



Volume 4. Forging an Empire: Bismarckian Germany, 1866-1890

Law on Freedom of Occupation [*Gewerbefreiheit*] and Freedom of Coalition [*Koalitionsfreiheit*]
(June 21, 1869)

This law, passed in the Reichstag of the North German Confederation, was adopted for Imperial Germany in 1871 as the Imperial Industrial Code [*Reichsgewerbeordnung*]. It standardized and simplified accepted practices for everyone who carried on a business. The Law on Freedom of Coalition recognized trade unions as legitimate representatives of workers' interests. Together, these laws had a strong influence on industrial and labor relations in the emerging Germany. Many of the bills drafted in this era were amended in fundamental and sometimes surprising ways by the Reichstag and the Federal Council, but Bismarck successfully resisted the National Liberals' attempts to redraw the balance between legislative and executive power.

Trade Regulations Act for the North German Confederation (June 21, 1869)¹

[I. Freedom of Occupation]

§ 1. Anyone is permitted to practice a trade, provided that no exceptions or restrictions are admitted through this law.

Anyone who is currently entitled to engage in a trade cannot be excluded from it if he does not meet the requirements of this [new] law.

§ 2. The differentiation of city and countryside with respect to trade enterprises and the extension thereof is thus terminated.

§ 3. The simultaneous practice of different trades, as well as the same trade in several operational or sales sites, is permitted. There is no restriction for artisans on selling goods from their own production.

§ 4. The guilds or merchants' associations have no right to exclude others from practicing a trade.

¹ The law was adopted into the Reich Trade Regulations in 1871. (All footnotes adapted from Ernst Rudolf Huber, ed., *Dokumente zur Deutschen Verfassungsgeschichte* [*Documents on German Constitutional History*], 3rd rev. ed., vol. 2, 1851-1900. Stuttgart: Kohlhammer, 1986, pp. 310-12.)

[. . .]

§ 6. The present law is not applicable to the mining trade (subject to the regulations of §§ 152, 153, and 154), fisheries, the practice of medicine [. . .], the establishment and relocation of pharmacies, and the sale of medicines [. . .], the educational system, the attorney's and notary public's profession, the commercial operations of entrepreneurs and agents who arrange emigration, insurers, railway enterprises, the sale of lottery tickets, the privilege of operating public ferries, and the legal status of crew members on seagoing vessels.

A decree issued by the Federal Executive will determine which of the pharmacist's goods will be admitted for general sale.

[. . .]

§ 11. Gender does not establish any difference with respect to the right to the independent practice of a trade.

Women who engage in a trade independently are permitted to conclude legal transactions related to their trade and to appear before court, regardless of whether they are married or not. In affairs concerning their trade, they cannot refer to any of the legal privileges for women existing in the individual federal states. It makes no difference whether they operate their trade alone or jointly with other persons, or whether they operate it in person or by proxy.

[. . .]

§ 16. The construction of facilities that may pose serious disadvantages, dangers, or nuisance to the owners or occupants of adjacent properties, or even to the general public, on account of the location or the nature of the business premises requires the approval of the authority responsible in accordance with state laws.²

[. . .]

§ 26. The existing laws that protect one property from the detrimental effects of an adjacent one grant to the owner or proprietor of the damaged property the right to bring private action; in the case of business premises constructed with the approval of the authorities, however, such legal action can never be initiated for the purpose of terminating the business enterprise but only to provide for facilities that would eliminate the detrimental effects, or, where such facilities are not expedient or are incompatible with the proper operation of the trade, to provide for indemnification.

[. . .]

² The subsequent passages of § 16 paragraph 2 include a list of all facilities subject to paragraph 1.

§ 51. If a business facility presents disadvantages or dangers to the common good, its further use may be prohibited at any time by a higher administrative authority. In such a case, however, the proprietor must be provided with compensation for verifiable damages.

Filing an appeal against the prohibitive decree is admissible; with respect to compensation, the proprietor has recourse to legal action.

[. . .]

[II: Freedom of Coalition³]

§ 152. All prohibitions and penal statutes directed against business persons, business assistants, journeymen, or factory workers on account of their participation in agreements and associations aiming to secure favorable wage or working conditions, particularly those involving work stoppages or the dismissal of workers, are revoked.

Each participant is free to withdraw from such associations or agreements, without the threat of legal action or objection on the part of the latter.

§ 153. Anyone inducing or attempting to induce others by means of physical force, threats, or ostracism to participate in such agreements (§ 152) or to obey them, or anyone hindering or attempting to hinder others by the same means to withdraw from such agreements, will be punished with up to three months' imprisonment, provided a more severe penalty does not take effect in accordance with the general Criminal Code.

Source: *Bundesgesetzblatt des Norddeutschen Bundes [Federal Law Gazette of the North German Confederation]*, 1869, pp. 245ff.

Original German text reprinted in Ernst Rudolf Huber, ed., *Dokumente zur Deutschen Verfassungsgeschichte [Documents on German Constitutional History]*, 3rd rev. ed., vol. 2, 1851-1900. Stuttgart: Kohlhammer, 1986, pp. 310-12.

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³ The following § 152 of the Trade Regulations reproduced here eliminated, in particular, the ban on coalitions included in the Prussian Trade Regulations dated January 17, 1845 (*Gesetzesammlung*, p. 41)