

ILLINOIS POLLUTION CONTROL BOARD
November 22, 1974

DONALD F. CONAWAY

v.

EDWARD PATTON, JR.

PCB 74-282

DISSENTING OPINION (by Mr. Dumelle):

My reason for dissenting in this case is the inadequacy of the complaint. The complaint filed July 26, 1974 asks

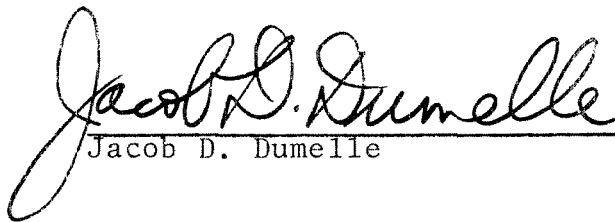
WHEREFORE, the Complainant requests an investigation to be made and if violations are found to exist the proper proceedings be instituted

No mention is made in the complaint that Mr. Patton may become liable to large penalties or to a cease and desist order. One must read the complaint with the Environmental Protection Act to see these implied penalties. There is no proof of service of the Act itself upon Mr. Patton.

The testimony shows that Mr. Patton, among other acts, brought in bags of beer cans upon his bicycle to his home for resale and recycling. The picture, then, is one of someone too impecunious to afford an auto or pickup truck, who is attempting to earn some money by laudably recycling beer cans. Someone who cannot afford an auto can probably not afford an attorney and indeed in this case represented himself. Did he understand that he might be liable to penalties and to a cease and desist order? I think not.


The complaint is not clear and does not give proper notice to the respondent, Mr. Patton, of the possible consequences of this action against him. I feel that a State's Attorney (the complainant) could have drawn a better complaint.

I would have dismissed this action because of the inadequacy of the complaint.



Jacob D. Dumelle

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify the above Dissenting Opinion was submitted on the 22ND day of November, 1974.



Christan L. Moffett, Clerk
Illinois Pollution Control Board