California Court Says Club, Not Player, Is Employer of Caddie

By WILLIAM JABINE

Who is the true employer of a caddie: the golfer whose clubs he carries or the owners of the course on which he does his work? A California appellate court (2nd dist. court of appeals, div. 1.) closed out its 1957 business by handing down on Dec. 30th a decision on that point. It includes an interesting although not wholly clarifying discussion of the question. Seemingly against its own judgment, the court felt itself constrained to follow a decision of the California supreme court made in 1917, and ruled that the club, and not the player, is the true employer of a caddie.

The case was started when California dept. of unemployment levied a tax in 1952 on clubs and course owners as employers of the caddies working on their courses. The date, 1952, is important because, as might well be expected in a state so famous for the mildness of its climate, golfers evidently have considerable influence. They were able to persuade the legislature to amend the law in 1953 in an attempt to exempt golf clubs from the tax. The state senate also passed a resolution in 1954 saying that it was not the intention to tax the clubs as employers of the caddies.

Impressed by Losers' Argument

Possibly encouraged by this legislative action, the Manchester Avenue Co., which ran a pay-as-you-play course, and the Virginia CC brought suit to recover the unemployment taxes they had paid in 1952, a total for the two organizations of a little more than $500. The two causes were consolidated and it is this action that has just been decided by the appellate court. Usually a court devotes the bulk of its opinion to a discussion of the arguments put forth by the party in whose favor the action is decided. But in this case the court was so obviously impressed by the arguments of the losers that it set them out in considerable detail and even added a comment that they seemed most persuasive, but that the previous decision of the supreme court made it impossible to adopt them. As quoted in the opinion these arguments are:

(a) A caddie is engaged in a distinct occupation.

(b) He is under the direction of the player.

Summer can't be far away when you see pictures such as this. In the photo are (l. to r): Clyde Casey, Tucson, who will be chmn. of this year's Jaycees tournament which will be played Aug. 18-23; Bob Jones; Jerry Vaughan, Tucson; Ralph Garrard, Atlanta; and Gordon Bedford, Tucson.

(c) There is no particular skill required.

(d) The caddie supplies himself, i.e., 'he is the lad who carries the bags.'

(e) The length of time of the employment is for one round of golf.

(f) The caddies are paid by the job.

(g) The work is for the player not the club.

(h) Neither the player nor the club believes that it is creating a relationship of employer and employee.

Despite the strong appeal of these arguments, the court said that it was bound by the decision of the supreme court in Claremont CC vs. Industrial Accident Commission, 1917, 174 Cal. 395:163 P. 209: L.R.A. 1918 F 177. That case was concerned with an accident which happened when a caddie leaned against the defective railing of a bridge and fell into the stream below. The club was held to be his employer.

Amendment Text Criticized

The wording of the 1953 amendment which attempts to exempt golf clubs from payment of the unemployment tax on caddies came in for some criticism. It reads as follows: "Sec. 651: 'Employment' does not include service performed by caddying, of carrying a golf player's clubs by an individual who is not in the employ of the golf club or the association."

Italicizing the word "employ" in the amendment, the court commented that it raised doubts as to who really is considered the employer, and sowed the "seeds of litigation".

As matters now stand, the 1952 tax will remain in the hands of the state unless the litigants feel that they can persuade the supreme court to overturn its decision of 40 years ago.