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## PARKED CAR

Continued from page 24

no right to sue the manufacturer. His only recourse was to the dealer from whom he had bought the car. The dealer, of course, could then sue the manufacturer, but the ultimate user of the car was barred from doing so because he had no direct contract with the manufacturer.

In recent years, however, the coverage of this guaranty of fitness of a product for the purpose for which it was intended has been enlarged in many jurisdictions. This has been accomplished in most cases by a sort of legal fiction; the aggrieved parties have been permitted to sue under the laws governing torts (wrongs) rather than under the laws of contract (where the parties have made a specific agreement).

On this point, the Connecticut court says: "In imposing liability upon manufacturers to ultimate consumers in terms of implied warranty even if no privity of contract exists, the courts have used a convenient legal fiction to accomplish this result. Ordinarily, there is no contract in a real sense between a manufacturer and an expected ultimate consumer of his product. As a matter of public policy, the law has imposed on all manufacturers a duty to consumers irrespective of contract or of privity relationship between them. The search for correct principles to delineate manufacturers' responsibility to consumers has found expression in the doctrine of tort and strict liability. The 'strict liability' doctrine is 'surely a more accept-

Continued on page 114

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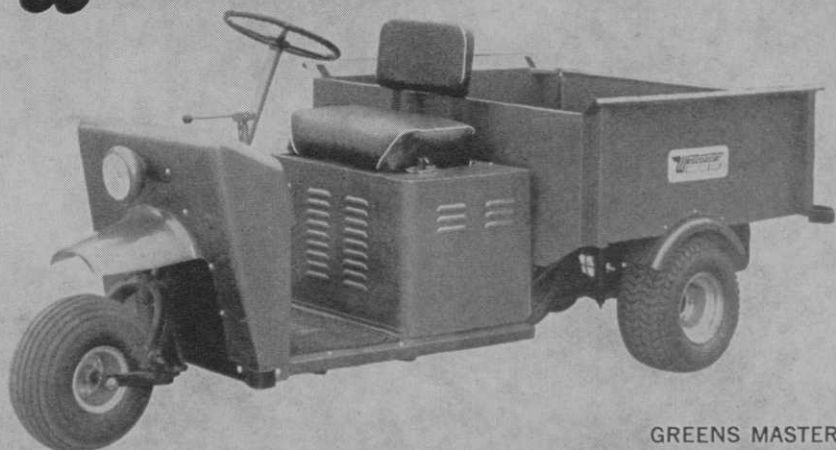


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## PARKED CAR

Continued from page 112

able phrase' than breach of implied warranty of suitability for use. (Citation)"

The Court then discusses the question of whether or not the protection of the strict liability doctrine should be extended to persons who are not actual users of the product, as was the case in the matter before it. It referred to cases on both sides of the question and finally concluded: "The trend toward applying the doctrine of strict liability in the case of an injury arising from the manufacture of a product which may be unreasonably dangerous and from which a likelihood of injury arising from its use is reasonably foreseeable is expanding. Foreseeable or reasonable anticipation of injury from the defect is becoming the test. Reliance on representations of notice of injury are no longer absolute conditions precedent. (Citation)

"The attempt to predicate liability on the law of sales or contract is being

Continued on page 116

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## PARKED CAR Continued from page 114

abandoned in an increasing number of jurisdictions. In *Piercefield v. Remington Arms Co.*, supra, the court thrust aside all fictions as to the basis of the manufacturer's liability, and liability was imposed on the basis of a tort committed by the defendant. Issues should not be determined by labels, which serve only to confuse. (Citations)

"A defective automobile manufactured as alleged in the complaint by the defendant General Motors, constitutes a real hazard upon the highway. (Citation) The likelihood of injury from its use exists not merely for the passengers therein but for the pedestrian upon the highway. The public policy which protects the user and the consumer should also protect the innocent bystander.

"In the instant case, an innocent bystander, while playing golf, was killed by a car defectively manufactured, in so far as the allegations of the complaint go, by the defendant automobile corporation. There seems to be no sound

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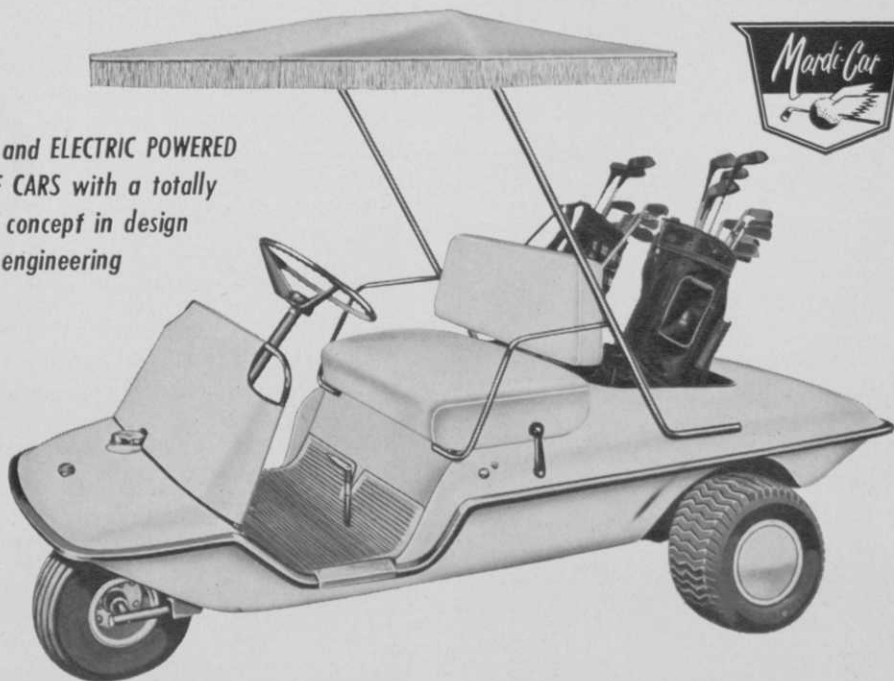
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**PARKED CAR** Continued from page 116

public policy to bar a trial upon the issues raised in the complaint. Accordingly, the demurrer of the General Motors Corporation to the third count of the indictment is overruled. (Mitchell v. Miller, 214 A.2d 694.)

(Ed. Note: Unless this ruling by Judge Joseph E. Klau is overruled by Connecticut's higher courts, the case will be duly tried. If the plaintiff succeeds in proving that the alleged defects in the car existed at the time the car left the factory, the manufacturer will be held liable for damages—even though the relationship between the victim of the accident and the maker of the car was so remote. Defects caused by ordinary wear and tear, or those caused by improper maintenance would not, of course, render the manufacturer liable.) •

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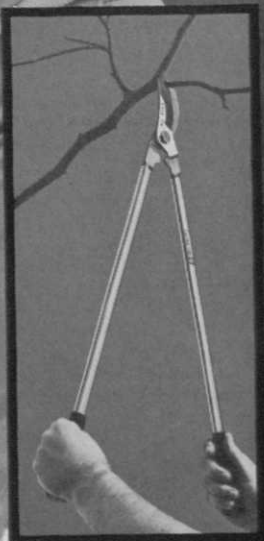
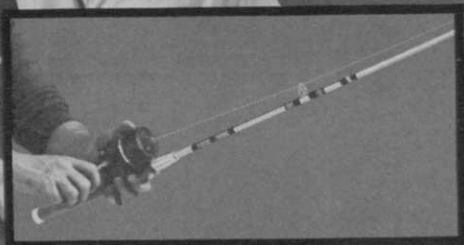
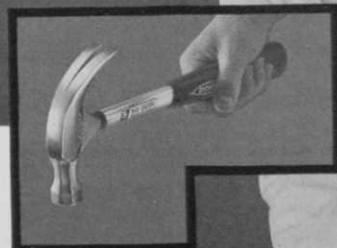
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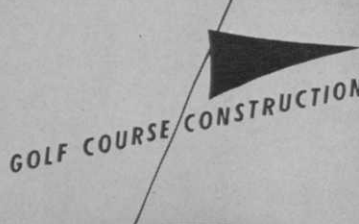
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## OLD MASTER Continued from page 46

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