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POLLUTION CONTROL IN ILLINOIS—THE ROLE OF THE ATTORNEY GENERAL

*Thomas J. Immel**

The litmus test of the regulatory scheme for environmental control lies in its enforcement procedures. Mr. Immel, based on his personal experience in the office of the Illinois Attorney General, presents an overview of the Illinois Environmental Protection Act, and offers a reply to the criticisms made by Mr. Steven Klein regarding possible conflicts of interest and the role of the Illinois Attorney General in the enforcement of the EPA.

IN 1968 there were no funds in the budget of the Illinois Attorney General specifically allocated to pollution control activity. The Environmental Protection Act was only an idea in the minds of a few interested citizens. The now extinct Sanitary Water and Air Pollution Control Boards had promulgated many standards, all too often accompanied by rather tentative compliance deadlines; but the Boards only infrequently sought to enforce their rules and regulations through court action brought by the Attorney General on their behalf. In short, a readily cognizable, credible and uniform state-wide program to enforce anti-pollution laws did not exist. Then, rather suddenly, everything changed.

During an eighteen month period commencing in January of 1969, a concatenation of events transpired which had the effect of transforming the Illinois environmental program root and branch. In order of appearance they were: resuscitation of the infrequently employed "common law nuisance" theory by the newly elected Attorney General and its application to environmental litigation; passage of legislation in mid-1969 giving the Attorney General specific authority to move against polluters by injunction;¹ and, passage of the Environmental Protection Act in July of 1970.² Discussion of these developments with particular emphasis on the constitutional and statutory duties of the Attorney General is the purpose of this article.

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1. ILL. REV. STAT. ch. 14, §§ 11 and 12 (1971).

2. ILL. REV. STAT. ch. 111½, §§ 1001 *et seq.* (1971).

COMMON LAW NUISANCE

At a time when public outcry against environmental degradation was reaching its highest pitch, the Illinois Attorney General³ had recently been elected after successfully campaigning on a platform which included a strong anti-pollution plank. Confronted with a complete dearth of effective environmental laws and neither the budget nor the staff to conduct environmental litigation, he was hardly in a position to carry through his stated intentions. Nevertheless, some semblance of an Environmental Control Division was mustered by reassignment of existing staff. Budget problems were alleviated at the start of a new fiscal year in July, 1969. Legislation was introduced in the General Assembly to specify the powers of the Attorney General with respect to the environment.⁴ In the meantime, a decision was made to mount an aging and slightly dilapidated horse—the “common law nuisance” theory.

Illinois courts have long recognized and exercised their power to order abatement of “public” or “common” nuisances.⁵ It has never been altogether clear to this writer at what point the demarcation between “private” and “public” nuisance is breached. It has been relatively simple for the courts to conclude, for example, that the emission of foul odors in sufficient quantity to inundate an entire neighborhood is a “public” nuisance.⁶ On the other hand, if the same conduct affects only one person or a “very small portion of a neighborhood,” the courts may and have concluded that the nuisance is “private.”⁷ The distinction, though not the most readily drawn, can be important because generally the Illinois courts only recognize the right of the Attorney General or State’s Attorney to seek abatement of “public” nuisances.⁸ Fortunately, in the very early stages of the Attorney General’s “common law” or “public” nuisance litigation, it was not necessary to deal with this potentially difficult problem. The first filings inevitably involved entire neigh-

3. William J. Scott.

4. ILL. REV. STAT. ch. 14, §§ 11 and 12 (1971).

5. See, e.g., *Edelman Bros. v. Baikoff*, 277 Ill. App. 432 (1934).

6. *City of Chicago v. Fritz*, 36 Ill. App. 2d 457, 184 N.E.2d 713 (1962).

7. See *Edelman Bros. v. Baikoff*, 277 Ill. App. 432 (1934); *Wylie v. Elwood*, 34 Ill. App. 244, *aff’d*, 134 Ill. 281, 25 N.E. 570 (1889).

8. *People ex rel. Thrasher v. Smith*, 275 Ill. 256, 114 N.E. 31 (1916); *Stead v. Fortner*, 171 Ill. App. 161, *aff’d*, 255 Ill. 468, 99 N.E. 680 (1912).

borhoods or communities of complaining citizens and could be described as "public" nuisance cases of very classical proportions.

The public nuisance theory as applied to pollution litigation has certain limitations. Historically, the courts have exercised their equity jurisdiction only in those instances where the damage to the public health, safety or comfort caused by the alleged nuisance was absolutely manifest. Thus, it has been held that covering a neighborhood with coal dust,⁹ storing dead animals in a residential area,¹⁰ maintaining a fire hazard¹¹ or emitting gross and obnoxious odors¹² constitutes a "public" or "common law" nuisance. On the other hand, no court has yet held that discharging a liquid effluent containing 0.9 milligrams per liter of dissolved iron into a receiving stream constitutes a "public" nuisance in light of the present state regulation limiting such a discharge to 0.5 milligrams per liter.¹³ Such a ruling is quite unlikely.

Since it was apparent from the outset that the "common law" nuisance action would have necessarily limited application in the Attorney General's anti-pollution activity, it was deemed necessary to seek specific legislative authority to enjoin polluting, though not necessarily "nuisance," discharges of contaminants.

ATTORNEY GENERAL'S ACT

The 76th Illinois General Assembly amended "An Act in regard to attorneys general and state's attorneys"¹⁴ by enacting, effective July 1, 1969, "An Act in relation to the prevention and abatement of air, land and water pollution."¹⁵ This new legislation was subsequently amended¹⁶ to conform with the Environmental Protection Act.¹⁷ After defining the terms "air," "water" and "land pollution,"¹⁸

9. *Wylie v. Elwood*, 34 Ill. App. 244, *aff'd*, 134 Ill. 281, 25 N.E. 570 (1889).

10. *Seacord v. People*, 121 Ill. 623, 13 N.E. 194 (1887).

11. *Rohrbach v. Cavallini*, 210 Ill. App. 182 (1918).

12. *City of Chicago v. Fritz*, 36 Ill. App. 2d 457, 184 N.E.2d 713 (1962).

13. *State of Illinois Pollution Control Board Regulations*, ch. 3 (Water Pollution—Effluent Standards), Rule 408(a) (1973).

14. ILL. REV. STAT. ch. 14, §§ 1 *et seq.* (1971).

15. ILL. REV. STAT. ch. 14, §§ 11 and 12 (1971).

16. Amended by P.A. 76-2434 (eff. July 1, 1970); *codified in* ILL. REV. STAT. ch. 14, §§ 11 and 12 (1971).

17. ILL. REV. STAT. ch. 111½, §§ 1001 *et seq.* (1971).

18. ILL. REV. STAT. ch. 14, § 11 (1971).

the Act now provides, in pertinent part:

The Attorney General has the power and authority, notwithstanding and regardless of any proceeding instituted or to be instituted by or before the Environmental Protection Agency, Pollution Control Board or any other administrative agency, to prevent air, land or water pollution within this state by commencing an action or proceeding in the circuit court or any county in which such pollution has been, or is about to be, caused or has occurred, in order to have such pollution stopped or prevented either by mandamus or injunction . . .¹⁹

Under the aegis of this statute, complaints were filed against four major steel companies which discharged their effluent directly or indirectly into Lake Michigan. The most widely publicized of the four, a suit against the South Side Works of United States Steel,²⁰ was conducted in cooperation with the Metropolitan Sanitary District. After protracted pre-trial discovery and negotiation, the company agreed to construct a \$12,000,000 "closed loop" whereby their multi-million gallons per day discharge into Lake Michigan would be terminated and, instead, completely recycled. The same result was obtained in suits against Republic²¹ and Interlake Steel.²² The fourth case is still pending. These are but a minute sample of the many suits filed under the Attorney General's Act. Between July 1, 1969, and July 1, 1970, this was the only sort of anti-pollution suit being filed on behalf of the state or its agencies. The Attorney General was quite simply the only game in town.

ENVIRONMENTAL PROTECTION ACT

The next major development in the Illinois environmental program came with the passage of "An Act to protect the environment of the State and to repeal certain Acts therein named," otherwise known as the Environmental Protection Act.²³ A full discussion of the Act's various provisions and the changes they wrought would take us well beyond the scope of this article. It suffices for that purpose to remember that in instances of possible violation of the

19. *Id.* § 12.

20. *People ex rel. Scott v. United States Steel Corp.*, 69 CH 3334 (Cir. Ct. Cook County, filed Sept. 18, 1969).

21. *People ex rel. Scott v. Republic Steel Corp.*, 69 CH 3675 (Cir. Ct. Cook County, filed Oct. 14, 1969).

22. *People ex rel. Scott v. Interlake Steel, Inc.*, 70 CH 937 (Cir. Ct. Cook County, filed March 7, 1970).

23. ILL. REV. STAT. ch. 111½, §§ 1001 *et seq.* (1971).

Act or regulations in effect pursuant thereto, it is the function of the Environmental Protection Agency to initiate enforcement action and the function of the Pollution Control Board to adjudicate such claims. The Attorney General's duty with respect to these two state agencies and his role in the enforcement process itself is clearly delineated in the Illinois Constitution, the Attorney General's and State's Attorneys' Act and in numerous decisions of the Supreme Court of Illinois.

The Constitution of Illinois states that: "The Attorney General shall be the legal officer of the State, and shall have the duties and powers that may be prescribed by law."²⁴ The Constitution of 1870 had even less to say about the matter, simply stating the existence of the office of the Attorney General and mandating performance of such duties "as may be prescribed by law."²⁵

The language of the 1870 Constitution concerning the office of Attorney General is discussed at some length in *Fergus v. Russel*.²⁶ The Illinois Supreme Court there held unconstitutional an appropriation to the State Insurance Superintendent for legal services of independent counsel, for traveling expenses of attorneys and court costs in prosecution of violations of the insurance laws:

By our constitution we created this office by the common law designation of Attorney General and thus impressed it with all its common law powers and duties. As the office of Attorney General is the only office at common law which is thus created by our constitution the Attorney General is the chief law officer of the State, and the only officer empowered to represent the people in any suit or proceeding in which the State is the real party in interest, *except where the Constitution or a constitutional statute may provide otherwise*. With this exception, only, he is the sole official adviser of the executive officers and of all boards, commissions, and departments of the State government, and it is his duty to conduct the law business of the State, both in and out of the courts. The appropriation to the Insurance Superintendent for legal services and for traveling expenses of attorneys and court costs in prosecutions for violations of insurance laws is unconstitutional and void.²⁷

A "constitutional statute" which provides "otherwise" is section 6(e) of the Toll Highway Act of 1953.²⁸ This section gives the Toll Highway Commission the power to

24. ILL. CONST., art. V, § 15.

25. ILL. CONST., art. V, § 15 (1870).

26. 270 Ill. 304, 110 N.E. 130 (1915).

27. *Id.* at 342, 110 N.E. at 145 (emphasis added).

28. ILL. REV. STAT. ch. 121, § 314a31 (1971).

retain special counsel, subject to the approval of the Attorney General, as needed from time to time, and fix their compensation, provided however, such special counsel shall be subject to the control, direction and supervision of the Attorney General and shall serve at his pleasure.²⁹

Faced with the argument that this statutory provision violated *Fergus v. Russel*, the supreme court admitted that a literal reading might render the statute susceptible to such a conclusion, but ultimately concluded:

The proper construction of the act is that the commission, from the funds available to it, allocates so much money as is necessary to pay for necessary legal services. The function of the commission in making funds available for special counsel and attorneys is analogous to the function of the legislature in appropriating moneys to the Attorney General from the general revenues of the State. By the amount it appropriates and by the limitations of salary rates, the legislature, too, in a sense controls the appointment and the compensation of assistant Attorneys General. It is only in this sense that the commission can be said to appoint or fix compensation of special counsel or assistant attorneys. In harmony with our earlier holdings, the legislature intended that these special counsel and assistant attorneys be as much a part of the staff of the Attorney General and subject to his control in all respects as are those assistants paid from the funds appropriated directly to him by the General Assembly. Even though attorneys and special counsel for the commission may perform legal services for the State, their right to do so exists only because they are subordinates of the Attorney General.

Moreover, neither section I of article V nor any other provision of the constitution inhibits the expenditure of revenue derived from highway tolls for the purpose of defraying the legal expenses incident to the construction, maintenance and operation of the toll highway system. Such legal expense may validly include the compensation of assistant attorneys or special counsel utilized by the Attorney General in discharging his duty as attorney for the commission. Under the provisions of the statute here considered, the Attorney General is fully recognized as the attorney and legal adviser of the commission and the assistant attorneys of special counsel are completely subordinate to him. By proper construction of these subsections we conclude they do not contravene section I of article V of the constitution. These provisions are a valid method of enabling the Attorney General to perform his legal functions as attorney for the commission in a manner harmonious with the overall design of the act that the cost of the toll highways, including legal expenses, be borne from revenue derived from the tolls collected for their use.³⁰

This decision is the only inroad into the *Fergus v. Russel* doctrine acknowledged to be such by the Illinois Supreme Court.³¹

29. *Id.*

30. *People v. Illinois Toll Highway Comm'n*, 3 Ill. 2d 218, 237-38, 120 N.E.2d 35, 45-46 (1954).

31. *See Stein v. Howlett*, 52 Ill. 2d 570, 586, 289 N.E.2d 409, 418 (1972) where

Whether the Illinois Constitution of 1970 has changed the rule of *Fergus v. Russel* was discussed in *Stein v. Howlett*:

The proceedings of the Constitutional Convention of 1970 seem to indicate a clear intent to preserve the policy of *Fergus v. Russell* in this respect. In Braden & Cohn, *The Illinois Constitution: An Annotated and Comparative Analysis* (1969), it was pointed out that the result in that case was based on an interpretation of section 1 of article V of the constitution of 1870, which provided that the Attorney General "shall perform such duties as may be prescribed by law." It was suggested that the way to change the rule of *Fergus v. Russell* was to rephrase the provision (Braden & Cohn, p. 260). No change was made by the Convention, however, and the present constitution contains the identical language that was before the court in *Fergus v. Russell*.³²

Numerous other decisions of the Illinois Supreme Court have held that the Attorney General is exclusively the attorney for all state officers and agencies and is charged with the responsibility of conducting their law business both in and out of court.³³

ENFORCEMENT UNDER THE ACT

It is obvious that the duty of the Attorney General is to act as legal counsel to both the Illinois Environmental Protection Agency and its Director. Further, it is his duty to represent the Agency in any litigation in which it is a party.

In spite of the overwhelming precedent which clearly required this attorney-client relationship, the persons responsible for shaping the newly created Illinois Environmental Protection Agency chose instead to establish an independent "Bureau of Legal Services" within the Agency which was promptly staffed with several attorneys. They, in turn, commenced to file lawsuits on behalf of the state. The patent illegality of this arrangement brought about its

the court said:

In *People v. Illinois Toll Highway Com.*, 3 Ill. 2d 218, 236 (1954), this court held that the provision of the Toll Highway Act which authorized the commission to employ counsel was not invalid in that such appointments would be subject to the control, direction and supervision of the Attorney General and the appointees would serve only at his pleasure. Even though this decision marked a deviation from the rigidity of prior decisions on this issue, *Fergus v. Russel* was cited as authority for this holding.

32. *Id.*

33. *See, e.g.*, *Board of Educ. v. Bakalis*, 54 Ill. 2d 448, 299 N.E.2d 737 (1973); *People ex rel. Elliott v. Covelli*, 415 Ill. 79, 112 N.E.2d 156 (1953); *Barrett v. Finnegan*, 378 Ill. 387, 38 N.E.2d 715 (1941); *Saxby v. Sonnemann*, 318 Ill. 600, 149 N.E. 526 (1925).

demise in rather short order, and by March of 1971, all enforcement matters brought by the Agency were being handled through the office of the Attorney General, just as the law clearly dictates. It was legally impossible for the Agency to prosecute through independent counsel. Notwithstanding this, at least one author is still mourning the extirpation of the practice.

In a recent article published in this journal,³⁴ Mr. Steven Klein discoursed at some length on the duties and activities of the agencies created by the Environmental Protection Act. He cites the "involvement of the Attorney General's Office" in enforcement functions as a major problem in the environmental protection program.³⁵ However, Mr. Klein bases his conclusion on purported facts and statements of law which merit opposing comment.

Mr. Klein assumes that the Attorney General has a principal role in directing the enforcement policies of the Environmental Protection Agency: "It is the Attorney General who decides whether a case should or should not be filed, be given high priority or low, settled or contested."³⁶ In point of fact, it is the Director of the EPA who makes those decisions, as he properly should. His technical personnel conduct the field investigations which unearth the facts. Those same people determine whether a violation of the Act has occurred. Priority lists for enforcement action are developed within the EPA under the Director's supervision. When and if a decision to prosecute is made, it is made by the EPA Director. An affirmative decision by the Director will result in a case being referred to the office of the Attorney General where a very narrow area of concern is explored: to wit, is the evidence contained in the file legally sufficient to prove the alleged violation? If it is, a complaint is filed forthwith; if it is not, additional information is requested. Never has the Attorney General declined to prosecute because he differed with the Director's policy decision. To the extent that he has any policies of his own he is free to implement them under the aegis of his own statutory powers.³⁷ He does not

34. Klein, *Pollution Control In Illinois—The Formative Years*, 22 DEPAUL L. REV. 759 (1973) [hereinafter cited as Klein].

35. *Id.* at 772.

36. *Id.*

37. ILL. REV. STAT. ch. 14, §§ 11 and 12 (1971).

exercise any latitude with respect to the policy prerogatives of the Agency's Director.

As in any sort of lawsuit, it is not uncommon for the respondent to an EPA enforcement complaint to at least inquire about possible settlement. These inquiries are inevitably directed to the office of the Attorney General and in turn to the EPA. If the Agency is amenable to a negotiated settlement, the respondent is so advised by the Attorney General and meetings for that purpose are arranged. Agency representatives are present at all such meetings. Offers of settlement are not submitted to the Pollution Control Board without the written approval of the Agency Director. Thus, the Attorney General has no role in the policy decision to settle or litigate. His function is simply to assess the relative strengths and weaknesses of any given enforcement case and advise his client. The ultimate decision, to settle or contest, is left to the Agency.

Mr. Klein is, of course, free to opine that the EPA ought to conduct its law business through independent counsel. Although there is no evidence to suggest that the policy making and legal counsel roles are so inextricably woven together as to place the Attorney General in charge of every state agency he represents, Mr. Klein might persuasively argue for a change in the law if such evidence could be found. By the same token, he is without license to: (a) assume the existence of all critical facts which might support his thesis, and (b) conclude his *faux pas* with an unabashed assertion that the Attorney General's representation of the Agency "was certainly not envisioned by the Environmental Protection Act. The statute empowered the Environmental Protection Agency to prosecute its own cases before the Pollution Control Board."³⁸

Mr. Klein also entertains the theory that the Attorney General's representation of the Agency in enforcement proceedings amounts to a conflict of interest. In support of this notion he has launched a flotilla of rather bizarre examples. For instance:

Respondent polluter and Attorney General, acting on behalf of EPA, agree to a settlement proposal, calling on respondent to pay a nominal penalty, and install barely adequate control devices within an extended period of time. The proposal is submitted to the Board, and is correctly rejected. Respondent appeals, and the Board has to be represented in the appellate court by the Attorney General, who has already gone on record supporting the settlement proposal.³⁹

38. Klein at 773.

39. *Id.*

Mr. Klein asserts that this situation actually arose in *EPA v. Packaging Corporation of America*.⁴⁰ Viewed in the abstract, the example flounders due to the fact that rejection of an offer of settlement is not a final order from which any party to Board proceedings can take an administrative review. The supposed conflict of interest of the Attorney General cannot, therefore, occur.

The *Packaging Corporation* case involved a proposed settlement by which the respondent offered to install water pollution control equipment to bring its discharge into compliance with state standards and pay a penalty of \$3,000. This settlement proposal was offered to the Pollution Control Board with the express approval of the EPA Director. It was rejected by the Board on the sole ground that the stipulated penalty was undersized. The characterization of the control equipment as "barely adequate" is Mr. Klein's, not the Board's. Packaging did not seek administrative review, as Mr. Klein asserts, because, as pointed out above, they could not. Instead, protracted litigation occurred which resulted in the Board imposing a \$10,000 fine. In the final analysis, the Board struck a bad bargain in rejecting the offer of settlement. First of all, a year of litigation intervened between rejection of the settlement and a final order, during which time *no* control equipment was installed. Second, the \$7,000 increase in penalty was more than consumed in litigation costs which benefited no one except respondent's attorneys. Third, the company was sold prior to the Board's final order so that no abatement program could be ordered. Indeed, the only abatement of pollution caused by the facility in question was brought about by litigation in the circuit court between the Attorney General and the facility's new owner. By consent decree the new owner has agreed to completely recycle all wastes from the plant, achieving a "zero discharge."⁴¹

Mr. Klein offers still another example:

The Attorney General, as attorney for the complainant (EPA) represents a client (EPA) before another client (the Board), whom he must also represent if an appeal should be taken from the Board's decision. A clear conflict of interest has arisen.⁴²

40. 5 State of Illinois Pollution Control Board Opinions, No. 72-10; *interim order entered* Aug. 8, 1972; *final order entered* Dec. 7, 1973.

41. *People ex rel. Scott v. Celotex Corp.*, 72 CH 14 (Cir. Ct. Adams County, filed Aug. 25, 1972).

42. Klein at 773.

By any rational analysis, this so-called conflict is anything but "clear," based as it is on a false premise. The Pollution Control Board is certainly not the "client" of the Attorney General in the context of an enforcement proceeding or an administrative review taken therefrom, nor is the Board a "party" to any of those proceedings. The client is the real party in interest—the Environmental Protection Agency whose complaint is presented by the Attorney General. If the complaint is successfully presented, resulting in administrative review at the behest of the unhappy respondent, the Attorney General continues to represent the Agency, seeking to retain that which was won before the Board. Similarly, if the Attorney General is unsuccessful in his case before the Board, and, the Environmental Protection Agency asks for administrative review, the respondent will then bear the burden of defending the Board's action in his favor. In either event, the Board is the "client" of no one, nor is it a party any more than a judge of the circuit court is a party to every appeal taken from an order he enters.

It should be remembered that under the Act the Pollution Control Board wears both adjudicatory and regulatory hats. Persons adversely affected or threatened by a Board regulation may seek administrative review.⁴³ In those instances, and *only* in those instances, does the Attorney General represent the Board as a "client." The Agency is not a party to such a proceeding—the Board is. However, when donning its adjudicatory hat and taking evidence on an EPA enforcement complaint, the Board necessarily loses its "party" status. If that were not the case the Board's standing as an impartial tribunal would be totally undermined and serious questions could be raised about the propriety of the entire enforcement process.

Still straining to support the conflict of interest theory, Mr. Klein makes one last effort:

EPA prepares a case against a major polluter, turns it over to Attorney General's office for prosecution. Attorney General refuses to file, due to sensitivity of subject, issue, or some other political or personal consideration; not to mention delays involved in the actual presentation of cases which all agree should be filed.⁴⁴

43. ILL. REV. STAT. ch. 111½, § 1029 (1971).

44. Klein at 773.

Since no example of this "conflict" is cited as having ever occurred and this writer is unaware of any such circumstance having come to pass, it would appear that the "conflict" is merely hypothetical.

The overall thrust of Klein's article is that prosecution of EPA cases by the Attorney General has been inadequate. Meanwhile, public records of the Pollution Control Board indicate that several hundred enforcement cases have been litigated to conclusion by the Attorney General. An enormous number of pollution abatement projects have been commenced as a result of all this activity, not to mention over one million dollars in penalties assessed by the Board to date. It appears from the record that Mr. Klein's thesis is invalid.

OTHER REMEDIES

Beyond the duty to represent the Environmental Protection Agency in its enforcement matters, the Attorney General is cloaked with other duties by the Environmental Protection Act.

Section 42 of the Act permits the Attorney General to independently enter the civil courts and seek injunctive relief against violations of the Act, Board regulations or Board orders.⁴⁵ This *modus operandi* is an alternative to filing an enforcement complaint before the Board, and complements the powers vested in the Attorney General under his own Act.⁴⁶ Interestingly, the terms of section 42 preclude the Pollution Control Board from hearing a complaint which alleges violation of a *prior* Board order. Jurisdiction over such claims is vested exclusively in the circuit courts.

Section 43 of the Act supplements the injunctive remedy provided by section 42 insofar as it permits emergency *ex parte* injunctions "[i]n circumstances of substantial danger to the environment or to the public health . . . or . . . welfare of persons where such danger is to the livelihood of such persons."⁴⁷ Again, it is the function of the Attorney General to bring such actions.

In addition to all other remedies, section 44 of the Act⁴⁸ declares any violation of the Act or regulations thereunder to be a mis-

45. P.A. 78-862, § 42 (Sept. 14, 1973).

46. ILL. REV. STAT. ch. 14, §§ 11 and 12 (1971).

47. ILL. REV. STAT. ch. 111½, § 1043 (1971).

48. ILL. REV. STAT. ch. 111½, § 1044 (1971).

demeanor. Here, either the Attorney General or the State's Attorney of the appropriate county is authorized to file an information and proceed as in any criminal case. Obviously, the drafters of the Environmental Protection Act recognized that there is more than one way to skin a cat.

CONCLUSION

The complete restructuring of the Illinois environmental program, which took place in a relatively short time frame, has given Illinois the opportunity to become the cleanest industrial state in the nation. Further, the program's unique array of available legal remedies has allowed governmental agencies to muster more weapons in the fight against environmental degradation than their counterparts in other jurisdictions.

Since January of 1969, virtually every major uncontrolled source of pollution in Illinois has been identified and given some degree of administrative or judicial attention. Much still needs to be done. Activity at the federal level will undoubtedly necessitate additional alterations in the Illinois program. Changes in the availability of funding or control technology may require us to reexamine our timetables. Further experience with this young judicial and administrative scheme may teach us that other changes are required. But the modifications of the future will be mere "fine tuning" compared with the massive 180 degree turn of the last five years.

The people of Illinois are clearly committed to improvement in the quality of their environment. The course is charted.

