

## Member Agrees to Expulsion Liability When He Joins Club

By WILLIAM JABINE

A member of an Alabama country club presumably enjoyed the privileges of membership until his wife was seriously injured while golfing on the club's course. After negotiations with the club's liability carrier broke down because of failure to agree on an amount to be paid in settlement, the member and his wife brought actions against the club. Eight days after the filing of the suits, the man was expelled from the club by a unanimous vote of the club's board of governors.

He thereupon brought another action seeking damages for the "wrongful and malicious" action of the club in expelling him. The Circuit Court sustained three demurrers filed by the club and by the insurance company, which had been named as a co-defendant and entered nonsuit against the plaintiff. The plaintiff then appealed to the Supreme Court of Alabama, contending that he had been wrongfully expelled by the club without a hearing, without notice and an opportunity to be heard.

### Club's By-Law Cited

The club's by-law governing the expulsion of members read as follows: "The Board of Governors shall have the power by the affirmative vote of all members of the Board to forfeit the membership of any member, or the association of an associate, and to expel any member, for any conduct on his part, which is likely, in its opinion, to injure the welfare or character of the club, or for any other conduct in violation of the by-laws or established rules of the club. The Board of Governors shall be the sole judge of what conduct is likely to injure the

welfare or character of the club, and what constitutes a violation of the by-laws or established rules of the Club, provided that if the vote be not unanimous, any person who is proposed for expulsion shall be notified and allowed an opportunity to be heard, in which event upon full consideration of the evidence, expulsion may be ordered upon by a majority of the Board."

The plaintiff relied on two Alabama cases which the Supreme Court commented upon as follows: "We think there is a marked difference between associations such as trade unions (involved in the Green case, 210 Ala. 496,98 So.569), societies providing credit, loans, sick, death and other benefits (involved in the Acicola case, 240 Ala. 668,200 So.748), professional associations, trading exchanges and like organizations, affecting a person's right to earn a living on one hand, and social clubs on the other.

"Certain conduct which might not justify expulsion from some other type of association where membership is a condition to earning a livelihood, or essential to the enjoyment of a contract or property right, may justify expulsion from a private social club, which usually has the primary purpose of affording pleasant, friendly and congenial social relationship and association between members."

### No Statute Covers Case

The Supreme Court stated, "We have no statute governing expulsion procedure in social clubs in Alabama. Therefore, the constitution and by-laws of a social club constitute a contract between it and its members, and as one of the incidents of membership, a member consents to accept liability to expulsion."

Taking up the plaintiff's situation in relation to the by-laws of the defendant club, the Court stated, "There is no averment that appellant's expulsion was not effected in the exact procedure outlined by the by-laws, and construing the allegations of the pleader more strongly against him on demurrer, we conclude compliance with the section." Continuing its discussion of the exhibits (copies of the complaint in his wife's and his own suit) made part of the record, the

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## Expulsion Liability

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Court said, "The effect of the exhibit is that appellant's conduct did, in the opinion of all 20 members of the Board of Governors, injure the welfare or character of the Club and they voted unanimously to expel him.

"There is no allegation that any different procedure was used in appellant's expulsion, none that it was not in strict compliance with the by-laws, and none challenging the validity of the by-laws."

Taking all these circumstances into consideration, the Supreme Court ruled in favor of the defendant club.

The Court then took up the action brought against the club's insurance carrier, which was predicated on the theory that because a member of the club's Board of Governors was the agent who sold the insurance to the club, he as agent of the insurance company had "conspired in the wrongful and malicious expulsion."

The Court declined to go along with this theory. It held that the insurance agent was acting in his individual capacity when he voted with his fellow members of the board of governors and not in his capacity as an agent of the insurance company, and that in this particular case, the expulsion was not wrongful. The trial court's ruling in favor of the insurance company defendant was also affirmed. (*Waugman vs. Skyline CC*, 172 So, 2nd 381.)

## Women's Amateur

The USGA Women's Amateur golf tournament is to be played at Lakewood CC in Denver, Colo., Aug. 23-28. Deadline for entries is Aug. 4. Over the past eight years only three women have shared the title. They are Barbara McIntire, JoAnne Gunderson and Mrs. Anne Quast Welts. Miss Gunderson won in 1957, 1960 and 1962. Mrs. Welts won in 1958, 1961 and 1963. Miss McIntire won in 1959 and 1964, defeating JoAnne Gunderson the latter year.