land. Magowan attributes much of Safeway's disadvantage to costly union benefits and wage scales, which he hopes to reduce as agreements expire. Safeway, with 1,300 separate three-year contracts, has the same labor-relations problems as many regional competitors, but historically it often gave workers a better deal. Magowan wants to renegotiate now, while unions are spooked by the recession, but the bulk of the contracts don't come up for renewal until 1983.

Meanwhile, remnants of the old Safeway stodginess survive. "If a manufacturer offers an 80-cents-per-case discount on fruit drink, Giant will buy six to eight weeks' worth on the last day of the promotion, cutting their costs for the entire period," says a Washington food broker. Oakland won't sanction that because of high interest rates. That's probably why it was Giant that started last year's gory Washington price wars.

Magowan knows reversing a troubled supermarket giant is not easy. He does, however, contend that Safeway has finally stemmed its share declines, even though no statistics support the claim. What is clear is that Magowan is making some tough decisions, like pulling out of Omaha and Memphis. "People who see us doing that and try to link us with A&P haven't done their homework," he explains. "Everyone forgets that successful chains have abandoned areas too. You can argue that A&P didn't get out soon enough."

You can also argue that Safeway's present crisis exists at least in part because of another parallel with the old A&P. Even among the giant chains, most top-tier supermarket companies have owner-managers. There's Joseph Albertson at Albertson's, Ray Dillon at Dillon Cos. and James Davis at Winn-Dixie. When A&P foundered, by contrast, its major shareholder was a culturally oriented foundation. Similarly, no one with a really significant stake in Safeway is helping run the company today. An employee profit-sharing plan owns nearly 20% of its stock; officers and directors have just a handful of shares.

Time was when the corner grocery always seemed to run better with the owner around. The modern supermarket business—with all the problems of low margins, high labor costs and cutthroat competition—might not be too different. As a second-generation professional, Peter Magowan seems to understand Safeway's problems. The big question is whether he can act quickly, effectively, and soon enough to solve them. ■

Congress' plan to bring order to the chaos of product liability law has lawyers moaning, business cheering.

Who, and where, do I sue?

By Beth Brophy

MILT THE GARMENTMAKER was talking about product liability. The lady, he said, leaned over the stove while making a cup of tea. The sleeve of her sweater caught fire, and so did the smock under the sweater. She couldn't remember if she bought the smock in Ohrbach's or Two Guys, so she sued them both. They asked their smockmakers if they could have made the offending smock, now burned beyond recognition. "Who knows?" Milt's salesman said. "It might have been us." So the department store sued Milt. Milt, playing it safe, sued his fabricmaker.

In the end, Milt remembers, four of them got together, including the stovemaker, who was sued, too, and gave the lady $50,000. The only one who wasn't sued was the teabag company.

Milt's story isn't unusual. A couple of years ago two men stuffed a hot-air balloon in a commercial dryer and the dryer blew up. They collected $885,062 in damages from American Laundry Machinery Industries, which made the dryer.

It's a big bill for business—$1.5 billion in insurance premiums alone, according to C. Thomas Bendorf, speaking for the Association of American Trial Lawyers. Bendorf says the insurance companies paid out only $400 million in claims in 1980, and that makes them the villains of product liability costs.

The insurance companies and businesses counter that product liability is the happy hunting ground of hungry lawyers and point out that for every 66 cents consumers received in liability judgments, lawyers made 77 cents in fees. One of the main problems, say the insurers, is a crazy quilt of state laws. In Illinois, if you drive your crane into a power line you can collect injuries from the cranemaker. FMC paid $2.6 million learning that lesson. But in Minnesota or New Mexico the courts say anyone who drives his crane into a power line is a fool and shouldn't collect anything.

Wisconsin Senator Robert Kasten
The solution is preemption.

Even improving your product can be dangerous in California, New York or Alaska because it can be taken as an admission that the old product was unsafe.

The solution, says Senator Robert Kasten (R–Wis.), chairman of the con-

sumer subcommittee of the Commerce, Science and Transportation Committee, is a federal product liability law that would preempt the states'. He is proposing such a law and has the backing of manufacturers, retailers, wholesalers and insurers. Opposing Kasten's efforts are consumer groups and lawyers who claim that citizens will lose their rights to sue. A major battle is heating up even before Kasten officially introduces his bill in the Senate.

"It is in lawyers' self-interest to keep the laws as confusing as possible. We profit from chaos. And there's never been anything as chaotic as product liability law," says Victor Schwartz, who represents 150 organizations supporting a federal liability law.

One of Kasten's proposals is to narrow manufacturers' and distributors' liability for defective products. Courts in 36 states say that not just manufacturers but all sellers of defective products are liable, even if it isn't the seller's fault. "We do not make the trucks we sell and lease; we cannot drive them for our customers; and we cannot keep a constant watch over their use," complains Peter Voss Jr., president of Voss Equipment, Inc. in Harvey, Ill. Voss is angry because he leased a truck to a steel company that didn't properly train an employee to load it. Voss was sued when the worker was hurt, and settled out of court for $165,000.

The present laws also encourage the suer to sue as many companies as possible, and for them it is often cheaper to pay off than fight. "It is in lawyers' self-interest to keep the laws as confusing as possible. We profit from chaos. And there's never been anything as chaotic as product liability law," says lawyer-lobbyist Victor Schwartz, who represents a group of 150 businesses and trade associations supporting a federal law.

Other proposed changes include imposing a 25-year time limit on liability for capital goods; a provision that manufacturers who comply with government safety standards are presumed to be exercising due care; and a requirement that the injured party prove a specific product causing damage was manufactured by the defendant. A California court ruled in 1980 that drug manufacturers are liable even if the suer could not tell whose drug had been used.

With courts like that and juries continually favoring plaintiffs, consumer groups and lawyers understandably fear any law that would shift the balance. "This legislation, if enacted, will force victims to thread a legal needle while providing defendants with a legal hole large enough to drive a truck through," argues David Greenberg, legislative director of the Consumer Federation of America. Greenberg is keeping the pressure on to prevent a federal law from being enacted, and he could succeed if the Administration doesn't get its act together. The White House has an apparent conflict with the proposed law. While a uniform code would reduce the regulatory burden, a federal liability law might contradict the "new federalism" policy of leaving authority at state levels. Commerce Secretary Malcolm Baldrige first expressed his support for a federal law but then backed away in a recent appearance before Kasten's subcommittee.

Certainly the issue is clear: While there must be standards of law on product liability, 50 separate standards sounds like little more than a full-employment plan for lawyers.

"You know," says Milt the garmentmaker, "I paid the lady $5,000, but the legal fees were $10,000—and it wasn't even my smock." ■