

protection of those lawfully attending these race meetings." He further finds that "reports of these happenings reached the other defendants, and they without any other notion than to prevent the recurrence of what had happened, and to insure the carrying out of the race meeting without offence to the patrons, and in the exercise of whatever authority they had as representing the Canadian Racing Association, and as delegates from the club composing it, did assume to deal with this plaintiff, and I believe did deal with him in a fair, impartial way and without any intent to do any wrong to the plaintiff."

With respect to the complaint that the plaintiff did not have a fair hearing the trial Judge finds that on his own evidence he had Mr. Counsell appear at his request and on his behalf at the meeting of the association. His complaint about having been excluded from the race track was made in time to be dealt with at the meeting of the committee in Hamilton, on 12th August, and the matter was on that date adjourned until August 17th, and again until August 18th. Mr. Counsell, representing plaintiff, attended that meeting, the plaintiff not being there in the beginning because of the train on which he was travelling from Toronto being late. Mr. Counsell heard the charges that were made, discussed the matter with those present, and the evidence is, and it is not contradicted, that he said he thought the proper thing for plaintiff to do was to apologize, and that would have been the end of it. Plaintiff reached the meeting before it was adjourned, heard what took place, and refused to apologize, stating that he had not made use of the language charged, and so the matter rested."

These findings of the trial Judge are fully borne out by the evidence, and upon these facts it is plain, I think, the plaintiff cannot succeed.

It was very frankly admitted by Mr. McCarthy that the officers of the Hamilton Jockey Club acting in their own interest had the authority to exclude the plaintiff from their own track, but he strongly urged that the plaintiff's ejection from the track was not by reason of any misconduct on the part of the plaintiff at the Hamilton meeting, but was in pursuance of an illegal and improper agreement on the part of the Canadian Racing Association, who acted improperly and illegally in causing the plaintiff's ejection from the Hamilton track.