New Argentine Colonization Law

By C. VILLALOBOS DOMINGUEZ

In response to a long established need for a better interpretation and development of Argentina's agrarian policy, the National Congress recently enacted a new law of colonization. This law is somewhat similar to many that have been enacted since 1876; the consensus is unanimous in branding them all as failures.

The fundamental purpose of the present law, like that of its predecessors, is to increase the number of holdings by small proprietors. The means by which the law proceeds to that end, like its predecessors, is the subdivision and sale, on long and easy credit, of land which the State owns or may acquire. The present law is noteworthy (as was another recent plan proposed by ex-Governor Fresco in the Province of Buenos Aires) for its low interest rate, which is tantamount to a partial public subsidy, and for the smallness of the payments required for amortization of the purchase money loan.

The result is that a long period of time must elapse before the farmer becomes the effective proprietor, even if he is fortunate enough to achieve such a status at all after a lifetime of hard work and privation. One might say, in the best of cases, that the law creates proprietors **in articulo mortis.** But apart from all that, the new law contains two articles (Nos. 62 and 63) which, as will be seen, mean something very different.

Article 63 provides for lifetime leaseholds granted by the government, for prices which may be fixed or varied, under contracts which oblige the lessee to live on the rented land and cultivate it. The contract is not transferable, but the heirs of the lessee will have a preferred claim. If the lease is terminated by the government for reasons not prejudicial to the lessee, he will be compensated for his improvements.

It will be noticed immediately that this article contains a most important innovation. It postulates implicitly the principle of common ownership of land, along with individual exploitation. Both of these principles are rather at variance with the general spirit of the rest of the law, but they do establish a precedent for the allocation of public lands by lease, rather than by outright grant, as in the past.

This article is a translation and abridgement of the paper by Prof. Villalobos Dominguez which appeared originally in the review "Finanzas" of Buenos Aires. It discusses the new colonization act, passage of which was reported in the March Freeman. The purpose of this act was to strengthen the farmer as a cultivator of his land, rather than as a proprietor.

These two articles, introduced on the initiative of Senator Palacios, embody a teaching I have been advocating for twenty years and may well avert the frustration of the general purpose of the law, the efficient colonization of the country. This end cannot be attained by creating "small proprietors," and in a country such as ours, where the land is in private hands and has a high value, it would be difficult to gather a sufficient number of them by legal and peaceful means. The price the government will have to pay to recover the land which it proposes then to resell will be a fatal obstacle. Even if this were not the case, the small property eventually obtained by the colonist would with difficulty survive without being reabsorbed into one of the great estates, probably under the pressure of a mortgage.

This re-absorption takes place in all countries where the system of private property in land holds sway. No one can ignore the fact that the largest part of the land of this country, when it is not in the possession of the great corporations, has fallen under the control of domestic or foreign mortgage concerns. Even the National Mortgage Bank itself has found it necessary to sell land acquired through foreclosure to personal and corporate representatives of the latifundia or great estates. And this is because when land is privately owned the latifundia appear, persist and reconstitute themselves inexorably. It must be remembered that whoever is owner of numerous parcels of land, even though each one of them may be small in area, is in reality a latifundist.

If existing public lands and those that may be acquired by public authority are distributed by lifelong leases in accordance with the spirit of Article 63, they will be excluded forever from the intense concentration of landownership and all the profound evils that flow from it. Such a practice would keep the land available to the farmers of this and succeeding generations.

What the cultivator of the soil really needs is security of tenure, rather than ownership of the fields he tills. A lifelong lease, rather than proprietorship, is the goal toward which we strive. This objective could be achieved in a stable way by requiring an annual rental, the amount to be determined by public auction in each case. This is a vital principle which the law does not embrace; it should be included in its administration.

It is unfortunate also that the law contemplates an amount "fixed or variable." It should be variable in

all cases, in a way similar to that embodied in the happy concept of the Rivadavian eufiteutic land laws, being automatically adjusted (say) every five years on the basis of the average price obtained in successive auctions in the district.

It is very important that the contract should not be transferable and that the concessionaire should not be authorized to cede his tenure, with or without authorization from the Agrarian Council. It is proper that the government should compensate the concessionaire for all improvements upon the prior termination of his contract, and his right of cancellation should not be limited or proscribed in any way. The State, however, should not have the power to rescind the contract as long as the lessee pays the amount agreed upon, except in obvious cases of special public necessity which occasionally present themselves. In such cases, condemnation proceedings can be resorted to under the right of eminent domain.

The few useful and advantageous ideas in Article 63 roughly sketch a plan of colonization and a general reform in the economy of the country which, as I have said, contain perspectives of greatest importance. There is lacking among them any indication of a method by which the government can acquire the land, which is today privately held. But Article 62 comes hastening to the rescue with a simple and gradual method of recovering the privately-owned land. It provides for the payment of inheritance taxes by the transfer of land to the government. Thus was introduced into Argentine law, for the first time anywhere in the world, the constructive principle that inheritance taxes may become a means for the recapture of the public domain.

The law becomes rather awkward when it says that the portion "to be delivered" in compliance with the tax should reach or exceed 500 hectares (1235 acres). Indeed, such a tract presupposes a bequest of no less than 10,000 hectares, and this limitation reduces materially the number of cases in which the rule is applicable. Then, too, there are other requirements; the land must be near a railway station or well constructed highway, a port of embarkation, or an interior market.

It would have been much better to make the law apply to all legacies of 500 hectares or over. This latter figure and idea were actually proposed by the sponsoring Senator, and since there was no debate in the legislature, it would appear that the law was adopted in its present form through a mistake.

Payment in "land-currency" is made optional with the heirs. Indeed, there will be no need to exercise compulsion; the heirs will find this form of payment agreeable and advantageous. One bad feature is that the valuation of the land is to be determined by the government, and such valuations are often exceedingly inexact. The value should be computed on the day that the transfer is made; the perfect method would be to levy upon the land (for inheritance and gift tax purposes) by area rather than by value, providing, of course, that the land was of average quality.

Inasmuch as Article 62 is founded upon correct principles but wanders in its text, it will have only a limited application. Then, too, its scope is confined to properties within the boundaries of the Federal capital and National Territories. But it has great value as an experimental measure, and will set an example for the provinces. If the experiment is successful (as one may surely hope, if it is properly conducted) the provinces will not tarry long before introducing it into their respective spheres.

The basic concept of this article will permit the Federal Government and the provinces that adopt it to recover, without violence or injustice to anybody, a great deal of the land which is now part of the great estates. These lands will then become subject to the operation of Article 63. Thus is opened a way for the complete recapture of the land by a new method.

Much depends upon the regulations yet to be adopted, since they can lend force and practical effectiveness and tend to offset the effects of the hasty manner in which the law was adopted. In time, provincial laws will be able to elaborate and improve the advances made in this law, and thus prepare the way for the most profound social transformation that our citizens or any other people may desire. The solution of the so-called "social question" is contained in the simple principles incorporated into this law by Senator Palacios.

* * *

The reader may obtain more information and a deeper analysis of these principles in my book entitled "Bases y método para la apropriacion social de la tierra" published in 1932 in Buenos Aires. I have also discussed the problem in the December, 1938 issue of "Finanzas" in which I give a resume of a lecture delivered before the Argentine Scientific Society.

●

THE PETROLEUM INDUSTRY
By Ronald B. Shuman
University of Oklahoma Press, $3.00

This book, subtitled "An Economic Survey" is, in its way, extremely thorough. Dr. Shuman teaches a course on the economics of petroleum, and his book covers just about the whole spread from prospecting for new wells to gasoline taxation, with a chapter thrown in on natural gas. The chapter on "Marketing Petroleum Products" is particularly informative.

There is no discussion of the extent to which economic rent constitutes a part of the profits of the oil companies; in this respect, the book fails to live up to its subtitle. And there is no hint that some of the practices discussed by Mrs. Tarbell still survive. In other words, Dr. Shuman's petroleum industry is not very closely integrated with the civilization which it serves. This is regrettable, the more so because it is a common failing of most economic surveys. Is not the very word "profit" as commonly used, a negation of social unity?