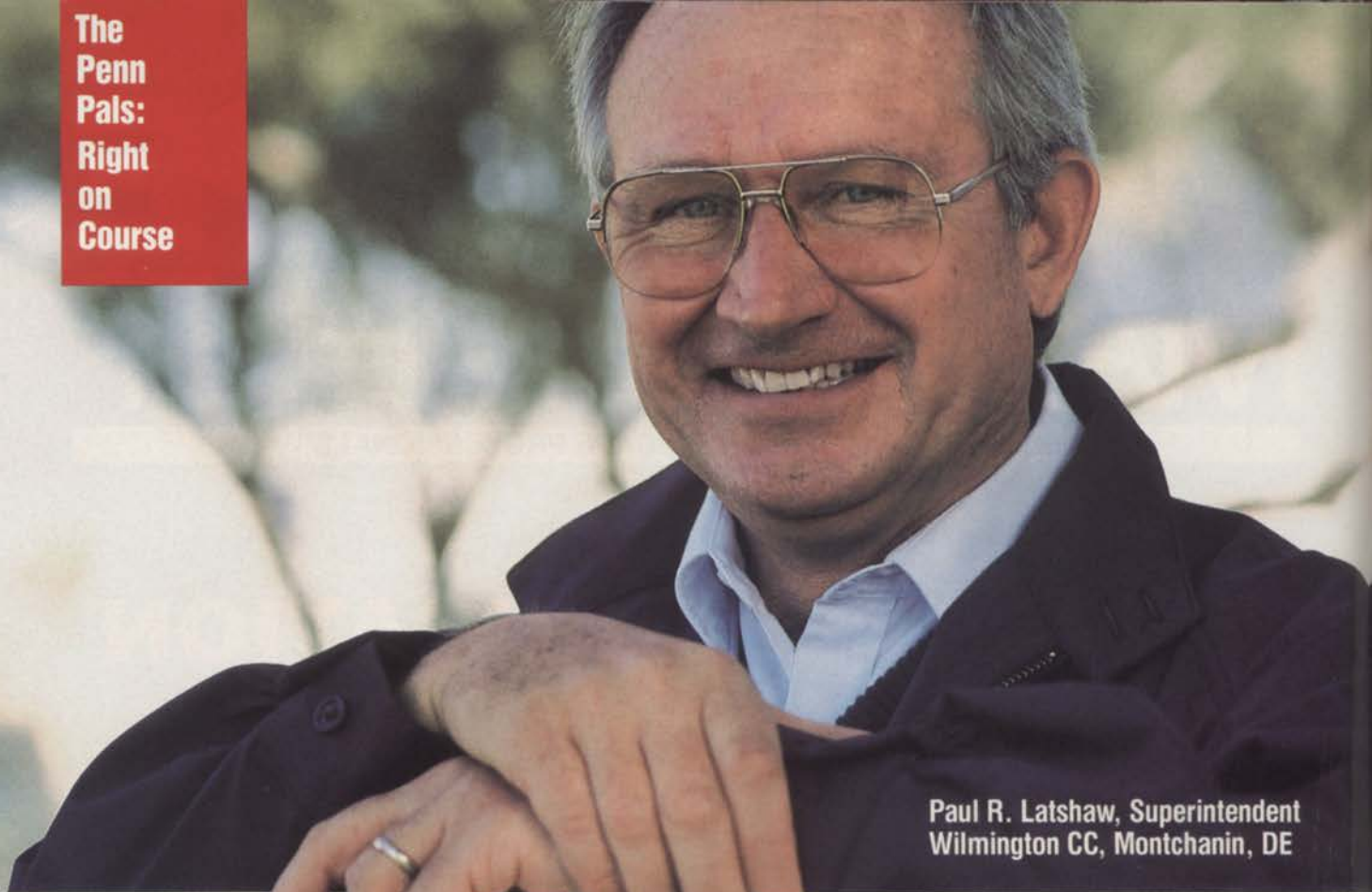


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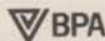


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Capitol city: all talk. Any action?

The U.S. Capitol building is an impressive and imposing sight. A visitor to D.C. can use it as a point of reference; indeed, the city's geographic center is located in the rotunda.

Less impressive is what actually gets done in the Capitol and the surrounding office buildings. It's the world's power center, yet—save for the architecture and bargain cab fares—the place is strikingly common.

And people who work there are prone to say silly things. The Professional Lawn Care Association of America (PLCAA) and National Pest Control Association had their "Day on the Hill" in March. Robert Dole told us the gulf war success could "change dramatically what happens in Congress," given Commander Bush's high approval rating. "The important thing is," said Dole, "is that if Congress says no, then he can go to the American people." So what programs will the people now support Bush on that they wouldn't have supported him on before? Regardless of his popularity, the elderly will still have an opinion on medical care, parents will still have an opinion on child care, and nobody will want more taxes.

Next, Victor Kimm, the Environmental Protection Agency's deputy assistant administrator for pesticides and toxic substances, had his say. He called pesticide regulation "something that changes over time," which couldn't be more contrary to the whole point of why we have laws in the first place.

Kimm (and others like him) also has a way of conveniently blaming "the public" and its "sensitivity to a variety of pesticide issues." How refreshing it'd be to hear a government official say that the reason for it all is to keep people on the government payroll.

The most popular buzzword in this whole pesticide legislation mess is, "sensitivity." In the past few years, more rights have been lost in the name of "sensitivity" than ever before. In this case, the sensitivity is to irrational fears fueled by misinformation.

Now it's come down to the wire. The green industry's position is clear. Self-policing works, but if federal and state laws must exist, let them be practical.

The PLCAA wants mandated certification and training for all commercial applicators, including in-house workers.

FIFRA works as a national guideline. Local jurisdiction—if given the green light by the Supreme Court—will muddy the water and put companies out of business; good companies, too, not just fly-by-nights.

Whose voice will congress hear? At this point, we can only hope for the best.

Terry McIver, managing editor

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LANDSCAPE MANAGEMENT

LEGISLATION

Supreme Court will review case of applicator vs. city

WASHINGTON — A case heard by the U.S. Supreme Court on April 24 will affect the green industry. The case was to decide if local governments are permitted to restrict pesticide and other chemical applications, or if state or federal laws override local ordinances.

The high court was to hear an appeal stemming from Casey, Wisc., and the state's Office of Public Intervenor.

With local governments nationwide often enacting stricter pesticide laws than those contained in the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), the Casey suit is seen by many to be precedent-setting. Conflicting court rulings from state supreme courts and federal appeals courts have also clouded the issue.

In "Wisconsin Public Intervenor vs. Mortier," the Supreme Court could uphold or reverse a March, 1991 Wisconsin State Supreme Court ruling which in a 4-3 vote upheld two previous lower court rulings that local pesticide regulations are pre-empted by federal and state laws.

In 1981, the City of Casey passed a resolution prohibiting pesticide and herbicide use on public lands and along roadways in the

The continuing battle as local governments try to preempt federal authority will reach a head this spring when the highest court in the land listens to arguments.

adjacent township. In 1983, a similar law regarding herbicides was included a public hearing clause.

A July, 1984 local resolution modifies procedures for herbicide application on public lands or private lands which the public might use. It also specifies aerial application procedures.

In the specific case before the court, local landowner Ralph Mortier applied to the township to spray 20 acres to prepare the site for Christmas tree plantings. Casey officials denied Mortier's permit, but allowed him to spray 10 acres by hand.

Mortier challenges the local ordinance which was updated in 1985 to include all pesticides and fungicides not included in the original law.

Mortier has been supported by the Wisconsin Forestry/Rights-of-Way/Turf Coalition. The state's

Office of Public Intervenor represents the city.

In May, 1988, a U.S. Circuit Court of Appeals voided the Casey regulations, ruling federal and state laws pre-empt local ordinances. That decision was upheld by the Wisconsin Supreme Court in March, 1990.

Russel R. Weisensel, executive director of the Forestry/Rights-of-Way/Turf Coalition, says that allowing such local controls makes it impossible for pesticide applicators to operate.

"If special local laws are needed, they should be part of an overall state plan," says Weisensel.

The coalition is a division of the Wisconsin Agri-Business Council, Inc.

"We are also concerned what this means for agriculture as well," says Weisensel, arguing a single farm tract could stretch over two or more local ju-



Weisensel: local controls would make it impossible to operate.

risdictions with differing application laws.

But Tom Dawson, the intervenor in the case, says the central issue is "whether local governments will continue to exercise their traditional role of protecting their areas locally.

"The floodgates are not about to open and even if that (were true), the answer is not pre-emptive regulations. It is uniformity (in regulations) that everyone can be familiar and comfortable with," says Dawson.

—Jack Simonds □