

# Product liability suits 'border on ridiculous'

EPHRATA, Pa.—Normal standards of caution seem to be suspended in many product liability lawsuits. Recently, a knife manufacturer had to pay a nine-year-old boy \$150,000 after he drew one of their knives across his wrist to "see if it was sharp".

Two men recently received large damage payments from a mower manufacturer. They had been injured after they picked one of the firm's mowers off the ground and used it to trim a hedge.

These examples are part of a trend that could stifle product improvements and business growth according to Donald W. Parke, executive vice-president of PennAg Industries Association. PennAg is a trade organization of some 400 Pennsylvania Agribusiness firms.

Writing in the June issue of *Grist from the Mill*, a publication for PennAg members, Parke said, "In

1963 there were 50,000 product liability suits against U.S. manufacturers. In 1971, there were 500,000. Last year's figures are expected to reach one million — and those do not include out of court settlements. Many of these settlements border on the ridiculous."

Parke noted that he became concerned about the problem when he learned from a number of PennAg members that their product liability insurance would not be renewed. The insurer said that it would not renew policies covering any operation where chemicals were added to feed.

"Our response to this was complete and unequivocal," Parke noted in his column. "One point we made is that everything in creation has some chemical composition, including corn, and oats and any other feed grain.

"It doesn't make sense to talk about adding chemicals to feed. Feed is a chemical.

Combining ingredients — or chemicals, if you will — into a scientifically balanced ration is what the feed business is all about."

Behind the insurance companies' concerns and skyrocketing court awards lies an outmoded legal precedent, according to Parke, known as the doctrine of strict liability. "This means literally that the manufacturer of a product is responsible for any injury or damage caused by his product. It doesn't matter when the product was made, whether its been altered, or used contrary to instructions. And it doesn't matter what the state of the art was at the time of manufacture."

Parke said this had led to a curious situation where some manufacturers are refusing to introduce new models of their products, even though they are demonstrably safer. "Lawsuits have been won by people claiming that the

mere introduction of a newer model means the older model was unsafe," Parke said.

Insurance companies can no longer predict the risk for certain lines of coverage and it's causing an upheaval in their industry. But help may be on the way in the form of two bills currently in the Pennsylvania legislature. Senate Bill 585 and House Bill 749 are identical bills; both have wide bi-partisan sponsorship.

Under the proposed legislation, the doctrine of strict liability would not apply to product damage claims. Time limits on when a suit could be brought would be set. A suit could not be brought after a certain number of years following the date of manufacture, or after an alleged injury.

The proposed legislation also spells out some rules of evidence. A manufacturer could not be sued if, at the time of any user injury, the

product conformed to prevailing designs and safety standards or other state of the art considerations. Evidence that a product had been altered by a user would be a defense for the manufacturer. Advances in product design could not be used as evidence that previous models had been unsafe.

Punitive damages would be prohibited, and there would be limits on any at-

torney's fees based on percentage of an award. "While many of these provisions have very good application to our members," Parke concluded, "we do not believe that legislation is called for in providing a place for insurance companies to do business that would help restore a predictable and safe community."

## WHAT'S NEW



**LOADER**  
MILWAUKEE, Wis. - A new series of loaders from Allis-Chalmers offers more lift capacity and a higher reach than any loader previously available from the company. Designed for use with its line of over-100 hp tractors, the 470 series loaders will lift 3500 pounds to a height of 13½ feet. The loader is built with heavy duty usage in mind, whether

it is handling dirt, manure or big bales.

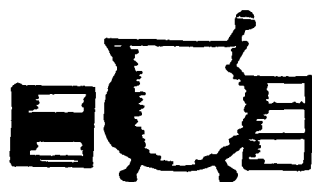
With a 62 inch reach, the boom extends to place the bucket where the operator has a good view of his work. The boom and bucket are operated by the tractors' hydraulic controls so there is no need for an auxiliary hydraulic pump. Steel hydraulic tubing is factory mounted inside in the boom to provide the operator with

an unobstructed view, as well as prevent possible operating damage to the tubing. Cylinder rods are chrome plated to provide long life.

Less than five minutes are normally required to attach or detach the loader. To mount the loader, it is a simple matter of connecting the hydraulic coupler, hydraulically engaging the alignment pins, inserting the lock pins and storing the parking stands.

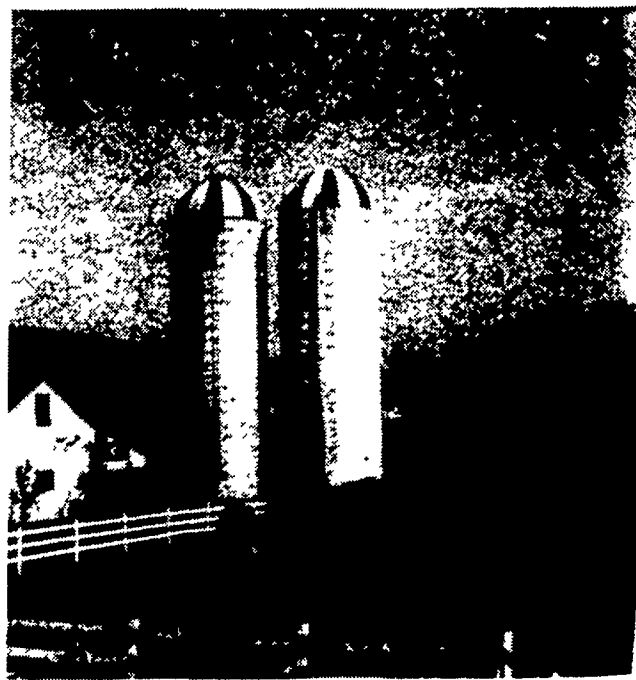
Loader mounting brackets are attached to the tractor axles to distribute stress to the rear axles created from large loads. Mounting brackets may remain on the tractor, as they are located where they should not hinder the use of the tractor with most other tools.

Attachments available with the 470 series loaders include: 60 inch manure bucket with dirt plate; 83 inch material bucket and optional tines; 96 inch



material bucket with spill guard; grapple over bucket; hay grapple fork; hay stacker for loose hay; boom mounted round bale handler and three point hitch bale mover; 84 inch snow bucket; and 96 inch dozer blade.

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