

cussion that perhaps they would be agreeable to having the matter aired before the committee, and if I thought that should be done or if I thought there was a *prima facie* case of privilege, it certainly might be a welcome and easy way to attempt to encourage the House to come to that view. It seems to me, however, that would be shirking the fundamental part of my duty which is to make those findings I have been asked to make. Whether or not it is of particular joy, it does seem that that is my responsibility and therefore I will set out on that course now.

The third point on which there is agreement is that a dispute as to facts, a dispute as to opinions and a dispute as to conclusions to be drawn from an allegation of fact is a matter of debate and not a question of privilege. The fourth thing that then becomes germane to the case involved is can an attack by one Member of this House upon another in respect of his conduct as a Member of the House of Commons either now or in the past constitute a question of privilege. That is a very serious consideration. I might indicate to honourable Members at the outset that there are indeed some clear and forceful precedents which indicate that it is almost impossible that an attack of that sort can be made to constitute a question of privilege. I would refer honourable Members to a very clear and explicit decision enunciated on December 17, 1964 by the then Speaker Macnaughton. That is reported at page 1011 of the Journals of the House of Commons for December 17, 1964. It concerned at the time a question of privilege raised by the then Member for Burnaby-Coquitlam. I am sorry, perhaps I have misled the House. The ruling I am about to read is a quotation from an earlier ruling by Mr. Speaker Michener. In any case it has the same effect: "In my view, simple justice requires that no honourable Member should have to submit to investigation of his conduct by the House or a Committee until he has been charged with an offence."

There are clear reasons for the wisdom of that process to be followed, that if one Member seeks to complain about the remarks of another he ought to put it in the form of a charge and take that Member before a committee for the very simple reason that in those circumstances at least the proponent of that charge or complaint then is saddled with the onus of proving and placing the case before the committee. Often the difficulty, when one Member complains about remarks by another, is that if it were to be accepted as a *prima facie* case of privilege and voted to the committee, when the committee assembles in fact no one clearly has the onus of proof upon him and no one has the responsibility of carrying the specific case or charge before that committee, and accordingly if any honourable Member concerned desires not to appear there as a witness the function of that committee becomes a nullity and a bit of a farce.

Accordingly, there is some wisdom in the process that if one wishes to complain about what another Member has done or said it should be done in the form of a com-

plete charge rather than by way of an alleged question of privilege. That, however, is a very strict view but again I might be tempted not to set aside the proposed question of privilege in those circumstances, and rely on the precedents to say that if it is not in the form of a charge it ought not to be considered at this time. However, citations were cited, notably citation 108(3) of Beauchesne which says that libels upon Members have been considered as questions of privilege or grounds for them. The fact of the matter is that in looking behind that citation it turns out to be a situation in which a member of the United Kingdom Parliament placed placards around the county of another member decrying him and calling his conduct degrading and inhuman. In fact, that thankfully is different to the situation we have here today.

I must also indicate that citation 113 of Beauchesne says that libels upon Members and aspersions upon them in relation to Parliament have been considered questions of privilege. In light of that I have I believe to address myself to the question whether or not that is the case now. I certainly do not pretend to speculate on what sort of remarks might constitute a question of privilege or get onto a hypothesis of what they may be, but I refer directly to the particular instance that is before us at the present time. It seems to me that in this particular instance the complaint that is sought to be made the subject of a question of privilege there would need to be at least as a minimum an allegation of some wrongful conduct or some wrongdoing on the part of the Member complaining. That is why the allegation in this case would have to be specifically that the Right Honourable Prime Minister (Mr. Trudeau) in describing the conduct of the Right Honourable Member for Prince Albert (Mr. Diefenbaker) in his former capacity as Prime Minister would have had to accuse him of doing something wrongful. Surely the motion of the Right Honourable Member which is before me now indicates that the slanderous and libellous remarks or allegations were made by the Right Honourable Prime Minister and surely slanderous remarks would have to refer to some wrongdoing.

This is of course the essence of the difference of opinion that is before the House. The Right Honourable Member for Prince Albert says that is exactly what was implied if not said by the Right Honourable Prime Minister but the Right Honourable Prime Minister on the other hand said it was a criticism or reference to the conduct of the former Prime Minister but not in any way an allegation of wrongdoing. In order to come to some conclusion about that I have to look at the context. The fact of the matter is that the context of the remarks involved an exchange, not only the second but perhaps if one goes back far enough the third instalment of a continuing debate which has carried on over some several weeks in the House between those very distinguished and prominent Members of this House. Unfortunately on this particular occasion when these remarks were made a direct confrontation between the two of them could not be carried on. I say that very seriously and wish to make