

### Scores Raney for Remarks.

Referring to Mr. Raney's remarks about the judgment, he said that his utterances were out of place, uncalled for, unnecessary, and, in a Minister occupying his high office, most improper.

W. F. Nickle, Kingston, said the fundamental restrictions that applied to the Legislature should not be forgotten. It had the right to impose direct, but not indirect, taxes, and a nice constitutional point had been raised by the representatives of the Jockey Club, whether these taxes were direct or indirect. In his own opinion the tax was direct, because the act purported to convey the idea that the tax was levied on the holder of the winning ticket.

There was no conflict at all between the courts and the Legislature at the present time, said Mr. Nickle. The function of the courts was to interpret the law, and the function of the Legislature was to enact the law; but the function of the courts was to determine whether or not the Legislature infringed upon its constitutional limitations.

### Suggests Compromise.

Mr. Nickle suggested to the Attorney-General that his department should get in touch with the representatives of the Jockey Club to see if they could not get the bill dropped for the present, and, if necessary, get the Jockey Club to drop its injunction proceedings. Yet, he added, he would be sorry to see the proceedings by injunction dropped. It might be well that the proceedings should go on to a conclusion and have court of final resort determine the question and enunciate the principles applying to the peculiar conditions of the legislation now being challenged. If proceeding by Petition of Right was the only remedy, then the Jockey Club would fail.

In conclusion Mr. Nickle expressed fervently the argument that citizens had rights, and once a litigant appealed to the courts to determine

those rights, no Legislature should rob him of his right to go to court. "It is a pernicious principle that once a litigant has sought determination of his rights in the court this Legislature should by retroactive legislation rob him of the fruits of his position."

### Parliament Is Supreme.

Premier Drury said that first there should be an inquiry into what were the powers of Parliament in a general way. They found under the British method of government that the powers of Parliament were supreme and absolute, and of that there was no question whatever. Parliament had the power, and was amenable to the people, and "Parliament is, and must be, the court of last resort." He quoted a recent Privy Council decision to buttress this statement.

Coming then to Ontario, he said: "Here we have what we call a Legislature. It is not a glorified County Council, but it is in essence a Parliament, clothed, within its sphere, with all the powers of the British Parliament." Again, to support this he quoted from a Privy Council decision issued in 1883 in the case of Hodgins vs. the Queen in regard to a fishery dispute between the Federal Government and various Provinces.

### Ample Precedent.

The act which they were debating sought to step in and override a judgment of the court. He had the greatest respect for the judiciary and for Mr. Justice Middleton, but it seemed to him there was ample precedent for the Legislature stepping in and taking the issue out of the courts and saying that the case should never have gone into the courts. He cited to support this the case of Beardmore v. City of Toronto to stop the erection by the defendant of a Hydro-electric system. The action was started in 1908, and in 1909 the Government of Sir James Whitney introduced an act, which was passed, to stay the injunction sought and to stay the proceedings forever. Surely if that were within the power of the Legislature then the present act was also well within its power.

Mr. Drury then came to the discussion of the ultra vires argument. The tax imposed was a direct tax. The Jockey Club did not pay the tax in the expectation of passing it on. The Jockey Club collected it. The Premier claimed that a similar case was the collection of the amusement tax.

Injunction was a method of procedure that should never be used against the King's Government, said the Premier. "I have no qualms whatever in supporting this measure," he said. "It seems to me that it is following sound precedent."

### Tread Dangerous Ground.

Chas. McCrea, Conservative, Sudbury, expressed the opinion that, "in undertaking to interfere, as this bill does, with the courts of the land in a matter which is now before them, we are treading on dangerous ground." The whole issue was one which brought the law to a place where it lost respect.

## CLEAN-UP DEAL MUST BE MADE, PREMIER INSISTS

### Company Willing to Sell Properties Without Radial Lines

### DRURY AND BECK CLASH

Although yesterday's clean-up conference at the Parliament Buildings developed at times into more or less of a personal controversy, more real progress was made in the direction of settlement than was accomplished at the last assemblage.

As to the question of faulty property titles, which was said to be a big obstacle to quick consummation, the city's objections were largely cleared away. G. H. Kilmer, K.C., Hydro counsel, agreed that any remaining titles might be provided for by a clause in the agreement, and R. J. Fleming, for the Mackenzie interests, said that an ample amount of the city's own bonds would be left in the hands of a trust company as security.

### Taking Care of Objection.

In regard to the unsatisfactory Radial situation, Premier Drury assured Mayor Maguire that the city's objection that it could not connect the Metropolitan with the water front was being guarded against by an amendment to be made to the Premier's radial bill.

Of importance, also, in the deliberations of yesterday morning, was an announcement on the part of the company's representatives that they were willing to dispose of power interests without the York radials. "We don't want to force anything on them," said Mr. Fleming, "so long as the big deal goes through."

Premier Drury asked Mayor Maguire if the city would object to somebody else taking over the radials, but the Mayor did not commit himself on the point.

William Keith, Chairman of the county delegation, then announced that the county was willing to buy the whole of the York system, although it was the Yonge street line they particularly wanted. He said the county would insist on its rights over Yonge street to Farnham avenue.