

In 1962 the Atlantic Cement Company began operating a cement plant outside of Albany, New York. The Company employed over 300 local residents and by 1970 had invested \$45 million in this plant. The plant, however emitted large amounts of pollution as well as causing constant vibrations and loud noise. Local residents filed suit against the Company claiming that the air pollution, the noise, and the vibrations were harming their health and property. The suit asked that the court issue an injunction that would close down the plant until the pollutions and vibrations could be eliminated. The Company was already using the best available technology, which meant that the suit was asking that the plant be closed down indefinitely.

The court refused to issue the injunction. It reasoned that the costs of closing the plant far outweighed the benefits to be gained by the residents. Instead, the court ruled that the cement company should pay residents a one-time fee for damages that could be proven to exist already, and then pay them a monthly fee to compensate them for ongoing harms. This fee was calculated to be a fair market price for what the residents would receive if they were inclined and able to rent their property.

Was the decision of the court in this case fair. If so, why? If not, why not?

ANSWER: The decision in this case has been strongly criticized. The decision seemed willing treat health as deserving no greater legal protection than economic interests. It also ignored the environmental interests of the general public by considering only the claims of people living near the plant. The decision also effectively coerced the property owners by giving them the choice either to rent their property to the company at a price established by the court, or to suffer the consequences without any compensation. Finally this decision amount to granting the company a license to pollute with little or no incentive to improve its pollution control technology. As long as the company is willing to pay a fee established by the government, and as long as it uses the best technology available at the time the plant was built, it is free to pollute the air and harm its neighbors.

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