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MR. M.R.MASANI'S SPEECH IN THE COURSE OF THE DISCUSSION ON THE COMPANIES (AMENDMENT) BILL, 1963, IN THE LOK SABHA ON 13TH DECEMBER, 1963.

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Mr. Speaker, Sir, this morning Members of this House awoke with a shock to know that the decision of the Select Committee of this Lok Sabha and the decision of the Executive Committee of the ruling Party by a thumping majority of 17 votes to 2 had been reversed by the diktat of one man.

Before I go on to consider the tragic implications of this development, let me just take five minutes to explain what is the issue between the Select Committee and the Finance Minister. The issue is a very narrow one. Even the press does not seem, judging by today's papers, to have understood the issue. The issue is not whether the Government should be entitled unilaterally to convert itself from the position of a creditor to a shareholder in respect of past loans. The Select Committee's Report itself arms the Government to so convert itself even with regard to past loans subject to one condition - that the debtor has gone into default in some respect. If there is any default on the part of the borrowing company the, even if the loan was taken twenty years ago or ten years ago, this clause will become operative. The power is given to Government subject only to this - that there is default and three months' notice is given to the defaulting company to put itself right.

Even this is a variation of the original contract entered into between the creditor and the debtor. And it is one of the pillars of the rule of law that we should respect the sanctity of contract. When two people enter into a transaction, the basis should not be changed except by consent. Even this is a unilateral departure. I made myself a party to that departure because I wanted to go along with the majority of my colleagues from the Congress Party, to meet them half way, so that something equitable, something in the interest of the country should materialise. Therefore, I accepted that clause as a compromise between my position of sanctity of contract and their position of making some reasonable modification.

The issue between the Select Committee and the Finance Minister is this. He wants to have that power to himself unconditionally. Even in respect of a debtor company which fulfils all its obligations, he wants power to scrap that contract to which his signature and that of his predecessors has been put and unilaterally, by use of police power, to vary that contract and to treat it as a scrap of paper. That is the issue.

I do not know whether my colleagues who took this view along with me are going to be free to express themselves later or to be gagged in view of this Fascist diktat that has been issued this morning. But in case they are gagged, let me explain, as I understand it, what motivated them. They are perfectly free to contradict me if I am wrong. I think, what motivated the Select Committee in accepting this proviso was that India's credit, the credit of the Government of India, the reputation of the Government of India, the prestige of the Government of India at home and abroad will be smashed if this infamous clause is carried through.

Upto now, India's prestige has been high. Whatever one may think of the policies of the Government, one thing one must say that till this day, till Monday, till the President gives his assent to this clause, there has not been a single breach of faith by the Indian Government since Independence. I say, as a citizen of India, I am proud of this. Only two months ago, addressing the Economic Club of Detroit, in the presence of a large collection of industrialists, I said: "I am a critic of the Government at home. But let me record this fact that my Government, with which I quarrel, has not had to its credit a single breach of faith. It has played fair with people at home and it has adhered to its contracts with people abroad." I regret to say, after this, neither I nor any honest Indian will be able to claim this on behalf of this Government. It is because of that that the Select Committee modified the Bill.

Today, the Government wants to be able to cheat as a lender. It wants to break faith as a lender. It is much easier for a debtor to cheat. I shudder to think what the World Bank would think about it. I shudder to think what foreign Government will think about it because a man who cheats as a creditor is much more likely to cheat as a debtor, because the pressure on him to cheat is much more. This is why we opposed this clause and why we modified it upto a reasonable extent. We wanted India's name to be saved. If this clause goes through, India's name will be mud in the counsels of the nations.

The entire responsibility for this will fall on the shoulders of two guilty men, the Prime Minister and the Finance Minister. They have contributed to violating two very important conventions of our Constitution and of our parliamentary democracy. Those two conventions we took from the British. Until this day, whatever Party we belonged to, we have respected them. One convention was that in a Select Committee, there are no party whips. We leave our party labels behind us. We go there to sit together, 15 or 20 honest people, to try and arrive at a fair decision. There is such a thing as a consensus and that consensus comes out in the Select Committee. Therefore, the first convention which has been respected till this day has been that Members do not take party whips into the Select Committee.

Sir, I as a Congressman have exercised this right to differ from the Government when the infamous Liaquat Ali Budget was introduced in 1947 with the support of the present Prime Minister. I and Mr. K.C.Neogy and ten or twelve other Congress Members of Parliament put in a minute of dissent defying that Budget and the Government's proposals because we were free Congressmen exercising the rights of free parliamentarians. Today, I find that the Prime Minister has blamed Members of his Party who were doing an honest job for the country for not having bowed to the whip in advance. So the first convention that is being violated today is the convention that in a Select Committee party whips do not operate.

The other convention that is being broken is that the Government bows to the decisions of the Select Committee. Only a few months ago, or a year ago, when the Law Minister found himself at loggerheads with the Select Committee on the Fifteenth Amendment of the Constitution, he was democratic enough, to his credit, to bow to the majority of the Select Committee and let that Select Committee to have its way in this House.

This is an unsporting spirit; heads I win, tails you lose. After this, every Select Committee will be a farce. What is the point of this House appointing a Select Committee if everything is to be rubber-stamped by the Minister and the Select Committee is going to act as a group of robots - at least a majority of them. Uptil now, we went to the Select Committee hoping that, by give and take, we could convince each other. Here is a Bill which has come back in an improved form in two respects. Out of that, one improvement would be struck off because of this unsporting attitude of never taking a defeat democratically. We on the Opposition side accept defeat every day. We bow to it. We do not try to reverse it by arbitrary methods. Here, the Finance Minister has over-ruled defeat. He and the Prime Minister cannot stand it. So, they have to bully their own Party to dragoon this House into accepting a clause which it does not want; and at the diktat of one man it is reversed.

Now, the Prime Minister has given an explanation for his support. According to this morning's Indian Express, at the Party meeting, he said: "Two or three years ago, he himself suggested that Government should have power to convert its loans to companies into equity shares. Hitler had adopted such a course in Germany. Nevertheless, the Party's Executive Committee had decided otherwise." The Executive Committee's crime was it did not follow Mr. Nehru into Hitler's camp.

So far, our Prime Minister has been known as a blind devotee of that monstrous tyrant, Stalin. He adjourned this House when that horrible man died with all his crimes which Mr. Khruschev has now retailed. Now, the Prime Minister has become a devotee of Hitler along with Stalin! This is where the country is being taken today. That is why I think, more important than the clause, important as it is for India's honour and prestige abroad, this demand to truncate our parliamentary democracy is even more important. Mr. Anthony two days ago appealed to the Prime Minister to stop this steady recession of democratic conventions and processes which were going on. If I may say so, he is wasting his breath. It is India's misfortune that it has had as the first Prime Minister a half-baked Marxist, and we know Marxism cannot co-exist with Parliamentary democracy. This is a tragedy for this country.

SHRI WARIOR: You were also a half-baked Marxist.

SHRI M.R.MASANI: I was once: I am cured now.

SHRI WARIOR: Completely?

SHRI M.R.MASANI: Now, I want to come to the second most objectionable part of the Bill and that is in regard to Trusts. Clauses 7 and 8 of the Bill deprive all trustees of all trusts automatically of their right to exercise the rights as shareholders in a company in respect of the shares held by the trust. No charge has to be preferred against a trustee; no case has to be made out against him. His right to cast his vote as a member of the joint stock corporation is being taken away from him. He is being expropriated without anything being alleged against him. This was not the intention of the Bill when it was introduced. The Statement of Objects and Reasons is very clear. Paragraph 2 says: "In order to prevent the use of voting rights attached to shares held by trusts for the advancement of the personal interests of the donors, it is considered necessary to regulate the exercise of such rights in suitable cases." In other words, when a trustee misuses his voting power to work for himself or for the donor and not for the charitable or other objects of the trust, he may be removed and his voting rights may fall to the public trustee. That was an understandable proposition. I was prepared to go along with it. I am prepared to table an amendment in the House for the object stated in the Statement of Objects and Reasons attached to the original Bill. But, again, the Finance Minister has shifted his ground. He comes to the House trying to carry it by giving a reasonable object in the Statement of Objects and Reasons, but when he comes to the Select Committee he opposes an amendment in the very terms of the Statement of Objects and Reasons. Nowadays, one finds that the Statement of Objects and Reasons has very little relation to the operative clauses of the Bill.

The hon. Finance Minister gave an assurance just now that these powers that are being taken will not be lightly or frivolously used. This country will give no weight to his assurance. The word of this Government, which is proposing to cheat, this Government which is proposing to break faith with people inside India and outside India, is worthless from now onwards, and they will not accept that word. No assurances will do. We want the language of the law to be clear.

Thousands of trusts, big and small, are going to be expropriated in this manner. The instinct of charity, which is part of our Indian tradition, is being attacked as if it was some evil. People should be encouraged to form trusts, not punished as if they are criminals.

Talk goes on of aggregation of power, and concentration of power. Yes, there is concentration of power, but in the hands of these people opposite. That is the only concentration of power known to this country.

Sir, let me give the statistics from the hon. Minister's own department. The number of people with small incomes goes up, and the number of people with big incomes goes down; here are the figures from the tax statistics. Individuals with an annual income not exceeding Rs.15,000 a year have increased by 95 per cent between 1956-57 and 1961-62. Their income has increased by 75 per cent. Let us see what happens in the case of those horrible gentlemen about whom these gentlemen behind me on the right have nightmares. On the other hand, the number of people with incomes exceeding Rs. 2 lakhs a year declined by 16 per cent, and their income had fallen by 26 per cent during the same period. What is the trend? The trend is towards dispersal of share-ownership; the trend is towards dispersal of wealth and income.

Our biggest giant enterprises in India are mere toys compared with third class companies abroad. The Finance Minister reads as much as I do, he is a very avid reader, and he knows that the biggest Indian company does not figure in the list of the first 450 joint-stock corporations in the world published by Fortune magazine. This shows how tiny and puny we are, and it is these pigmies they worry themselves about - the brave people behind me on the right.

A Reserve Bank study has shown that the share ownership of Indian enterprises is in the hands of a large number of small people, and that the number is going up all the time.

This catchword of concentration of power is valid, but the only concentration is in the hands of this Government. Whenever economic and political power gets concentrated in the hands of two or three people on those front benches, then liberty is in danger, just as the liberty of Congress Members has been violated overnight at yesterday's meeting; that liberty is in danger. I know that the vast majority of the Congress Party do not want liberty to go.....

SHRI SHIVAJI R.DESHMUKH: We do not look upon you as our liberators.

SHRI M.R.MASANI: I know that the Congress Party does not want liberty to go. I know that most of them are as good democrats as I am, and I pay tribute to them. But there is a handful of loud-mouthed fellow-travellers of the Communists who have successfully infiltrated into the Congress Party and, led by Mr. Nehru, Mr. Krishna Menon and Mr. Malaviya, they are subverting the freedom of the Congress Party. I want to ask them how long they will stand for this bullying.