



CANADIAN REVENUE NEWSLETTER

A Publication of the Canadian Revenue Study Group of BNAPS

September 1998

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Number 23

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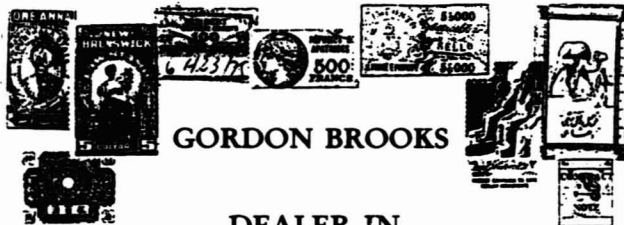


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MEMBER SUPPORT

The Revenue Study Group would like to thank the following members for their recent donations in support of the *Newsletter*: David Moskal and Clayton Rubec.

CALL FOR DONATIONS

The activities of the Revenue Study Group, including the publication of its outstanding *Newsletter*, are supported primarily through the generosity of the study group members. In order to continue this fine work, the Treasurer has requested that members of the study group consider a donation for 1998. Please send your donations to: Fritz Angst, 2200 West First National Bank Building, 332 Minnesota Street, St. Paul, Minnesota, USA 55101. Contributors will be acknowledged in upcoming editions of the *Newsletter*. Your support is greatly appreciated. — F.P.A.

MEMBERSHIP NOTES

Resigned:

- ☛ Ralph E. Trimble, Markham, Ontario.

Deceased:

- ☛ Edward Markell, Berkeley, California.

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- ☛ Les W. Backus, Belleville, Ontario.
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- ☛ F.C. Jewett, Willowdale, Ontario.
- ☛ John H. Perry-Hooker, Wells River, Vermont.
- ☛ Philip R. Spitzer, Tallahassee, Florida.

**By request of his Estate,
the Auction of
Wilmer C. Rockett's
Canada Revenue Collection
will be delayed until September of 1999.**

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FROM THE FILES OF REVENUE CANADA: NOTES ON THE LIQUOR STAMPS

— Part 3 —

Christopher D. Ryan



This part in the series details two interesting aspects of the serial numbers found on the recent liquor stamps. These items are the production of duplicate, or even triplicate, serial numbers for the same year of stamp, and the introduction of machine-readable numbers. The first item is revealed by a March 30th, 1982, letter from a distiller (whose identity was deleted by the Access to Information Officer) to D. E. MacKay of Revenue Canada.

As discussed at the Technical Committee of the A.C.D. in Montebello last year and again by telephone with Mr. Hussein [sic] today, our Company, as well as other Canadian distillers, uses sequential numbering on the age stamps as a vital information source. This number allows us to pinpoint accurately the date and production location of individual bottles of all products to which the Canadian age stamps has been applied.

We have recently realized that entire sequences of any given year may be produced more than once and that therefore the same serial number will certainly show up at least twice and sometimes even three times.

If I understand correctly, each year's stamps are printed as follows: alphabetically from A to H and numerically in blocks of 10 million for each of these eight characters. This means that a maximum of 80 million sequentially numbered stamps are printed for each calendar year and when demand exceeds 80 million the sequence is repeated as often as necessary to meet demand. Given the volume of Canadian Whisky production, 80 million stamps of each year is not enough to ensure that there will be no duplication of serial numbers. I therefore strongly recommend that the system be modified so that the entire alphabetical range be used and/or that the number of stamps for each alphabetical character that can be used be increased from 10 million to perhaps 20 million. The ultimate objective is to never produce a duplicate stamp in any age category.

Revenue Canada's solution to the problem of duplicate serial numbers was to retain the restriction on the prefix letter but increase the number numeric digits by one, producing a ten-fold increase in the available numbers. This solution is illustrated by the January 1988 contract between Revenue Canada and the Canadian Bank Note Company (CBN). Under the heading of "numbering," this contract specified as follows:

In series of 100 million with a prefix letter, using letters A to H only, one letter to each series, reverting back to letter "A" on completion of each "H" series. First Label to Start with serial no. 1 and last label to end with 000's in each series, ie A00,000,001 to A100,000,000.

The restriction on the prefix letters is retained in a 1994 contract with the British American Bank Note Company (BABN). Unfortunately, the Revenue Canada documents do not indicate when the modified numbering was first implemented.

Even with an expanded range of available serial numbers, the problem of duplicates remained a possibility after 1982. However, according to Revenue Canada, a total of 90 million of the liquor

stamps with various dates were used in the fiscal year 1992/93. Given a potential 800 million different serial numbers for each date, and the limited time period during which any particular date would be usable to distillers, the possibility of duplicate serial numbers would seem to have been made remote.

The introduction of a new, machine-readable style of numbers (an example of which is illustrated above) occurred in late-1983 or early-1984. In a letter of November 28th, 1983, A. Hussain of Revenue Canada advised an unknown individual (whose identity was again deleted by the Access to Information Officer) as follows:

We have just been informed by the Canadian Bank Note Company Ltd. that they are planning to change from the current numbering style to the new OCR-B size 1, machine readable numbering style.

An example of both styles is attached for your examination and approval.

Both CBN and BABN used this particular style of serial numbers on Bank of Canada currency notes during the period of 1979/86 for the \$5 note and 1978/93 for the \$20 note. While CBN appears to have moved to the same style for the liquor stamps by 1984, it is not known if BABN did the same at this, or any other, time. BABN may have never used the machine-readable numbers for the liquor stamps that it produced.

DEPARTURE FEE UPDATE

C.D. Ryan

Two more local airport authorities have imposed a departure fee at their terminals. The cities involved are Winnipeg, MB and Sault Ste. Marie, ON. In both cases the \$5 fee has been officially termed an Airport Improvement Fee and is included in airline passage tickets, special fee tickets not being used.

Below is an updated summary of local departure fees in Canada:

| | Date Imposed | Fee(s) Charged | Tickets Used? |
|-----------------------|--------------|----------------|---------------|
| Calgary, AB | 01 Oct 1997 | \$5 | No |
| Castlegar, BC | 01 Jan 1997 | \$5 | Yes |
| Edmonton, AB | 12 Apr 1997 | \$5/\$10 | Yes |
| Montreal (Dorval), QC | 01 Nov 1997 | \$10 | Yes |
| Sault Ste. Marie, ON | 01 Aug 1998 | \$5 | No |
| Thunder Bay, ON | 21 Mar 1998 | \$10 | Yes |
| Vancouver, BC | 01 May 1993 | \$5/\$10/\$15 | Yes |
| Winnipeg, MB | 01 Jul 1998 | \$5 | No |

If readers are aware of any local departure fees that are not listed above, or are anticipated in the future, please inform the Editor.

CORRECTION TO ISSUE N° 22

On page 4 of *CRM* N° 22, in the article "Unusual Examples of the Excise Tax on Commercial Paper — Part 2," column 2, paragraph 3, line 4, the word "cheque" should be replaced with "item."

— C.D.R.

THE 1932/33 RED PRICED CIGARETTE STAMPS OF IMPERIAL TOBACCO

John B. Harper

One of the first cigarette stamps to bear a size instead of a weight denomination, the **ten-cigarette** stamp descended from the perforated 1/40th pound "Series of 1886", Brandom's C-230, since if 2½ pounds equals 1000 cigarettes, then 1/40th pound of cigarettes equals $1000 \div (2.5 \times 40)$, or ten cigarettes. Evidently the target weight for the "under three pounds per thousand" *small* cigarette was closer to 2½ than to three pounds.

The earliest appearance known to me of the ten-cigarette "Series of 1897", C-265, dates from January 1910. This item is cancelled with red ink by "6-17," that is, the original *Imperial Tobacco Company*, which was formed in 1908 by the merger of Empire Tobacco and American Tobacco, and was incorporated by Dominion Charter, with its name unchanged, on April 3rd, 1912.

The **twenty-five-cigarette** stamp is first found in my Imperial Tobacco collection with a date of November 1920. This item is a "Series of 1915" imperforate, C-318. Thereafter the 25 denomination occurs commonly (with usage of the Series "C", C-378, beginning in June 1935) until the first wartime Budget of September 12th, 1939, was tabled.

Under the Budget of 1932 the excise duty on *small* cigarettes was reduced from \$6.00 to \$ 4.00 per 1000 (or from 6¢ to 4¢ for ten cigarettes), and Imperial was thereafter producing a package of **twenty-five cigarettes** retailing *across Canada* at 25¢. Beginning in 1935 — when the *City of Montreal* enacted a 2% municipal sales tax in which any fraction of a cent counting as a whole cent — a pack of **twenty-four cigarettes** was selling in that city and its environs at this same 25¢ price.

In the smaller denominations, as is apparent from Imperial's dark red overprint C-323b, ("12 FOR 15¢") cancelled "BD2" in November 1932, the retail for **twelve cigarettes** throughout the immediate pre-war years had been reduced to 15¢. Likewise, the retail price of **ten cigarettes** had been lowered to 10¢, as is illustrated by Imperial Tobacco's C-322, also from November 1932, overprinted with dark red ink "10c".

I am of the opinion that Imperial Tobacco's **red overprints** — the "25c" on eighteen-cigarette Series "A", C-322A, the "25c" on twenty-cigarette Series "A", C-322B, and the "25c" on twenty-five-cigarette "Series of 1915", C-323, illustrated at the upper right — **all** represent **twenty-five cigarettes** retailing at 25 cents. There is no way that these November 1932, December 1932, and January 1933 overprints can **merely** represent a price per package under the Budget of October 1932, thus they must represent **both an overprint and a price** per package.

No one of sound mind would buy the first two 25-cent packages at their 18 and 20-denomination face size, since the companies had introduced the larger pack of twenty-five cigarettes at the same price. As there was no twenty-five-cigarette stamp prepared in Series "A", it seems that, when Imperial introduced the twenty-five-cigarette package subsequent to the October 1932 Budget, these "25c" overprints were prepared to remedy this lack. One other possibility, which I doubt, is that these 18 and 20-cigarette packages were *hi-grade* and *premium* brands each selling at the overprinted twenty-five cents.

If the stamps were to be taken at their face size then a breakdown of the 25¢ yields the following numbers:

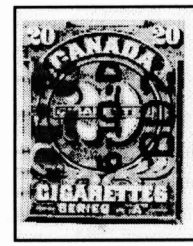
C-322A - 18 cigarettes at 25 cents comprising 7.2¢ excise + 17.8¢ for production and profit (0.989¢ per cigarette.)

C-332B - 20 cigarettes at 25 cents comprising 8.0¢ excise + 17.0¢ for production and profit (0.850¢ per cigarette.)

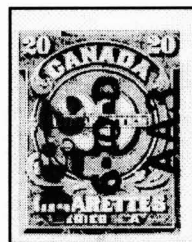
C-332B - 25 cigarettes at 25 cents comprising 10¢ excise + 15¢ for production and profit (0.600¢ per cigarette.)



C-322A
BD2
Nov. 1932



C-322B
BD2
Nov. 1932



C-322B
AA3
Jan. 1933



C-323
CD2
Dec. 1932

As can be seen from a study of the cancellation sequences for the twenty and twenty-five-cigarette stamps, Imperial's principal production item prior to the Budget of 1932 had been the twenty-cigarette package, retailing at 25¢. With the advent of the lower excise duty, the twenty-five-cigarette size was re-introduced at 25¢, and it was not until mid-1933 that production of the twenty-cigarette pack was resumed at 20¢.

By May 1933 Imperial had used all of their pre-Budget stock of the "Series of 1915" twenty-five-cigarette stamps and obtained fresh sheets from Customs and Excise, Ottawa, at the new, lower rate. On these sheets the overprint was changed to read as "25 FOR 25c" - the Brandom C-323A illustrated below.



C-323A
BB3
May 1933

Prior to the 1932 Budget, Imperial had been trying to sell the ten-cigarette pack at 15¢, and as there was no Series "A" ten-cigarette

stamp, Imperial put their "10c" red overprints for 1932 on their pre-Budget stock sheets of the imperforate "Series of 1923" nine-cigarette stamp, creating C-322A, and on the ten-cigarette "Series of 1915" stamp, creating C-322. In both cases these overprints, as illustrated below, should be read as **ten cigarettes at 10 cents**. Thus on the 1932 nine-cigarette stamp, C-322A, the overprint represents **both an overprint and a price per package**.



C-322
BD2
Nov. 1932



C-322A
CD2
Dec. 1932

Following the October 1932 Budget, Imperial was successfully selling ten cigarettes at 10 cents. During 1933/34 Imperial was also retailing a premium brand of *nine cigarettes at 10 cents*, since cancelled copies of the nine-cigarette "Series of 1923" stamp, C-327, **without the overprint**, are found in my collection dated August 1933, January 1934, and February 1934. Thus by August 1933 Imperial was producing two small sizes — nine and ten cigarettes.

To date I have found no indication that the nine-cigarette package was being produced prior to 1932 by any of the tobacco companies, and yet the very existence of the nine cigarette "Series of 1923" stamp attests to such prior usage. Brandom's C-327 may have been prepared for use to downsize the ten-cigarette package when the Budget of 1922 increased the excise duty on small cigarettes from \$6.00 to \$7.50 per thousand. However, the next Budget (in 1923) restored the previous excise rate, and the use of C-327 on nine-cigarette production may have been of limited duration during the latter portion of the 1922/23 Budget year. This stamp may also have not been used at all in this period.

The retail price of ten cigarettes under the **1923 Budget** was **15¢**. A breakdown of the prices under the 1922, 1923 and 1932 Budgets yields the following:

- 1922 Budget - 9 cigarettes at **15¢** comprising 6.75¢ excise + 8.25¢ for production and profit (**0.917¢** per cigarette.)
- 1923 Budget - 10 cigarettes at **15¢** comprising 6.0¢ excise + 9.0¢ for production and profit (**0.900¢** per cigarette)
- 1932 Budget - 10 cigarettes at **10¢** comprising 4.0¢ excise + 6.0¢ for production and profit (**0.600¢** per cigarette)

While for the 1932 nine-cigarette, C-327, *premium package* retailing at 10¢ during 1933/34 the breakdown of the price is:

- 1932 Budget - 9 cigarettes at **10¢** comprising 3.6¢ excise + 6.4¢ for production and profit (**0.711¢** per cigarette)

The "Series of 1915" stamps continued in use until replaced by Series "C" stamps in April 1935. The company code for Imperial Tobacco changed from "6-17" to "6-10-D" when the Inland Revenue Department coding (I.R.D.) was superseded by the "Customs & Excise" coding in November 1921.

The **twelve-cigarette** package does not fit easily into my calculations. Retailed both before and after the 1932 Budget (twelve-

cigarette stamps cancelled by Imperial Tobacco occur from 1924 until wartime, *and thus predate the 1935 Montreal sales tax*) the margin per cigarette, sold at 15¢ under the 1932 Budget, would have been **0.850¢** per cigarette. Perhaps the higher profit on this intermediate size was intended to make up for the loss incurred packaging the smaller 'starter' packages, or else the size was used for a *premium brand* cigarette.

As sheets of twelve-cigarette stamps were obtained from Ottawa under the reduced excise duty imposed by the Budget of 1932 (i.e. they were not obtained pre-Budget, and simply taken from the company's vault), Imperial overprinted them to read "**12 FOR 15¢**", instead of simply using a red "15c".



C-322C
BD2
Nov. 1932

The prices for the twelve-cigarette package breakdown as follows:

- 1923 Budget - 12 cigarettes at **20¢** comprising 7.2¢ excise + 12.8¢ for production and profit (**1.07¢** per cigarette)
- 1932 Budget - 12 cigarettes at **15¢** comprising 4.8¢ excise + 10.2¢ for production and profit (**0.850¢** per cigarette)

I find the following two cancellations interesting. When the Budget of October 1932 decreased the excise duty on *small* cigarettes from \$ 6.00 to \$ 4.00 per thousand, Imperial Tobacco had stamps in stock purchased at the higher tax rate. To specify production under the lowered Budget — using stamps purchased at the higher excise rate — they added a "O" to their monthly cancellation, and thus late October 1932 became "**OAD2**".

The twelve-cigarette stamp illustrated below at right shows a red "O" added to a sheet which had been previously cancelled in black ink with "**AD2**". The twenty-cigarette stamp illustrated below at left shows the complete, and *thus later*, "**OAD2**" cancellation printed in black ink.



C-329
OAD2
Oct. 1932



C-337
OAD2
Oct. 1932

It is possible that the fore-going twenty-cigarette stamp cancelled "**OAD2**" was sold at the pre-Budget price of 25¢, prior to the company's introduction of the larger twenty-five cigarette package,

since one would presume that if it had been sold at twenty cents under 1932 Budget conditions it would have been overprinted "20c" in red ink. Similarly, the twelve-cigarette example was probably sold at a pre-Budget price of twenty cents, or it would have been overprinted "15c" in red.

The other possibility is that the above cancellations were the first price-reduced 1932 Budget fore-runners to the later "red-priced" series, and that complaints of price-gouging led Imperial to the use of the "red-price" overprints.

Regarding Brandom's C-322B, Imperial's 1932 red "25c" overprint on the twenty-cigarette stamp, R. DeL. French, in the CRS Publication No. 11 (*Cigarette Stamps*) from January 1943, lists this stamp as GC-88 [25 on 20 cigarettes] and states: "*This variety was used on stiff pasteboard boxes of 25, there being no small 25 cigarette stamps in Series A*". (cf. page 12)

Yet earlier in the same publication he states the following in regards to the smaller overprinted "Series of 1915":

Stamps of this series occur surcharged "10c" in red. Some think the "c" stands for "cigarettes". This opinion can hardly be maintained, because the surcharge is usually of the same denomination as the original stamps. Others aver that the "c" stands for "cents", and that the surcharge was applied by the manufacturers for the protection both of the dealer and the customer, when a wide-spread revision of prices downward took place. It may be asked, "Why not indicate a change of price on the box rather than on the stamps"? A reasonable answer is that, if the boxes were already made up, printing on them would have been difficult if not impossible. Because it is likely that these are not in reality surcharges, we do not list them." (cf. page 10)

[I have omitted the bold italics at "usually" since I have never seen any other "Series of 1915" stamps except the ten-cigarette stamp, C-313, overprinted "10c" in red ink. Possibly he is thinking of the above illustrated nine-cigarette "Series of 1923" stamp, C-327, or perhaps some others exist with the "10c" overprint.]

In the *CRS Bulletin* N° 108, from March 1950, in an article entitled "Canadian Cigarette Stamps", one finds the following:

... We find stamps surcharged "10c". That might be "ten cents" and it might be "ten cigarettes". There is no record to show that any change in excise was made at that time. There doesn't seem to be any excise reason for surcharging the stamps - and there wouldn't be any object in surcharging a 10 cigarette stamp "10c" meaning "10 cigarettes"; the denomination is there already. The theory which has been advanced, which seems to be reasonable, and which is borne out more or less by what the tobacco companies tell us, is that at that time a reduction in the price of cigarettes was made. The 10 cigarette package, which had been selling for fifteen cents was reduced to ten cents, and in order to protect the dealer and the customer, the tobacco companies, who had in hand a very large stock of boxes made showing the old price, decided to print the new price on the package somewhere so that the customer wouldn't be overcharged and there would be no argument about the price. They couldn't very well overprint the boxes because the boxes were made up, so what they did was to overprint the stamps. So I think the "10c" stands for "ten cents"; I believe it refers to the price of the package of cigarettes and has nothing at all to do with excise. ... (cf. page 337)

Note: I am missing pages 339 and 340, thus the article is unfinished

and anonymous in my files. Although I cannot agree with all of Del French's thinking, it is interesting that he states that the pre-1932 Budget price for ten cigarettes was 15¢ cents, since a twelve-cigarette pack had been on sale since 1924. It appears that, under the previous Budget of 1923, the twelve-cigarette pack had sold at 20¢, and thus was probably a *premium* brand. A sort through the various 1910-1935 boxes in my cigarette package collection indicates that *none* of the boxes carried a printed retail price, likely since the price varied too often to permit such a printing.

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REVENUES THAT NEVER WERE: THE ONTARIO BETTING TAX

Christopher D. Ryan

This is the first in a series of articles covering a range of stamp taxes or fees that were projected, planned, or in preparation, but for various reasons never came into actual existence.

On March 16th, 1922, the Treasurer of Ontario announced his intention to levy a 5 percent tax upon the monies wagered in the "pari-mutuel" betting machines at racing tracks within the province.[1] Under the pari-mutuel system of betting, all of the monies wagered are pooled. Following the deduction of a commission, the operator of the machine pays the net amount collected to holders of winning tickets in proportion to the amount wagered by each. Pari-mutuel betting machines operated by authorized organizations and private bets between individuals "**not engaged in any way in a business of betting**" were, at the time, the only lawful forms of wagering in Canada. The operation of any other organized scheme of betting or wagering was an offence under the federal Criminal Code.[2]

Ontario's Betting Tax was imposed through an amendment to the Corporation Tax Act. This amendment was introduced in the Legislature on May 12th, passed on May 17th, and took effect as of May 18th, 1922.[3] The rapid passage of the measure was required by the May 20th start of the spring racing session at the Woodbine Track in Toronto.[4]

Under federal law, racing-meets held in any particular calendar year were limited to 14 days, divided into a maximum of 2 sessions of no more than 7 day each with a maximum of 7 races per day. The two sessions were to be separated by a minimum of 20 days.[2] Thus, the Ontario government had only a limited time-frame in which to tax the full amount of monies legally wagered on horses within the province.

With respect to the Betting Tax, the provincial Statute provided that "**every incorporated company, association or club becoming the custodian or depository of any money, bet or stakes during the actual progress of a race meeting conducted by and on a race-course of such company, association or club upon races being run thereon, shall as the agent of the Treasurer of Ontario deduct and pay to The Treasurer of Ontario five per cent. of the amount so bet or staked to be deducted in respect of each race from the total amount of money so deposited.**" The tax deducted was to be paid "**at the close of each day's racing.**"[3] The appointment of the pari-mutuel operators as agents of the government was intended to ensure that the tax would be legally interpreted as a direct tax and thus within the jurisdiction of the Province.

Despite the phrasing of the Statute, the legality of the Betting Tax was not entirely certain. This uncertainty prompted the operators of the Woodbine Track, the Ontario Jockey Club (OJC), to apply to the courts for two items. The first was an injunction against any actions taken by the government to halt the racing at Woodbine and the second was a declaration by the court that the tax was not within the jurisdiction of the provincial authorities.[5]

In a May 19th, 1922, judgement, Justice Middleton compromised. He declined to rule on the legality of the tax but, in anticipation of further action in the matter, required that the 5% be deducted as required by the law and paid into the court in trust. Middleton also prohibited any punitive actions by the government against the OJC.[6]

The government's response to Middleton's judgement was to pass a second Act, effective May 26th, in which it declared that no injunction could be imposed upon the Crown, its Ministers or any officer acting on Ministerial instructions issued under the authority of an Act of the Legislature. This Declaratory Act also proclaimed that

any legal action pending against the government and any injunctions obtained under such actions were "**forever stayed.**" In addition, government officers were "**entitled to proceed as if no such action had been commenced or proceedings taken or order made.**"[7]

The Declaratory Act in hand, the government sent a representative to the OJC on May 27th to demand the payment to the treasury of any tax monies not yet deposited with the Court. On that same day, an official notice of a motion to secure the monies held by the Court was served on the OJC.[8]

The application for the release of the funds was heard by Justice Riddell on May 29th and was dismissed that same day due to procedural errors by the government.[9] Despite the provisions of the Declaratory Act and directions by Riddell that the case should go to the Court of Appeal, the government declined to appeal the dismissal or to make any further motions in the Courts.[9, 10] Flushed with this victory, the solicitors for the OJC publicly announced on May 30th that Middleton's injunction had in fact not been stayed by the Declaratory Act and that a formal challenge to the constitutionality of the tax was pending.[10, 11]

From newspaper reports of debates in the Legislature it appears that about the time of the May 29th dismissal a letter was received by the Attorney-General, W.E. Raney, from the Chief Justice of the Supreme Court of Ontario. Citing the ongoing litigation initiated by the OJC, the government refused to divulge the contents or even the very existence of any such letter.[12] However, the Toronto *Telegram* reported the following regarding its contents.

Attorney-General Said to Have Been Rebuked For Making Charges Against Judiciary . . .

. . . It is understood that the letter received by the Attorney-General from his Lordship is critical of the Attorney-General's attacks on the judiciary and his allegation that the Legislature has been attacked in the courts in the injunction order by Mr. Justice Middleton. The letter is also understood to have taken issue with Mr. Raney's statement that there is no legal question as to the validity of the two acts, and pointed out that there is such a question, which should probably be passed on by a court.[13]

Faced with serious concerns about the validity of the Declaratory Act, the government made a strategic withdrawal and invoked a penalty clause in the Corporations Tax Act. This clause imposed a fine of \$1000 per day for nonpayment of the Betting Tax. A May 29th letter to the OJC read as follows.

On behalf of the Treasurer of Ontario payment is hereby demanded, pursuant to the Corporations Tax Act, 1922, of the amount deducted under that Act from the money bet or stakes of which the Ontario Jockey Club became the custodian in respect to races held at Woodbine Park, Toronto, from the 20th to 27th of May, 1922 (inclusive), amounting to the sum of Two hundred and eighteen thousand dollars (\$218,000) more or less, and in default of payment forthwith you are hereby notified that you will be required to pay the penalty provided for by Clause (c) of subsection 17 of the Corporations Tax Act, as enacted by the Corporations Tax Act, 1920, (10-11 Geo. V, Cap. 9), as amended by the Corporations Tax Act, 1922.[14]

The dubious status of the Declaratory Act is reflected in the above letter by the demand that the full amount of the tax deducted be paid by the OJC. This blatantly ignored the fact that this money continued

to be held by the Court as a provision of Middleton's May 19th injunction, which the Declaratory Act had sought to nullify. The implication of this situation is that the government, having not been able to cancel the injunction, had simply decided to ignore it.

However, as in the case of the Declaratory Act, no actions arose from the May 29th letter. The heavy fines were never sought in the courts and in June of 1922 a formal challenge to the validity of the Betting Tax was launched by the OJC in the Supreme Court of Ontario.[12, 13, 15]

Meanwhile, the Metropolitan Racing Association, operator of the Dufferin Track, moved to circumvent the Betting Tax by legally assigning the operation of their betting facilities to a private individual. Such a person was not obligated under the Corporations Tax Act to collect the Betting Tax. This required a third Act of the Legislature to extend the responsibility for the deduction of the tax to any person or company to whom the legal betting privileges had been assigned. A second, key part of this third Statute was the optional provision for the collection of the Betting Tax directly from the holders of winning tickets. The government's public reason for this provision was a fear of widespread refusals by racetracks to collect the tax. Implicit in this fear was a possible loss in the Courts on the question of the tax's constitutional validity.[16, 17]

This new Act provided as follows.

(1) Every person who is a holder of a winning ticket issued under the pari-mutuel system or who is to receive as winner, money bet or wagered upon a race run at any race meeting conducted by any incorporated company, association or club shall pay to His Majesty for the use of Ontario a tax of five cents upon each dollar or fraction of a dollar payable to him in respect of such ticket or bet or wager to be collected as herein provided.

(2) The Lieutenant-Governor in Council may make regulations,—

(a) For the collection of the tax imposed by subsection 1 by means of stamps to be affixed to every winning ticket, or by other means;

(b) For the sale and distribution of such stamps by the incorporated company, association or club conducting the race meeting, or by any person being the custodian or depository of the funds out of which bets or wagers placed at such race meeting are to be paid, or by any other agent of the Treasurer of Ontario or by any other person;

(c) For the cancellation of such stamps;[17]

The provisions for the use of stamps in collecting the tax were to take effect on a date to be proclaimed by the Lieutenant Governor in Council. The Statute also specified that in the event of such a proclamation the initial Betting Tax legislation was repealed as of that same date.

For the time being, events did not conspire to require the use of stamps. On September 14th, 1922, the OJC ended their court challenge as part of a settlement with the government. The agreement required the transfer of the court-held funds to the government, the deduction and payment by the OJC of the tax due on future races, the payment of all court costs out of the money held by the court, and the legal defense of the OJC by the government against any suit that may be brought against the club by bettors at the races of the previous May.[18]

However, the end of the OJC action did not mean an end to the difficulties experienced by provincial authorities in collecting the Betting Tax. On several occasions during the 1920s several racetrack operators continued to protest against the Betting Tax. These protests took the form of threats to cease their racing activities, delays in forwarding tax receipts to the government, and/or making such

payments under formal protest, reserving the right to future legal action to recover any funds so paid.[19]

One especially important incident occurred in 1923 at the Dufferin Track mentioned previously. This particular incident directly resulted in the production of the Betting Tax essay illustrated below.



(Illustration provided by Bill Walton.)

On May 23rd, 1923, the Solicitor to Ontario Treasury wrote the following memo to the Treasurer.

We could be ready to put into force the collection of the Betting Tax by the sale of stamps to holders of winning tickets on Tuesday, June 5th. The meeting at Dufferin Park commences June 6th.

We would require a number of men to sell these stamps, probably eight or ten and also a number of Provincial Police to see that the tickets presented for payment have stamps attached.

In order to bring the Act into operation on the 5th of June I would have to order the stamps to-day the 23rd instant. An initial order of five million would be required and the price for these, litho-engraved, printed in sheets, and perforated, would be thirty cents per thousand. Steel-engraved stamps would require three weeks to complete.

P.S. We have instructed the British American Bank note Co. to prepare the litho engraving at an initial expense not to exceed \$100.

[20]

Further details regarding the proposed stamps are provided by identical letters of May 17th, 1923, addressed to the Canadian Bank Note and the British American Bank Note (BABN) companies.

Please quote price on stamps in the quantity and denominations hereunder enumerated;—

| | | | | |
|----|-----|-----|--------|---------|
| 5¢ | 10¢ | 25¢ | \$1.00 | \$5.00. |
|----|-----|-----|--------|---------|

Five million assorted as above, different colors for each denomination, in the form of stamps gummed, and in sheets of 100 perforated; the size to be approximately 1" x ¾"; the design to be submitted for approval with the prices for additional supplies in lot[s] and quantities of one million. A definite undertaking as to delivery must be given. It is understood that your usual protection in handling these stamps will be observed. Prices are requested on both litho-engraving and steel engraving. Tenders must be turned in here not later than Monday noon, May 21st, and stamps to be delivered two million assorted within 1 week and three million within 10 days following receipt of order.[21]

The operator of the Dufferin Track, the Metropolitan Racing Association, or its assignee evidently relented and agreed to deduct the tax as the Ontario government never put the statutory provisions for revenue stamps into effect. These provisions remained part of Ontario's Statutes until 1939.[22]

What remains unknown is the extent to which production of the Betting Tax stamps had progressed at BABN. The presence of only a 25-cent proof in the BABN archives suggests that the authorized "**litho engraving at an initial expense not to exceed \$100**" mentioned in the memo of May 23rd, 1923, represented a single denomination. This item was possibly meant as a precursor to the other values. With respect to the 25-cent stamp, it is not yet known if just a die was produced or if a plate was prepared and, perhaps, one or more sample sheets were printed.

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