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Thompson SPRINKLERS

GOLFER IN RANGE

Continued from page 60

back to Mrs. Orth. Mrs. Orth had been playing golf for nine years and was an experienced player. She identified a place on a photograph, which was admitted into evidence as plaintiff's exhibit one, as the place where Mrs. Take was standing when she was struck. The spot was marked by a pin hole and by Mrs. Orth's initials.

"This spot was some distance to the west of the large tree heretofore mentioned, and near the east edge of the fourteenth fairway. There are no obstructions between the fourteenth tee and the spot where Mrs. Take was standing, and a person standing in the spot could easily be seen from the 14th tee.

"Mr. James Manion, a veteran golfer, testified that if Mrs. Take had waved to golfers on the seventeenth tee to play through, that she would be watching the seventeenth tee and would have her back to the fourteenth tee. Mr. Manion also testified that if there was a person on the course with their back toward a tee,

the persons on the tee should not shoot until the person moved out of the way, or until they were warned, and were aware of the warning. It was only about one hundred to one hundred twenty yards from the fourteenth tee to the place where Mrs. Take was standing when she was hit."

After describing the nature of Mrs. Take's injuries, the Court continued: "Rule 3 of the Rules of Golf of the United States Golf Association on page one, section one, which establishes customs and practices for golfers, states that no player should play, until the players in front are out of range.

"Appellant's testimony in brief was as follows. Mrs. Orth stated she was standing on the fourteenth tee with Mrs. Rinehart waiting for people to leave the fourteenth green. She stated the players left the fourteenth green and she prepared to drive. She saw no one ahead except some men working down near the creek. She looked to the left and right, at the area where Mrs. Take was standing when she was struck, but saw no one.

Continued on page 64

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GOLFER IN RANGE

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"She hit the ball, and after she hit it, she saw Mrs. Take walking around the tree with her back toward Mrs. Orth. Mrs. Orth yelled 'fore' as did Mrs. Rinehart, but to no avail. Mrs. Orth was familiar with the golf rule previously stated. She said if she had seen Mrs. Take before she hit the ball that she would not have hit the ball.

"According to the caddy for Mrs. Orth, Mrs. Take was about ten feet west of the tree in question when she was hit. Mrs. Orth was on the tee for several minutes before she hit the ball.

"In rebuttal, Mrs. Take said she had stood on the same spot for a minute or more before she was hit."

The trial court's action in granting the plaintiff's motion for a new trial came after the plaintiff's counsel had argued that it had erred in giving certain instructions to the jury that unduly emphasized the possibility that Mrs. Take had been negligent in invading the rough adjacent to the fourteenth fairway without keeping a proper watch for players

on the fourteenth, and had not sufficiently emphasized the possibility that Mrs. Orth was negligent in driving while Mrs. Take was within range.

The Court of Appeals ruled that these instructions were calculated to mislead the jury, "as they might find and believe from it that Mrs. Take could not recover merely because she was in the rough of the fourteenth hole looking for a lost ball. This injected a false issue into the case and was prejudicially erroneous."

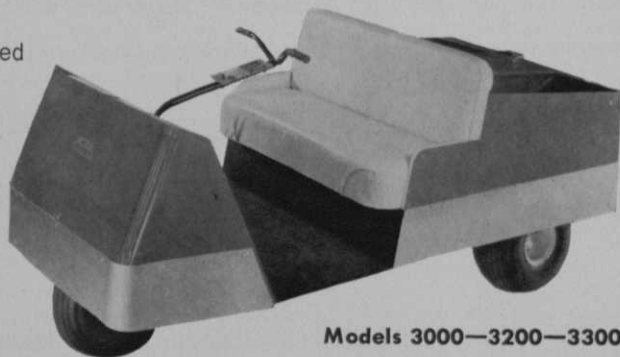
Thus the Court of Appeals held that invasion of the rough adjacent to a nearby fairway is not prima facie evidence of negligence in the absence of evidence of lack of proper care once there, and affirmed the trial court's action in ordering a new trial because of its own misleading instructions. (Take v. Orth 395 S.W.2d 270.)

(Ed. Note: Readers of GOLFDOM may question the statement in the opinion of the Court of Appeals that: "It was a good drive" when in fact it hit a player who was in the rough and so off the fairway for which the shot was intended.) •

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BEST OF GOLFDOM

Continued from page 50

and its members, and their helpfulness to the young men who are potential desirable recruits for professional golfing positions.

Oklahoma Demands Credit O. K.

As an example of the way in which professional golfer state associations exercise vigilance over the business standing of their members, we may take the Oklahoma Professional Golfers' Association, which is one of the state and section groups, distinct by itself, but allied with Professional Golfers' Association of America as a unit of a national body. This typical sectional professional golfers' association has among its officers associated with Neal O'Sullivan, its president, such men as M. S. Fellers, vice president, Arthur J. Jackson, secretary, C. P. Vance, treasurer, and on its executive committee and board of governors, E. H. Dinwiddie, G. S. Hensley, G. T. Larson, H. E. Cole and R. B. Atkinson.

From its characteristic constitution and by-laws we quote:

1. "The object of the Association shall be to promote interest in the game of golf; to protect the mutual interest of its members; to hold meetings and tournaments for the benefit of its members; to assist any deserving professional golfer or assistant who may be out of employment to obtain a position, and to effect any other object of like nature that may be determined from time to time by the Association.

2. "To assist golf clubs to secure the services of capable professionals."

And note in the following quotation from the Oklahoma constitution and by-laws, the first requirement of active membership.

"Professional golfers, regularly employed as such, who have a satisfactory credit rating with the manufacturers and dealers of golf supplies. Their assistants, provided they are over the age of seventeen years and have served for at least two seasons under a member of this association, shall be eligible for election as associate members."

Now, with standards like this, I main-

Continued on page 103

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PICKING ON PGA

Continued from page 58

First of all it amounts to somewhat less than the reported \$400,000 it is alleged to contain. This is kept in a separate account for Tournament Bureau purposes, as insurance against future lean years and as a reserve for other possible contingencies. The PGA has no designs on these funds whatsoever. These funds are now restricted, and will continue to be, for the use in underwriting Tournament Bureau activities only.

There was immediate criticism with the employment of Robert Creasey, a former assistant secretary of labor, as executive director. And then, also, of the hiring of Fred Corcoran as public relations advisor. What, it was asked, does Creasey know about golf?

What, I might ask in rebuttal, does he have to know about golf? He has played golf for 30 years, has a three-handicap, and has been a member of some of the finest clubs in the country. He has also served on the board of directors and golf committees of many of these clubs. I have been in the game for 35 years and I've met no amateur player who has a better grasp of the needs of the PGA. I might also add that his knowledge of the construction and by-laws of the PGA, even at this early stage, is far superior to that of the rank and file of our organization.

He is a nationally known attorney. He has been employed to handle the affairs of a very complex organization. The tournament program is only a segment. His duties will encompass many more activities, affairs which above all require a cool, skilled legal mind.

Among the complaints leveled at the PGA from time to time is a charge that quite often the officers are "inaccessible." To help promote accessibility as well as to advise us on how to attain a better public image we have availed ourselves of the services of Corcoran.

One of the carping comments was that we were hiring a man we previously had fired. In this case, all I can say is that in any organization there are periods of trial and error and changing administrations cause the formation of new policies.

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