

ILLINOIS POLLUTION CONTROL BOARD
September 23, 1983


PEOPLE OF THE STATE OF ILLINOIS,)
)
Complainant,)
)
v.) PCB 76-84
)
SANTA FE PARK ENTERPRISES, INC.,)
)
Respondent.)

DISSENTING OPINION (by J. Theodore Meyer)


I agree with the majority opinion of the Board when it reached the conclusion that enactment of P.A. 82-654 entirely deprived the Board of sporting event noise jurisdiction, p.4, ¶ 3 of the majority opinion.

I disagree with the majority opinion of the Board finding that removal of most sporting event noise in the purview of the Act amounts to an unreasonable limitation of Article XI, Section 2 of the Illinois Constitution, and the action of the Legislature is, therefore, unconstitutional.

The Pollution Control Board does not have the power or authority to decide the constitutionality of Illinois statutes. The determination on the constitutionality of Statutes is the power reserved exclusively to the judicial branch of our state government. It is violative of the doctrines of separation of powers. The Pollution Control Board is the administrative agency of the executive branch of government having certain limited quasi-judicial functions. Administrative agencies do not and cannot exercise concurrent powers with the judicial branch of government. The action of this administrative agency is an encroachment on judicial power. Constitutionality of statutes is an exclusive judicial power.


J. Theodore Meyer
Board Member

I, Christan L. Moffett, Clerk of the Illinois Pollution Control Board, hereby certify that the above Dissenting Opinion was filed on the 3rd day of October, 1983.


Christan L. Moffett, Clerk
Illinois Pollution Control Board