

tracks, but also from the race tracks in the United States, over which the American Jockey Club has control.

He further charges that if the defendants had any jurisdiction to exclude him from the race track in a proper case, there was no justification for their so doing in this case; that he was not given a hearing; that he had no notice of the meeting at which the order for his exclusion was passed, nor was he properly acquainted with the charges made against him, and that such exclusion was neither in accordance with their own rules, nor was it fair, reasonable, or just, nor exercised in good faith; that by reason of the action of the defendants the plaintiff is debarred from carrying on his business as bookmaker and wholly deprived of his profits therefrom. The plaintiff asks a declaration that the action of the defendants in excluding him was unlawful, for an injunction and damages.

The defendants while denying the plaintiff's statement of claim, say that if any action was taken by them as alleged, such action was taken with a *bona fide* object of protecting and furthering the interests of the Canadian Racing Associations and horse-racing generally in Canada, and not for the purpose of injuring the plaintiff in his trade or calling, and object that even if the allegations contained in the plaintiff's statement of claim are true they are not sufficient in point of law to sustain the action.

The trial Judge finds that at the Fort Erie racing track and during the racing meets there, the plaintiff complained to the defendant Madigan, charging improper conduct of the races. There is evidence also that the plaintiff in the presence of persons in attendance at the meeting used abusive and offensive language and conducted himself in an objectionable manner towards those who were in charge of the course. This language was followed up by the plaintiff on the train, where the plaintiff again used abusive and insulting language towards Nelson and again charging improper conduct of the races. The evidence satisfied the trial Judge that the "plaintiff at the race track used in the presence of others, such language as called for interference on the part of those having to do with the conduct and control of the track; both Madigan and Nelson having had something to do with the conduct of that race meeting," and he was "of opinion that this language and plaintiff's conduct called for some action on the part of the defendants for the