

*Supply—Formation of Ministry*

Nor is there anything in the arguments which have been advanced which indicates that these hon. members have not been properly appointed to take over, as acting ministers, the various departments which they control? I have not before me the opinion of the deputy minister but that ruling as I recall it when it was read this afternoon, and I should like to have it before me, is directly to the point. In plain terms it says that the appointment of these hon. members to be acting ministers was proper and regular in every way. I should have thought that it was useless to go beyond that opinion, I should have thought that the officers of the crown were the proper persons to adjudicate upon the regularity of these appointments that it should not be a matter for legal discussion in this House, nor should this House be required to pass judgment upon such a fine point.

Some trivial matters have been raised, such, for instance, as that an oath is required. My hon. friends forget that that begs the whole question. If the ministers are duly appointed ministers they do by custom take an oath. If they are appointed acting ministers, as in this case, there is no custom by which they take an oath; and the practice in the case of previous governments as well as in the case of the late government of hon. gentlemen opposite has not been for acting ministers to take the oath.

I do not want to labour the constitutional authorities, but will hon. gentlemen bear this in mind? I read in Todd at page 183:

Upon the resignation or dismissal of a ministry it is customary for the sovereign to send for some recognized party leader, in one or other House of parliament, and entrust him with the formation of a new administration. Or, should the position of parties be such that no particular person appears to the king to be specially eligible for the post of prime minister, he may empower anyone in whom he can repose sufficient confidence to negotiate on his behalf for the formation of a ministry, and to present to him the names of the statesmen who are willing to serve His Majesty in that capacity.

By modern usage, it is understood that no one but the Premier is the direct choice of the crown. He is emphatically and especially the king's minister, the one in whom the crown constitutionally places its confidence.

The Right Hon. Arthur Meighen, in the present case, was chosen by the Governor General and took his place as Prime Minister. His Excellency summoned to the meeting of that Privy Council certain other members of the Privy Council, and they proceeded to make the appointments that are complained of. I ask the House if any government has ever been formed in this country, or could

[Mr. Geary.]

be formed, under any other circumstances? To begin with the sheet is clean. There has to be someone to commence with. There is no miraculous process by which a certain number of men are designated by some power we know nothing about to be ministers. Thus these men are brought together constitutionally and the Prime Minister, who was the one chosen by the crown, makes his choice of those who are to be ministers of the crown or acting ministers. That has been done in the present case as regularly as one could imagine any procedure could be carried out; and we have the authority of the law officers of the crown to the effect that the method followed is perfectly in order. Now one does not suppose for a moment that when the law officers of the crown were discussing this matter and were giving an opinion on it they overlooked section 11 of the statute, which says that in case of all commissions carrying emolument the commission must contain a provision that no emolument will be paid, to avoid disqualification? One cannot begin to think that the law officers of the crown overlooked the very next section to the one they were discussing. Neither can one admit that in saying that all the proceedings were regular those law officers overlooked a requisite which had not been complied with, namely the taking of an oath. There is no oath, even founded on custom, that an acting minister must take.

I want just for a moment to refer—because to my mind it is beyond debate that the procedure in the appointment of this ministry has been regular and correct—to the course of previous proceedings in this House. In September of last year the late Prime Minister inaugurated his election campaign; he complained at that time, in fact complained very bitterly, that he was not able to carry on a government, that he had been obliged to mark time, that the situation had become impossible, that he must go to the country in order to get some sort of endorsement that would enable him actually to carry on the government of this country. He did not come back here with a majority of this House, he did not come back endorsed by the people, he did not come back with the majority that he said was necessary—a majority of his own party—to enable him to carry on. It would be interesting to review his difficulties during the session, but I come at once to the events of the last few days. The late government found itself in an impossible position, and on Wednesday this is what the Prime Minister said with regard to it: