

JUDGE PENALIZES BURNING TREE CLUB

Policy That Bars Women Costs Golf Course Its Tax Break

By **BEN A. FRANKLIN**

Special to The New York Times

ROCKVILLE, Md., Sept. 13 — A state judge declined today to rule that the Burning Tree Club, the "club of the Presidents," must admit women. But she said that because it does not do so, it must lose a \$186,000-a-year real estate tax exemption.

The 640-member club, founded in 1922, has never admitted women as members, as guests or even as kitchen workers.

The judge, Irma S. Raker of the Montgomery County Circuit Court, did not rule on whether it was legal for Burning Tree to restrict membership by sex.

"Private discrimination may be characterized as a form of exercising freedom of expression," she said, "but it has never been accorded affirmative constitutional protection."

But Judge Raker said the tax exemption made the state an "actor" in discrimination, which she said was a violation of the State Constitution. Maryland added an Equal Rights Amendment to its Constitution in 1972.

The tax exemption was granted in

Continued on Page A22, Column 6

JUDGE PENALIZES BURNING TREE CLUB

Continued From Page A1

1965 under a program to encourage the preservation of open space in suburbs. In Burning Trees' case, the open space is an 18-hole golf course that has been played on by generations of Presidents and other juridical, corporate and political leaders, but never by a woman.

Today's ruling struck down a 1974 amendment to the Maryland tax code. The code included antidiscrimination provisions for country clubs seeking the exemption, and the amendment waived those provisions for clubs "whose facilities are operated with the primary purpose, as determined by the attorney general, to serve and benefit members of a particular sex."

The judge noted that Burning Tree was the only club in Maryland that had taken advantage of that amendment.

An Appeal Is Planned

A statement this afternoon by the office of the club's chief counsel, Benjamin R. Civiletti, who was the United States Attorney General under President Carter, said members were disappointed by the ruling.

But it added: "The members believe very strongly that their membership policy is protected by the freedom of association guaranteed by the United States Constitution, and is a matter totally separate from the open space provided by their golf course. The club remains confident that its decision will prevail in the courts. An appeal will be taken in due course."

The suit decided today was filed by Barbara Bainum Renschler and her brother, State Senator Stewart Bainum Jr., a Montgomery County Democrat. Senator Bainum had failed in three previous attempts in the legislature to force Burning Tree to admit women or lose the favorable tax treatment.

'Rich Man's Club'

Burning Tree officials countered those efforts with the argument that the loss of the exemption would turn their 250-acre preserve into "a rich man's club."

Under the open space exemption this year, Burning Tree is paying \$28,669 in real estate taxes on its fence- and foliage-enclosed prime acreage, which is surrounded by \$400,000-and-up suburban Maryland houses, according to county tax records. Without the exemption, the club's tax bill would have been \$214,500. The savings amounted to about \$292 a member. The club's initiation fee is \$12,000 and its annual dues are \$1,700.