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Administrative Law and Procedure

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ADMINISTRATIVE LAW AND PROCEDURE

Agency Authority

An administrative agency operates under a basic statute which is the source of its authority. Authority to license must be predicated upon a valid basis in that statute. The power of the Ohio Board of Real Estate Examiners to deny admission to an examination for a broker's license was challenged by an attack upon the constitutionality of the authorizing statute.[1] The statute set out two methods whereby an applicant could qualify for a broker's examination: (1) a minimum of one year's experience full time in real estate business or service or the equivalent as determined by the Board or (2) the completion of specified courses in real estate approved by the Board in an "approved college or university," in lieu of experience. The applicant could not meet either test, and his request was denied.[2] The principal attack upon the statute was that it was arbitrary, capricious, oppressive, and denied equal protection of the law. In affirming the action of the Board and the lower court, the court of appeals held that the enactment of the statute was justified as a reasonable regulatory measure within the proper exercise of the police power, and that it was neither arbitrary, unreasonable nor discriminatory.

As occasionally happens, a court of appeals decision is reported after a general affirmance by the Supreme Court. There is such a situation in the reporting of a decision holding valid the maximum premium provisions of the Ohio Retail Installment Act.[3] The affirming Supreme Court decision[4] was the subject of comment in a previous survey,[5] and the court of appeals decision is mentioned here because of its relationship to the authority of the Motor Vehicle Dealers' and Salesmen's Licensing Board.[6] The court of appeals[7] held that the maximum premium provisions of the installment sales statute applies to retail automobile dealers.

1. OHIO REV. CODE § 4735.07.

2. *In re* Russo, 150 N.E.2d 327 (Ohio Ct. App. 1958). See also CONSTITUTIONAL LAW section, *infra*.

3. OHIO REV. CODE § 1317.08.

4. Teegardin v. Foley, 166 Ohio St. 449, 143 N.E.2d 824 (1957).

5. 1957 Survey, 9 WEST. RES. L. REV. 277, 359 (1958).

6. OHIO REV. CODE § 4517.12 authorizes the Board to suspend or revoke any license if the licensee has in any manner violated any law relating to the selling or regulating of sales of motor vehicles.

7. Teegardin v. Foley, 148 N.E.2d 252 (Ohio Ct. App. 1956), *aff'd* 166 Ohio St. 449, 143 N.E.2d 824 (1957).

Since the limitations of the Act were valid, a violation of its provisions subjected the dealer to suspension or revocation of his license by the Board.

Another licensee under suspension for violation of a regulation of the Ohio Board of Liquor Control fixing the minimum prices which might be charged for wines, challenged the validity of the regulation. The court of appeals[8] and the Supreme Court of Ohio[9] both affirmed the common pleas' order of suspension, against the charge that the Ohio statute[10] unlawfully interferes with interstate commerce and delegates authority to an administrative agency without proper standards, and also the charge that the regulation involved is arbitrary and unreasonable.

The 21st amendment abrogated the commerce clause to the extent that the federal constitution no longer restricts the power of a state to control the traffic in liquor.[11] Also a state's control of its liquor industry is not subject to the constitutional limitations normally operative in the exercise of its general police power.[12] Previously, the Supreme Court of Ohio had determined that persons may engage in the liquor traffic "only to the extent to which they are permitted to do so."[13] The General Assembly may therefore delegate a very broad discretion to the Board of Liquor Control to fix minimum prices without any appreciable standards, and the existing regulations which fix the minimum prices for bottled wines in Ohio are valid.

In many areas of administrative activity, the most effective method of enforcement is through physical inspection. In a decision[14] of great significance to administrative officials, the Supreme Court upheld a municipal ordinance[15] which authorized the city housing inspector to make

8. Pompei Winery, Inc. v. Board of Liquor Control, 149 N.E.2d 733 (Ohio Ct. App. 1956). See also CONSTITUTIONAL LAW section, *infra.*

9. Pompei Winery, Inc. v. Board of Liquor Control, 167 Ohio St. 61, 146 N.E. 430 (1957), *cer. denied* 356 U.S. 937 (1958).

10. OHIO REV. CODE § 4301.13.

11. State Board of Equalization v. Young's Market Co., 299 U.S. 59 (1936).

12. Ziffrin, Inc. v. Reeves, 308 U.S. 132 (1939). The police power as to this subject matter seems as broad as the taxing power of the state.

13. State *ex rel.* Sugravu v. O'Brien, 130 Ohio St. 23, 26, 196 N.E. 664, 666 (1935).

14. State *ex rel.* Eaton v. Price, 168 Ohio St. 123, 151 N.E. 523 (1958). See discussion under CONSTITUTIONAL LAW section, *infra.*

15. The City of Dayton ordinance authorized the Division of Housing Inspection to enter and survey the premises for the purpose of repaire or alterations as are necessary to comply with the provisions of the minimum housing standards. There had been no complaint against the relator's house, but an effort had been made to inspect and each time the inspectors had been turned back because they had no search warrant. Finally relator was arrested and jailed in lieu of bond. He was released by the court of common pleas on a writ of habeas corpus, after a holding that the or-

inspections of, and provided free access to, private dwellings upon his presentation of proper identification at any reasonable hour. The defendant charged for refusing admission to the inspector had, of course, contended that the ordinance infringed the provision of Article I, Section 14, Ohio Constitution which prohibits unreasonable searches and seizures.

The far-reaching implication of this decision in support of inspection powers is illustrated by the following quotation from the court's opinion:

> The right of a home owner to the inviolability of his 'castle' should be subordinate to the general health and safety of the community where he lives.[16]

Exclusive Administrative Jurisdiction

A recurrent problem of federal-state relationship in the labor relations field is the determination of the scope of the exclusive jurisdiction of the National Labor Relations Board, precluding state judicial action. In a per curiam opinion, the Supreme Court of Ohio held that the federal agency's jurisdiction over unfair labor practices does not preclude an Ohio court from exercising jurisdiction over an action to recover damages for a common-law tort based upon a conspiracy between a union and its officials which deprives the plaintiff of his right to earn a living and to interfere with his employment contract.[17]

Concurrent Jurisdiction

In an annexation proceeding the plaintiff sought to enjoin any further action on the part of a board of county commissioners in connection with annexation of territory to the City of Columbus. The basis for this suit was action taken by the Board of Township Trustees authorizing an election in the disputed territory. The incorporation into a village was approved at this election which was held, however, prior to the final determination of the County Commissioners that the territory instead be annexed to an adjacent city. However, a petition had been filed with the County Commissioners and action taken to hold a hearing prior to

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dinance was unconstitutional and void. In the court of common pleas this judgment was reversed. State *ex rel.* Eaton v. Price, 105 Ohio App. 376, 152 N.E.2d 776 (1957).

16. For a full comment on the Supreme Court decision see 10 WEST. RES L. REV. 304 (1959).

17. Perko v. Local No. 207, 168 Ohio St. 161, 151 N.E.2d 742 (1958). The Common Pleas Court had dismissed the petitions and the Court of Appeals had affirmed. On motion to certify, the Supreme Court reversed and remanded. See discussion in LABOR LAW section, *infra.*

the petition filed with the township trustees. Injunction was therefore denied[18] under the rule that the first of two administrative bodies having concurrent authority has exclusive authority thereafter.[19]

Agency Proceedings — Necessity for Findings

The Ohio Insurance Superintendent, after notice and hearing, revoked the license of an individual as an accident and health insurance agent. The individual appealed to the court of common pleas in accordance with the Ohio Administrative Procedure Act.[20] That court revoked the Superintendent's order and restored the agent's license, based upon the determination that the order was not in accordance with law since it did not recite nor contain a finding of fact upon which it was based. The court of appeals affirmed[21] the judgment of the court of common pleas and approved the view of the trial court that the administrative action was contrary to law.

Entrapment

Ever since the court of appeals held that entrapment may be employed as a defense to a charge preferred against a permittee by the Director of Liquor Control,[22] there have been recurrent efforts to defeat Board of Liquor Control suspension and revocation orders by this means. One appeal on this ground is reported.[23] The court therein held that the facts were insufficient to establish entrapment.

Judicial Review — Agency Rule Making

Under the Ohio Administrative Procedure Act[24] a person aggrieved by a regulation of an administrative agency to which the Act applies,

18. Lamneck v. Cain, 154 N.E.2d 99 (Ohio C.P. 1955). The Court relies upon a prior decision of the Supreme Court, State *ex rel.* Ferris v. Shaver, 163 Ohio St. 325, 126 N.E.2d 915 (1955). See 1955 Survey, 7 WEST. RES. L. REV. 222 (1956).

19. The foundation for this rule resolving administrative jurisdiction is Trumbull County Board of Education v. State *ex rel.* Van Wye, 122 Ohio St. 247, 171 N.E. 241 (1930).

20. OHIO REV. CODE § 119.12.

21. Bretscher v. Robinson, 153 N.E.2d 163 (Ohio Ct. App. 1956). Previously the appellee had unsuccessfully attempted to have the appeal dismissed and the judgment affirmed because of the appellants' failure to file a bill of exceptions. The motion was denied because a legal question (necessity for findings) was raised by the judgment entry. Bretscher v. Robinson 142 N.E.2d 238 (Ohio Ct. App. 1955).

22. Langdon v. Board of Liquor Control, 98 Ohio App. 535, 130 N.E.2d 430 (1954).

23. Ray v. Board of Liquor Control, 154 N.E.2d 89 (Ohio App. 1958); affirming the trial court's decision, 154 N.E.2d 27 (Ohio C.P. 1957).

24. OHIO REV. CODE § 119.11.

may appeal from the adoption of the regulation to the Court of Common Pleas of Franklin County. A court of appeals decision[25] considered the nature of this appeal and determined the effect of filing a motion for a new trial in the common pleas court. The appeal from the adoption of the regulation is an error proceeding unlike the appeal[26] provided from "orders" of the administrative agency wherein the court appraises all the evidence as to credibility of witnesses, the probative character and weight to be given the evidence. Despite this difference the court held that the motion for a new trial filed in the common pleas court had the effect under the Appellate Procedure Act[27] of tolling the time for appeal, and it was therefore mandatory that the common pleas court decide the motion for a new trial.

Appeal By the Administrative Agency

Despite the apparent broad language of the Code giving the administrative agency a right to appeal an adverse decision of the initial reviewing court,[28] the restrictive construction by the Supreme Court[29] limiting the right of agency appeal under the Administrative Procedure Act to questions of law relating to the constitutionality, construction, or interpretation of statutes and the rules and regulations of the agency, prevents appeals by the agency on exclusively questions of fact. For example the agency may not appeal from the decision of the common pleas court that its order is not supported by reliable, probative and substantial evidence.[30] Nor may it appeal when the question is one of mixed law and fact, when the issue of law involved is a matter of common law rather than statutory law, as in the defense of entrapment.[31]

Judicial Review of Evidentiary Matters

Under the Ohio Administrative Procedure Act[32] the common pleas court is required to determine whether the order of the agency is sup-

25. *In re* Appeal from Board of Liquor Control, 103 Ohio App. 517, 146 N.E.2d 309 (1957).

26. OHIO REV. CODE § 119.12.

27. OHIO REV. CODE § 2505.07.

28. OHIO REV. CODE § 119.12: "Such appeals may be taken either by the party or the agency and shall proceed as in the case of appeals in civil actions. . . ."

29. Katz v. Department of Liquor Control, 166 Ohio St. 229, 141 N.E.2d 294 (1957), see comment in 9 WEST. RES. L. REV. 251, 254-256 (1958).

30. Mangold v. Board of Liquor Control, 150 N.E.2d 461 (Ohio Ct. App. 1957). In a per curiam decision, upon a motion to dismiss the appeal, the court held that it did not have jurisdiction because the only issue raised was factual.

31. Gay v. Board of Liquor Control, 106 Ohio App. 59, 151 N.E.2d 686 (1958). Entrapment is a common law and not a statutory rule of evidence.

32. OHIO REV. CODE § 119.12.

ported by reliable, probative, and substantial evidence. If the court fails to find that the order is supported by such evidence, it is proper to remand the cause to the agency for further hearing.[33] When, however, there is an appellate review of the common pleas decision, the appellate court reviews the action of the lower court in the same manner as on appeals in other civil actions, determining merely whether the judge could have found from the evidence before him in the manner he in fact did.[34]

In a number of agencies, there is provision for intra-agency appeal. For example, the suspension orders of the Director of Liquor Control are appealable to the Board of Liquor Control. Upon such an appeal, the rules of civil actions apply. Thus the usual presumptions are available to the Board and to a reviewing court, in determining the correctness of the decision of the Director.[35] Also upon appeal to the Board the appellant must be accorded the right to a hearing which entitles him to present testimony for the consideration of the Board. Unless its decision is supported by evidence relevant to the issues presented on the appeal, a reviewing court is bound to hold that its order is not supported by reliable, substantial and probative evidence.[36]

The mandatory nature of the hearing accorded by the reviewing court on an appeal under the Ohio Administrative Procedure Act[37] continues to be the subject of debate, although the courts have uniformly held that the court of common pleas is required to read and consider all the evidence before passing on the merits of the appeal, and it is therefore error for that court to dismiss an appeal and affirm an order of the Board of Liquor Control without a hearing or even notice of the time for a hearing.[38] When a full hearing is accorded in the court of common pleas that court may affirm the agency on the merits but modify the agency's order relative to the penalty imposed.[39] It is clear that additional evidence beyond the record of the agency proceeding must be offered, if at all, to the court of common pleas, and it is too late to urge the offer of additional evidence for the first time in the appellate court. In the absence of an offer of additional evidence, a hearing upon the ad-

33. Cipriano v. Board of Liquor Control, 152 N.E.2d 176 (Ohio C.P. 1956).

34. Cheh v. Board of Liquor Control, 152 N.E.2d 548 (Ohio Ct. App. 1956).

35. B.P.O. of Elks v. Board of Liquor Control, 105 Ohio App. 181, 151 N.E.2d 693 (1957).

36. Khoury v. Board of Liquor Control, 153 N.E.2d 335 (Ohio Ct. App. 1957).

37. OHIO REV. CODE § 119.12.

38. Contris v. Board of Liquor Control, 105 Ohio App. 287, 152 N.E.2d 327 (1957).

39. Jenkins v. Board of Real Estate Examiners, 152 N.E.2d 282 (Ohio Ct. App. 1958). The Court of Common Pleas changed the order from a revocation of license to a suspension for one year.

ministrative record in common pleas court is the "full hearing" which the Act contemplates.[40]

The appeal provided in the Administrative Procedure Act from the judgment of the common pleas court to the court of appeals is limited to questions of law only. Thus a notice of appeal which states that the appeal is taken on questions of law and fact, as against a motion to strike, will be retained as an appeal on questions of law only.[41] Such an appellant must conform to the usual rules of the court of appeals concerning assignments of error and briefs.[42] This means also that questions presented for the consideration of the court of appeals must be presented in the original assignment of error, and new questions may not be injected on a motion for reconsideration.[43]

The court of appeals also has jurisdiction under the Ohio Administrative Procedure Act[44] to reverse, vacate or modify the judgment on appeal. Thus in reviewing an order of the Board of Real Estate Examiners revoking an agent's license, the court changed the ameliorated order to a suspension for 30 days.[45]

Judicial Review Under Special Statutes

A "civil action" brought in common pleas court challenged the authority of the Ohio State Racing Commission to deny the owner of race horses the right to enter his horses for the remainder of a race meeting for alleged infraction of the Commission's rule against creating a "disturbance" at a track.[46] It should be noted that the Horse Racing Act, vesting authority in the Commission, is silent on the question of judicial review.[47] While there is no discussion of the basis for the action in the principal case, the administrative action in question was in the nature of a license suspension. This is an instance where the section of the Ohio

40. City Products Corp. v. Board of Liquor Control, 153 N.E.2d 153 (Ohio Ct. App. 1958).

41. Arvay v. Board of Liquor Control, 104 Ohio App. 208, 148 N.E.2d 81 (1957).

42. Lester v. Board of Liquor Control, 150 N.E.2d 89 (Ohio Ct. App. 1957).

43. Alessandro v. Board of Liquor Control, 105 Ohio App. 521, 153 N.E.2d 174 (1957).

44. OHIO REV. CODE § 119.12.

45. Carpenter v. Sinclair, 149 N.E.2d 150 (Ohio Ct. App. 1958). The court felt that the evidence did not warrant such harsh treatment. The modification of the order may therefore be characterized as a correction of an abuse of discretion.

46. Fischbach v. Ohio State Racing Comm'n, 147 N.E.2d 258 (Ohio Ct. App. 1955). The common pleas court sustained the order of the Commission. While the Administrative Procedure Act was not mentioned in the appellate court's opinion, it did reverse the lower court's judgment and rendered final judgment for the plaintiff.

47. OHIO REV. CODE § 3769.01-99.

Administrative Procedure Act applicable to the licensing authority[48] of any state administrative officer or agency provides a judicial review of the action taken.[49]

Administrative decisions outside the "licensing" area and not rendered by an "agency" subject to the Administrative Procedure Act are reviewable in accordance with the specific statutory provisions governing the specific agency. A number of decisions illustrate judicial review under specific agency statutes.

A township Board of Zoning Appeals, for example, may authorize a variance from the terms of a zoning ordinance. The Board's decision on the denial of a petition for a variance is subject to review in the court of common pleas[50] and reversal if it is found that the denial was unreasonable.[51]

Since the inclusion in the Ohio Revised Code[52] of provisions for judicial review of the decisions of any agency which is in addtion to any other remedy of appeal provided by law, this alternative remedy would appear to be more adequate. The reviewing court is authorized to take appropriate action if it finds that the agency order is "unsupported by the preponderance of substantial, reliable and probative evidence on the whole record."[53]

Under prior law a dismissed employee of a city fire or police department was entitled to a judicial review of the action taken by the municipal civil service commission affirming this dismissal by appeal to the court of common pleas of the county in which the city is situated to determine the sufficiency of the cause of removal.[54] The court of appeals affirmed a common pleas decision which found that the cause for removal was sufficient and that the appellant was accorded a fair and impartial hearing free from prejudicial error.[55] These judicial review provisions have since been changed to permit an appeal on questions of law and fact.[56] Despite the absence of specific statutory judicial review

48. OHIO REV. CODE § 119.01 (A).

49. OHIO REV. CODE § 119.12.

50. OHIO REV. CODE § 519.15.

51. Mentor Lagoons, Inc. v. Zoning Board of Appeals of Mentor Township, 168 Ohio St. 113, 151 N.E.2d 533 (1958).

52. §§ 2506.01-04.

53. OHIO REV. CODE § 2506.04. This section seems to require the reviewing court to make findings and to affirm, reverse, vacate, or modify the order, or remand the cause to the agency involved, consistent with the findings or opinion of the court. The similarity of this authority to that granted under § 119.12, for reviewing state agencies, should be noted.

54. OHIO REV. CODE § 143.27, Prior to 1955.

55. Jones v. Garek, 149 N.E.2d 53 (Ohio Ct. App. 1956).

56. OHIO REV. CODE § 143.27, as amended 126 Ohio Law 90 (1955).

for other state and municipal employees similarly dismissed, judicial review is apparently available, at least, on issues of law. The court of appeals[57] affirmed a common pleas decision holding that a dismissal of a state liquor inspector who had been arrested and twice convicted for driving while under the influence of intoxicating liquor was a proper removal for "failure of good behavior," under the statute.[58]

Under the new point system for motor vehicle violations the registrar of motor vehicles is required, within thirty days after the last conviction raising the total to at least 12 points, to file an application with the appropriate common pleas or juvenile court requesting suspension of the person's license or permit for a period of one year.[59] An application was filed 2 days too late in one instance. Upon motion to dismiss, the court held that the time period was directory, not mandatory and overruled the motion.[60]

Several decisions construing the judicial review provisions of the Unemployment Compensation Act stress the necessity for a strict compliance with all of the procedural steps required prior to the actual appeal to the court of common pleas.[61] In *Stewart v. The Administrator, Bureau of Unemployment Compensation,* the applicant neglected to give the requisite notice of intention to appeal and request a hearing. The request for a rehearing is jurisdictional, and a failure to make it is a failure to exhaust the administrative process, and the court of common pleas cannot acquire jurisdiction of the subject matter of the action.[62] In another case, an applicant sought to have a letter written to the Bureau of Unemployment Compensation stating that he had good cause for quitting his job serve as a notice of intention to appeal and a request for a rehearing. The common pleas court reversed the Bureau and, in this instance, ordered a rehearing. The court of appeals, however, held that the letter was not a proper "notice of intention" justifying the holding of a rehearing.[63] The notice of intention to appeal and request for a rehearing must be given within 10 days from notice of the decision of the Board. This limitation of time within which this last appeal before the Board (rehearing)

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57. Ayers v. State Civil Service Comm'n of Ohio, 106 Ohio App. 511, 153 N.E.2d 537 (1958).

58. OHIO REV. CODE § 143.27.

59. OHIO REV. CODE § 4507.40.

60. *In re* Hensley, 153 N.E.2d 539 (Ohio Com. Pl. 1958).

61. OHIO REV. CODE § 4141.28.

62. 153 N.E.2d 332 (Ohio Ct. App. 1958).

63. Mitchell v. State, 153 N.E.2d 341 (Ohio Ct. App. 1958).

is to be taken is jurisdictional, and a notice[64] filed longer than 10 days afterward is ineffective.

The appeal provided from the decision of the Board on rehearing to the court of common pleas is to determine whether the decision was unlawful, unreasonable, or against the manifest weight of the evidence. Any interested party has a right to appeal from that court's decision as in civil cases.[65] The proceeding in the court of common pleas is an appeal on question of law. It is thus an error proceeding, and a motion for a new trial after the appellate proceeding decision in the court of common pleas is not authorized. The time for filing notice of appeal to the court of appeals cannot be extended through the making of a motion for a new trial.[66]

Two decisions raise important questions concerning the judicial review statute[67] governing appeals from the Industrial Commission. Despite the categorical language of the Code[68] that "appeal may be taken from a decision of a regional board from which the commission has refused to permit an appeal to the commission," the court was of the opinion that the act of the regional board of review is the act of the industrial commission[69] and therefore a direct appeal from an adverse ruling of the regional board of review to the court of common pleas, may be taken,[70] by-passing the additional appellate administrative review from the regional board to the industrial commission.[71]

The other decision[72] held that the petition on appeal to the court of common pleas need set forth only the "basis of jurisdiction." This was all that the statute specifically required,[73] and the court pointed out that the issues are made up by the special appellate statute and cannot be changed by pleading or by rearrangement of parties.

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64. House v. Bureau of Unemployment Compensation, 153 N.E.2d 337 (Ohio Ct. App. 1958).

65. OHIO REV. CODE § 4141.28.

66. Abbott v. Truscon Steel Corporation, 151 N.E.2d 920 (Ohio Ct. App. 1957).

67. OHIO REV. CODE § 4123.519.

68. OHIO REV. CODE § 4123.519.

69. The argument was predicated upon the definition section, OHIO REV. CODE § 4121.121 (I). But it ignores the fact that this is a general definition and would normally give way to the rule that the statute last past is controlling in the case of conflict. Section 4123.519 was adopted in 1957, the definition in 1955.

70. Harrison v. Scanlon, 147 N.E.2d 135 (Ohio C.P. 1958).

71. OHIO REV. CODE § 4123.516. This section states that the decision of a regional board of review shall be the decision of the commission, except for purposes of appeal under § 4123.519.

72. Keen v. General Motors Corp., 153 N.E.2d 347 (Ohio C.P. 1958).

73. OHIO REV. CODE § 4123.519.

Mandamus

The writ of mandamus is not an available remedy for reviewing administrative action where there is a plain and adequate remedy in the ordinary course of law, including equitable remedies.[74] Other important limitations have been indicated elsewhere.[75] There was an unusual number of cases invoking this method of judicial review reported during this period. The writ was successfully used to compel the issuance of a building permit where the refusal had been predicated on a municipal ordinance which the court of appeals held unconstitutional.[76] In another case the court of appeals granted the writ to compel a building permit in variance of a zoning ordinance where the denial was deemed an abuse of discretion under the circumstances.[77]

Another court of appeals decision granted the writ to compel admittance to a civil service examination for the office of chief of police after a determination of eligibility of relator as a matter of law.[78] It is appropriate to inquire whether mandamus is any longer available to review similar decisions of local governmental agencies since the new appeal provisions adopted in 1957, are availble.[79]

The Supreme Court refused the writ to a relator who had failed to exhaust his administrative remedies following a denial of his application for building permit.[80] Other examples of unsuccessful attempts to use the writ of mandamus to secure judicial review included an effort to control the discretion of a board of education in reaching a decision on a controversial matter[81] and to compel a county board of health to issue a permit to operate a garbage disposal plant by means of the sanitary land fill method when the evidence was conflicting on the issue of its satisfactory prior operation under this same method.[82]

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74. OHIO REV. CODE § 2731.05.

75. State v. Industrial Comm'n, 162 Ohio St. 302, 123 N.E.2d 23 (1954). See comment, 7 WEST. RES. L. REV. 224 (1956).

76. State *ex rel.* Cadwallader v. Village of Antwerp, 104 Ohio App. 109, 146 N.E.2d 877 (1957).

77. State v. City of East Cleveland, 153 N.E.2d 177 (Ohio Ct. App. 1958).

78. State v. East Liverpool Civil Service Comm'n, 151 N.E.2d 592 (Ohio Ct. App. 1957).

79. OHIO REV. CODE § 2506.01.

80. State v. Carlton, 168 Ohio St. 279, 154 N.E.2d 150 (1958).

81. State v. Butler County Bd. of Education, 152 N.E.2d 358 (Ohio Ct. App. 1957).

82. Radel Concrete Products, Inc. v. Clermont County Bd. of Health, 152 N.E.2d 307 (Ohio Ct. App. 1957).