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## Common Market Law, Texts And Commentaries. By Alan Campbell and Dennis Thompson.

Neil R. Farmelo

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as the British use the term is hard to define. Professor Mandelker offers this quotation from an Englishman's speech:

. . . amenity is not a single quality, it is a whole catalogue of values. It includes the beauty that an artist sees and an architect designs for; it is the pleasant and familiar scene that history has evolved; in certain circumstances it is even utility—the right thing in the right place—shelter, warmth, light, clean air, domestic service . . . and comfort stations.<sup>1</sup>

Surely for those communities whose people are agreed on what features of the *status quo* have amenity value and whose planners are able to sense the community attitude, the amenity concept has great utility.

Lawyers, whether involved in the planning and control of the land use pattern or not, will find their time well spent in reading *Green Belts and Urban Growth*.

G. GRAHAM WAITE  
*Professor of Law*  
*University of Maine School of Law*

COMMON MARKET LAW, TEXTS AND COMMENTARIES. By Alan Campbell and Dennis Thompson. England: Stevens & Sons, Ltd.; The Netherlands: A. W. Sythoff; U.S.A.: Fred B. Rothman & Co., 1962. Pp. 487. \$11.50.

Anything which has significant economic, political and social consequences involving many people necessarily produces substantial legal issues, qualitatively and quantitatively. The European Economic Community, generally known as the "Common Market," is such a thing. The authors approach their analysis of this "thing" by first describing it and then describing some of the legal problems it creates. The former task is handled better, but both are well done.

The life of the Common Market to date developed as follows. Conception occurred shortly after the Second World War when the United States asked the nations of Europe for joint action to implement the Marshall Plan. Incubation stages included various meetings beginning in 1947 which involved 18 nations at first. By early 1950 the meetings became more serious and the number of participants had diminished. On May 9, 1950, the ultimate six (Belgium, Germany, France, Italy, Luxembourg and The Netherlands) came to an agreement on a plan establishing the "Coal and Steel Community." England dropped out at this point because of the "supernational" aspect of the plan. The Coal and Steel Community was a success, and at a conference in 1955 the six resolved that they were going all the way. Almost constant negotiations ensued, some sessions of which produced effects not unlike labor pains. Birth occurred on March 25, 1957, by the signing of the Rome Treaty.

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<sup>1</sup> *Green Belts and Urban Growth* at p. 32.

## BOOK REVIEWS

The birth announcement stated that the six proud parents were going to "achieve a united Europe through the development of common institutions, the progressive amalgamation of national economies, the creation of a common market, and the gradual harmonization of their social policies."<sup>1</sup>

The terms of the Treaty are to be carried out through a transitional period of 12 years (which can be extended to 15) divided into stages. Forms of acceleration are provided, and some were adopted in 1960. The Treaty officially entered into its second four-year stage on January 1, 1962. The duration of the Treaty is unlimited. Provisions are made for the admission of additional countries.

### OBJECTIVES

#### *Customs*

Tariffs among member states (the internal market) are to be eliminated in stages. Common tariffs with non-member countries (the outside market) are to be adopted. Nearly all quotas are to be eliminated.

#### *Agriculture*

The objective here is a single agricultural policy for the internal market. This policy is based on price supports and production quotas. A stabilization fund is created, and import restrictions are used to support minimum prices.

#### *Free Movement of Workers*

The objective here is that a worker can accept employment anywhere; he can choose where he wants to work and live. There is to be no discrimination among workers of member states as to terms of employment, rates of pay and/or working conditions, and there is to be no internal legislation or regulations limiting proportions or numbers of foreign workers.

There are some limitations. Workers cannot move unless work is available. (Procedures are set up to coordinate supply and demand.) Movement is subject to members' considerations of public health, safety, order, and security; and the council can pass rules to prevent the reduction of living standards. Social security benefits are to be standardized and available no matter where a worker works.

There are no restrictions on the supply and/or movement of services, including professional, medical, entertainment and maintenance.

#### *Free Movement of Capital*

Rules are provided establishing uniform policies for direct investments, stock exchanges, the sale of securities not listed on exchanges, and short term loans.

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<sup>1</sup> Language taken from a resolution at a conference in Messina in June, 1955.

*Transportation*

The initial stage objective here is common transportation rules for rail, roads, and inland waterways; the ultimate objective is a common transportation system.

POLICIES

*Competition*

Restrictive agreements are to be eliminated if they are likely to (a) affect trade between members and (b) restrict or distort competition.

Practices specifically prohibited are: price fixing, limitation of production, sharing of markets, sharing sources of supply, conditions of sale that place one buyer at an advantage over any other, and conditions or terms requiring a buyer to take additional materials or products unconnected with the original contract.

Some exceptions to the prohibited practices are allowed in connection with trade-associations (European term for unions), and certain otherwise prohibited practices are permitted if they can be shown to be "commercially beneficial."

This area, which we Americans would call anti-trust, presents many problems because of the different laws and traditions among the members. Many countries will have to create an entirely new structure of internal law. This book has a section devoted to an analysis of the existing laws of various nations (both members and prospective members).

*Dumping*

"Dumping" is defined as the practice of selling a product in a foreign country at a lesser price than it is sold for domestically; this is prohibited.

*State Aids and State Monopolies*

These are to be discouraged and eventually eliminated.

*Economic Policy*

The aims are: (a) harmonious development of economic activities, (b) balanced expansion, (c) increased stability, (d) accelerated raising of the standard of living.

The members agree to consult and work together on measures to be taken with regard to economic trends and cycles.

An equilibrium in the balance of payments is to be achieved by coordination through a monetary committee, which is to study exchange rates and other factors.

There is to be common and uniform commercial policy toward all non-member countries.

## BOOK REVIEWS

### *Social Policy*

The objective here is to promote "constant improvement in the living and working conditions of the people."

The members agree to collaborate closely on all matters pertaining to employment, labor law, occupational training, social security, protection against occupational accidents and diseases, industrial health, trade unions, and collective bargaining.

### INSTITUTIONAL STRUCTURE

#### *European Parliament* (formerly: The Assembly)

This body has 142 members, with representation set at 36 for Germany, France, and Italy; 14 for Belgium and The Netherlands; and 6 for Luxembourg.

The main jurisdiction of the Parliament is deliberative, except that it has the power to force the resignation of the Commission on a motion of censure. It is bound to have at least one session per year and usually has six.

The business is handled mostly through established committees, which are: Political, External Trade, Agriculture, Social, Internal Market, Economic and Financial, Co-operation with Development Countries, Transport, Energy, Health Protection, Administration and Budgets, and Legal.

#### *Council of Ministers*

This body is made up of six members, one from each country. Each member must be a man of at least "minister" status in his own country. A president presides; this job rotates among members for six-month periods.

This body coordinates the policies of the Common Market. It can legislate and bind members, a function sometimes described as "treaty making power." The degree of consent required for action is very significant. Unless otherwise provided, a majority is sufficient; however, practically all areas have specific provisions requiring special majorities or unanimity during the transitional period.

#### *The Commission*

This is the permanent executive body; it has nine members, with no more than two from any member state. Its principal function is the administration of the Treaty. It has authority to lodge a complaint with the Court of Justice. The Commission also conducts the negotiations in matters where the Treaty prescribes agreements between the Common Market (as a unit) and third parties.

#### *Court of Justice*

Its function is to ensure the observance of law in the interpretation and application of the Treaty. It has jurisdiction over organs of the Community (Council, Commission and Parliament), member states, individual enterprises

and persons involved. The members are obliged to submit all issues of interpretation and/or application of the Treaty to the jurisdiction of the Court of Justice.

The Court is made up of seven judges, assisted by two advocates-general.

A judge or advocate-general must be a person of "indisputable independence," qualified to hold the highest judicial office in his member state, or a jurist of high standing in his state. A judge or advocate-general can be removed by the unanimous decision of the other judges and advocate-general.

The system of advocates-general was taken from French procedures. The advocate-general is in attendance at the proceeding. Before the judges retire he sums up the facts and the law and states his opinion. He is completely independent and serves only justice.

Specific procedures, embodying all aspects of proceedings including rules of pleading, are set up in the Treaty.

Decisions are by a majority of the Court.

### *Conclusion*

The accomplishment of its objectives, the implementation of its policies and the preservation and improvement of its institutional structure require of the Common Market the development of a body of law. This will have to be accomplished through legislation and decisions. Serious complication of this development will occur each time consideration is given to the acceptance of a new member. This book attempts to call attention to the legal problems that will be produced by these processes. It could not and did not attempt to refer to them all, and it did not seriously attempt to solve any of them. This task, it apparently leaves to the lawyers of the world.

NEIL R. FARMELO\*

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\* Practicing attorney—Buffalo, New York; Former Associate-Editor—Buffalo Law Review; Former United States Attorney—Western District of New York.