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## Convenant Does Not Restrict Parking Lot Improvement

By WILLIAM JABINE

Is the operation of a non-profit golf club a business? That, in simplified form, was one of the questions that the Supreme Court of the state of Washington had to answer recently when a man who had bought a lot adjacent to a golf club and built a residence thereon, sought an injunction to prevent the golf club from improving its parking area by black-topping it. The man claimed that the deed to his property contained a restriction that forbade a "noxious or offensive business trade" on the lots platted at the time he bought them. He said that this restriction had been violated by the club in improving some of the lots for parking purposes.

### Part of Business Operation

A trial court, sitting without a jury, found that although the proposed improvement of the parking lot was neither noxious nor offensive, nor an annoyance nor nuisance to the neighborhood (all restrictions as part of the covenant), nevertheless the golf club operation was a business. Thus, the lower court ruled that the maintenance of the proposed parking lot, being an integral part of such a business operation, was therefore a "business trade", in violation of the restrictive covenant. The club appealed the trial court's decision that enjoined it from improving its parking area as planned.

After reviewing the general rules of law applying to restrictive covenants, the Supreme court stated: "Applying these rules to the restrictive covenants in question, the intent of the contracting parties becomes apparent. Although no structure

other than a detached single-family dwelling was permitted, it was not intended that the land should be used for residential purposes only. Land may be used without a structure thereon, and there is no express covenant prohibiting such use. (Citation) The fact that the parties designated 'noxious or offensive or business trade' as the only prohibited nonresidential use, is clear evidence of their intention that other non-residential uses were permissible."

### Social Organization Not Business

Having thus disposed of the "structure" provision of the series of covenants, the Court addressed itself to the question of whether the operation of a golf club is a business. On this point it said in part: "The word 'business' in restrictive covenants is one of ambiguous and uncertain meaning. (Citation) The appellant is a social club, organized under appropriate statutes as a nonprofit corporation. The fact that it charges its members and guests for services and makes a profit on some of its activities does not change its essential character as a social organization. (Citation) The commonly accepted meanings of the words 'business' and 'trade' do not include social organizations."

### Parking Essential Development

The court further stated: "Lots 1 and 2 of block 3 were planted with grass, developed, and used as the tees for the first hole of the second nine of the course. Lots 3, 4, and 5, in their unimproved condition were used for parking purposes. The respondent made no objection to such use. He objected only when it was planned to make the area more suitable for the established use. The parking facilities were reasonably necessary for the successful operation of the course. Space for automobile parking is essential to the development of any facility where substantial numbers of people gather."

### Intention Not Restrictive

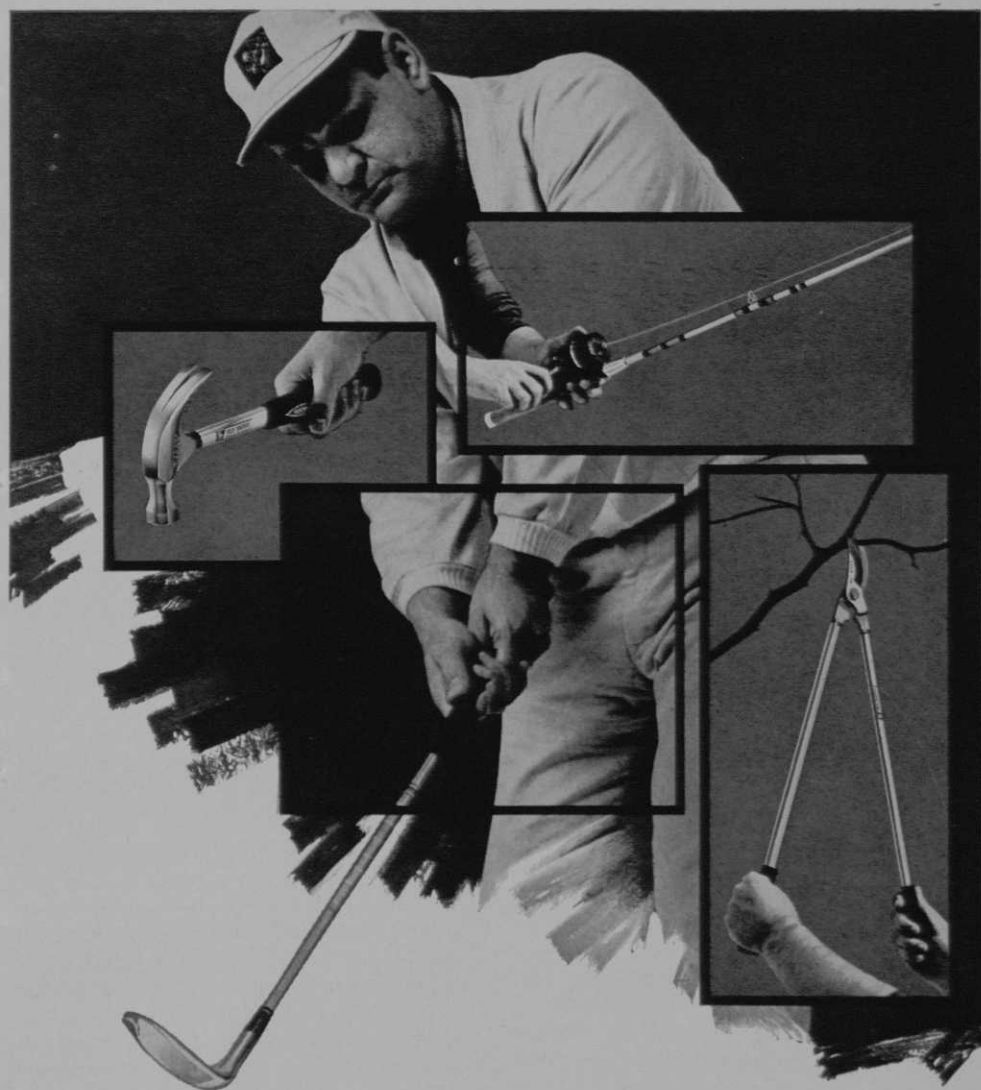
"The conduct of the parties to the agreement, and all of the surrounding circumstances, establish that the intent of the parties was that the covenant would not restrict such an improvement. (Citation)

"Restrictive covenants will not be ex-  
(Continued on page 94)

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# Ohio Course Owners Seek Break on Taxes, Daylight Play Hours

By CHARLES STINE

Ohio golf course operators have banded together to seek a better break from the state legislature in taxes and other matters.

The association formed this spring, adopted the title of Ohio Recreation Association and elected as president, Bill Lyons, operator of a 9-hole course at Canal Fulton. It hopes to enlist at least 100 of Ohio's 440 golf courses in membership this summer and is accepting membership applications from ski facilities and recreation parks.

Two projects are being pushed — opposition to a "slow time" bill, now before the legislature and writing of a new real estate tax law which will be presented to the next legislature in 1967.

## Structure Outmoded

"Tax structure in Ohio is as outmoded as the horse and buggy," Lyons says. "The state laws were written in a puritanical, pioneer time when recreation was considered almost sinful. The word recreation appears nowhere in the Ohio tax code."

Golf courses in Ohio are presently classified as commercial land for real estate tax purposes. The association wants a special class written into the books for recreational land. Lyons points out that in recent years California passed a bill taxing golf courses the same as class A farm land.

Lyons points out an inequity in the legal standing of his own operation, a new one. Taxes jumped 946 percent when classification was changed from agricultural land to commercial. The paradox is that his course is in an area which, under local zoning law, is "residential, agricultural and recreational." He pays real estate tax at the commercial rate, but it is illegal for him to operate anything on the site that the zoning board considers commercial.

Lyons has started legal procedure for an appeal to his county tax board. Several other association members have done the same. But they consider this only temporary relief and have hired attorneys to prepare a bill suggesting changes in the state law to provide a new tax classification. Lyons says there is little hope of getting such a bill ready in time to be introduced before the legislature this year.

In the present legislature, the ORA is interested primarily in defeating a bill already introduced which would force all parts of the state to remain on Eastern Standard Time throughout the year.

## Lost Hour Is Costly

For many years, the northeast section of Ohio has switched to Eastern Daylight time during the summer months. The ORA is concentrated in the northeast section, which Lyons calls Northurbia. He says Northurbia, the heavily industrialized section of the state, has approximately 150 golf courses and that the loss of the hour of daylight in the evening would cost 9-hole courses an average of \$10,000 a year and 18-hole courses \$20,000 to \$30,000. Figuring each course at a \$20,000 average means that \$2.5 million in golf revenue would be lost if an hour of daylight was sacrificed.

Lyons points out that the loss would be nearly as great for private clubs as for fee courses. Many men who belong to private clubs might find their membership not worthwhile if there were not enough daylight after work for them to get in a round of golf. There is also great potential loss in clubhouse business, so important to the private clubs. If a man retained his membership, but played on weekends only, the evening loss of club business would be terrific.

## Conflict of Purpose

On the tax issue, the ORA intends to point out to lawmakers that their facilities can be used for their peak commercial value only about three or four months a year. It maintains that high taxes tend to force courses out of business, while at the same time the state is spending millions of dollars to promote recreation within its borders.

The ORA plans regular bulletins to



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members in exchanging information. Already it has spread the word on two sources of tax relief which many operators had not known about. Under Ohio law, a 50 percent tax valuation credit is granted to any acreage kept in trees and dedicated as a tree farm. This applies even though the acreage may be on golf course property that is actually surrounded by playing area. There is no minimum for size of the tree area. Another provision provides a 40 percent reduction in tax valuation for land in ponds or lakes.

### Qualifying Trials, Exemptions Listed for 1965 U. S. Open

The 65th Open championship of the USGA will be played at Bellerive CC, St. Louis, Mo., Thursday through Sunday, June 17-20. For the first time in history the final 36 holes of the Open are to be played in two daily rounds of 18 holes.

It is expected that close to 2,500 golfers will attempt to qualify for the Open. The record is 2,474 entries in 1962; last year there were 2,341. All pros and any amateur with a handicap not exceeding two

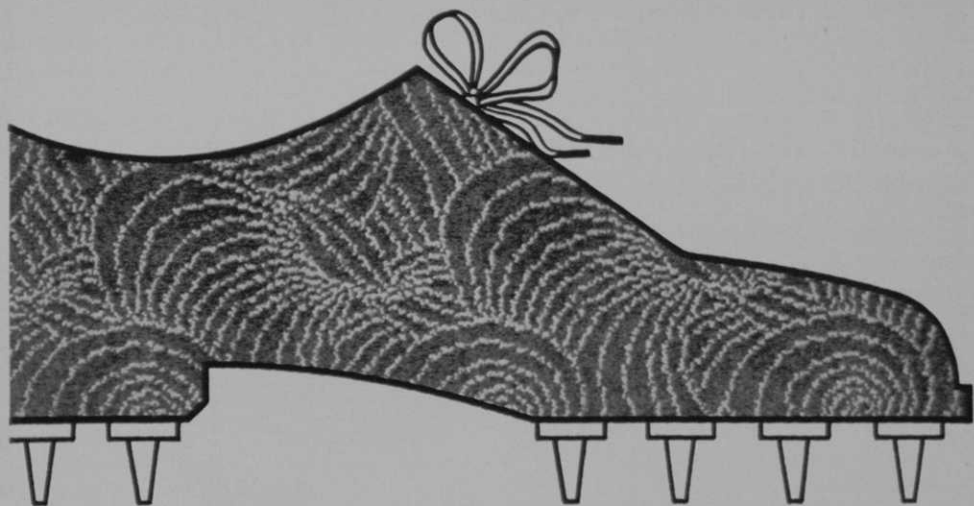
strokes under USGA handicap system are eligible to file entries.

The majority of entrants will compete on May 24 or May 25 in 58 local qualifying competitions. About 20 per cent of the total entries, excluding exempt players, will advance to 13 sectional qualifying rounds on June 7 and June 8. These survivors, along with those totally exempt, will make up the field of 150 for the Championship at Bellerive.

Categories of players who will be exempt from all qualifying are: Open champions of the last five years; 1964 USGA amateur champion; 1964 PGA champion; 1964 British Open champion; the lowest 15 scorers (and any tying for 15th place) in the 1964 Open; and, the 15 leading money winners on the PGA list (as of May 5) for the last year.

Prize money for the Open has been increased to a record \$125,000. Another \$7,800 is to be awarded in the 13 sectional championships, with each low scoring pro getting \$300, each second-place pro, \$200, and each third-place pro, \$100. The winner's share of the Championship has been increased to a record \$25,000.

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## Better Training in Personnel Management

The dozen or so young men who are in charge of maintenance at courses in the Arlington-Alexandria-Fairfax county section of Virginia represent what has to be an enlightened breed. Known variously as the "Young Turks" or the "New Frontier Boys," the group must have slipped in moonlight courses in public relations when they attended turf management school. They have been completely accepted by older turfmen in the Washington area because, as one veteran greenmaster, a member of the Mid-Atlantic GCSA to which the young supts. belong, says: "They are a bright but not brash bunch of young men. All have received fine educations in turf management, but they come to our meetings to learn and not let us know how smart they are."

The dozen are graduates of four schools. Half of them got their degrees at Penn State. Three are University of Massachusetts men. Two were educated at Rutgers and one is from Purdue. All but one, who is 32, are under 30 years of age. Each has been a head supt. for from three to five years.

Typical of all is Lee Dieter, who has been in charge of course maintenance at Washington G & CC, located on the western outskirts of Arlington, since 1962. Not quite 30, Lee attended Penn State from 1957 through 1959 and planned to return to his father's nursery business in Erie, Pa., when Bert Musser, now professor emeritus of Penn State's agronomy school, persuaded him to give golf course work a trial.

### Accelerated Learning

"You'll learn more about turf and business management in one year on a course," said Musser, "than you will in almost any other phase of agronomy. Make a connection with a good supt. and you'll get accelerated training in just about every-

thing. If you don't like it, you can always go back to the nursery business. I guarantee that the year won't be wasted whatever you decide to do after that."

So, Dieter, like many young men before him, took Bert Musser's advice. His apprenticeship lasted not one but three years, largely because he wanted it that way.



Lee Dieter

... what I needed was training.

When he took the job at Washington G & CC, which was founded in 1895, and was re-settled in 1922 after building its original layout near the Potomac, he hadn't applied for it but was approached by the club.

### Recommends Apprenticeship

The young man strongly recommends an apprenticeship term, preferably one of at least two years. This, even though he had started his schooling with dirt under his fingernails from working for many years in his father's nursery, and had compiled an unusually good scholastic average while at Penn State.

Lee has a simple explanation for not





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Recent additions at Washington G & CC are shelters constructed of brick. Several of them are spotted around the course. Floor (at right) is gravel, but maintenance department plans to replace it with concrete slabs sometimes this year.

having wanted to take on the responsibility of a head supt's position immediately after leaving school. "I wasn't ready for it," he says flatly. "I suppose I had a lot of turf knowledge and quite a few ideas about how a maintenance job should be run when I graduated. But I didn't know how to apply either. What I needed was training under an older man to find out exactly how a maintenance operation should be handled. I may have been ready for a supt's job after two years, but a three-year apprenticeship didn't do me any harm."

#### All Endorse The Idea

There isn't much doubt that the Young Turks or the New Frontier Boys, whichever you prefer, endorse Dieter's thoughts about the training interval. Most of them snapped at the opportunity to consolidate what they had learned at the various schools they attended by serving an apprenticeship.

A turf school grad who has worked under an experienced supt. for a couple years, Dieter feels, usually acquires a good knowledge of fertilization practices and undoubtedly learns much about chemicals. Water management, though, may be something else. This is particularly true in the Washington area where young and old greenmasters alike generally agree that a fellow is "between the devil and the drought" most of the year. Disregarding

this one aspect, the young supt. probably has to make few concessions when it comes to technical knowledge.

#### Training Fails Here

But he is usually weak in labor relations. So far as Lee Dieter and other supts. of his age and experience in the vicinity of Washington are concerned, this is where education and even their apprenticeship training fails them. "The schools," Lee points out, "say they don't have time to give us much training in personnel management. Personally, I think they should cram it in somewhere because eventually our jobs are made or broken by the way we handle our employees. Most of the supts. who have had the rug pulled out from under them in the Washington area have stumbled because they didn't know how to deal with their employees."

This educational lack or oversight applies to a lesser degree where most apprentice training is involved. Older supts., according to Dieter and other young men who have come into the course maintenance field in recent years, are inclined to assign just about everything but the supervision of course laborers to their assistants. The latter, as Bert Musser pointed out, get accelerated training in practically all phases of the maintenance operation, but personnel management too often is omitted.

*(Continued on page 122)*