



THE TAMIL NADU LEGISLATIVE ASSEMBLY

**THE GUDALUR JANMAM ESTATES
(ABOLITION AND CONVERSION
INTO RYOTWARI) BILL, 1969**

(L.A. BILL No. 4 OF 1969)

Report and Proceedings of the Select Committee)



GOVERNMENT OF TAMIL NADU

1969

AUGUST 1969

Legislative Assembly Department, Madras-9.

CONTENTS

			PAGES
1. Composition of the Select Committee	..	..	1
2. Report of the Select Committee	..	..	2
3. Proceedings of the Select Committee	..	..	37

THE TAMIL NADU LEGISLATIVE ASSEMBLY

**THE GUDALUR JANMAM ESTATES (ABOLITION AND
CONVERSION INTO RYOTWARI) BILL, 1969 (L.A.
BILL No. 4 OF 1969).**

(Composition of the Select Committee)

Chairman.

The Hon. Thiru K. A. MATHIALAGAN.

Members.

Thiru T. P. ALAGANUTHU.
Thiru S. ALAGARSWAMY.
Thiru A. V. P. ASAITHAMBI.
Thiru J. BELLIE GOWDER.
Thiru K. BOJAN.
Thiru ERA. ELAMVAZHUTHI.
Thiru P. G. KARUTHIRUMAN.
Thiru P. MALAICHAMY.
Thiru C. NANJAN.
Thiru A. M. RAJA.
Thiru N. SANKARIAH.
Thiru P. SOUNDARAPANDIAN.
Thiru M. SURENDRAN.
Thiru M. WILLIAM.

Invitees.

Thiru S. V. LAKSHMANAN, M.L.C.
Thirumathi MARY CLUBWALA JADHAV, M.L.C.
Thiru P. T. MUTHU, M.L.C.
Thiru N. V. NATARAJAN, M.L.C.
Thiru R. RAMAN NAIR, M.L.C.

Secretariat.

Thiru C. D. NATARAJAN—*Secretary.*
Thiru G. RAGHAVAN—*Assistant Secretary.*

REPORT OF THE SELECT COMMITTEE ON THE
GUDALUR JANMAM ESTATES (ABOLITION AND
CONVERSION INTO RYOTWARI) BILL, 1969 (L.A.
BILL No. 4 OF 1969).

To

THE HON. THE LEGISLATIVE ASSEMBLY,
MADRAS.

The Select Committee appointed to consider the Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Bill, 1969 (L.A. Bill No. 4 of 1969) has the honour to make the following Report :

2. The Bill was published in English in Part IV—Section 3 of the *Fort St. George Gazette* Extraordinary, dated the 28th January 1969 and in Tamil in the *Fort St. George Gazette*, dated the 23rd April 1969.

3. The Select Committee was appointed by a resolution of the Assembly, dated the 28th February 1969.

4. The Committee held four sittings in all.

At its meeting held on the 31st March 1969, the Committee decided to invite five members of the Legislative Council to participate in the deliberations of the Committee. The Committee also decided to invite memoranda from those interested in the legislation.

The following members of the Legislative Council were invited to participate in the deliberations of the Committee :—

- (1) Thirumathi Clubwala Jadhav
- (2) Thiru S. V. Lakshmanan
- (3) Thiru P. T. Muthu
- (4) Thiru N. V. Natarajan
- (5) Thiru R. Raman Nair

The Committee received 19 written memoranda and recorded oral evidence at Gudalur on the 13th May 1969.

At its meeting held on the 14th May 1969 at Ootacamund and on the 21st July 1969 at Madras, the Committee considered the Bill, clause by clause.

The important changes made by the Committee are given below.

Clause 2.

This clause deals with definitions. A definition of the term "forest" has been newly introduced.

Clauses 8, 9 and 10.

Clauses 8 and 9 specify the lands in respect of which a janmi and tenant respectively would be entitled to a ryotwari patta on proof of cultivation for three agricultural years immediately before the appointed day. Clause 10 specifies the lands in respect of which persons other than the janmi or tenant would be entitled to a ryotwari patta on the basis of personal cultivation for three agricultural years immediately before the appointed day.

With a view to avoid malpractices, the Committee felt that the three agricultural years should be reckoned from a particular date prior to the appointed day. The Committee has, therefore, decided that the crucial date for the purpose of these clauses shall be 1st June 1969.

The clauses have been amended accordingly.

Clause 28.

Clauses 21 to 28 lay down the manner of determining the compensation payable for the janmam estates. It was brought to the notice of the Committee that the compensation payable in respect of large tracts of forests in the janmam estates will not be adequate.

The Committee has therefore decided that provision should be made for payment of compensation which would not be less than Rs. 50 per acre in respect of forest lands.

The clause has been amended accordingly.

Clause 47.

This clause empowers the Government to collect from each pattadar an amount equal to twenty times the difference between the fair rent and the land revenue by way of contribution.

The Committee has decided that the amount of contribution payable by the pattadars should be equal to ten times the difference between the fair rent and the land revenue.

The clause has been amended accordingly.

Clause 49.

Consequent on the amendment proposed to clause 47, the number of instalments in which the contribution will be payable has been reduced from twenty to ten.

The Committee authorised the Chairman to sign the report on its behalf.

A copy of the Bill as amended by the Select Committee is appended.

Fort St. George,
16th August 1969.
Madras,

K. A. MATHIALAGAN,
Chairman.

THE GUDALUR JANMAM ESTATES (ABOLITION AND CONVERSION INTO RYOTWARI) BILL, 1969 (L.A. BILL No. 4 OF 1969) (AS AMENDED BY THE SELECT COMMITTEE).

(NOTE.—The changes made are sidelined or underlined)

A Bill to provide for the acquisition of the rights of janmis in janmam estates in the Gudalur taluk of the Nilgiris district and the introduction of ryotwari settlement in such estates.

Be it enacted by the Legislature of the State of Tamil Nadu in the Twentieth Year of the Republic of India as follows :—

CHAPTER I.

PRELIMINARY.

1. *Short title, extent, application and commencement.*—

(1) This Act may be called the Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Act, 1969.

(2) It extends to the Gudalur taluk of the Nilgiris district.

(3) It applies to all janmam estates.

(4) It shall come into force on such date as the Government may, by notification, appoint.

(5) The Settlement Officer shall, immediately after the date of the publication of the notification under sub-section (4), publish in the District Gazette, a copy of the notification under sub-section (4) and shall also cause to be published in a conspicuous place in the village in which the janmam estate is situated a copy of the notification under sub-section (4) together with such particulars as may be prescribed.

2. *Definitions.*—In this Act, unless the context otherwise requires.—

(1) all expressions defined in the Malabar Tenancy Act shall have the same respective meanings as in that Act with the modifications, if any, made by this Act;

(2) “ appointed day ” means the date appointed by the Government under sub-section (4) of section 1;

(3) “ Director ” means the Director of Settlements appointed under section 4;

(4) “ forest ” includes waste or arable land containing trees, shrubs or reeds.

Explanation.—A forest shall not cease to be such by reason only of the fact that, in a portion thereof, trees, shrubs or reeds are felled, or lands are cultivated, or rocks, roads, tanks, rivers or the like exist;

(5) “ Government ” means the State Government;

(6) “ janmam estate ” means any parcel or parcels of land included in the holding of a janmi;

(7) “ janmi ” means a person entitled to the absolute proprietorship of land and includes a trustee in respect thereof;

(8) “ Malabar Tenancy Act ” means the Malabar Tenancy Act, 1929 (Madras Act XIV of 1930);

(9) “ plantation crop ” means tea, coffee, rubber, cinchona or cardamom;

(10) “ Settlement Officer ” means the Settlement Officer appointed under section 5;

(11) “ tenant ” means a verumpattandar as defined in sub-clause (a) of clause (29) of section 3 of the Malabar Tenancy Act;

(12) “ Tribunal ” means the Tribunal constituted under section 7.

CHAPTER II.

VESTING OF JANMAM ESTATES, ETC., IN GOVERNMENT.

3. *Vesting of janmam estates, etc., in Government.*—With effect on and from the appointed day and save as otherwise expressly provided in this Act—

(a) the Malabar Tenancy Act, the Malabar Land Registration Act, 1895 (Madras Act III of 1896), the Gudalur Compensation for Tenants Improvements Act, 1931 (Madras Act XII of 1931) and all other enactments applicable to janmam estates as such, shall be deemed to have been repealed in their application to janmam estates;

(b) every janmam estate including all communal lands and porambokes, waste lands, pasture lands, forests, mines and minerals, quarries, rivers and streams, tanks and irrigation works, fisheries, and ferries situated within the boundaries thereof shall stand transferred to the Government and vest in them free of all incumbrances, and the Madras Revenue Recovery Act, 1864 (Madras Act II of 1864), the Madras Irrigation Cess Act, 1865 (Madras Act VII of 1865), the Madras Cultivating Tenants Protection Act, 1955 (Madras Act XXV of 1955), the Madras Cultivating Tenants (Payment of Fair Rent) Act, 1956 (Madras Act XXIV of 1956) and all other enactments applicable to ryotwari lands shall apply to the janmam estate;

(c) all rights and interests created by the janmi in or over his janmam estate before the appointed day shall as against the Government cease and determine;

(d) the Government may, after removing any obstruction that may be offered, forthwith take possession of the janmam estate and all accounts, registers, pattas, muchilikas, maps, plans and other documents relating to the janmam estate which the Government may require for the administration thereof:

Provided that the Government shall not dispossess any person of any land in the janmam estate in respect of which they consider that he is *prima facie* entitled to a ryotwari patta pending the decision of the appropriate authority under this Act as to whether such person is entitled to such patta;

(e) the janmi and any other person whose rights stand transferred under clause (b) or cease and determine under clause (c) shall be entitled only to such rights and privileges as are recognised or conferred on him by or under this Act;

(f) the relationship of janmi and tenant, shall as between them, be extinguished; and

(g) any rights and privileges which may have accrued in the janmam estate to any person before the appointed day against the janmi shall cease and determine and shall not be enforceable against the Government or against the janmi and every such person shall be entitled only to such rights and privileges as are recognised or conferred on him by or under this Act.

4. *Appointment and functions of Director of Settlements.*—As soon as may be after the publication of this Act in the *Fort St. George Gazette*, the Government shall appoint a Director of Settlements to carry out survey and settlement operations in janmam estates and introduce ryotwari settlement therein. The Director shall be subordinate to the Board of Revenue.

5. *Appointment and functions of the Settlement Officers.*—

(1) As soon as may be after the publication of this Act in the *Fort St. George Gazette*, the Government shall appoint one or more Settlement Officers to carry out the functions and duties assigned to them by or under this Act.

(2) Every Settlement Officer shall be subordinate to the Director and shall be guided by such lawful instructions as he may issue, from time to time; and the Director shall also have power to cancel or revise any of the orders, acts or proceedings of the Settlement Officer, other than those in respect of which an appeal lies to the Tribunal.

6. *Powers of control of the Board of Revenue.*—The Board of Revenue shall have power—

(a) to give effect to the provisions of this Act;

(b) to issue instructions for the guidance of the Director and Settlement Officers; and

(c) to cancel or revise any of the orders, acts or proceedings of the Director including those passed, done or taken in the exercise of revisional powers.

7. *Constitution of Tribunal.*—(1) The Government shall constitute a Tribunal for the purposes of this Act.

(2) The Tribunal shall consist of one person only, who shall be a Judicial Officer not below the rank of Subordinate Judge.

(3) The Tribunal shall have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (Central Act V of 1908), when trying a suit or when hearing an appeal.

CHAPTER III.

GRANT OF RYOTWARI PATTAS

8. *Lands in which the janmi is entitled to ryotwari patta.*—The janmi shall with effect on and from the appointed day, be entitled to a ryotwari patta in respect of all lands proved to have been cultivated by the janmi himself, or by the members of his tarwad, Gavazhi, illom or family or by his own servants or by hired labour with his own or hired stock in the ordinary course of husbandry for a continuous period of three agricultural years immediately before the 1st day of June 1969.

Explanation I.—“cultivate” in this section includes the planting and rearing of topes, gardens, orchards and plantation crops, but does not include the rearing of topes of spontaneous growth.

Explanation II.—Where any land is cultivated with plantation crops any land occupied by any building for the purpose of or ancillary to the cultivation of such crops or the preparation of the same for the market and any waste land lying interspersed among or contiguous to the planted area upto a maximum of twenty-five per centum of the planted area shall be construed to be land cultivated by the janmi.

9. *Lands in respect of which a tenant is entitled to ryotwari patta.*—(1) Every tenant shall, with effect on and from the appointed day, be entitled to a ryotwari patta in respect of the lands in his occupation :

Provided that such land is proved to have been cultivated by the tenant himself or by the members of his tarwad, tavazhi, illom or family or by his own servants or by hired labour with his own or hired stock in the ordinary course of husbandry for a continuous period of three agricultural years immediately before the 1st day of June 1969 :

Provided further that no person who has been admitted into possession of any land by a janmi on or after the 1st day of June 1961 shall, except where the Government, after an examination of all the circumstances otherwise direct, be entitled to a ryotwari patta in respect of such land.

(2) Notwithstanding anything contained in sub-section (1), no tenant shall be entitled to a ryotwari patta in respect of any land under sub-section (1) if such tenant has voluntarily abandoned or relinquished his rights in respect of such land on or before the date of the decision of the Settlement Officer under sub-section (1) of section 12.

10. *Grant of ryotwari patta on the basis of personal cultivation in certain cases.*—(1) Where no person is entitled to a ryotwari patta in respect of a land in a janmam estate under section 8 or section 9 and the land vests in the Government, a person who had been personally cultivating such land for a continuous period of three agricultural years immediately before the 1st day of June 1969 shall be entitled to a ryotwari patta in respect of that land :

Provided that no person shall be entitled to a ryotwari patta in respect of any land under this section if such person has voluntarily abandoned or relinquished his rights in respect of such land on or before the date of the decision of the Settlement Officer under sub-section (1) of section 12.

Explanation.—For the purposes of this sub-section a person is said to personally cultivate a land when he contributes his own physical labour or that of the members of his tarwad, tavazhi, illom or family in the cultivation of that land.

(2) Any ryotwari patta granted under this section shall take effect on and from the date of the grant of such patta.

11. *Lands in respect of which no ryotwari patta will be granted.*—Notwithstanding anything contained in sections 8 to 10 no ryotwari patta shall be granted in respect of any

land falling under any of the categories specified below and situated within the limits of a janmam estate :—

(a) forests;

(b) beds and bunds of tanks and of supply, drainage, surplus or irrigation channels;

(c) threshing floor, cattle stands, village sites, cart-tracks, roads, temple sites and such other lands situated in any janmam estate as are set apart for the common use of the villagers;

(d) rivers, streams and other porambokes.

12. *Determination of lands in respect of which any person is entitled to ryotwari patta.*—(1) The Settlement Officer shall, subject to the provisions of sub-section (2), inquire into the claims of any person for a ryotwari patta under this Act in respect of any land in a janmam estate and decide in respect of which land the claim should be allowed.

(2) (a) Before holding the enquiry under sub-section (1), the Settlement Officer shall give notice in the prescribed manner to the janmi and to the Tahsildar of the taluk or the Deputy Tahsildar of the sub-taluk in which the land is situated; and

(i) if the person in occupation of the land is not the janmi, to the occupant; and

(ii) to such other persons as may be specified in the rules made by the Government in this behalf.

(b) The Settlement Officer shall also publish in the prescribed manner in the village the notice referred to in clause (a) and after giving the parties who appear before him an opportunity to be heard and to adduce their evidence, give his decision.

(3) Against a decision of the Settlement Officer under sub-section (2), the Government may within one year from the date of the decision, and any person aggrieved by such decision may, within three months of the said date, appeal to the Tribunal :

Provided that the Tribunal may, in its discretion, allow further time not exceeding two months for the filing of any such appeal :

Provided further that the Tribunal may, in its discretion, entertain an appeal by the Government at any time if it appears to the Tribunal that the decision of the Settlement Officer was vitiated by fraud or by mistake of fact.

13. *Liability to pay land revenue to Government.*—(1) (a) Every person, whether a janmi or not who becomes entitled to a ryotwari patta under this Act (other than under section 10) in respect of any land shall, for each fasli year commencing with the fasli year in which the appointed day falls; and

(b) every person who becomes entitled to a ryotwari patta under section 10 in respect of any land shall for each fasli year commencing with the fasli year in which such patta is granted,

be liable to pay to the Government the assessment under the ryotwari settlement of the janmam estate under section 20 and pending such ryotwari settlement be liable to pay land revenue at the same rate and in the same manner as for the nearest ryotwari land of similar description and with similar advantages in the Nilgiris district.

(2) The land revenue payable under sub-section (1) shall be fixed by the prescribed authority.

14. *Vesting of buildings.*—(1) Every building situated within the limits of a janmam estate shall, with effect on and from the appointed day, vest in the person who owned it immediately before that day; but the Government shall be entitled for each fasli year commencing with the fasli year in which the appointed day falls, to levy the appropriate assessment thereon.

(2) In this section "building" includes the site on which it stands and any adjacent premises occupied as an appurtenance thereto.

15. *Rights of persons admitted into possession of land in a janmam estate for non-agricultural purpose.*—Where any person has been admitted into possession of any land in a janmam estate by any janmi for a non-agricultural purpose, that person shall be entitled to remain in possession of the land subject however to the payment by him to the Government of the ryotwari or other assessment or the ground rent which may be imposed upon the land for each fasli year commencing with the fasli year in which the appointed day falls :

Provided that such transaction was not void or illegal under any law in force at the time :

Provided further that a person who has been admitted into possession of any land on or after the 1st day of June 1961 shall be entitled to no rights in respect of such land except where the Government otherwise direct.

16. *Persons admitted into possession of certain lands how dealt with.*—(1) Except where the Government otherwise

direct, no person admitted by a janmi into possession of any land of the description specified in section 11, shall be entitled to any rights in, or to remain in possession of, such land.

(2) A direction under sub-section (1) allowing any person to remain in possession of any such land may specify—

(i) the assessment or ground rent payable to the Government on the land for each fasli year commencing with the fasli year in which the appointed day falls, and

(ii) such special terms and conditions, including the period for which such person may remain in possession of the land as the Government may consider necessary in the public interest.

17. *Rights of lessees of plantations.*—(1) (a) Where at any time before the appointed day the janmi has created by way of lease, rights in any lands for purposes of cultivation of plantation crops, the Government may, if in their opinion, it is in the public interest to do so, by notice given to the person concerned terminate the right with effect from such date as may be specified in the notice, not being earlier than three months from the date thereof.

(b) The person whose right has been so terminated shall be entitled to compensation from the Government which shall be determined by the Board of Revenue in such manner as may be prescribed, having regard to the value of the right and the period for which the right was created.

(c) Where any such right is not determined under this sub-section, the transaction whereby such right was created shall be deemed to be valid and all rights and obligations arising thereunder, on or after the appointed day, shall be enforceable by or against the Government:

Provided that the transaction was not void or illegal under any law in force at the time.

(2) The Government may, if in their opinion, it is in the public interest to do so, impose reasonable restrictions on the exercise of any right continued, under this section.

Explanation.—Any rights granted in perpetuity shall cease and determine and be dealt with under section (3) (e) and not under this section.

18. *Rights of certain other lessees.*—(1) In cases not governed by any other provision of this Act, where on or after the 1st day of June 1961, but before the appointed day, a janmi has created by way of lease or otherwise rights in any mines or minerals, quarries, fisheries or ferries, the

transaction shall be deemed to be valid; and all rights and obligations arising thereunder, on or after the appointed day, shall be enforceable by or against the Government :

Provided that the transaction was not void or illegal under any law in force at the time and that any such right was created for a period not exceeding one year.

(2) (a) Where any such right was created before the 1st day of June 1961, for a period exceeding one year, the Government may, if in their opinion it is in the public interest to do so, by notice given to the person concerned terminate the right with effect from such date as may be specified in the notice, not being earlier than three months from the date thereof.

(b) The person whose right has been so terminated shall be entitled to compensation from the Government which shall be determined by the Board of Revenue in such manner as may be prescribed, having regard to the value of the right and the period for which the right was created.

(c) Where any such right created before the 1st day of June 1961 is not determined under this sub-section, the transaction whereby such right was created shall be deemed to be valid and all rights and obligations arising thereunder, on or after the appointed day shall be enforceable by or against the Government :

Provided that the transaction was not void or illegal under any law in force at the time.

(3) The Government, may, if in their opinion, it is in the public interest to do so, impose reasonable restrictions on the exercise of any right continued under this section.

Explanation.—Any rights granted in perpetuity shall cease and determine and be dealt with under section 3 (e) and not under this section.

CHAPTER IV.

SURVEY AND SETTLEMENT OF JANMMAM ESTATES.

19. *Survey of janmam estates.*—(1) Any janmam estate or part thereof may be surveyed, or if it has been surveyed before the appointed day, may be re-surveyed as if it were Government land, in accordance with the provisions for the survey of such land contained in the Madras Survey and Boundaries Act, 1923 (Madras Act VIII of 1923) :

Provided that any re-survey made under this sub-section may be limited to what is necessary for the introduction of the ryotwari settlement of the janmam estate or part thereof.

(2) The cost of the survey or re-survey, except so much thereof as is payable by any person under the provisions of

section 8 of the Madras Survey and Boundaries Act, 1923 (Madras Act VIII of 1923), shall be borne by the Government.

20. *Manner of effecting ryotwari settlement of janmam estate.*—(1) The Settlement Officer shall effect a ryotwari settlement of the janmam estate or part thereof, in accordance with a settlement notification framed and published by the Government for the purpose.

(2) The said notification shall embody the principles adopted in making ryotwari settlements in ryotwari areas and shall adopt—

(a) the rates of assessment set out in the re-settlement notification in force on the date of the publication of this Act in the *Fort St. George Gazette*, in the Nilgiris district; or

(b) if more than one such notification is in force in the district, the rates set out in one of those notifications which the Government consider to be the most appropriate to the case.

(3) All rates of assessment imposed at a ryotwari settlement under this section shall be liable to revision from time to time as laid down in the settlement or re-settlement notification referred to in sub-sections (1) and (2).

(4) Neither the settlement notification nor any order passed in pursuance thereof shall be liable to be questioned in any court of law.

(5) Nothing in this section shall be construed—

(i) as entitling any person to a ryotwari patta for any land in respect of which he has not made any claim under section 12; or

(ii) as empowering the appropriate officer or authority to re-open any decision made under section 12.

CHAPTER V.

DETERMINATION AND PAYMENT OF COMPENSATION.

21. *Compensation how determined.*—The compensation payable in respect of a janmam estate shall be determined in accordance with the following provisions.

22. *Compensation to be determined for the janmam estate as a whole.*—The compensation shall be determined for the janmam estate as a whole, and not separately for each of the interests therein.

Explanation.—For the purposes of this section, the janmam estate owned by the Nilambur Kovilagam which is partly divided and partly held in common by the several tavazhis shall be construed as a single janmam estate.

23. *Basic annual sum.*—A sum called the basic annual sum shall first be determined in respect of the janmam estate.

24. *Component parts of basic annual sum.*—(1) The basic annual sum shall be the aggregate of the sums specified below less the deductions specified in section 27 :—

(i) the whole of the gross annual rent demand in respect of all lands in the janmam estate occupied by any person other than the janmi on the appointed day as ascertained under section 25, less the deduction specified therein;

(ii) the whole of the average net annual miscellaneous revenue derived from all other sources in the janmam estate specified in clause (b) of section 3, but not including lands in respect of which the janmi is entitled to a ryotwari patta, as ascertained under section 26.

(2) Where the rent payable by a tenant to the janmi is in kind or partly in kind and partly in cash, its commuted value in terms of money shall be ascertained in the prescribed manner.

25. *Computation of rent demand and deduction therefrom.*—(1) The gross annual rent demand in respect of the lands referred to in clause (i) of sub-section (1) of section 24 shall be the total of the rent due on lands occupied by any person other than the janmi on the appointed day.

(2) For the purposes of sub-section (1) the rent shall be,—

(a) the fair rent as determined under the Malabar Tenancy Act and in force on the appointed day, and if no such fair rent is in force on the appointed day the fair rent as determined in accordance with the provisions of the said Act by such officer as may be authorised by the Government in this behalf and subject to such rules as may be prescribed;

(b) in the case of lands to which the Malabar Tenancy Act is not applicable, the rent payable to the janmi by the person in occupation of the land for the agricultural year immediately preceding the agricultural year in which the appointed day falls.

(3) From the gross annual rent demand there shall be deducted three and one-third per cent of such demand on account of the maintenance of irrigation works serving the janmam estate :

Provided that no such deduction shall be made if there is no irrigation work serving the janmam estate or if the janmi is under no legal obligation to maintain any such work serving the janmam estate :

Provided further that where the obligation of the janmi to maintain every one of the irrigation works

servicing the janmam estate is shared by him either with the Government or with some other person the percentage of such deduction shall be reduced by such extent as the Government may deem reasonable.

26. *Computation of net miscellaneous revenue.*—The average net annual miscellaneous revenue from the sources referred to in clause (ii) of sub-section (1) of section 24 shall be the average of the net annual income derived by the janmi from such sources during the three agricultural years immediately preceding the agricultural year in which the appointed day falls :

Provided that, if the Director or the Board of Revenue is of the opinion that, there are no reliable data for ascertaining the said annual income derived by the janmi the average net annual miscellaneous revenue from the sources referred to in clause (ii) of sub-section (1) of section 24 shall be the average of the net annual income derived by the Government from such sources during the agricultural year commencing on the appointed day, if that day was the 15th day of March or on the 15th day of March immediately succeeding the appointed day if that day was not the 15th day of March, and the next agricultural year in case ryotwari settlement is effected in that year or the next two agricultural years in other cases.

27. *Sums payable to the Government to be deducted.*—From the aggregate of the sums referred to in clauses (i) and (ii) of sub-section (1) of section 24 ascertained as aforesaid, there shall be deducted the whole of the amount, including assessment, if any, payable annually by the janmi to the Government.

28. *Amount of compensation.*—(1) The compensation payable in respect of any janmam estate shall be twenty times the basic annual sum.

(2) When the compensation is finally determined in accordance with the foregoing provisions of this Act, if it is found that so much of the compensation as is attributable to forests in the janmam estate concerned, is less than an amount equal to the amount calculated at the rate of fifty rupees per acre of such forests, the compensation payable to such forests shall be an amount equal to the amount calculated at the rate of fifty rupees per acre of such forests, and the total compensation payable in respect of the janmam estate shall, notwithstanding anything contained in this Act, be determined accordingly.

29. *Determination of basic annual sum and compensation*—(1) The Director shall, by order in writing, determine in accordance with the provisions of sections 24, 25, 26, 27 and 28 the basic annual sum in respect of each janmam estate and the compensation payable in respect thereof.

(2) The janmi or other person interested may, within such time as may be prescribed or such further time as the Director may, in his discretion, allow, apply in writing to that Officer for a copy of the data on the basis of which he proposes to determine the basic annual sum.

(3) On receipt of such application, the Director shall furnish the data aforesaid to the applicant; and he shall also, before passing any order under sub-section (1), give the applicant a reasonable opportunity of making his representations in regard thereto, in writing or orally.

(4) A copy of every order passed under sub-section (1), shall be communicated to the janmi and also to every applicant under sub-section (2).

(5) (i) The Director may, at any time, either *suo motu* or on the application of any person, review an order passed by him under sub-section (1) on any one or more of the following grounds, namely:—

(a) that the said order is vitiated by any clerical or arithmetical mistake or error apparent on the face of the record; or

(b) that subsequent to the passing of the said order, data for the better calculation of the basic annual sum have become available; or

(c) that the said order requires to be modified in pursuance of the final order of any competent authority or court:

Provided that the Director shall not exercise the powers under this sub-section in respect of any janmam estate without giving the janmi concerned and every applicant under this sub-section and sub-section (2), a reasonable opportunity of being heard.

(ii) A copy of every order passed under this sub-section shall be communicated to the Board of Revenue and also to the janmi concerned and every applicant under this sub-section and sub-section (2).

(6) Any person deeming himself aggrieved by an order made under sub-section (1) or sub-section (5), may, within one month from the date of the order or such further time as the Board of Revenue may, in its discretion allow, appeal to the Board of Revenue, and the Board shall, after giving the appellant a reasonable opportunity of being heard, pass such orders on the appeal as it thinks fit.

(7) The Board of Revenue may also, in its discretion at any time, either *suo motu* or on the application of any person, call for and examine the record of any order passed, or proceeding taken, by the Director under this section, for the purpose of satisfying itself as to the legality, regularity or propriety of such order or proceeding and pass such order in reference thereto as it thinks fit :

Provided that the basic annual sum or compensation payable in respect of any janmam estate shall not be reduced by the Board without giving the janmi and every person who has made an application under this sub-section and sub-section (2) a reasonable opportunity of being heard.

(8) Notwithstanding anything contained in sub-section (6) or sub-section (7), the Board of Revenue may, on application made to it by the Director or by any other person in that behalf, review any order passed by it under sub-section (6) or sub-section (7), if it is of the opinion that the said order is vitiated by an error in the decision on a point of law or by a mistake, and may make such order on the application as it thinks fit :

Provided that no application for review shall be granted by the Board of Revenue without previous notice to the janmi, and to the applicant, to enable them to appear and be heard in support of the order a review of which is applied for.

(9) No order passed by the Director under sub-section (1) or sub-section (5) shall be liable to be cancelled or modified except by the Board of Revenue as aforesaid; or to be questioned in any Court of law and no order passed by the Board of Revenue under sub-section (6), (7) or (8) shall be liable to be cancelled or modified by the Government or any other authority or to be questioned in any Court of law.

30. *Compensation to be paid in prescribed manner.*—
The compensation payable under this Act may be paid in such form and manner and at such time or times and in one or more instalments as may be prescribed by rules made by the Government.

CHAPTER VI.

DEPOSIT AND APPORTIONMENT OF COMPENSATION.

31. *Compensation to be deposited in office of Tribunal.*—
(1) The Government shall deposit in the office of the Tribunal the compensation payable under this Act in such form and manner and at such time or times and in one or more instalments as may be prescribed by rules made under section 30

Provided that the Government shall be entitled to deduct from the amount to be deposited—

(a) all moneys, if any, still remaining due to them—

(i) in respect of any amount payable by the janmi including assessment, if any, to the Government;

(ii) in respect of any claim which was secured immediately before the appointed day by a mortgage of, or a charge on, the janmam estate or any portion thereof;

(b) all interim payments deposited under sub-section (4) of section 40 in excess of the amounts finally found to be payable under that section :

Provided further that where the total amount of the compensation payable in respect of any janmam estate stands altered after the deposit referred to above has already been made, the Government may deposit the difference or withdraw the same from the deposit already made or otherwise adjust the same in such manner and at such time or times as may be prescribed and the provisions of sections 32 to 39 and of sections 41 and 42 shall apply to the amount finally under deposit and to this extent the Tribunal or the Special Appellate Tribunal, as the case may be, shall be competent to revise its orders, if any, already passed.

(2) On the making of such deposit the Government shall be deemed to have been completely discharged in respect of all claims to, or enforceable against, the compensation aforesaid.

32. *Claims to be made within six months.*—(1) Every person who makes a claim to, or enforceable against, the compensation deposited under any of the provisions of this Act or any portion thereof, including the janmi, members of of his tarwad, tavazhi, illom or family claiming any portion of such compensation, whether by way of a share or by way of maintenance or otherwise, and creditors whether their debts are secured or not, shall apply to the Tribunal within six months from the date on which the amount was deposited or within such further time not exceeding three months as the Tribunal may, in its discretion, allow.

(2) Every claim to, or enforceable against, the compensation or any portion thereof which is not made to the Tribunal within the time aforesaid shall,—

(i) in so far as it relates to the amount paid by the Tribunal under section 43; or

(ii) subject to the provisions of section 45, in so far as it relates to the amount in respect of which an order for payment has been made by the Tribunal or the Special Appellate Tribunal in favour of any person, cease to be enforceable.

33. *Duty of Tribunal.*—The Tribunal shall after giving notice to all persons who have applied under section 32 and to any others whom it considers to be interested, make inquiry into the validity of the claims received by it, and determine the persons who, in its opinion, are entitled to the compensation deposited and the amount to which each of them is entitled.

34. *Compensation to be apportioned by Tribunal.*—(1) As a preliminary to such determination, the Tribunal shall apportion the compensation among the janmi and any other persons whose rights or interests in the janmam estate stand transferred to the Government under clause (b) of section 3, or cease and determine under clause (c) of section 3, including persons who are entitled to be maintained from the janmam estate and its income, as far as possible, in accordance with the value of their respective interests in the janmam estate.

(2) The value of those interests shall be ascertained—

(a) in the case of the janmam estates held by impartible tarwad referred to in section 35, in accordance with the provisions contained in that section and in such rules, not inconsistent with that section, as may be made by the Government in this behalf; and

(b) in the case of other janmam estates, in accordance with such rules as may be made by the Government in this behalf.

35. *Apportionment in the case of janmam estate held by impartible tarwad.*—(1) In the case of a janmam estate which had to be regarded as the property of an impartible tarwad, for the purpose of ascertaining the succession thereto immediately before the appointed day, the following provisions shall apply.

(2) The Tribunal shall determine the aggregate compensation payable to all the following persons, considered as a single group:—

(a) the members of the tarwad (who are hereinafter called "sharers"); and

(b) other persons who, immediately before the appointed day, were entitled to maintenance out of the janmam estate and its income under any decree or order of a Court, award, or other instrument in writing, or contract or family arrangement, which is binding on the janmi (who are hereinafter called "maintenance-holders"):

Provided that no such maintenance-holder shall be entitled to any portion of the aggregate compensation aforesaid, if before the appointed day, his claim for maintenance or the claim of his branch of the family for maintenance, has been settled or discharged in full.

(3) The Tribunal shall next determine which creditors if any, are lawfully entitled to have their debts paid from and out of the assets of the jannam estate and the amount to which each of them is so entitled; and only the remainder of the aggregate compensation shall be divisible among the sharers and maintenance-holders as hereinafter provided.

(4) The portion of the aggregate compensation aforesaid payable to the maintenance-holders shall be determined by the Tribunal and notwithstanding any arrangements already made in respect of maintenance whether by a decree or order of a Court, award or other instrument in writing or contract or family arrangement, such portion shall not exceed one-fifth of the remainder referred to in sub-section (3), except in the case referred to in the second proviso to sub-section (2) of section 37.

(5) (a) The Tribunal shall, in determining the amount of compensation payable to the maintenance-holders and apportioning the same among them, have regard, as far as possible, to the following considerations, namely:—

(i) the compensation payable in respect of the jannam estate;

(ii) the number of persons to be maintained out of that estate;

(iii) the nearness of relationship of the person claiming to be maintained;

(iv) the other sources of income of the claimant;

and
(v) the circumstances of the family of the claimant;

(b) For the purpose of securing—

(i) that the amount of compensation payable to the maintenance-holders does not exceed the limit specified in sub-section (4), and

(ii) that the same is apportioned among them on an equitable basis,

the Tribunal shall have power, wherever necessary, to reopen any arrangement already made in respect of maintenance, whether by a decree or order of a Court, award or other instrument in writing, or contract or family arrangement.

(6) The balance of the aggregate compensation shall be divided among the sharers, as if they owned such balance as a marumakkattayam tarwad and a partition thereof had been effected among them on the appointed day.

36. *Claims of creditors.*—After the compensation has been apportioned among the persons referred to in sub-section (1) of section 34, or where it is more convenient so to do pending such apportionment, the Tribunal shall take into consideration the applications of the creditors other than those dealt with in sub-section (3) of section 35, and decide the amount to which each such creditor is entitled and the person or persons out of whose share or shares of the compensation such amount should be paid.

37. *Grant of ryotwari patta to maintenance-holders in janmam estates held by impartible tarwad.*—(1) Every maintenance-holder entitled to a portion of the compensation under section 35 shall also be entitled to the grant of a ryotwari patta in respect of a portion of the lands referred to in section 8.

(2) The Tribunal shall determine the total extent of the lands in respect of which ryotwari pattas may be granted to the maintenance-holders and divide the same among them and in doing so, the Tribunal shall, unless for reasons recorded in writing it considers that it is inappropriate to do so, have regard to the considerations set forth in sub-section (5) of section 35 and the manner in which the compensation payable to the maintenance-holders has been or may be apportioned among them under that sub-section :

Provided that the total extent of the lands granted to all such maintenance-holders shall not exceed one-fifth of the extent of the lands in respect of which ryotwari patta may be granted under section 8 :

Provided further that where it is found to be inconvenient or impracticable to grant any such lands or to grant any such lands to the full extent to which the maintenance-holder may be regarded as entitled, whether on the ground that such a grant will result in the creation of an uneconomic holding or for any other reason, the share of the compensation awarded to the maintenance-holder may be increased by such amount as the Tribunal may consider reasonable.

(3) The lands in respect of which ryotwari patta may be granted under section 8, after excluding any lands which may be granted to maintenance-holders under sub-section (2), shall be divided among the sharers as if they owned such lands as a marumakkattayam tarwad and a partition thereof had been effected among them on the appointed day.

38. *Certain janmam estates to be treated as impartible janmam estates for purposes of compensation.*—Where the power of the janmi to alienate any property in janmam estate is restricted, the provisions of this Act relating to the payment and apportionment of compensation in respect of janmam estate held by impartible tarwad shall, so far as may be, and subject to such rules as may be made by the Government in this behalf, apply to the payment and apportionment of the compensation payable in respect of the janmam estate.

39. *Devolution of interest in compensation.*—Where it is alleged that the interest of any person entitled to receive payment of any portion of the compensation has devolved on any other person or persons, whether by act of parties or by operation of law, the Tribunal shall determine whether there has been any devolution of the interest, and if so, on whom it has devolved.

40. *Interim payments.*—(1) If the compensation payable in respect of a janmam estate is not determined and deposited in pursuance of this Act before the close of the agricultural year in which the appointed day falls, interim payment in respect of the janmam estate shall be deposited by the Government in the office of the Tribunal every agricultural year prior to the agricultural year in which the said deposit is made.

(2) In respect of the agricultural year in which the appointed day falls, the interim payment to be deposited shall be the basic annual sum as roughly estimated by the Government after deducting therefrom the income from the janmam estate actually derived by the janmi before the appointed day in respect of that agricultural year.

(3) In respect of each of the subsequent agricultural years, the interim payment to be deposited shall be the basic annual sum roughly estimated as aforesaid.

(4) The Government shall deposit all such amounts in the office of the Tribunal and the Tribunal shall after such inquiry, if any, as it thinks fit, apportion the amounts among the persons entitled to any portion thereof, as far as possible in accordance with the value of their respective interests.

(5) On the making of such a deposit, the Government shall be deemed to have been completely discharged in respect of all claims to, or enforceable against, the amount so deposited.

(6) After the compensation has been finally determined the Government shall ascertain the aggregate interim payment which would have been due in respect of the janmam

estate under sub-sections (2) and (3) for the agricultural years concerned, if the basic annual sum as finally determined had been adopted instead of the basic annual sum as roughly estimated.

(7) If the aggregate interim payment determined under sub-section (6) exceeds the aggregate interim payment already deposited, the balance with interest thereon at three per cent per annum shall be deposited by the Government with the Tribunal along with the compensation as finally determined.

(8) If the aggregate interim payment determined under sub-section (6) is less than the aggregate amount already deposited, the excess amount deposited shall be deducted by the Government from the amount of the compensation finally determined and the balance shall be deposited in the office of the Tribunal.

(9) No interim payment made under this section shall be deemed to constitute any part of the compensation which the Government are liable to deposit under sub-section (1) of section 31, or to any extent to be in lieu of such compensation.

(10) The Tribunal shall revise its apportionment of the interim payments with reference to the aggregate interim payment as finally determined by the Government and make the necessary adjustments when apportioning the compensation as finally determined.

41. *Appeals.*—(1) Against any decision of the Tribunal under sub-section (3) of section 12 and sections 33 to 40, the Government may, within six months from the date of the decision, and any person aggrieved by such decision may within three months from the date of such decision, appeal to the Special Appellate Tribunal consisting of two Judges of the High Court nominated from time to time by the Chief Justice in this behalf:

Provided that the Special Appellate Tribunal may, in its discretion allow further time not exceeding three months for the filing of such appeal.

(2) The members of the Special Appellate Tribunal shall hear the appeal on all points, whether of law or of fact. Where on any such point or points the members are divided in their opinion, they shall state the point or points on which they are so divided, and such point or points together with their opinions thereon shall then be laid before one or more Judges nominated for the purpose by the Chief Justice and such Judge or Judges shall hear the appeal in so far as it relates to such point or points and on each such point, the decision of the majority of the Judges who have heard the appeal including those who first heard it shall be deemed to be the decision of the Special Appellate Tribunal.

(3) The Special Appellate Tribunal shall have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908 (Central Act V of 1908), when hearing an appeal.

(4) The decision of the Special Appellate Tribunal and subject to such decision, the decision of the Tribunal shall be final.

(5) Every decision of the Special Appellate Tribunal and subject to such decision, every decision of the Tribunal shall be binding on all persons claiming an interest in any janmam estate notwithstanding that any such person has not preferred any application or filed any statement or adduced any evidence or appeared or participated in any proceeding before the Tribunal or the Special Appellate Tribunal, as the case may be.

42. *Restrictions on the jurisdiction of the Tribunal and Special Appellate Tribunal in certain cases.*—(1) In cases of apportionment of the compensation among the persons referred to in section 34 and of the apportionment of the interim payments among the persons referred to in section 40 the jurisdiction of the Tribunal and the Special Appellate Tribunal shall be limited to the apportionment as such and neither the Tribunal nor the Special Appellate Tribunal shall have jurisdiction to go into the question of the correctness of the determination or the adequacy of the compensation or of the interim payments, as the case may be.

(2) In cases falling under section 37, the jurisdiction of the Tribunal, and in cases of appeal from the order under section 37, the jurisdiction of the Special Appellate Tribunal, shall be limited to the division of the lands in respect of which ryotwari patta may be granted under section 8 and neither the Tribunal nor the Special Appellate Tribunal shall have jurisdiction to go into the question of the correctness of the order under section 12.

Explanation.—For the removal of doubts, it is hereby declared that nothing in this section shall be construed to limit the jurisdiction of the Tribunal when hearing an appeal under sub-section (3) of section 12 or of the Special Appellate Tribunal when hearing an appeal under sub-section (1) of section 41 from the decision of the Tribunal under sub-section (3) of section 12.

43. *Disbursement of compensation.*—All payments made out of the compensation deposited in the office of the Tribunal under section 31 shall be made by it in accordance with its orders and decisions subject to the modifications, if any, made on appeal under section 41.

44. *Limitation for claims by persons entitled to payment.*— Every person in whose favour an order for payment has been made by the Tribunal, shall make an application for payment within three months from the date of the order :

Provided that the Tribunal may, within such further time, not exceeding six months, as it may, in its discretion allow, admit a claim preferred after the period of three months aforesaid, if it is satisfied that the claimant had sufficient cause for not preferring the claim within that period :

Provided further that, when an appeal has been filed before the Special Appellate Tribunal against the said order for payment, the aforesaid period of three months shall be reckoned from the date of the decision of the Special Appellate Tribunal on the appeal.

45. *Unclaimed and undisbursed amounts how dealt with.*—(1) (a) All amounts deposited in the office of the Tribunal under sub-section (1) of section 31 and sub-sections (4) and (7) of section 40, and remaining unpaid and with reference to which no claim has been made within the time specified in sub-section (1) of section 32, or no application for payment has been made within the time specified in section 44; and

(b) all amounts deposited as aforesaid and remaining unpaid after the expiry of a period of six months from the date of the disposal of the application under section 44, shall be withdrawn by the Tribunal and deposited in the District Court having jurisdiction over the *janmam* estate concerned in the name of the *janmam* estate or, as the case may be, in the name of the person or persons in whose favour an order for payment has been made by the Tribunal or the Special Appellate Tribunal.

(2) All amounts deposited by the Tribunal in the District Court under sub-section (1) shall be dealt with by the District Court in accordance with such rules as may be made by the Government in this behalf.

(3) Every person making a claim to or enforceable against, any amount held in deposit under sub-section (1) shall apply to the District Court in the prescribed form setting forth his claim.

(4) The District Court shall, after giving notice to all persons who have applied under sub-section (3) and to any others whom it considers to be interested, make enquiry into the validity of the claims received by it and subject to the provisions of sub-section (5) determine the persons who are entitled to the amount held in deposit and the amount to which each of them is entitled.

(5) Every order for payment made by the Tribunal or the Special Appellate Tribunal in favour of any person shall be binding on the District Court.

46. *Wrong and excess payments to be recoverable as land revenue.*—Where any payment made to any person is subsequently found to be not due to him or to be in excess of the amounts due to him, the amount which is found to be not due or which is in excess, as the case may be with interest thereon at three per cent per annum, or any portion thereof which cannot be otherwise adjusted by deduction from any amount due to such person, shall be recoverable as if it were an arrear of land revenue.

CHAPTER VII.

RECOVERY OF CONTRIBUTION FROM PATTADARS.

47. *Pattadars liable to pay contribution.*—The Government shall be entitled to collect from each pattadar and each pattadar shall be liable to pay to the Government, by way of contribution for every land in respect of which he has been granted a ryotwari patta an amount equal to ten times the difference between the fair rent in respect of such land as determined in the manner specified in sub-section (2) of section 25 and the land revenue due on such land.

Explanation.—For the purposes of this Chapter “pattadar” means any person (other than a janmi) to whom a ryotwari patta has been granted under the provisions of this Act.

48. *Determination of contribution.*—(1) The Settlement Officer, shall, by order in writing, determine in respect of each pattadar the contribution payable by him under section 47.

(2) Any pattadar or other person interested may, within such time as may be prescribed or such further time as the Settlement Officer may, in his discretion, allow, apply in writing to that Officer for a copy of the data on the basis of which he proposes to determine the amount of contribution payable under section 47.

(3) On receipt of such application, the Settlement Officer shall furnish the data aforesaid to the applicant; and he shall also, before passing any order under sub-section (1), give the applicant a reasonable opportunity of making his representations in regard thereto in writing or orally.

(4) A copy of every order passed under sub-section (1) shall be communicated to the pattadar and also to every applicant under sub-section (2).

(5) (i) The Settlement Officer may at any time either *suo motu* or on the application of any person, review an order passed by him under sub-section (1) on any one or more of the following grounds, namely :—

(1) that the said order is vitiated by any clerical or arithmetical mistake or error apparent on the face of the record; or

(2) that the said order requires to be modified in pursuance of the final order of any competent authority or Court :

Provided that the Settlement Officer shall not exercise the powers under this sub-section without giving the pattadar concerned and every applicant under this sub-section and sub-section (2), a reasonable opportunity of being heard.

(ii) A copy of every order passed under this sub-section shall be communicated to the Director and the Board of Revenue and also to the pattadar concerned and every applicant under this sub-section and sub-section (2).

(6) Any person deeming himself aggrieved by an order made under sub-section (1) or sub-section (5), may, within one month from the date of the order or such further time as the Director may, in his discretion allow, appeal to the Director, and the Director shall after giving the appellant reasonable opportunity of being heard, pass such orders on the appeal as he thinks fit.

(7) The Board of Revenue may, in its discretion at any time, either *suo motu* or on the application of any person, call for and examine the record of any order passed or proceeding taken by the Director or the Settlement Officer under this section, for the purpose of satisfying itself as to the legality, regularity or propriety of such order or proceeding and pass such order in reference thereto as it thinks fit :

Provided that the amount of contribution payable by the pattadar shall not be altered by the Board of Revenue without giving him and every person who has made an application under this sub-section and sub-section (2), a reasonable opportunity of being heard.

(8) Notwithstanding anything contained in sub-section (7), the Board of Revenue, may, on application made to it by the Settlement Officer or by any other person in that behalf, review any order passed by it under sub-section (7), if it is of the opinion that the said order is vitiated, by an error in the decision on a point of law or by mistake, and may make such order on the application as it thinks fit :

Provided that no application for review shall be granted by the Board of Revenue without previous notice to the pattadar and to the applicant, to enable them to appear and be heard in support of the order a review of which is applied for.

(9) No order passed by the Settlement Officer under sub-section (1) or sub-section (5) shall be liable to be cancelled or modified except by the Director or the Board of Revenue as aforesaid or to be questioned in any Court of law; and no order passed by the Director under sub-section (6) shall be liable to be cancelled or modified except by the Board of Revenue as aforesaid or to be questioned in any Court of law; and no order passed by the Board of Revenue under sub-section (7) or sub-section (8), shall be liable to be cancelled or modified by the Government or any other authority or to be questioned in any Court of law.

49. *Recovery of contribution payable under the Act.*—(1) The amount of contribution payable by the pattadar under this Act shall be paid to the Government in ten equal annual instalments free of interest at such place, in such manner, and on such date as may be prescribed :

Provided that a pattadar shall be entitled to pay the entire amount of contribution with a rebate of five per cent within a period of two years from the date on which he becomes liable to pay the contribution :

Provided further that a pattadar shall be entitled to pay, at any time, any sum in excess of the annual instalment and such excess shall be adjusted towards the subsequent instalment or instalments.

(2) The amount of contribution payable to the Government under this Act may be recovered as if it were an arrear of land revenue.

50. *Obligation of transferor and transferee to give notice of transfer.*—(1) Whenever the title of any person primarily liable to the payment of contribution under this Act is transferred, the person whose title is transferred and the person to whom the same is transferred shall, within three months after the execution of the instrument of transfer or after its registration if it be registered, or after the transfer is effected, if no instrument be executed, give notice of such transfer to the Settlement Officer or any other officer authorized in this behalf by the Government (hereinafter in this section referred to as the authorized officer).

(2) In the event of the death of any person primarily liable as aforesaid, the person to whom the title of the deceased shall be transferred as heir or otherwise, shall give

notice of such transfer to the Settlement Officer or the authorized officer within one year from the death of the deceased.

(3) The notice to be given under this section shall be in such form as may be prescribed and the transferee or the person to whom the title passes, as the case may be, shall if so required, be bound to produce before the Settlement Officer or the authorized officer, any document evidencing such transfer ~~or~~ succession.

(4) Every person who makes a transfer as aforesaid, without giving such notice to the Settlement Officer or the authorized officer shall (in addition to any other liability which he may incur through such neglect), continue liable for the payment of the contribution in respect of the land transferred until he gives notice or until the transfer shall have been recorded in the revenue registers, but nothing in this section shall be, held to affect the liability of the transferee for the payment of the said contribution.

CHAPTER VIII.

MISCELLANEOUS.

51. *Stay of execution proceedings and prohibition of certain transfers.*—(1) No court shall, before the date on which the earliest deposit in pursuance of this Act is made in the office of the Tribunal, order or continue execution in respect of any decree or order passed against the janmi, against his interests in the janmam estate or against his other immovable property or against him personally by arrest and detention; and with effect on and from such date, execution in the cases aforesaid may be ordered or continued as specified in, and in accordance with, the provisions of section 52.

(2) All proceedings for the execution of any decree or order by the arrest and detention in prison of the janmi pending on the appointed day shall stand dismissed and if on such day the janmi is detained in a prison in execution of any such decree, or order, he shall be released forthwith.

(3) Notwithstanding anything contained in any other law for the time being in force, no janmi shall, on or after the appointed day and before the date on which the earliest deposit as aforesaid is made, sell, mortgage, lease or otherwise assign, or alienate any of his immovable property, and any transaction of the nature hereby prohibited shall be void and inoperative and shall not confer or take away any right whatever on or from any party to the transaction.

52. *Transitional provision in regard to liabilities of janmi, etc.*—(1) No claim or liability enforceable immediately before the appointed day against the janmi or against any other person whose rights stand transferred to the Government in pursuance of clause (b) of section 3 shall, on or after that day, be enforceable against the interest he had in the janmam estate; and all such claims and liabilities shall, after the date on which the earliest deposit in pursuance of this Act is made in the office of the Tribunal, be enforceable—

(a) against the interim payments or the compensation or other sum or sums paid or payable to him under this Act to the same extent to which such claims and liabilities were enforceable against his interest in the janmam estate immediately before the appointed day; and

(b) against his other property, if any, to the same extent to which such claims and liabilities were enforceable against such property immediately before the appointed day.

(2) No court shall, on or after the appointed day, order or continue execution in respect of any decree or order passed against the janmi or any other person aforesaid against the interest he had in the janmam estate; and execution shall be ordered or continued in such cases in conformity with the provisions of sub-section (1) only as against the interim payments or against the compensation or other sum or sums paid or payable to him as aforesaid, or against his other property, if any.

(3) No court shall, in enforcing any claim or liability against the janmi or any other person aforesaid, allow interest at a rate exceeding six per cent per annum simple interest for the period commencing on the appointed day and ending with the date on which the earliest deposit in pursuance of this Act is made in the office of the Tribunal.

53. *Decision of questions regarding forests.*—If any question arises whether any land in a janmam estate is a forest or is situated in a forest, or as to the limits of a forest, it shall be determined by the Settlement Officer, subject to an appeal to the Director, within such time as may be prescribed and also to revision by the Board of Revenue.

54. *Janmi's right to collect arrears.*—(1) Notwithstanding anything contained in this Act, in the case of a janmam estate all arrears of rent payable by a person to a janmi in respect of any land in such estate and outstanding on the appointed day shall, to the extent to which such arrears are in excess of the rent due for three agricultural years in respect of that land, be deemed to be discharged whether or not a decree

has been obtained therefor if such person pays to the Janni the arrears of rent due for a period of any three agricultural years.

(2) In any suit or proceeding for the recovery of any arrears of rent referred to in sub-section (1), the Court or authority concerned shall, upon deposit in the Court or before the authority, or upon proof by the tenant of the payment, of arrears of such rent for three agricultural years, dismiss the suit or proceedings.

(3) If before the appointed day any decree or order has been passed in any suit or proceeding for the recovery of any arrears of rent due from a tenant which is inconsistent with the provisions of this section, the Court or authority concerned shall, upon deposit in the Court or before the authority, or upon proof of the payment, of the arrears of rent due from the tenant for any three agricultural years and on the application of any person affected by such decree or order, whether or not he was a party thereto, vacate the decree or order :

Provided that nothing contained in this section shall apply to any suit or proceeding in which the decree or order has been satisfied in full, before the appointed day.

(4) The provisions of this section shall have effect notwithstanding anything inconsistent therewith contained in the Malabar Tenancy Act.

Explanation.—For the removal of doubts it is hereby declared that the payment, or deposit, of arrears of rent for three agricultural years referred to in this section shall be payment or deposit made after the appointed day.

55: *Rights of owner or occupier not to be affected by temporary discontinuance of possession or occupation.*—Where a person—

(a) is entitled to the ownership or to the possession or occupation of any land or building immediately before the appointed day but has transferred his right to the possession or occupation thereof or has been temporarily dispossessed or deprived of his right to the occupation thereof; and

(b) has not on that day lost his right to recover the possession or occupation of such land or building.

he shall, for the purposes of this Act and subject to the provisions thereof, be deemed to be the owner or to be in possession, or occupation of such land or building :

Provided that any lawful transferee of the right to the possession or occupation of such land or building shall, save as otherwise expressly provided in this Act, continue to have the same rights against his transferor as he had immediately before the appointed day :

Provided further that any lawful transferee of the title to such land or building shall be entitled to all the rights under this Act of his transferor.

56. *Res judicata*.—(1) The decision of the Tribunal or the Special Appellate Tribunal in any proceeding under this Act on any matter falling within its jurisdiction shall be binding on the parties thereto and persons claiming under them, in any suit or proceeding in a Civil Court, in so far as such matter is in issue between the parties or persons aforesaid in such suit or proceeding.

(2) The decision of a Civil Court (not being the Court of a District Munsif or a Court of Small Causes) on any matter falling within its jurisdiction shall be binding on the parties thereto and persons claiming under them in any proceeding under this Act before the Tribunal or the Special Appellate Tribunal in so far as such matter is in issue between the parties or persons aforesaid in such proceedings.

57. *Limitation*.—(1) A copy of every decision or order in any proceeding against which an appeal or revision is provided for under this Act shall be communicated in such manner as may be prescribed.

(2) For the purpose of computing the period of limitation in respect of any appeal or application for revision against any decision or order, the date of receipt of a copy of the decision or order by the appellant or applicant shall be deemed to be the date of the decision or order.

(3) The provisions of section 4 and sub-section (1) and sub-section (2) of section 12 of the Limitation Act, 1963 (Central Act 36 of 1963) shall, so far as may be, apply to any appeal or application for revision under this Act.

(4) Where under this Act an appeal or application for revision may be preferred to any authority or officer within a prescribed period or within such further time not exceeding a specified period as may be allowed by such authority or officer, the further time aforesaid shall be computed on and from the expiry of such prescribed period computed in accordance with the provisions of sub-sections (2) and (3).

58. *Finality of orders passed under this Act*.—(1) Any order passed by any officer, the Government or other authority or any decision of the Tribunal or the Special Appellate Tribunal under this Act in respect of matters to be determined for the purposes of this Act shall, subject only to an appeal or revision provided under this Act, be final.

(2) No such order or decision shall be liable to be questioned in any court of law.

59. *Jurisdiction of courts barred in certain cases.*—(1) No suit or other proceeding shall lie against the Government for any act done or purporting to be done under this Act or any rule made thereunder.

(2) (a) No suit, prosecution, or other proceeding shall lie against any officer or servant of the Government for any act done or purporting to be done under this Act or any rule made thereunder without the previous sanction of the Government.

(b) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of the duties, or the discharge of the functions imposed by or under this Act.

(3) No suit, prosecution or other proceeding shall be instituted against any officer or servant of the Government for any act done or purporting to be done under this Act or any rule made thereunder after the expiry of six months from the date of the act complained of.

60. *Power to make rules.*—(1) The Government may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the forgoing power, such rules may provide for—

(a) all matters expressly required or allowed by this Act to be prescribed;

(b) the procedure to be followed by the Tribunal, the Special Appellate Tribunal, authorities and officers, appointed or having jurisdiction under this Act;

(c) the delegation of powers conferred by this Act on the Government or any other authority, officer or person;

(d) the time within which appeals and applications, for revision may be presented under this Act in cases for which no specific provision in that behalf has been made herein;

(e) the application of the provisions of the Code of Civil Procedure, 1908 (Central Act V of 1908) to applications, appeals and proceedings under this Act;

(f) the fees to be paid in respect of applications and appeals under this Act;

(g) the transfer of proceedings from one Tribunal, authority, or officer to another; and

(h) the manner in which and the officer by whom, fair rent shall be ascertained for the purposes of this Act.

(3) A rule made under clause (c) of sub-section (2) may provide for restrictions and conditions subject to which the power delegated may be exercised and also for control and revision by the delegating authority, either *suo motu* or on application, of the orders of the authority or person to whom the power is delegated.

(4) (a) All rules made under this Act shall be published in the *Fort St. George Gazette*, and unless they are expressed to come into force on a particular day shall come into force on the day on which they are so published.

(b) All notifications issued under this Act shall, unless they are expressed to come into force on a particular day, come into force on the day on which they are published.

(5) Every rule made or notification issued under this Act, shall, as soon as possible after it is made or issued, be placed on the table of both Houses of the Legislature and if, before the expiry of the session in which it is so placed or the next session, both Houses agree in making any modification in any such rule or notification or both Houses agree that the rule or notification should not be made or issued, the rule or notification shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or notification.

61. *Act to override contract and other laws, etc.*—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law, custom, usage or contract.

62. *Madras Act 55 of 1961 to cease to apply to forests in janmam estates.*—For the removal of doubts it is hereby declared that with effect on and from the appointed day the Madras Private Forests (Assumption of Management) Act, 1961 (Madras Act 55 of 1961) shall cease to apply to forests which have vested in the Government under section 3.

C. D. NATARAJAN,
Secretary.

FORT ST. GEORGE,
MADRAS.

PROCEEDINGS OF THE MEETING OF THE SELECT
COMMITTEE ON THE GUDALUR JANMAM ESTATES
(ABOLITION AND CONVERSION INTO RYOTWARI)
BILL, 1969 (L.A. BILL No. 4 OF 1969).

(As approved by the Chairman)

Monday, the 31st March 1969.

The Select Committee met at 1-30 p.m. on Monday, the 31st March 1969 at the Members' Lounge Room, Fort St. George, Madras. The following were present :—

Chairman.

THE HON. THIRU K. A. MATHIALAGAN.

Members.

Thiru T. P. ALAGAMUTHU.

Thiru A. V. P. ASATHAMBI.

Thiru P. G. KARUTHIRUMAN.

Thiru C. NANJAN.

Thiru A. M. RAJA.

Thiru N. SANKARIAH.

Thiru P. SOUNDABAPANDIAN.

Thiru M. SURENDRAN.

Secretariat.

THIRU C. D. NATARAJAN—*Secretary.*

THIRU G. RAGHAVAN—*Assistant Secretary.*

The Secretary to Government, Law Department (Thiru T. S. Ramalingam) and the Secretary to Government, Revenue Department (Thiru P. K. Nambiar) were also present.

On the suggestion of the Chairman, the Committee decided to invite five members of the Legislative Council to participate in the deliberations of the Committee. The Committee authorised the Chairman to nominate the members.

The Committee decided to adopt the following programme for consideration of the Bill :—

20th April 1969	.. ..	Last date for receipt of written memoranda from those interested in the Bill.
8th May 1969	.. ..	Hearing of oral evidence at Gudalur (a.n.)
9th, 10th May 1969 and 11th May 1969 (if necessary.)		Clause-by-clause consideration of the Bill at Ootacamund.

The Committee then adjourned.

Tuesday, the 13th May 1969.

The Select Committee on the Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Bill, 1969 (L.A. Bill No. 4 of 1969) assembled at Tamizhagam, Ootacamund, at 10-00 a.m. on Tuesday, the 13th May 1969, proceeded to Gudalur and met in the Meeting Hall, Panchayat Union Office, Gudalur, at 3-30 p.m. The following were present :—

Chairman.

The Hon. Thiru K. A. MATHIALAGAN.

Members.

Thiru S. ALAGARSWAMY.
Thiru A. V. P. ASAITHAMBI.
Thiru J. BELLIE GOWDER.
Thiru K. BOJAN.
Thiru P. G. KARUTHIRUMAN.
Thiru P. MALAICHAMY.
Thiru C. NANJAN.
Thiru A. M. RAJA.
Thiru N. SANKARIAH.
Thiru M. SURENDRAN.

Invitees.

Thirumathi MARY CLUBWALA JADHAV, M.L.C.
Thiru R. RAMAN NAIR, M.L.C.

Secretariat.

Thiru C. D. NATARAJAN—*Secretary.*
Thiru G. RAGHAVAN—*Assistant Secretary.*

The Secretary to Government, Revenue Department (Thiru P. K. Nambiar) and the Secretary to Government, Law Department (Thiru T. S. Ramalingam) were also present.

At the outset, the following resolution was moved from the Chair :—

“The Select Committee on the Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Bill, 1969 records with deep regret the sad and sudden demise of Dr. Zakir Hussain, President of India, an eminent scholar, distinguished educationalist and a great statesman. The Committee conveys its deep sympathy and sincere condolences to the members of the bereaved family.”

The resolution was passed and all Members stood in silence for a minute as a mark of respect to the departed soul.

The Committee then proceeded to hear oral evidence from witnesses. The Chairman warned the witnesses that the evidence tendered before the Committee was confidential and it should not be published in any manner. The following witnesses gave evidence and a gist of the evidence tendered is appended :—

(1) The Nilgiris District Agriculturists' Association, represented by :—

Thiru K. RAJAN,
Thiru P. KRISHNAN KUTTI,
Thiru V. PONNAN,
Thiru MANU MOHAMMED and
Thiru DURAISAMI.

(2) The Planters' Association of Tamil Nadu, Coonoor, represented by :—

Thiru A. G. GONSALVES,
Thiru C. W. M. LAWANOE,
Thiru N. SUNDARARAJAN,
Thiru M. C. CHANDY.
Thiru S. B. DUFF,
Thiru A. SIVADAS,
Thiru E. R. C. DAVIDAR,
Thiru C. S. KRISHNASWAMI,
Thiru N. BALAKRISHNAN and
Thiru R. M. REDDY.

(3) Joint Receivers, Nilambur Kovilagam Forests, Nilambur, represented by :—

Thiru T. R. BALAKRISHNA IYER, Receiver-cum-Commissioner.

Thiru T. N. R. TIRUMALPAD, the former Receiver.
DR. BHANUVARMAN TIRUMALPAD (one of Tavazhi).

(4) The Chairman, Panchayat Union Council, Gudalur—
Thiru K. Gopalakrishnan Nair.

(5) Thiru T. N. K. Govindaraja Chettiar, Glenrock Estate,

(6) Members of the Public—

Thiru VREAYUDAM,
Thiru T. S. RAMASAMI,
Thiru S. DOBAISAMI,
Thiru M. S. NARAYANAN,
Thiru I. M. HAWIFA,
Thiru JOCKIN,
Thiru R. SHAHUL HAMEED,
Thiru BASKARAN PILLAI,
Thiru GOVINDAN CHETTI and
Thiru ANDI CHETTI.

The Committee then adjourned to meet again at 10 a.m. on 14th May 1969, at Tamizhagam, Ootacamund.

Wednesday, the 14th May 1969.

The Select Committee on the Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Bill, 1969 (L.A. Bill No. 4 of 1969) met at the Conference Hall, Tamizhagam, Ootacamund, at 10.00 a.m. on Wednesday, the 14th May 1969. The following were present:—

Chairman.

THE HON. THIRU K. A. MATHIALAGAN.

Members.

Thiru S. ALAGARSWAMY.
Thiru A. V. P. ASATHAMBI.
Thiru J. BELLI GOWDER.
Thiru K. BOJAN.
Thiru P. G. KABUTHIRUMAN.
Thiru P. MALAICHAMY.
Thiru C. NANJAN.
Thiru A. M. RAJA.
Thiru N. SANKARIAH.
Thiru M. SUBENDRAN.

Invitees.

Thirumathi MARY CLUBWALA JADHAV, M.L.C.

Thiru R. RAMAN NAIR, M.L.C.

Secretariat.

Thiru C. D. NATARAJAN—*Secretary.*

Thiru G. RAGHAVAN—*Assistant Secretary.*

The Secretary to Government, Revenue Department (Thiru P. K. Nambiar) and the Secretary to Government, Law Department (Thiru T. S. Ramalingam) were also present.

The Committee decided that the gist of evidence tendered before the Committee be circulated to members.

The Committee also decided to consider the evidence tendered before it and the clauses of the Bill at Madras on a date to be fixed later.

The Committee then adjourned.

Monday, 21st July 1969.

The Select Committee on the Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Bill- 1969 (L.A. Bill No. 4 of 1969) met at the Committee Room, Legislators' Hostel Old, Government Estate, Mount Road, Madras. The following were present :—

Chairman.

The Hon. Thiru K. A. MATHIALAGAN.

Members.

Thiru T. P. ALAGAMUTHU.

Thiru S. ALAGARSWAMY.

Thiru A. V. P. ASAITHAMBI.

Thiru J. BELLIE GOWDER.

Thiru K. BOJAN.

Thiru P. G. KARUTHIRUMAN.

Thiru C. NANJAN.

Thiru N. SANKARAIAH.

Thiru M. SURENDRAN.

Thiru M. WILLIAM.

Invitees.

Thiru S. V. LAKSHMANAN, M.L.C.

Thiru N. V. NATARAJAN, M.L.C.

Thiru R. RAMAN NAIR, M.L.C.

Secretariat.

Thiru C. D. NATARAJAN—*Secretary.*

Thiru G. RAGHAVAN—*Assistant Secretary.*

The Secretary to Government, Revenue Department, (Thiru P. K. Nambiar) and the Secretary to Government, Law Department (Thiru T. S. Ramalingam) were also present.

Before the Committee took up consideration of the Bill, clause by clause, Thiru P. G. Karuthiruman said that provision should be made in the bill to protect the rights of tenants cultivating the lands leased out by planters. The Secretary (Revenue) explained that the provision in Clause 17 would give them protection. The Chairman observed that the actual cultivator would not be evicted, but he would be protected.

The Secretary (Revenue) stated that it had been brought to the notice of Government that in respect of large tracts of undeveloped forest land no compensation would be payable and hence, provision would be made in Clause 24 for payment of compensation which should under no circumstances be less than Rs. 50 per acre. The intention is to pay a minimum amount as compensation. The actual compensation can exceed this amount. He added that the term "forest" would also be defined in Clause 2.

Clause 1.

Thiru N. Sankariah expressed apprehension that between the date of publication of the Bill and the date on which it would come into force, the Janmi could create evidence of cultivation, etc., to entitle him to patta and that, therefore, he would urge that the Bill should be brought into force on the date on which it was published, namely, 28th January 1969. He added that the expression "appointed day" occurred in many Clauses and that *day* should be the date of publication of the Bill in order to avoid any complication.

The Secretary (Law) pointed out that in an expropriatory legislation, retrospective effect was usually not given.

The Secretary (Revenue) felt that if every transaction after the date of publication of the Bill were to be held void, even genuine transactions would be affected.

The Secretary (Legislative Assembly) explained that the Government had been clothed with very ample power under the second proviso to Clause 9 to examine the circumstances under which a person had been admitted into possession of any land and to affirm his possession if they were satisfied that the possession was *bona fide* and to reject it otherwise.

The Secretary (Revenue) referred to the provisions in the Malabar Tenancy Act and clarified that a verumpattamdar could never be evicted under that Act. The Government would determine as to whom a ryotwari patta should be granted after a careful examination of all the circumstances and also oral evidence. Suitable machinery had been provided for the purpose. Besides, there was provision for revision and appeal.

He further stated that "forest" would be so defined in as to exclude cultivated land, developed land and homestead.

The Clause was approved.

Clause 2.

Thiru K. Bojan suggested that in sub-clause (8) the words "essential oils" be added after the word "cinchona". Thiru P. G. Karuthiruman was of the view that "plantation crop" must at least be a 10 year crop and as geranium was only a 3 or 4 year crop, it need not be included.

Thiru N. Sankariah pleaded that the definition of "tenant" in sub-clause (10) should be enlarged to include all *bono fide* cultivators who had been cultivating the land on whatever account. The definition should be wide enough to cover all cases.

The Secretary (Revenue) clarified that "Verumpattamdar" was a wide enough term and it would cover all the cases. The only point was, that "trespassers" would not be recognised and that there must be some agreement, oral or written.

The Clause was approved.

Clauses 3 to 7 were approved.

Clauses 8, 9 and 10.

Thiru N. Sankariah said that the Explanation to Clause 10 could as well apply to Clauses 8 and 9 and that the Janmi should not be entitled to ryotwari patta in respect of lands cultivated "by his own servants or by hired labour". A Janmi could easily manage to put forward the plea that hundreds of acres of lands were cultivated by his own servants or hired labour and get ryotwari patta. Thus, this clause would enable him to come into possession of large tracts of land, which would defeat the very purpose of the legislation. He also drew the attention of the Committee that the Nilgiris district being a hill area had been exempted from the operation of the Madras Land Reforms (Fixation of Ceiling on Land) Act, 1961.

Thiru P. G. Karuthiruman suggested that the Committee might recommend to Government to extend the Madras Land Reforms (Fixation of Ceiling on Land) Act, 1961, to the Nilgiris district and that they might similarly put a ceiling on the holdings of tenants also. Thiru N. Sankariah agreed with this view.

The Secretary (Revenue) explained the scheme of the provisions in Clauses 8, 9 and 10. Clause 8 dealt with Janmi whose land was taken away, Clause 9 with tenant by law and Clause 10 with any person who had been a cultivator. Under Clauses 8 and 9 the janmi and the verumpattamdar respectively would be entitled to ryotwari patta for any land on proof of personal cultivation for three agricultural years. Under Clause 10, if no janmi or verumpattamdar was entitled to patta any other person who had cultivated the land for three agricultural years would be entitled to ryotwari patta.

Thiru K. Bojan expressed the view that the provision of twenty-five per centum of the planted area in Explanation II to Clause 8 was not sufficient and that the area be increased. The Chairman, however, observed that 25 per centum would be enough.

Thiru N. Sankariah felt that a stipulation similar to the one in the second proviso to Clause 9, namely, "no person who has been admitted into possession of any land by a janmi on or after the 1st day of June 1961 shall be entitled to a ryotwari patta" be made in Clauses 8 and 10 as also in the first proviso to Clause 9. That would avoid malpractices.

The Chairman thought that Thiru N. Sankariah's apprehension was reasonable and suggested that for the words "appointed day" in Clause 8, first proviso to Clause 9 (1) and Clause 10 (1), the words and figures "1st day of June 1969" be substituted. He added that consequential amendments, wherever necessary, would be made.

Thiru N. Sankariah requested that in the matter of grant of patta, oral evidence also should be admitted. The Secretary (Revenue) said that that would be provided for in the Rules.

The Clauses, as amended, were approved.

Clauses 11 to 23 were approved.

Clause 24.

The Secretary (Revenue) stated that as explained earlier, the Clause would be amended suitably to provide for payment of compensation which would not be less than Rs. 50 per acre in respect of forests.

Clauses 25 to 27 were approved.

Clause 28.

Thiru N. Sankariah expressed that many witnesses had pleaded that compensation need not be paid and that in any case it should not exceed five times. The Chairman stated that even "twenty times the basic annual sum" would be very small. He informed Thiru S. Alagarswamy that the total compensation payable would not come to more than a few lakhs of rupees.

The Clause was approved.

Clauses 29 to 46 were approved.

Clause 47.

Thiru N. Sankariah said that no contribution need be collected from the pattadars, as was done when the estates were abolished and that at any rate "twenty times the difference between the fair rent and the land revenue was too high a contribution. Thiru S. Alagarswamy and Thiru N. V. Natarajan endorsed the above view.

The Secretary (Law) explained that the provision in the previous legislation relating to abolition of janmikaram payment in the transferred territory had been followed. Such a contribution was collected under the Madras Minor Inams (Abolition and Conversion into Ryotwari) Act, 1963 in the case of lands belonging to religious institutions. The persons were to be given pattas for the first time and hence, the provision.

The Chairman suggested that similar to the provision in the Transferred Territory (Janmikaram Payment Abolition) Act, 1964, *ten times* the difference between the fair rent and the land revenue, instead of twenty times, be collected as contribution. This was agreed to.

The Clause, as amended, was approved.

Clauses 48 to 50 were approved.

Clause 51.

Thiru N. Sankariah urged that under no circumstances a tenant should be evicted and that *status quo* should be maintained during the interim period till the proposed legislation became law. The Chairman observed that suitable executive instructions in the matter would be issued to the Collector.

The Clause was approved.

Clauses 52 to 62 were approved.

The Committee authorised the Chairman to sign the Report on its behalf.

In conclusion, the Chairman thanked the members for their valuable suggestions and co-operation in finalising a progressive legislative measure in pursuance of the policy of the Government to abolish all intermediaries between the Government and the actual cultivators.

The Committee then adjourned.

C. D. NATARAJAN,
Secretary.

APPENDIX.

Gist of evidence tendered before the Select Committee on the Gudalur Janmam Estates (Abolition and Conversion into Ryotwari) Bill, 1969 (L.A. Bill No. 4 of 1969) at the Meeting Hall, Panchayat Union, Gudalur, on the 13th May 1969.

(1) The Nilgiris District Agriculturists' Association—

Thiru K. Rajan.

„ P. Krishnan Kutti.

„ V. Ponnai.

„ Manu Mohammed.

„ Duraisami.

We welcome the Bill. To give the full benefit of the measure to the agriculturists, the Bill may come into force from the date of publication of the Bill, *viz.*, 29th January 1969.

In clause 8, the provision in regard to cultivation by hired labour may be deleted and only cases where the janmi had been cultivating himself should be recognised for grant of ryotwari patta.

The provision in clause 9 (2) should be deleted. The ryots in many cases do not have any written evidence of cultivation of lands by them and, therefore, the provision is likely to be misused.

In clause 11 (a), the provision 'forests' should be amplified to exclude forest lands under cultivation now.

In clause 11 (d), 'other porambokes' is too general, there are some lands under cultivation now. The sub-clause may be modified to exclude lands already under cultivation.

In clause 16, while giving direction under sub-clause (2), the position of ryots who had been doing cultivation for long should be taken into consideration.

In sub-clause (2) (a) of clause 18, instead of the date 1st day of June 1961, the date of publication of the Bill may be specified, as that will help a lot of ryots to get pattas who live by cultivation alone.

In clause 22, the example of Nilambur Kovilagam janmam estate alone is cited. There are other janmam estates like the Nelliyalam Zamin, Naduvuthananai Zamin, etc. In these cases also, the rights of agriculturists should be protected. In the Pandalur area, Adiwasis have taken lands for cultivation and they have no other means of livelihood. In such cases, while janmam abolition Bill is brought forward, the rights of the Adiwasis should be protected.

Compensation payable to the janmi should be considerably reduced. Twenty times the basic annual sum is too much. They have earned from these lands lakhs and lakhs of rupees all these years. Though actually nothing need be paid as compensation, yet on humanitarian

grounds twice or at the most five times the basic sum may be granted. At the same time, the provision in clause 47 should be modified and instead of twenty times, it should be only a nominal contribution by pattadars.

As in clause 51, provision should be made to stay court proceedings against ryots also instituted by janmis, either in the present Bill or by separate legislation.

Agriculturists in Gudalur taluk have taken janmam lands and have been cultivating for a long period of years. Such agriculturists are producing the much needed foodgrains. They have no other means of livelihood. They produce foodgrains, plantain, etc. Even though they had been assigned the lands earlier, they are subjected to penalty and annually they have to pay nearly Rs. 300 per acre towards penalty. In that way, the agriculturists do not have any rights in the lands they cultivate over a period of years. At this time when janmi is abolished, the cases of such agriculturists also must be considered and they should be given permanent pattas.

Finally, we request the Government and Members of the Select Committee and other officers to help the landless agriculturists who have no other means of livelihood by giving them pattas for lands which they have been cultivating for a number of years.

Answering questions, Thiru Rajan said :

We want the expression 'hired labour' to be deleted only in respect of lands in the possession of the janmi and not lands let out on lease. Even if 'hired labour' was used for one day, they should not get patta. For, it was easy to produce evidence that particular land was cultivated by hired labour, though the truth was otherwise.

Their idea was that the provision in clauses 8 and 9 should be similar to the provision in clause 10. Only personal cultivation should be recognised for grant of patta. Otherwise, while abolishing big zamins, smaller zamins will be created. That should be avoided.

Except in the case of lands leased out to Estates by the janmis, the provision in clause 8 that the Janmi shall be entitled to a ryotwari patta in respect of all lands proved to have been cultivated by his own servants or by hired labour with his own or hired stock, etc., should be deleted, as the janmi can easily manage to prove that he has cultivated by his own servants or by hired labour.

In the case of lands taken over by Government for community purposes, the Government may grant pattas to Adivasis or Harijans, who are in possession of the lands and cultivating the same, as they deem fit.

It is enough if the compensation payable in respect of any janmam estate is five times the basic annual sum.

The witnesses then withdrew.

(2) The Planters' Association of Tamil Nadu, Coonoor :—

Thiru A. G. Gonsalves,	Thiru A. Sivadas,
„ C. W. M. Lawrance,	„ E. R. C. Davidar,
„ N. Sundararajan,	„ C. S. Krishnaswami,
„ M. C. Chandy,	„ N. Balakrishnan ; and
„ S. B. Duff,	„ R. M. Reddy.

We are interested in having security for the plantations which have been started long ago and carried on for several years. The planters who are lessees should be treated like other tenants and cultivators of the land and should be given ryotwari pattas.

The estates require about two acres of land for every acre of land with plantations for other purposes like fuel, grazing, timber, tea factory, nurseries, etc.

In Gudalur area, there are about 5,700 hectares of tea plantations and about 3,000 hectares of coffee plantations.

Answering questions from the Secretary (Revenue), the witness said :—

Clause 17 of the Bill definitely harms us very greatly. We do not have any certainty at all. It is left to the discretion of the Government to terminate the rights created by janmis by way of lease in any lands for purposes of cultivation of plantation crops. In most cases the leases are renewable on the same terms. In some cases, the leases are renewable on a rent to be agreed upon mutually.

We have invested a large amount of capital for development purposes and put up factory buildings and costly plantations. We have very serious objection to clause 17. Whatever be the terms of the lease, we want the contractual rights to be upheld.

The Secretary (Revenue) explained that the scope of clause 17 is not to terminate any of the plantations, but to get rid of those contracts which were for low considerations and which were intended to defeat the very purpose of the proposed legislation. In that regard he drew the attention of the witnesses to sub-clauses (b) and (c) of clause 17. It was very clear that in normal cases their existing rights would not be affected. The Government had taken the right to have a fresh look in cases where the leases were for a very long period and for a very low consideration.

Continuing, the witness said :—

We are an organised industry and we are cultivating the lands with plantation crops employing large number of labourers. On the analogy of a tenant being entitled to a ryotwari patta in respect of the lands in his

occupation, there is no reason why we should not be granted ryotwari pattas. We are managing an industry and we are not interested in selling the lands. Among us, there is no such relationship as between a land-owner and a tenant. If clause 17 is confirmed, we will be condemned for ever as lessees which position is a great handicap to us. We are directly managing the lands and we are not, in any way, different from agriculturists. That aspect should be borne in mind. The Government must give us support and encouragement. We have contributed very much to the State Exchequer and the Central Exchequer. If the leases are to be terminated at the discretion of the Government, there is always the possibility of the lease rates being increased. We must have some certainty and protection. We have invested large sums of money in the industry. It is an industrial problem.

Answering questions from members, the witness said :—

We have got every right to ask for ryotwari pattas like the cultivating tenants. It is not true to say that we are utilising this opportunity to get ownership of land. We are in possession of the lands. All that we wish to say is, that we do not want any uncertainty. When a reform is made, let it be an all-out reform. Let us be treated on a par with tenants. There should not be any discrimination. If the object of the Bill is to abolish intermediaries, we submit that we are not intermediaries.

The Secretary (Revenue), clarified that the lessees would continue to have the rights enjoyed by them. In the changed pattern and in particular circumstances, the Government had taken power to review their cases because they did not know the terms of the leases.

In reply to a query from the Secretary (Revenue), the witness said :—

Wherever a plantation has been registered with the Tea Board, the Government know that it is a *bona fide* plantation in the organized sector. The lands have been taken on lease for a number of years. The Government should examine those cases and grant ryotwari pattas.

The lease deeds are liable to be revised once in 40 or 45 years. There are leases which are renewable on same terms.

The Secretary (Revenue), said that in cases of automatic renewal the Government would like to examine them and see whether the rent was unduly low.

Answering further queries from members, the witness continued :—

There seems to be no precedent for granting ryotwari pattas to estate-holders in similar legislations passed in the States.

The Secretary (Assembly) pointed out that only in cases where, in the opinion of the Government, it is in the public interest to do so, the Government would give notice to the person concerned for terminating the leasehold rights. So, the planters need not have any apprehension. Further, sub-clause (1) (b) of clause 17 provided that the person whose right had been so terminated would be entitled to compensation from Government as determine by the Board of Revenue in the manner prescribed. In all other cases, all rights and obligations created under the lease deeds and arising therefrom would be enforceable by or against the Government.

The witness, proceeding further, said :—

Adequate compensation has not been provided in case the leasehold rights are terminated by the Government.

The Secretary (Law) observed that after the rules were framed prescribing the manner in which compensation should be determined, it was open for the affected parties to contend that it was not satisfactory.

If at all clause 17 should remain, we submit that we may be granted ryotwari patta and our present lease may continue.

The Secretary (Revenue) : That will done as per law. But now the Government are taking power to re-examine cases.

Witness : You are upsetting the existing arrangement.

Chairman : Instead of the Nilambur Janmam the Government becomes the janmi.

Witness : In that position we only request that we may be treated as tenants.

Secretary (Revenue) : You are not a cultivating tenant. You are only planters.

Witness : We are industrialists, but our business is based on these lands.

Secretary (Revenue) : We can give this assurance that Government will not take over the plantations in Gudalur. You need not have any apprehension at all.

Witness : Why should the plantations in Gudalur alone be treated differently in its land tenure? While plantations in Anamalais in Coimbatore district are not treated like this, just because of an historical accident we happen to be in Gudalur, it should not be treated in a different manner.

Secretary (Revenue) : That is a different matter and you can represent separately. But your existing rights will be safeguarded, and we are not taking over the plantations. The janmam has to go and that is all.

Witness : There are some plantations which have purchased the janmam rights.

Secretary (Revenue) : The janmam right cannot be sold by any member of the tarwad or thirumalpad. By this Bill, the notional concept called Janmam wherever it is found is done away with. Your claim for patta will be a separate matter.

Answering questions from Members, the witness said :—

Lands not required for plantation and cultivated by labourers, cannot be exempted from lands of the plantation and given patta to such labourers. For, when a particular labourer retires, then labourers coming after him will have to be given such lands. Therefore, it cannot be excluded from the lands of the plantation. Further, it may happen that certain piece of land may be in the middle of a plantation and if that is separated, it will create problems.

The witnesses then withdrew.

(3) Joint Receivers, Nilambur Kovilagam Forests, Nilambur—
Thiru T. R. Balakrishna Iyer, Receiver-*cum*-Commissioner,
Nilambur Kovilagam Forests.

The former Receiver (T. N. R. Tirumalpad) (one of the Tavazhis).

DR. Bhanuvarman, Thirumalpad (one of the Tavazhis).

Thiru T. R. Balakrishna Iyer: The first point I want to say is that the foundation for this Bill as seen from the Statement of Objects and Reasons, is Article 31-A read with the 17th amendment where "estate" includes janmam also, with reference to Tamil Nadu and Kerala. Now, after the judgment of the Full Bench consisting of all the Judges of the Supreme Court, it is doubtful whether the 17th amendment will be valid. If that position is accepted, then I would say that these lands can be taken over by resort to ordinary law under the Land Acquisition Act. If the Government considers that any public purpose is to be served by acquiring all these forests that may be done under the ordinary law and this legislation as now framed is unconstitutional.

My second point is this. Janmam estate appears to have been put on a par with zamindaris and inams. I submit that it is fundamentally a wrong approach, because a janmi even as defined in the Bill, has absolute proprietorship of the land. That is not the case in the case of zamindaris, etc.

I must say that a janmi has ryotwari right as also right to minerals, sub-soil wealth, etc. If the idea is to extinguish the janmam rights, then I may point out that the proper procedure would be to acquire the janmam rights alone and leave the person in possession of ryotwari portion alone. In other words, the idea of dispossessing a person who is full proprietor and who is in actual possession of the land will not be lawful.

If the above position is not granted, this legislation is likely to be challenged on the ground of discrimination. For, under Article 14 of the Constitution, you cannot have a law discriminating between persons. The purpose of depriving owners of lands who are in possession is not clear, unless you are going to destroy or put an end to ryotwari tenure all over Tamil Nadu. My submission is that any legislation aimed at not permitting these owners of these forest lands to continue to hold them, while you are prepared to permit the land-owners to hold ryotwari lands, will be a discriminatory piece of legislation and it cannot stand scrutiny.

I understand some of the areas of the Kovilagam Estate Palace have been leased out to plantations. In those plantations, there are some areas which have been developed and some others which have not been developed. The rent in respect of these two areas is different. In the undeveloped areas, the rent is lower. But the trees standing there are expressly reserved to be taken by the Kovilagam Palace. In other words, the sub-soil rights vest in the Kovilagam Palace in the

entire area. In the undeveloped areas, all the forest timber and trees are the properties of Kovilagam and they can cut and remove at any time. Therefore in the matter of fixing compensation for all these areas, different basis will have to be adopted. Even in this respect, I find a provision which says that the janmam estate will be taken as a whole. So not only those who have some rights under the Kovilagam; but even trespassers, it appears, will be recognised. I may make a suggestion. This Kovilagam has about 200 members and about 1,000 dependents. I may suggest for the consideration of the Government and Members of the Select Committee, whether the members of this family can be given each 50 acres and for the balance of the area, we can negotiate and avoid all this trouble; as regards the forests, we should draw a distinction in regard to plantation areas that have been developed. If the Bill is confined to such areas, we can arrive at a compensation, reasonable and fair. In respect of virgin forests, that may be left out and we can negotiate a settlement. Once that position is accepted, all these difficulties will disappear.

I have given my views as Receiver-cum-Commissioner, as duty enjoins on me. My predecessor here who is a member of the family will also give his views.

Thiru T. N. R. Thirumalpad said :—

As a member of the family and as one who will be personally affected by this legislation, I may be allowed to say a few words. From 1946 onwards, I have been trying to see that these forest areas are taken over by the Government. If land acquisition proceedings are undertaken to acquire the lands, the Government will have to pay very high compensation. So, I wrote a letter to Government in 1946, that some reasonable compensation might be fixed by negotiation and the entire forest area might be taken over by the Government. There is no response for our request. In the meantime, the number of members of the family has increased. At present, we are about 200 members in the family and everybody wants land for development. In 1961, suit was filed for partition and the same is still pending in Court. The members prepared various schemes for the development of the forest areas, but the District authorities did not co-operate with the Nilambur Kovilagam in pushing through these schemes. It is in this situation, the present legislation has been introduced.

The provision for payment of compensation in respect of forest areas works out to absolute zero. Even for clear felling or selection felling of trees, we have to obtain the permission of the Collector under the Madras Preservation of Private Forests Act. The Collector has written to us that since the Government are contemplating taking over of forest areas, no permission will be granted. So, the income from forests in our possession is nil. In fact, we have to spend some money for protecting the area from trespassers. This legislation is going to crush us and we would be paupers, if the proposed legislation is passed in the present form as far as the forest areas are concerned.

Regarding the occupied areas, since the janmam is abolished let us be given the right to timber and the right to mines and minerals under the earth. The right given under the lease is only cultivating

right. No compensation has been fixed as far as the main right of the jannmis to the timber and mines and minerals. We must be paid reasonable compensation. For the past 20 or 25 years we have had no response for our request to cultivate and develop the forest lands. Recently, the Nilambur Kovilagam wanted to start a tea plantation in their own land in about 1,500 acres. We have not received any orders till this date to develop our own lands. Of course, the Collector is trying his best to help us.

We require at least about 50 acres per head. The Government may require lands for repatriates from Ceylon and Burma. But the members of the family have a little more right than the repatriates. So, each members of the family may be given at least 50 acres of land for development and the remaining portion may be taken over by the Government at a reasonable price. The Government should not take away the entire lands without paying anything to us. It will be a boon to the members of the family who have preserved these forests all along, if the Government give them at least 50 acres each for their own development.

Answering questions from members, the witness said :—

Under the lease deeds, 55 per cent of income from timber cutting will go to us and 45 per cent to the leaseholders. According to some earlier deeds, the entire income from timber cutting will go to the jannmis. Of course some clear felling is done behind our back. As early as 1935, we have got a written agreement under which we are entitled to 55 per cent of the income. Our share in respect of about 17,000 acres works out to about Rs. 9 lakhs and the leaseholders' share to about 6 lakhs. The Ovally Estate people can destroy the timber by setting fire for development purposes, but if they attempt to sell the trees, then we are entitled to the entire income from the same. That was the original understanding. Then, when they came to us for negotiation in 1934, we agreed to divide the income between us. There are some leases under which we are entitled to 75 per cent of the income. We have got account books to show such income derived by us.

In the case of paddy lands, we are getting a rent of 2 or 3 pothis per acre which will roughly work out to Rs. 15 per acre. As regards dry lands, originally the rent was Rs. 5 and now we have raised it to Rs. 7-50 and in some road-side places to Rs. 15.

The Secretary, (Revenue) explained that the Government proposed to take over the entire jannmam estate which included forest areas also and hence, the jannmam rights over the forest lands also would be taken over.

Continuing the witness said :—

Under the guise of taking over the jannmam estate, the Government are trying to dispossess us of the forest lands in our possession. From 21,000 acres of forest lands in our possession, we get nothing. Out of 21,000 acres, about 1,500 to 2,000 acres might have been occupied by trespassers and the rest are with us. There are about 36,000 acres with the plantation lessees of which about 20,000 to 25,000 acres will be forest areas. On the whole, there will be about 40,000 to 45,000 acres of forest area. We will be satisfied if the Government would make a distinction and separate the forest portion of lands from the developed portion. The point is, we are refused pattas for about 21,000 acres of forest lands directly in our possession and which are undeveloped.

In reply to further queries from members, the witness said:—

We have got absolute proprietorship of the property and in the Bill itself, "janmi" has been defined as a person entitled to the absolute proprietorship of land.

The Secretary (Revenue) pointed out that in the Kerala Act, the janmis had not been given any preferential rights. The Government are paying compensation for taking the janmam rights.

Proceeding further, witness said:—

In Kerala, they are nationalising forests. It may be proper to take over Janmam rights where leases have been granted. But, there is no question of abolishing or taking over janmam rights where the janmi himself is in possession of lands. We are getting ryotwari pattas for lands in our possession cultivated by us or members of tarwad, tavazhi, illom or family or by our own servants or by hired labour except in the case of forests. Out of 21,000 acres of forest lands in our possession, about 10,000 acres are grass lands which are very good for tea and coffee. I am only saying that such lands which are not good for forests may be given to us. We are not able to get any income from forest lands because of the consistent conduct of the Government in refusing to allow us to develop and enjoy the forest areas over a number of years. No provision has been made for payment of compensation for right to timber and mines and mineral wealth.

Dr. Bhanuvarman, one of the Tavazhis, (representing Srimathi N. K. Sinna Thampatty) said:—

The previous two witnesses are concerned with forests, but I am speaking for patta fields. They are in charge of only the undivided property.

(When the witness wanted to present a Memorandum, he was informed that the date for receipt of memoranda had expired and therefore he should say whatever he wanted to say, before the Committee.)

The Nilambur Kovilagam has been subjected to partition in 1951 and the forest areas which remain undivided is now the subject-matter of a suit on the file of the Subordinate Judge of Calicut.

Since 1951, the revenue collection from the property to my share did not amount to even half the land revenue to which I had been assessed. Thus, it had been a continuous strain experienced every year in respect of meeting the revenue commitments regarding the estate. Rents from tenants have been in arrears for a number of years. Suits for recovery are pending in civil courts.

As holder of janmam lands in Gudalur and as the person directly paying the assessed revenue to Government, I am of opinion that the provision in Chapter V, Section 22 of the Bill that the several thavazhis including mine, no more belonging to Nilambur Kovilagam as such, shall be considered as the single janmam estate, is likely to cause considerable hardship to me. If my estate were treated as a part of Nilambur Kovilagam, my claim for issue of ryotwari patta and consideration of compensation to me will be affected. I intend to bring suitable lands under direct cultivation at an early date. So, the provision in clause 8, making direct cultivation for a continuous period of three agricultural years immediately preceding the appointed day as a condition is a restriction upon the use of my own lands.

Already, the tenants are in arrears for 20, 30 or even 50 years. Several suits are pending for recovery of rents. The proposal to grant ryotwari pattas on the basis of personal cultivation has made the tenants recalcitrant and it will also encourage encroachment on lands. The facility with which the three years' cultivation period can be cooked up needs no elaboration. While the janmi has to pay the revenue to Government, there is no possibility of getting revenues from the tenants.

The provision in clause 16, denying right to janmi to dispose of or otherwise deal with the janmi's own lands is an invasion of the right to property and enjoyment thereof which I am afraid will amount to violation of the Constitution.

The provision in clause 17 will deny the land-lord fair compensation or issue of ryotwari patta in his favour in cases where the lease period has expired and renewal has not taken place, in which case Government will step in and take over the right of the janmi.

The provision in Section 19(2) is unjustifiable and the janmi should not be made to pay for survey and re-survey.

In fixing compensation and deciding the question of computation of rent, care should be taken. The reference to average of three agricultural years does not cover the case of lands from which the janmi derives no income but which should not be treated as of no value. The injustice that will result from such computation is patent. The compensation payable should be paid in a lump sum and not in instalments.

There are arrears of rent outstanding for several years. The tenants who had been regular in payment of rents and the defaulters are considered on a par. The comparative advantage the defaulters are going to derive under the Bill will be an incitement to regular rent payers to resort to dilatory tactics and defer payments. For the lenience shown by janmi by not pressing payment of rent for such long periods, the janmi is now punished by restricting collection of arrears to three years. It is only just that the janmi is permitted to collect a fair portion of the arrears of rent due from the tenants in the following manner :

Those in arrears of more than 12 years should pay 12 years rent ; those in arrears for 6—12 years should pay for 6 years ; those in arrears for 3 to 6 years to pay the actual dues. Those in arrears for below 3 years need pay only for one year. In the case of regular tenants, I am prepared to waive the current year's rent in their favour.

I request that the Bill may be revised, modified or varied wherever necessary in the light of the suggestions and the representations made.

Secretary, (Revenue) : You must have received income from forest and non-forest areas. Have you particulars of the nature of income separately from forest and non-forest areas ?

Witness :—We do not have those particulars now. Land revenue paid for forest is about one anna per acre plus cess.

Secretary (Revenue).—For a number of years now you must have received some income ?

Witness.—We have no particulars.

Secretary (Law).—With great respect to Mr. Balakrishna Iyer, the former Law Secretary of Kerala, I am unable to agree with what he has said. It is the responsibility of the Law Secretary of the Government to advise the Government whether the legislation is *intra vires* or not and I have taken the responsibility and I have said that this legislation will be *intra vires*. Mr. Balakrishna Iyer tried to show how this legislation will not be *intra vires*. It is necessary to see the constitutional position. Under Article 19 (1) (f) of the Constitution, all citizens have the right to acquire, hold and dispose of property. This is subject to Articles 31-A and 31 (2). Article 31 (2) says that the Government can acquire property for public purpose and by authority of law providing for just and reasonable compensation. I will read Article 31-A which says :

“ 31-A. (1).—Notwithstanding anything contained in Article 13, no law providing for—

(a) the acquisition by the State of any estate or of any rights therein or the extinguishment or modification of any such rights, or shall be deemed to be void on the ground that it is inconsistent with or takes away or abridges any of the rights conferred by Article 14, Article 19 or Article 31.”

In Article 31-A (2), the expression “estate” is defined to mean any janmam right and so under that article, the janmam right can be acquired by the Government. This particular amendment was effected by the Fourth Amendment to the Constitution and subsequently it was substituted by the 17th Amendment.

In Golaknath’s case, it has been held that the fundamental rights cannot be abridged or altered by the State and any such amending legislation will not be valid. It is also said that any such law prior to that date will be in tact. The principle of prospective over-ruling will apply only to any amending legislation subsequent to that decision. We have been able to read the latest decisions of the Supreme Court where the present interpretation put forth is approved. Therefore, under that interpretation, it is not possible to say that any future parliamentary legislation violating Article 14, 19 or 31 will be void. It will be protected by the Fourth Amendment. Therefore, I do not see that there will be any real hardship or obstacle to this legislation. Apart from that, there is Article 31 (2) which provides for acquisition of land. The only question will be whether the compensation is just or not. That again is a matter for courts to decide. Probably there have been some decisions to say that it must be just. The latest trend seems to be that it is the will of the legislature that has to prevail. Therefore, I really do not feel there is any legal ground to take exception to the legislation. Probably, if the House so wants, it may hear the views of the Advocate-General. But as far as I am concerned, I have no doubt on the legal aspect. In regard to the sentimental aspect or the equity aspect, Mr. Thirumalpad made a point

and it may require some consideration. He said that there was distinction between the Estate Abolition Acts in Tamil Nadu before and the present legislation. We had the Estates Abolition Act, the Inams Abolition Act, the Minor Inams Abolition and the Lease-hold Abolition Acts. In all these Acts there may not have been any question of large extents of forests. Probably it is peculiar to this legislation. It is for the Committee to consider whether any distinction need be made with regard to the manner of acquisition and compensation to be paid in respect of lands under occupation and lands which are only forests.

Thiru Balakrishna Iyer.—In the other legislations, the entire property was held by a single person. But here, the property is bundled into one but vests in so many individuals. Therefore, the quantum of compensation should be adequate. For the entire property, there are about 200 members. They were not allowed to develop and now their right is also taken away. After all Government allot lands to others; my plea is why not they allot these lands to the members of Kovilagam family.

Secretary (Revenue).—That will be outside the scope of this Bill.

Secretary (Law).—The other point raised is that this legislation will be discriminatory. It is said that the same law is not in force in the entire State. The Cultivating Tenants Protection Act recognises there is a landlord and a tenant. Even though the landlord is not cultivating, he is entitled to rent under that Act. The principle is that the man who cultivates alone is entitled to patta. Therefore whatever the equity considerations may be, legally speaking, it cannot be discriminatory. You cannot legislate for all. You have to go by a phased programme. I would not say that Article 14 is attracted. Similarly, because a law is made for Gudalur, you cannot say the law is not made for the rest of the State. We had to consider all aspects and having considered so, we have taken up the view that the proposed law is *intra vires*. No one can say what the courts will say and which court's view will be final. We have taken this view and advised the Government that the law will be *intra vires*.

DR. BHANUVARMAN continuing said :—

Patta will be given only to actual cultivators. All these years, we did not think of cultivation directly. Since the entire land is proposed to be taken away we want to start cultivation. We have no other means of livelihood. Just because we were receiving paddy by way of rent, we should not be denied now our income. We may be allowed some land for cultivation. Three years cultivation certificate is easy to get and they will get pattas; while we cannot get patta for our own lands, the encroachers will get. We have got 100 acres of forest and we want to undertake plantation. That forest area may be given to us. While deciding compensation, the timber value also may be taken into consideration.

Answering a question, the witness said that he had 40,000 acres in Kerala.

(4) The Chairman, Gudalur Panchayat Union (Thiru K. Gopalakrishnan Nair).

In Gudalur, the Nilambur Kovilgam has leased about 7,000 acres and 17,000 acres have been developed by planters and this is apart from the waste lands.

The economy of Gudalur depends on the successful working of the plantations and whatever legislation is brought forward, it should benefit the planters. It is therefore suggested that the lessees of plantation and mining lands should also be included in the definition of "tenants" or else necessary changes made to clauses 3, 9 and 10 to make them eligible for ryotwari pattas.

On behalf of the small-holders of this place, I suggest that whoever is in possession of land on the appointed date must have the benefit of ryotwari patta. Since 1st June 1961 there have been large number of occupiers of janmam lands in Gudalur taluk and the janmis are unable to get permission from Court for leasing out their lands because their affairs are in Court. All these people have been occupying the lands with the connivance of the Kovilagam. Such persons will not be able to substantiate their legal rights with documents. It will be unfair to dispossess those persons of their rights. Hence, the suggestion.

I suggest that Clause 17 may be deleted. A ceiling may be fixed for the extent of waste lands to be held by each plantation based on its planted acreage. Plantations may be allowed to hold an area of waste land equal to the planted acreage, for their fuel, timber and pasture requirements and for future development at their will. The surplus lands may be taken over by the Government on payment of compensation or by whatever arrangement the Government propose.

The provision in Clause 28 that the compensation payable in respect of any janmam estate shall be twenty times the basic annual sum is vague and is unnecessary. In most of the leases granted by the Kovilagam, the rent has been fixed for plantations. So, I suggest that 20 times the rent fixed in that document may be paid to the janmi for acquiring the janmam right.

As regards wet lands, one pothi in kind per acre was fixed as rent payable to the janmi and even now they have to give the same one pothi in kind. It will be unfair to ask the tenants to pay a contribution of 20 times as provided in Clause 47. About 5 to 10 times only may be demanded from the tenants. A distinction has to be made between the holders of wet lands and the small holders and plantation crops. In the case of plantation crops, I do not mind the Janmi getting a higher rate of compensation because the rent is very low. What the janmi himself has said is not quite all right. The rent fixed in olden days varies from Rs. 2.50 to 5. It is not Rs. 10 or 15. Probably they may be demanding. I am paying only Rs. 2.50 per acre, the rent fixed in those days. But the poor cultivator who cultivates paddy with a gross income of about Rs. 150 per acre has to pay Rs. 400. A distinction has to be made between the wet land cultivator and the plantation owner.

Most of the tenants in the Gudalur area are very poor people. Land Mortgage Banks should be authorised to advance loans to them. At present the tenants are denied such benefits as their rights on lands are considered to be inadequate for advancing of loans. As an interim measure, I would suggest that on the security of the tenants' rights whatever that may be, loans should be granted by Land Mortgage Banks.

Whenever lands are taken over by Government from janmis, a Land Board, should be constituted for distribution of lands in Gudalur taluk.

It is very wrong to deny ryotwari pattas to people owning forest lands. Even estates which have been cultivated years before are notified as forest areas. Out of 24,000 acres of notified area, about 15,000 acres have already been developed. If the Government were to deny pattas to those who are cultivating and enjoying the lands on the basis of the revenue records that they are forests, it would be a very anomalous position. It must be looked into and rectified. There has been no improvement of any kind in this area because we are not permitted to develop the lands. If the Government are going to deny pattas because the lands have been notified as forests, perhaps, there will be nobody entitled to receive pattas in Gudalur area. That is the position.

Answering questions from members, the witness said :—

Mainly we have got coffee and tea plantations in Gudalur. Many of us would like to have cardamom or cinchona, but we are not permitted. Our hands are tied because of Madras Preservation of Private Forests Act.

The witness then withdrew.

(5) Thiru T. N. K. Govindaraju Chetty (Glen Rock Estate) said :—

The proposal to take away the forest areas in Gudalur taluk by Government is ill-conceived and amounts to expropriation of one's lawfully acquired property. It will not serve any public interest. The payment of the so-called ' compensation ' is also a farce. The consideration paid by the janmi is not only for the land based on its potential value when developed into a plantation, but also includes the value of the trees standing on it. Particularly in Gudalur taluk, the development of forest areas into plantation is hampered by the Madras Preservation of Private Forests Act. If the proposed formula for payment of compensation is to be applied, it may even happen that the owner may have to pay to the Government, for the owner has had to be spending for maintenance but also to pay kist, all for nothing. The income is thus a big minus and twenty times of it will be only a bigger minus.

It is essential that all lessees should not be treated alike because there are several kinds of lessees. Nor should it be taken for granted that all the lessees have invested vast sums and developed the lands and the janmi pattadar was collecting the lease amount all along for nothing and could therefore be divested of his land and a ryotwari patta for it granted to the lessee. The janmi pattadar acquired the land for hard cash and it is according to his convenience and force of circumstances, he leased the land for a meagre amount in the full expectation that at the end of the lease period he would derive the benefits due to him, allowing the lessee to benefit considerably for his efforts and investment for an appreciable period after development.

There are cases where the janmi owner purchased the land at the fag end of the period of lease, paying consideration on the basis of a developed plantation. In such cases, by providing for the conferment of a ryotwari patta on the lessee, by a stroke of the pen, the Bill attempts to rob Peter to pay Paul. What is the compensation proposed? It is 20 times of the meagre lease amount which will be less than 1/20 of the cost of acquisition of the land by the janmi.

There are also cases where lessees have failed to surrender possession to the janmi even long after the lease period and continued in unlawful possession, even defaulting to attorn to the janmi regularly the meagre lease amount, denying possession to the devoted cultivator-purchaser who acquired the land paying full value and thus depriving him of a reasonable return for his investment. In such cases this Bill will only benefit the underserving lessee at the cost of the genuine owner-purchaser. This will only retard national prosperity and inflict a gross injustice on the janmi-pattadar whose superior rights of ownership have been all along recognised by the Government. What is the guarantee and safety to a citizen's property and what will be the sanctity attached to private ownership? There will only be a feeling of uneasiness and a disinclination to do or improve upon any business.

The lessee has taken the lease of the land as a business proposal and over a considerable period of enjoyment after development would have had ample returns for his efforts and investments and has nothing to lose. It is common knowledge where leased lands with even several buildings constructed on them have been surrendered to the owner at the end of the lease. There are also equally a number of cases where Government themselves have resumed lands even before the end of the lease period for infringement of some condition or other. While so, it is difficult to understand why there should be a discrimination made in the case of a janmi's possession alone.

In reply to questions, the witness said :—

There are various categories of lessees and in our case it affects very seriously because we purchased the land very recently paying market value. It consists of 4,000 acres and we have paid about Rs. 17 lakhs and we have invested about Rs. 7 lakhs. We purchased the land from its previous owner. We have not purchased it from the janmi. We purchased the land from patta janmi owners. We have purchased it from Wahab Sheriff and Yusuf Alikhan. The area consists of both cultivated and forests lands.

Answering a query from the Secretary (Revenue), he said :—

We have got pattadar right only. We purchased the land from somebody who purchased it from somebody.

In reply to further questions from members, the witness said :—

We purchased it as an industrial or business proposal to develop it and make profit. The total area is about 4,500 acres. About 800 acres are under development or already developed. The rest are forest areas.

The witness then withdrew.

(6) Thiru Velayudam said :—

We welcome the Bill. The lands comprising the Kovilagam Janmam belong to the Adi-vasis of this place who are agriculturists, like Mavundan Chetty, Paniar, Kothar, Kurumbar, Nayakar and also to Nambalakotta Vettaikaruman Devaswom. According to the various deeds in our possession, the Janmis have no rights over these lands. Originally the East India Company have granted pattas to the agriculturists. In 1836 Subbu Pattar purchased the property in Court

auction in the name of Vettaikaruman Devaswom. Later, Thirumalpad of Nilambur purchased the properties in the name of Nambalakatta Vettaikaruman Devaswom from Subathra Ammal. Actually one Krishna Menon has signed the document instead of Subathra Ammal. In the document given by Thirumalpad, it has been mentioned that the lands belong to Devaswom and Adi-vasis. In the lease deeds entered into with the Estates also, it has been mentioned that the lands belong to Devaswom Janmam. Vettaikaruman koil has been declared as public temple by the Hindu Religious and Charitable Endowments Department. The injustice done at the time of re-settlement has already been brought to the notice of the Government. At the time of resettlement the janmis managed to get joint pattas. The Nilambur Kovilagam has no right over the janmam properties and they need not be paid any compensation. The janmam estate said to be owned by the the Nilambur Kovilagam belong to the Adi-vasis of this place.

Answering questions from members, the witness said :—

We are paying "Kandayam" to Government and we are getting receipts. Janmis are not giving proper receipts to many people. They are giving only temporary receipts. When we pay rent to Janmis, they adjust it towards payment of arrears saying that there are arrears of rent.

The witness then withdrew.

Thiru T. S. Ramaswami said :—

I am representing the views of the Adi-vasis. We are the oldest residents of the area. All along for lands cultivated by us, we have paid only Government revenue, but no rent to janmis. All efforts of Janmis to get rent from us have failed. Most of the lands belong to Nambolakottai Devaswom and there is record in support of this. The abolition of janmam estate should be done quickly.

Thiru S. Doraisami said :—

I have been working for the welfare of Adi-vasis for the last 11 years. These Adi-vasis live in hills and forests. They cultivate one acre or two acres. They have no pattas. The Government should grant pattas to these Adi-vasis. These people are put to lot of hardship when they bring fuel from forests. They are charged under the M.P.P.F. Act and they are punished. They do not pay any rent to janmis. They should be protected.

Thiru M. S. Narayanan said :—

I am the Secretary of the Gudalur taluk Agriculturists' Association. I welcome this Bill. The historical background of the Nilambur Kovilagam Janmam is that all the lands under them belong to the Nambolakottai Vettaikaruman Devaswom. There are 9 temples to be protected. For that the agriculturists pay rent. Before and after the settlement of 1888, the agriculturists obtained pattas from East India Company and they paid Government revenue and rent for the maintenance of temples. But in the resettlement of 1924-26, joint pattas were granted jointly for agriculturists and the janmis. The janmis then started collecting rent from agriculturists and declared themselves as janmis. This continued till 1951. After 1951, they separated forest lands. Thus the Nilambur Kovilagam is an institution that has sprung up in the middle. The janmis have not done anything by way of helping the agriculturists and therefore they need not be paid any compensation.

The agriculturists have under great hardship brought hill areas under cultivation and it is not fair to ask them to give contribution for granting patta.

The word "tenant" has been defined as in the Malabar Tenancy Act. But the agriculturists under the jannis have no record, even though they have been cultivating for more than 20, 30 years. These lands have been declared as forests under the M.P.P.F. Act. They do not have evidence of their cultivation. In plantations also, surplus areas have been cultivated by labourers and they have also no evidence.

Therefore the definition of "tenant" should be amplified so as to include all those who are carrying on direct cultivation at present and such agriculturists should be enabled to get the benefit of the Bill. Immediately, action should be taken to create record of all those who are doing cultivation presently. Afterwards only survey or re-survey operations should be taken.

In clause 2, the definition of "tenant" should be amplified.

In clause 8, provision should be made so that no janni gets any patta, for they have never done any direct cultivation.

In clause 9, every cultivator should be enabled to get ryotwari patta. The second proviso should be deleted as it will work hardship to agriculturists who have no evidence of their cultivation.

The proviso to clause 10 should be deleted, since no ryot will relinquish any of his land. If he had left, it will be a case of eviction by janni.

In clause 13, difference is made between persons getting pattas under clauses 8 and 9 and under clause 10. This should be removed and all should pay land revenue from the day the Act comes into force.

In clause 15, any person admitted into possession after 1st day of June 1961 has no rights. But many cases are there where persons have purchased at high cost and therefore, possessions after June 1961 also should be admitted.

Clause 17 has been framed without going into details. There is no reference to cases where the lease has expired and has to be renewed. It should be clarified whether such cases be taken over by Government, after paying compensation to Planters. If not it should be stated that lease will be renewed.

Clause 19 Survey all along had been defective. It should be specifically provided that any survey to be undertaken would be done with reference to cultivation accounts.

In regard to payment of compensation, we strongly feel that no compensation need be paid to jannis who had done nothing for improvement of the lands. However, a nominal rate may be given as compensation and it may be twice the annual land revenue.

In regard to Chapter VII, no contribution should be collected from pattadars. The Adi Vasis should be exempted from this provision.

In clause 54, provision should be made to stay all cases for collection of arrears; in cases where thrice the annual revenue has been paid, no claim for arrears should be allowed.

The above suggestion may be considered and the Bill suitably amended.

Thiru I. M. Hanifa (D.M.K.), said :

The janmis take action for recovery of rents and subsequently, they evict the tenants. If the agriculturist take any action, he will be put to a lot of hardship by the janmi. The instance of Jogi Gowder who vanished from the place is known to all here. The name of the janmi is M. K. Lakshmi Kutti. Therefore, protection should be given to tenants. Even on police complaints, no action is taken.

The witness then withdrew.

Thiru A. Jockin said :—

I welcome the proposed legislation. Pattas should be granted to Adi-vasis and Harijans cultivating the lands. Recently we have given a complaint to the Police about abduction of such a person, presumably by a Janmi. No action has yet been taken. Still we do not know the whereabouts of the person. The agriculturists should be given adequate protection. Under the guise of plantations, thousands of acres of waste lands are possessed by the Estate-holders. Such waste lands should be taken over by the Government and distributed to poor agriculturists at the rate of 3 acres per head.

The witness then withdrew.

Thiru Shahul Hamid said :—

The lands belong to the Adi-vasis like Chetty, Kurubar, Naicker, Paniar, etc., and pattas should be granted to the Adi-vasis and Harijans now in possession of the land and cultivating the same. They must also be given adequate protection from harassment by janmis.

The witness then withdrew.

Thiru Bhaskaran Pillai said :—

I have five acres of my own and I have encroached upon some other lands also. There are many others like me. We want protection.

The witness then withdrew.

Thiru Govindan Chetty said :—

Pattas should be granted to Adi-vasis cultivating the lands and possessing the same. Compensation need not be paid to Nilambur Kovilagam Janmis. Compensation may be paid to Nambalakottai Devaswom.

Thiru Andi Chetty said :—

I welcome the Bill. Pattas should be given to poor agriculturists cultivating the lands.

The witness then withdrew.