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## Constitutional Law--Public Health--Mandamus

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## ABSTRACTS OF RECENT CASES

CONSTITUTIONAL LAW—PUBLIC HEALTH—MANDAMUS.—Appellee sought mandamus commanding appellant to issue appellee a permit to distribute milk pursuant to W. VA. CODE c. 16, art. 7, § 5 (Michie 1955). Appellee contends that there is equivalency between the inspection requirements of the state in which its dairy is located and those of West Virginia, that refusal to grant the permit was an unwarranted obstruction of interstate commerce, and that such refusal was an abuse of discretion. The district judge found in accord with these contentions. *Held*, that the statute is not violative of appellee's constitutional rights, the refusal to grant the permit was within the appellant's discretion, and this discretion had not been abused, therefore, mandamus will not lie. *Sleeth v. Dairy Products Co.*, 228 F.2d 165 (2d Cir. 1955).

The case is sound as to the question of mandamus on the basis of *Decatur v. Paulding*, 39 U.S. (14 Pet.) 497 (1840). The constitutional question raised is more difficult. In *Dean Milk Co. v. Madison*, 340 U.S. 349 (1950), the Supreme Court found a municipal ordinance regulating milk distributors to be violative of the commerce clause of the Constitution. U. S. CONST. art. I, § 8. However, in the *Dean* case, *supra*, the court indicated that an act based on the model milk code recommended by the United States Public Health Service, which has no geographical limitations, would be valid. The West Virginia act and regulations invoked pursuant thereto conform to the model code. W. VA. CODE c. 16, art. 7, § 5 (Michie 1955). The case would, therefore, seem sound on this basis, also. See Annot., 14 A.L.R.2d 103 (1950), for a discussion of the validity of *municipal* ordinances imposing requirements on outside producers of milk to be sold in the city, which presents a problem analogous to the principal case.

H. R. A., Jr.

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COURTS—CONSTRUCTION OF LOCAL STATUTES BY FOREIGN COURT—SURVIVAL OF CRIMINAL ACTION AFTER CORPORATE DISSOLUTION.—On appeal, the court of appeals for the tenth circuit *held*, affirming the federal district court for the district of Colorado, and approving the lower court's reasoning, that the criminal proceedings against the West Virginia subsidiary abated upon its merger with the parent corporation. *United States v. United States Vanadium Corp.*, 230