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Administrative Law—Judicial Review

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Apparently, what the parties should do in order to settle their dispute, if further negotiations between them fail, is to return to the Railway Adjustment Board and seek a determination on the merits. Under the instant case, such a determination would be reviewable in the courts. If the Board does not render a final determination, but again dismisses the proceeding, the parties should bring an action, in the nature of mandamus, to compel the Railway Adjustment Board to render a decision on the merits of this case.

Judicial Review

The basic problem of judicial review of administrative action is: to what extent should a court go into the record of the agency? Only recently has the federal rule on the problem been clarified.⁴² In New York State, judicial review of administrative action is conducted under Article 78 of the Civil Practice Act.⁴³ The issues that the court must determine are: "whether there was any competent proof of all the facts necessary to be proved in order to authorize the making of the determination,"⁴⁴ and if "there was such proof, whether upon all the evidence there was such a preponderance of proof against the existence of any of those facts that the verdict of a jury, affirming the existence thereof, rendered in an action in the supreme court triable by a jury, would be set aside by a court as against the weight of evidence."⁴⁵

As viewed by the courts, the statutory requirement for upholding a determination of an agency is that there be "substantial evidence" to support such determination.⁴⁶ The evidence is to be viewed in the light of the record as a whole,⁴⁷ and if the reviewing court concludes that others might reasonably have reached the same result as the agency, the determination should be upheld.⁴⁸ These rules were neither originally laid down nor changed in the past term, but they were reiterated and explained.⁴⁹

42. *Universal Camera Corp. v. N.L.R.B.*, 340 U. S. 474 (1951).

43. §§ 1283-1306.

44. C. P. A. § 1296 *subd.* 6.

45. C. P. A. § 1296 *subd.* 7.

46. *Lynch Builders Restaurant v. O'Connell*, 303 N. Y. 408, 103 N. E. 2d 531 (1952).

47. *McCormack v. National City Bank*, 303 N. Y. 5, 99 N. E. 2d 887 (1951).

48. *Kopec v. Buffalo Brake Beam-Acme Steel & Malleable Iron Works*, *supra* n. 5.

49. *Ibid.*