

Introduction

Agricultural Law at Davis

by EDWARD L. BARRETT, JR.*

In preparing the first Announcement of the School of Law at Davis, dated August 1, 1966, I included the following sentence in describing the mission of the School: "Particular attention (especially in research and public service) will be paid to problems involving agriculture, natural resources, and state and local government." It was obvious at the time that a new law school located on a campus with one of the best agricultural colleges in the world should develop a special interest in agricultural law.

By the third year of instruction (1968-69) agricultural law appeared in the curriculum in the form of an Agricultural Law Seminar offered jointly for law students and graduate students in agricultural economics. In the Spring of 1969 a book, *California Agricultural Law—Selected Materials*, appeared as a joint publication of the Agricultural Economics Department and the School of Law. The book was largely the result of the efforts of Max A. Mickelsen, then a third-year law student and now a practicing attorney in Petaluma, California. In a Foreword to the book, then Chancellor of the Davis campus Emil M. Mrak, noted that when the School of Law was first proposed "many on the campus felt the School of Law had a rare opportunity to develop research and teaching programs along with experts in water and irrigation, agricultural economics, land use, and other complicated aspects of a modern

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agricultural industry.” In 1970, the U.C.D. Law Review published its second volume on Legal Problems of Agricultural Labor.

Work in environmental law and water law has gone forward over the years. But the book, the seminar, and Volume 2 of the Law Review represented the high-water mark of research and teaching in agricultural law at Davis until the publication of this 1978 volume of the U.C.D. Law Review. Why should this be so? Looking back I can see several explanations, though I am not convinced that they are adequate to justify the opportunities missed.

First, the school was growing rapidly. Each year was filled with the problems of recruiting numbers of faculty to teach the basic courses necessary to prepare students for the general practice of the law. The mechanics of getting the school launched, complicated by the student unrest of the late 1960s and early 1970s, occupied so much administrative time that little was left for devising and launching new programs. Also the pressures on available space in law schools meant that most of the students coming to Davis were from urban environments and the student “market” for agricultural law, if present, was hardly an active one.

Second, money was not readily available to finance an integrated teaching and research program. Teaching needs in agricultural law were for no more than a course or two. The real needs were in research and writing, but special financing was necessary to launch such a research program. Neither public nor private funds were on offer and the faculty and administrative leadership necessary to plan programs and seek out funding was not available.

Third, faculty members with a primary interest in agricultural law were not available. Attempts to identify and recruit such persons have failed over the years. Yet without at least one faculty member of substantial reputation and talent, it is almost impossible to put together the kind of a program which will attract the support necessary for success. In the academic world of law schools, agricultural law is hardly visible as a discipline. Two or three law schools have research programs. The 1977 Directory of Law Teachers identifies only six faculty members who offer agricultural law courses in regular sessions, plus four more who offer summer courses. None of the ten listed have taught the subject for longer than five years.

A significant reason why agricultural law has not flourished at Davis or generally in the law school world is suggested by this volume of the U.C.D. Law Review. The titles of the articles indicate that the volume is not really about agricultural law—instead it is a collection of articles relating to administrative law, torts, commercial law, labor law, property, taxation, anti-trust, water, and the environment, all tied together

because of applications in agricultural settings. The leading articles are by an administrative law specialist, a tax lawyer, a judge, and a labor lawyer—not an “agricultural” lawyer in the group. Is agricultural law something which can be defined as an academic discipline? Or is it simply a process of applying a wide variety of legal doctrines to the problems of the agricultural industry?

As part of a teaching program in a law school, agricultural law cannot be more than a course or two drawing from the learning in a variety of doctrinal areas and applying them within the context of the agricultural industry. But as the many articles in this volume suggest there is a great deal that needs to be done in the way of research and writing if we are to understand fully how legal doctrines apply in the agricultural setting and to undertake the various reforms which may be necessary to the solution of the many problems involved in feeding and clothing a rapidly increasing population on rapidly shrinking agricultural lands with increasingly scarce and expensive energy resources.

I am also pleased to see the agricultural law volume serve as the first step in a changing format for the U.C.D. Law Review. With the introduction of a leading articles section the Review has added professors to students. I hope that in the future practitioners and non-legal experts will be added preferably in the form of articles jointly authored with students, so that we can obtain a better mixture of the practical and the theoretical approaches to legal problems.

Having said all the foregoing it would be too much to attempt any kind of a detailed commentary on the articles which follow. It should be enough to suggest that the reader push on quickly for literally this volume contains something for every one who has any interest in the problems of agriculture—which should be all of us.

