

LAND LEGISLATION AND AGRARIAN RELATIONS
IN MALABAR . 1885 - 1900

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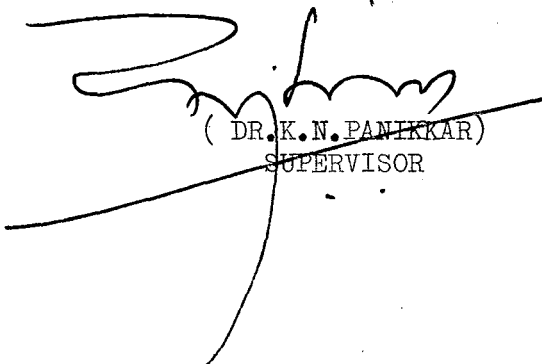
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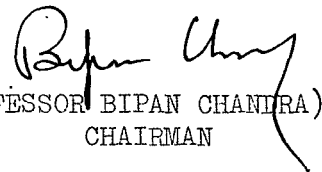
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PREFACE

The agrarian relations in Malabar as it evolved during the British rule has not so far attracted the attention of the serious researchers. The present attempt is a modest endeavour to deal with one of the aspects of this problem, viz. the agrarian relations during 1885 to 1900. It was during this period that the first two important agrarian legislations in Malabar were undertaken. Although Malabar was annexed by the English East India Company in 172, no major land legislation was taken up until 1887 when the first land act was passed. In 1900 the second act was passed which was in fact only a slight amendment of the first. I have tried to examine the effects of these two land legislations on the various agrarian classes, who were either benefitted or adversely affected by these measures.

I have confined myself to the original sources available in the National Archives of India and Tamil Nadu State Archives. I have made use of all the material available in the National Archives of India. But the material in the Tamil Nadu State Archives could not be exhausted due to paucity of time and facilities. Still I have been able to consult the revenue and agriculture department proceedings, legislative department proceedings, judicial department proceedings, reports of various committees and commissions, district gazetteers, memoirs, statistical atlases, memorandum and petitions of various sections of people, settlement reports, glossary etc.etc. However, I am conscious of the fact that I have only touched upon the fringe of a vast collection of material. I may perhaps add here that this is only a preliminary essay into an otherwise vast subject.

A few words about the arrangement of the dissertations, I hope, will not be out of place here. The first two chapters which form the background, deal with traditional structure of land relations and the changes introduced by the rulers of Mysore and the English East India Company. They are not meant to be exhaustive but is intended to provide the necessary background information for reconstructing the processes of changes during the post 1885 period which form the major concern of this dissertation. In the first chapter I have tried to give a picture of the agrarian system that was in existence in Malabar before the English East Indian Company took over Malabar. Some of the questions that I have raised in this connection include the nature of the relationship between the parties connected with the land and the concept of ownership of land. The chapter ends with a very brief account of the changes in the system caused by the Mysorean invasion of the district. In chapter two I have examined briefly the changes brought about by the nine decades of British rule in Malabar i.e., from 1792 to 1880. The various changes and reforms introduced by different officials and their impact are briefly touched upon. The next chapter begins with a discussion on the Special Commission's (Logan) report of 1882. What were its findings and suggestions? What were the reaction of the subsequent committees appointed to review this report? What were the views of the High Court regarding a legislation? What was the final shape of the act when passed as a result of all these enquiries and reports? What were the effects of this act on the agrarian population of Malabar and which sections were benefitted and which sections were not? How did eviction and rack-renting progress? Which all

sections of the evicted tenants were compensated as was the main object of the act? I have tried to throw some light on these issues. Chapter IV deals with the agrarian legislation of 1900. This act was only a slight modification of the previous one. Did this modified act check eviction and rack-renting? Did it help the payment of full compensation to all the evicted tenants? The chapter also deals with the new settlement of the district the preparation for which began in 1893. Who were to meet the increased demand of the new settlement and who actually had to bear the burden of the heavy demand? How did all these things help concentration of land into fewer hands and what was the nature and extent of concentration in the ownership of land? In chapter V I have drawn together some of the conclusions arising out of the dissertation in the earlier chapters.

A Glossary of the technical terms is also prepared. Since it is difficult to give diacritical marks to these terms throughout the essay, I have given them only in the Glossary.

Chapter I

AGRARIAN SYSTEM OF PRE-BRITISH MALABAR

Malabar during the medieval times was divided into several petty principalities ruled by independent chieftains. The political, military and administrative powers, however, were distributed hierarchically in the hands of a number of subordinates. The smallest unit was the Deshom presided over by the Desavzhi. A number of Deshoms constituted a Nad presided over by a Naduvazhi who, in turn, owed his allegiance to the supreme lord or Rajah. The independent chieftains often indulged in war either for territorial aggrandisement or for settling a family feud. The arrival of foreign traders who exploited the internal rivalry of the chieftains aggravated the political instability. The Portuguese led by Vasco de Gama landed in Malabar in 1498 and were followed by the Dutch and the English trading companies. The European Companies though used political influence for trading privileges did not emerge as a territorial power till the end of the 18th Century. The invasion of Hydar Ali in 1766 marks the beginning of a change in the political set up of Malabar. After Hydar Ali's attacks in 1766 and 1774, his son Tipu Sultan conquered Malabar in 1784. It was from Tipu Sultan Malabar was conquered by the English East India Company in 1792.

Tenurial System and Agrarian Relations during the Pre-Mysorean Period

During the Pre-Mysorean period the officials of the State were given land grants in lieu of their services. The grantees, known as Janmies,¹ were required to render military services. This system has given rise to the notion that there was no land revenue in Malabar. Thackeray, one of the collectors of Malabar, for instance, reported that "there is no proof that any land tax existed in Malabar before Hydar's invasion ... The Pagodas and the Rajas had their own lands, the Rajas had other sources of revenue from fines, imports, personal taxes, plunder etc. which were sufficient to support them"². There is, however, considerable difference of opinion on this point³.

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- I. "Janmam", out of which the term Janmi arose, denotes the ownership of land. The Nambudiris, who were the Janmies, claimed the allodium or absolute right of ownership to the lands held by them. A. Walker wrote in 1801 that "The Janmi possesses the entire right to the soil and no earthly authority can with justice deprive him of it". See A. Walker, The Land Tenures of Malabar, Madras, 1801, p. 62. Extant deeds dating to the Pre-British period stressed the completeness of the Janmi's right to the soil. The following is a part of the deed executed in the year 1677, and it shows the exhaustiveness of the Janmam right. " Everything of whatever description that is contained within the said boundaries including stones, charcoal, slump of strychnos of nux vomica, thron clumb, cobras, holes, mounds, treasure, wells, skies, the underground water course, and everything else were sold and purchased" See, William Logan, Malabar Manual, Vol. 2, deed No. 21, p. cxxxvii. But in terms of relations of production, these Janmies were only co-proprietors of land along with the tenants and subtenants. This will be discussed later on. Regarding the origin of Janmam right there are different schools of thought. See Pillai, Elamkulam Kunjan, Janmi System in Kerala, (Malayalam), and also Studies in Kerala History by the same author.
2. Thackeray, Report to the Board of Revenue, Madras, 12 September, 1815, Proceedings of the Board of the Revenue, 25 September, 1815.
3. Logan is of opinion that "there was a public land revenue in Malabar

The Janmies who were mostly Brahmins (locally known as Nambudiris) did not undertake cultivation, nor could they supervise cultivation since the labourers were, owing to the caste rigidities, untouchables and even unseables. So a system of land relations suited to this situation had to be evolved whereby cultivation could go on while maintaining intact the Janmam right of these people who were the masters of the society. Kanam tenure was the most important of the land relations thus evolved.

Much debate has taken place on the nature of the Kanam tenure. Was it a mortgage or a lease; and if a lease whether it was resumable or a permanent lease. Was it hereditary and transferable? "Certain provisions existed for the periodic renewal of the Kanam lease; according to some commentators, automatic renewal was obligatory, or at least customary; the official position had always been that the renewal was at the option both of the Janmi and of the Kanakkaran,⁴ upon payment of fee. Most later authorities argued that it

originally, just as in every other Indian Province, but with the extinction of the supreme Kon or King in the ninth century A.D. the share of the produce due to him did not pass to those (the present Rajas) who supplied in some measures his place, but the great bulk of the people — the Nairs, the Six Hundreds — with whom, in their corporate capacities, all power rested". See, William Logan, op.cit., Vol.I, Part II, pp.602-603.

4. Kanam is the lease; Kanakkaran is the lessee, Kanakkar is plural — So do the terms like Pattam, Verumpattam etc. which we will come across later.

was an anomalous mortgage with possession, combining within itself elements both of a mortgage and a lease. The lease elements were the possession granted, and the payment of rent by the Kanakkar. The mortgage element was the Kanartham, a sum of money which was paid by the Kanam holders at the time of obtaining a lease⁵. The Kanakkar charged an interest on the Kanartham he made and deducted this amount from the Janmi's share of the produce.⁶ Sometimes the interest charged on the Kanartham was so high that it was sufficient to wipe out the whole of the Janmi's share. In such cases the Kanakkar's ^{share} was styled as Otti⁷. But still the Janmam right of the Janmi over the land remained unhurt. "Unlike a true mortgage, however, no provision was made for foreclosing the Janmam right by the mortgagee"⁸. Warden, Principal Collector of Malabar, used the term Kanakkar in different parts of his report to refer to a mortgage with possession, a mortgage without possession and a straight lease holder⁹. But Graeme, another Collector, was of opinion that the tenure often originated in the form of a security payment by a poor tenant rather than invari-

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5. W. Shea Thomas, The Land Tenure Structure of Malabar and its Influence upon Capital Formation in Agriculture, an unpublished Ph.D. Dissertation submitted to the University of Pennsylvania, 1959, p. II 4.
 6. William Logan — Malabar Manual, Vol. I, Part II, p. 602.
 7. Ibid., Vol. I, Part II, p. 603.
 8. W. Shea Thomas, op. cit., p. II 4.
 9. T. Warden Report to the Board of Revenue, Madras, 12 September, 1815. Proceedings of the Board of Revenue, 25 September, 1815.

ably as a mortgage advance by a capitalist as Warden originally suggested¹⁰. In some cases, according to Graeme, the Kanartham simply constituted a payment to the landlord for the profits it was assumed that he was sacrificing by giving up possession of the land.

However, under the system of customary sharing of the produce the Kanakkaran's advance to the Janmi used to be periodically revised in two ways: (1) a deduction of about 13 per cent of the Kanartham was made, and the renewed deed showing the amount diminished by the percentage was prepared; and (2) No deduction was made, but instead of it the Kanakkaran gave to the Janmi 13 per cent of the Kanartham and the renewed deed showed the full original Kanartham¹¹. The latter was the generally adopted method, and the periodical renewal fees formed one of the regular sources of income of Janmi. The idea at the root of this system of renewals was that in due course of time the Janmi's customary share of the produce should be freed from the mortgage with mutual advantage both to the Janmi and the Kanakkaran.

Kanam tenure was hereditary as well as transferable. A very popular saying in Malayalam, i.e., Kanam Vittum Onam Unnamam (Onam festival must be celebrated even by selling the Kanam property) is a clear proof of

10. W. Shea Thomas, op.cit., p.115.

11. William Logan, op.cit., Vol.I, Part II, p.605.

the transferable nature of the Kanam rights. It was also hereditary. The Kanam right according to Sir William Robinson, who was a Collector of Malabar for sometime, was a "complete hereditary right of property which was recognised and affirmed alike by the common law of the land and popular consensus of ages, had stood severe tests and had been defended no less earnestly than the best titles to land in England"^{I2}. The Janmi did not usually claim or exercise the right to evict a Kanam tenant on the expiry of any definite period. "The expectation of the tenant which was sanctioned by long usages to be continued in long possession was so strong that he built his plan of life thereon"^{I3}. Ancient Nair families in Malabar have often built their Taravads (family house) on Kanam lands and given the name of these lands to the Taravads themselves. These Taravads were often big houses and were not easily removable. From this it is also clear that such Kanakkar were no poor cultivators although they could be called tenants literally. Mr. Farmer, one of the first Commissioners of Malabar, reported in 1793 that the possessors of land were said to be of two descriptions:- first, the Jelmakkars or free holders who hold their land either by purchase or by hereditary descent, second, the Kanakkar to whom the actual delivery of the land appeared to be made^{I4}. So most

I2. William Robinson is quoted in the Malabar Tenancy Committee Report, 1927-1928, pp.21-22.

I3. Sir Sankaran Nair's Note on the Draft Bill of 1885, Rev. and Agr. Dept. Progs., Nos. 17-18B, 1885.

I4. Farmer:- Report to the Bombay Presidency, 25 January, 1793, Tamil Nadu Archives, hereinafter cited as TNA.

of these rich Kanam tenants were at a much better position compared to their counterparts in other parts of India.

Nairs as a caste were close to these Nambudiri Brahmins (who were the Jammies) since they had matrimonial alliance with them^{I5}. Therefore, it was to Nairs that the lands were leased out by the Jammies. Almost all the lands were leased out to these people on Kanam tenure. The Kanakkar, mostly Nairs and Nambiars, however, considered direct cultivation as something which lowered their social status. So almost the whole land taken on Kanam basis was leased out to the communities belonging to the lower strata such as Muslims, Tiyas, Ezhavas etc.^{I6}. Here a variety of tenures such as Pattam, Verumpattam, Kuzhikkanam etc. were adopted. It was these Pattakkar, Verumpattakkar etc., who were mostly the sub-tenants, were the actual tillers of the soil. The sub-tenants were, unlike the Kanakkar, all tenants-at-will.

The Kanakkar collected a share of the gross produce from the cultivators. This share was obtained after deducting from the gross produce a very liberal share for the cultivator and the expenses for cultivation including the seed for the next crop. The share collected by the Kanakkar was again shared by the Kanakkar himself and the Jammi.

Similarly, it was on most favourable terms that waste lands were given to the farmers for cultivation under a tenure known as Kuzhikkanam

I5. It is to be noted that the matrimonial alliances was one way. Only the male members of the Nambudiri Brahmin families were allowed to marry from Nair families, and that too polygamy was prevalent.

I6. T.C.Varghese, Agrarian Change and Economic Consequences, Land Tenures in Kerala, 1850-1960, P.15.

or improving lease. Here no premium was demanded by the Janmi nor paid by the tenant. Nor was any rent to be paid during the period required to bring the land into productive state. On the other hand the farmer was allowed to enjoy the land in full yielding for a few years¹⁷. When the land attained full yielding stage the Janmi could come and claim the customary share due to him. Arbitrators were appointed to inspect the property and fix the share of the Janmi. It was for the arbitrators to say whether the period which allowed the landlord to come in and claim his share had expired.¹⁸ The Janmi had to pay the compensation for improvement when he claimed Pattam, i.e., his customary share of the produce of the newly reclaimed land¹⁹. But this was not usually done. It was allowed to remain debt bearing interest at customary rate, and that interest was made good from the Pattam due to the Janmi.²⁰ This sum will, however, be wiped off in due course of time, as shown earlier, by the renewal of the deeds.

The system was evidently conceived in much wisdom for protecting the interest of all the parties connected with the land. The Kanakkar were mostly very rich and were as much the proprietors of the soil as the

17. William Logan, op.cit., Vol.I, Part II, p.609.

18. T.K.G. Panikkar, op.cit., Chapter on the Land Systems of Malabar by Dr.V.K.John, p. 225.

19. William Logan, op.cit., Vol.I, part II, p.610.

20. Ibid., Vol.I, part II, p.611.

Jammies themselves were. The sub-tenants like Pattakkar etc., although not permanent tenants, were often not evicted, and used to get a very liberal share of the produce. In short, the Janmi and the Kanakkar and to certain extent even the Pattakkar also were co-proprietors bound together in interest by admirable laws of custom.

Changes during the Rule of Hydar Ali and Tipu Sultan

The Mysorean conquest of Malabar in 1776 marks a turning point in the history of land relations in Malabar. The Brahmin and Nair landlords terrorised by the Mysorean Muslims, fled to Travancore leaving everything at their disposal. As one of the Mysorean motives was to extract a large amount as revenue from the land, they introduced for the first time in Malabar a comprehensive land revenue assessment,²¹ payable in cash. In fact, it was with the Kanakkar that the rulers of Mysore had made their revenue settlements, since the Jammies all had fled²².

Mysorean settlements as seen from the British records was that six-tenth of the produce should go to the State, leaving eleven-twentieth to the cultivators and three-twentieth to the landlord²³. Actually what the Mysoreans did was to take everywhere as land revenue a certain portion of the Pattam. This portion varied from 10 per cent to 100 per cent which meant the appropriation of whole of Pattam²⁴. In short the right of the

21. T.C.Varghese, op.cit., p.17.

22. Dharma Kumar, Land and Caste in South India, p.87

23. T.C.Varghese, op.cit., p.18.

24. William Logan, op.cit., Vol.I, Part II, p. 612.

Jammies over the land was absorbed by the Governments of Hydar and Tipu in many cases. And consequently the Mappilla Kanakkar with whom the government made the settlements were paying nothing to the Jammies except what they gave them out of charity, and they (the Mappillas) specifically asserted that nothing had been reserved for the Jammies in making the Mysorean land revenue settlement, and they denied that the Jammies were of right entitled to anything. No detailed field by field estimates were ever carried out by the Mysoreans. They "appear to have simply fixed an arbitrary assessment on each group of villages forming a convenient unit of revenue administration.... The result was that the land revenue rates tended to be arbitrary.... The villages in a given revenue circle (Hobali) which bribed the revenue assessors received low assessments; those which did not were assessed even more harshly in order to make up the Hobali total²⁵.

After the initial effort to collect revenue directly, Hydar Ali made flat assessment on each principality or Nad, leaving the actual task of collection to the local rulers, especially in North Malabar. The result was a complete upheaval in social relationships, in which the Rajas, who were apparently content hitherto with fixed customary dues from their subjects and tenants, were now obliged to use their latent compulsory powers to the hilt in order to avoid deposition²⁶. "The Raja was no longer

25. W. Shea Thomas, op.cit., p.97.

26. Ibid., pp.97-98.

what he had been, the head of a feudal aristocracy with limited authority, but the all powerful deputy of a despotic chief...." ²⁷ The local chieftains and landholders under them naturally resorted to rack renting of their under tenure holders and cultivators. In South Malabar, the Mysoreans governed directly, wherever they were able to govern at all. "The military tenures were abolished, regular land revenue founded on inspection, although not on actual survey, was imposed on the country, the administration of its affairs was entrusted to Soubadars and Fouzdars sent from Seringapatham instead of Rajas and the Nairs (who were displaced by Mysorean troops)²⁸.

Thus the ancient constitution of government (which although defective in many points, was favourable to agriculturists for the lands being unburdened with revenue) was in great measure destroyed without any other being substituted in its room. The arrangements made by the rulers of Mysore evidently disturbed the traditional relations that existed among the various agrarian classes in Malabar. The Britishers made further innovations with the system inherited from the rulers of Mysore.

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27. Statement of Murdoch Brown, Planter, Randathara, North Malabar, included in Francis Buchanan, A Journey from Madras through Mysore, Canara and Malabar, Vol.II, pp.548-551, quoted in Ibid., p.98.
28. Thomas Munro, Report, 4July, 1817, reproduced as appendix XI of Government of Madras, Minutes on the Draft Relating to Malabar Land Tenures (Madras, 1885).

Chapter II

AGRARIAN SYSTEM OF MALABAR UNDER BRITISH RULE 1792-1880

Changes Introduced by the Joint Commission

Immediately after the annexation of Malabar by the East India Company, a group of Joint Commissioners from Bombay and Bengal were appointed to study the region and to make convenient arrangements for revenue collection and general administration. As an immediate measure, the Commissioners leased the whole land to the local Rajas and Chieftains for lumpsums. The leases, at first yearly, were renewed in 1794 for a period of five years. The collection of revenue was supervised by the superintendents appointed by the Commissioners. The Joint Commission was instructed to take for its guidance the mode of assessments and the rate which had prevailed under Arshad Beg Khan, the Mysorean Governor¹. So the Commissioners recommended and implemented the same, i.e., "to demand and realise from each actual and superior occupant of the soil, whether Jammies or Kanakkar, the specific amount of Arshad Beg Khan's Jumma"².

Then, the Commissioners proceeded to lay down the regulations relating to the rights of the Jammies. They viewed the Janmi as the 'owner' of the soil and the Kanakkar as the owner's lessee, and as such

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1. Strachey, A Report on the Northern Division of Malabar, (Madras, 1801), para.33.
 2. Reports of a Joint Commission from Bengal and Bombay appointed to inspect into the State Conditions of the Province of Malabar in the years 1792-1793, (Madras, 1862), para. 458, p.267, hereinafter cited as Joint Commission.

liable to be turned out of the lands when the period of the lease expired. The Malabar Janmi was made a fullfledged landlord of European fashion. On 28th October 1793 these views were embodied in a Proclamation and promulgated through out the district.

The leasing of land to the local Rajas for lumpsums, as they did, was proved to be most disappointing. The rapacious agents of the Rajas who were employed for the collection of revenue had no sympathy for the cultivators. These people supported by the Britishers started oppressing the cultivators. "The policy which left the country at the mercy of the Rajas who were supported by the military might of the British, had pernicious effects"³ and this was the beginning of the agrarian discontentment among the Malabar peasantry. In addition to this came the treatment of Janmi as the lord of the soil by the Joint Commissioners. The matter was very insufficiently investigated by the Commissioners. The Janmi was simply a man exercising authority within a certain defined area and entitled as such to a well-defined share of the produce, i.e., the Pattam, of the land lying within that area. By this action the Janmi was exalted into a position of supreme authority over that land and the other co-proprietor was demoted to a state of helpless misery. The courts of Justice were also found, in most cases, favouring the Jammies⁴. So it is not to be wondered, at that time, that the Jammies began with the help of the courts of justice, to show very little

3. T.C.Varghese, Agrarian Changes and Economic Consequences of Land Tenures in Kerala, 1850-1960, 1970, p.20.

4. William Logan, op.cit., Vol.I, Part II, p.499.

respect for the rights of the tillers of the soil. And this naturally led to the gradual deterioration of the relationship between the landlords and the cultivators.

In the meanwhile, the collection of revenue by Rajas did not satisfy the expectations of the Company. Out of a total revenue of more than 14 lakhs of rupees due for the year ending 1795, about six lakhs of rupees remained uncollected. So the quinquennial leases made with the Rajas were gradually cancelled by the Company between 1796 and 1801. The government of the Company also resolved on 5 September 1801 to abolish the Commission for the affairs of Malabar, and to subject the Province to the control and superintendence of one Principal Collector and three Subordinate Collectors for the administration of the revenue of the civil government⁵. Accordingly, Major William Macleod was appointed the first Principal Collector of Malabar in October 1801.

Reforms of Major Macleod

Macleod immediately set himself to the task of reorganising the revenue system. He abolished the existing arrangement. He, "considering the (present) assessments of the district unduly low made an ill-advised attempt to impose on them a high percentage increase"⁶. On wet lands, he said, "I am inclined to imagine that much less one-third of its gross

5. Ibid., Vol.I, Part II, p.537

6. C.A. Innes, Madras District Gazetteers- Malabar and Aniengo, (Madras, 1908), Vol.I, p.314.

produce would pay its land revenue for the current year and that it would be a fair proportion as government share to assess rice fields at the equivalent of from 35 to 40 per cent and tree productions at about one-third of the average value of the gross produce"⁷. Then he estimated average produce in nuts so high as:

per coconut tree	48 nuts
per arcanut tree	200 nuts

It will be seen that this rate is much higher than the assessment made by Mr. Graeme 20 years later⁸. On modan lands, in the Nads where they had not been assessed by the Mysoreans, he claimed a share of the produce, generally one-fifth, for the government; and, dividing the assessments by three, increased the permanent Jumma of each Nad by that amount⁹. Starting with these initial errors he endeavoured with the help of the Parbuties or village officers, who were as corrupt as they were incompetent, to make a survey of the district within 40 days. Obviously the results would tend to be grossly false, "actual produce was overestimated; produce was assessed that existed only in the imagination of the Parbuties; and assessments were imposed on wrong men". But his mistakes did not end here. Not content with revising the assessments, he revised

7. Macleod, Jamabundy Report of Coimbatore and Malabar, (Madras), 18 June, 1802.

8. Infra, p.9

9. C.A. Innes, op.cit., Vol. I, p.314.

also the rates of exchange. On 31 August, 1802, he issued a proclamation fixing the exchange rate of the 23 Current coins then issued and received in the public treasury. The proclamation was based on erroneous data, which adversely affected the peasants. The table so promulgated lowered the value of: ¹⁰

Gold Fanoms from $3\frac{1}{2}$ to $4\frac{7}{34}$ per rupee

Silver Fanoms from 5 to $5\frac{1}{2}$ per rupee

OR

Gold Fanoms from $12\frac{1}{4}$ to $14\frac{409}{60}$ per Pagoda

Silver Fanoms from $17\frac{1}{2}$ to $19\frac{1}{2}$ per Pagoda

The revenue at that time was accounted for in star Pagoda, which coins were, however, not current in the province. The revenue was collected mainly in Fanoms which was the commonest current coins in the Province. But in Bazars, again, where the agriculturists sold their produce, rupee was the general standard of exchange. The rates so promulgated, therefore, in fact, raised the revenue on every individual throughout the country 20 per cent in gold Fanoms and 10 per cent in silver, while for their commodities in the markets, where the dealers had naturally enough discarded the proclamation, the poor cultivators could get only the old rates of $3\frac{1}{2}$ gold and five silver Fanoms per rupee.

10. William Logan, op.cit., Vol.I, Part II, p.538.

These reforms of Major Macleod placed the cultivators in a still worse condition and naturally brought about discontent among the Malabar peasantry. In the early part of 1803 the district rose en masse^{II}. To allay the storm which he had roused, and which he felt himself powerless to quell, Major Macleod, on 11 March, 1803, resigned and handed over the charge to Mr. Rickards.

Scheme of Rickards and Warden

Mr. Rickards as soon as he took over the charge of the Principal Collector, issued a proclamation. Besides many pacifying passages, the proclamation also said that "... it is my intention to collect the revenues in each district on the Pymashee in force in the Malabar year 976 (1800-I) and also to receive in payment thereof all Current Coins at the rates they were valued at previous to the 31st August last, which old rates are consequently be reverted to, until further orders in all the Bazars and districts of the province"^{I2}. This proclamation had some effect in quieting the rising storm. He, then, with a view to remedying the irregularities of assessment as well as to make some fixed principles on which to base a new assessment, made some negotiations with the principal Jammies of Malabar and reached an agreement. The agreements thus reached were accepted by the

II. C.A. Innes, op.cit., Vol.I, p.314.

I2. William Logan, A Collection of Treaties, Engagements and other Papers of Importance Relating to British Affairs in Malabar, (Madras, 1891), Part II CCXI, p.352.

government and were embodied in a proclamation and issued in 1805 by Mr. Warden who succeeded Rickards in 1804. The assessments, according to the Proclamation, is as follows:-

Firstly, on wet or rice grounds after deducting from the gross produce the seed and exactly the same quantity for expenses of cultivation and then allocating one-third of what remains as Kolulabham (or plough profit) to the Kudiyan, the residue or pattam is to be divided in the proportion of six-tenths to the Sirkar and four-tenths to the Jammakkar,

Secondly, on Parambu or Orchard lands one-third of coconut, supary and jack tree produce being deemed sufficient for the Kudiyan, the remainder or pattam is to be equally divided between the Sirkar and the Jammakkar, and,

Thirdly, on dry grain lands (which are very scantily cultivated in Malabar) the Sirkar's share is to be half of the Jammakkar's Varam on what is actually cultivated during the year 13.

But this scheme also had its own drawbacks. By this scheme the share of the state was raised at the expense of the other two classes. It failed to provide the Kanakkar's customary share. It seems that he was not at all consulted in this matter. The Jnami was by this scheme finally and fully recognised as the lord of the soil in the European fashion. But this did not matter much to the Kanakkar at that time because in many cases the Jammies were so heavily indebted to the Kanakkar and for years afterwards they were unable to pay off their claims^{I4}. For years, therefore, it was a matter of hardly any importance to the Kanakkar, on what principles the

I3. William Logan, op.cit., Vol. II, Appendix XV, p. cciii.

I4. Warden, Report to the Board of Revenue, Madras, 12th September, 1815, p. 12; Proceedings of the Board of Revenue, 25 September, 1825.



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government assessment had been fixed. They were virtually in full enjoyment of their rights. This and other reasons such as wars and forcible conversions etc. enabled the Kanakkar to gradually establish themselves as the new landlord^{I5}. These landlords unlike the old Jammies, started oppressions and unscrupulous evictions against the cultivators for exacting the maximum amount of rent.

Introduction of Ryotwari System

This scheme continued till the introduction of Ryotwari system in Malabar in January 1818. The total area of Malabar was 5 million acres. Out of this only 0.58 million acres were under cultivation^{I6}. So under Mr. Rickard's scheme the Government was not able to assess the waste lands which were gradually brought under cultivation by the peasants. Also to solve this problem they decided to extend the Ryotwari mode of assessment to Malabar district as well. On 5th January 1818 the Board of Revenue issued instructions for the abandonment of the existing system of revenue administration in Malabar and the introduction of Ryotwari mode of settlement and collection.

The Ryotwari system introduced into Malabar, was, however, different from that of the Ryotwari system in the rest of the Presidency. The general principles enunciated in the Madras Ryotwari

I5. Pillai, Elamkulam Kunjan, Jammi System in Kerala (Malayalam), pp. 86-89.

I6. Ward and Corner, A Descriptive Memoir of Malabar, (Madras), 1826, p.4.

settlement was that the State share should be half of the net produce of the land after deducting the expenses of cultivation, the actual cultivator would, in turn, be assured of the other half of net produce. It was a settlement made by the government immediately with the ryots or cultivators to the exclusion of intermediaries¹⁷. And the characters of labourer farmer and the landlord were generally understood as being united in the ryot. But in the Malabar settlement these principles were not observed. The intermediary was recognised as the ideal ryot with whom the Government made the settlement and for whom a share was prescribed, leaving with the actual ryot only a third of the net produce after deducting an insufficient amount as the expenditure on cultivation¹⁸.

So the type of Ryotwari system ~~was~~ introduced in this area enabled the further estrangement of relationship between the landlords and the cultivators. The actual cultivator was dropped out of sight. And the "ideal ryot" with whom the settlement was made in Malabar was really very rich intermediary, who was as good as a landlord,^{to} whose mercy the actual cultivator was left. The cultivator often did not get the share allotted to him and the government did not interfere to prevent the abuses which these landlords indulged in. Sir Thomas Munro's suggestion for a "moderate fixed assessment" which "alone would be more effectual than all

17. Nilamani Mukherjee, The Ryotwari System in Madras, 1792-1827, Introduction pp. xiii-xiv.

18. T.C.Varghese, op.cit., p.28.

other measures combined in promoting the improvements both of the country and of the people", was not favoured by the Company¹⁹.

Graeme's Proposals

But, however, Munro's suggestions and criticisms enabled the appointment of a Commissioner, Mr. Graeme, one of the judges of the Southern Court of Circuit in 1818, to consider the improvement to be introduced into the revenue administration of the district²⁰. The report he submitted in 1822 suggested the assessment of the revenue at 65 per cent of the Jami's share, rather than 60 per cent of the share as seen in the scheme of Rickards and Warden. His plan of distribution looked impressive as the government's share was increased at the cost of Jami's share and theoretically cultivator's share remained untouched. But the Jamies are a class who would never be prepared to suffer any loss and consequently the whole burden would have fallen on the poor cultivators. However, Mr. Graeme nor his successor Mr. Vaughn could complete the revision of assessment and implement the scheme.

In the meanwhile the prices of produce had started increasing considerably. Prices which were abnormally low rose in 1831-32 to about 15 per cent. Prices were again higher in 1833-34²¹. Perhaps the greatest increase since 1822 took place in and just after the five years ending in 1856-57.

19. Sir Thomas Munro, Minutes of 1825, given in William Logan, op.cit., Vol. I, Part II, p.689.

20. Ibid., Vol. I, Part II, p.690.

21. Malabar Special Commission Report 1881-82, Chapter VII, Section V, para.257.

Table Showing the Prices²²

	Paddy per Garce	Gingelly per Garce	Coconuts per 1000	Pepper per Candy (560 lb)	Coffee per Candy
Average of five year ending					
1851-52	76	266	12	51	75
1856-57	108	311	16	85	98
1857-58	149	392	21	100	130
1858-59	166	407	22	95	121
1859-60	197	-	-	-	-

Due to this enormous increase in the prices of produce as shown in the table above, the collection of revenue became much easier. But this rise in prices did not benefit the cultivators to any significant extent under the tenorial conditions of Malabar. As the Jammies had the power of eviction and were free to enhance the revenue as they pleased, they demanded more as rent from the cultivators and took in kind the rent and land revenue payable by the tenants.

22. William Logan, op.cit., Vol.I, part II, p.722.

The changes introduced by the government of the English East India Company in the agrarian field of Malabar, thus, shattered the old customary land system that was in existence for centuries. The parties interested in the soil began to realise enormous changes wrought by European ideas of property in their relative positions. The British Revenue Policy had bestowed upon the Janmi the absolute ownership of land and the British Courts had recognised his right to expel the tenant at the end of every 12 years²³. The period for Kanam renewal which was the period of average succession before, was reduced to a hard and fast period of 12 years. In 1852 the Sudder Courts very strongly declared that Kanam was a tenure terminable at the end of every 12 years²⁴. This mistake caused enormous changes. The rigidity of the British rule began to operate after this ruling. The courts, following this decision, commenced to define sharply the rights and obligations of various parties connected with the land and strictly enforced them. This necessarily deprived the cultivators of their former rights. Sir T. Madhava Rao in his note on the Draft Bill of 1885 says that the Sudder Courts ruling "shook the foundations of Kanam properties which had been from generation to generation, which had been greatly improved, which had been built upon and on which thousands of poor and industrious families had formed their plans of life. The earth

23. See 'Malabar Rebellion of 1921' — A paper presented by Dr. K. N. Panikkar in the Seminar on "Communal Problems in India" in Teen Murti House, 1972.

24. Malabar Tenancy Committee Report, 1927-28 (Madras).

which had been for ages deemed firm, was subjected to a periodical earthquake, the period being 12 years"²⁵. At each renewal the Jammies got some special payments and presents which were very welcome to him. It was thus to the interests of the Jammies to grant renewals.

The relation between the landlords and tenants went on deteriorating. Rack renting and capricious evictions were on the increase. The district teemed with false deeds and the courts were crowded with litigants.

25. Note by Sir T. Madhava Rao on the Draft Bill of 1885, Appendix F, p. 5, Rev. and Agri. Dept. Progs., Nos. 17-18B, 1887.

Chapter III

LOGAN'S ENQUIRY AND THE 1887 ACT

On 14 October 1880 the Government received an anonymous petition, in which the grievances of the agriculturists were set forth particularly in regard to eviction from their lands, and stating that "the people, especially Mappillas, having conspired to create a disturbance, had been advised by some wise men to wait until a representation of the popular grievances had been made to Government and orders received thereupon"¹. The petition went on to say that "disturbances and bloodshed of a kind unknown in Malabar will take place in Malabar", and this was no vain threat; "By the Almighty God who has created all, petitioners swear that this will be a fact". The petition wound up by praying for orders to prohibit the trial and execution of eviction suits, to forbid registration of deeds effecting transfers of land recovered in such suits, and for the appointment of a Commissioner to enquire into the complaints against landlords².

The sentiments expressed in the petition was indeed not the first expression of the discontent of the peasantry. The Mappilla peasantry of South Malabar had revolted against the landlord oppression from 1836 onwards. The Government had, in 1851, instituted an enquiry to go into the causes of these revolts. Mr. Strange, who was the Commissioner of this enquiry, attributed the outrages to the fanaticism of the Mappillas who were mostly the tenants, and gave far too little weight to

1. William Logan, op.cit., Vol.I, Part II, p.584.

2. Ibid., p.585.

agrarian discontent. Based on this report, the Mappilla Outrages Act was passed with which the government could brutally suppress the revolts for the time being, but such repressive legislation could not fulfil its objectives completely³.

However, these strict and punitive measures adopted by the Government did not improve the condition. By 1880, as seen in the petition quoted, strong rumours were current about a widespread revolt in Malabar.

The Government, therefore, decided on 5th February 1881 to appoint Mr. William Logan, the Collector of Malabar, as special Commissioner to enquire into and report upon " the general question of the tenure of land and of tenure right in Malabar, and the alleged insufficiency of compensation offered by the landlords and awarded for land improvements made by tenants". Mr. Logan started his enquiry in October 1881. The report produced by him should be considered the most authentic descriptions of Malabar land relations. In fact all the serious discussions about tenancy reform in Malabar start from Mr. Logan's report.

Before going into his report in detail, let us first examine the structure of agrarian relations as existed at that time. Every person in Malabar, owning some land, whether the extent of which was one acre or one lac acres, was a Janmi. The Jammies having smaller holdings, although landlords literally, sometimes cultivated their lands directly. Such landlords, naturally, were not rent-receivers nor did they have any tenants to evict or rack rent. These landlords were, therefore, economically not very well-off.

3. Ibid., p.586.

Immediately under the Janmi came the Kanakkar. He was the person who leased lands directly from the Janmi. But to categorise all Kanakkar as tenants would be quite misleading because some of the Kanakkar, besides the very large extent of land on kanam (sometimes from more than one Janmi) also had Janmam right over a vast area of land, thus having the dual characteristics of rent payers and rent receivers. There were another set of Kanakkar, who had no Janmam land of their own, but the area of Kanam lands was so vast, having so many sub-tenants under them that they were as good as rich Jammies. Also there were Kanakkar of small Kanam holdings who were sometimes direct producers also. Here again some of these people leased land directly from the Janmi and some others from Kanakkar and yet some others from both. This category did not enjoy any of the privileges the Kanakkar enjoyed, instead they were mostly year to year tenants or tenants-at-will. We can safely say that most of these Pattakkar etc., were the direct producers. Therefore categorising all the parties connected with the land into three water-tight compartments of Jammies, Kanakkar and Verumpattakkar or landlord, tenants and sub-tenants (actual producers) would be absolutely impossible. All that we can do is to classify roughly the Jammies owning vast areas of land as well as the rich Kanakkar into one group which exercise the power of eviction and rack-rent the tenants. All the rest would fall under the general term tenants which again can be sub-divided into rich peasantry, middle peasantry and poor peasantry, according to the extent and nature of holding. So both three-tier and two-tier relationship were found in existence in Malabar although we can roughly say that three-tier relationship was mainly the characteristics of the South Malabar whereas

two-tier relationship was generally found in North Malabar. In North Malabar most of the Jammies were small proprietors who did not think it a disgrace to cultivate their own lands, so the leasing, if any, was directly to the Verumpattakkaran. But in South Malabar most of the Jammies were Nambudiri Brahmins and most of them owned large extent of land and were therefore compelled to lease out the lands to Kanakkar who again leased them out to cultivators.⁴

Logan's Findings and Suggestions

Now coming back to Logan's report, he was of opinion that the original Malabar Land Tenure was a system of customary sharing of the produce and each customary sharer was permitted the free transfer of his interest in the land. He found the existence of different groups possessing definite rights and interests in land, before the Britishers bestowed on the Jammi the rights associated with the Roman Dominus⁵. Even the Verumpattakkaran, who was considered by the British Courts as year-to-year tenant, was, in his opinion, a joint proprietor of the holding, along with the Jammi and the Kanakkar in the earlier days⁶.

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4. See the Note by Mr.T.V.Anantan Nair, Report of the Malabar Land Tenures Committee, 1887, Rev. and Agr. Dept. Progs. No.18-B, February 1887, Appendix F.
 5. Roman Dominus. This term is extensively used by Logan in his report. It denotes the modern and complete ownership of land in Europe.
 6. William Logan, op.cit., Vol.I, Part II, p.616.

Under the British land policy in the area, which was totally faulty from beginning to end, one of these customary sharers had been exalted into the position of a European proprietor holding the 'plenum dominium' as the Romans called it and the other customary co-sharers had consequently been gradually pushed to the wall and did not receive their customary shares, and their right of free transfer of their interests had been virtually appropriated. "The verumpattakkaran no longer enjoys the one-third of the net produce to which he was by custom entitled, and his terms have of late years approached the starvation limit"⁷. On only three out of ninety eight estates examined in the low country taluks it was found that the cultivators were enjoying the share of produce set apart for them. " On all other cases cultivators share of produce had been encroached upon most seriously in most cases, and most outrageously in some"⁸.

The Janmies have by their power of eviction been simply forcing up rents which were formerly very moderate by the force of custom⁹. The complaints against eviction proceedings were numerous and bitter. The chief complaints being of evictions - (a) from ancestral lands, (b) on demand of the land by the Janmi, (c) just as the tree began to bear, (d) after due payment of renewal fees, (e) before being permitted to reap the standing crop, (f) for

7. Ibid., p.626

8. Ibid., p.623.

9. Ibid., p. 657.

refusing to permit tenants' trees to be cut by the Jammies, (g) for refusing to give Janmam title to other lands, (h) for sending petitions and complaints, and (i) of widows and orphans^{IO.}

Evictions had been steadily progressing during the years preceding Mr. Logan's enquiry. Statistics in regard to eviction suits supply the following very suggestive figures^{II}. These figures clearly show the steady increase.

Quinquennial period	Average Annual Number of		
	Suits of eviction	No. of persons against whom evictions decreed	No. of persons against whom rent was decreed
1862-66	2,039	1,891	1,473
1867-71	2,547	3,483	2,547
1872-76	3,947	6,286	4,314
1877-81	4,987	8,355	6,498

in the number of evictions every year. The total number of persons against whom eviction decreed was 1,891 in 1862 and it rose to 8,355 in 1880. Eviction, however, did not necessarily follow on a decree for eviction. If the tenant

IO. Malabar Special Commission Report, 1881-82, Vol. I, p. xliv.

II. William Logan, op. cit., Vol. I, Part II, p. 623.

agreed to the enhancement of rent then eviction did not usually follow on the decree against him. But if he refused he was ejected and a more amenable tenant took his place. Mr. Logan expressed his conviction that " a point, has now been reached beyond which further progress in this direction (i.e., rack-renting) has in many parts of the grain producing taluks become impossible. The actual cultivators are hopelessly in arrears with their, in most cases, outrageous rents. The labouring populations double than what it is in any other district in the presidency; the competition for land to cultivate (the only source of employment) is still on the increase, and in short, cultivating classes is rapidly degenerating into a state of insolvent cottierism"^{I2}. The tenants had to satisfy the needs of their landlords in so many other ways. On occasions of birth, death and marriage in the landlord's family, of dramatic performance and musical exhibitions in his house and on festival days the tenants were required to contribute money and material. For a renewal of his lease the tenant had to make presents at the rate of a rupee to all the members of the family of the landlord and also to his agents (if any), besides a fee equal to a year's rent of the holding and a further sum of Rs.5/- for his signature. Thus the Jammies sought their own aggrandisement to the ruin of the tenants.^{I3}

I2. The Government of Madras to the Government of India, dated 27 March 1884, Leg. Dept. Progs. Nos. 9 to 26A, October, 1885.

I3. The petition from the inhabitants of Kottayam Taluk dated 26 August 1886, Leg. Dept. Progs., Nos. 35 to 64-A, January 1887.

A-very large percentage of suits instituted in the Civil Courts of Malabar consisted of eviction suits. "The abnormally large number of Munsif Courts that exist in Malabar would not be necessary but for these eviction suits"^{I4}. Almost any ground was made a pretext for instituting eviction suits. Refusal to contribute to the expenses of weddings and other ceremonies in the Janmi's families, the smallness of the nazar presented for asking permission to celebrate a wedding and even building a comfortable house etc. were the causes for eviction^{I5}. At the time of renewal, Kanam tenants were compelled to insert in the renewal deeds a provision to the effect that they will surrender their holdings on demand by the Jammies. The object of this provision was to get rid of the period of 12 years, which formed an incident of the Kanam tenure^{I6}. If the Kanam tenants owned any Janmam property, they were required to include in the Kanam documents and thus give up their Janmam rights. They were also asked to covert their Kanam holdings into Karipamayams or ordinary mortgages with possession, so that they may without regard to any term, be redeemed at any time.^{I7} If the holdings contained, in addition to paddy lands, dwelling houses or other buildings or groves or plantations of trees, the tenants were asked to separate documents for them, so that evictions from paddy lands, for which there is always a demand could be easily made, without compensation

I4. Memorandum for K.P. Sankara Menon, High Court Vakil to the Acting Secretary to the Government of India, Leg.Dept.Progs.Nos. 35 to 64A. January, 1887.

I5. The petition from the inhabitants of Kottayam Taluk, op.cit.,

I6. Memorandum from K.P.Sankaran Menon, op.cit.,

I7. Ibid.

having to be paid for buildings and trees¹⁸. These were all modern devices adopted by the Jammies to draw the rope tightly round the neck of the tenant. On refusal to comply with any of these demands, eviction followed as a matter of course. At the time of renewal the amount demanded as the renewal fees were, in many cases, outrageous¹⁹. To pay these amounts tenants had to borrow money at exorbitant rates of interest by mortgaging their holdings and other properties if they have any. Very often they were not able to repay these debts by the time the next renewal came round, for which they had to borrow again. The result was that the load of debt gradually became heavier and heavier till at length they/sunk under its intollerable weight. Even after payments of renewal fees, tenants were often not able to get renewal documents executed. To get these documents they had to bribe the hungry and unscrupulous Karyasthan or manager of Jammies who generally had considerable influence over their masters. The tenants did not always get receipts for payment of renewal fees or michavaram or rent. To ask for receipt was to incur the ire of the Janmi or, what was more serious, the ire of his Karyasthan²⁰. The consequences of not getting receipts were serious. When suits for eviction are instituted, tenants, for want of receipts were not able to prove payment of rent. Alleged arrears of rent were, therefore, set off against the value of improvements and thus they loose even the value of improvements which they would otherwise get²¹.

18. Ibid.

19. Ibid.

20. Ibid.

21. Ibid.

Complaints of excessive rent, excessive renewal fees etc. were very common and well-founded. A very important subject of the complaints was the inadequacy of the rates paid to the ryots for the improvements when being evicted from their holdings²². The customary rates for improvements were the rates at which the Janmi's share of produce had to be bought, and not the value of the ryot's interests in his holdings. When he (the ryot) wished to get rid of his interest in his holdings he sold it at its full market value. Another matter of complaint was the insecurity to the purchasers of Kanam rights. This was a very well founded complaint looking to the practical permanency of the tenure in the former times, and the tenants' free power of transfer of his interest in his holding²³. Breaches of contracts to Kanam deeds was another important matter of complaint. The system of renewal as now developed was an outrageous system of forehand renting requiring extravagant sums to be paid down on entry or renewal. The Courts having viewed the Kanakkaran's advance to his Janmi as having been made to secure payment of the rent and as having been also made on the security of the land, it follows that the tenant cannot be ousted for allowing pattam (rent) to fall into arrears, and if rent is allowed to fall into arrears it can be recovered when the

22. William Logan, op.cit., Vol.I, p.624

23. Ibid., p.624.

Kanam advance is paid off at the end of the tenants' term of occupation. This being so it has become usual to write off from five to fourteen years of arrears of rent from the Kanam advance at the end of the term of occupation²⁴. In one case, that of a poor widow, nineteen years of arrears of rent were so written off, the tenant being unable to produce receipts for the rent²⁵.

On the basis of his findings summarised above, Mr. Logan recommended a comprehensive legislation as a remedy for the grievances of the poor tenants. He also made detailed suggestions as to the lines on which the legislation should proceed. He was of opinion that the actual cultivator of the soil was the only person whose interest required to be secured by the government. "It is absolutely necessary to devise some measures for giving to the actual cultivator of a small holding full security that if he plants trees, he will be left free to gather their fruits, and if he reclaims land from the waste, he will be left free to enjoy the profits of his capital"²⁶.

Mr. Logan further suggested that the landlord's power of ouster must be curtailed; "the landlord is perfectly entitled to take a competition rent, provided he is dealing with capitalists, and the tenant must have the full benefits of the ancient customary law entitling to sell the improvements on their holdings"²⁷. To attain these ends he considered that legislation was essential. He did not, however, think it expedient to restore

24. Ibid.

25. Ibid.

26. Malabar Special Commission Report, 1881-82, Vol. I, p. lxxxiii.

27. William Logan, op.cit., Vol. I, Part II, p. 588.

Kanakkar to his old privileged position, because such a measure, however just, would have the effect of reversing the policy followed until then and would operate prejudicially on the purchasers of the escheated Janmam lands²⁸. It was also stated that the recognition of the Kanam intermediary would pave the way for the claims of this class of intermediaries and that this was not desirable as these intermediaries were mere investors of money and did not contribute to the wealth of the land. So he suggested legislative measures for the protection of the actual cultivators of the small holdings of twenty-five acres of wet or dry grain crop land or of five acres of garden land, (whom he regarded as non-capitalists)²⁹. Here lies the Kernel of Logan's suggestions. As already stated in the last chapter, many of the Kanakkar's position was as good as the Janmi's , since these Kanakkar had a vast area of land as Kanam holdings besides those lands on which they had Janmam right as well. So his proposal was to make "such holdings permanent i.e., to give to the actual cultivator a right to permanency of his tenure with remainder to heirs, representatives or rights"³⁰. The other suggestion included "the right to use the soil to the best advantage, right to transfer of interest, right to his ancient customary share, i.e., one third of the net produce , and a right, if the Government assessment of the land is

28. Malabar Special Commission Report, 1881-82, Vol.II, p.323

29. Ibid., Vol.II, p.354.

30. Ibid., Vol.II, p.357.

paid by him, to recover it in money at the commutation rate fixed by the Government"³¹. As a corollary to these, he also suggested that the landlord of such a holding was also to have certain subjoined rights. Mr. Logan's proposal was substantially for the establishment of a statutory tenure conferring occupancy right on small holdings. The principal features thereof were three, viz., (1) the occupancy right was to be sold to the highest bidder whenever the existing tenancy was determined and was thenceforward to be permanent so long as the tenant paid his rent and did not commit waste; (2) the occupancy right was to be alienable by sale but not by mortgage or lease; and (3) the rent was not to exceed two-thirds of the net produce estimated at the time of entry³².

Logan's suggestions were circulated to several officials and non-officials who reacted to it differently. In view of the intricacy of the subject and the interest involved, the Government appointed a Special Commission in 1884 with Sir T. Madhava Rao as the President and Mr. Logan as one of the members for considering the whole question and advising them as to the lines on which legislative action should proceed³³.

On 18th March 1884 this Commission forwarded the draft of a bill entitled 'the Malabar Stay of Execution Act', which had for its object the temporary suspension of eviction of tenants by Jammies within

31. Ibid., Vol. II, p. 360

32. Ibid., Vol. II, p. 372

33. Report of the Malabar Land Tenure Committee, 1887, op.cit.,
Precis of Papers on Malabar Land Question, p. 12.

the Malabar district³⁴. Sir T. Madhava Rao, in his memorandum, trying to justify the urgent necessity of this Act, said, that "during the period of these three years in which enquiries have been going on, the evil of evictions has been greatly increased. The evil is sure to increase still further as the Jammies more and more fear that their power to evict is going to be limited. To devise and carry out any legislation, it would take sometime and this period will be most critical. The Jammies will work to the utmost of their power to upset customary tenures by evicting present tenants and substituting yearly tenants or tenants-at-will. Immense suffering will be inflicted on the tenants; and it is to be remembered that every eviction adds to the difficulty of the remedy in prospect. Hence the urgent necessity of a Stay of Execution Act"³⁵. But unfortunately this Bill, which was forwarded to the Government of India, was subsequently returned, referred to the High Court for opinion, and then hung up until the necessity for the Bill had passed away.

The other Bill proposed by the Committee of 1884 was the 'Malabar Tenancy Bill'. This bill aimed at protecting all persons holding direct from Janmi. The Commissioners held that there was justification for interfering with the Janmi's rights³⁶. They agreed with Mr. Logan that according to ancient custom the Janmi had only limited interest in the land namely the right to a share in the produce, that

34. Ibid., p.I2

35. Memorandum Submitted by Raja Sir T.Madhava Rao, Leg.Dept.Progs.Nos.9 to 26A, October 1885 (NAI), p.8.

36. Report of the Commission on Malabar Land Tenures, 1884, pp.II-I2

there was no material difference between the tenures of a Kanakkaran and a Verumpattakkaran except that the former was regarded as of greater permanency; and that the tenant should be evicted only for certain definite reasons³⁷. The legislation proposed by the Commission was framed with a view to restore to these classes of tenants some of the rights and privileges which they thought they had been deprived since the commencement of the British rule. The Commission proposed to confer occupancy rights on: (a) any tenant who had held the same land for thirty years; (b) any tenant who had reclaimed land and held it for fifteen years; (c) any tenant of land which had been held on Kanam or a higher tenure for thirty years; and (d) any tenant who purchased the occupancy right from the Janmi³⁸. 'Tenant' as defined in this Bill was a person who directly contracted with the Janmi³⁹ and hence sub-tenants who were the real sufferers were excluded by the Commission from the benefit of the occupancy right.

Sir Madhava Rao's report did not at all agree with the report submitted by Mr. Logan earlier. When Logan wanted the occupancy right to be conferred only to the small holders, the actual tillers of the soil, this report wanted the occupancy right to be confined to the bigger holders holding directly from the Janmi. The small holders were usually the tenants of the Kanakkar. Those small holders who held directly from the

37. Ibid., p.14

38. Ibid., pp.17-18.

39. Ibid., p.19.

landlord were too poor to fight their masters in the courts of justice. Thus these small holders who were also the actual cultivators were subjected to rack-renting, and indiscriminate evictions at the hands of Jammies as well as big Kanakkar.

Mr. Logan now submitted an alternative scheme with the object of giving protection to the actual cultivator as well. The main principles of his scheme were that the occupancy rights should be conferred not only on those on whom the other Commissioners conferred it, but also on all occupants of land permanently brought under cultivation, irrespective of the length of their occupation, and that such rights should be attached to and pass with such land⁴⁰. The settled cultivator was to be secured in his holding, whilst the temporary cultivator was to be governed by the terms of his contract. But this again was subjected to several criticisms and was finally rejected.

The Draft Bill prepared by Madava Rao's Commission was referred by the Government to the High Court for opinion. The report was severely criticised by Sir Charles Turner, the Chief Justice of Madras, in an elaborate minute in which he defended the view already taken by the Courts. He agreed with Mr. Logan that the actual cultivator of the soil stood in need

40. Report of the Malabar Land Tenures Committee, Section dealing with Logan's Alternative Scheme. Rev. and Agri. Dept. Progs., Nos. I7-I8 B, July 1887.

of the legislative protection. He held that Kanakkar whose title had originated after 1792 were not entitled to protection and that as regards those whose title arose prior to 1792 there was some ground for the interference as they had enjoyed fixity of tenure under the 'native rule', but he thought that such cases would be extremely few⁴¹. He considered that there were sufficient grounds for interference to protect actual cultivators held on Kanam or inferior tenures. His scheme was^{to} divide the actual cultivator and the tenure holders holding more than a certain area and to confer occupancy rights on the latter on the lines of Bengal Tenancy Act.⁴²

The views of the High Court were so divergent from those of the Commission that the Government deemed it inexpedient to proceed with the Bills drafted by the Commission without further consideration of the many important questions raised by the High Court. The Government accordingly appointed a Committee on 17th September 1885 presided over by Mr. Master to review the whole matter in the light of the remarks of the judges of the High Court⁴³.

The main problem took up by the Master Committee was that of the payment of compensation for improvement when evicted⁴⁴. The value of the

41. Minute by Charles Turner, on the Draft Bill Relating to Malabar. His Minute is Given in "Precis of Papers on Malabar Land Question". Rev. and Agr. Dept. Progs., Nos. 17-18 B, July 1887, pp. 20-25.

42. Ibid., pp. 20-25.

43. Report of the Malabar Land Tenures Committee, 1887, op.cit., p. I.

44. Ibid., p. 2

compensation to the tenant had been greatly diminished owing to the manner in which it was ascertained. The Courts used to send a Commissioner to draw up a list of improvements for which the compensation is due, and to make an account of the sum payable. The most important claim for improvement was that of the trees planted by the outgoing tenant. The value of these trees was fixed by the schedule drawn up at different times, which were accepted by the Courts as representing the customary evaluation, whereas, infact, they probably never really did so. And the rates varied extremely in various parts of the district and were in most cases much below the real market value⁴⁵.

The Bill prepared by the Committee presided over by Mr. Master was, therefore, mainly to find a solution to this problem relating to the garden lands. "So the principles on which the Committee has proceeded is that an evicted tenant is entitled to the full market value of his improvements"⁴⁶. Many of its provisions were drawn up from the corresponding sections of the Bengal Tenancy Act VIII of 1885.

Section 4 of the Bill provides that every tenant who is ejected from his holding shall, notwithstanding any custom, be entitled for compensation for improvements made by him or his predecessors, and for which compensation has not already been paid⁴⁷. Section 5 of the Bill declared that

45. Malabar Land Improvement Compensation Draft Bill, Statement of Objects and Reasons- Report of the Master Committee of 1885. Rev. and Agri. Dept. Progs. Nos. 33 to 37B, dated January 1887. (Madras, (T.N.A.)

46. Ibid., Statement of Objects and Reasons.

47. Malabar Compensation for Tenants Improvement Act. Leg. Dept. Progs. Nos. 66 to 74B, July 1886, (Madras), (T.N.A.).

whenever a Court makes a decree or order for ejectment of a tenant it shall determine the amount of compensation, if any, due to the tenants for improvements, and shall make the decree or order of ejectment conditional on the payment of that amount to the tenant⁴⁸. These two Sections were based on Section 82 of Bengal Tenancy Act of 1885. Section 6 laid down the principles on which the compensation was to be estimated, i.e., the compensation to be awarded for an improvement shall be the amount by which the value, or the produce, of the holding, or the value of that produce, is increased by the improvement⁴⁹. In the second part of this Section power is reserved to the Government to order schedules of values of trees and plans to be prepared, which are to last for at least ten years and are to be binding on the Courts; until this power is exercised or in any place to which it is not extended, the Courts will be guided by the evidence before them. In Section 7 the power of a tenant to contract himself out of his right to make improvements and to claim compensation out of his right to make improvements and to claim compensation for the same was withdrawn, but contracts made before 1886 were respected⁵⁰.

The Committee in its report further recommended an Eviction and Waste Lands Bill. This Bill provided a small modicum of protection on tenants generally and on those who were settled by Government in waste lands

48. Ibid., Section 5.

49. Ibid., Section 6.

50. Ibid., Section 6.

over which the Jammies had rights⁵¹. This Bill was forwarded to the Secretary of State, in June 1887, who raised no objection to its general principles. But its subsequent history is not known, and obviously it was dropped.

The Bill prepared by the Master's Committee, after referring it to a Select Committee who made very minor changes in the wordings of the certain clauses, was passed as Act I of 1887. But this Act, as we will see later on, was, however, not at all remedy for the grievances of the Malabar peasantry. As is clear from the above brief narration of the various sections and clauses of the Bill, it dealt only with one of the many grievances of the oppressed cultivators, namely, the landlords' power to eject on payment of inadequate compensation for improvements. But there were much more important problems which brought the tenants into confrontation with the landlords. The abortive Bill of 1887 (Malabar Eviction and Waste Land Bill) would have been a solution to two major grievances, namely, the indiscriminate and excessive number of evictions and secondly, the interference of landlords with cultivators settled by Government in waste lands⁵². These most important grievances were ignored in this Act. No effort at all had been made to check the extortionate rents and renewal fees charged from the tenants. All the

51. Malabar Eviction and Waste Land Bills 1887, Leg.Dept.Progs.Nos. 79 to 85A, October 1887, (Madras), (T.N.A.)

52. All waste lands were originally of one Janmi or the other since whole of the land of the district were assigned to these people by the earlier rulers. But after the introduction of the Ryotwari system in the district, the Government began slowly leasing these waste lands to the cultivators.

problems related mainly to the garden lands only. Hence the actual tillers of the soil did not come into picture very much, as most of the poor cultivators earned their livelihood from the wet lands (paddy cultivation) where rack-renting was the rule. The framers of the Act seem not to have been even aware of this problem.

So the Act passed after so many enquiries was not designed to provide any relief to the peasants of Malabar who were expecting something substantial from the new Act. An appraisal of the effects of the implementation of this Act would throw some light on this regard.

A report on the working of this Act was prepared by Mr. Bradley, the then Collector of Malabar, and submitted to the Government on 1st October 1894⁵³. This report pointed out some reasons why the Act failed to redress the grievances existed among the agrarian population of Malabar.

On the light of this report we will first examine how far the avowed object of the Act, i.e., the payment of full compensation for improvement on eviction, was effected. The Act specified that the market value of improvements should be paid to the outgoing tenants and permitted the Government to issue the "tables of rates which should be presumed to be the proper rates until the contrary was proved". A table of rates was submitted by the High Court in 1889. But the Board of Revenue and the then Collector Mr. Winterbootham denounced them as altogether inadequate and based on wrong

53. The report is found quoted in the Leg. Dept. Progs. Nos. I to 4, January 1900, Appendix 'D' and also in Leg. Dept. Progs. Nos. I to 8, December 1898.

principles⁵⁴. The High Court explained that the rates did not represent the market value, but the ~~most~~ of improvement, and as they were presumptive evidence only, it rested with the tenant to prove that they did not reach the market value⁵⁵. The Government considered this view as opposed to the principles on which the Act was based and held the rates to be inadequate, but sanctioned the tables subject to further report in two years⁵⁶. The following is the rates of compensation for the principal products sanctioned in the different district Munsiff's of Malabar. (Table is given in the next page).

From this table it is quite clear that the rates of compensation for improvements sanctioned by different Munsiff's Courts were inadequate . We may moderately estimate the price of coconut at this time at Rs.25 per 1000 nuts⁵⁷. 100 coconuts are therefore worth Rs.2-8-0 and the value of a tree yielding 100 nuts or more a year at Rs.3 or even Rs.5, is manifestly inequitable. Even if these rates for coconut palms be multiplied four or five times, they would still be moderate. Similarly the price of arecanuts be taken at Rs.1-4-0 per 100 (which was in fact an unduly low rate), a tree yielding 200 nuts would produce 4 annas a year, and the proposal to value such a tree at a rate from 6 to 12 annas seems to be obviously inadequate. No Janni would be prepared to sell an arecanut palm in full bearing for one rupee. And, moreover, these rates were proposed as maximum rates would

54. Ibid., Bradley's Report, para 2.

55. Ibid.

56. Ibid., para 3.

57. This estimate is the average prize of the coconut in Malabar for twenty years from 1862 to 1881, William Logan, op.cit., Vol.II, p.cclviii.

Table of Rates of Compensation for the Principal Products⁵⁸

District Munsiff	Coconut yielding		Arecanuts yielding		Pepper yielding		Jack Tree not less than		Mango Tree not less than	
	Over 100 nuts	50 nuts and below	Over 200 nuts	200 nuts and below	Over 10 Ma- cleod Seers	Below 10 Macle- od Seers	72" in girth or 24" in diameter	24" in girth or 8" in dia- meter	72" in girth or 24" in dia- meter	24" in girth or 8" in diameter
	Rs.As.P.	Rs.As.P.	Rs.As.P.	Rs.As.P.	Rs.As.P.	Rs.As.P.	Rs.As.P.	Rs.As.P.	Rs.As.P.	Rs.As.P.
Nadupuram	3-0-0	1-4-0	0-6-0	0-3-0	0-6-0	0-3-0	12-0-0	4-0-0	1-0-0	0-4-0
Kavai	3-0-0	1-8-0	0-8-0	0-6-0	0-8-0	0-4-0	10-0-0	4-0-0	1-8-0	0-8-0
Badagara	3-0-0	1-0-0	0-6-0	0-3-0	0-6-0	0-3-0	12-0-0	2-0-0	1-0-0	0-4-0
Paiyanad	5-0-0	2-0-0	0-5-0	0-4-0	1-0-0	0-8-0	12-0-0	4-0-0	3-0-0	1-0-0
Cannannore	3-0-0	1-4-0	0-8-0	0-4-0	0-8-0	0-4-0	5-0-0	1-8-0	1-0-0	0-5-0
Tellicheri	3-0-0	1-0-0	0-12-0	0-8-0	1-0-0	0-8-0	3-0-0	1-0-0	1-0-0	0-4-0

58. Malabar Compensation for Tenants Improvements Act of 1887, High Courts' Proposals.
Judl.Dept.Progs.Nos.1580, October 1890 (Madras), (T.N.A).

hardly ever be awarded.

The inadequacy of the rates of compensation can be further clearly understood if we go through a petition filed by the inhabitants of Kottayam Taluk on 26th August 1886. The petition says:

In North Malabar, the country is elevated and abounds in forest, and the soil is dry and unproductive. Immense skill and labour are therefore necessary to make the land cultivable a plantation of 50 trees in 12 years would cost a tenant about Rs.500/- without his own labour. To grow 100 pepper vines, more than Rs. 100 should be expended in a year. Of course, on the sixth year the vines will gradually begin to yield some crop, but this will be hardly equal to even a fourth of the money required in a year for carrying out necessary operations in the field. At the end of the 12th year when the crop begins to bear in full, the Jarnmi claims an ouster on the lapse of the lessee's term. Sometimes when the crops make a rapid and promising growth and is in early bearing by the extraordinary skill and labour of the tenant, various devices will be sought by the Jarnmi to effect an earlier ejection..... A compensation even at the rate of Rs.10 per coconut tree, Rs.15 per Jack tree, Rs.5 per areca nut tree and Rs.5 per Mango tree and for other improvements according to their value, would hardly repay the tenants' labour and expense⁵⁹.

So the avowed object of the Act, i.e., payment of full compensation for improvements at the time of eviction was not materialised by the very inadequacy of the rate of compensation itself.

Of course the Act had literally raised the total amount of compensation awarded as shown in the tables below. Court's figures showing the eviction suits and the amount of compensation given etc. for the three years immediately after the passing of the Act as well as Mr. Bradley's tables

59. Petition from the Inhabitants of Kottayam Taluk dated 26 August 1886. Leg.Dept. Progs. Nos.35 to 64A, January, 1887.

Statement Showing the Compensation Awarded, 1887-89⁶⁰

Year	No. of evictions in which compen- sation was given	Total amount of Compensa- tion given	Proportion of Columns 2 to 3.
North Malabar			
I887	352	23,903	68
I888	274	26,893	98
I889	304	23,978	79
South Malabar			
I887	338	51,343	152
I888	276	45,801	166
I889	362	1,10,359	305

60. Malabar Compensation for Tenants Improvements Act, Report by High Court, Judl. Dept. Progs. No. 329, February 1889.

Statement Showing the Compensation Awarded, 1890-91⁶¹

Year	No. of evictions in which compensation was given	Total amount of compensation given	Proportion of columns 2 to 3
North Malabar			
1890	337	38,477.4.2	114
1891	317	31,963.1.0	101
1892	317	49,367.5.0	156
South Malabar			
1890	622	1,32,872.11.1	214
1891	702	1,36,806.15.4	195
1892	645	1,10,588.6.0	175

for the years between 1890 and 1892 give very impressive figures showing the increase in the amount of compensation given. The total amount of compensation given in the year 1887 was Rs.75 thousand and this amount rose to Rs.170 thousand⁶² in 1890 which is quite considerable. But this impressive

61. Bradley, op.cit., para.6

62. In the tables the total amount of compensation awarded in each year is given separately for South and North Malabar.

increase in the total amount of compensation given that is visible in the tables, does not necessarily mean that the tenants were compensated fully for the improvements they made in the land, at the time of eviction. The higher amount was a natural consequence of the increase in the number of evictions. In the year 1887 the total amount of compensation given was Rs.74 thousand and the total number of evictions in which compensation was given was 690⁶³. When the amount of compensation given rose to 170 thousand in the year 1890 the number of evictions in which compensation was awarded, also increased correspondingly to 959. In fact, the number of evictions was increasing steadily whereas the increase in the amount of compensation given fluctuated. For example, in the year 1890 the total amount given was 170 thousand and this came down to 167 thousand in 1891 which further came down to 159 thousand in 1892, whereas the total number of evictions in which compensation was given which was 959 in 1890 rose to 1019 in 1891.

Moreover it is not possible to say whether there was any increase in the amount given as compensation for improvement due to the operation of this Act since there is no statistics available regarding the amount given as compensation for improvements for the years before the passing of the Act, to compare with. It is again impossible to say with certainty whether the Act had had the effect of securing the tenants the full value of their improvements because although the sums received by the tenants as compensation are known, there were no means of ascertaining the amounts totalled.

63. Here again, the number of evictions in North and South Malabar given separately in the tables are totalled up, hence this figure.

which they were entitled. The tables of rates were, as discussed earlier, quite inadequate. Moreover these tables were not necessary as long as the method applying was left entirely to the court. "It is stated that one of the munsiffs had recently adopted a practice of deducting half the ascertained value of the improvement by way of compensation to the Jammi for the capital investment in the land"⁶⁴. As long as such things happened no table of rates could be of much use.

The Government of Madras also refers, in its despatch to the Secretary of State, to the same reasons for the failure of the Act. It said that the Act failed owing to the indefiniteness of the rules laid down in Section 6 for the guidance of the Courts in determining the compensation payable⁶⁵. In consequences, the Act has been the subject of numerous conflicting decisions in the Courts. "In 1888 the High Court giving effect to the understood intention of the Act, held that the tenant is entitled to receive, as compensation for coconut trees which he planted in his holding, the value of the annual out turn capitalised at so many years purchase according to the age of trees"⁶⁶. But in the case reported in the Indian Law Reports, judges held that there was no provision in the Act for capitalising either the annual rent or the annual increment due to the improvements, and the Court determined the

64. Bradley, op.cit., para 6.

65. Govt. of Madras Despatch to the Secretary of State for India. Leg. Dept. Progs. Nos. I to 8, December 1898, NAI

66. Ibid., Progs. No.5.

compensation on the basis solely of the actual capital and labour expended in effecting the improvement⁶⁷. The case was one in which the tenant had laid out money in improving the land so as to increase permanently the value of its annual out turn. "In another case determined in 1894 in which the holding had been improved by planting trees, the High Court following the same principle, decided that the compensation payable was not the market value of the trees and that the improvement to be paid for was the "work" as defined in Section 3, of planting, protecting and maintaining the tree and not the tree itself which was the result of that "work", nor its future produce"⁶⁸. These decisions in effect deprived the tenant of the full market value of his improvements, that is to say, of the measure of compensation which it was the object of the Act of 1887, to secure to him. Thus the construction of the Act was unsettled and its intention had been evaded.

Besides the fact that the provisions of the Act left too much to the discretion of the Courts, the assessors appointed under the Act also contributed much to the miseries of the tenants. "Evil also lies in the fact that there was no court in Malabar to which attached a body of Commissioners whose honesty was above suspicion"⁶⁹. Generally these assessors exceeded the time allotted to them by the Courts, simply waiting to see

67. Ibid.

68. Ibid.

69. Memorandum from K.P. Sankara Menon, op.cit.,

whether any offer would come from either of the parties. "Persons have often complained to me that they had not only to give feasts for days together to the Commissioner and his friends, but also to give presents in the shape of money and cloths to them at their departure from the scene of action"⁷⁰. "What is wanted in Malabar is a firm of competent and honest Surveyors and valuers to whom commissions can be entrusted by the Courts"⁷¹. In olden days the value of improvements was calculated by arbitrators appointed from the village itself who discharged their duties very honestly and in the presence of the neighbours of the land. But the Commissioners appointed by the British Courts were generally clerks of the Courts or amins, and naturally there was no reason to fear that they were not always proof against temptation from the party who have the heavier purse. There were plenty of instances of different Commissioners valuing the same trees at extremely different rates. For example, in a particular case, when one valued it for Rs.700/- the other valued the same for Rs. 3000/-⁷². And the courts were supposed to be guided by the reports of such Commissioners. So it is very easy to imagine the extent of justice that one can get from these Courts operating under the Act of 1887.

The Jannies had always been anxious that the compensation to be paid upon evicting a tenant should be as low as possible, and it was not difficult

70. Ibid.

71. The Madras Mail (daily) Editorial, 16 April 1886. Rev. and Agri. Dept. Progs. Nos. 33-37B, January 1887 (N.A.I).

72. Ibid.

to devise a means for keeping it low. "As soon as the Jammies began to understand the bearing of the Act, they began to devise means of evading it, and "they have accordingly taken to entering a very considerably increased rent in renewed leases, and then they insert a clause to the effect that a portion of rent had been remitted for improvements to be effected"⁷³. Then under clause (c) of Section 6 of the Act, the compensation will be materially reduced at eviction. The tenant knows that he will be evicted if he does not consent to the landlords' terms; for the present he has only to pay the old rate of rent, and the next renewal is 12 years off, and without considering the future consequence he can easily be got to consent⁷⁴. In other cases the Jammies allowed the tenant to retain the land for a few years beyond the period of the Kanam and then persuaded the tenant into executing a lease in which all or nearly all the trees are entered as landlord's improvements⁷⁵. Therefore it will be found that the percentage of eviction suits in which the compensation has to be paid will be very small. The Government did not propose any remedy to meet these evasions. The real remedy would have been to fix limitations on enhancement of revenue which was never done. Lack of benevolence towards the cultivators is evident from the fact that the Act was the outcome of a number of attempts made by the Committee whose conclusion was that "the best solution of agrarian question was that which involved least interference"⁷⁶.

73. Bradley's Report, op.cit., para.10.

74. Ibid.

75. Malabar Compensation for Tenants Improvements Bill (Madras), Leg.Dept. Progs. Nos. 1 to 8, December, 1898, pp.13-14 (N.A.I).

76. Ibid., p.13.

As regards eviction it was thought that the compensation Act would check the eviction, but in this case it had, no doubt, entirely failed. "It seems not probable inspite of what Government says that the evictions are partly due to the enquiries of 1881-87, but whatever may be the cause, they have increased, and the Madras Government apparently suggests no solution for this beyond enhancing the compensation rates"⁷⁷. If we compare, we can find that Section 2 and 3 of the Act gave to the tenant in Malabar somewhat less protection than was given to a non occupancy ryot under Sections 44 and 46 of the Bengal Tenancy Act.

Statement Showing the Evictions in North and South
Malabar During 1887-1889. ⁷⁸

North Malabar			
Year	No. of evictions	No. in which no compensation was given	No. in which compensation given
1887	1024	672	352
1888	783	469	274
1889	873	569	304
South Malabar			
1887	1795	1457	338
1888	1698	1422	276
1889	1754	1392	362

77. Ibid., p. 14

78. Malabar Compensation for Tenants Improvements Act, Report by the High Court Judl. Dept. Progs. No. 329, February 1889 (T.N.A).

Statement Showing the Eviction Suits in North
and South Malabar during 1890 - 1892. 79

North Malabar			
Year	No. of evictions	No. in which no compensation was given	No. in which compensation was given
1890	1255	918	337
1891	1100	783	317
1892	1337	920	317
South Malabar			
1890	2972	2350	622
1891	3032	2330	702
1892	3283	2609	644

However, the tables above clearly show the tremendous increase in the number of evictions. Mr. Logan's figures⁸⁰ showed that the average number of persons against whom decrees of eviction were passed annually was 1891 in 1862-66; 3483 in 1867-71; 6286 in 1872-76 and 8355 in 1877-80. The figures of High Court and Mr. Bradley for 1887-92 do not admit immediate comparison with those given

79. Bradley's Report, op.cit., para 6.

80. Supra., p. 33

by Mr. Logan. Whereas the latter indicate the number of persons against whom eviction was decreed, the former seem to refer to the number of suits in which eviction was ordered. But it is plain, assuming Mr. Bradley's figures for 1890-92 to refer to the same description of facts as the High Court's figures for 1887-89, that there had been no tendency towards a decrease in the number of evictions during 1887-92. The total number of evictions which was 2819 in 1887 rose to 4620 in 1892, i.e., after five years of the operation of the Act. Out of a total of 2819 evictions in 1887 the compensation was awarded only in 690 cases and the rest 2129 evictions were effected without any compensation being given. Similarly in 1892 compensation was not given at the time of evictions in 3529 cases out of a total of 4620 evictions. It is reasonable to presume that this small number of evictions in which compensations were given might have been the eviction of rich tenants who can afford to go on costly litigation against the landlord and get the judgements made in favour of them; and the large number of evictions without compensation would obviously have been of the poor tenants.

The Act I of 1887 dealt with, for all practical purposes, only the rights and interests of the intermediate holders who were mainly the rich Kanakkar immediately under the Jammies, and the rights and interests of this class, according to W. Logan, was not to be the concern of the Government. The usual chain was the Government, the Janmi, the Kanakkaran and the farmer. The man at the bottom owed his hardship and rack-rent not only to the Janmi but also to the Kanakkar from whom also he used to hold. The Kanakkaran was often a capitalist who invested his money in the Kanam as a commercial speculation, and did his utmost to make all he can out of it,

and they were least interested in improving the wretched conditions of the cultivating classes. The provisions of the Act helped these rich Kanakkar to fight their Jammies. Such Kanakkar entered on a career of almost reckless and often fraudulent improvement of Jammie's property without his consent, so as to make it impossible for the Janmi to recover possession when the Kanam period runs out. The old cordial relationship between the Janmi and the Kanakkar gave place to suspicion and perpetual strife. "The Kanakkar cries out for the grant of fixity of tenure from the Government. The Janmi on the other hand, apprehensive of the curtailment of his family estate, take advantage of the vast increase of population, and they greed to hold land on almost any terms, in order to exact increased rent and enormous renewal fees, by the device of granting a Melkanam over the Kanakkar's head and so incidentally get quit of a fixed tenure holder!"⁸¹

The Janmi thus leaves the Melcharth holder to fight it out in the Court with the original Kanakkar. As Bradley pointed out in his report, the Act had not checked the practice of giving Melcharth in the very slightest degree"⁸².

However, the fight between these rich tenants and their landlords were on the increase. " In Coastal taluks where garden lands are most numerous, the bare truth is that the Act has in connection with the investigations which proceeded its introduction, affixed the seal of insecurity to the ownership of land"⁸³.

81. Malabar Compensation for Tenants Improvement Act of 1887, Minutes by the first member, op.cit., p.35.

82. Bradley's Report, op.cit., para 9.

83. Malabar Compensation for Tenants Improvement Bill, op.cit., Minute by the first member, January, 1900.

So it was very clear that the benefits of the Act were not for the poor cultivators or the smaller holders, because it involved long and costly litigations and other expensive measures etc. It is obvious that a poor farmer cannot make expensive improvements on the land to bring Jarmi into tough position to recover it or to go on costly litigation in the courts. It was all for the rich Kanakkar to do, in whose interest the Act was passed. The actual cultivator, the tiller of the soil, on whom Mr. Logan most truthfully described the whole burden of distress as ultimately falling and who was really deserving legislative protection, was beyond the pale of this Act.

Chapter IV

1900 ACT AND THE NEW SETTLEMENT

The Act of 1887, as evident from the discussion in the previous chapter, did not help to improve the condition of the peasants and save them from the oppression of the landlords. The recurrent revolts of the Mappilla peasantry compelled the Government to give more serious attention to the agrarian question in Malabar. The Government of India, therefore, requested the Madras Government to examine this question de novo and consider the possibility of preparing a Tenancy Bill for Malabar. The Secretary to the Government of India wrote to the Madras Government that "finding from the papers sent to the Government of India by the Madras Government, the Mappilla outbreak which occurred in East Eranad in February and March 1896 was mainly agrarian in its origin, I am directed again, to urge on the Government of Madras the importance of speedy action in the matter of tenancy legislation for Malabar and again to ask that it may be taken up with as little delay as possible"^I. In the same letter the importance of immediate revision of the tables of rates of compensation framed under Act I of 1887, was also urged.

Accordingly the Madras Government drew up a tenancy bill and also a draft bill repealing and re-enacting the Act I of 1887. Then the Government

I. The Secretary to the Government of India to the Chief Secretary to the Government of Madras, dated 17 March 1897 - Leg. Dept. Progs. Nos. I to 8, December 1888.

had a second thought of undertaking a consolidated tenancy bill incorporating the provisions of compensation for Improvement Act. All these endeavours took very long time. Seeing this delay in passing the tenancy bill, the Government of India, in its letter dated 30th May 1898, stated that unless there was practical certainty of tenancy bill being passed within a year, the compensation bill in question should be taken up separately and proceeded with at once², Thereupon the compensation bill prepared was taken up and passed into law as Act I of 1900.

Before discussing the provisions of the Act in detail, it may be mentioned here that in 1899 Mr. Dance, the then Collector of Malabar, drafted a Malabar Melcharth bill,³ which, if passed, would have been a great relief to the tenants who were often dragged into fight with the Melkanomdars. The custom of granting Melkanam or Melcharth⁴ often led ultimately to the eviction of the Kanakkaran or the enhancement of his rent. But the Madras Government did not accept this bill. The position was again

2. Ibid., Letter from Denzil Ibbetson, Secretary to the Government of India to the Government of Madras, dated 30th May 1898.

3. Malabar Tenancy Committee Report, 1927-28, p.10.

4. Melcharth or Melkanam is a lease granted over and above a Kanakkaran who is already the lessee of a particular land. When the original Kanakkaran is found defiant or obnoxious the Jammi adopts this method to get rid of him or to enhance the rent. The Melkanandar will be usually richer than the original Kanakkaran so that he can fight the original Kanakkaran in the Court very easily.

reviewed and the necessity for tenancy legislation was examined in 1905 when a final reply was sent to the Government of India in regard to their suggestion for such legislations; "so far as the tenants were concerned, it was considered that the Act I of 1900 gave them ample protection against eviction and loss of improvements and secured stability of tenure" ⁵. Under this guise the question of tenancy legislation was put off.

The new bill — the Malabar Compensation for Tenants' Improvement Bill, 1900 — was prepared with the assumption that the Act I of 1887 failed for want of "precision" in the language of the Act ⁶. So the most important change brought ~~change brought~~ about in the new Act was to define certain terms more clearly. The term "Improvement" was defined so as to include not only the "work" which adds to the value of the holding, but also the product of such work ⁷. Provisions had been introduced classifying improvements into three distinct classes with a separate standard of compensation for each. The rate of interest to be adopted for capitalising the value of improvements was fixed at six per cent ⁸. The intention in introducing these provisions was to reduce discretion of the courts and thereby avoiding the conflicting decisions the judges used to make ⁹.

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5. Malabar Tenancy Committee Report, 1927-28, p.II
 6. Malabar Compensation for Tenants Improvements Act, Statement of Objects and Reasons, Leg.Dept. Progs. No.80, December, 1898(T.N.A.)
 7. Malabar Compensation for Tenants Improvements Act, op.cit., Section 5, ⁴³
 8. Ibid., Section 6.
 9. Supra - Chapter IV, p.55

By clause 6(5) tenants were enabled to remove from the holding from which they were ejected buildings etc. that were not 'improvements' for which compensation can't be claimed provided they can be removed without substantial injury to the property^{I0.} By clause I5 and the proviso to clause IO protection was afforded to landlords against over-planting and wasteful expenditure in carrying out certain kinds of improvements^{II}. The definition of "tenant" in the Act of I887 was considered to be defective and inappropriate and therefore in the new Act the term was defined in a different way. In the new definition the object had been to include within it "all mortgagees; all sub-lessees and sub-mortgagees; all tenants, who, owing to disputes as to the right of succession to the office of Karanavan of a Tarawad, or the office of Uralan(Manager) of temple property, and the like, happen in good faith to have accepted a demise from a person who subsequently turns out to be not the legal landlord; and the squatters who by the custom of Malabar are entitled on ejection to compensation for improvements"^{I2}. The admission of all mortgagees, Karanavan, Uralan etc. , to the benefit of the Act was consistent with the general policy of British Government in India. The mortgagees or the intermediar-

I0. Malabar Compensation for Tenants Improvements Act, op.cit., Section 6(5).

II. Ibid., Section I5.

I2. Report of the Select Committee on the Malabar Compensation for Tenants Improvement Bill, dated June I899. Rev. and Agri. Dept. Progs. No. I8-B, March I900 (N.A.I).

ies who invested their money in the land were able to make use of the benefits extended in the new Act to the 'tenants' in general. In fact they were the only people who were benefitted by the Act. They could make expensive improvements, as mentioned in last chapter, in the land mortgaged and thereby bringing the landlord into a tough position to recover that land. Only these categories of tenants were able to afford to indulge in costly and prolonged litigations against the Jammies. The smaller holders and the actual cultivators (who were the real tenants) were obviously not in a position to make use of this Act and escape evictions. They had to face evictions and rack renting under Jammies as well as the rich tenants.

The impermanence of tenure and rack-renting continued unabated in the absence of a proper tenancy legislation, the excuse for the postponement of which was that the compensation act would impose a check on the arbitrary exercise of the power of eviction and secure stability of tenure. But the hopes that entertained at the time of passing the improvements act were not materialised. On the other hand the number of eviction suits were on the increase as is shown in the table below. Although marginally, the total number of evictions went on increasing except for the years 1917 and 1918. The total number of suits of eviction which was 4079 in 1916 rose to 5142 in the year 1920¹³. It is also clear from these figures that the judgement were always

13. It is to be remembered that this table excludes the figures of the district Munsiff's Courts of Manjeri, Tirur, Walwanad and Parappanangadi as they were destroyed during the uprising of 1921, and the number of evictions must have been highest in these areas since these places were the central points of peasants unrest. Hence the present figures will not show a steep increase in the number of evictions when compared with figures for the years immediately after the passing of the 1887 Act (Ch. IV, pp. 30⁵⁹⁻⁶⁰) and Logan's figure for the years between 1862 and 1881 (Ch. VI, p. 6³³).

Table Showing the Suits of Eviction^{I4}

Year	No. of Eviction Suits Filled				Decided for Plaintiff				Decided for Defendant			Total
	By Jammies	By Melchartdars under Jammies	By Others	Total	By Jammies	By Melchartdars under Jammies	By Others	Total	By Jammies	By Melchartdars	By Others	
1916	2431	711	937	4039	1639	551	573	2736	243	63	103	409
1917	2365	623	839	3827	1485	467	460	2412	210	31	83	324
1918	2558	611	655	3824	1446	431	334	2211	203	55	104	362
1919	3339	872	863	5074	1914	539	493	2946	321	79	91	491
1920	3046	1019	1077	5142	2437	213	559	3709	227	94	126	447

I4. Malabar Tenancy Committee Report, 1927-28, p.31. The Figures for the Years 1900 to 1915 are not available.

against the tenants. While 2763 cases were decided in favour of the landlords in 1916 only 409 cases were decided in favour of tenants. The worse was the figures in 1920 and 3709 cases were decided in favour of tenants was only 447. But we have already seen that in Malabar there were very rich Kanakars who also came under the category of tenants. Since there were litigations going on between the rich tenants and the Jammies, one can very well presume as we found, in last chapter, that this small number of tenants in whose favour the cases were decided, were the rich tenants as both the parties were equally strong (sometimes Kanakkar were stronger) to carry on litigations. And naturally almost all of the very large number of evicted tenants were either middle peasantry or poor peasantry. So the figures have clearly proved that these poor cultivators could be evicted whenever the landlords wanted to do so and the Act of 1900 could not check it.

In these circumstances rack-renting was made easier. The fear of being evicted from their holdings forced the poor cultivators to submit to rack-renting, exorbitant renewal fees etc. C.A. Innes in his report to the Madras Government in 1915 stated that "paddy lands were still as rack-rented as ever and that the Act could do nothing to improve the conditions of the tenants of such lands"¹⁵. He found that "there was ample ground for legislation, namely (1) prevalence of rack-renting, (2) arbitrary and capricious

15. C.A. Innes, Report of 1915 --- quoted in the Malabar Tenancy Committee Report 1927-28, p.16.

evictions, (3) insecurity of tenures, (4) inadequate compensation for improvements, (5) the levy of exorbitant renewal fees, and (6) the social tyranny of the Jammies"^{I6}. He stated that "Act I of 1900 has failed to achieve the principal object for which it was passed, namely prevention of capricious and arbitrary evictions"^{I7}. According to him the poor tenants were entirely at the mercy of the Jammies. As regards the intermediaries or rich Kanakkar, he was of opinion that the cultivators were not better off under them either and that the actual cultivator of the soil had to be protected both against the Jammies and these Kanakkar^{I8}.

As regards the rates of compensation for improvements, the Act did not contain any schedule of rates, instead the local governments were vested with power to frame necessary tables with specific instructions regarding certain limits within which the compensation awarded must fall^{I9}. A permanent table of rates of compensation was not prepared because the prices of various products, on the basis of which the tables had to be prepared,³ varied from time to time and place to place. The limitations provided in the Act for preparing the tables of rates were that the tables should show various things such as (a) the price of coconuts, areca nuts, pepper and paddy, (b) the cost of cultivating and harvesting a crop of paddy, (c) the

I6. Ibid., p.17

I7. Ibid.

I8. Ibid.

I9. Report of the Select Committee on the Malabar Compensation for Tenants Improvements Bill, op.cit.

cost of planting, protecting and maintaining various trees and vines until they are in bearing, and (d) the cost of protecting and maintaining various trees and vines from one year when in bearing²⁰. The money value of the produce was to be calculated at the average price of the 10 years immediately preceding the institution of the suit²¹. The tables thus prepared were to be used by the courts as presumptively correct in calculating compensation. When a particular improvement produced an increase in the value of the annual net produce of the holding the compensation to be awarded at the time of eviction was to be calculated as follows:- the court was to determine the average net money value of such increase and the number of years during which such increase may be expected to continue, and then to ascertain the "present value at 6 per cent of an annuity equal to such money value for such number of years" and also the cost of making the improvement²². Now if the "present value of annuity" did not exceed the cost of making the improvement, the compensation to be awarded would be the "present value"; on the other hand, if the "present value of the annuity" exceeded the cost of making the improvement, the compensation would be the cost together with

20. An Act to Secure to Tenants in the Malabar Dist.: Compensation for Improvement. Leg. Dept. Progs. Nos. 1 to 4, 1900, (N.A.I.), Appendix-'W'.

21. Ibid., Appendix 'O'

22. Ibid., Appendix-'W'

one-half of the surplus²³. In the original bill this surplus was to be divided between the landlord and the tenant in the proportion of one-fourth to the former and three-fourths to the latter. But in the Act of 1900 landlord's share of the surplus was doubled.

Various provisions of the Act were mainly pertaining to the garden lands, whereas a sizable part of the peasants of Malabar were depending on wet land cultivation, i.e., paddy. The Act did not contain anything substantial for the improvement of the conditions of the peasantry in this field. As a result of this, rack-renting was most prevalent in the paddy lands as pointed out by C.A. Innes in his Report²⁴. Mr. Moberley also has pointed out in his Settlement Report that rack-renting was most merciless in wet lands especially in South Malabar.

There is rack-renting in North Malabar as well as in South Malabar, but then rack-renting is confined almost entirely to wet lands for the cultivation of which no capital is required; and these being numerous in South Malabar, where the agricultural population far exceeds that of North Malabar, it is easily understood how South Malabar has earned the unenviable reputation of being the most rack-rented country on the face of this earth²⁵.

Over and above these, a revision of revenue settlement carried out in 1900 brought the wet land cultivators to a still miserable condition. Before this question is taken up for discussion, a brief account of

23. Ibid., Appendix-'W'

24. C.A. Innes, op.cit., p.16.

25. M. Moberley - Settlement Report of Malabar, 1900, Vol. I, pp.31-32.

the history of settlements and assessments in Malabar may be attempted. It is a fact that the district had never undergone a proper and thorough settlement. As already shown in Chapter II, the system of land assessment was first introduced by the Mysorean rulers in Malabar. The exact principles upon which Hydar Ali's and Tipu Sultan's land settlements were based are not clearly known. But this much is certain that their governments took a portion of the ~~gross~~ Jammipattam which was a certain proportion of the gross produce²⁶. In wet lands of South Malabar under Arshad Beg Khan the Pattam was considered to be 5 per cent of the gross produce, and this was divided between the landlord and the government, the latter taking two-thirds of it and the former one-third. The rates varied in regard to garden lands of South Malabar and garden and wet lands of North Malabar, but the principle was the same everywhere, i.e., of taking a share of Jammipattam as government revenue. The Company's Joint Commissioners of 1793 made no change in this system but simply endeavoured to collect as much of the Mohamedan Jumma as they could. The next change came in 1803 when Mr. Rickards took over as the principal Collector of Malabar. He issued a proclamation permanently fixing the government assessment at six-tenths of the Vilachchalmenipattam²⁷. This proclamation was confirmed in 1805 by Mr. Warden who succeed-

26. See Chapter I

27. Vilachchalemenipattam:- The system of calculating the Pattam in a peculiar customary method, adopted by Mr. Rickards in 1804, was known as Vilachchalmenipattam, See Chapter II pp. 20-21

ed Mr. Rickards. The extension of the Ryotwari System into Malabar in 1818 did not bring about any change except that the intermediaries (who for all practical purposes were the real landlords) with whom the settlements were mostly made, technically came to be known as ryots. After this no attempt appeared to have been made to revise the settlement. While matters stood thus, the Government of Madras wrote to the Government of India that "it is not only open to revise the present assessments, but highly expedient that this should be done. There is no survey, there are no measurement of fields and holdings, and the land registers are in a state of hopeless confusion"²⁸. The Government of India then agreed to a revision of settlement²⁹. But it took long time before the settlement operations started.

The new settlement commenced in 1900. Mr. Moberly was the Chief Settlement Officer. A glance through his Settlement Report will clearly show that in the new settlement the revenue demand was very heavy. The following figures give us an idea about the increase in the assessment demand. In wet land his proposal for resettlement resulted in an increase of Rs. 2,11,842 or 94 per cent in Palaghat; Rs. 1,63,342 or 96 per cent in Ponnani; Rs. 1,63,523 or 104 per cent in Walwanad and Rs. 65,708 or 76 per cent in Kurumbranad. For

28. From the Secretary to the Government of Madras to the Secretary to the Government of India, dated 18th April 1883. Rev. and Agri. Dept. Progs. Nos. 20-22A, June 1883 (N.A.I.).

29. Ibid., Letter from the Secretary to the Government of India to the Secretary to the Government of Madras, dated 15th May 1883.

Table Showing the Increase in the Assessment Demand
in Wet Land. 30

Taluk	Assessment as per the previ- ous revenue account Rs.	Revised assess- ment dem- and. Rs.	Increase Rs.	Percentage of Increase
Palghat	2,25,364	4,37,206	2,11,842	94
Ponnani	1,70,150	3,33,492	1,63,342	96
Walwanad	1,60,182	3,26,705	1,66,523	104
Kurumbranad	86,450	1,52,158	65,708	95
Total	6,42,146	12,49,561	6,07,415	95

the four Taluks the total increase in demand was Rs.6,07,415 or 95 per cent. Acreage assessment according to the revenue account was Rs.2-10-1 per acre and the total area of wet lands in these four taluks under this survey was 3,24,147.21 acres³¹. So if the total survey area is multiplied by this rate of Rs.1-10-1, we get Rs.8,52,575. The increase by this settlement was therefore Rs.12,49,561-Rs.8,52,575= Rs.3,96,986 or 46 per cent of Rs.8,52,575 which was supposed to be the amount, had all the land been assessed by this settlement. This was the case of wet lands only. The assessment demand was heavier in the case of garden lands.

30. Extracted from Moberley, Settlement Report of Malabar, 1900, Vol.I, p.41.

31. Ibid., pp. 42-46.

Total assessment on garden lands, according to Mobârley's settlement scheme, was Rs.14,26,751 as against the previous assessment of Rs.2,84,216 giving an increase of Rs.11,42,535 or 402 per cent³².

Now we will see who was actually made responsible for the payment of this enhanced demand. In a demi-official letter referred to in the Report of the Committee of 1889 Mr. Winter Botham propounded five questions second of which was "Should we not take the opportunity, i.e., of the coming revision, to enforce the compact made with the leading Jammies in the district in 1805 by providing that the amount of rent recoverable by civil suits should not exceed the Government assessment as fixed at the new settlement"³³? The Government replied that "there is no occasion whatever to raise the Malabar tenant right in connection with revision of the revenue settlement. We deal with present revenue payers (i.e., the tenants³⁴ for the most part) and has nothing to do with the throwing the enhanced assessment on the rent receivers, or restricting the ratio to any definite proportions of the gross produce"³⁵. The Committee paraphrased the words thus:- "in other words the Government propose to continue to deal with those they have been hitherto dealing with,

32. Ibid., pp.65-68.

33. Report of the Committee appointed to discuss the principles on which a revision of settlements in Malabar should be based. Leg.Dept.Progs. Nos. 9 and 10 A, (N.A.I.).

34. The word "Tenant" is used here for the "Kanakkar" who were as I have already shown, almost like landlords.

35. Report of the Committee appointed to discuss the principles on which a revision of Settlement in Malabar should be based, op.cit.,

and trust to the operation of ordinary economic laws for the adjustment of any disturbance to existing relations between landlord and tenant that a revision of the Government demand may entail"³⁶. Mr. Bradley strongly argued for the reconsideration of the situation. He said that "There should be a complete readjustment of relation between landlord and tenant is obvious, but the Jammies openly assert that any enhancement in the revenue will fall upon the tenant, and with that object every new lease deed that was drawn throws the responsibility of paying any enhancement in revenue upon the tenant. The trust to the ordinary law of political economy to bring matters to a solution would be impossible in a primitive and ingorant community such as the Malabar Tenants. Legislation will, I am convinced, become necessary sooner or later and it would be a great boon to the country if it could be introduced with the revised rates"³⁷. But the Government was not at all prepared for a tenancy legislation at this stage. However, taking all these things into consideration it was finally decided that the Settlement should be made with landlords and fix the rate of assessment as a share of the Janmipattam (the share which would go to the landlord). The State taking a share of Janmipattam was quite inconsistent with the ryotwari assessment principle under which the Government assessment was a share of the "net produce" directly from the actual cultivators. So this was just a formal recognition of what had been the practice in the Malabar. The Janmipattam, six-tenths of which was the State share, was the net produce. For calculating the net produce the deductions allowed from the gross value were, (I) one-fifth

36. Ibid.

37. Remarks of H. Bradley on the proposed scheme of Moberley, dated 5th July 1894. Moberley's Report, 1900, pp.78-80.

of the gross value for the vicissitudes of nature, (2) expenditure of cultivation per acre estimated at different rates for different Tarams of soil³⁸; and (3) one-third of the remainder (after deducting the first two items) as cultivator's profit³⁹. All these things were merely theoretical and the actual condition of the cultivators was very miserable as is shown by Mr. Moberley himself in his report. He has given an account of income and expenditure on the cultivation of one acre of wetland. The account as shown in his report is as follows:⁴⁰.

To Debit	Rs.As.P.	To Credit
		By first crop 120 Paras
Cost of cultivation of first crop	17-6-2	By Second Crop 80 Paras
Cost of reaping etc.	2-15-9	Value of Straw Rs.7-0-0
Jammipattam	100 Paras	Total 200 Paras + Rs.7
Cost of cultivation of second crop	17-6-2	
Cost of reaping etc.	7 $\frac{3}{11}$ Paras	
Total 37-12-1+ 107 $\frac{3}{11}$ Paras		

So according to this account the ryot spends Rs. 37-12-1 to get 92 $\frac{8}{11}$ Paras of paddy and Rs.7 worth of straw. This 92 $\frac{8}{11}$ Paras of paddy, according to the

38. According to the new settlement the lands were first classified according to soil and fertility, and the output per acre and gross value estimated for each type or 'taram' of land.

39. See Chapter II

40. Moberley, op.cit., 1900, Vol.I, pp.31-32.

then price rate, were worth Rs.25-5-8. "So the result is that the Kudiyan spends Rs.37-12-8 in order to earn Rs.32-5-8 (25-5-8+7-0-0)". There was hardly a net income accruing to the cultivator and of which the State could claim a share. Therefore, calculation of the net produce of cultivation would have been extremely difficult if rent was included in the cultivation expenditure of the actual cultivators who were tenants, since generally, nothing would have been left after deducting cost of cultivation (including rent) from the value of the gross produce. So the State taking a share of the Janmipattam, although inconsistent with the general ryotwari assessment principle of the Presidency, was the only alternative under the tenurial conditions of Malabar. In some areas of the district especially in Palaghat Taluk most of the wet lands were cultivated by Tiyyer or Ezhavar as they are called in Palaghat. Among the Ezhavas it was considered honorable for a man to have stacks of straw in his courtyard, and consequently the Ezhavas paid almost anything so long as he could boast of having some wet land to cultivate; hence the Ezhavapattam or a rate of Pattam utterly incompatible with the capabilities of the soil⁴¹. The whole or nearly whole of the grain goes to the landlord, whilst the tenant gets for his share the straw only, or but little more. In such circumstances the Government will, naturally, ask for its share from the landlords only.

But the revenue assessment from the Janmipattam made the position of the cultivators still more miserable. It has already been shown that the new settlement demand was heavy. The following rent-roll figures of 1891-92 and 1906 gives an idea about the increase in assessment per acre by the new settlement⁴².

41. Moberley, op.cit., p.35

42. Extracted from the Statistical Atlas of Malabar for 1892 and 1906.

Year	Total area in acres	Total assessment in Rs.
1891-92	9,24,127	19,35,777
1906	11,97,884	27,11,224

The table shows that, as a result of the settlement, land revenue went up by 40 per cent, whereas the area of assessed land increased only by about 30 per cent. Per acre the land revenue thus increased from Rs.2-1-6 to Rs.2-11-5.

The landlords of Malabar vehemently protested against this revision of settlement. The Kerala Mahajan Sabha, an association of the landlords, in its memorandum said that "the Government cannot conduct a revision of the existing settlement in this district, without perpetrating a sad breach of faith.... and any change if brought about in the existing system will be in violation of the solemn pledge made by the British Government in 1805"⁴³. But the cry of Kerala Mahajan Sabha against the new settlement was not given any serious consideration at all. The Government decided to carry on with the revision of settlement. The contention of the Government was that this increase in revenue demand would not affect the cultivators, since the Government assessment was decided to be a share of the Janmipattam. But the landlords are a class of people who would never be willing to part with even a small fragment of their share. Moreover, as Bradley had already pointed out, the Janmies had openly asserted that any enhancement in revenue will fall upon

43. Memorandum from the Kerala Mahajan Sabha upon the scheme for resettlement. Moberley's Report, 1900, p.137.

the tenants. Therefore, the method of assessing State share from the Janmipattam was in no way helpful to the poor cultivator, but, in fact, the already impoverished peasantry now had to bear the burden of the revision of settlement also. So the two land legislations of 1887 and 1900 could not impose any check on rack-renting, as was hoped. Instead after these two legislations rack-renting continued in a much more severe form..

Moberley's scheme for settlement strictly defined the land holder as Janmi or the person who has all but obtained to Janmam right. But no register of proprietors such as was contemplated by the Madras Regulation of 1802, was maintained in Malabar district. The revenue Patta was made out in the name of the occupant whether he was a proprietor or a person holding under a proprietor, and the collectors of revenue dealt only with him⁴⁴. "The decision to deal with the Janmi both in settling the revenue payable on his lands and in taking steps for its realisation has rendered it advisable for the security of the Government land revenue, that the practice of settling with the occupants who are not proprietors should be discontinued and that the Janmies themselves should be ascertained and registered in the public registers maintained under the regulation and be held primarily responsible for the revenue"⁴⁵. Thus the Janmam Register Act was passed in 1896 and by 1901 the Janmam registers were prepared. The whole of the land in Malabar thus came to be considered as the

44. Proceedings of the meeting of the Council of the Governor of Fort St. George - Rev. and Agri. Dept. Prog. No. 31-B, April, 1896 (T.N.A.).

45. Ibid., Statement of objects and reasons, Malabar Land Registration Act.

private property of the Jammies with a few exceptions like Purambok lands (lands earmarked generally for community use), Government reserved forests etc.

Now we will see the extent of concentration in the ownership of land. Although theoretically the ryotwari system was supposed to be the land system in Malabar we find a tremendous concentration in the ownership by a small section of society. Almost whole of the land in Malabar was owned by a small close ring of big proprietors or Jammies. The table below shows the extent of land owned by a few Jammies.

Table Showing the Extent of Ownership of 10 Jammies⁴⁶

S.No.	Name of Janmi	Total extent of <u>Janmi</u> holding		Total Amount		
		Acres		Rs.	As.	P.
1.	Vengayil Chathukutty Nayanar	Roughly over 2,00,000 (unoccupied dry land included)		10,000-0-0		
2.	Kalliatt Thazath Veethil Chathukutty Nambiar		36,679	6,200-0-0		
3.	Chirakkal Kovilagath Ramavarma Valiya Raja	About	30,000	46,716-7-5		
4.	Manniledathil Rammunni Aliam Valiya Nair	About	72,294	6,000-0-0		
5.	Poomulli Manakkal Narayanan Nambuodripad	Roughly	18,000	35,000-0-0 roughly		
6.	The Valiya Thamburatti Cali- cut Kizhakka Kovilagam		38,872	50,000-0-0		
7.	Kavalappara Moopil Nayar		15,542.41	24,201-0-0 about		
8.	Damodaran Alias Kuthira Vattath Nair		10,788	21,587-0-0		
9.	Zamorine of Calcut		45,103	1,12,311-0-0		
10.	Nilambur Kovilagath Manavedan Valiya Thirumulppad		1,00,789.84	46,666-9-1		

46. Extracted from Malabar Tenancy Committee Report, 1927-28, pp.152-160

The total number of Jammi Pattadars in the district were roughly 2,22,700 owning the total area of 12 lac and 22 thousand acres of land under cultivation⁴⁷. Out of these ten Jammies alone, as shown in the table above, owned 5,68,077 acres or about 50 per cent of the total area under cultivation. The extent of land over which these ten landlords had the ownership varied from ten thousand to 2 lac acres. Then there was a second set of about 100 Jammies owning between 500 and ten thousand acres of land which would roughly come to about 5 lac acres⁴⁸. Thus out of a total area of 12 lac 22 thousand acres of land about 10 lac acres were owned by 110 Jammies. And the rest 2 lac 22 thousand acres were owned by an equal number of (i.e., 2 lac 22 thousand) Jammies. Then again the third biggest set of Jammies must have owned a sizeable part of these lands, leaving the rest for a very large number of smaller Jammies which would naturally mean a very large number of miniscule holdings, most probably only homestead, or but a little more. Such holdings were predominantly on dry lands comprising not more than a few cents. The concentration in the ownership of land was gradually on the increase as is evident from the table below. In 1891-92 the total number of Pattas were

Table Showing the Number of Pattas etc. 49

Year	Number of Holdings or <u>Pattas</u>	Total Area in Acres	Average area per <u>Patta</u>
1891-92	2,08,075	9,24,127	4.44
1906	1,91,050	11,97,884	6.27

48. Ibid., pp.1520-160. Since the table runs into several pages it is not possible to reproduce them as such and this is a rough calculation from it.

49. Extracted from the Statistical Atlas of Malabar for 1891-1906, p.

2,08,075 acres under cultivation. In 1906 while the total area under cultivation increased by about 2 lac 75 thousand acres the number of pattas decreased by 17 thousand, thus resulting in an increase in the average area per Patta from 4.44 acres in 1891-92 to 6.27 acres in 1906. Thus the concentration of land into fewer and fewer hands was on the increase.

The rich Jammies never cultivated their land directly. The table below shows the extent of land cultivated direct by Jammies, Kanakkar etc.⁵⁰ The figures show that out of a total area of 12,21,285 acres only 1,82,488 acres

Total cultivated area Acs.	Jammies Acs.	Extent cultivated direct by Kanakkar etc. Acs.	Kuzhikkanakkar Acs.
12,21,285.41	1,82,488.97	3,92,027.70	3,08,862.68

were cultivated direct by Jammies. Our discussion earlier has revealed that the total area of the large number of miniscule holdings would come to about 2 lac acres. This table also shows more or less same extent of land as 'under the direct cultivation' of Jammies. Since there was little chance for these small holdings being leased out for cultivation, one can safely conclude that the area shown in the table as cultivated direct by Jammies was done so by the smaller Jammies. The big Jammies had no option but also to lease out vast area of land under their ownership to the Kanakkar who again leased it to cultivators at rack-renting. Naturally these Jammies had large number of holders under them. The table below shows the number of Kanam holders under some of the Jammies of the district. But it is to be remembered that there were still

50. Malabar Tenancy Committee Report, 1927-28, p.151.

Table Showing the Number of Kanam Holdings Under
Few Jammies 5I.

S.No.	Name of the Jammies	Total <u>Kanam</u> holdings
1.	Desamangalam	1203
2.	Olappamanna	943
3.	Varikemanjeri	1496
4.	Kizhakke Kovilagam	4804
5.	Kavalappara	1831
6.	Kuthiravattam	2290
	Total,	12567

bigger Jammies having larger number of tenure holders under them than those shown in this table. The table shows that these six Jammies had an average of more than two thousand tenure holders under them. So the main function of these parasitic landlords in the body politics was just to receive rents and remain quite.

The introduction of the British concept of private property or absolute ownership over land made the position of the Jammies stronger and more secure. The British Judicial system helped the landlords in exploiting the peasantry in Malabar.

5I. Ibid., p.30.

Chapter V

CONCLUSION

The traditional land system of Malabar bound the three interested classes connected with land in harmonious interdependence, within the framework of feudal exploitation. The tenants especially the Kanakkar who were considered by the British as year to year tenants or tenants for 12 years were the joint proprietors of the land along with the Jammies. The Jammies were only the overlords and thereby entitled for a share of the produce. The rights of the Kanakkar over the land was transferable. The sub-tenants like Pattakkar, Verumpattakkar etc., although did not come under the category of permanent tenants, used to get a very liberal share under the customary system of sharing of the produce, and were considered joint proprietors of the land as long as they held it.

The chaos and confusion created by the Mysorean invasion of the district upset the then existing customary laws ^{which} governed the land system and relations. The traditional system received the final death blow in the hands of the East India Company. It fell to pieces when the Jammies became fullfledged landlords of European fashion, under the British rule. The recognition of their power to evict the tenants by the British courts of justice paved the way for the deterioration of the relationship between the landlords and the tenants. The richer tenants fought their Jammies in the courts of justice and safeguarded their interests. Whereas the poor tenants who had to face Jammies as well as rich Kanakkar began sinking into poverty. The intermediaries and Kanakkar had a very fertile ground under the British rule to grow themselves as fullfledged landlords. These landlords

created by the British courts of justice and also on the basis of European concept of absolute ownership over the land had no sympathy for the tillers of the soil. The interpretation given by the British to the traditional land structure and introduction of the concept of private property in land created fertile conditions for the landlords to continue and intensify extortion of rent and other forms of exploitation. In the past the Jammies never asserted their superior rights infringing the rights of the tillers of the soil. But with the assistance of the British courts of justice the Jammies could now indulge in indiscriminate evictions of tenants and enhance the rents which were very moderate under the force of custom in the earlier days. The cultivators and the smaller holders were left completely at the mercy of these rapacious landlords. Capricious evictions and rack-renting became a normal feature of Malabar. Agrarian Society.

The agrarian legislation should have provided remedies for the above mentioned maladies if the cultivators and the smaller holders were to be protected from the exploiters of the landlords. But it did not turn out to be so. The Government in fact turned a deaf ear to Mr. Logan's repeated assertions that it was the smaller holders and the actual cultivators of the soil who required legislative protection. The High Court also supported this view^I. But the land Act passed in 1887 did not contain anything to protect the oppressed peasantry of Malabar. It only helped the rich Kanakkar to enter into a career of long and costly litigations against their Jammies whereby they could safeguard their interests. Only one of the many grievances

I. Minutes of Sir Charlse Turner, op.cit.

of the peasants was supposed to be remedied by this Act. This was the inadequate compensation for improvements given by the landlords to the tenants when they were evicted from their holdings. But in fact even this single avowed object of the Act was not materialised. It was no remedy for the inadequate compensation, or no compensation at all, given to the smaller holders at the time of eviction. First of all the tables of rates of compensation prepared by the framers of the Act was quite inadequate. Secondly, the landlords could make use of the several loopholes and vaguely defined and worded clauses of the Act to evade payment of compensation for improvement at the time of eviction. Long and costly litigation was unavoidable to get full compensation for improvement with the help of this Act. Naturally this was possible only for the rich Kanakkar and not poor cultivators. The government hoped that this compensation for improvement Act would also check the innumerable evictions. But this hope was not materialised at all, instead the eviction of the smaller holders were on the increase. Thirdly, the provisions of the Act left too much to the discretion of the courts. Fourthly, the vagueness of the various clauses of the Act led to conflicting decisions being made by different judges. Fifthly, the corrupt and dishonest assessors appointed by the court under the Act added to the miseries of the cultivators. Thus the Act not only failed to check evictions and enable cultivators to get compensation for improvements when evicted but it also adversely affected the tenants.

Now, the compensation for improvements was a problem relating to garden lands only. The real rack-renting and merciless evictions were most prevalent in the wet areas of paddy cultivation from where most of the cultivators had to earn their livelihood. This major problem was completely left out in this Act, thus leaving the large number of cultivators to continue to

face immense sufferings. The 1900 Act also was not of very great significance as it did not mark a major change from the 1887 Act. Impermanence of tenure and rack-renting of cultivators thus went on from bad to worse.

The new settlement demand was also fairly heavy. However, according to the settlement rules the revenue was supposed to be assessed from the Jannipattam i.e., the share of the landlord. But in order to save the cultivators from bearing the burden of this enhanced revenue demand, it was suggested by the settlement officer himself and others that a comprehensive tenancy legislation should accompany the revision of settlement. But the Government turned down this suggestion with the contention that the 1900 Act was enough for the protection of the cultivators. But as we have seen, in the absence of a proper tenancy legislation the new assessment demand also fell on the shoulders of the poor tenants.

The Jamma Registration Act was passed in 1896. This enabled further concentration of lands into fewer and fewer hands. As we have seen, almost the whole land in Malabar came under the ownership of a small close ring of proprietors to whose mercy all the poor cultivators of Malabar were subjected to. As population increased with concomitant pressure on land, the landlords were placed in still stronger position. Land, it must be remembered, was still the only major source of livelihood.

Social influence of the Jammies over the tenants was another form of oppression. The Nambudiri Brahmin Jammies usually employed their religious sanctity also as a weapon to subdue their tenants and exact gifts and presents from them. Mr. Logan said that while he was doing the duty as Special Commissioner, the Hindu tenants waylaid him when he was riding, walking or driving and gave

him long tales of oppression and wrongs². But comparatively very few of them accepted his invitation to go to his office and put the various facts on record. They had before their eyes the fear of caste censure, fines and excommunication and were slow to avail themselves of their opportunities. The tenants who incurred the displeasure of Nambudiri Janmies were subjected to what was called Desavirodham i.e., the enmity of all residents of the Desam and Swajana Virodham i.e., the enmity of their own caste people. The excommunication entailed many serious, unjust and unpleasant consequences. The excommunicated were not able to get the services of barbers and their women were deprived of the help required for purification after confinement. Their presence in the temple was prohibited and they were not allowed to touch the water of the bathing tanks. People dared not help them in their domestic ceremonies. All who helped them or were even seen speaking to them were either themselves excommunicated or fined. The smallest show of independence was resented as a personal affront. The tenants had to get permission from their Nambudiri Janmies for erecting gate-houses, for tilling buildings and for whitewashing houses. Life in these circumstances, naturally, becomes a burden.

2. Malabar Special Commission, 1881-82, op.cit.

GLOSSARY

- Dēśavirōdham : Enmity of all people of the locality. This is a sort of punishment given by the Nambudiri Brahmins to the people below them in the caste heirarchy, for social offence
- Dēshavāzhi : Ruler or Chieftain of a particular Desam or a unit of administration in Pre-British Malabar
- Dēshom̄ : A unit of administration ruled over by a Chieftain in Pre-British Malabar
- Ezhavapāttam̄ : A high rate of rent (Pattam) paid by Ezhavar or Tiyyar who are low caste Hindus. They are the largest caste-group of Kerala belonging to the 'backward' category
- Hōbāli : A Revenue circle
- Janmam̄ : Literally 'birth', hence Janmam right means birth right. This is a peculiar form of landownership, the historical origins of which are in dispute
- Janmi : Literally " Land Lord". The person who holds Janmam right
- Janmipāttam̄ : The share of the produce which goes to the Janmi or the landlord

- Kānam : Kanam is derived from the word 'Kanuka' (Malayalam) meaning, see. An important land tenure of Malabar on the basis of either mortgage or lease. However, there are various schools of thought regarding the origin and nature of this tenure
- Kānakkāran : The person who holds land on Kanam tenure. Kanakkar is plural
- Kānārtham : Literally "Kanam amount". The advance taken by the Janmi from the Kanakkaran at the time of leasing of the land
- Karipāṇayam : Ordinary mortgage with possession
- Kāryasthan : Manager of a landlord
- Kāraṇavar : Eldest male member of a joint family (Nair) who functions as the head of the family
- Kōḷulābham : Plough profit. The reward for the labour of one who tills the land
- Kudiyān : Literally 'tenant'. Holder of land both from Janmi and Kanakkaran
- Kuzhikkāṇam : Improving lease usually for unspecified period. It is given for the purpose of converting the waste land into productive land.
- Māppilla : Malabar muslim. The origin of the word is controversial

- Mēlchārth or Mēlkāṇam : A lease given by a landlord to a person at a higher rate of rent than the existing rate. On the strength of the Melcharth the holder can bring an eviction suit against the original tenant
- Michavārām : The amount paid by the Kanakkaran each year for the right to hold the land
- Nād : Literally "country". The semi-autonomous territorial division of feudal kingdom in Pre-British Malabar
- Nāduvāzhi : Ruler of a Nad, a feudal Chieftain
- Ōnaṁ : The national festival of Kerala
- Otti : Kanakkaran's share becomes 'Otti' when the interest charged on Kanartham equals or exceeds the rent due to the landlord
- Parambu : Dry land little elevated from the paddy fields, where coconut, arecanut and other trees are grown
- Pārbuti : The village revenue clerk
- Patta : A certificate issued by the ruler to a landlord attesting to liability to pay land revenue for the properties enumerated therein

Pāttam̄	:	Rent
Pattēdār	:	A person who holds patta
Puraṁbōk	:	Area of land earmarked for the community use. It does not belong to anyone
Swajana Virōdham̄	:	Enemity of one's own kinsmen
Taram̄	:	Type
Taravād	:	A Nair joint family
Urālan	:	Manager of a temple and its properties
Vāram̄	:	Share
Verumpāttam̄	:	Simple lease
Vilachchālmēnipāttam̄	:	The system of calculating patta in a peculiar customary method; adopted by Mr. Rickards in 1804

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