

*Privilege—Mr. Sharp*

involves language which I find to be not only appropriate but rather stimulating.

**Some hon. Members:** Oh, oh!

**Mr. Speaker:** In addition, may I say that the word "illegal", which is the subject matter of this particular controversy, is one which was referred to by the hon. member for Grenville-Carleton in the course of an argument to which the hon. member for Winnipeg North Centre (Mr. Knowles) gave support in delivering his contribution, that is to say, the case which arose a few years ago where the government was accused by the opposition of going beyond its statutory authority by using drawing rights, if I remember correctly, in order to pay its obligations under a statute to certain grain farmers. Not only was the word "illegal" constantly used in that debate, but it seems to me it would not be an unparliamentary term in that particular context. It was used frequently, and the whole subject matter of the debate concerned the allegation that the bill was retroactive justification, or legalization of acts which had been committed by the government and which were illegal. That was the whole substance of the argument, and in my view use of the term, in that context, was not only parliamentary but essential to the debate.

The question I have to ask now, however, is this: Does the same term offend the Standing Order in the different context in which it was uttered last Thursday night? It cannot be denied that the expression was used by the hon. member for York-Simcoe in a much different context, a very narrow context referring to the action of ministers with respect to the judges' affair which was referred to specifically. Since those actions have been the subject matter of constant attention and attack in this House for eight consecutive sitting days, there can be no doubt as to the context or about the actions which were involved. There would not, I think, be much value in speculating on how many meanings or contexts that word might have in other circumstances. In the circumstances in which the hon. member for York-Simcoe used it last Thursday night, there could, after those eight days of concentrated discussion here, really be no doubt. Therefore, I find it had a very narrow context with respect to the ministers involved. It also had a very narrow context with respect to the actions which were referred to.

The term "illegal" or "illegality" has been an integral part of those discussions over the eight days. The government expressed the view that the actions of ministers have not been illegal and made much of the fact that the courts did not find those actions illegal. The position of the opposition has been, if I may summarize briefly, first, that it lacks the information to make such a judgment but would perhaps make it, if it had the information or, in the alternative, that the distinction between "illegal" and "improper" is really not as important as the government has made it out to be. In either case, the definition of "illegal" has been an extremely urgent and important matter in the entire debate.

There are differences of opinion, of course. No one even suggests that there should be any restriction of the right of members or, in this case, of the right of the hon. member for York-Simcoe to hold a contrary opinion. No one need question that. What we are talking about is solely the right

[Mr. Speaker.]

to express that opinion and whether Standing Order 35 and the practice which has grown up over the past in any way circumscribes the right of expression or use of that opinion in this particular context.

To attempt to bring the matter to a conclusion, may I say it is illuminating to examine the language used by those who, very ably in my opinion, came to the defence of the hon. member for York-Simcoe. To begin with, at page 11952 of *Hansard* for Friday last, the hon. member for Grenville-Carleton, referring to the debate I mentioned at the outset in connection with the use of warrants, said that the term "illegal" employed in that debate was in order. I agree with that. But it is noteworthy that the hon. member for Peace River (Mr. Baldwin), whose intervention in that debate was used in quotation by the hon. member for Grenville-Carleton, stated as follows:

I would add in this regard that if the action of the Minister of Finance who, under the act, is charged with responsibility is, as I assume it to be, the collective action of the government and the cabinet, then they are all tainted with the same misdemeanour and this would be in effect a collective agreement to break the law, a form of conspiracy.

Another intervention which I think is noteworthy was made by the hon. member for Yukon (Mr. Nielsen), who said:

In respect of the term "illegal", how can the Prime Minister or any other minister prejudice the issue of conduct and whether it is legal or illegal, proper or improper? Surely, that is not their province. I can lay a charge and I can express the same kind of opinion, with equal validity, as the Prime Minister. The Prime Minister and, obviously, the government House leader came to the conclusion that the conduct of the Minister of Public Works (Mr. Drury) was not illegal but was improper. It is just as proper for me to reach the contrary view. A reading of section 127 of the Criminal Code leads me to the conclusion that there is sufficient evidence to constitute a prima facie case of obstruction . . .

● (1510)

I do not think it is my province to reach a judgment as to whether that conduct is legal or illegal, proper or improper: that is the province of the courts, or of a special inquiry.

Finally, the hon. member for Nanaimo-Cowichan-The Islands (Mr. Douglas), as reported at page 11959 of *Hansard*, said as follows:

Mr. Speaker, may I deal with one point which the hon. member raised. He is suggesting how the House should condemn the use of the word "illegally." I point out that this involves a matter of opinion. The Prime Minister is of the opinion that, on the basis of what his ministers said to him, nothing illegal or improper was done. We have not had the advantage of knowing what the Prime Minister said to his ministers or what they said to him. It seems to me that we are entitled to say that in our opinion actions have been taken which, until further information is divulged, could be both improper and illegal.

I think hon. members will perhaps realize that I am getting to the point of saying that those who very ably came to the defence of the hon. member for York-Simcoe were evidently at some pains to tell the Chair and the House what the hon. member had the right to say and in fact what he said. I agree with them completely in their interventions and in the conclusion that they reached in respect of what the hon. member for York-Simcoe had the right to say. Unfortunately, however, I disagree with their interpretation of what in fact the hon. member for York-Simcoe said. The hon. member did not say that if other information were available—as others had put it—there might be a conclusion drawn that there was illegality: he did not say that it might be possible to come to that