

JAMES E. DEWEY, called as a witness in behalf of the plaintiffs, being duly sworn, testified as follows:

THE WITNESS: James E. Dewey. \* \* \* 1270 Ellis Hollow Road, Ithica, New York.

DIRECT EXAMINATION by MR. YANNACONE:

Q. What is your occupation, Dr. Dewey? (318)

A. I am professor of entomology, program leader chemical pesticides program, New York State College of Agriculture, Cornell University, Ithica, N. Y.

Q. And you are here at the request of the Suffolk County Mosquito Control Commission?

A. I was subpoenaed to appear, yes, by them. I believe it was they who subpoenaed me.

Q. Were you duly paid the subpoena fee?

A. Not to my knowledge. It being a state organization, I don't think this is customary.

Q. Your fee is paid by whom while you are waiting out the trial of this (319) action?

A. I am being paid by my employer. \* \* \*  
Cornell University College of Agriculture.

Q. And in what capacity are you down here?

A. As program leader of the chemical pesticide program of the New York State College of Agriculture, Cornell University.

Q. And you are the representative of the College of Agriculture, Cornell University?

A. I think you could say that.

MR. YANNACONE: I have no further questions. \* \* \*

THE COURT: Doctor, I would love to ask you a lot of questions on what to do on my place, if I could only get a hold of you.

MR. YANNACONE: We will have a gardening and farming course afterwards with all the experts. I will now call Dr. Bast.

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THOMAS F. BAST, called as a witness in behalf of the plaintiffs, being duly sworn, testified as follows:

THE WITNESS: Thomas F. Bast. \* \* \* 14 Hidley Road, Troy, N. Y.

MR. CORWIN: May I interrupt the proceedings for a minute, Your Honor? (320) I now move to strike out the testimony of Dr. Dewey on the ground that it is irrelevant and immaterial. I don't know whether this witness' testimony is on its way to being irrelevant likewise.

However, the testimony of Dr. Dewey has no bearing to any allegation in the complaint or issue or otherwise. (321)

THE COURT: I agree with you, but I don't know about whether giving his name has any effect. Maybe I don't understand something that is going on around here.

MR. CORWIN: I think it is even incompetent. I don't like to use that expression in connection with the doctor, but I think it may be incompetent.

THE COURT: Well, asking a witness his name and his address, I don't know how that is incompetent.

MR. CORWIN: Well, it is irrelevant, primarily, Your Honor. I use the word "irrelevant".

THE COURT: His name is irrelevant? I think it is a lovely name.

MR. CORWIN: I am not talking about his name. I am talking about his entire testimony, and I am serious, Your Honor.

THE COURT: You mean Professor Dewey's testimony? (322)

MR. CORWIN: Yes.

THE COURT: What did he testify to?

MR. CORWIN: Nothing relevant to this case, and that is why I am moving that it be stricken.

MR. YANNACONE: Judge, if you want to, you can go right ahead and strike it. I'm not going to oppose the motion.

THE COURT: All right. Upon consent it is stricken.

MR. YANNACONE: No, Your Honor, not on consent. I am just not opposing the motion.

MR. CORWIN: Then I move it to be expunged.

THE COURT: We are not playing games in this courtroom. I am trying to try two cases at one time, and I am a little bit too old to be playing games.

MR. YANNACONE: We are not playing games, Your Honor.

THE COURT: All right. Then let us get on with this trial.

DIRECT EXAMINATION by MR. YANNACONE (323)

Q. Doctor, what is your occupation?

A. Presently I am the senior medical entomologist of the New York State Health Department.

Q. How do you come to be present at this time?

A. Unfortunately I got a subpoena.

Q. Fortunately?

A. Unfortunately.

Q. Were you paid a subpoena fee?

A. No.

Q. Are you being paid your salary while you are here by the state?

A. By the State Health Department. I hope so.

Q. . . . You won't know until the next pay period?

A. That's correct.

Q. Are you here officially as a representative of the State Health Department?

A. Well, I assume so.

Q. Are you here officially as a representative of the Pesticide Control Board? (324)

A. No, sir.

MR. YANNACONE: I have no further questions.

CROSS EXAMINATION by MR. CORWIN:

\* \* \*

THE COURT: All right. Go ahead, please, and relate your qualifications. What are your qualifications? (325)  
(326)

A. I have been employed by the United States Department of Agriculture, United States Forest Service, and I have been on the faculty of Rutgers University. I am presently with the State Health Department. I have a bachelor's degree, a master's degree, and a doctor of philosophy.

MR. YANNACONE: In?

THE WITNESS: The bachelor's degree is in zoology and entomology. The master's degree is in entomology, and the doctor's degree is in entomology. My thesis was on principally ecology, the mosquito ecology to be exact. \* \* \*  
I have about 17 publications, I think. (327)

\* \* \*

Q. Now, you say that you made some studies in connection with mosquito life?

A. Yes. I will say between eight and ten publications were directly associated with mosquito biology, ecology, or control or in behavior.

Q. Have you done any work in connection with the damage done by insects to flora? (328)

A. Yes, to the extent that I worked on the Engelmann's spruce beetle outbreak in Colorado.

\* \* \*

Q. Was that concerned with forestry and the use of pesticides?

A. Yes.

Q. Pesticides used to destroy the insects that were destroying the forests?

A. Yes.

Q. Was DDT one of the chemicals that was under consideration?

A. Not in this particular project, no.

Q. Have you ever used or have you ever done any field experimentation work involving the use of chlorinated hydrocarbon compounds?

A. Yes.

Q. Are you familiar with how DDT builds up in the food chain?

A. Yes, I am. (329)

Q. Do you know whether there is any lake trout in Suffolk County or not?  
A. Being a relative newcomer to the State of New York, and knowing what little I do about topography down here, I would be sort of surprised if there were lake trout.

THE COURT: I will put it to you this way: I will take judicial notice of the fact that if I ever caught one, I would bring it right in and hang it in the courtroom. There aren't any down here. Anybody who ever held a rod in his hand knows that.

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MR. CORWIN: I didn't know that until today, Judge, and I have held a rod and line in my hand for many, many hours.

THE COURT: Did you ever get a lake trout around Suffolk County?

MR. CORWIN: No, Your Honor. I am a salt-water fisherman.

\* \* \*

MR. CORWIN: I don't have any further questions of this witness (330) at this time.

MR. YANNACONE: I have no questions, Your Honor.

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