

*Motion Respecting House Vote*

of a dissolution. If an appeal to the electors goes against the ministry they are bound to retire from office, and have no right to dissolve parliament a second time.

And at page 430:

The conventions of the constitution now consist of customs which (whatever their historical origin) are at the present day maintained for the sake of ensuring the supremacy of the House of Commons, and ultimately, through the elective House of Commons, of the nation. Our modern code of constitutional morality secures, though in a round-about way, what is called abroad the "sovereignty of the people."

That is why these customs have to be honoured, Mr. Speaker. That is why these customs need not be regarded, indeed should not be regarded, as a matter of mere rules which can be trampled at will by a government intent upon maintaining office at any price.

What are the constitutional ethics that are required of a ministry that is defeated on a measure such as that which was before the house last Monday night? Let us look at the legal and constitutional position for a moment. Is the conduct of the cabinet in retaining office in this instance constitutionally immoral? This is a point that has been raised by the leader of this party as well as by the leader of the New Democratic party.

Dicey believes that the true rule of the constitution is not that a ministry cannot keep office but that the ministry ought not to remain in office unless they can, by an appeal to the country, obtain the election of a house which will support the government, a support that was not forthcoming Monday night. At page 451 of Dicey's book there is the following paragraph:

The conventions of the constitution are not laws, but, in so far as they really possess binding force, derive their sanction from the fact that whoever breaks them must finally break the law and incur the penalties of a lawbreaker.

I shall have something to say about the illegality of the tax in a moment. At page 455 Dicey continues:

Why is it, to take definite instances of this uncertainty and changeableness, that no one can define with absolute precision the circumstances under which a Prime Minister ought to retire from office? Why is it that no one can fix the exact point at which resistance of the House of Lords to the will of the House of Commons becomes unconstitutional?

Then Dicey gives some examples of when a ministry should properly and constitutionally retire from office. I quote from page 456:

Thus the rule that a ministry who have lost the confidence of the King...the undignified persistency

[Mr. Nielsen.]

from office is plain enough, and any permanent neglect of the spirit of this rule would be absolutely inconsistent with parliamentary government, and would finally involve the minister who broke the rule in acts of undoubted illegality... There are, however, a hundred signs of parliamentary disapproval which, according to circumstances, either may or may not be a sufficient notice that a minister ought to give up office. The essential thing is that the ministry should obey the house as representing the nation. But the question whether the House of Commons has or has not indirectly intimated its will that a cabinet should give up office is not a matter as to which any definite principle can be laid down.

The difficulty which now exists, in settling the point at which a premier and his colleagues are bound to hold that they have lost the confidence of the house, is exactly analogous to the difficulty which often perplexed statesmen of the last century, of determining the point at which a minister was bound to hold he had lost the then essential confidence of the King...the undignified persistency with which later cabinets have occasionally clung to office in the face of intimations that the House desired a change of government.

Nothing could have been clearer last Monday night than that the opposition in this house was united in demanding the resignation of the government.

The Prime Minister is charging the opposition with being irresponsible, and I have dealt with that. The opposition has been "irresponsible" by marshalling and parading all of the blunders of which this government has been guilty over the years. In this regard I should like to quote what Dicey has to say. I read from page 599:

One may add that the whole current of modern constitutional custom involves the admission that the final decision of every grave political question now belongs, not to the House of Commons, but to the electors as the representatives of the nation.

"Cabinet Government" by Jennings, second edition, was one authority cited by the Prime Minister. In discussing the role of the supporter Jennings says at page 441:

● (4:10 p.m.)

Above all, a supporter of the government is very unlikely to take any step—

Or to refrain from taking any step, such as being absent.

—which will defeat the government. For, if it is defeated on a major issue, it will resign or dissolve parliament.

At page 446 we find this statement:

The house possesses the instruments necessary to determine the fate of governments. If it fails to approve the government's policy the government must resign or dissolve parliament.