

against us. This one was allowed to sit on the jury, and I have always wondered whether he was responsible for the elimination of the Audubon Society and of Robert Arbib from the charges.

A fascinating trial

The trial itself was fascinating because the two defendants, through their attorneys, attacked each other. The courtroom attorney for the *New York Times* was a well-known and able lawyer, Floyd Abrams. He castigated Arbib on the witness stand. He asked Arbib where he got his information about the plaintiffs being paid liars, and Arbib said that he got part of it in the lunch room and part of it from Roland Clement. Abrams then asked Arbib what he had done to verify his sources. When Arbib said he had done nothing, Abrams asked him, "What kind of an editor do you think you are?"

In turn, the Audubon lawyer raked John Devlin, the *New York Times* reporter who had published the libelous article, over the coals in cross-examination, and to good effect. The best one could say for John Devlin was that he appeared somewhat inept.

We began to feel quite optimistic as our opponents destroyed each other in the courtroom. The sequence of events had been that Arbib had published a piece in Audubon's *American Birds*, saying that some spokesmen for the pesticide industry were "paid liars." Devlin kept telephoning Arbib to get some names. Arbib at first refused, then asked Clement for some names, and Clement named White-Stevens, Edwards, Spencer, Borlaug, and myself. These names were then transmitted to Devlin by Arbib. Devlin telephoned some of us, but did not publish our rebuttals, except to say that we generally denied the charges.

When Devlin's article appeared, Aug. 14, 1972, Clement decided to write a letter commending it over Arbib's signature. Clement wrote and mailed the letter, then telephoned Arbib in North Dakota and read the letter to Arbib on the telephone, asking Arbib to approve it; Arbib very strongly refused, but the letter had been sent!

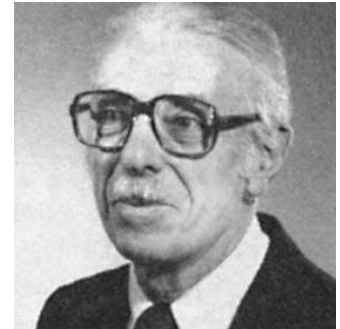
On the witness stand, we emphasized the need for DDT in the developing countries to protect against illness and death from malaria. The opposition did not attempt to impeach our characters or credibility.

Philip Marvin and Victor Yannacone were both witnesses for us. Marvin described how he had looked out of his window and seen many birds, so he decided to compile and compare the Audubon Christmas bird counts. This showed that most birds had increased in numbers per observer during the years of DDT. However, the opposing lawyer accused Marvin of making bird counts by looking out of his window—a ridiculous charge, since Marvin had explained that this was simply what had gotten him started on examining the actual data compiled by Audubon.

Yannacone described the meeting that Clement and he had attended with the Environmental Defense Fund, in which

In Memoriam: Thomas H. Jukes

Thomas H. Jukes (1906-99), an emeritus research chemist at the University of California at Berkeley, died on Nov. 1, 1999, at age 93, after a short illness. Jukes had a wide-ranging scientific career, including pioneering work in chemotherapy at Lederle Pharmaceutical Laboratories, classical research on nucleotides and the amino acid code, and many years as associate director of the space sciences laboratory at the University of California.



He was the author of hundreds of scientific articles and several books, and he was working at the university until his most recent illness.

Jukes became a leader of a group of scientists who fought for the truth about DDT, and opposed the environmental extremists who wanted to ban DDT and other pesticides. He was relentless in writing letters to editors of newspapers and producers of television shows, correcting their propaganda on DDT, and stressing that DDT had saved more millions of human lives than any other man-made chemical.—Marjorie Mazel Hecht

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Enter Judge Kaufman

This was the first libel case the *New York Times* had lost in many years, and the newspaper appealed the case. Quite conveniently, the appeal was heard in the U.S. Second Circuit by Judge Irving Kaufman, a close friend of *New York Times* publisher Arthur Ochs Sulzberger.

The case, publicized as one of Kaufman's most important decisions involving the First Amendment, was known as *Edwards v. the National Audubon Society* (1977). In it, Kaufman wrote that a newspaper does not commit libel by fairly and accurately reporting accusatory statements by a responsible public organization, even if the statements are clearly defamatory and false. Just how a public organization can be "respon-