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at some length because it fairly illustrates the rule of liability for accidents of this kind. In such cases there can be no ground for holding the club liable for the negligence of its members which results in injury to other members or their guests, unless the club has in some manner been at fault. So too, the liability of one member to another member or his guest must be predicated on the same ground.

Of course, in this case, had the member who drove the ball that caused the injury been identified the question of whether or not he had been negligent could have been raised. If the answer was "yes," there could be no doubt of his liability for the injury. This phase of the subject may be illustrated by the following.

Caddie Struck by Hooked Ball.

In this case, B, a member of a golf club, invited H. to his club and they started around the course. Plaintiff, a caddie, was assigned to B. by the caddie master and another caddie was assigned to H. After they had played sixteen holes, H. drove from the seventeenth tee for a distance of about 120 yards and his ball landed in the center of the fairway. B. then drove 100 feet beyond H. but landed in the rough to the left of the fairway. They then started for their balls, but before B. and his caddie, the plaintiff, had reached their ball H. drove but did not shout "fore" until after his ball was in the air. H. hooked the ball, and it struck plaintiff, B.'s caddie, in the eye, causing a serious injury.

Member Held Negligent.

Plaintiff thereafter brought the instant action for damages against both the club and H. At the close of the case, plaintiff dismissed his action against the club, no doubt realizing that it was in no way liable. Judgment was, however, rendered against H. for \$6,000, on the ground that his failure to call "fore" in time to enable the plaintiff to dodge the ball was negligence. In affirming this judgment, the higher court reasoned:

"The charge of negligence against defendant H. is that he drove his ball towards plaintiff without warning him. Plaintiff, as was his duty, had proceeded on beyond H. toward the point where B.'s ball lay, and was yet 25 feet from his destination, and at the edge of the fairway, when injured. The evidence disclosed that it was customary for a golf player before driving to call 'Fore' when some other person was in the direction in which the ball was to be driven * * * .

"According to the testimony of H. himself, * * * such warning was not given until after the ball had been struck, when he observed that plaintiff was in the path of it. Under such circumstances we think it was clearly for the jury to determine whether or not defendant H.'s conduct was such as to meet the test of ordinary care. * * * Judgment affirmed as to defendant H." (286 S. W. 865)

So much for the foregoing cases which are fairly illustrative of the reasoning of the courts in placing liability for accidents of the kind here involved. However, it will be noted that in neither of the foregoing cases was there occasion for the application of liability under a Workmen's Compensation statute. But in dealing with the subject in hand, statutes of this kind are deserving of some attention for where injury is suffered by an employe of a golf club, in the course of his employment, the club may be liable thereunder.

For example, if a caddie or other employe was injured by being struck by a ball he would no doubt have the option of proceeding against the club under a workmen's compensation statute, if one was in force, or against the member or other person who drove the ball. This is the general rule in cases of this kind. But, under this rule, an injured employe must elect; he cannot pursue both the person who caused him the injury and his employer also.

The books do not appear to contain a case of this kind where the injury complained of resulted from being struck by a golf ball, but resort may be had to an analogous situation in illustrating how the courts have reasoned on the subject. For this purpose, let us take a case handed down by the Illinois Supreme Court, and reported in 140 N. E. 871, which arose under the following facts.

Caddie Struck by Automobile.

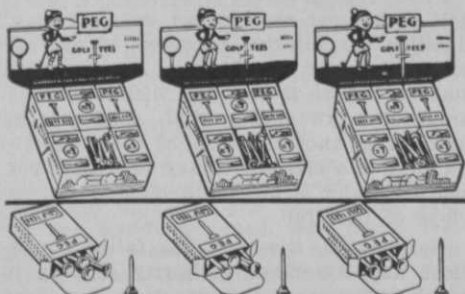
Here, the claimant was a boy 12 years of age and worked for a golf club as a caddie. On a certain day he reported for work, but was not called because there were other caddies with numbers ahead of him. When it became apparent that he would not be called that day, he started to leave the grounds, and was struck by an automobile within a few feet of the clubhouse. His injuries were serious, and he proceeded against the club under the Illinois Workmen's Compensation statute.

The club defended on the ground that claimant was not in its employ when in-

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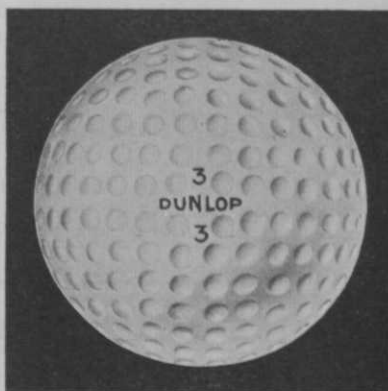
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jured. In denying this contention the court said:

"The testimony of the claimant is that he was working for the _____ Club; that he did not work for any other club. It appears that the boys were under the control of the caddie master, who called them when needed. It was a part of the function of the club to furnish caddies for players. The caddies reported to the caddie master, and were under his direction. Whether the club paid the caddies and afterwards collected from the players, or the players themselves paid the caddies in the first instance, the caddies were still employes of the club."

But, even so, the club contended that claimant at the time of his injury was not engaged in the course of his employment, but was leaving the clubhouse for his home. From which it was contended that his injury was not received in the course of his employment. In answering this, and in awarding claimant compensation, the court reasoned:

Claimant Entitled to Payment.

"It is not essential to the right to receive compensation that the employe should have been working at the particular time when the injury was received.

The employment is not limited to the exact moment when he begins work or when he quits. An injury accidentally received on the premises of the employer by an employe while going to or from his place of employment by a customary or permitted route, within a reasonable time before or after work, is received in the course of and arises out of the employment."

From the foregoing it is obvious that a golf club must assume the usual risks of liability for injuries received by its employes, under workmen's compensation statutes where it operates within the coverage of a law of this kind. And now let us turn to another phase of the subject—liability of a club for injury to a third person, one who is neither a member or employe of the club.

Here again, a search has failed to disclose any American authority directly in point. However, the question has been passed upon by the English courts, and in 38 Times Law Reports 615 we find a case of this character that arose under the following facts.

Plaintiff, a cab driver, was passing along a road that ran parallel to the 13th hole of the defendant's golf course. At this time Mr. C., a member of the defendant

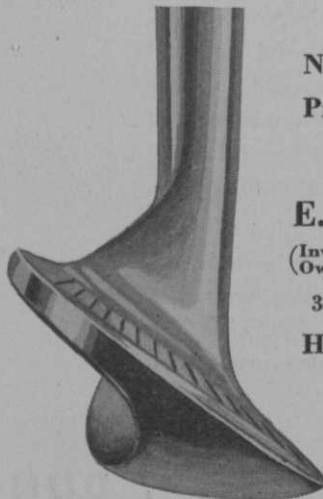
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club, drove from the tee, sliced his ball and it struck plaintiff in the left eye, resulting in the loss of that member. Plaintiff brought suit against both the club and Mr. C. The latter did not defend the action, and the plaintiff in making his case against the club introduced evidence that tended to show that the way the course was laid out, in respect to the highway, the 13th tee was a positive danger to people passing on the highway. In upholding this contention and in holding the club liable, the report of the case recites as follows:

What the Court Decided.

"His Lordship gave judgment for the plaintiff against both defendants, awarding him £450 damages and costs. He said that the Sandwich road was much frequented by motor-cars and taxicabs, and he found that the 13th hole of the * * * links ran almost parallel to, and quite close to the high road. Mr. C. did not appear in support of the defense, and for the club it was contended that the accident was entirely due to the wrongful act of Mr. C. in hitting the ball.

"He was satisfied that balls driven from the tee frequently landed on or over the highway. Further, he was satisfied that on some occasions balls had actually struck vehicles passing along the highway, and that the user of the 13th tee was a danger to the public passing along the highway.

"He was sure that the directors of the club knew, or they ought to have known, that balls driven from the 13th tee frequently landed in the road, * * *. On the facts, he was satisfied that the tee and the hole were a public nuisance under the conditions and in the place where they were situated. He was much impressed by the argument that Mr. C. saw, or ought to have seen, the taxicab driven by the plaintiff coming along the highway, and that he was perfectly reckless in the way he drove off.

"He could conceive that there were cases where golf clubs might not be liable for accidents more or less of this character; as, for example, the case where a railway line ran between the hole and the tee, and some foolish member of the club drove off at a time when a long passenger train was passing. He would decide such a case when it arose, but that was not such a case as the one before him. He was satisfied that the slicing of the ball into the road was not only a public danger, but was the probable consequence from time to time of people driving from the tee."

So that was that, and the club was held liable for the negligence of its member

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Mr. C., on the grounds of nuisance; in other words, for maintaining a course that was laid out in such a manner as to create a positive danger to members of the public passing certain parts of it. The holding announces good law, and it can hardly be questioned but what the same conclusion would have been reached upon the same facts had the case arose in any American jurisdiction.

Summary.

In the light of the facts and holdings of the cases reviewed, their import may be summarized as follows: A golf club will not ordinarily be liable for injury to a member or others playing the course caused by being struck by a ball. Neither will a club incur liability for such an injury to a trespasser upon its property, but in such cases the injured person would have recourse, if any, only upon the person who drove the ball.

In respect to injury to a caddie or other employe of the club we have a somewhat different situation. If the club was in a jurisdiction covered by a workmen's compensation law, such an injured person would have the option of demanding com-

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pensation thereunder from the club, or of bringing an action based on negligence against the person responsible for his injury. But he could not pursue both remedies.

As to injuries to passersby upon a highway, the club's liability would seem to depend upon whether or not its method of maintenance constituted a danger to the public. If it did, as in the English case reviewed, the club might be held liable. But, in the absence of such a showing, the injured person would have recourse only upon the one directly responsible for his injury.

Pros Today Must Protect Players, Manufacturers and Themselves

By THE ROAMER

DURING THE past three months the writer has made contact with many of the golf professionals in Illinois, Wisconsin and Minnesota, and opinions were unanimous and uncomplimentary about certain manufacturers of comparatively recent origin whose policies seem to have been made by the production department, with a view to maintaining schedules, instead of by officials interested in securing a place for their companies in the economic firmament.

In one section, a well known ball was being peddled to business men in their places of business, and players in another section have worked out a "system" of "collective buying" which enables them to obtain golf balls at wholesale prices. In another section a fairly well known make of golf clubs can be purchased at wholesale prices by any one having the price. In some places golf goods of well known makes in the department and cut rate stores are quoted at prices paid by the pro for the same goods. This is undermining the business in a manner that is bound to prove a boomerang and have the opposite effect than the one intended of increasing sales volume.

Some of these manufacturers are apparently out to get the "egg" and "to hell with the goose." They apparently regard the professional as a necessary evil rather than as a mainstay to the game and without whom golf courses would soon fall into disuse for lack of membership interest and development.

It must be apparent to any one capable of thinking that the time will never come when golf skill will be acquired by any

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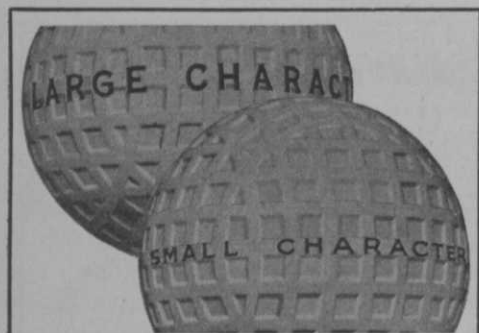
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other method than by teaching and that alone makes the future of the golf professional secure. Revenue from the sale of golf merchandise is as much a part of the pro's income as the money paid him in salary by his club. If the pros' income from the sale of merchandise is reduced due to lack of appreciation by club members, apathy on the part of club officials and short-sighted policies of inexperienced manufacturers, one of two things is bound to happen. He will either have to have a higher salary or he will be forced to find a means of getting the merchandise he sells under exclusive trade marks.

Price protection for the pros as well as the reputable stores is one of the very serious problems for the manufacturers these days.

The flourishing manufacturers are giving the professional protection to which he is justly entitled. Economic laws are caring for those who minimize the pro influence.

This year will go down in golf manufacturing history as a year of rather troublesome and conflicting policies. The executive who in 1930 pondered the question as to whether he should protect the pros' interests or whether he should go out and "get his" by selling the drug, hardware and cut rate stores will no doubt have the answer by 1932. With price-cutting becoming tragic, the answer will undoubtedly be written in red ink.

As the professional becomes better organized he will no doubt see the necessity of educating the public to the difference between a can of tomatoes and a set of golf clubs. A can of tomatoes is a can of tomatoes and with the same label it is the same thing no matter where you buy it. A set of golf clubs however, falls into an entirely different category as a sales problem. If people were all of the same mentality, physique, and development and skill in golf could be acquired as easily as blowing soap bubbles, then it might be possible to sell golf clubs over a counter just as you would sell the tomatoes. A set of golf clubs has certain characteristics that forever shut out this possibility.

Selection of a set of clubs will always require the aid of some one with years of experience in finding out just what is required in each instance so that the embryonic golfer will get the right start. In golf, as in many other things, this is the cheapest procedure in the end. It is therefore evident that the professional is as secure in his business as any one can ex-

pect to be and all that remains is for him to get a fair share of the profits to which he is entitled.

To stop the deluge of cheap clubs, balls and other golf goods with which the market is inundated the pro must remember one thing of vital importance; particularly must this be considered by the young pros who have less experience than the old timers. When a pro buys and displays on his shelves merchandise that is similar to products that are flooding the stores, he is giving his approval to this lower grade merchandise and the practices that promote its sale. Without the support of the pros, manufacturers of this junk will rapidly fade out of the picture, which will be a good thing for all concerned; the pros and the first class manufacturers.

Another angle to this cut-rate business and one that escapes the attention of the average man is discovered when you find your members buying at the stores, goods that you are displaying on your shelves. Your member naturally reasons that you approve of these goods and then makes his purchase in the store where he can beat your price. In other words you make the sale . . . the store gets the profit.

If the writer may suggest means to combat the evils enumerated I would strongly urge the pro to work along the following lines.

1. Back up and support your organization. No unorganized business ever got anywhere.
2. Back up companies whose policies square with the pros' interests.
3. Blow a cold breath on any merchandise that does not conform to the standards of the profession.



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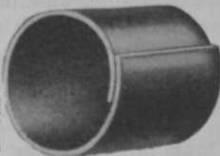
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Looking Ahead on Drainage, Sod and Weeds Pays

By ROBERT D. DUTTON

Course Supt., Orinda C. C., Berkeley, Calif.

THE SOIL at Orinda Country Club is a heavy adobe, and in view of the trouble we have had with our clay tile lines, clogging up with roots, I have come to the conclusion that vegetation must go very deep in this vicinity for water. At any rate we recently had a drain on one of our long fairways dug up because it had not been functioning well and found that many of the tile were effectively clogged with solid masses of roots. The line has been down for about four years and consists of four-inch clay tile about two feet deep.

Something had to be done at once to correct this condition and we proceeded by removing the tile and substituting perforated corrugated pipe, installed according to manufacturer's specifications with a rock basin beneath the pipe and backfilling the trench to within six inches of

the surface with rock. The perforations in the pipe were placed on the down side.

Cost, not including the price of the pipe, for a ditch 32 in. deep, removing and replacing sod, hauling away removed earth, backfilling with rock, 41 cents a foot, based on a charge of 56 cents an hour for labor. Also the crushed rock that we purchased had to be hauled a distance of 12 miles and on trucks that could only be loaded to about a three-yard capacity, so you will note from this that our cost for filling material was high.

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The reason for the selection of the perforated pipe was the service given by an installation made about 1925 at Orinda of this same type of material which replaced a tile drain at that time. The tile drain was not properly installed and did not function, hence the replacement dur-