

## AGRICULTURAL LAW

The European common market and agrarian legislation.

Themes and systematic tendencies. harmonize or  
unify ? Limits.

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### Netherlands.

1. Sources. Agricultural law in the Netherlands is embodied in many enactments, such as Acts, Royal Administration Decrees and Regulations made by the Industrial Board for Agriculture and by the Commodity Boards for agricultural products.

2. Classification. These various statutory regulations can be classified according to the soil, the products and the persons. As to agricultural workers can be classified according to the labour and to the co-operation and organisation as regards private and public law. All these distinctions are of course no divisions. The relative enactments are closely connected with each other and show mutual infiltration.

3. Points in common. On comparing present rural law with that of the previous century it becomes clear that state interference, especially after World War II, is characteristic of this century. As a negative result the individual right of ownership and the freedom of contract have been robbed of much of their significance.

4. Explanation. This state interference can be accounted for in various ways. The free interaction of supply and demand has socially undesirable results, both as regards the law of labour and of soil. Besides, there is another difficulty, viz. the limited acreage of cultivable land and an ever increasing population, with land-hunger as a result. An often ineffective management also interferes with technical progress. All this induced and still induces the Government to take action. Several motives may prompt the Government to do so.

5. The social motive To protect those agricultural workers, who, as a result of the circumstances mentioned under 4, are in a socially unfavourable position, the individual right of ownership and the freedom of contract are curtailed. Prices, regulations, the rents and the prices of land, the prices of agricultural products and farm workers' wages claim first attention. A further-reaching regulation mostly follows. Security is given to the tenant-farmer as to the duration, prolongation and the right of pre-emption, the other conditions for employment to which the worker is subject, are also backed by the Government.

6. The general social and economic interest. Social protection of the individual is also of general importance. This has always been admitted but has only been emphasized of late. The Government more and more approaches these problems from this general point of view. Especially in the years after World War II the Government has paid attention to the general economic importance of a good working agricultural industry. The Government conducts a price policy. Price regulations have not only been adjusted to the real interests of the agricultural workers, but have also been made subservient to the Government's price policy.

7. Price policy and structural policy. There is a growing belief that the Government does not accomplish its task towards agriculture with a price policy only. If the Government knows its responsibility towards agricultural workers and will provide them with a good living, she must also be able to rely upon an effort for the most favourable conditions for a good production. A price policy can only be justified if an effort is made to remove the causes which hamper remunerative farming. Besides, a structural policy is essential as there is a danger in protective price policy that the stimulant to achieve a most profitable production is taken away.

8. Purposes of structural policy. The present agricultural structure, i.e. the condition of the soil, leaves much to be desired in many respects. There are too many sub-marginal holdings,

the soil has often most ineffectively been parcelled out and the possibilities of production have not always been taken to full advantage. The aim is to enlarge the holding "sanering", to resist ineffective parcelling out and to improve the possibilities of production.

9. Means. To execute its price policy, various means are open to the Government viz. those with an indirect and with a direct effect. Those with an indirect effect are: advice and consultation, both backed by scientific research and tuition, whereas the enactments are considered as direct means.

10. Lines of policy. Agricultural industry cannot stand great shocks so that the means which are at the Government's disposal must be handled carefully and by degrees. The reforms in agriculture must be accepted by the agricultural workers and agreed upon as right and necessary. This implies that the Government should, as much as possible, apply the indirect measures first. If direct measures are necessary advice and consultation are necessary too.

11. The present state of affairs. The policy of the Government is generally conducted in accordance with what was said under no. 10. The great importance of advice and consultation is admitted. Much has already been achieved by the highly developed and intensive advice- and consultation system, though it cannot entirely realise the Government's policy in this respect. Legislation is therefore essential. Of recent date are: the new Tenancy Act (1950), the Land Consolidation Act (1954) and the Act on Alienation of Agricultural Land (1953). Several statutory regulations, in particular in the field of structural policy, are still to be expected. A change in the law of succession is considered, as the present law promotes the springing up of too small holdings and an ineffective parcelling out (the legal portion; party autonomy in partition and distribution). Acts on the establishment of a business (for holdings and for persons) can be expected.

12. The present rural law. The above-mentioned facts reveal that rural law is still being developed. Partly as a result of the fact that the Government was forced to carry out the statutory

regulations by degrees, rural law is embodied in various enactments which have often an incidental character.

13. Task. In consequence of what was said under no. 12, it can be stated that the regulations of rural law can only be traced with difficulty and that they have not been arranged systematically. It is necessary that these disadvantages should be removed. This is a task for legislation and for science. It is the task of science that the regulations of rural law should conveniently be arranged so as to form a unity. That which is lacking or should prove to be incorrect, must be settled by the legislator (harmonization). It is unnecessary and undesirable that the legislator should do this by providing a law book on agriculture or a general structural law (unification). This is particularly undesirable as the unity of private law, as projected in the draft for a new Civil Code, would be broken.

#### The Common Market.

14. The regulation. In the treaty for the establishment of the European Economic Community, a separate part has been devoted to agriculture (articles 38 - 47). Not to mention the transitory arrangement, the body of regulations for a mutual agricultural policy must be considered as the heart of the matter. The two elements mentioned under no. 7 are found back in the lines of this policy (art.39). Though price policy is predominant in this part, structural policy is, rightly, not out of the question (see art.42). The organisations of the E.E.C. will have to pay attention to both.

15. Comparison of agricultural systems. On comparing Netherlands agricultural practice and legislation with that of the other state-members, they all turned out to have the principles mentioned under 3-10 in common. On the other hand there are radical differences in the relations of facts and in the juridical-technical elaboration of agrarian legislation.

16. Causes. This result need not be surprising. The social and structural problems and those of price policies are general as they result from causes which have not a typically national character. In that agriculture shows an international aspect. However agriculture is also characterized by national peculiarities. Especially the historical determination, which is important in agriculture, accounts for these local differences; the extent of tenancy and the practice of succession should be remembered for instance. These differences are stressed as there is little or no international influence, as in trade, industry and in transport. This national aspect also plays a part in the juridical-technical elaboration of rural law. In contrast with typically international institutes (e.g. purchase and maritime law), a joint basis and joint material to promote a better understanding of the matter is lacking in rural law.

17. Results. The above-mentioned facts reveal that there is a sufficient basis for a common policy. Much detail work must be performed where agriculture shows a national aspect (facts and law).

18. Task of the State-members. The national material (facts and law) must be collected. This must be done in the six countries. A start has already been made. The jurists who devote themselves to the study of rural law have already exchanged material.

19. Organisation. A central organisation of this work is recommended. In the six countries bureaus should be established which, in close collaboration, should give a survey of the agrarian system, which has been adjusted to a joint policy.

20. Lines for an international policy. For the E.E.C. the same lines should be applied as have nationally been used (see no. 10). With a few exceptions, harmonization must be preferred to unification.