

desirous of seeing the races were admitted to a fenced enclosure, spoken of as "the general enclosure," and to every part of it, including the large grand stand and an open space in front and to the east of the grand stand, upon payment each day of an entrance fee. There was no place in the enclosure or the open space specially reserved for the purpose of making bets. Among others who paid the usual admission fee from day to day were a large number of bookmakers, who laid bets with such of the general public as desired to bet with them.

The defendants were bookmakers, and were two of those who did bet from day to day, through their assistants, with members of the general public who, like themselves, had paid for admission to the enclosure.

The greater part of the betting done by the defendants was done in an uncovered and unfenced portion of the general fenced enclosure—about 1-6 of an acre in extent—at the easterly part of the general enclosure, though some betting was done in another portion of the open general enclosure in front of the grand stand. The defendants and their assistants did not use any desk, stool, umbrella, tent, or booth, or erection of any kind, to mark any place where bets were made. No part of the general enclosure was especially allocated to the defendants or any other bookmakers; they were not restricted as to the use of any portion of the general enclosure, and no one had any rights or privileges therein. The defendants did not occupy a fixed position, but made their bets moving about within a small radius, and there was nothing in or on the ground to fix a place where the defendants could be found. The bookmaker and his assistants during the betting on each race stood as much as possible about the same spot in a radius of from 5 to 10 feet. There were 50 of these bookmakers with their assistants operating mainly in about 1-6 of an acre.

The bookmaker carried in his hand a small board, on which was written the names of the bookmakers and the horses, odds, etc. The cashier's bag carried the names, and 3 or 4 assistants stood close together. The defendants had advance information in reference to starters, scratches, jockeys, weights, etc., procured from one Mahoney, who had obtained from the Jockey Club the exclusive right to such information.