

DO RULES OF GOLF APPLY TO WOMEN?

By

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Mr. Anglin delivered the following entertaining remarks at a dinner following the Ross Memorial mixed competition at the Royal Montreal Golf Club, P.Q., Canada.

Ladies and Gentlemen:

The subject with which I propose to deal is a somewhat embarrassing one, and one which has been troubling my conscience for a considerable time. For reasons which you will appreciate in a moment or two, I have deliberately withheld mention of it until this afternoon's enjoyable play had been concluded. However, the By-laws of the club permit me to remain silent no longer, as they impose certain duties upon the Match and Handicap Committee, and on the Captain as its Chairman.

By-law 55 says, and I quote: "The game of golf shall be played according to the rules from time to time adopted by The Royal Canadian Golf Association." By-law 35 further says that: "The Match and Handicap Committee shall have power (and, by necessary implication, the duty as well) to interpret and enforce the Rules of Golf."

Now, there is a remarkable feature of the Rules of Golf which has, I think, until now completely escaped notice. I have scrutinized them attentively many times, and I have found that they employ the word "he" seventy-eight times, the word "his" one hundred sixty-nine times and the words "him" and "himself" twenty times. But the extraordinary thing is this: While these masculine pronouns appear to total two hundred sixty-seven times, nowhere, not even once, is a feminine pronoun used. The words "she," "her" and "herself" have been completely omitted! Of course you see at once my problem: Do the Rules of Golf apply to women?

What Courts Hold

My legal training led me at once to examine the definitions of a "competitor" and a "partner," the only participants in the game known to the Rules. They only

added to my worst suspicions. For example, Definition 10 says: "A competitor is a player in a stroke competition." So far so good. But wait, the second paragraph goes on: "In stroke play four-ball and foursome competitions, where the context so admits, the word competition or fellow competitor shall be held to include his partner."

Those of you who are familiar with the methods of the honorable profession to which I belong will understand the zeal with which I then searched for helpful decisions of our courts.

A leading case is that of Henrietta Edwards vs. the Attorney-General for Canada, popularly known as the "Persons Case." In it the Supreme Court of Canada had to decide in 1928 whether the word "persons" in the British North America Act included female persons, and as a consequence whether women were qualified to be members of the Canadian Senate. The court held, by five judges to none, that a woman is not a person!

The case was appealed to the Privy Council in London, and in 1930 its judgment was rendered by Lord Sankey. He happily held that the word "persons" includes members of both male and female sex and that women were consequently eligible for appointment to the Senate. That is why we have women Senators today.

Unfortunately, a close examination of that decision reveals the specious reasoning which Lord Sankey employed. For example, at page 138 of his judgment, he said: "To those who ask why the word (persons) should include females, the obvious answer is why should it not?" You sense at once the prejudice of the court in favor of the ladies, which becomes quite apparent in the following passage. "Their Lordships . . . desire . . . to give (the BNA Act) a large and liberal interpretation so that the Dominion to a great extent . . . may be mistress of her own house, as the Pro-

vinces to a great extent . . . are mistresses in theirs." It is evident that their Lordships' views were so colored, for some unexplained reason, that even the Dominion and the Provinces took on feminine attributes! They could just as well have used the word "master" instead of "mistress." The ladies may be interested, however, in Lord Sankey's aside that, "in the Province of Quebec, as in England, there can be found cases of exceptional women and exceptional circumstances!"

No, this decision is inapplicable to my problem for three reasons: (1) it is obviously biased, (2) appeals to the Privy Council have since been abolished, and (3) the Rules of Golf do not use the word "persons," but rather "competitors," "partners" and "players."

I turned then to the famous, misleading case of Fardell vs. Potts. In that case the appellant was a Mrs. Fardell, a woman, who, while navigating a motor-launch on the River Thames, collided with the respondent, Potts, who was navigating a punt, as a result of which the respondent was immersed and caught cold. The respondent brought an action for damages alleging negligent navigation of the appellant, and the trial court decided in his favor and awarded him 250 pounds damages.

In the Court of Appeal this decision was reversed by Lord Justice Mallow after an exhaustive examination into the Common Law of England and the jurisprudence which has been laboriously built about that mythical figure, "the reasonable man." He is the ideal or standard by comparison with whom all negligence cases are determined. He is always thinking of others, invariably looks where he is going, neither stargazes nor is lost in meditation when approaching trap-doors, scrupulously substitutes the word "order" for "bearer" on checks, registers every letter, informs himself of the history and habits of a dog before administering a caress, contemplates his fellow-merchants and their goods with that degree of suspicion which the law deems admirable and never drives his ball until those in front have vacated the putting green.

But in all the mass of authorities Lord Mallow was unable to find a single men-

tion of a reasonable woman. He therefore properly concluded that, legally at least, there is no reasonable woman and dismissed the case on the ground that Mrs. Fardell's conduct was only what was to be expected of a woman, as such!

The Sad Decision

I therefore must decide, with great regret but in the exercise of the clear duty imposed upon me, that women are unknown to golfing law and are not subject to the Rules of Golf!

This shattering decision may, perhaps, bring some comfort to the Lady Captain seated at my right, who will no longer have to decide in the Tuesday competitions whether or not to disqualify a lady whose caddie walks with her into a bunker. But insofar as today's play is concerned I have no alternative but to rule that all the ladies are disqualified.

As the matches this afternoon were played as foursomes, each "side" consisting of a lady and a gentleman partner playing one ball and striking alternately, I had still to decide whether the gentlemen are disqualified as well.

Fortunately, the answer to this is simple. Definition 27 applies. It reads: "A rub of the green occurs when a ball in motion is stopped or deflected by any outside agency." As the ladies are not contemplated by the Rules of Golf they can only be regarded as "outside agencies," and any strokes they played were merely "rubs of the green."

It follows from my ruling that the prizes which I am about to present must be given only to the gentlemen, and it will be in the sole discretion of each winner whether he wishes to condescend to hand over to his partner the prize which our Secretary-Treasurer had, in the absence of any fore-warning of my decision, provided for her.

However, the ladies may be consoled in the knowledge that they had a part in the remarkable performance which has also resulted from my decision. When the scores returned this afternoon have been revised in accordance with my ruling, it will be found that every gentleman who competed has broken the official record for the South Course, and that the winner has reduced it by no fewer than twenty-eight strokes!