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## Social Security and Public Welfare

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. . . the rules relating to the law of fraud [and] misrepresentation . . . shall apply to contracts to sell and sales of goods."<sup>14</sup>

### CHATTEL MORTGAGES

In *Modern Finance Company v. Reynolds*,<sup>15</sup> the Court of Appeals for Franklin County held that Ohio Revised Code section 1319.07, which requires a ten-day notice to be given to the mortgagor by the mortgagee prior to seizure and sale of personal property, does not require such notice to be given to a co-maker of a note who is not the mortgagor of the property to be subjected to seizure and sale, but who would be subject to civil action for the collection of a deficiency judgment rendered against him if the proceeds recovered from the sale of the mortgaged property did not satisfy the amount due upon the note.

SHELDON I. BERNIS

## SOCIAL SECURITY AND PUBLIC WELFARE

### LABOR DISPUTE DISQUALIFICATION

A number of important decisions rendered by the Ohio courts with respect to questions arising under the state Unemployment Compensation Act,<sup>1</sup> have been reported during the past year.

One of the most important of these relates to the interpretation of the word "establishment" as it is used in the labor dispute disqualification contained in the Ohio Unemployment Compensation law.<sup>2</sup> The case is *Adamski v. State*,<sup>3</sup> decided by the Court of Appeals of Lucas County. An earlier decision, rendered by the Court of Appeals of Muskingum County, was also reported for the first time last year.<sup>4</sup> In the latter case, the court of appeals had overruled a decision by the common pleas court favorable to the claimants.<sup>5</sup>

Briefly and unalterably,<sup>6</sup> the Ohio Unemployment Compensation law disqualifies from receiving benefits any claimant who has lost or left his employment by reason of a labor dispute, other than a lock-out, at the factory, establishment, or other premises at which he was employed.<sup>7</sup> The Champion Spark Plug Company, the employer in the *Adamski* case, produces spark plugs which are assembled at its main plant in Toledo, Ohio, using ceramic insulators which are made at a plant in Hamtramck, Michigan, a distance of approximately sixty miles from the main plant. The workers at the Hamtramck plant, represented by Local 272 of the UAW, went on strike January 10, 1956, over unsettled issues of wages and other related matters in-

14. For a further discussion of this case, see 11 WEST. RES. L. REV. 496 (1960).

15. 108 Ohio App. 535, 161 N.E.2d 240 (1958).

volved in negotiations for a new collective bargaining agreement. There was no strike at the main plant, where the workers were represented by an entirely different local, Local 12, but the supply of insulators on hand at the main plant began to run out late in January, and on February 3 the bulk of the labor force at the Toledo plant was laid off by the company. By the application of the so-called functional integrality test, the majority of the court held that the Hamtramck plant and the Toledo plant were part of the same "establishment"; therefore, the labor dispute disqualification provision of the Ohio act was applicable. The decision of the Ohio Administrator, denying benefits to the claimants in Toledo, was upheld.

This decision, along with that of the Muskingum County Court of Appeals in *McGee v. Timkin Roller Bearing Company*, pretty clearly aligns Ohio with a few other states which have similarly extended the disqualifying effect of this particular provision, and represents the minority view on the issue presented.<sup>8</sup> A majority of the states have refused to give similar effect to the "functional integration" argument, and have applied a much clearer and more natural physical proximity test.<sup>9</sup>

The majority of the court in the *Adamski* case was obviously somewhat nonplused by the decision of the Michigan Supreme Court in *Park v. Appeal Board*,<sup>10</sup> which reversed a circuit court decision up-

1. OHIO REV. CODE §§ 4141.01-99.

2. OHIO REV. CODE § 4141.29.

3. 108 Ohio App. 198, 161 N.E.2d 907 (1959). A companion case, *Babnson v. State*, was decided at the same time, *motions to certify denied*, May 20, 1959.

4. *McGee v. Timkin Roller Bearing Co.*, 161 N.E.2d 905 (Ohio Ct. App. 1956).

5. For a brief discussion of the lower court's decision see Teple, *Social Security and Public Welfare, Survey of Ohio Law — 1955*, 7 WEST. RES. L. REV. 321, 322 (1956).

6. See *Cornell v. Bailey*, 163 Ohio St. 50, 125 N.E.2d 323 (1955), cited in Teple, *Social Security and Public Welfare, Survey of Ohio Law — 1955*, 7 WEST. RES. L. REV. 321, 322 (1956).

7. OHIO REV. CODE § 4141.29(C) (2).

8. The only cases which give any support to this view at the present time are: *Mountain States Tel. & Tel. Co. v. Sakrison*, 71 Ariz. 219, 225 P.2d 707 (1950); *Ford Motor Co. v. Abercrombie*, 207 Ga. 464, 62 S.E.2d 209 (1950); *Spielman v. Industrial Comm'n*, 236 Wis. 240, 295 N. W. 1 (1940). *General Motors Corp. v. Mulquin*, 134 Conn. 118, 55 A.2d 732 (1947), gives faint support to this view by holding that two "plants" 18 miles apart might constitute a single "factory," but adopts a narrower view of the term "establishment." *Matson Terminals, Inc. v. California Employment Comm'n*, 24 Cal. 2d 695, 151 P.2d 202 (1944), sometimes included with this group, involved dock workers assigned through a union hiring hall, who were disqualified when the dock at which they worked was struck, a totally different situation.

9. *Ford Motor Co. v. Kentucky Unemployment Compensation Comm'n*, 243 S.W.2d 657 (Ky. 1951); *Ford Motor Co. v. Division of Employment Sec.*, 326 Mass. 757, 96 N.E.2d 859 (1951); *Park v. Appeal Board*, 355 Mich. 103, 94 N.W.2d (1959); *Nordling v. Ford Motor Co.*, 231 Minn. 68, 42 N.W.2d 576 (1950); *Ford Motor Co. v. New Jersey Department of Labor & Indus.*, 5 N.J. 494, 76 A.2d 256 (1950); *Nachcinski v. Ford Motor Co.*, 277 App. Div. 634, 102 N.Y.S.2d 208 (1951); *Ford Motor Co. v. Board of Review*, 168 Pa. Super. 446, 79 A.2d 121 (1951); *Ford Motor Co. v. Unemployment Compensation Comm'n*, 191 Va. 812, 63 S.E.2d 28 (1951).

10. *Supra* note 9.

on which the Ohio Administrator had relied in denying the claims in the first instance, along with *Chrysler Corporation v. Smith*,<sup>11</sup> which was overruled. Nevertheless, the Ohio court concluded that all of the decisions upholding the right to benefits, notwithstanding evidence of integration, could be distinguished on their facts. The *Park* case was dismissed mainly on the basis that the Michigan statute<sup>12</sup> contained a preamble setting forth the legislative purpose and a provision allowing benefits to employees disinterested in the strike, notwithstanding their employment in the same factory, establishment, or other premises. In the *Adamski* case, Judge Deeds, in a strong dissenting opinion,<sup>13</sup> took a much more realistic position in urging that the *Park* case was entirely inconsistent with the result reached by the majority; he also quoted at length from the Michigan Supreme Court's opinion in support of his view that the lower court should have been reversed. The reference in the majority opinion to judicial legislation is particularly apropos to the very decision which the majority reached. It is rather difficult to think of a better illustration of reading "into a statute a legislative meaning or intent, which digresses from the scope and application thereof, reasonably demonstrated by the language used,"<sup>14</sup> in the words of the court itself. The ordinary meaning of the word "establishment" is clearly limited to a single, physical place, having reference to such things as an industrial plant, institution, place of business or residence (including the appurtenances attached thereto or contained therein).<sup>15</sup> This meaning is even more evident when the other two terms with which it is used, are considered. The word "factory" clearly refers to a single, local place, and the reference to other "premises" imparts an equally local meaning. There is no reason apparent in the statute for giving the word which occurs between these two terms, a broader or different meaning. It is safe to say that the draftsman who first adopted this phrase in connection with the labor dispute disqualification, had no notion of the far flung inter-city or inter-state connotation which some would attribute to the simple term "establishment."<sup>16</sup> The court, as do most others who ascribe such unusual scope to the word "establishment," carefully but freely referred to the two places as "plants," the

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11. 297 Mich. 438, 298 N.W. 87 (1941), frequently cited by the advocates of the functional integration test.

12. MICH. COMP. LAWS § 421.29 (Supp. 1952).

13. *Adamski v. State*, 108 Ohio App. 198, 220, 161 N.E.2d 907, 922, (1959) (dissenting opinion).

14. *Id.* at 204, 161 N.E.2d at 913.

15. BLACK, LAW DICTIONARY 643 (4th ed. 1951).

16. An observation based upon the writer's acquaintance with the staff which worked on the earliest version of the "draft bill" which was used by most, if not all, of the states, in some degree, in enacting the first unemployment insurance laws in 1937 and 1938. The original Wisconsin law is the only state statute which predated the draft bill drawn by the members of the staff of the original Social Security Board for the assistance of the states in enacting legislation to comply with the basic conditions of the federal act.

Toledo plant and the Hamtramck plant. But how is this different from the term "factory"? Actually, these are factories, and this is the term which should have been applied, rather than the term which was simply meant to refer to business places other than those used in manufacturing.<sup>17</sup>

In this connection, it is interesting to note that the same term is used in the Federal Fair Labor Standards Act,<sup>18</sup> and has been interpreted under that statute in the manner adopted by the majority of the state courts in connection with the unemployment compensation laws. The Labor Department's definition of the term as being one particular business premises, has been upheld by the federal courts.<sup>19</sup>

The absence of a preamble containing a legislative declaration of policy should have no effect whatsoever upon the decision. The purpose of the Ohio law is certainly no different without a preamble, and section 4141.46 of the Ohio code, directing a liberal construction, should be given recognition. The liberality referred to in this section, it should be noted, relates to the statute's primary function of providing benefits to the unemployed, and not to a liberal construction of the disqualification provisions so as to prevent benefit payments. It is equally of no moment that the Ohio law does not contain a provision allowing benefits to disinterested employees in the same plant or factory, such as the Michigan law contains. The omission of such a provision should hardly be a basis for changing the meaning of the disqualification clause.

In the *McGee* case,<sup>20</sup> parts produced in the plant at Canton, Ohio, were shipped to Zanesville, Ohio, for inspection and assembly. When the Canton plant went out on strike, the parts available at the Zanesville plant were eventually exhausted and lay-offs then occurred in the latter city, more than ninety miles away. In holding that these plants constituted one establishment, so as to disqualify the Zanesville workers, the court in its opinion did not even mention any of the precedents, for or against such interpretation.

It is never difficult to find evidence of integration between the plants of any modern corporation. Production in one factory is frequently dependent upon parts from another. It remains to be seen to what extent the Ohio courts will be willing to apply the functional integration test to identify plants located in different cities as one establishment. The majority opinion in the *Adamski* case gave recog-

17. A "factory" is a building or group of buildings, mill, or workshop used for manufacturing. BLACK, LAW DICTIONARY 709 (4th ed. 1951). It is often referred to as a manufacturing establishment. *Ibid.* A "plant" usually refers to the fixtures, machinery and physical equipment used for production. *Id.* at 1309. In some states, only the term "establishment" is used. See *Nordling v. Ford Motor Co.*, 231 Minn. 68, 42 N.W.2d 576 (1950).

18. 52 Stat. 1060 (1938), 29 U.S.C. § 201 (1958).

19. *A. H. Phillips, Inc. v. Walling*, 324 U.S. 490 (1945); *McComb v. W. E. Wright Co.*, 168 F.2d 40 (6th Cir. 1948).

20. *McGee v. Timkin Roller Bearing Co.*, 161 N.E.2d 905 (Ohio Ct. App. 1956).

dition to the geographic test, but as a practical matter, in view of the decisions already rendered, it is difficult to see where this could mean very much anywhere within the state's boundaries. As to extensions beyond the Ohio line, there may be a limit which will appear in some future case. As the purpose of the Unemployment Compensation Law becomes better understood in this state, it is to be hoped that the Ohio Supreme Court will eventually consider the question, unless, in the meantime, the legislature decides to enact its own clarification.

### OTHER DISQUALIFICATION PROVISIONS

In a decision considerably more in keeping with the liberal construction admonition of the legislature, the Summit County Common Pleas Court ruled that a claimant was justified in refusing to accept work which would have involved employment every fourth Sunday.<sup>21</sup> Specifically, the court held that the claimant's refusal to accept an offer of work made upon this condition was with good cause, within the meaning of the disqualification provision in section 4141.29 (C) (3) of the Ohio act. The court could also have found that the work offered was unsuitable within the meaning of this provision, since suitability is defined in sub-paragraph (E) to include consideration of any risk to the claimant's morals. The claimant simply testified that she belonged to a Protestant religion that "forbids you from working on Sunday."<sup>22</sup> The court made a further significant point that the contract of employment offered was illegal in any event, being in contravention of section 3773.24 of the code, which prohibits engaging in common labor on Sunday.<sup>23</sup>

In *Wallace v. Bonded Oil Company*,<sup>24</sup> it was held that the claimant, who was a part-time student at a divinity school in Springfield, Ohio, was not a "student regularly attending" an established educational institution within the meaning of the provision of the Ohio statute barring such students from receiving unemployment benefits.<sup>25</sup> There was no issue of availability, the evidence indicating that the claimant was available for work and actively seeking such work in compliance with section 4141.29 (A) (4), despite his part-time school

21. *Wallace v. B.U.C.*, 160 N.E.2d 580 (Ohio C.P. 1959).

22. *Id.* at 582.

23. This is the so-called Sunday Law, which had been all but forgotten until a rather recent campaign in this state to revitalize this rather dormant legislation. The initial impetus seems to have been furnished by certain business interests, but church groups for the most part have joined enthusiastically. This point was completely overlooked in the much less enlightened decision in *Lowery v. Administrator*, discussed in Teple, *Social Security and Public Welfare. Survey of Ohio Law — 1955*, 7 WEST. RES. L. REV. 321, 324 (1956).

24. 162 N.E.2d 172 (Ohio C.P. 1958).

25. OHIO REV. CODE § 4141.29(C) (8), provides that no individual may receive benefits for the duration of any period of employment where he has "left his most recent work for the purpose of attending an established educational institution, or is a student regularly attending an established educational institution during the school term." (Emphasis added.)

attendance. The claimant's former employment had been at night, and he had been working full time while he attended divinity school classes. Claimant testified that actual attendance at lectures was not always required, and that the claimant was taking four years to complete a normal three-year course. Attending school under these circumstances, the court held, was not the type of matriculation contemplated by the statute disqualifying a "student regularly attending" an educational institution. The court relied upon *Acierno v. General Fireproofing Company*,<sup>26</sup> and the decision appears to be a fair application of the principle declared by the Ohio Supreme Court in that case. The court concluded by saying that the claimant's ambition to advance himself, or his expectation to eventually abandon or change his current job or trade, was not a basis for disqualification.

### STATUTORY PROCEDURE FOR APPEAL

A series of cases has been reported the past year involving the application of the appeal procedure contained in the Unemployment Compensation act. By the express terms thereof, any interested party (which, of course, includes the claimant) may, within ten days after notice of the decision of the Board of Review on appeal from a referee, mailed to such party's last known post office address, file notice with such Board "of intention to appeal any such decision or order of the Board adversely affecting such party to a court of common pleas and request a rehearing by the Board."<sup>27</sup> In four cases, claimants were tripped by the statutory requirement for this last administrative step, prior to the amendment last year eliminating this step.

In *Stewart v. Administrator*,<sup>28</sup> the court held that the limitation of time within which the last appeal before the Board of Review is allowed, was jurisdictional. The notice of the Board's decision had been mailed July 16, 1956, and on August 3, 1956, the claimant filed a notice of appeal with the Clerk of Courts.<sup>29</sup> Since the claimant had thus failed to give notice of his intent to appeal and to request a re-

26. 166 Ohio St. 539, 144 N.E.2d 201 (1957), discussed in Teple, *Social Security and Public Welfare, Survey of Ohio Law — 1957*, 9 WEST. RES. L. REV. 361 (1958).

27. This is the fifth and last step of the administrative procedure involved in handling a disputed claim, as outlined in OHIO REV. CODE § 4141.28. This section is long and detailed, providing first for initial consideration of the claim by the Administrator. The second step is the application for reconsideration by the Administrator. Following this, appeal to a referee is provided as the third step. The fourth step consists of consideration by the Board of Review. Previously the Board afforded an opportunity for a rehearing before the claim could be appealed to the courts. At this fifth step, on reconsideration before the Board of Review, either party could request and obtain a hearing de novo. For a discussion of the amendment, see *Administrative Law and Procedure* section, pp. 336-37 *supra*.

28. 107 Ohio App. 86, 153 N.E.2d 332 (1958).

29. Part of the confusion arises from the provision in the succeeding paragraph for appeal to the court within thirty days after notice of the Board's decision on reconsideration. Many were undone by their failure to note the two considerations by the Board, previously required.

hearing within ten days after the mailing of the notice of the Board's initial decision, it was held that the lower court had no authority to direct, on remand, that such hearing be had, the time allowed by the statute for such notice and request having already passed.

In *Mitchell v. State*,<sup>30</sup> a letter addressed jointly to the Governor and the Bureau of Unemployment Compensation, in which the claimant stated that he had just cause for quitting his job and outlined the circumstances in some detail, but in which there was no statement of an intent to appeal to the court or a request for rehearing, was held to be insufficient to comply with the notice required by section 4141.28 after an adverse decision by the Board of Review.

In *House v. B.U.C.*,<sup>31</sup> the decision of the Board of Review on initial appeal from the referee was dated September 20, 1956, and a notice of appeal therefrom, filed with the Clerk of Courts twenty-eight days later, was held not to be within the ten day period allowed for request for reconsideration and was, therefore, insufficient as a basis for further appeal.

In each of these three cases, there was an obvious oversight of the fifth step in the administrative procedure afforded and required by the act. This omission, according to these decisions, is fatal. As noted in the court's opinion in the *House* case, any one not experienced in statutory interpretation could get lost with ease, and the court further observed that it was difficult to understand "just why five separate considerations and reconsiderations should be required to finally have a claim submitted to a court where an interested party feels aggrieved by the decision of an administrative agency in a matter that should be decided with dispatch."<sup>32</sup> With sound perception, however, the court said that this was a "legislative matter."

The decision in *Winans v. Administrator*<sup>33</sup> deserves special note. In that case, the Board of Review denied the claim on initial appeal from the referee, notice of which was mailed April 8, 1957. The claimant's attorney then addressed a letter to the B.U.C., dated April 18, 1957, indicating that it had been anticipated that the Board of Review would permit the introduction of evidence and testimony in support of the claim.<sup>34</sup> He proceeded to characterize the adverse decision of the Board as unjust in view of the information disclosed to him by the claimant. The letter thereupon requested a rehearing and an opportunity to present evidence, indicating that his only other alternative would be an appeal to the court within thirty days and asking for a prompt reply for this reason. The letter concluded with the

30. 107 Ohio App. 447, 153 N.E.2d 341 (1958).

31. 107 Ohio App. 400, 153 N.E.2d 337 (1958).

32. *Id.* at 404, 153 N.E.2d at 340.

33. 107 Ohio App. 553, 155 N.E.2d 468 (1958).

34. This is exactly what would have occurred if the precise notice required by the statute had been filed.



attorney's statement that it was his sincere hope and desire that the matter could be disposed of without the necessity of litigation beyond the Board.

The court held that this was not a sufficient notice of intent to appeal to the court, the word "intent" or "purpose" not appearing in the letter. The court conceded that the language used might connote a threat of litigation, but it was held that this was not an adequate substitute for the precise statement which the statute required. This, it is submitted, is a case of dotting the "i" a little too precisely. To the ordinary mortal, the attorney's effort would appear to be an adequate compliance with the statutory terms. He had met one condition by requesting a rehearing, and came close enough to meeting the other.

### MISCELLANEOUS PROBLEMS

In *United Steel Workers v. Doyle*,<sup>35</sup> the Ohio Supreme Court held that private unemployment benefits, provided under the terms of a collective bargaining agreement to supplement public benefits payable under the state unemployment compensation law, amounted to wages within the meaning of the statutory definition,<sup>36</sup> so that the state payments would have to be reduced by the amount of any such private supplementation.<sup>37</sup> This decision was nullified within a few months by legislative action which clarified the applicable provisions of the state law, and specifically authorized the private supplementation of state benefit payments.<sup>38</sup>

An opportunity to apply the "lockout" exception to the labor dispute disqualification in the Ohio statute<sup>39</sup> arose in *Zanesville Rapid Transit, Incorporated v. Bailey*.<sup>40</sup> Where the employer was in obvious financial difficulty and announced its plight well in advance of the expiration of its prior collective bargaining agreement, subsequently insisting upon a ten per cent wage cut as a condition of further employment, the court found that the employer's position was neither unreasonable nor coercive, and, therefore, did not amount to a "lockout" so as to relieve its employees of the effect of the labor dispute disqualification. The decision of the Administrator denying

35. 168 Ohio St. 324, 154 N.E.2d 623 (1958).

36. OHIO REV. CODE § 4141.01(G).

37. The majority of the court chose to follow the reasoning of the Administrator of the state agency in preference to the views of both lower courts, but Justices Taft and Zimmerman filed a vigorous and well-reasoned dissent. 168 Ohio St. 324, 328, 154 N.E.2d 623, 627 (1958). For a more detailed discussion of the decision, and the background pertaining to this matter, see Teple, *Supplemental Unemployment Benefits*, 20 OHIO ST. L.J. 583 (1959).

38. Amended S.B. No. 53, 103d General Assembly of Ohio (1959), amending OHIO REV. CODE §§ 4141.35, .36. Most other states had achieved the same result by administrative interpretation or by rulings of the Attorney General.

39. OHIO REV. CODE § 4141.29(C) (2).

40. 168 Ohio St. 351, 155 N.E.2d 202 (1958).

benefits for the period of unemployment prior to reaching a new agreement, was thus affirmed.<sup>41</sup>

The court adopted the standard definition of the term "lockout," described as meaning a "cessation of the furnishing of work to employees or a withholding of work from them in an effort to get for the employer more desirable terms."<sup>42</sup> It was recognized that an actual, physical closing of the place of employment was not always necessary. Apparently the court did not consider this a bilateral cessation of work, although peaceful negotiations for the new agreement were still in progress and the court's statement of the facts does not seem to preclude this possibility. In such cases, it has been held that the resulting unemployment was not due to a labor dispute.<sup>43</sup>

The rare question of when a worker is unemployed arose in *Parent v. Administrator*,<sup>44</sup> wherein a variety store operator, during the period covered by his claim for benefits, spent about twenty hours weekly in his store and ten hours seeking employment. The store sustained a net loss during this period, except for a single week during which a total profit of two dollars was realized. The court held that the operator was not working for wages under a contract of hire and was, therefore, unemployed. The more difficult question, of course, is whether he performed any services which would prevent his being considered "totally unemployed" within the meaning of the statute.<sup>45</sup> If his work in the store were considered services, however, he still might be considered partially unemployed in view of his nominal earnings and the limited number of hours spent in the store.

In *Curtiss-Wright Corporation v. Tichenor*,<sup>46</sup> it was held that the

41. Stressing the fact that the employer was a public utility and dependent upon the city council in negotiating a franchise to operate, the court nevertheless indicated that it might have been inclined to reach a different result if the employer's request to continue work at reduced wages had been made unexpectedly and without an opportunity for prior negotiations.

42. 168 Ohio St. 351, 354, 155 N.E.2d 202, 205 (1958). Ohio is one of seven states having the express lockout exception, the other six being Connecticut, Minnesota, Pennsylvania, West Virginia, Arkansas, and Mississippi. For other applications of this provision, all of them favorable to the claimants on the basis of evidence of more affirmative employer action, see *Bucko v. J. F. Quest Foundry Co.*, 229 Minn. 131, 38 N.W.2d 223 (1949); *Kendall Refining Co. v. Board of Review*, 184 Pa. Super. 95, 132 A.2d 749 (1957); *Burger v. Board of Review*, 168 Pa. Super. 89, 77 A.2d 737 (1951). In at least one other state, a similar result has been reached without an express provision excepting lockouts from the labor dispute disqualification. *Bunny's Waffle Shop v. Commission*, 24 Cal. 2d 735, 151 P.2d 224 (1944) (where wages were cut twenty-five percent and the employers went from a five- to a six-day week with split shifts in an apparent effort to force the union to recognize a newly-organized employers' association). Compare *McKinley v. California Employment Stabilization Comm'n*, 34 Cal. 2d 238, 209 P.2d 602 (1949); *A. Borchman Sons v. Carpenter*, 166 Neb. 322, 89 N.E.2d 123 (1958); *Olaf Nelson Const. Co. v. Industrial Comm'n*, 121 Utah 525, 243 P.2d 951 (1952).

43. *In re Cohen*, 283 App. Div. 143, 126 N.Y.S.2d 648 (1953); *United States Coal Co. v. Board of Review*, 66 Ohio App. 329, 32 N.E.2d 763 (1940).

44. 160 N.E.2d 560 (Ohio C.P. 1959).

45. OHIO REV. CODE § 4141.01(M).

46. 160 N.E.2d 573 (Ohio C.P. 1957).