

or to stop the holding of any further race meetings by the plaintiffs, and restraining the defendant Williams from acting on such instructions, and for a declaration that the Provincial Act is ultra vires. (The closing of the race-tracks was a statutory remedy to prevent evasion of payment of the tax.) The plaintiffs forthwith moved for an interim injunction before Middleton, J., who directed that they pay into court five per cent. of the amount wagered at their race-track, and restrained the defendants in the terms of the writ, as indicated above, until the trial, or other disposition of the action.

The argument of the plaintiffs was that the tax imposed by the Act is indirect taxation, and that the Act levying it is ultra vires. The effect of the injunction granted by Middleton, J., was that the money representing the tax was paid into court, and the Province was unable to secure it when collected. If the injunction had held, the payment of the tax would have been delayed at least for some time. Just how this injunction would have been enforced if the defendants had disobeyed is not apparent. Would Ministers of the Crown have been kept in a Provincial gaol by the officials whom they as such Ministers may appoint and discharge, for carrying out the policy of the Legislature duly enacted? Neither is it apparent how the money paid into Court is to be repaid to its true owners, the bettors, if the Act proves to be ultra vires. In any event any scheme for its repayment out of court would have been applicable for repayment by the Government had it collected the money.

The Provincial authorities did not attempt to move against the injunction in court, but passed through the House the Declaratory Act, 1922. This Act has a two-fold purpose. One is to dispose of the action commenced by the Ontario Jockey Club. The other is to answer the objection that the tax levied is indirect taxation. The latter purpose it seeks to attain by declaring that the true intent and meaning of the recited provision of the Corporations Tax Act, 1922, is that each holder of a winning ticket issued under the pari-mutuel system shall pay a tax of five per centum upon the amount which would be payable to him if no percentage were deducted by the company, association or club; that this tax be collected by the company, association or