

INTRODUCTORY MESSAGE

FROM

THE RT. HON. LORD DENNING

This Review of Common Market Law is an important new enterprise. A short time ago the British Institute of International and Comparative Law, together with the Europa Institute in Leyden, took the initiative in studying the legal implications of the Rome Treaty. At that time it was expected that the United Kingdom would become a member. This has not happened and we do not know when we shall become a member. But, whether a member or not, the United Kingdom cannot stand aside from the great changes that are taking place in Europe. The structure of commercial law throughout the continent of Europe is being re-built under the impact of the Treaty of Rome. These great legal changes cannot fail to have an impact on the law in the United Kingdom and far beyond. It is of the utmost importance that the lawyers here should know what is happening overseas so that our own system may work harmoniously with the European system. Moreover our commercial law has in the past had a great influence on the commercial law of Europe and has, I am sure, an important rôle to play in the future.

This new venture will provide a forum in which experts will expound legal developments inside the Common Market for the benefit of English readers and where I hope experts in the law of the United Kingdom will expound subjects which are applicable in Europe as well as here. The common law has already made its own valuable contribution to the European heritage of commercial law. It still has a large part to play. This new Review should help much to continue it.

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FROM

MICHEL GAUDET

Director General of the Legal Service to the Commission of the E.E.C.

The establishment of the Common Market changes gradually the economic structures and the policies of the member countries. It requires at the same time an adaptation of their legal institutions.

In order to determine and to enforce common rules, directly binding on the Member States and in specific cases on private parties throughout the Common Market, Community organs endowed with authoritative powers are set up beside the national authorities. With a view to making interstate commerce effective and to ensure fair competition inside the Common Market, national laws are mutually adjusted when their differences have a noticeable effect on the flow of trade. Thereby the joint action of the Community organs and of the national authorities amends progressively the legal system and the substantial rules governing economic activity in the Common Market countries. Answering this change the firms and the individuals modify their own behaviour and display a new legal creativeness.

No lawyer determined to remain up-to-date with the present evolution of the world can stand unaware of the legal transformation inside the Common Market.

First, the considerable volume of the international transactions taking place either between the Common Market countries or between these and third countries is likely to confront an increasing number of lawyers with the application of the Community law. Whether related to the Bench or to the Bar, to University or to business, all the legal activities connected with the Common Market countries require nowadays a good knowledge of the Community law. Expert information as well as constructive comments have become indispensable to the lawyer in order to solve the legal problems raised by the operation of the Common Market. Such comments do not benefit the practising lawyer only: a sound development of the Community law requires a constant interchange between the practitioners and the law-makers.

Furthermore, promoting a legal order fit to meet the economic framework of the Common Market needs a new look at the fundamental problems of law. It is within the frame of new economic structures, enlarged and generally more complex, that the permanent requirements of justice, of freedom and of security must be answered. In the Community, as in the Member States before, true progress must reconcile both welfare and justice. Moreover, the necessary adjustment of the different legal systems co-existing in the Community stimulates a reflection on the basic notions and on the methods adopted by each Member State. This comparative study obliges the lawyer to measure, beyond the various national traditions, the value and the urgency of the aims pursued as well as the merits and the efficiency of the methods applied. The operation of the Common Market brings us eventually to re-consider many aspects of Law. It calls for a new legal thinking and provides an opportunity for clarifying the trends of law in the modern world. Every lawyer who believes in the influence of law on the behaviour of mankind will wish to be informed on and to take part in the legal developments of the Common Market.

We can therefore be grateful to the promoters of the Common Market Law Review, and especially to Messrs. Samkalden and Dennis Thompson, for having launched their periodical. The documents, the studies and the comments published therein under the control of qualified lawyers belonging to the Common Market countries and to Great Britain will greatly contribute to avoid mutual ignorance of the legal developments deriving from the Common Market. By providing the knowledge to the lawyers, this Review will facilitate between them that communication which is highly desirable for the future of the Common Market and of Europe at large. By stimulating comparative comments on the handling of present problems, it will help legal science to meet our contemporary needs.