

Is a Golfer a Gentleman?

Review by FRANK A. GAYNOR

Rex v. Haddock (Misleading Cases in the Common Law by A. P. Herbert, p. 16)

THIS case raised the interesting question: Is a golfer a gentleman? The defendant was charged under the Profane Oaths Act with cursing on a Cornish golf course. The penalty is a fine of one shilling for every day-laborer, soldier or seaman, two shillings for every other person under the degree of gentleman and five shillings for every person of or above the degree of gentleman—a unique example of a statute which lays down one law for the rich and another (more lenient) for the poor.

The curses admitted were over 400; and the prosecutor asked to inflict a fine of 100 pounds, assessed on the gentleman's rate at five shillings a swear.

The defendant contended that such a fine is wrongly calculated because he was a gentleman when playing golf. He argued that the law takes notice of such exceptional circumstances as will break down the normal restraints of a civilized citizen and so powerfully inflame his passions that it would be unjust to apply to his conduct the ordinary standards of law; as, e. g., where without warning he discovers another man in the act of molesting his wife or family. Under such provocation a gentleman ceases to be a gentleman and should not be punished as such.

The circumstances in which the swears were uttered were briefly these: At the 12th tee on the Mullion Club golf course, the player drives (or does not drive) over an inlet of the sea enclosed by cliffs some 60 feet high. The defendant never drove over, but always into this inlet, or Chasm. A steady player on other parts of the course, before this obstacle his normal powers invariably desert him. It preyed upon his mind, yet he vowed ultimately to overcome this Chasm.

Meanwhile his tenacity became notorious. It was normal procedure if a ball was driven into the Chasm to drive a second, and if that should have no better fate to abandon the hole. The defendant, however, in the past drove no fewer than 6 or 7 balls into it, some rolling gently over the cliff and some flying far and high out to sea. But recently grown fatalistic, he has not thought it worth while to make even a second attempt, but has followed his ball into the Chasm, and there among the rocks, small stones and shingle has hacked at his ball until some lucky blow has lofted it to the turf above, or, he has broken his instrument or suffered some injury from flying fragments of rock. On several occasions a crowd of holiday makers have gathered at the cliff to watch his indomitable struggles and to hear the verbal observations accompanying them.

On the date of the offence a crowd of unprecedented dimensions collected, but so intense was his concentration that he did not notice their presence. His ball had more nearly traversed the Chasm than before; it struck the opposing cliff but a few feet from the summit, and nothing but an adverse gale of exceptional ferocity prevented success. Defendant, therefore, as he conducted his customary excavations among boulders was possessed by a more than usual fury. For 15 or 20 minutes he lashed his battered ball against the stubborn cliffs until it escaped. And, before, during and after every stroke he uttered a number of imprecations of a complex character which were carefully recorded by an assiduous caddie and one or two spectators. In disposing of the case the court said:

"This ingenious defence, whatever may be its legal value, has at least some support in the facts of human experience. I am a golf player myself—(laughter)—but, apart from that, evidence has been called to show the subversive effect of this exercise upon the ethical and moral systems of the mildest of mankind. Elderly gentlemen, gentle in all respects, kind to animals, beloved by children, and fond of music, are found in lonely corners of the downs, hacking at sand-pits or tussocks of grass, and muttering in a blind, ungovernable fury elaborate maledictions which could not be extracted from them by robbery or murder. Men who would face torture without a word become blasphemous at the short 14th. And it is clear that golf may well be included in that category of intolerable provocations which may legally excuse or mitigate behaviour which is not otherwise excusable, and that under that provocation the gentleman may reasonably act like a lunatic or lout respectively, and should be legally judged as such."

Addressing itself to the question as to what is meant by the words of the Act,—“of or above the degree of gentleman”—the court continued thus:

"Is a gentleman legally always a gentleman, as a duke or solicitor remains unalterably a duke or solicitor?"

The defendant argues that it is used in the sense of a university exam., and that, like the examiners, Parliament divides the human race, for the purpose of swearing, into three vague intellectual or moral categories of which it gives certain rough but not infallible examples.

There is certainly judicial and literary authority for the view that by "gentleman" we mean a personal quality and not a social status. We have all heard of "Nature's gentlemen." "Clothes do not make the gentleman." As against these authorities, the prosecution quoted Shakespeare's observation:

"The Prince of Darkness is a gentleman."

"But," said the court, "quotations from Shakespeare are generally meaningless and always unsound, and that observation is both."

In conclusion, the court said:

"The argument of the defendant has substance. Just as the reasonable man who discovers his consort in the embraces of the supplanter becomes for a moment a raving maniac, so the habitually gentle man may become in a bunker, a violent, unmannerly oaf. In each case the ordinary sanctions of the law are suspended; he must not be judged by the standards of the gentle in such special circumstances as provoked the defendant. That provocation was so exceptional that I—the court—cannot think it was contemplated by the framers of the Act; and had golf at that date been a popular exercise I have no doubt that it would have been dealt with under a special section. I find that the defendant at the time was not responsible for his actions or his speech. For his conduct in the Chasm he will be formally convicted of attempted suicide while Temporarily Insane, but he leaves the court without a stain on his character."

A DROP O' SCOTCH

The opponents had driven into the rough, but on different sides of the fairway, and as they prepared to wend their separate ways from the tee, the old Scot turned to his friend and said: "Noo, Sandy, remember that the Lord is countin' yer strokes!"

GRATITUDE

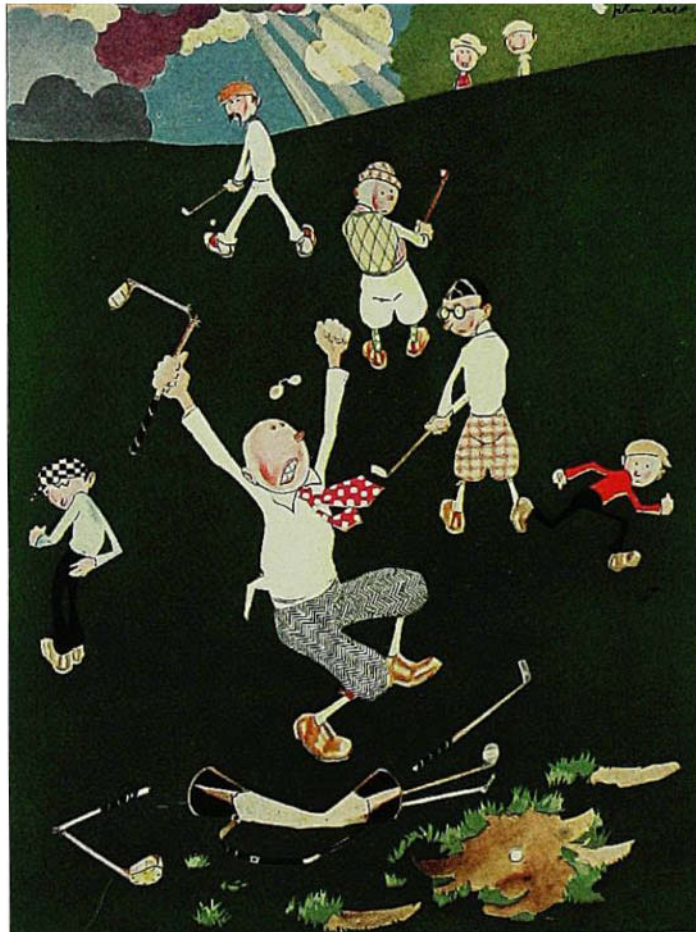
A golfer was accompanied round the links by about the most shabbily dressed caddie he had ever seen. Rather touched by the boy's look of poverty he generously gave the boy sufficient money to buy a new outfit.

The recipient tried hard to express his gratitude, but could not find suitable words in which to clothe his feelings.

"Oh, that's all right, my boy," said the benefactor cheerfully. "Say nothing about it. Be a good lad, that's all."

But the caddie could not restrain himself any longer.

"Please, sir," he burst out, "p-please, sir, I'm sorry you are such a had player."



Drawn by John Held

Plates by Brown and Bigelow

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