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Calculations of productivity often reveal errors of 10 to 20 percent. In simple and well defined cases results can be obtained within one or two units of 100% exactness, but when the measurements become larger in extent or are spread out in time, such exactitude often becomes impossible. Moreover, an approximation of the order of 10 to 20%, of which there would be no question in a calculation of cost price, has only relative importance in a calculation of productivity.

Actually, the most frequent variations in productivity itself are of sufficient extent to make an error of 20% negligible. (Productivities are frequently registered which vary from 1 to 5 or even more). Finally, the purpose of the measurements is often more to obtain indices of comparison than to obtain absolute values; consequently an approximation, even one that is 20% off, is enlightening enough when it brings to view a major tendancy or much larger disparities. It must be remembered, moreover, that the use of precise and generally adopted methods of calculation should reduce the extent of these errors to 10% at the most.

Calculations of errors in productivity are conducted according to classic rules of arithmetic. It is sufficient to reckon the error of each term entering into the calculation, and from there the error of the result will be a simple mathematical deduction.

BOOKS

LABOR COURTS

DENYS DION

The Extension Department of Laval University has just published a pamphlet full of interest. It is the first of a series concerning labor relations, and is entitled, "Labor Courts". The author is Mr. Benoît Yaccarini, master of social science and specialist in industrial relations. It is a condensation of the thesis which Mr. Yaccarini presented to the Department of Social Science of Laval University at Quebec to obtain his Master's degree. This study had appeared at an earlier date in the *Revue du Barreau* for October-November 1949.

In his introduction the author sketches the evolution of social legislation and emphasizes the ever-increasing contrast which exists between the traditional legislation of the civil Code, individualist and liberal, and the development of a social legislation, larger and more comprehensive.

From this point, the author, in the first part of his essay, tries to show "the necessity which exists today of instituting labor courts in general and by what means they function". In the second part, he attempts to apply the general principles of Labor Courts to the Province of Quebec.

The author divides the first part of his work into five chapters. In the first chapter he explains the aim of the Labor Courts which consists, above all, in arriving at an apropriate procedure for resolving industrial conflicts, that is a less expensive, less formalistic, and more expedient procedure. These courts are also to nominate judges who are well acquainted with habits developed in working-class sections, as well as questions of fact which only a professional man is capable of fully understanding, finally, judges who are penetrated with the spirit and meaning of labor legislation.

In the second chapter the author sketches the history of Labor Courts. Special labor jurisdiction exists, according to the author, in at least thirty countries. These courts, almost all alike in spirit, differ appreciably in their techniques. The caracter of the courts depends upon the social and economic evolution of the country which has instituted them. At their outset, these courts knew only individual conflicts; then, little by little, they become acquainted with conflicts of a collective nature. The author treats next the semi-administrative and semi-judiciary bodies which are found in the United States, in Canada and in various provinces of ours, established to resolve certain labor disturbances. The author points out that "labor courts, whose role is to pronounce rights (individual or collective), must not be confused with services or councils of conciliation and arbitration whose function is to create new rights".

The author consecrates the following chapter to the jurisdiction of labor courts. In other words, in what field can such a court function? There are courts whose judgments are binding and there are those whose judgments are non-executive. Then the allocation of jurisdiction would be determined by the distinction between individual conflicts and collective conflicts, conflicts of right (individual and collective) and conflicts of interest.

The author is intent on delineating clearly these different concepts which are at the base of the jurisdiction of labor courts. However, he insists, and righteously so, it would seem, on the fact that the allocation of jurisdiction should be based especially on the distinction between conflicts of right and conflicts of interest. The solution of conflicts of right should be confined to the labor courts, while the conciliation and arbitration boards would take care of conflicts of interest.

In the fourth chapter, the author explains labor court procedure. According to his definition, "this procedure should be simple, apart from all formalism, rapid and not expensive". In general, he continues, the parties appear in person in such courts. But, in the case of a corporate body, it must necessarily be represented by an authorized agent. Must this authorized agent necessarily be a legal practitioner, a lawyer? According to Mr. Yaccarini, in most countries where labor courts have been established,

the representation of the parties by lawyers is limited or even forbidden. One of the main reasons for acting in this manner seems to be the preoccupation of lessening the expense of the court procedures. However, it may be almost necessary to have recourse to a practitioner of law especially in the case of conflicts of right. It so happens then that certain governments provide for a special scale of charges or legal assistance or else governmental aid for the parties financially weak.

There is ,however, quite an important difficulty in regard to the execution of judgments rendered by labor courts. The problem is relatively easy for individual conflicts, but it is not so for collective conflicts. The difficulty is felt especially in countries with a laissez-faire economic system. This difficulty is not yet solved. In concluding the first part of his study, the author speaks about the advantages of labor courts.

In the second part of his work, the author essays to apply to the Province of Quebec the general principles of labor courts examined in the first part.

He begins by wondering if it is timely to establish such courts in the province. To this, he replies, "the establishment of labor courts in the Province of Quebec has become necessary, even urgent. The most authoritative voices are in favor of it. These courts would achieve a better comprehension of labor problems and would contribute greatly to the improvement of industrial relations. Their abridged and simple procedure, their representative composition of the interests in conflict and, finally, the reasonableness of the fees imposed on the parties would inspire confidence in the laboring class, and constitute as many reasons legitimizing their creation".

However, a difficulty of constitutional and political nature now presents itself. The author quickly deals with this by demonstrating that "the Province of Quebec has the right to establish labor courts at the time it may judge the most seasonable. Nothing in the constitution of 1867, he adds, permits the federal government to oppose it". But the author spys another difficulty stemming from article 98 of the B.N.A.A., which stipulates that "the judges of the courts of Quebec shall be chosen among the members of the Bar of that province".

But, it follows from the preceding study that "for the labor courts to accomplish their end, it is advisable that they be composed of an equal number of assessors representing employers and wage-earners, to whom is added as president a man of law, well-versed in labor legislation, a judge by profession, or a lawyer". In this manner the difficulty would be avoided, the assessor not being exactly a judge, his role being principally to assist the judge, to advise him on factual questions not familiar to his, deliberating with the judge and taking an active part in the judgement.

At this point of his study, the author considers the jurisdiction of the labor court. First, jurisdiction by reason of the nature of the conflict. For him, "the ideal solution would certainly be that which would give to the labor court the right to hear every type of dispute deriving from industrial relations".

Unfortunately, such a solution is impossible here because the minds of the working groups as well as those of the employers and governmental authorities are not ready for it. Moreover, "it must not be forgotten," the author adds, "that to attribute to a given body, be it a labor court, the power to regulate in a definite and binding manner the terms governing labor, would be the equivalent of a veritable reform of economic structure. Wages in Canada, according to statistics, represent more than half of the national revenue; regulations by way of authority would amount, in the long run, to the beginnings of a controlled economy". It is necessary, therefore, concludes the author, "to proceed with caution and by stages". Il would be necessary first of all to give them a broad and exclusive jurisdiction over conflicts of right. Afterwards, they should be given a very large power of sanction. As for territorial jurisdiction, the author suggests with good reason that it would be good to allocate jurisdiction to the court of the locality where the conflict originated or to the locality where the labor giving rise to the conflict is carried out. As for the composition of the court, it would be ideal to employ the pluralist system where, along with the professional employer and worker element would be included the judiciary element. Finally ,the author speaks of the procedure which, he says, should be expeditious and unburdensome. He adds that in their judgements the magistrates should let themselves be guided as much by equity as by statute.

In broad outline, that constitutes Mr. Yaccarini's study of labor courts. What should be said of it? There is no possible doubt that it is a work of great and timely importance. The author has certainly included a great amount of research and adaptation. The subject had already been considered masterfully by some very capable individuals. Mr. Yaccarini possesses the merit and originality of having synthesized the present information on this question and especially of having proferred a formula adapted to our Province. Without completely endorsing all of his conclusions, one cannot help from saying this about him, that he ranks high among those who have in a practical fashion worked for the solution of a problem of labor relations.

I think that it is good to vary the application formula of the labor courts so as to arrive at a better adaptation of these courts to our system of liberty. It seems that, for the time being, we should centent ourselves with establishing labor courts whose jurisdiction would extend solely but exclusively to conflicts of right.

The author favors the exclusion of men of law from the immense field of labor legislation. I do not believe we can agree with him on that point. His argumentation in this regard seems to involve a certain contradiction. The author would desire, indeed ,that the president of the labor court be a judge or a lawyer expert in "social legislation" and well versed in industrial questions. But, I think that it is quite difficult to become and expert in "social legislation" and well versed in industrial questions, without having add good, practical experience in this field. That is why it seems preferable that we leave to the lawyers, especially to those with special qualifications, acces to this division of labor relations. That does not preclude a certain amount of regulation which might issue concurrently from professional bodies and from the State. This type of regulation could apply, among other things, to fees.

But in any case, I do not think it desirable, in our form of government, to exclude practitioners of law.

With these reservations, I must say that the essay of Mr. Yaccarini is worthy of praise.