

Court Denies 17-Year Old Protection Under "Attractive Nuisance" Doctrine

BY WILLIAM JABINE

Several years ago we described the case of a caddy who chased a cat into the boiler room of the Country Club of Louisville, got diverted and then drank some boiler cleaning compound which he mistook for whiskey. You may be interested in the second legal chapter resulting from that occurrence. An attempt was made to obtain workmen's compensation for the caddie. Kentucky's highest court, the court of appeals, denied compensation on the ground that chasing cats and drinking whiskey were not within the scope of his employment.

After workmen's compensation had been denied, the caddy and his attorneys took a new tack. An action was brought against the club, charging it with negligence in maintaining a dangerous condition. Even though the caddy was almost 17 years of age at the time of the incident, the attractive nuisance doctrine, usually applied in the case of young children, was invoked. The trial court rendered summary judgment for the defendant club and once more an appeal was taken to the court of appeals.

Second Review

For the second time that court made a thorough review of the facts and again denied relief to the caddy. In upholding the lower court's decision in favor of the club, it said in part: "We cannot concur in the appellant's argument that the attractive nuisance doctrine is applicable because the defendant had maintained a latent and highly dangerous condition upon its premises. When a youth has grown beyond the protection humanely afforded a child of tender years from his indiscretion and lack of capacity to appreciate a peril, he is not entitled to the benefit of the doctrine any more than a normal adult, qualified, however, in an occasional case of undeveloped mentality."

In regard to the probability of such an accident as that which occurred, the court said: "Keeping mislabeled bottles of strong chemical might have been actionable negligence under some circumstances. But in this case there was no probability

that a bare licensee or trespasser in the boiler room would steal the bottle and drink the mislabeled substance. In short, the caddy's act was not reasonably foreseeable as a natural and probable consequence of leaving the original labels on the bottles; hence there was no legal liability. (Citation) Obviously where there is no duty owing a party, there is no culpable negligence." (Chesser v. Country Club of Louisville, 339 S.W.2d 194.)

Organize National Amateur Golf Association in Boston

Formation of the National Amateur Golfers Assn. was announced in mid-July following an organization meeting in Boston.

Among the services and events being promoted by NAGA are the establishment of reciprocal course agreements, sponsorship of a 72-hole pro-am tournament for New England golfers in the Bahamas as well as statewide tournaments, and special trips for members and their families. Membership dues are \$5 a year.

Nick Del Ninno, former Boston golf writer, is executive director of the organization. The board of governors is made up of Ted Bishop, Lionel MacDuff, Ed Perry, Bob Cousy and Warren Tibbetts.

Bishop is the former National Amateur champion (1946); MacDuff, president of Salem (Mass.) CC for three years, was chairman of the 1954 Women's Open; Perry has been secretary of the Rhode Island GA for 10 years; Cousy is the famed Boston Celtics basketball star who is retiring to coach Boston College and Tibbetts is a onetime New England amateur champion.

The pro-am tournament has been scheduled to be held at the Grand Bahama Hotel and CC in November.

The office of NAGA is at 2 Park Square (Room 600-602) in Boston.

Golf Articles Competitions

The deadline for the MacGregor-Brunswick newspaper writing competitions is Oct. 25. This annual competition offering prizes ranging from \$100 to \$250 in two divisions, news and features, is open to all GWAA members employed by daily newspapers and press associations. Each writer may enter as many as five stories in each division. Entries should be sent to Carol McCue, Chicago District GA, Room 221, La Salle Hotel, Chicago 2.