Courts Rule on Club's Liability for Injuries

By RENZO DEE BOWERS

The law has made it plain through repeated court rulings that there is nothing in the game of golf which should be considered inherently dangerous. Occurrences of a damaging nature on the links must be the result, in one form or another, of negligence on the part of a player if they're to be whipped up to become the nubs of lawsuits. Whenever that happens, a court will be very happy to order the perpetrator to hand over such an amount of money for the benefit of his victim as will fairly compensate for all damages caused by the ill-considered act, whatever it may have been.

To this extent the law keeps an eagle eye upon golf players. But they're not the only objects of its watchfulness in the game. Owners and operators of courses also come in for a noticeable share of its attention, sometimes for good, sometimes for ill. Just by way of an indicator, owners or operators may get penalized by the judges if players or other persons happen to receive physical injuries because of some construction fault or maintenance failure of the links. They may be mulcted in damages if their employees fail properly to perform their duties around the grounds with the degree of care and efficiency which players have a right to expect and which will prevent accidents. They may come out the worse for it if they neglect to adopt and enforce reasonable rules of play under which groups of players may carry on their exertions simultaneously without danger of being accidentally hurt or exterminated.

One who does get hurt on the links may be out of luck when he goes to court about it unless his injury is traceable to negligence on the part of a player or of the owner or operator of the course. It is a rule of law through which many an accused person has squeezed to safety that one engaging in any sport, whether as player, spectator, or employe, assumes the risk himself of injury from accident, mischance, or inadvertence, in the absence of negligence of some one who owed him a duty. For this reason, the owner or operator of a golf course is not considered by the law to be an insurer of the safety of persons who frequent the premises or play over them. The only legal obligation is to use reasonable care for individual safety, and not to become negligent with respect to some duty owed to persons rightfully upon the course.

Suits That Didn't Collect

Some far-fetched and screwball attempts have been made to run owners or operators through the judicial wringer in bizarre endeavors to squeeze out gravy. For instance, not long ago a boy was struck by lightning on an Illinois course and the owner got sued for that. A bunch of caddies on another lay-out in an off moment engaged in a free-for-all in which one was severely beaten up, and damages for his hurts were sought from the golf club. A caddie on a Massachusetts course claimed damages from the owner on the ground that while he was standing nearby watching two other caddies preparing to play on a day when the caddies were allowed that privilege, one of the players carelessly took a practice swing with his stick and "hit him across the nose and about the eye."

Lawsuits of the kind may not be prosecuted in good faith or with the expectation of favorable verdicts. In most cases they meet the fate of attempted shake-downs when shown up in court. They get thrown out.

But owners and operators will be held to accountability if their acts of omission or commission can reasonably be found responsible for human injuries. Here is a succinct statement of the basis of any financial liability of the kind that can be imposed upon them: They can be made to dig into the kitty upon proof that they either permitted something to be done around their course that as a matter of safety to others should not have been done, or failed to do something looking toward protection which it was their legal duty to do.

Negligence Must Be Proved

The judges apply a general legal principle of a relieving nature in this connection, which was expressed by the New Jersey court as follows: "Mere ownership of a golf course does not of itself impute liability for any and every injury suffered by a player or another person by reason of an occurrence on the course." This authoritative declaration merely reaffirms

the sine qua non of the law, that some act of negligence on the owner's or operator's part must be proved before there can be a squeeze-play for damages.

In the particular debacle of the links out of which that judicial ruling arose, one whom we'll call Hal Jenkins went one morning to view the links of a new golf club at the invitation of a member, with the prospect that the visitor would be seduced by the attractiveness of the lay-out and would wish to become a member. Jenkins was accompanied by his brother and by their wives.

In making the inspection, the party traversed the whole course; and while they were returning to the starting point, wham! suddenly, without warning of any kind, an errant golf ball driven recklessly from somewhere on the links by an unidentified player, clouted Jenkins squarely on the temple with the force of a mule's kick and dropped him prone to the ground.

Hal Jenkins had a severe brainstorm from that clouting, and he afterward sued for his injuries. Asking bountifully that his joys might be full, he pleaded that damages be assessed against the club, its president, the member who had invited him, and the one who showed him around the course. But he drew a goose egg in all quarters. The New Jersey court ruled that neither the club, its official, nor the other individuals were liable. They had been guilty of no negligent act to bring on the injury. The unknown player responsible for the swatting was the sole culprit.

What Constitutes Negligence

What, then, would constitute legal negligence of an owner or operator from which an injured person nursing wounds chargeable to the links could hope to eke out compensation for his suffering and expenses? Consider a few actual happenings here and there in illustration.

Not many years ago an amusement company wihch had leased the Chicago Garfield Park course for the season was called into court to defend a charge for damages made against it by one who had been injured while playing on its links. On that May day when the injury occurred, many people were roaming the course with sticks in hand. Mart Statton, the man who got hurt, was paired with another.

The course itself had been in existence more than 25 years, and had often been used to play the Cook County championships. It was a 9-hole course, with length of 2,006 yards, laid out on a 30-acre plot. The terrain was practically level with shrubbery on some of the holes, mostly along the outer edges, and with several wooded spots scattered over its extent.

Statton and his companion on this day had played six holes, and had driven from the seventh tee toward the green. The fairway on this hole was perfectly flat, without bunkers, traps, mounds or trees. Four girls were playing ahead of Statton, and as he stood on the seventh tee he had a clear view of the entire course. He drove down the seventh fairway a distance of 200 yards to a point 35 feet left of the normal center of the fairway. The average width of this fairway was 40 yards or so, and its entire course was slightly toward the southwest.

Parallel Hole Injury

After teeing off, Statton and his partner walked down the fairway; and when Statton reached his ball he stood waiting for the foursome ahead to clear the seventh green. While he stood over his ball waiting, Joe Simes, in a twosome behind, was preparing to drive from the sixth tee toward the sixth green. In the shot he made, Simes hooked his ball and the sensitive pill angled off into the fairway where Statton stood, socked him terrifically in the eye, and caused gruesome injury.

Statton charged that stroke of hard luck up to the lessee of the course, and haled it into court to collect for his hurt. "It was negligence," his lawyers argued, "for the association to maintain a 9-hole golf course on so small a tract as 30 acres. It was negligence to operate the course with fairways six and seven running parallel and played in opposite directions and to have them narrow and unprotected by shrubs, rough, and spaces. It was legal negligence to lay out and maintain the sixth and seventh fairways in such manner as to constitute an endless hazard to players."

Statton got judgment for $10,000 against the lessee-operator in the trial court. But the judgment was vacated by an appellate court and the action unconditionally dismissed. "There are no building codes for golf courses," the higher court said in effect. "Owners may construct and maintain them as they see fit. It was not legal negligence to have a 9-hole course on thirty acres. It was not negligence for this lessee to operate it with parallel fairways played in opposite directions and unprotected. Besides, Statton had cooked his own goose. He could see the course when he went upon it to play. If he didn't think it safe, he should have stayed off; so, even if the operator had been guilty of negligence which resulted in Mr. Statton's injury, he is in no position to complain of the fault. He was himself guilty of contributory negligence in playing the course with his eyes open, and that prevents him from compeling this lessee to pay."

There's another angle to the problem of

constructing or maintaining a golf course which owners and operators ought to bear in mind. There may be a legal hazard in the location chosen for the enterprise.

For instance, in laying out and establishing the Hillcrest golf course in the state of New York, the club placed its links along a busy highway where high speed traffic surged to and fro. It was separated from the thoroughfare only by a solid 6-ft. board fence.

One day a player whammed his ball in such manner from the fairway that it went sizzling over the fence and into the highway. Fate was at that instant rocketing an automobile along the road at nearly a mile a minute. The golf ball struck squarely against the windshield, shattering broken glass into the faces of the driver and another riding beside him, with horrible effect.

Rule Against Clubs

Courts and juries make field days of cases like that. The owners of the golf course were saddled with very heavy damages at the suit of the injured autoists. The court ruled that the owners were legally liable for damages upon either of two grounds: they permitted play on links too close to a public highway; and they were maintaining a nuisance dangerous to public safety.

There is no doubt that courts will penalize operators of golf courses in damages in favor of injured players whenever their acts of omission or commission can be reasonably found the moving cause of the casualties. This legalism is most frequently demonstrated in occurrences wherein the owners or operators are charged with responsibility for hurts which were actually inflicted by players using their courses.

The Alicia golf course at Memphis, Tenn., which charged a fee for the use of its links, employed a starter who went from place to place on the course to direct players when to shoot. Upon one occasion, a starter negligently had a player drive from a tee while a previous player from that tee was yet within striking distance and in full position where he was likely to be hit. He was in fact hit in the eye by the player whom the starter had negligently directed to drive without taking into consideration the previous player. Judgment was lodged against the golf course for that remissness. The starter was its agent. It was legally responsible for its agent's act. The law regarded it as only fair that it should stand back of whatever its agent did in the course of his employment.

Safety Rule Obligation

Another obligation of golf courses to its players has been stated to be: "It is the duty of the owner of a golf course to exercise ordinary care in promulgating reasonable rules for the protection of persons who rightfully use its course, and in seeing that the rules are enforced." The owner, however, to indulge a repetition, is not an insurer, which means that it is not financially liable for mishaps, accidents, and misadventures on its course not due to its negligence or the negligence of its employees.

The Starmount golf course in Guilford county, N.C., adopted a rule that where two or more matches were going at the same time, the front match should be allowed at least two drives by those immediately following in order that the hazard of striking any forward player with a driven ball might be lessened or eliminated. Players on the course were familiar with the rule and the management employed rangers to enforce it and to supervise the course. The rangers became careless in time and often when they were needed they were in the wrong place.

Upon one occasion a twosome and a threesome were in play. The threesome was behind. One player in this match forgot the rule of the course and no ranger was on hand to remind him. He recklessly teed off prematurely without allowing a player in the twosome to move far enough from the tee for safety. The driver gave the ball a terrific whack, and it zoomed straight for the doomed player of the twosome. It struck him on the knee, the upshot of the injury being that he was made a cripple for life.

Thereafter nature took its course, which led directly into a court of law. The injured man demanded financial atonement from the golf course owners as well as from the player in the threesome who had negligently teed off. And he got it—from both. The golf course, said the court, was remiss in its duty to players for whose benefit it had made a reasonable rule. It had failed to have its rangers on hand to enforce the rule. Through that neglect and remissness, a player had been grievously hurt.

Cornell U Turf Conference March 18-19

Plans are being made for turf conference at Cornell University, Ithaca, N.Y., March 18-19. John F. Cornman, asst. prof., N.Y. State College of Agriculture, is arranging the program which will be presented primarily to golf course supts. but will provide valuable material for all interested in turf development. The conference at Cornell is being planned to initiate an active and aggressive program of turf research and education for New York state.