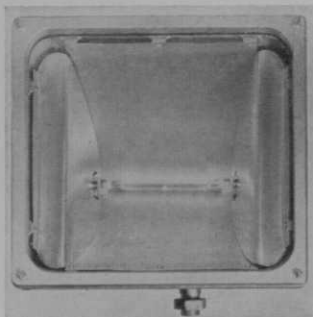


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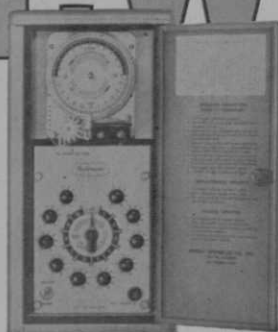
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BUYERS' SERVICE • P 127

Lessee Not Liable for Improvement: in Absence of Specific Agreement

By **WILLIAM JABINE**

Supplying the needs of those who in turn are catering to the needs of golfers can be very profitable business but nevertheless it requires a goodly measure of caution as some men in Des Moines, Ia., found out.

They had to go all the way to the Iowa Supreme Court to discover that they couldn't collect from the owner



of the land on which they had supplied materials and built installations for a golf driving range. They had to be content with what they could recover from the lessee of the land who had defaulted in lease payments before the operation of the range got under way.

The owner of the land, which was unimproved, was approached by a person who wanted to lease the land for a driving range and miniature course. The landowner, who was a lawyer and who died about a week after the transaction took place, drew up a lease providing for a rent of \$17,500 over a five-year period to be paid in annual installments of \$3,500. The lease stated that the land was to be used for "a miniature golf course and driving range." It also contained provisions that no mechanics' liens should attach and that the lessee might remove all personal property at his own expense at the expiration of the lease.

The lessee then proceeded to install poles and lights on the property and had several concrete pads laid. He also brought in crushed rock for driveways and built a small concrete block office.

Defaults After One Payment

After making one rental payment of \$2,000, the lessee defaulted. He also failed to pay the men who had made various installations of equipment and they sought a lien against the real property, by that time held by the estate of the deceased owner.

The case went to the Iowa Supreme

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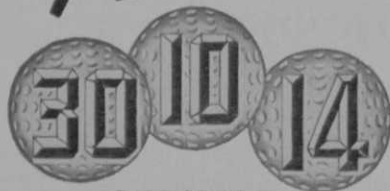
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Court. After pointing out that no matter what its decision, innocent parties would suffer, the court ruled that the equipment men could have judgment against the lessee, probably worthless, but that in the absence of either an express or implied contract binding the land, they could not impose a lien on the real property. On this point, after citing a number of cases, the Court said: "The sum of the above-cited line of cases seems to be that where the contract of lease requires specifically or by implication that the tenant make improvements clearly for the benefit of the lessor, the suppliers of labor and materials are, and should be, entitled to a mechanic's lien, not only on the improvements, but on the real estate as well. See article on Mechanics' Liens, 6 Drake Law Review, pages 53 and 54.

We do not depart from that rule now. However, we are satisfied that claimants failed in their burden to show that the material and labor obtained by the lessee were pursuant to such an agreement or understanding with lessor. It was the claimants' burden to show that the lessor consented to the specific improvements, authorized them, and contemplated an increased value to his real estate thereby, or actually required them to be made. This the claimants have not convincingly done." *Cassaday v. De Janette*, 101 N.W. 2d 21.

First Fairway Treatment Program Big Success at Cincinnati CC

By JOHN MCCOY
Supt., Cincinnati (O.) CC

Last year was one that many supts. in the Cincinnati area would rather forget, but it turned out exceptionally well for us because we undertook, for the first time, an extensive fairway treatment program.

Our club is located on hilly terrain with the steeper slopes to the south. Air movement more often than not is poor, and when humidity is high, we suffer about as much as anyone in the district. In 1955, and again in 1958, a great deal of bent was lost because fairways were not treated. There also was some grub damage in these and intervening years and in 1959, to add to our woes, Japanese beetles made their first large scale invasion.