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THE FARMERS' LAND RIGHTS IN SWITZERLAND.

By *Hermann Böschenstein.*

For a number of years already a Draft Bill of a Federal Law in the preservation of farmers' landed property has been lying awaiting the decision of the Swiss Parliament. This law is intended to correct the liberal views of the existing Civil Law and to protect the farmer from having his land alienated, as if it were just ordinary merchandise. This protection was introduced during the war, by virtue of the Plenary Powers, then held by the Government.

At that time, the idea was to protect the farmers, who had to contribute towards the provisioning of the country, from having their land taken away from them by wealthy non-agricultural elements. At the same time, there exists in Switzerland a large group of tenant farmers, who also require protection. For the carrying out of these new ideas regarding land rights, proposals have been submitted at various times recommending different systems, some advocating a certain procedure for concessions in respect of agricultural purchases, others suggesting that there should be a right of option for certain persons. Lively discussions arose as to whether children and grandchildren should also have the right to participate in such rights of the pre-emption, and, indeed, also tenants, and even farm-hands and domestic servants, after many years service. The farmers themselves showed a great lack of unity in the matter. At one time there arose a conflict between the older and younger generations. The old farmers who have worked their land all their lives and have brought it to a very high level, wished to maintain their fullest liberty to do as they pleased, and to sell their farms if they so wished to a rich industrialist who wanted to find a safe investment for the money he had accumulated during the big economic boom. The young farmers, on the other hand, who are hungry for land, are eager to obtain it as cheaply as possible — and it must be remembered that land is hard to obtain in our country. And then there was a conflict between Centralists and Federalists; the first advocated a uniform system for the whole of Switzerland, whereas the others recommended that the choice of a system be left to the Cantons.

Finally, it should be remembered by all the farmers that Land Rights are closely bound up with credits: if intercourse with the land is too restricted, financiers lose interest in providing security for land-mortgage credits and in this way the farmer without any fortune of his own, finds himself badly served. There are also differences of opinion regarding the control of rents. Should the authorities be given the power to lower rents which are obviously too high? That would be in contradiction with the principle of good faith and with the legality of the contract, as stipulated in the generally recognized Land Act, according to which contracts are to be respected. Complaints are to be heard among young farmers that the farming class is now rapidly declining. Between 1929 and 1939, as many as 8,000 independent farms disappeared entirely, as a result of urban expansion, the building of airfields, the establishment of industrial plants, the building of suburban residential localities, and the laying down of new roads. Moreover, the number of tenant-farmers increased by 4,000 which means that 400 farms became the property

of non-agricultural persons, who handed them over to be worked by tenant-farmers. In a great many Swiss farmer families the sons work without getting any wages and when it happens that the farm passes out of the family's hands, either as the result of a division of the inheritance after the father's death, or simply because it has been sold, these young men find themselves without any means of existence, after so many years of hard work, and are obliged to become ordinary farm-hands. It is quite understandable that these young farmers are demanding that there should be a law guaranteeing the right of pre-emption for farmers' sons.

In the National Council, a Law guaranteeing the right of pre-emption has already been passed; it goes further even and includes farmer-tenants and farm-hands, with many years service, to benefit from its effects. In the Conservative Council of States, however, which represents the Cantons, this Pre-emption Right has been rejected. Furthermore, the Council of States has voted in favour of the system of a procedure whereby objections may be raised by the prejudiced party in cases where property is sold for obviously speculative reasons. The Council of States has, however, decided that the Cantons are free to choose whether they will introduce this system or not. This means not only a lack of uniformity, which is so prejudicial to a small country like ours, but it also means that there will be danger of this system not being applied in those Cantons where it is the most needed. And now the most ardent supporters of the Law on Farmers Rights have resigned themselves to the fact that such a man-handled law is no longer of any use in its present form. There would appear to be no justification for a special law on this matter and so they have decided that the best thing to do is to tighten up the existing regulations, which can be accomplished by means of a slight revision of the Law on Obligations.

We have spoken of all these difficulties with a view to showing how difficult it is to replace a liberal development of legislation in a modern country by regulations which are of necessity bound up with various restrictions affecting personal property and the right of free disposal. And which, in so far as they concern the farmer, are not always very clear. It is sometimes difficult to decide whether the farmer is to be considered as a landed proprietor and a farmer settled on the land, or as an actual or potential seller. Should this matter come to a struggle involving a Referendum on the Farmers' Land Rights, the prospects for its adoption by the Swiss people cannot be anticipated at the present moment.



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