

PROPERTY IN LAND

By MINOO MASANI, M.P.

The root purpose of the 17th Amendment to the Constitution is to destroy the Fundamental Right to property in land.

I deeply deplore and regret the necessity of having to speak on this highly controversial measure on this day.* I had a hope that the Government would respond to the mood of the country and leave this matter over till the House meets again with a new Government and a new Prime Minister presenting his own policy. I am very sorry that the appeals for dispassionate consideration which have been made have gone unheeded.

This amendment to the Constitution was rejected by this House only a month ago. That was the result of a large number of Members of the Congress Party dragging their feet. Whether this was a conscious dragging of feet or it came from a subconscious antagonism to this measure, which we know they share, I cannot venture to say. But the fact remains that not even a three-line whip was able to produce in this House 256 hon. Members, when the ruling party itself consists of 370.

One of the newspapers commenting on that vote referred to it as a "providential opportunity" given to the gentlemen on the treasury benches to have a second look at this controversial measure. *The Hindu* went further and referred to the tremendous sense of relief that had gone around the country at this providential escape. *The Hindu* of April 30 said: "Millions of honest farmers all over the country will rejoice over the fact that temporarily at any rate this obnoxious measure has been snuffed out."

That was the general mood of the country when the Congress Party failed to persuade the House to accept this amendment.

Not only land reforms

The Law Minister tried to make out that this measure was necessary in order to enable land reforms to be carried out. He even went so far as to say that this measure was necessary in order to allow the tiller to own the land. Is there any hon. Member who would accept this cock and bull story?

This is a measure to deprive the peasant of his land and not to give it to him. It may be suggested that this law is necessary to legalise the illegal laws struck down by the supreme judiciary, because ceilings have been brought into existence. That is not so. These laws were not struck down because they legalised ceilings. They were struck down because of the unconscionable attempt to expropriate those whose land was taken away.

* From a speech in the Lok Sabha on 1 June.

It is not the ceilings that have necessitated this legislation. It is the desire to strike at the fundamental right to private property in land.

The schedule to the Bill includes measures which have nothing to do with land reforms. I shall give two examples. The first is the Gujarat Surviving Alienations Abolition Act of 1963. This Act refers not to land or rights in land, but to cash allowances which certain very poor people in my constituency are receiving, because their land was taken away from them earlier. What is now sought to be taken away is the partial compensation for the land already taken away.

The Law Minister might look at the Mysore Village Offices Abolition Act of 1961. That Act does not give any right in land. It creates a right in village offices—village accountants and workers for the village. Why should the right to hold village offices be expropriated under this amendment? What has it to do with land reform? I am pointing out that this is a lame excuse and it has nothing to do with land reforms.

What is an estate?

Then we come to the second feature of this measure—the definition of "estate". The Bill has a very peculiar clause—clause 2 (ii).

"(a) the expression 'estate' shall in relation to any local area, have the same meaning as that expression or its local equivalent has in the existing law relating to land tenures in force in that area and shall also include—

"(i) any jagir, inam or muafi or other similar grant and in the States of Madras and Kerala, any janmam right;

"(ii) any land held or let for purposes of agriculture or for purposes ancillary thereto, including waste land, forest land, for pasture or sites of buildings and other structures occupied by cultivators of land, agricultural labourers and village artisans."

Therefore, it is perfectly clear that the classes that are attacked here are not the big feudal landlords, who no longer exist in our country, but cultivators of land, agricultural labourers and village artisans.

Why is the definition of "estate" being perverted in this manner? No dictionary will agree that half an acre or two acres of land held by a cultivator is an estate. An estate is a big farm, big property, hundreds of acres of land. To say that the farmer with half an acre or one or two

acres of land can be divested of it because he is a zamindar or an estate-owner is to distort both morality and language.

No safeguard

We will be told: only land over the ceiling limit can be expropriated; that is clause 2, sub-clause (1) of the present Bill. It says: "Provided further that where any law makes any provision for the acquisition by the State of any estate and where any land comprised therein is held by a person under his personal cultivation, it shall not be lawful for the State to acquire any portion of such land as is within the ceiling limit applicable to him under any law for the time being in force..."

Mark the words "under any law for the time being in force." An attempt is being made to deceive the small peasant, to tell him: "Your land is safe because you have only ten acres; this Bill will not apply to your land; you will get full market value; only the land of the wicked chap who has got 25, 30 or 40 acres above the ceiling will be expropriated." That is a false statement to make about the phrase "within the ceiling limit applicable to him under any law for the time being in force".

Suppose tomorrow in any part of India a State Government lowers the limit to ten acres; then all land over ten acres can be expropriated. Suppose after two more years they bring it down to one acre or half an acre, what is the value of this so-

called safeguard? It is purely illusory.

Now, why is this being done? Would it be wrong to suspect that it is the failure of the Nagpur resolution for Joint Co-operative Farming on a voluntary basis? Would we be wrong to think that they are now fashioning this engine of coercion so that what was not achieved voluntarily can now be achieved under the threat of what this amendment portends?

Instrument of compulsion

There is no instance in history where the peasant has handed over his land to Communist or Socialist co-operative or collective farms. Those who failed to organise co-operatives of land voluntarily will go to the poor farmer and say: "Will you please sign this piece of paper saying that you will join the co-operative farm?" and when the poor peasant will say: "No", as I am happy to say he has said "No" for the last four years, they will say: "Well, you are driving us to dispossess you of your farm; you will have to get out." And when the poor peasant says: "No, I will go to the court and get compensation," the officer will say: "I am very sorry, but your Parliament has passed a law which says you may not go to a court of law any more; you will have to take one rupee in the place of one hundred rupees or one thousand rupees that we have awarded as your compensation." Faced with that, what would you or I do? Would we not take the piece of

See overleaf

BUILDINGS TAX FORM

By P. KODANDA RAO

A FRIEND of mine submitted to the Assistant Commissioner of Commercial Taxes, Asiatic Buildings, Bangalore-9, particulars of the floorage of his house in a typed form copied from the Act. It was not accepted. He was told that he had to use the special printed form, obtainable from the Assistant Commissioner. On learning this, I wrote to the Assistant Commissioner for a copy of the printed form. He was good enough to phone me that he could not send it by post, as he was not authorised to spend money on postage stamps! He therefore invited me to come to his office personally or send somebody on my behalf.

When I pleaded that I had no clerk or servant whom I could depute, that I had no conveyance of my own, that it would cost me about Rs. 10 if I engaged a taxi to go to his office, wait in the queue, collect the form and return, and that it would take me about two hours if I travelled by bus instead of a taxi, he kindly advised me to send by post a 10 paise stamp. I pleaded that to do so I would have to enclose it in a 15 paise envelope, and spend 25 paise in all! I added

that several other Departments like the Electricity Board, the Income-tax office and the Reserve Bank sent, at their own expense, forms on request, and there was no reason why the Department of Commercial Taxes should not do likewise, and that in any event, the phone message he kindly sent me had cost the Department perhaps more than 10 paise!

As there was no other solution for the problem, I sent a 10 paise stamp enclosed in a 15 paise envelope, with a covering letter requesting him to refer the matter to the higher authorities for appropriate action.

Since the procedure affects a large number of house-owners, it would be a mercy if it is given wide publicity. It should not be the deliberate purpose of any decent Government to inflict maximum harassment on the unfortunate tax-payers. May I express the hope that the Assistant Commissioner will not be penalised for having phoned me and put the Government to the consequent expense, if phoning also was unauthorised?

paper and sign: "I hereby voluntarily join the co-operative farm"? Would I be wrong then in saying that this is a measure that only a Communist dictatorship would enact?

And why should anyone want to collectivise land in India today? Is not the Soviet Union today in the world market begging for grain? They are buying with solid gold ten million tons of grain and flour to feed their starving people. The Communist regime in China is in the market to buy grain from Australia and Canada because it has created famine in its country by taking the land away from the peasant. Why should any government want to take away the land from the peasant proprietor, the most productive kind of cultivator of the land, and give it over to State farms where the yield drops?

What mandate?

Why do we say that this amendment is an unworthy one that should be rejected, quite apart from the merits of it? I will give reasons. The first is this. Does this Lok Sabha feel that it has a mandate? It was before the last General Elections of 1962 that the courts struck down the first of these immoral and illegal laws. Why was it not made an item in the Congress election manifesto of 1962? Why did they get the support of the electorate and then come here, and within a few months—let me remind this House; they were elected in February-March, and in May they introduced this amendment—within two months of the Election this law, which was not contemplated in the manifesto, was presented to us? It was a dodge and a trick, unworthy of a democratic government.

Then, look at the Constitution. A change in the Constitution is to be passed by a majority of the total membership of the House and by a majority of no less than two-thirds of the members present and voting. The intention is that there should be a consensus. There should be something like two-thirds of the electorate backing a measure. Is there such a majority? The 70 per cent of the Members of House who occupy the Government benches do not represent even a bare majority of our electorate. The whole lot of them represent only 44.72 per cent of the electorate that went to the polls in 1962.

Did the framers of our Constitution have it in their mind that a minority of the electorate could amend the Constitution to the detriment of the majority? 52 per cent of the Indian people own land, and 52 per cent are being hit and victimised by this amendment.

My last ground for saying that this is a measure the Parliament should not accept is that it represents a cold-blooded breach of faith. When the First Amendment to the Constitution was being debated, my hon. friend's

predecessor as Law Minister, Dr. Ambedkar, said on 1st June, 1951, something that I want to recall to my hon. friend.

A breach of faith

This is what Dr. Ambedkar said: "I would like to say this, there is no intention on the part of Government that the provisions contained in article 31A are to be employed for the purpose of dispossessing *ryotwari* tenants. Whenever any such measure comes before the President for consideration, the undertaking given in this House would be binding upon the President in giving his sanction so far as any such measure is concerned. Therefore, I submit there is no ground for any fear of any such thing happening, and I believe that there is also no justification for any kind of propaganda that

may be carried on by interested parties that this Bill proposes to give power to Government to expropriate everybody including the *ryotwari* tenants."

That sad day that Dr. Ambedkar thought would not come has arrived. He could not imagine that a pledge given in all solemnity in this House invoking the President's intervention was to be so cynically set aside by his successor.

If necessary, we shall appeal to the President to carry out the function that Dr. Ambedkar assigned to him. We shall appeal to him to desist from giving his assent to this measure because he has been made the arbiter of that promise.

I want to warn the Government

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that if any attempt is made to implement this Bill, if they try to implement it, they will come up against the resistance of the peasant. They will drag the country to chaos and famine. But they will not be allowed to get away with it. They may change the law but they are not going to change what goes on in the hearts of the people.

What is in the heart of the people is the love for the little piece of land that they have inherited from their forefathers and they want to keep for their children. Therefore, I can only caution this Government: Keep your hands off the peasants; do not try to implement this Amendment. If you do, I can only say that we of this Party will stand by the peasant in resisting this immoral law.