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CONFERENCE ON LEGAL PROBLEMS IN AGRICULTURE

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The first all-Polish conference devoted to basic legal problems in agriculture, initiated by the Institute of Legal Sciences of the Polish Academy of Sciences, was held at the village Sadki on October 11 - 12, 1968. When choosing this site for the conference the organizers intended to enable the participants to directly confront their views with current legal problems which are of vital importance to farmers (besides scientific sessions, numerous meetings were held with the inhabitants as well as with the representatives of the local agricultural authorities).

The agenda of the conference comprised a discussion on the report "Agricultural Law in the System of Polish Law" delivered by Professor St. Ritterman, as well as a discussion on legal aspects of agriculture in the light of resolutions adopted at the Fifth Congress of the Polish United Workers' Party (introductory remarks by Asst. Professor J. Paliwoda), and on the problems connected with selecting subjects for investigation in agricultural law (introductory remarks by Asst. Professor M. Błażejczyk). The present note — due to its brevity — cannot cover the whole conference. Consequently, it is limited to the discussion of Professor Ritterman's report in view of the importance of the problems with which it deals.

The report concerned three basic questions:

1. Can agricultural law be considered a separate branch of law: if so — in what respect;
2. What is the scope of agricultural law;
3. What are the subdivisions of the subject matter of agricultural law.

Participants in the discussion pointed to an increasing amount of regulations being issued as a result of an ever-broadening legal regulation: consequently there is a tendency to distinguish some new branches of law. From a logical point of view no norm exists and operates in isolation from others. Any detailed divisions of the legal system are conventional. Any description or classification of the existing enactments is based on a pre-determined criterion. On the other hand, while distinguishing and specifying a new branch of law, neither practical needs nor the systematics adopted by the legislator can be disregarded.

Further in the discussion attempts were made to define agricultural law taking for granted — for the sake of simplicity — the conventional division into basic branches of law (civil, administrative etc.). It was generally agreed that today agricultural law is not considered a separate branch of law and it comprises regulations which — regarding their, methodology — are either civil

or administrative. Within the said branches "sub-branches" are distinguished according to definite criteria. When such sub-branches are duly combined, agricultural law can be distinguished as a separate branch. Consequently there are no legal elements to set agricultural law relations against those of civil law or administrative law.

Only some of the participants agreed with the view expressed by the author of the report that a necessary condition for a separate branch of law to emerge is, among others, the existence of a general part, considered as *lex generalis*, applicable to legal relations governed by regulations in a given branch. Some participants expected that in the near future there would be sufficient conditions to issue a general part being a basis for legal agricultural relations. In a contrary opinion it w^{T}as pointed out that such branches as e.g., administrative law or labour law, the distinctness of which nobody questions, do not have a general part, and may not be provided with any for a long time to come. Even in civil law a general part was distinguished as a compendium of general concepts first propounded by the German pandectists in the 19th century as a scientific basis. Only later, namely at the end of the 19th century, it acquired the status of legal regulations in the German codification of civil law.

Professor Ritterman represents the view that although the specificity of "agricultural relations" has not yet attained the degree which might justify distinguishing agricultural law in the general system of Polish law, yet in some respects it is markedly specific. Consequently it is possible to distinguish agricultural law in the sense of scientific systematics as a so-called complex branch. This secondary classification makes it possible to study certain institutions in an approach which differs from the basic one. As a result, some regularities can be detected which in the basic classification may seem blurred. During the discussion examples were quoted to show the specificity of a number of institutions in agricultural law, as contrasted with corresponding institutions in civil or administrative law. Moreover, it was said that some concepts — though fully justified in their original branches — frequently fail when applied to agricultural law. Some participants noticed a notable disproportion between the adjudicative powers as regards the law courts and administrative bodies in settling cases encountered in agricultural relations.[1] A contrary view was expressed that the agencies of agricultural administration had been made competent by the legislator with regard to the implementation of the totality of agricultural law relations.

The view that agricultural law can be distinguished for the purposes of didactics, research and legislation (naturally as fringe subjects) met with the general approval. Regarding the number of criteria for the distinction only a few participants in the discussion were in favour of a multi-stage classification aiming at ever sharper delimination of the norms of agricultural law with regard to other norms. According to Professor Ritterman a distinctive feature agricultural law norms is the purpose they serve (i.e., the socialist transformations of agricultural relations). Critical opinions were voiced that dynamic tendencies to trasform social relations are characteristic of other branches of socialist law as well. Moreover, it is difficult precisely to define "the socialist

[1] In this context a proper separation of powers means that which corresponds to the type of legal relations to be adjudicated upon.

transformations of agriculture" which is a complex process reflected not only in economic but also in social evolution. Consequently, such a criterion is vague and too wide.

Some attempts undertaken during the discussion to distinguish agricultural law took into account objective criteria pertaining to a definite class of social relations, such a specific technological and production process **in** agriculture, agricultural holdings, etc.[2]

A subjective criterion was almost generally rejected because the reconstruction of the agricultural system, property relations in agriculture, or agricultural operations, fall within the competences of the State administration, law courts, and bodies of social associations vested with administrative functions commissioned to them. The functions performed by those subjects are similar both in "agricultural" and "non-agricultural" activities.

With regard to the scope of agricultural law, attention was drawn during the discussion to the fact that the scope of instruction in agricultural law at university law departments should be distinguished from that which is taken as a subject of scientific investigations. Didactics imposes certain simplification and requires a stricter delimination of subjects in order to comply with general curricula. In this respect relevant norms of administrative and civil law will be of fundamental importance as indispensable for the presentation of agricultural law.

On the other hand, the scope of agricultural law as an object of scientific investigations makes it possible — on the basis of the adopted criterion of distinction — to examine the consequences of various methods of the legal regulation of social relations in agriculture. Thus we can also investigate e.g., penal norms for the protection of people against harmful effects of chemicals used in agriculture, or patent law (e.g., with regard to new varieties of plants or breeds of livestock).

The problem of the internal classification of the subject matter regulated by agricultural law, which is of importance for didactic purposes, was finally discussed. There was a general agreement as to such a classification being conventional (incidentally, the same applies to the separation of agricultural law as a distinct branch of science). Professor Ritterman adopted the socialist transformation of relations in agriculture as a point of departure in his arguments, and undertook to classify regulations according to the degree to which they implemented the principles of socializing agricultural relations. During the discussion a classification was advanced which took into account various spheres of social relations regulated by law. As an initial criterion successive stages of "the agricultural holding" *sensu largo*, its foundation, functioning, eventual liquidation etc., were put forward.

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[2] For instance, one of the proposed definitions reads: "Agricultural law is a set of legal regulations governing social relations in the domain of organizing, managing and supervising production hy the socialist State, developed within the system of planned economy."