

## SCULLY V. MADIGAN—DIVISIONAL COURT—NOV. 23.

*Action, Cause of—Conspiracy—Bookmaker—Exclusion of, from Racetrack—Interference with Business.*]—Appeal by the plaintiff from the judgment of KELLY, J., of June 12th, 1912, dismissing the action with costs. The plaintiff, a bookmaker resident in Toronto, brought action against the defendants, officers and members of the Canadian Racing Association, who, he alleges, wrongfully excluded him from the race-tracks controlled by them, and asked for a declaration that their action was without lawful excuse, for an injunction restraining them from continuing to exclude him, for damages, etc. At the trial, this action was dismissed with costs. The appeal was heard by CLUTE, RIDDELL, and SUTHERLAND, JJ., and was dismissed with costs, Clute and Riddell, JJ., delivering written judgments in which they went with great fulness into the law and facts in the case. The judgment of Mr. Justice Clute concludes as follows: "It appears then from the evidence, and the findings of the trial Judge, that the defendants were authorized by the various jockey clubs to represent them in the Canadian Racing Association; that the action taken by them which resulted in the expulsion of the plaintiff from the Hamilton racing course was reasonable, proper, and necessary for the good government of the race course during its meeting, that the action of Monk was in his representative capacity as Vice-President of the Hamilton Jockey Club, that he had a right to do as he did, and that the defendants, so far from doing any wrong, simply discharged their duty in the representations which they made in regard to the plaintiff's conduct at the Fort Erie races. Upon the facts and authorities it is clear, I think, that the action of the plaintiff fails, and this appeal should be dismissed with costs. D. L. McCarthy, K.C., for the plaintiff. M. H. Ludwig, K.C., for the defendants.

## HAWKES V. WHALEY ROYCE—MIDDLETON, J.—NOV. 25.

*Interim Injunction—Infringement of Copyright—Damages—Costs.*]—Motion for an interim injunction restraining the infringement of the plaintiff's copyright by the sale of Otto Langey's Violin Tutor. The validity of the copyright is attacked. MIDDLETON, J., said that the amount of damages cannot be large, and that he thought the balance of convenience indicated that no interim order should be made. "The amount of damages before a trial can be had must be very small. An