

In response to Ward Morehouse's review of Jamie Cassels' book *The Uncertain Promise of Law: Lessons from Bhopal* (July/August 1994); **The Ecologist** received the following letter from Bud Geo Holman of the law firm Kelley Drye & Warren:

"Let me set the record straight that Union Carbide, its lawyers and lawyers from the New York-based firm that assists Carbide on Bhopal litigation (Kelley Drye & Warren) continue to be absolutely convinced that the terrible tragedy resulted from the deliberate actions of a disgruntled Indian employee at the plant. No Carbide or Kelley Drye & Warren lawyer ever told a Yale Law School audience otherwise. I gave a talk at Yale and made it clear that employee sabotage was, in fact, factually and legally well based. For Mr. Morehouse to state the opposite is outrageous and false. The only public relations ploys that deserve to be questioned are those that he and the so-called International Coalition for Justice in Bhopal have perpetuated for nearly 10 years."

Ward Morehouse writes in reply:

"At a session of the Yale Forum on International Law on 14 December 1989, I heard Paul Doyle, Mr. Holman's colleague at Kelley Drye & Warren, concede under sharp questioning (not by myself) that what Mr. Holman calls "the deliberate actions of a disgruntled Indian employee" would not have any significant bearing on the legal determination of liability. If the sabotage theory had no legal merit, what was its purpose other than as a public relations ploy to make Carbide appear the victim, not the victimizer, and to divert attention from the real causes of the disaster in the careless design and operation of an extremely hazardous chemical facility?

Mr. Holman claims the sabotage theory is 'factually and legally well-based.' But according to Carbide's own safety manual, it would have taken 23 hours for water deliberately introduced in the storage tank containing methyl isocyanate to produce a violent, runaway reaction. Yet this reaction had already started at the time Carbide says the water was added and was spewing lethal gases into the atmosphere and over the sleeping city of Bhopal an hour and a half later.

This and other evidence which undermines the factual basis of the sabotage theory, including a denial by the alleged saboteur who says Carbide framed him is published in *Bhopal: The Inside Story* by T. R. Chouhan and other former Carbide workers. In the book the workers, the only direct eyewitnesses to the actual event, tell their side of the story.

Holman knows full well that there are only two defenses against strict liability: 'act of god' and 'act of stranger'. Neither applies to the Bhopal disaster. It is well established under case law that the act of an employee cannot be construed as an act of a stranger. Furthermore, if Carbide's sabotage theory were to be taken seriously as the real explanation of what actually happened, Carbide would become an accomplice after the fact in helping to conceal a felon by not revealing the name of the 'disgruntled employee' to the relevant authorities.

T. R. Chouhan writes: 'The most compelling evidence of the false claims of the sabotage theory is its abandonment by the officials of Carbide's Indian subsidiary in the Bhopal Court which is hearing charges of culpable homicide against them for their role in the Bhopal disaster. Rajendra Singh their chief lawyer informed the court that the water had indeed entered tank E6ip through the Relief Valve Vent Header (RVVH) as a consequence of the water washing being undertaken by plant personnel instructed to do so by their superiors. This explanation means that the water was not inducted in the tank by a water hose connected to the tank by a single disgruntled worker as the sabotage theory alleges.'"