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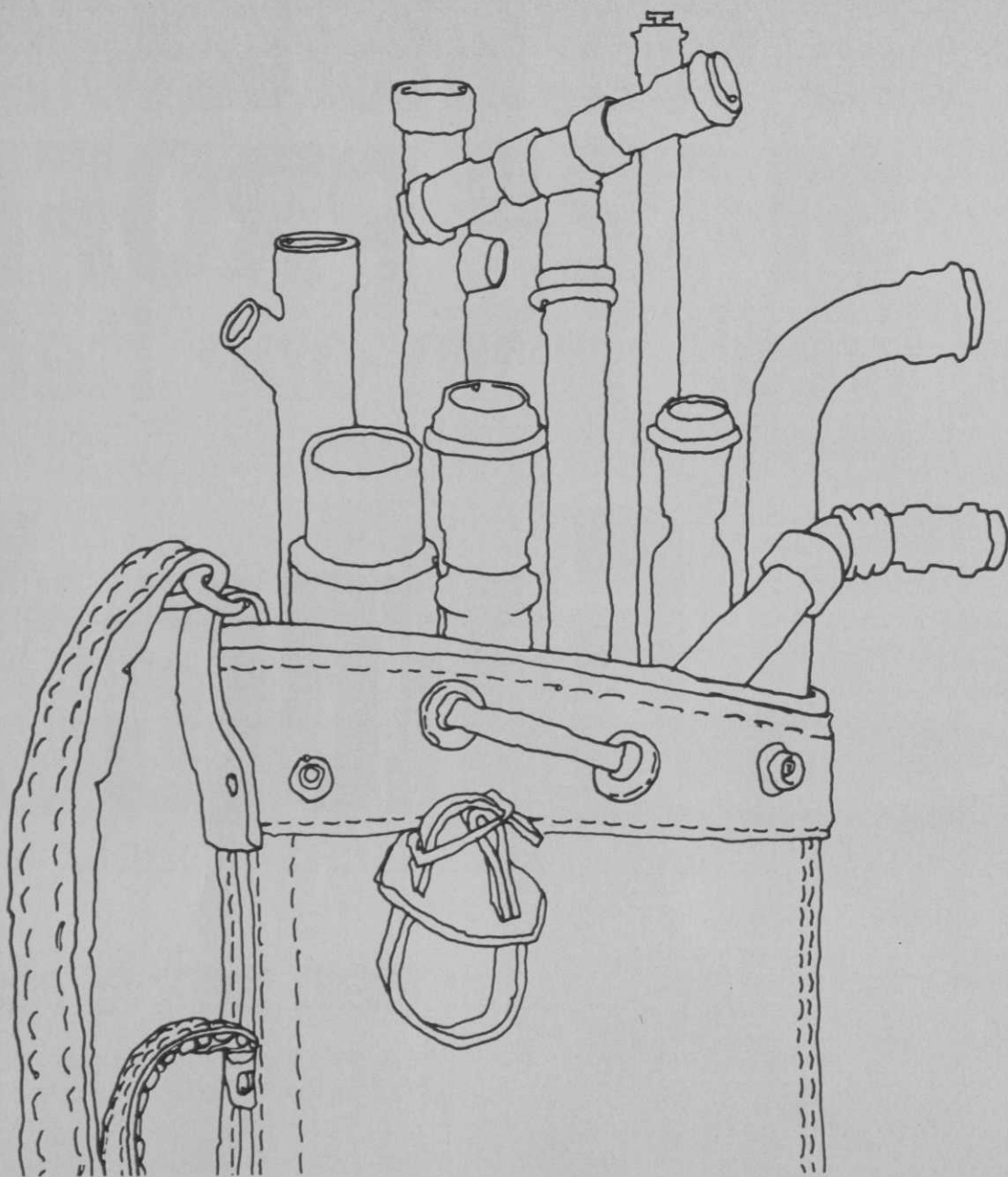
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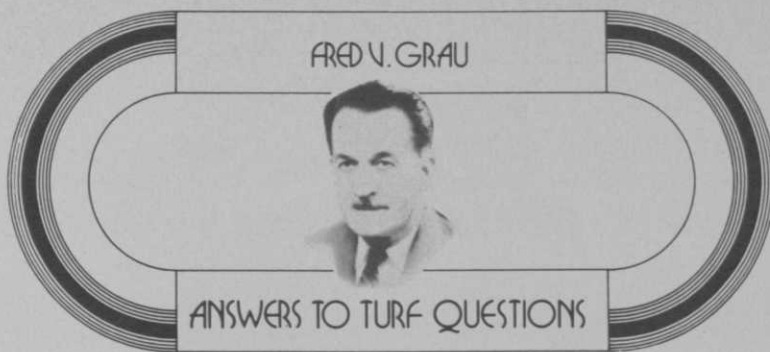
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## Not so new after all

In searching for a lively topic for these editorial comments, I chanced to come across a copy of *GOLFDOM* for July, 1936. That was my second year as extension agronomist for Penn State, some 35 years ago.

On page one there is a full-page advertisement for Worthington Mowers, Stroudsburg, Pa., which pictures the Overgreen Tractor with three putting green mower units. The long control handles allowed the greensman to walk without stubbing his toes. The price, complete, was \$550, but the ad said, "Saved . . . \$2,000."

Why did the Overgreen fall from grace? It seemed like such a good idea. It was best operated in a circular pattern which eliminated the "striping" that is so familiar when single units go back and forth. Did the units tend to "float" and allow thatch to develop? Long after the triplex idea was discarded the tractor units were being used to rake traps. Some still exist in private storage, probably in someone's attic.

Now, some 30 years later, the three-gang principle has been revived for mowing putting greens. The excellence of the engineering is evident on all three manufacturers' machines. The cost runs considerably in excess of \$550, but no one complains because the new triplex machines save time and labor, both of which translate into money!

The modern triplex putting green mowers bring economies, but perhaps more important to many people, they permit the time-honored "striping" of the greens. The triplex is somewhat akin to the golf car. At first they were mistrusted; dire things were predicted for them; cost was too high. Now, for both outfits, we know that they are here to stay.

We salute the engineering genius of the firms that have developed these re-

markable machines for turfgrass.

### Prices reasonable, hopefully

**Q**—*We are considering reseeding our fairways this fall to a Pennstar-Merion-Fylking-Pennfine combination. What do you know about the possible cost of such an undertaking? Are prices on the way up like most everything else or might they be a bit more reasonable?* (Ohio)

**A**—In very recent conversation with Mr. Herron, one of the top seedmen in the country, I learned that prices might be expected to be more reasonable (downward trend) this summer. One thing we cannot predict in advance is the potential of the 1971 crop of seed which now is ripening in the Pacific Northwest. I cannot in all conscience place a dollar value on your reseeding program—too many imponderables. You will be well advised to reduce seeding rate-per-acre to about half of that which you normally would budget for using ordinary bluegrass and ryegrass. The use of a modern scarifier-seeder is a must for a satisfactory job. And don't forget to include some slow-release nitrogen to lend assurance to your stand.

**Q**—*On our golf course the irrigation water has a high pH; as a result, our soils stay at pH levels of 7.4 to 7.9. We apply aluminum sulfate twice a year and fertilize almost exclusively with ammonium sulfate, but we cannot bring the soil pH any lower. What do you suggest?* (Pennsylvania)

**A**—From what I understand you have excellent turf, so I suggest that you keep right on doing what you've been doing. There is nothing wrong with pH values of 7.4 to 7.9 for turf. Research has showed that most cool-season grasses do well at even higher pH values, as long as the nutrient supply is adequate. I would see to it that the source of potash is sulfate of potash so that you maintain the sulfur levels.

**Q**—*Has anyone in your knowledge contemplated a system of "exchange superintendents," whereby there could be developed an exchange of knowledge and experience between nations? For instance, I would like to become more familiar with American grasses and techniques by working side-by-side with one of your top superintendents. Then I would accord an American superintendent the same privilege to work with me on my course. Any comment would be appreciated.* (Australia)

**A**—So far as I know you have opened a blank page in the golf book—but a page on which "International Cooperation" would make a fine heading. At the moment I can offer no opening, but you may be sure that this item will be read by many. Who knows, someone may become interested in your idea and offer to open negotiations. It gives me particular pleasure to give voice to your proposal and to help promote it.

With the current interest in Penn-cross in South Africa, there might be some interest there also in sending an "exchange superintendent" here to learn more about the grass.

**Q**—*Drip irrigation seems to be working very satisfactorily for a number of crops in the West and up to 60 per cent savings of water are reported. Does D.I. have a future for turfgrass?* (Colorado)

**A**—So far as we can tell, the drip method has not been adapted to turf, nor do we think it will be adopted soon. Off and on we've seen sub-irrigation trials here and there, but nothing of a practical solution has been devised. It seems very much worthwhile to pursue the subject hoping for a breakthrough. We need to find ways to conserve water because soon we will have a "balanced water economy"—i.e., we will be using it as fast as it can be accumulated. □





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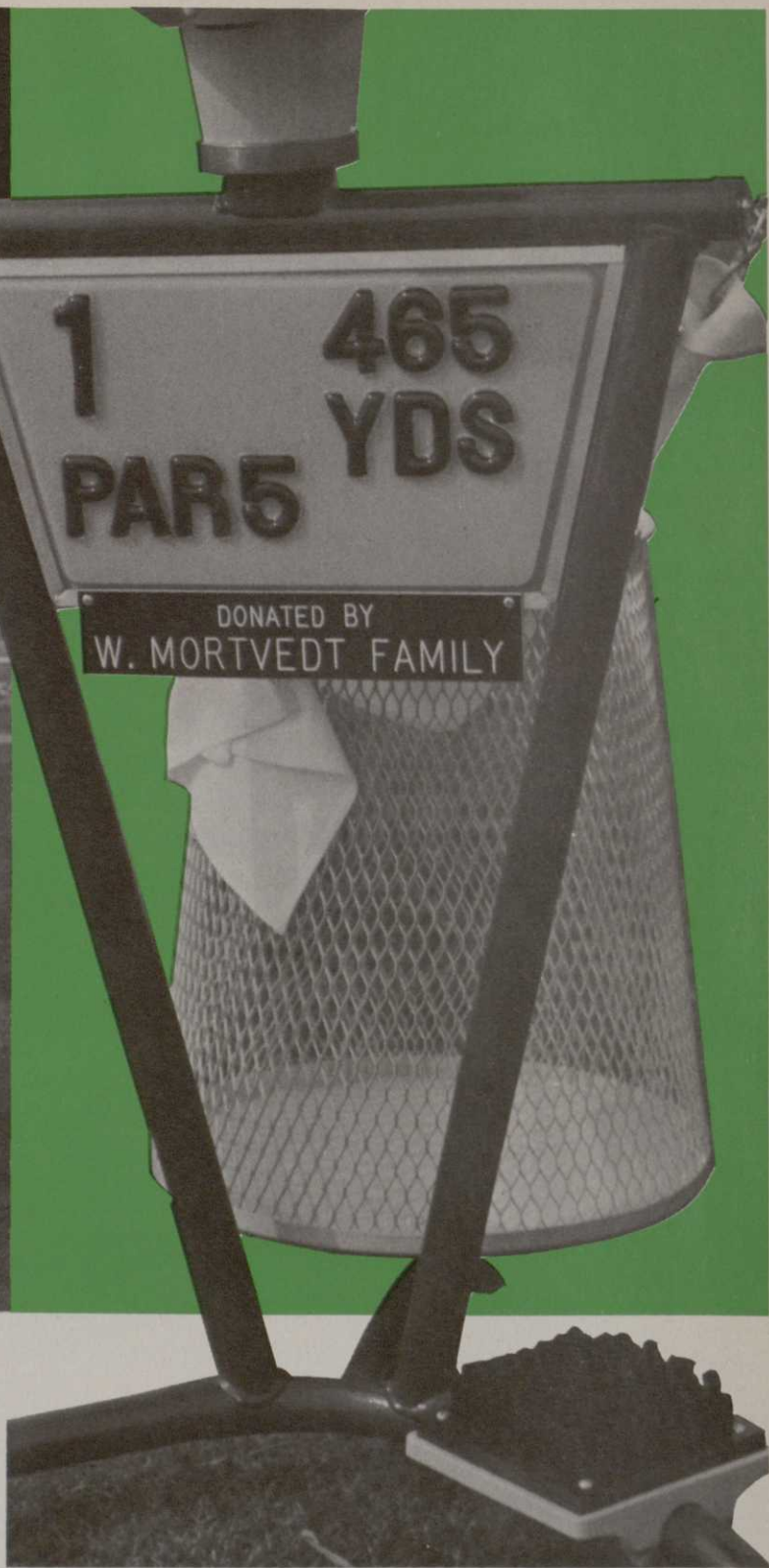
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CLUBS AND THE LAW:

# STAY ON TOP OF THE ACTION



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**Clubs that discriminate are going to face more and more law suits aimed at changing their policies.**

**The courts will ask: To what extent may a right be exercised when it conflicts with the rights of others or with the good of society?**

---

By Jack P. Janetatos

General Counsel, National Club Assn.

*Of the many current law suits involving civil rights and private club policies, the Irvis case has attracted the most attention. This case is indicative of the types of legal action which golf clubs can expect to experience in the future and it is an excellent basis for an analysis of the complex problems involved.*

Recent law suits aimed at revoking private club liquor licenses have been under considerable discussion among members of clubs throughout the country and within the leadership circles of most club and golf organizations. No less than a dozen such suits and new statutory enactments are now in the works—all of these aimed at preventing clubs from holding state liquor licenses, if the clubs discriminate.

A recent action by the Supreme Court of the United States highlighted the issues on newspaper front pages throughout the country, causing both alarm in country club locker rooms and joy within the memberships of many civil rights organizations.

Late last summer a Federal District Court in Pennsylvania handed down a decision in the now famous *Irvis* case. The court held that a liquor license granted to a Moose Lodge in Harrisburg, Pa., by the Pennsylvania Liquor Control Board was invalid because it was in violation of the Equal Protection Clause of the 14th Amendment to the United States Constitution.

In late 1968 a member of the Harrisburg Moose Lodge brought to the lodge's dining room a Negro guest, K. Leroy Irvis, the majority leader of the Pennsylvania House of Representatives. The employees of the lodge refused to serve Irvis solely on the ground that he was black, and the law suit resulted.

First, Irvis began a direct attack on the discriminatory practice by complaining of the refusal of service to the Pennsylvania Human Relations Commission. He argued that the club's dining room was a "place of public accommodation," and that he was therefore entitled to service under Pennsylvania's Human Relations Act. The commission agreed, but on appeal, a Pennsylvania state

court held that the Moose Lodge dining room was not a place of public accommodation and consequently was not covered by the Human Relations Act.

Irvis, when finding that a direct attack on the racially discriminatory practice of the club brought no relief, filed a suit in the Federal District Court, complaining that the discrimination practiced by the Moose Lodge was in violation of the Federal Constitution.

The Federal court judges agreed with Irvis. They found that the state exercised broad control over liquor licensees and that this broad control made the action of the licensee the actions of the state. Because the 14th Amendment prohibits discrimination by a state government, the court was of the view that this alone was sufficient to support their decision. They went on to say, that even beyond this, the state required a club liquor licensee to abide by its own by-laws. Because the lodge by-laws required racial discrimination, the state was in effect requiring discrimination. "The State has used its great power to license the liquor traffic in a manner which has no relation to the traffic in liquor itself," the Court said, "but instead permits it to be exploited in the pursuit of a discriminatory practice."

The litigation in the Federal District Court in Pennsylvania had two principal defendants: the State Liquor Control Board and the Harrisburg Moose Lodge. The Liquor Control Board apparently was content to let the matter rest at that point and abide by the order of the court directing the board to revoke the lodge's liquor license. The Harrisburg Lodge, however, was not satisfied with the situation. The lodge filed an appeal in the Supreme Court of the United States, and in late March, 1971, the Supreme Court agreed to hear the case under the somewhat unusual procedure by which it postpones a decision as to whether an issue should be adjudicated until after hearing oral arguments in the case.

The principal issue now before the Court, then, is whether the granting of a liquor license to a club constitutes state action so that the action of the club in discriminating will be considered to be the action of the

state. Thus, by an indirect attack upon a state liquor licensing law, the Supreme Court has before it a difficult question regarding racial discrimination in private clubs.

Several other similar cases are pending in various state and Federal courts throughout the country. In addition some state legislatures have passed laws requiring the absence of discrimination on the part of liquor licensees. All of this legal activity will undoubtedly be affected by the Supreme Court decision in the *Irvis* case.

Clearly, clubs have been under growing pressure in the civil rights area for several years. There has been, of course, legal activity consisting of both direct attacks and indirect attacks such as the *Irvis* case. At least of equal significance have been the efforts of members of clubs to abolish discriminatory practices in their own clubs. Direct attacks either by law, such as the Federal Civil Rights Act of 1964 and the litigation, or by members working to change club membership and guest policies from within, have not yet worked any widely recognized changes in these policies. In light of the lack of success with direct attacks, advocates of non-discrimination have pressed the indirect attacks to effect their goals.

Nonetheless, the issue which must be faced goes to the heart of racial and religious discrimination. There is on the one side a legally recognized constitutional right of association and on the other side the right of access to the institutions of society. These lie at the heart of the 13th and 14th Amendments to the Constitution. It would appear that when a private club discriminates in its membership and guest policies, the rights on both sides of the issue come into conflict.

Perhaps it over simplifies the matter to think that the conflict can and should be resolved judicially, but it seems that a resolution is called for. If the Government is to guarantee the rights of association and access, it has the obligation to determine the limits of each right and to provide a resolution to the problems that occur when the rights come into conflict. Our legislatures and our courts are established to make these difficult determinations. The legisla-

*(Continued on page 28)*

tive and judicial machinery exists to develop the resolution.

It certainly should not be said that the solution to the problem will be easy or that it will be simple. Perhaps it may even be that there are several resolutions to the conflict that can be developed and that can exist contemporaneously. The District Court in the *Irvis* Case recognized the existence of a right to associate, but denied the club the right to do so when it made use of a state liquor li-

cense. The Court said, "There is no question here of interference with the right of members of the Moose Lodge to associate among themselves in harmony with their private predilections. The State, however, may not confer upon them in doing so the authority which it enjoys under its police power to engage in the sale or distribution of intoxicating liquors, under grant from the State which is conditioned in this case on the club's adherence to the requirement of its constitution and customs that it must practice discrim-

ination and refuse membership or service because of race."

The court here provided no resolution to the problem, but merely posed the question which must now be resolved in the Supreme Court.

If the Supreme Court is to face this conflict in rights squarely, it must first look to the action of the Moose Lodge to find whether the lodge is doing something which is unlawful or whether it is, indeed, exercising a constitutional right. The analysis of that portion of the problem would not seem difficult in the light of prior judicial decisions regarding the right of association. Indeed, the District Court in *Irvis* did this and found that it was the right of association which was being exercised. To go beyond this, it can be said that the objectionable act of the club was the exclusion of *Irvis* from its facilities, but is not a right to exclude a necessary correlative of the right to include, which is the essence of the right of association? If persons have any right to associate, it must be a right to associate with whom they please without interference from those they do not wish to include.

What then is a right? In order for there to be a right, it must be that the Government will protect one's opportunity to exercise the right and will restrain those who wish to interfere with it.

The District Court in *Irvis* recognized the Moose Lodge's right of association and claimed that it did nothing to obstruct the exercise of that right in merely denying the club the privilege of dispensing liquor for use in connection with the exercise of their right of association.

The next step in the resolution of the difficulty is for the court to examine the right of *Irvis* and of others, who are excluded by clubs, to equal treatment by the Government. Clearly, if the state were to grant liquor licenses to organizations composed of white persons and were to deny licenses to organizations composed of black persons, doing this on racial grounds, the Constitution would be violated. If the state remains neutral and issues licenses to any organization regardless of its racial makeup, then it would appear that no violence is done to the constitutional requirement.

(Continued on page 45)

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# BEATING THE CHEMICAL BANS

Many forward looking golf course superintendents have solved the restrictions on turf chemicals by finding effective alternatives. The superintendent is also in the position to decide the destiny of these controversial chemicals

By Jerry A. Olson

Associate Editor

**T**he heated conservation controversy currently crossing the country regarding the use of highly toxic, long residual chemicals has placed the golf course superintendent in a delicate position.

The problem is not whether the golf course superintendent will have chemical restrictions—it's past that stage. Rather, the problem is how many restrictions he is going to have to cope with.

The superintendent is caught in a dilemma.

He can be defensive, accusing ecologists of being uninformed emotionalists, who would rather see blights, pests, weeds and fungi invade the environment. Or he can take a leadership position by evaluating alternative chemicals, which in some instances are more effective, less harmful to the environment and still produce the high quality of turf demanded by the members.

Because of the superintendent's expertise and knowledge of chemical application and turf, combined with his desire to use the safest chemicals available to minimize any harmful effects on the environment, the superintendent is in a position to "work within the system" to find alternatives and implement positive, responsible legislation for controversial chemicals.

New York State has already banned 10 products, including DDT and mercury. Massachusetts, Maryland, Ohio, California and Florida have passed stringent laws restricting use of these chemicals. The indiscriminate use of pesticides on lawns and trees by the homeowner has raised serious doubts on the advantages versus the detriments of these chemicals. Unfortunately, the farmer, forester and golf course superintendent must bear the brunt of their haphazard practices. The deaths of too many children and pets, wild birds, swordfish and tuna, coupled with the national pollution problem, have sounded the death knell for DDT, mercury and some arsenicals.

Some club members are now espousing a clean environment, along with beautiful turf.

The two goals are not incompatible. Superintendents throughout the nation have found safer alternatives to DDT, mercury and arsenicals. Of course, the two major problems now facing the superintendent are: the substitutes cost more; and questions as to whether the alternative chemicals will do an effective job.

According to Fred Harris, past president of the Southern California Golf Course Superintendents Assn., and superintendent at Los Coyotes CC in Buena Park, Calif., mercury is still available in his area, although manufacturers have come out with substitutes for mercury and other herbicides. "Prior to the legislative restrictions," Harris says, "if a manufacturer introduced a new chemical on the market, the superintendent was hesitant or unwilling to take a chance on it. After all, DDT and mercury were doing an effective job and were cheap, so why switch from proven chemicals?" Harris feels the new restrictions can be looked at positively, because now the superintendent is

discovering new chemicals which are in many cases better than those under fire. The only substitutes where superintendents will notice a great price differential are in alternatives for DDT. The very advantage of DDT, its long residual power, is the reason it is under fire. Some DDT substitutes, such as Sevin and mechoxychlor, cost more because of heavy research costs and the increased number of applications.

Ted Horton, secretary of the Metropolitan GCSA and superintendent at Winged Foot, GC, Mamaroneck, N.Y., takes a positive attitude towards New York's strict bans on DDT and mercury, used mainly as fungicides with side effects on *Poa annua* control. "Technology will be able to supply alternative chemicals for the superintendent," Horton says, "and increased demand and competition will help to keep the price down."

According to Andy Androsko, cooperative extension agent for New York's Westchester County, New York superintendents must apply for a permit to handle chemicals which are not banned by the state. DDT, mercury compounds, Bandane, BHC, endrin and toxaphene are banned by New York. "The only persons who can receive this permit to use restricted chemicals are those who handle pesticides as a normal part of their occupation," Androsko says. "Therefore, the homeowner does not qualify for these restricted chemicals, but the golf course superintendent does." New York has two classifications of restricted chemicals available to the superintendent: highly toxic, with over 55 chemicals, including Guthion, Paraquat and parathion; and long residual chemicals.

"There is possibly a tendency for some superintendents to feel we have overreacted," says one New York state official. "This misunderstanding is due to some of the loopholes in the restrictions and legislations. Hindsight has shown us some of the weaknesses of the bans and restrictions and we are now moving to correct them," he says.

One state official, who works closely with New York superintendents, Ray Dylewski, horticultural inspector for the New York State Department of Environmental Con-