
EDF and Madison

From today's vantage point, what was the significance of the Environmental Defense Fund, its attorney Victor Yannacone, and his legal approach to solving ecological problems?

Soon after the close of the Madison hearings Yannacone and EDF severed relations, each going off in his own direction. The reasons for this were the many personal, social, and political abrasions among the trustees and financial backers. Most observers of the falling out would agree that the EDF-Yannacone combination carried within it the seeds of its own destruction. And perhaps the only thing which it could not tolerate was success.

Until the second stage of the Madison hearings, the group had almost no sense of professionalism; it was a mobile group willing to go anywhere just for the joy of taking on the big boys who were screwing up the environment. There was little money and the lack of money was replaced by that intangible—enthusiasm. Everything done by EDF was done under pressure and was loose. Thus, the small group of amateurs, who could be thrown out of one court in Michigan at 11 A.M. and file the same suit in another court two hours later, could drive terror into the hearts of a calcified DDT industry. This penny-ante approach was effective; the men had nothing really to lose. They could strike anywhere, whipping up a complaint in hours if need be.

But the stakes were suddenly raised when they got to Madison. Even though EDF had been preparing for a massive legal and scientific showdown with the DDT industry, the scientists did not realize the social implications of playing for big stakes. EDF suddenly became involved professionally up to its neck and its members could no longer be their own bosses.

The \$10,000 donated by Dr. H. Lewis Batts to launch EDF's first lawsuit two years before, became a drop in the bucket. EDF wasn't in industry's league as far as finances went, but instead was dependent on massive fund-raising drives to sustain the Madison effort. And money is rarely given without some sort of string attached. Each of the groups involved with the petitioners had its own special interests and its own axe to grind whether it be EDF's choice of witnesses or Yannacone's often harsh and abrasive courtroom behavior.

EDF along with the petitioners became unwieldy at Madison. Its amateur days were over. The group suddenly had to make the transition from conservationists out to save the world and enjoy the process to a group of people whose scientific reputations were at stake. With almost every word spoken at the hearing being transmitted around the country, there was little room for error. The looseness had to go. EDF had to become tough and had to become assured of its own importance in order to bear down for the long fight.

Yannacone had his own special set of problems. He alone of all of EDF's founders was a professional in the sense that the work he performed for EDF was the type of work on which he depended for his livelihood; his courtroom work was his profession. This situation was not true for the other members of EDF's board. They were all scientists with other jobs who used spare time to testify or help out in EDF's cases. They made sacrifices but the kinds they made were qualitatively different from those which Yannacone made.

When the national spotlight turned on him, Yannacone had no laboratory to retreat to if things went badly for EDF. For the scientists, their egos were involved; for Yannacone, his professional identity. When it became known that Madison wasn't going to be a one-week frolic, this difference became crucial. Suddenly Yannacone was in the national legal big time; he became the subject of major articles in such publications as *Sports Illustrated*. He was a legal star being billed as the lawyer who wanted to save the world, and Wurster's slogan of "Sue the Bastards" became Yannacone's calling card.

There is no question that some of the other members of the EDF board became jealous of Yannacone's quickly rising star and this in some ways led to EDF's split but there was more to it than mere jealousy. The others were still amateurs and Yannacone was being billed as a professional. The others were dwarfed by him and Yannacone's often arrogant behavior capitalized on it. The small group of amateurs no longer existed.

Yannacone thought of himself as a full-time environmental lawyer and the national press encouraged this notion to the fullest. But there was one ingredient necessary to make him into this legal specialist and that of course was money. And money finally came, principally from The Ford Foundation but channeled through the Rachel Carson Fund. Yannacone began being paid his expenses and encouraged to establish a law office for environment defense. The demarcation between the amateurs and the professional was completed. But a professional surrounded by amateurs, even as battle hardened as they were by the end of the Madison hearings, spelled trouble.

Because he had accepted the challenge and opportunity to become the lawyer for the environment, Yannacone was now dependent upon EDF money to cover his mounting overhead expenses, and he was put in the position of having to take orders from those who controlled that money. Yannacone became immediately accountable to other

members of EDF's board, the National Audubon Society, and the Ford Foundation, each of whom more or less demanded that he conform to their wishes. Yannacone was in the paradoxical position of giving orders during the lawsuit to all of the scientists involved and yet having to take orders from them afterwards.

This conflict between amateurs and professionals has beset many before; the outcome was inevitable and by September, 1969, the group was completely divided.

What will happen next either to Yannacone or to EDF is still somewhat nebulous. But whatever occurs, that group of professors gathered around the State University of New York at Stony Brook and their country lawyer from Patchogue have left an indelible mark on the public both from an environmental and legal standpoint.