

News

GOVERNMENT REGULATION

Labor's OFCC clouds clubs' future

NEWS, 7

COMING EVENTS, 16

PEOPLE, 56

Another blow to the private club industry is currently brewing in Washington, D.C., and this one may have a lasting effect on the business.

Bias in the form of restrictive admissions policies is something the government has kicked around since the civil rights legislation of the 1960s, but no hard and fast rules have been developed to get to the root of the problem.

Indirectly, the clubs now face that government policy with a statement of intent being developed for federal contractors by the Labor Department's Office of Federal Contract Compliance (OFCC).

In essence, the OFCC is considering a policy restricting federal contractors from either having employer-paid memberships for its employees at clubs with restrictive admissions policies or charging off business expenses at such facilities. The idea here is clubs excluding blacks, women, and other minorities hamper the opportunity of employees in those categories to advance in a career as their white, male counterparts.

Questions about employer-paid dues first arose in April when banks in the western region were advised by the Treasury Department's Equal Opportunity Program coordinator about the club situation as it pertained to those financial institutions which are federally chartered. Banks and such institutions come under the law by virtue of the federal loans they receive.

This initial effort by the Treasury Department was advised by the Labor Department's chief legal minds. Shortly after, the direction of the OFCC work turned at once to all federal contractors, some 325,000 companies in all.

No policy is set to paper at this time, but the shock of such action by the Labor Department has set the chief lobbying arm of the private club sector into operation, as the National Club Association and its Executive Director Jerry Hurley brace for a fight with the government.

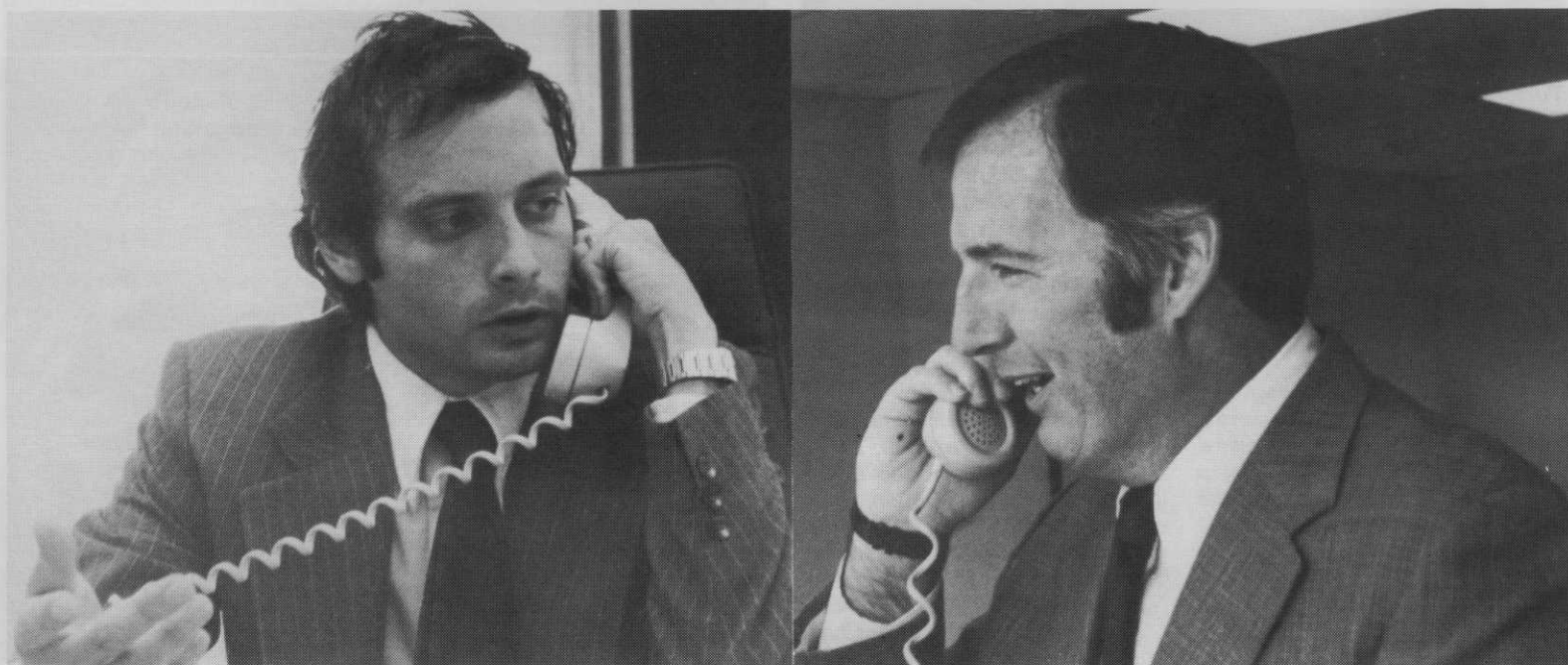
"What really is a restrictive admission policy? I wish some one could define it for me. The govern-

ment hasn't," Hurley said in a recent Washington interview with GOLF BUSINESS. Although Hurley made the statement that the NCA does not back such policies, he wondered if the Labor Department's effort was not a slap at the old-line establishment by a liberal line in that agency.

Even though the policy is not directly aimed at clubs, the NCA presented a 42-page argument to the Labor Department on the policy and is still waiting to see the OFCC's opinion on the piece. Hurley along with NCA legal counsel Tom Ondeck worked on the brief contending the government was not aware of the financial implications such a policy would have on those clubs.

The main contention for the Labor Department is clubs are a real business center in America. This is the biggest area of argument for the NCA. Quoting from their memorandum, "In reality, individuals join clubs for a variety of reasons. However, NCA believes it fair to state the great majority join particular clubs for the purposes

Keeping lines of communications open is the latest effort between Office of Federal Contract Compliance Director Larry Lorber, left, and National Club Association Executive Director Jerry Hurley. Lorber and Hurley are both involved in the dispute over whether federal contractors can be members of clubs utilizing restrictive admissions policies.



stated simply and specifically as the club's governing purposes. Therefore, an individual probably joins a golf club because he likes golf."

Whether this is a valid argument or not, the OFCC and its 29-year-old Director Larry Lorber don't buy it.

Interviewed in his office by GOLF BUSINESS, Lorber told Managing Editor Nick Romano he didn't agree with the NCA arguments. He mentioned that federal contractors were advised on such discriminatory actions against their employees as far back as 1971, when the Labor Department initiated an affirmative action plan for employees in its federal contracts. Previous policy statements on this manner were developed under an Executive Order from the White House. In fact, private clubs were excluded under the prime anti-discrimination document, the Civil Rights Act of 1964.

Although Lorber admits the climate of this political year in

Washington would probably hold up any policy statement until after the election, all indications are such action would occur even if President Ford was not in the White House. Jimmy Carter is not a likely opponent of such action.

Publicity the policy has already received has gotten several professional organizations, such as the American Bankers Association, to submit their own opinions on the government's plan. Accusations from opponents of the Labor Department point to the OFCC sending up a trial balloon to test reaction on the proposal. Hurley and his clubs contend even now contractors that do business with the government and have employees at such clubs are considering pulling out to avoid the hassle.

Even if the OFCC enacts its plan, Lorber admits it will be tough to enforce it. "We would have to depend primarily on individual citizens to report complaints to our office and then take action against federal contractors involved at such facilities."

Not sure of his own power in the matter, Lorber has asked the legal minds of the Justice Department to decide whether the OFCC has the power to make this policy. In July, OFCC asked Justice for its opinion on legal review of the policy and still no indication has come from Justice's attorneys whether Labor has the authority.

The true question here is whether federal agencies have the right to issue interpretive rulings (which have the effect of law) if such rulings exceed the agency's statutory authority.

There is the possibility that if Justice concurs with Labor's ability to apply such policies to federal contractors, the policy could eventually fall on all employers.

Political considerations are being made in this case. This is probably why the OFCC has dragged its feet on telling contractors what the policy will be. "People don't like the government telling them what to do," says Lorber. "We don't like to do anyone's housecleaning, but it is something that has to be done."

If Labor is stalled in its decision, so is the Treasury Department. In fact, since May. In a statement, Warren Brecht, assistant secretary and director of Treasury's Equal Opportunity Program, said he was anxious to get together with the Labor Department to review the whole question. Under the Executive Order, Labor has the responsibility of making the policy statement for the 16 agencies that hand out government contracts. Brecht hoped for a coordinative approach on the matter.

Alternatives as a way around the OFCC policy have been offered in discussion. Instead of employers

picking up the tab for employees directly, raises covering the costs of club membership could be given. Again, though, Lorber's office would take a dim view of such practices.

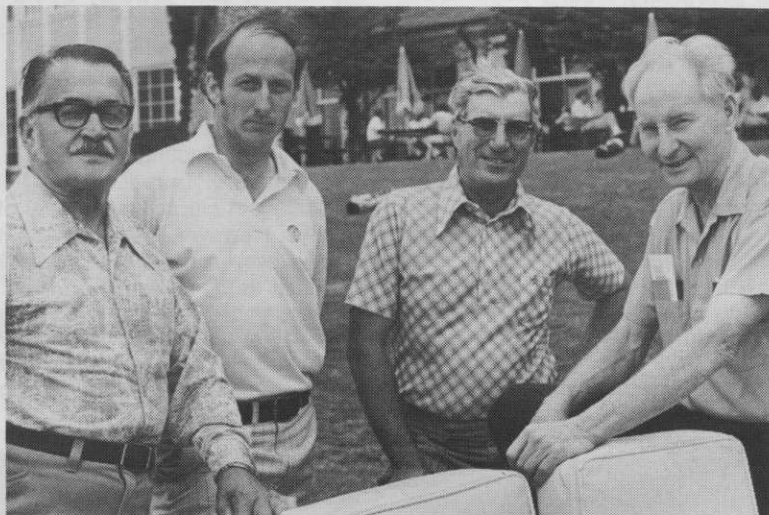
As far as GOLF BUSINESS can ascertain, there is no collective pressure from activist or feminist groups on this question, but there are reports such groups have contacted Lorber's office for comment. Hurley and the NCA have been quoted as saying the policy would probably destroy a lot of clubs, with the loss of more than 100,000 jobs involved. Lorber disagrees with that assessment and calls the NCA case overstated.

Attention will continue to be riveted on the problem and attacks by those in the industry on the Labor Department will continue. Milton E. Meyer, national secretary of the NCA out of Pinehurst Country Club in Littleton, Colo., was quoted as saying, "The question now remains whether Labor will act according to its own bias or whether it will respond to the reasoned opposition of the parties most directly affected."

Golf car safety probed by agency

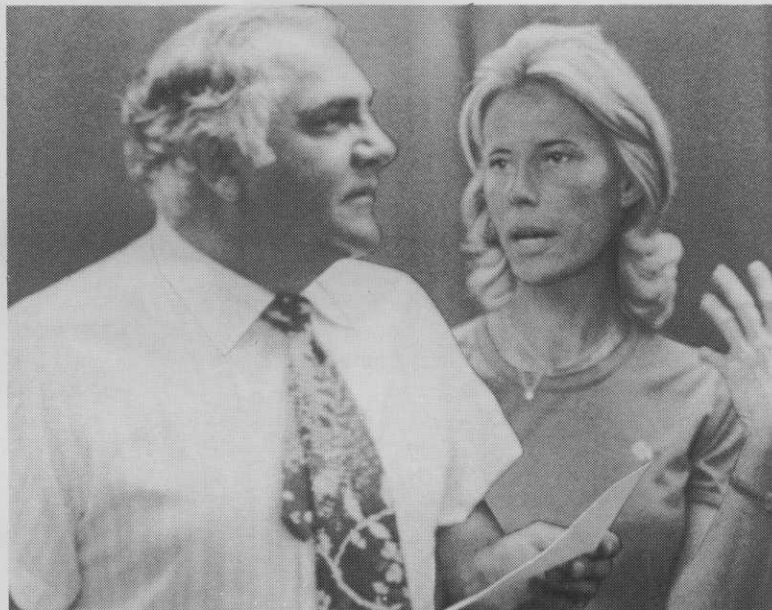
Product liability suits are becoming a fact of life for many in industry today. The same may soon become more of a problem for those in the golf business, especially where the renting of golf cars is involved.

Not only is a club or course responsible for the physical damage an unsafe car can bring to the driver or passenger, but the



Turfgrass research was the winner in the first Research Benefit Golf Tournament held recently at the Wilmington (Del.) Country Club. Added dollars for the program of the H. B. Musser International Turfgrass Foundation were provided by the golfers in the outing. Involved in the program, from left, are Dr. Fred Grau, Musser Foundation president; David Kroll, assistant superintendent at Wilmington CC; George Osborn, turf contract services manager at the Hercules Country Club, Wilmington; and Harry McSloy, Wilmington superintendent.

Bolstering its staff of fashion-conscious women, DiFini Originals has added LPGA Professional Judy Rankin, right, to its board of "Lady Pro-Staffers." Rankin is welcomed into the fold by DiFini President Joseph J. DiFini. The LPGA star joins seven other professional women golfers.



government has kept tabs on the incidence of such accidents through the Consumer Product Safety Commission.

Recently, in Washington, D.C., GOLF BUSINESS talked to John Liskey, a CPSC official who works in the agency's voluntary standards department as they relate to sports equipment.

"We have noticed accidents occurring in the golf car area through our system of monitoring emergency rooms in hospitals around the country for accidents that may occur through the use of unsafe products," Liskey said.

Through an information gathering unit called NEISS (National Electronic Injury Surveillance System), the CPSC can calculate and project the incidence of accidents and why they happen through backup field reporting. Golf car accidents are not extremely numerous, but according to NEISS data, high enough to be included in the commission's top 100 causes of accidents.

Liskey has asked the golf car industry to develop a voluntary

worked diligently on the project, but was thwarted by indifference in the association. Twice the standards were presented and major manufacturers balked at the program.

In 1973, the AGCM went out of active business, and the function of gathering statistical information on that part of the golf business was picked up by the National Golf Foundation.

Written safety standards went pretty much unnoticed until the CPSC was established in 1972 and started their statistical investigation in a variety of areas where consumer products were concerned.

Liskey and those at the commission admit golf cars are not the biggest danger to the American public, but since there was no industry-wide safety standard for the vehicles, the CPSC was interested in seeing one established. So, the commission got in touch with Inman and asked that the old draft proposed by his subcommittee be sent in for study. That was in late June and when GOLF BUSINESS talked to Liskey a month later, he

Most of the in-depth reports were two to three years old, but accidents were reported at a Memphis daily fee course with a Cushman car, at a White Plains, N.Y., private club with an E-Z-Go and at another eastern club with a Johns-Manville Club Car. Extent of the injuries was limited to contusions and broken bones in the upper trunk of the body.

Deaths have occurred also in recent years, according to the CPSC. A 65-year-old man was killed when his car hit a tree and he was crushed and a 16-year-old girl was involved in an accident where she received cranial damage that eventually lead to her death.

Manufacturers will say most accidents are the result of driver error and in most cases the car's mishandling is the cause of the accident. E-Z-Go's Inman added studies his company had done showed the possible addition of roll bars to cars looked to be more of a hazard than it was worth.

The liability suit is there, though. E-Z-Go, AMF Harley-Davidson, and others have been to court to fight such product liability charges, and on most occasions they have been followed into court by the dealer who sold or leased the car to the course and course management itself.

According to National Club Association legal counsel Tom Ondeck, people suing in such cases will cite all involved. "The owner of a course or the members of a private club can be sued if their course can be proven unsafe to run such vehicles on. For example, if a grade of a hill is too dangerous for cars to negotiate and an accident occurs, the club is liable," Ondeck commented.

Ondeck also added that under the law, management of a club should know all danger spots on the course for such vehicles and route drivers away from them. The owner/leasee of the cars has the duty to make sure all cars are safe.

Whether or not there is a trend to such suits in the industry is not clear at the moment. Certainly, though, if the government would prove cars unsafe, at this point manufacturers would not have much recourse without a published set of standards to adhere to in the industry.

Liskey and the CPSC state they do not want to set standards for the golf car industry, but unless the industry formulates some, it could come to that.

As far as clubs and courses around the nation are concerned,

advice from legal counsels on the liability assumed on renting golf cars might be a necessary question to bring to club attorneys and insurance companies that write such policies.

Government attention into the matter may prod action on all fronts. Liskey and those at the CPSC admit, though, that they are more interested in seeing industries take care of such safety standards on their own.

EPA changes stance on mercuric bans

The Environmental Protection Agency has lifted a ban on mercuric compounds used in some paints and moved back the effective date of those used in golf course treatment.

Earlier this year, the EPA banned phenyl mercuric compounds used in paints and turf treatments as fungicides and bactericides. A recent reversal lifted the ban on mercurics used in water-base paints because of pressure from the paint industry and mercuric producers.

Bans on phenyl mercurics used in turf and golf course treatment and in other types of paints are still on, but EPA's chief Russell E. Train postponed their effective date from June 30 to November 30.

Train conceded "nonmercurial substitutes . . . are not sufficiently adequate and effective to warrant cancelling mercurial registrations."

FEA writes guide, steams up company

Much energy is being expended in an argument over whether or not a certain steam cooker conserves energy, and both the credibility of a government publication and reputation of a new product are at stake.

Late in 1975, the Federal Energy Administration finished its handbook *Guide to Energy Conservation in Food Service* which contains suggestions on energy efficiency applied to club foodservice. A year earlier the Cleveland Range Co., a unit of Alco Standard Corp., had started producing the Cleveland Convection Steamer, an unpressurized steam cooker. The meeting of the two was less than amicable. A truce



Club and course operators around the nation are discovering they are just as susceptible to liability suits as manufacturers. Legal opinions point out that under the law, these managers may be as much as fault in golf car accidents as the manufacturer.

safety standard, but the industry itself seems so segmented, not much has been accomplished since the now somewhat defunct American Golf Car Manufacturers group attempted to put something together back in 1970.

According to E-Z-Go's George Inman, who chaired a AGCM subcommittee to get standards written six years ago, there were those in the industry that dragged their feet on getting standards written and published by ANSI (American National Standards Institute), a clearinghouse for such information.

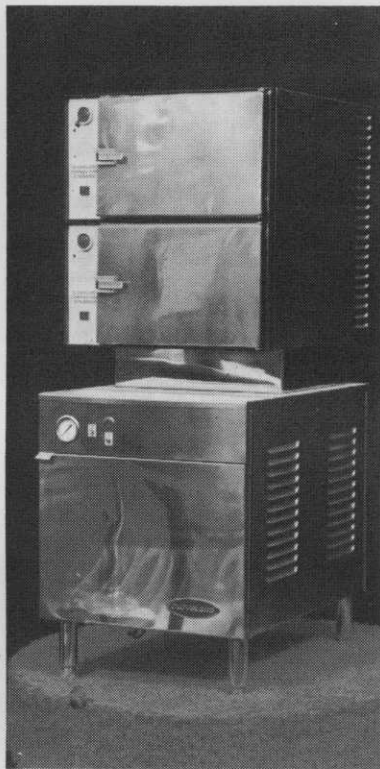
Inman told GOLF BUSINESS his Z-130 subcommittee had

admitted the draft hadn't been looked into yet.

How many accidents have occurred? According to estimates for the last six months of 1975, the government projected 36,000 on their NEISS data. Still, in relation to the more than 400,000 golf cars on courses today, is that a lot?

Records in the CPSC indicate there was very little followup data on the golf car accidents reported through the NEISS system. Again, golf car accidents are not a high priority as far as the agency is concerned. Accidents do occur, though, and were reported by CPSC field people.

Does this look like an energy waster? The Federal Energy Administration and the Cleveland Range Co. are engaged in a hot battle over whether this convection steam cooker is an efficient way to prepare food at clubs.



has yet to be established.

As soon as the book came out, Cleveland Range's president, Joel Elman, voiced objections. He objected to its references to the convection steamer as "less energy-efficient than other types because steam is free-vented down the drain," and blamed a drop in sales on the book. He also pointed out his company's steamer is the only convection steamer on the market, and any reference in the guide to a convection steamer is a direct reference to the Cleveland Range product solely.

Tina Hobson, program director for food products in the FEA, defends the guide, criticizing the "cutesy" handling of the subject in a recent *Wall Street Journal* article. She said the *Journal* considers it either "a sinister plot or a bureaucratic blunder. A third option is never presented — the possibility that the guide is a responsible publication and the information could well be correct."

Both sides have evidence to

support their views. The FEA said it had representatives from the National Restaurant Association and the National Association of Food Equipment Manufacturers, among others, to critique the guide. Elman claims collusion between the group hired to do research and a rival company. Elman cites advanced technology as the basis for the steamer, calling it a breakthrough, while Hobson quotes U.S. Army tests that state the steamer "works according to basic engineering principles and does not involve new or unknown technology."

At any rate, publication of the guide has ceased until the problem is resolved. Meanwhile, the FEA will continue to distribute 27,000 copies already printed. Mrs. Hobson told GOLF BUSINESS the steamer controversy is the only complaint she had heard of on the guide, and has already suggested different wording for the page in question, with deletion of the word "convection."

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Regulation to stay, claims EPA leader

"Government regulation is here to stay, and . . . we need to focus our efforts on making it work better," Environmental Protection Agency Administrator Russell E. Train told the National Conference on Regulatory Reform recently. "Government programs can be cut out, streamlined, simplified and otherwise improved," he said, pointing out that growth in industry and population necessitates regulations to protect health and the environment, and said regulation should be made to work rather than abolished.

Proposals before Congress that would give Congress veto power over EPA and other agency regulations were labeled "unworkable" by Train. "They would throw an already complex regulatory process into virtual chaos," he said, perhaps even putting Congress "into direct conflict with the courts," or the Constitution.

"Increasing regulation is an inevitable by-product of any high technology and high economic growth society with high and rising densities of human populations," he stated, and explained that since there is no choice between "growth and no growth" the questions are "how and where we are going to grow" and "how and where we are going to regulate."

Implications for golf course maintenance were included in

Train's comments when he addressed the problem in use of chemicals for pest control. "If modern agriculture requires the use of highly toxic chemicals to control pests, we cannot avoid regulation to protect human health and the environment," He emphasized, "It is really regulation that makes further growth possible at all."

Train differentiated between two federal regulators, "the social" regulators such as EPA and OSHA, and the more traditional 'economic regulators' such as the Interstate Commerce or Federal Power Commissions." He explained that while the traditional agencies are concerned with helping market forces, "EPA was established not to keep these forces from operating," but to insure that "they operate in the public interest."

EPA has set up goals to improve itself, according to Train. "To open up the process for effective public participation, to simplify and streamline the regulations, and to ensure every regulation is really necessary." He said a recent review of 125 regulatory initiatives turned up 20 to 25 that were deferred, dropped or proposed differently.

Most EPA regulations are based on extensive scientific research and records, said Train, who criticized measures allowing Congress to assess and review regulations, saying, "The simple fact is that they are unworkable . . . It would be an enormous task for the Congress to review all the data necessary to make an informed decision regarding the correctness of the regulations."

LEGAL AFFAIRS

Clubs not affected by Court decision

A recent U.S. Supreme Court ruling on discrimination in private schools does not apply to private golf clubs and their admissions policies.

On June 25, 1976, the Court decided racial discrimination practiced by private elementary schools was in violation of U.S. law, but such discrimination on a sex or religious basis is allowable. The Court specifically indicated the decision does not apply to private club admissions policies;

"It is worth noting at the outset some of the questions that these cases do not present. They do not present any question of the right of a private social organization to limit its membership on racial or any other grounds."

Section 1981 of the Civil Rights Act of 1866 determined the decision. The post-Civil War reconstruction period law, which up to now has had a weighty, but latent potential, prohibits racial discrimination in the making and enforcing of private contracts.

Virginia schools in suburban Washington, D.C. were found in violation of the law after they refused admission of minority children whose parents had applied for it. Public advertising by the schools in mailed brochures

and "yellow pages" ads led the Court to reject their claim to be private establishments, an action of which clubs might take note. The Court found Section 1981 applied to situations where there is significant public involvement and governmental regulation.

Since the Court generally recognizes constitutionally protected rights of free association and privacy, this decision is not likely to carry any implications for private clubs, as long as they retain their "private establishment" status.

EMPLOYEE TRAINING

Films help prevent money mishandling

Mishandling of cash, checks, or credit cards by waiters and waitresses, clerks, and pro shop assistants can be a costly — but preventable — expense, according to the maker of a series of three training films. *Handling Money*, *Handling Checks*, and *Handling Credit Cards* explain such things as counting money, spotting counterfeit bills, and validating signatures while treating customers courteously.

The program includes written study material and is available in 16-millimeter, super-8, and video-cassette formats from National Educational Media, Inc., 15760 Ventura Blvd., Encino, CA 91436.

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SUPERINTENDENTS

Open superintendent happy morning after

Perhaps the second happiest man at the 1976 U.S. Open in Atlanta as Jerry Pate shot to within three feet of the 18th pin, clinching the victory from the fading grasp of John Mahaffey, was Bobby McGee, golf course superintendent for the Atlanta Athletic Club. Pate's approach shot won him the championship and assured McGee there would be no Monday playoff. The last-minute charge by the rookie professional ended a three-year marathon of planning and preparation for McGee and his regular staff of 25 men.

McGee and crew, plus 15 extras, had been working seven-day weeks preparing for the prestigious tournament. It was a grand success; over 145,000 fans (including the three practice days) watched the first Open ever held in the south. But because this was the first Open in the south, McGee had to contend with some special problems.

Bentgrass was one. It is difficult to maintain in hot climates. McGee had to be careful not to mow the grass too short on the greens, since they would burn out before the end of the tournament. To accomplish this, he carefully paced the length of the grass, cutting it successively shorter each day until the start of the tournament. By then, the greens

were approaching the USGA desired lightning speed. Rain during the four playing days slowed them somewhat, but McGee's crew kept them playable with squeegees. USGA officials, who now measure the speed of Open greens twice daily with golf balls launched from 20-degree-inclined planes, remarked about the consistency of the greens. To McGee's delight they announced "tremendous."

That bit of rare praise from golf's official association helped sweeten the stew caused after the first round of play when some of the more vocal pro's complained enthusiastically that the fairways were too high. The trouble was traced to the wheels on the mowers. The cutting-height settings were adjusted to compensate and the problem was corrected for the second round.

Another problem for McGee was the rough. The USGA specifies four to five inches deep. McGee's roughs are Bermuda grass, a late bloomer in North Georgia. Last year McGee experimented with a chemical, Gerbillic Acid, to boost the Bermuda growth early in the season. It worked. This year he applied four to five sprayings and by tournament time the rough was the way the USGA wanted it — rough.

Any large gallery, excited and twice caught in torrential Georgia thundershowers, can do a lot of damage to a superintendent's domain. This year's Open crowd did its share, especially in the areas surrounding the greens and important tees, such as the tricky par-

three 15th. Crossovers and walkways, particularly the crossovers that rutted the playing fairways, were the worst areas. Some reseeding will be required in these heavily traffic areas. Fortunately, they were few. In fact, damage to the actual playing areas was so slight McGee had the tournament's Upper Highlands Course, one of two at the club, back in action for the members in two days. He expects to use much less than the \$20,000 made available to him from tournament proceeds, specifically for post-play repair, to complete the task of returning the grounds to normal.

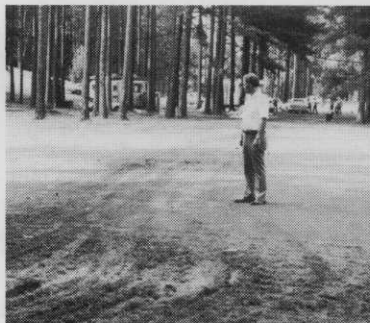
One last obstacle at the end of the Open was getting the half dozen giant 16-wheeled ABC-TV vans safely off the course. A hard rain the day after the tournament softened the ground again, and McGee firmly, but diplomatically convinced the crews to stay put until the sun dried things up. One smaller van from a Florida television station tried to exit over a clay-surface access road. It slid down a small hill and settled at a 30-degree list in the soft mud along the road. It

too had to wait for the sun.

With the tournament over, the grass on the greens can now grow a little longer. During the Open they were cut once in the evening and twice every morning before play. USGA calls for a standard grass length of 5/32 inch. Regular length, for the club members, is kept at 3/16 to 1/4 inch. The terrifying roughs will get trimmed back to a more civilized length, which must be a great relief to the club golfers.

Surveying the course damage, McGee, a 13-year veteran with the Atlanta Athletic Club and the son of a golf course superintendent from Rome, Ga., although gracious and polite, looked exhausted. Asked if he was upset with the damage and would he advise other superintendents to steer clear of such super events McGee said, "The damage doesn't bother me, not when it's for the right reasons.

"And no," he continued, "I wouldn't advise a superintendent to avoid this kind of event. It's a chance of a lifetime; and in its own way, it's rewarding."



McGee examines portion of playing fairway used as a crossover point by 145,000 fans and several television crews. Some of the worst areas will have to be reseeded.

Vehicles trying to leave the course over wet clay-surface access roads found the going a bit slippery. "Seemed like we were driving on ice," commented the driver of this Florida television truck. They had to wait for the sun and a tow truck.



Sitting amid the debris behind the lake at the 18th green, superintendent Bobby McGee is acutely aware that he is responsible for not only the golf course, but all of the grounds at the Atlanta Athletic Club.



COMPANIES

**Custom Crest Clubs
Joins Power Track**

Oscar Jones, founder of Oscar Jones Custom Crest Golf Clubs, and Ron Pawlacyk and John Tate, owners of Power Track Golf Company, have joined ranks and pooled their talents to produce golf equipment.

Jones started his golf career with Wilson Sporting Goods in 1951, then left in 1963 to head the Arnold Palmer Pro Golf Company in eleven western states. While with the Palmer company, Jones helped pioneer the use of investment cast process in the manufacture of irons and putters, and met Pawlacyk and Tate who worked with him there. In 1972 he formed his own company which

produced wedges that could have a country club crest or logo included. He later added a complete set of woods, irons, wedges and putters to his line of custom products.

**Fansteel changes,
but not golf-wise**

Fansteel Inc., a Chicago based minerals and manufacturing company that recently started producing top-price golf club heads, shafts, and tennis rackets, is now under the control of the H. K. Porter Co. Edward P. Evans, 34, who succeeded his father, Thomas Mellon Evans, as Porter's chairman last September, acquired 85 percent control of Fansteel in a recent stock market move.

Since 1973, Fansteel has been little more than profitable and in the



New Fansteel owner
Edward P. Evans plans no major changes for the golf shaft and investment casting firm.

preceding 10 years it paid no dividends. Its poor showing is attributed to the financing of an acquisition program. Now it will be an 85-percent-owned subsidiary of Porter with five of its nine-member board nominated by Evans.

As far as GOLF BUSINESS could ascertain, Fansteel's continuing president and chief executive officer, David D. Peterson, has no immediate plans to change the golf equipment manufacturing division, and Evans has no great management shifts in mind. Said Evans: "I hope management will stay. I think they will."

Securities Exchange Commission.

In accordance with the plan, Wells-Fargo Bank has agreed to accept \$1.25 million of preferred stock as full settlement for its loan of that amount to the company.

The company "will build up slowly . . . with control," Ed Valley, vice president of operations, told GOLF BUSINESS. Simmons has been operating on a current basis since November 1974.

Valley said his company "manages to meet the needs of the industry," and commented, "business is a little on the slow side." He added the company's comeback "will not be instantaneous."

Survival of the company was attributed by George A. FitzPatrick, president, to high quality in products and present personnel, through this period of difficulty in the golf industry. Valley described present market conditions as bad and said "in my 30 years . . . I have never seen anything like it."

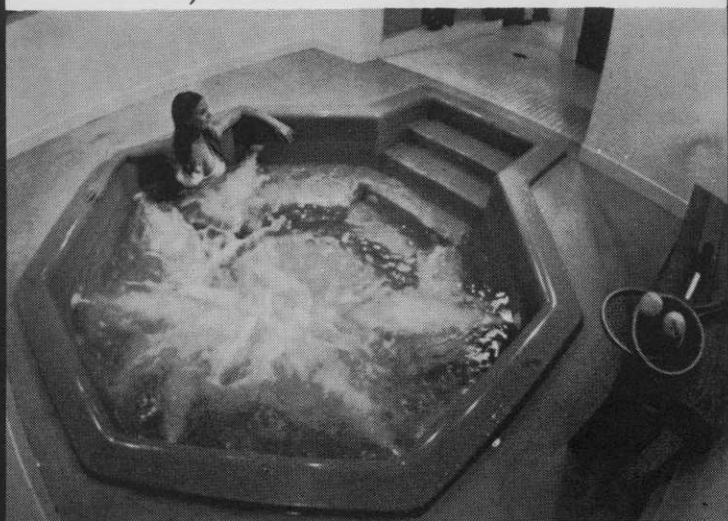
**New firm gives away
'free' ballwashers**

Getting something for nothing is not an everyday occurrence in the golf market. For superintendents around the nation there is a new aspect to accessories they can cash into without any investment at all.

There is a catch, though, and it's advertising. A firm called Teemaster International has come up with the idea of positioning ball washer units with advertising on them all over the country free to clubs interested in a bargain.

"We are shooting for daily fee and resort facilities," Teemaster General Manager Brendan Baldwin told GOLF BUSINESS from his office in Santa Monica, Calif. Teemaster has designed the ballwasher units, which are manufactured in Australia, as a complete unit including a hole information plate and a convenient four-sided trash basket, which the advertising plates are attached to.

In July, Baldwin's company had established plans with nearly 200 courses over the country through a direct mail piece. Projections are for 400 to 500 clubs by next spring. That is still a long way from the nearly 7,000 courses that

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**Simmons pays debts
through new stocks**

A slump in the golf industry has been weathered by a manufacturer and the company is on its way back up.

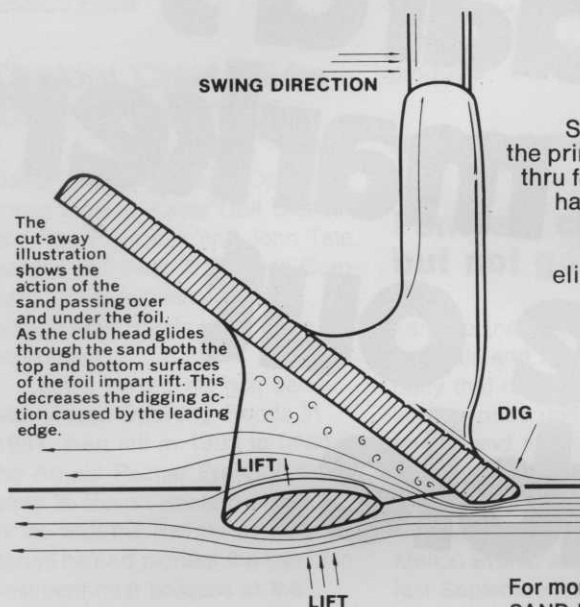
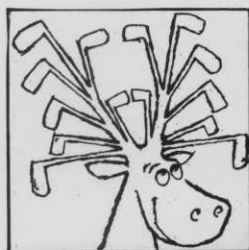
Simmons International Corp., golf equipment manufacturer, reports it has reorganized under a Chapter XI proceeding in a record 22 days. The company's plan to issue stock to its pre-November 20, 1974 creditors was filed in U.S. District Court on May 6, 1976 and confirmed on May 28. Filing of a Chapter XI proceeding was necessary in order to issue stock without registration with the

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could be eligible in the plan.

Private clubs have been excluded from the program since Baldwin fears the hassles his firm might have dealing with member-owned facilities.

Although many clubs have shown interest in the project, the first delivery of ballwashers won't be until October. Teemaster does not install the washers, but does do some of the maintenance chores over the span of the 36 months a club has the units.

According to Baldwin, the 18 washers are valued at \$2,000 for the set. The washers are cast aluminum, double the thickness of metal which will support a mobile home unit.

As far as finding the advertising prospects to support the program, Baldwin is still waiting to get major companies involved.

CLUBS AND TAXES

Maryland laws tax patience, pockets

Clubs in Maryland and Florida are finding it just as hard to keep their tax breaks as it was to get them.

How do tax breaks work? Simple. Clubs are assessed at a lower value and taxed less. How do clubs qualify? That answer is not so simple, since it involves decisions from state and county levels.

Through such decisions some clubs stand to lose breaks currently saving them thousands of dollars annually.

Attorney General of Maryland Francis Burch must determine whether or not some country clubs in his state should be given an "open space" tax cut provided for in a 1966 state law. A 1974 amendment to the bill added anti-discrimination stipulations and left to him the job of deciding who should get the break.

The story started 10 years ago when supporters of a "differential real estate tax assessment" law (including the Lieutenant Governor of Maryland, Blair Lee III, who was then a lobbyist) got their bill passed by the Maryland General Assembly. The law allows clubs to have land assessed at "use value" instead of "market value," thus placing tax value at real estate worth as it is being used, rather than what it would sell for on the open market. The law is designed to protect "open space." Clubs taking advantage of it sign a 10-year

agreement promising to keep the land undeveloped for that period of time. At the end of that time, the agreement can be renewed.

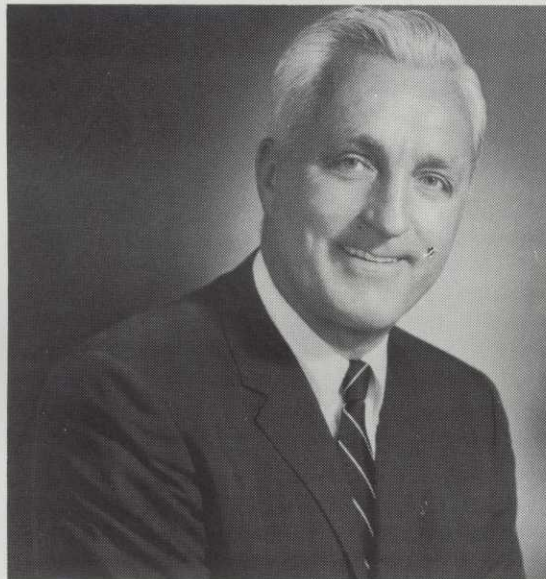
Sources told GOLF BUSINESS proximity to the Capital influenced assessment of club real estate worth. The method utilized a circle drawn around Washington, D. C.. The closer a club was to the center of the circle, the greater was its tax value. Although assessment was adjusted according to each club's size and location, failure to adjust the assessment in relation to the rising market value of land has saved the clubs more tax dollars each year. For example, 20 clubs in Montgomery county were assessed at 54.7 percent of the fair market value when most of them signed agreements in 1966. By 1975, they were assessed at 28.3 percent of market value, because assessments were virtually the same as they were at the beginning of the agreements although land values had almost doubled.

There are 25 country clubs in Montgomery and Prince George's counties who own about 5,000 acres altogether and combined save more than \$638,000 through the break annually. One of the big beneficiaries is the Chevy Chase Club, which saves almost \$80,000 a year. Others include the Burning Tree Club (\$47,598) and Congressional Country Club (\$35,466), both outside Bethesda. Burning Tree is a favorite course of President Gerald Ford and Chief Justice Warren Burger. The Congressional Club hosts many government officials and legislators.

A 1974 amendment to the law proved to be a fly in the ointment for those three clubs and others. It stated, effective July 1, 1975, any club that withheld membership or guest privileges from anyone because of race, creed, color, sex, or national origin forfeited its right to tax relief. Another amendment diluted the sex bias provision, allowing the break to clubs operated to benefit members of a particular sex.

In accordance with the law, the attorney general's office began an investigation to determine if clubs receiving the tax break qualified under the new amendment. In May of 1975, Burch's office sent out what Jon F. Oster, deputy attorney general, called a "very sophisticated and detailed questionnaire" to about 80 clubs in the state. The following January after clubs had responded to the five-page, 32-item survey, the at-

torney general found 22 clubs had not answered the questionnaire adequately enough to qualify for the tax break. The 22 clubs were then notified they must produce evidence to prove they are not discriminatory in their practices. The



Maryland Attorney General Burch: caught up in tax controversy.

attorney general will serve a cease-and-desist order to any club found discriminating, and if the order is not obeyed the club will lose its special tax status.

Three of the 22 clubs were quickly lopped off the list, with two providing sufficient evidence to clear themselves of any question of discrimination and one relinquishing its right to the tax break. Said Oster, "Of the 19 clubs, there are a number which I think will have to alter their guest and membership policies somewhat, if they are going to continue to receive this tax privilege."

Hearings constitute a large part of the investigation. Each club is called in by the attorney general to account for membership procedures and guest policies and asked to produce evidence to substantiate compliance with the amendment.

An element making the investigation slow and frustrating for the attorney general's office is its lack of power. According to Oster, "When the legislature gave this responsibility to the attorney general's office, it nowhere provided the office with subpoena powers to permit it to make its determination." The fact some clubs refuse to provide membership lists and pertinent data his office cannot subpoena has led Ward Coe, assistant attorney general representing the



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Department of Assessments and Taxation, to "assume the worst" — obvious discrimination — in the case of those clubs which appear to be uncooperative.

Some clubs have labeled the examination of membership lists an unconstitutional invasion of privacy and denounce presumptions made because of their refusal to provide those lists.

Thomas Washburne, lawyer for the Green Spring Valley Hunt Club, said, "It would be most unfair to draw an adverse inference where the club is only seeking to protect the privacy of its members."

The very basis for the investigation has been criticized also. Most investigative actions are based on charges or allegations, but the attorney general's office has reported no known instances of discrimination or official complaints from victims of discriminatory practices. Results of the questionnaires and records the clubs choose to present are the only basis the attorney general has to work from. Some club officials consider that

evidence too superficial to base accusations on, let alone make a judgment from. A precise definition of discriminatory practices, or rather lack of one, was another criticism of the amendment and investigation. Then there are those who resent having a real estate tax cut modified by an amendment that deals more with non-real estate specifications.

Some club spokesmen were almost oblivious to the matter, saying if their club lost the tax break then higher dues would subsidize additional costs, maintaining that members would rather pay more if it meant retaining control over choice of members.

"No comment" was probably the most widely heard opinion of club officials, but others were quite vocal in expressing their view of the law itself.

Blasting the differential assessment law, Richard Cohen, columnist for *The Washington Post*, recently wrote, "For most people, the clubs represent open space for those who can afford to join and

have the proper blood lines for membership. . . . For the people of the state to be forced to subsidize clubs only the rich can join . . . is absurd."

Frank Ecker, Montgomery County public advocate for assessments and taxation, calls the tax break a "form of subsidization." He and others pushed a recent bill in the Maryland General Assembly to raise use assessments to 50 percent of fair market value. Current use value is about 28 percent of market value. The bill died in the House Ways and Means Committee without a vote.

David E. Betts, an attorney for the Montgomery clubs, called the 50 percent minimum, with no maximum mark, "slightly ridiculous" and said it would be a "very great hardship to hit them all at once. I don't think it would be unfair to bring it up to 50 percent, but don't do it tomorrow."

Branch Chief of the Chief Counsel in the IRS, George Jelly, who is also a club president, explained how much a club that

breaks its agreement is required to pay in back taxes. He told GOLF BUSINESS the difference between the regular taxes and the differential assessment tax a club pays is called the "escape tax," the added amount a club would have to pay without the break. Jelly said the Maryland State Department of Assessment and Taxation requires payment of three years of escape taxes if a club breaks an agreement under the tax law. A penalty can be placed on the club for three years after an agreement expires if terms are broken.

Jelly is president of Lakewood Country Club in Rockville, Md. Until recently his club leased its land and took advantage of the tax cut. It decided to buy 15 of the 20 acres it had been leasing and give up the other five acres. When it did so, it violated the tax law agreement, and the state recovered the escape taxes for the past three years on the five acres.

The Maryland attorney general's office and Jelly both agreed that revocation of the break (as in the case of clubs that lose it because of non-conformity to the anti-discrimination amendment) would result in no penalty except immediate loss of the tax privilege.

As factions start to take sides on the tax law issue, it seems the main arguments are not against the law but against its lack of lucidity. Clear cut qualifications, as in the Florida case, would make application for tax relief an easier and less painful process, some maintain. A definite annual formula to determine "use value" in relation to "market value" at a fair rate is the basis for attack on the laws by others. And there is definite confusion when interpreters of the Maryland differential assessment law (and probably those in other states) try to figure penalties involved in deviation from the 10-year agreements.

Aside from the law, there is controversy over anti-discrimination qualifications. Where tax relief is available, there is a strong argument from those who say if the state helps pay a club's taxes, then any citizen of the state should be able to join that club. Such legislation must travel a narrow path if it is also to protect clubs that wish to maintain their character and personality by reserving the right to choose its members. Critics say there is a need for explicit definitions of discriminatory practices, as well as exact procedures for ascertaining violators.

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