be divided in the manner you have suggested. A certain limit, say not more than 50 or 100 acres, should be placed on the possession of lands by the kanamdar, the janmi and the verumpattamdar. With regard to kudiyiruppus some kind of legislation on the lines of the City Tenants' Protection Act should be passed. There should be one additional clause to the effect that the tenant should be at liberty to purchase the land whenever he likes. He should also be allowed to pay the amount in instalments. Fixity of tenure should be given to kudiyiruppu holders. As regards market value of the land, it is found that the landlord sues for eviction only when the price of land is high. There should be a provision that the tenant should not pay more than the original price.

By Sri A. KARUNAKARA MENON:

I do not agree that landless labourers necessarily have no experience of cultivation. They know all the processes of cultivation. Everyone who has taken land for cultivation must be presumed to have knowledge of cultivation. If the kanamdar is eliminated, he is given the value of the improvements. If these middle class people understand that cultivating tenants alone will get the privileges, they may go back to the land. My suggestion is that any privileges you confer should be on the cultivating tenants alone, call them by whatever name you please. Somebody must cultivate the land. What does it matter who does it so long as the land does not lie fallow? I think it is better that cultivation is done by a labourer than by a man who simply supervises others by standing in the field with an umbrella in his hand. But whenever the immediate landlord makes any contribution for the increase of production on the land, he may take a share of it. Out of 6,000 Malayali emigrants in Ceylon you do not find even a few on the estates. Almost all of them are in Colombo. It is only the Tamil labourer who goes to the estates. People are more anxious to become peons than to take to cultivation. One reason is that there are a large number of persons on the land. There is also the wrong notion that service is better than cultivation. Fair rent may be fixed on the basis of the assessment and it may be changed when the assessment is changed. The Legislature is discussing the basis of the assessment. It is a question which affects the whole Presidency. It should be gone into deeply.

By the CHAIRMAN:

If the fair rents of all lands in a certain locality are to be fixed at the same time by a Board or Committee consisting of the Revenue Divisional Officer and two or three respectable persons of the locality, you must give the Committee or the Board the principle on which they should settle the rents. I think such a board is appointed under the Agra Tenancy Act. I would accept that proposal. A record of rights similar to that under the Estates Land Act may be prepared.

By Sri A. KARUNAKARA MENON:

There is a wrong notion in the minds of the Government that no irrigation facilities are necessary in Malabar. There is plenty of rainfall, but all that water flows into the sea causing considerable erosion of the soil and there is great scarcity of drinking water for three months in the year. Schemes for impounding the water should be prepared so that there may be enough water to drink.

By Sri K. MADHAVA MENON:

I am interested in the man who actually cultivates the land, whether you call him kuzhikanamdar, verumpattamdar or even a janmi. I do not mind. "Cultivation" has been defined in the Act. I think it is the best definition in any Tenancy Act. If we restrict the area, it will be all right. If you restrict the area, anybody may become an actual

cultivator. If the man does something for cultivation, I do not mind. Those kanamdars who want to take to cultivation have already done so. I am not sanguine about more kanamdars or janmis taking to cultivation. The kanams in South Malabar are investments. All vakils are kanamdars. Small kanams may be due to the generosity of the janmi. Many kanams have changed hands. The kanam amounts remain the same, but the extra amount is paid in other ways, though not by way of kanam. There are many speculators in land in Malabar.

By the CHAIRMAN:

Janmam right is an original right. In how many cases is it the kanamdar mostly improves the waste land and makes it into cultivable land? Where investment has been made on improvements, the kanamdar gets increased price for the land.

By Mr. R. M. PALAT:

In olden days, even Rs. 10 was considered to be quite a big sum. Although the kanam amounts were merely Re. 1 or Rs. 2 their value was much greater.

By the CHAIRMAN:

One would be wrong in thinking that the value was 100 times greater.

By Sri A. KARUNAKARA MENON.

I am proceeding on the assumption that the janmam arose previous to the kanam. I think the Government also has accepted that position.

By Sri E. KANNAN.

All over the Presidency the agricultural labourer gets a very small wage because he is not well organized and vocal. So far as Malabar is concerned it is never more than three annas.

By Sri N. S. KRISHANAN:

So long as there is the landlord, there is always the danger of his taking eviction proceedings on some pretext or other. Moreover, when a man builds a house and lives in it, he wants to have greater sense of security. The landlord will institute eviction proceedings only when he knows that the tenant is not in a position to pay the cost of the holding. At any rate that is the case in the City of Madras. The tenant must be given the right of paying for the kudiyiruppu the price which prevailed at the time he first occupied it because I presume that the tenant will have made improvements to the kudiyiruppu. Why should the landlord get the benefit of the improvements made by the tenant. The landlord will never take eviction proceedings if he knows that the value of the land has gone down. I think such cases would be rare. It does not matter if the landlord gets the advantage in such cases. But in 99 per cent of the cases eviction proceedings would be taken at a time when the price of land is high. Or the average of the prices of land in the same locality for a series of years may be taken. The court may be asked to fix the price. I think there are some decisions on this line by the Small Causes Court. The whole idea is to give the advantage to the tenant without in any way injuring the interests of the landlord.

By Sri R. RAGHAVA MENON:

So long as any action you take does not injure but improves the status of the tenants, the interests of the country will not suffer. When the kanamdar is eliminated, the janmi will come to the position of the kanamdar also. Then the janmi must pay the kanam amount and the value of the improvements effected by the kanamdar so that the verumpattamdar may have fixity of tenure. All non-cultivating kanamdars may be given a minimum period within which they may take to cultivation. I have suggested a period of one year. The longer the time the greater the hardships. I would accept the definition given in the Act and include among cultivators those who cultivate by employing labour. I have also suggested a restriction in the acreage also. I suggested 50 to 100 acres according to the locality. Everyone's cost of living has increased on account of the present method of living. There are other reasons for the poverty of the verumpattamdar.

By Sri M. NARAYANA MENON:

If the janmis' income has not increased, it is because they sit quiet and do not make any attempt to further their income. All over the world agriculture is not now-a-days a paying industry. At any rate, in India it is very difficult to make both ends meet,

especially after the depression. It is more so in Malabar. An alteration in the distribution of the agricultural produce between the cultivator, the kanamdar and the janmi will not disturb the life of the kanamdar because he has other sources of income. Kanamdars who have no other sources of income must be idlers like the janmis. Why should the verumpattamdars slave for those who waste their time? Even if the kanamdars and the janmis supply the verumpattamdars with seeds, they get in return a larger amount than what they advance. How can you except the cultivator to invest money when every moment he expects to be turned out from the land? Labour is an important investment in the land. We never deprive the landlord of his share. We do not say that if the kanamdar has invested some money, he is to be done away with. We only say that he might purchase the janmi's interest by paying the value to the janmi by whom he has been benefited.

By Sri K. MADHAVA MENON:

Instead of giving the janmis the right to redeem, I say that the kanamdars may be given the right to purchase the janmis' right. The compensation that you would have to pay may be much more. I do not accept the theory that the kanamdar had an equal right in the land. The janmi may be given the capitalized value of whatever he is entitled to get so long as you do not disturb the actual cultivator.

By the CHAIRMAN:

I am not aware what the rights of the kanamdars were originally. It might be that the kanamdar might have been the original owner. If you think that the claims of the kanamdar are more than those of the janmi, it is a matter for settlement between them. Let not the actual cultivator on that account suffer.