REOPENING LABOR COURTS
OF WUERTTEMBERG - BADEN

Free and independent labor courts, competent to hear and try employment disputes, are again in operation in the US Zone of Germany. Born under the Weimar Republic, emasculated and rendered impotent under Nazi domination, these courts received a new birth of freedom under Control Council Law No. 21, "German Labor Courts," approved by the Control Council on 30 March 1946.

Labor courts, even though retained beyond Weimar days, became quite superfluous after the smashing of trade unionism in May 1933 and the abolition of the Works Councils Law by the Nazis. During the Weimar Republic labor relations were based upon collaboration between capital and labor, with a considerable degree of state intervention. An agreement reached between various important employer associations and trade unions on 15 November 1918 determined to a considerable extent the course of labor legislation until 1931.

By this agreement, employers recognized trade unions, restrictions upon the right to organize were declared illegal, company unions were outlawed, wages and labor conditions were to be regulated by collective bargaining agreements, and works councils elected by the workers were to supervise the execution of these collective agreements. Subsequent labor legislation was but an attempt to implement the principles formulated in the 1918 agreement.

These principles were also embodied in the Weimar Constitution of 11 August 1919 (Articles 157-165). The numerous labor laws and regulations issued during this period required a vast amount of interpretation in terms of specific social and economic situations. The answer to this need was found in the creation of a separate labor judiciary by the German Labor Courts Act of December 1926. The removal of the whole body of labor law from the competence of the ordinary courts, and the vesting of exclusive jurisdiction in a separate system of courts constituted a remarkable experiment in judicial evolution.

There is no American counterpart. In the United States decisions of the National Labor Relations Board, a quasi-judicial agency administering a law which is in many respects similar to the aforementioned November agreement of 1918, are subject to review by courts within the regular federal judiciary system.

Control Council Law No. 21, with a few important exceptions, reenacts the German Labor Courts Act of 1926. The law established, under the Ministry of Justice, a system of local and regional (appellate) labor courts. The local courts (Arbeitsgerichte) were courts of the first instance, the jurisdictional area of which usually coincided with that of the ordinary local courts (Amtsgerichte). In districts where certain industries predominated and the volume of disputes warranted, special vocational chambers were set up with exclusive jurisdiction over litigation within particular industries. The bench was composed of one regular member of the judiciary as chairman, and two lay assessors representing employers and employees respectively.

The Regional Labor Courts (Landesarbeitsgerichte) were courts of second instance and were attached to ordinary regional courts (Landesgerichte). Appeals could be brought to the Regional Labor Court from the Local Labor Court in cases where the object of litigation exceeded RM 300, and in cases involving disputes of a fundamental legal nature.

The Labor Courts were competent to hear and try disputes between parties to wage contracts; disputes between employers and employees arising out of their common work; and disputes between employers and employees arising out of the application of the Works Council Law.

Jurisdiction could be totally excluded by insertion in collective agreements of a clause referring all disputes to a conciliation committee whose composition was specified in the Labor Court Act itself. Jurisdiction could be partially excluded by voluntary conciliation or by an agreement to submit all points of fact involved to extra-judicial arbitration, leaving only decisions on points of law to the labor court. No professional attorneys were permitted to plead before courts of the first instance.

During the Nazi regime these tribunals had been gradually deprived of much of their jurisdiction and of their democratic composition. With the suppression of trade unions and genuine works councils, court jurisdiction was restricted to individual disputes. The panels of court members previously nominated by trade unions, were designated by the German Labor Front (DAF). Upon the outbreak of war in 1939, the courts were turned into one-man tribunals.

The operation of these Nazi dominated tribunals was suspended by Military Government Law No. 77. Ordinary local courts (Amtsgerichte) were permitted to reopen in Wuerttemberg-Baden as early as July 1945. Soon special chambers were attached to the ordinary courts, competent to handle those labor disputes which had proved incapable of resolution by the conciliation departments attached to the labor offices (Arbeitsämter). Prior to the reopening of separate labor courts, these special chambers attached to the local courts had processed a total of 316 out of the 575 cases referred to them.

Control Council Law No. 21 re-established Labor Courts as the only competent adjudicators of civil disputes arising from collective and individual labor agreements and from apprenticeship contracts, and restored the panel system of selecting court members from among nominees proposed by the unions and employers' associations.

A noteworthy departure from the 1926 law, was the removal of labor courts from the supervision of the Ministry of Justice, and the placing
of the courts exclusively under the Labor Ministry, but for administrative purposes only. Chairmen and deputy chairmen of labor courts need no longer be professional judges, although the presiding officers of the Regional Courts must have "appropriate legal qualifications."

The creation of an independent labor judiciary, completely divorced from the ordinary judicial system, and the manning of the courts by laymen qualified by their experience in and mastery of the technical field of labor relations, embodies the viewpoint that legalism is not the most complete help in many labor matters and in maintaining industrial peace.

**Delays in Landerrat**

German implementation of Control Council Law No. 21 suffered numerous delays in the Landerrat, and the final approved regulations did not become effective until 3 December 1946. However, in the meantime on 4 November 1946 the oath of office was administered in Stuttgart to 20 chairmen and deputy chairmen selected in accordance with the provisions of the Control Council Law to man the courts upon their reopening. Colonel William W. Dawson, then Director of OMGWGB and himself an expert in the field of labor relations, hailed the reopening of the labor courts as a step in attaining the goal of modern civilization; namely, the substitution of law and order through a democratic state, in place of force.

On 18 November 1946 the Regional Labor Court at Stuttgart and courts of the first instance at Heilbronn and Stuttgart were opened. Since that time, as rapidly as suitable space and qualified personnel could be found, a Regional Labor Court has been established at Mannheim, along with Labor Courts at Esslingen, Goeppingen, Heidenheim, Heidelberg, Karlsruhe, Ludwigsburg, Mannheim, Mosbach, Schwabisch Gmuend, Schwabisch Hall, Pforzheim, and Ulm.

It is believed that these two appellate and 14 Labor Courts will be able to handle all labor disputes in the Land of Wuerttemberg-Baden with expedition and dispatch. The necessity for a court decision indicates failure of the less formal methods of conciliation, mediation, and arbitration. The number of cases in which court machinery has been invoked to date is not alarming. During March 1947, the two appellate courts received 11 new cases in addition to hold-overs, disposed of five, leaving a pending balance of 31 cases. During the same period a total of 200 new cases were referred to the labor courts; 204 cases were disposed of, leaving a pending balance of 332 cases. Following the general continental pattern, almost 50 percent of the cases were concluded by court conciliation. Decisions had to be rendered in only 25 percent of the cases. Remaining disputes were settled out of court or withdrawn.

About 75 percent of the cases settled involved conditions of payment and dismissal. A substantial number of the disputes consisted of claims for back pay where the employment relationship had terminated before the occupation. Numerous dismissal cases concerned the propriety of dismissal as a result of allegedly personal friction between the employer and employee, and the amount of notice and of termination pay. The majority of cases involved only one individual. This was probably due to the fact that wage stabilization policies were still in effect and to the existence of shop agreements.

In general, procedure before the Labor Courts is governed by the Code of Civil Procedure. In accordance with continental practice, the judge assumes the dominant role, and admits any evidence calculated to elucidate the points at issue.

Although a suit is usually instituted by written complaint, a case may be initiated by oral statement if both parties are present in court. The judge may order the personal appearance of the parties at any stage of the proceedings.

The trial is public, but the judge has discretion to exclude the public if, in his opinion, open sessions would endanger public order, safety, or morals, or if there is danger that trade secrets might be divulged.

It is the aim of Labor Courts to furnish speedy and inexpensive solutions to disputes. If possible, trial and judgment take place in one session.

In no event is judgment to be delayed for more than three days after the trial. Usually only a single fee, ranging from RM 1 to 15, depending on the value of the matter in dispute, is charged. Witnesses and experts are not under oath unless the tribunal so orders to insure elicitation of the truth. Efforts to settle the cases by conciliation dominate the procedure at all times.

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**Summer Schools Set At Many Universities**

International summer schools are to be held at several of the universities in the US, British, and French Zones during the coming summer, the Education and Religious Affairs Branch, IA & C Division, OMGUS, announced.

Sessions will last from two to five weeks, and attention will be devoted principally to current trends and problems in the fields of economics, international relations, philosophy, theology, literature, the arts, medicine, and engineering. Faculties will be composed partially of German professors, but principally of visiting scholars from France, England, America, Sweden, Switzerland, Denmark, and other countries.

A limited number of places is open to qualified young American personnel living in Germany. Students wishing to attend courses in the French Zone, at the Universities of Tuebingen, Mainz, or Freiburg, must be at least 20 years old and must possess a knowledge of German.

In the British Zone the University of Kiel will specialize in medicine, the University of Hamburg in law, and the Universities of Muenster, Goettingen, and Bonn in literature, language, philosophy and allied subjects under the general heading "Cultural Heritage of Europe."

Courses in the US Zone will be offered at Heidelberg, Marburg, and Erlangen, plus an engineering conference at Darmstadt. Each course will consist of a series of basic lectures common to all schools concerned, to be followed by a series of special lectures peculiar to the particular school.

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