

because when I was a boy and I was going to swipe apples—

**An hon. Member:** Oh, oh.

**Mr. Diefenbaker:** The only difference between the hon. gentleman and Sir John A. is that Sir John A. admitted doing it. That is the only difference, and the Liberals did not restrict themselves to apples at the time of Beauharnois. He simply said that he used to go into the orchard and find a tree under which there were the most sticks and stones and that was the tree he would visit that night, because that was the tree having the best apples.

I believe in freedom of speech and the maintenance of it. Hon. gentlemen ridiculed the idea of the Bill of Rights which I advocated for years. Today it is accepted in this nation although it is no longer published because the present government does not want to circulate it.

Once Your Honour decided that a prima facie case has been made we must forget political considerations and join together for the preservation of our freedom. That has always been the course and there are no exceptions to it. Some hon. gentlemen have said they intend to vote against the prima facie case. One argument advanced by the leader of the Creditistes was that he was shocked by this case, but when his deputy leader came before the house and claimed that he had been maltreated—I do not know whether that was the word he used—by the police, we all joined together to provide an opportunity for proving that he was wrong.

What is the reason for the obvious opposition to sending this matter of privilege to a parliamentary committee? The government has an overwhelming majority on that committee. Whatever the facts may be, why do we depart now from a principle? This matter in years ahead will be looked upon as a bad decision and a bad conclusion on the part of parliament, and will set a bad precedent.

Whatever the different views may be we should not depart from our normal practice, because freedom is something that is indivisible in so far as the press is concerned. When Your Honour decides that a prima facie case has been made parliament should have the opportunity of considering it regardless of whether or not there is a prima facie case. If we decide against this motion a member of parliament will be denied his right to have the matter judged by a committee of parliament. I appeal to the house not to make such

### *Question of Privilege*

a decision, and I do so without apology. Pathways of expediency can become highways of the denial of rights. Once Mr. Speaker has made a decision that there is a prima facie case it should be up to parliament to decide whether or not there has been a breach of privilege. I appeal to hon. gentlemen, and particularly to that fine parliamentarian, the Acting Prime Minister, to uphold those principles that we as the descendants of the British parliamentary system, which had its birth as the result of Anglo-Saxons and Normans joining together, have inherited as a result of 700 years of precedents.

I appeal to hon. gentlemen not to make this matter the subject of a vote in the house but that it be passed in the normal way by those who know what freedom means. Otherwise we will be denying and undermining that freedom by the instrumentality of having press people prevented from writing those things they desire and making them public. Regardless of the facts these press representatives should receive an answer from parliament. If the hon. member is wrong, the committee will have the opportunity of determining that, but for us to decide, in spite of your decision, Mr. Speaker, that a prima facie case has been made, that this matter should not be sent to a parliamentary committee will be a departure from British parliamentary practice and can only mean that this decision will come up at some future date to smite those who are trying to preserve freedom.

**Hon. John N. Turner (Member of the Administration):** Mr. Speaker, I rise to refer to only one point raised during the latter part of the address made to the house by the right hon. Leader of the Opposition. I refer to the fact that he stated there is a prima facie case to come before this house. I know the right hon. gentleman would not want to leave the impression that if members of this house were to vote against sending the substance of this question of privilege to a committee, or decide that it was not a question of privilege sufficient to occupy the attention of that committee, that would in any way be a reflection upon the Chair.

Let me refer Your Honour and hon. members to citation 104(2) to be found at page 95 of Beauchesne. It states:

It has often been laid down that the Speaker's function in ruling on a claim of breach of privilege does not extend to deciding the question of substance whether a breach of privilege has in fact been committed—a question which can only be decided by the house itself.