

THE PRESS COUNCIL BILL,
1956—continued

SHRI JASPAT ROY KAPOOR (Uttar Pradesh): Mr. Chairman, when the House adjourned last evening, I was dealing with the question of important Bills being referred to Select Committees and I am glad that I have now the opportunity of pressing this point under your august presence because I feel that this is a very important point which must be thoroughly thrashed out. And in this respect, I would appeal to you, Sir, as Chairman and protector of the rights and privileges of the Members of this House and as one responsible for the proper conduct of business in this House.

I was submitting that, so far as this question is concerned, we would appeal to the Chair to give some direction in the matter. My submission is that all important Bills must necessarily be submitted for the proper consideration of the Select Committee; the more so, if a substantial number of Members of this House desire that a particular Bill be referred to the Select Committee unless, of course, it appears to the House or to the Chair that such a motion is being moved in order to delay the passage of the Bill. If that appears to be the motive of the person moving that a Bill be referred to a Select Committee, it is a different matter. But otherwise, we should be guided by this principle invariably that if a Bill is of an important nature or secondly, if a substantial number of Members of this House desire that it should be referred to a Select Committee, such a suggestion must be accepted. So far as the present measure is concerned, it is both an important one and almost every Member of this House who has participated in the discussion so far has emphatically urged on the Government to agree to this measure being referred to a Select Committee. While I say 'every Member of the House', of course, I do not forget my hon. friend, Shri Bisht who is not present here and who is the solitary Member who has suggested that it need not be referred to a Select Committee. But for that also, I am prepared to take the responsibility on my own shoulders

and I plead guilty that, in spite of my being seated so close to him, I have failed in exercising a healthy influence on him in this respect.

Sir, where is the hurry with regard to the passage of this measure?

This question has been pending before us for about a year now. Secondly, this Bill was introduced in this House in the last session. If we could afford to wait for so long, certainly we could afford to wait for some time more. It may be referred to a Select Committee which may be directed to submit its report in two or three days and it may be passed in this session. Supposing the worst comes to the worst and it is not passed by both the Houses this session, what is lost? After all, the responsibility for the business of this House does not rest on the shoulders of the hon. Minister alone, and why should he feel that the hon. Members of this House do not feel their responsibility? I am sure we are voicing the feelings of the other Members of this House also when we say that it should be referred to a Select Committee. When we all take the responsibility of this measure not being passed in this session, why should the hon. Minister think that he alone is the guardian of the interests of the press and that we are so irresponsible that we do not realise the urgency of the measure? We are prepared to take the responsibility on our shoulders of this measure even not being passed in this session in this House. Let it be thoroughly considered by a Select Committee. It is immaterial whether it is passed in this session or in the next session or even in the next Parliament. I submit that the hon. Minister should agree to this measure being referred to a Select Committee; not only a Select Committee of this House; I would prefer that it should be referred to a Joint Select Committee of both the Houses, because the other House is as much interested in this as we are. It will save time and it will lead to an easier passage of this Bill if this Bill is referred to a Joint Committee. It is true that there is no motion to that effect, but if the hon. Minister agrees

to this, it can easily be tabled now. He can himself move it, with such Members of this House as he considers necessary. It is not merely for the fun of it, for the luxury of it, that we want this measure to be referred to a Select Committee but to see that the provisions of this Bill as it stands at present are carefully scrutinised. It will appear from a reading of this Bill that it is full of defects, full of imperfections, full of insufficiencies and even anomalies.

So far as the question of insufficiency is concerned, I would submit, as I submitted yesterday in brief,—a point on which I want to dwell in detail because it is of considerable importance—that the Bill as it stands does not fulfil its object. One of the main objects of this Bill, rather the main object I should say, is to eradicate or check the growing evil of the lowering of standards in the Indian press. The other object, of course, is the preservation of the liberty of the press, but this is merely formal rather than practical at the moment, because the press enjoys the fullest possible liberty now. The question is not how far they are exercising that liberty but how that liberty is being converted by them into licence and they are using undignified, filthy, dirty, abusive and defamatory language. That being the main object of this measure, the question arises: Where is the provision in this Bill which will effectively check this evil? All that it provides is that the Council shall censure such papers. Now, is that adequate? I should have thought that the hon. Minister in charge of this measure has been noticing quite a substantial number of newspapers in this country, particularly in the Indian language press, who are using the filthiest possible language very often. Will merely a censure of such degraded persons or degraded newspapers be enough to set them right? Surely not. They are censured once and if they continue to commit that offence, what happens next time? Again a censure, again a censure, and then again a censure. This is almost a helpless state of affairs. There must be some penal provisions in this Bill.

The Council must be empowered to penalise such newspapers. There is nothing like it in the Bill. An amendment has been tabled by my hon. friend, Mr. Bisht, and I have tabled another amendment to that effect, and I would suggest that the Press Council should be authorised in the first instance to censure the defaulting person or newspaper. If that defaulting newspaper commits that offence for the second time, the Council should be authorised to order suspension of that newspaper for a week, and if the defaulting newspaper commits that offence for the third time, the Council should be authorised to order suspension of that paper altogether. Now, some such penal provisions are necessary to be provided in this Bill. I do not say that the remedy I am suggesting at the moment is adequate. Perhaps it would not be and perhaps some other better suggestion may be made by some other hon. Members, but that can be done only when this Bill is referred to a Select Committee.

SHRI J. S. BISHT (Uttar Pradesh): These penal provisions are there in the Indian Penal Code and in the Criminal Procedure Code.

SHRI JASPAT ROY KAPOOR: My hon. friend presumes that he alone has got an intimate knowledge of the Indian Penal Code and the Criminal Procedure Code. He forgets that others also know something about them.

SHRI J. S. BISHT: They forget.

SHRI JASPAT ROY KAPOOR: Forget? I do not think that there is any provision in them that, if the directions of the Press Council are not obeyed, the person not obeying shall be punished. I will be obliged to the hon. Member, Mr. Bisht, if he could point out any such provision in the Indian Penal Code or the Criminal Procedure Code which says that, if any directions of the Press Council which we are going to create by the measure which we are going to pass, are not obeyed, the persons concerned shall be penalised. Their framers could

[Shri Jaspat Roy Kapoor.]
not have visualised that in the Year of Grace 1956 this Parliament was going to pass such a legislation.

It is provided on page 5 of this Bill, in clause 12, that one of the functions of the Press Council will be "to keep under review any development likely to restrict the supply and dissemination of news of public interest and importance and also the arrangements made for the reproduction in India of material obtained from other countries". Now, I ask: Does this lead us to any practical position? Keep under review only. But what after that? Nothing is provided here.

So far as the question of monopoly in this country is concerned, of course it is provided that the Council shall make such suggestions as it considers proper. I presume that the intention of the Government is that, after the Council makes its suggestions, the Government will take suitable steps in the matter, but then so far as the reviewing of the development is concerned, *i.e.* so far as sub-clause (e) is concerned, it is not even suggested that the Council can make suggestions which will be considered by the Government.

Then I would submit that this Bill appears to have been very hurriedly drawn up without due care being bestowed on it. This observation of mine is easily borne out by looking to the phraseology of clause 22 of the Bill. It is provided in sub-clause (3) of clause 22:

"All rules made under this section shall, as soon as possible after they are made, be laid before both Houses of Parliament and shall be subject to such modifications as Parliament may make during the session in which they are so laid."

The Government have rightly taken upon themselves the responsibility of placing the rules made under this Act before Parliament, as soon as possible, after they are made. Supposing three days before Parliament is to adjourn, three days before the close of a session, some rules are made, these rules must necessarily be placed before both

Houses of Parliament. They will be placed before both the Houses of Parliament. But then we are also expected to suggest modifications and improvements to those rules in the same sessions of Parliament, that is to say, within two or three days before the session ends. Is it possible to do that within so short a time? They do not say for how many days these rules shall be placed before the Houses of Parliament. Ordinarily and in the case of other Bills, it has been provided specifically that such rules framed under the particular Act, shall be placed before both Houses of Parliament for fourteen days and during those fourteen days, whether those fourteen days are in the same session of the House or whether those fourteen days are partly in one session and partly in another session, during those fourteen days we can suggest modifications to those rules. But what has been provided here makes it necessary for us to modify those rules in the same session in which they are placed before Parliament. Suppose, as I said, it is almost the end of the session, can we do that? It is no use saying that Government will never place these rules at the end of the session of the House. They are under the obligation to place these rules as soon as possible after they are framed and published. If they are framed and published only two or three days before the close of a session they are under the obligation to place them before both Houses of Parliament immediately thereafter. How are we to go through those rules and offer suggestions? How are we to do that? This may be a very small affair and there is no controversy involved in it. All that I am submitting is that these things show that due care has not been bestowed on the framing of the clauses. Therefore, I would again repeat that the Bill may be referred to a Select Committee.

Next I would like to draw your attention, Mr. Chairman, to the fact that while it is provided in clause 22 that the rules shall be placed before Parliament, it has not been provided that the regulations should also be placed before us. I would not suggest

that all regulations should always be placed before Parliament. But where there is need, this should be done and in this case the regulations are of more far-reaching importance than even the rules. For example, under the rules, it is open to the Council to provide for the terms and conditions of service of the employees of the Council. That is as it should be. It is but proper that the conditions of service of the employees of the Council should be provided by the rules. But we find that the conditions of service of the members of the Press Council shall be provided not by the rules which are to be placed before us, but by the regulations which shall not be placed before us. Does it not strike one as something amusing and amazing that the conditions of service of the ordinary employees of the Council shall be governed by the rules, and the conditions of service of the members of the Press Council itself, which Council will include three hon. Members of Parliament, will be governed by regulations and those regulations will be beyond the jurisdiction of the Houses of Parliament? Of course, when I say that, I do not mean to suggest that we cannot alter them, but then we will not have the same advantage of having them placed before us, as in the case of the rules which will be placed before both Houses of Parliament and considered by Parliament. I would earnestly request the hon. Minister to seriously consider these things and see whether the conditions of service of the members of the Council should be governed by regulations. The conditions of service of a *chaprasi* in the Council will be governed by rules and those rules we can modify, but not the regulations. Hon. Members of Parliament who will be there on the Council, will be governed by regulations and the *chaprasi* working in the Council will be governed by rules. To me, Sir, this does appear to be—if it be not too strong a language—simply absurd.

Mr. Chairman, there is only one thing more to which I would like to refer and this would have become unnecessary if the hon. Minister had straightaway accepted the suggestion to refer the Bill to a Select Committee.

PROF. HUMAYUN KABIR (West Bengal): He may do it even now, if only you press for it strongly.

SHRI JASPAT ROY KAPOOR: I do not know how much more strongly I should press for it. All the hon. Members of this House have been pressing this point as strongly as they can. Of course, we are now depending on our being assisted by the Chair in this respect, because this is a very important matter. It is a very important question of principle and the precedent that we may set today should govern future important Bills also which hon. Members of this House may insist upon being referred to a Select Committee.

Sir, there is only one point more to which I would like to refer before finishing my speech and that relates to the appointment of the Chairman. It has been suggested from some quarters that the Chairman should be either a sitting High Court Judge or a retired High Court Judge. So far as sitting High Court Judges are concerned, my hon. friend Shri P. N. Saprú has very strongly suggested that they should not be appointed to this position and I have nothing to say on that subject. I have not studied that point very carefully. But so far as retired High Court Judges are concerned, I have always been strongly of the view that the temptation of office should not be held before them as this might weaken the judiciary. It is likely to weaken the judiciary if you keep before judges the temptation of such high salaried posts after their retirement. Human nature being what it is, is it not likely to affect their independence? Our judiciary has a very high reputation so long and I wish that that reputation may be maintained and I am sure it will be maintained. But then we on our part should be very cautious and we should be very careful and we should not do anything which is likely to have a not very healthy effect on our judiciary. Sir, I would not say anything further on this subject because I may safely presume that your talk with the hon. Minister will serve our purpose.

SHRI H. P. SAKSENA (Uttar Pradesh): Mr. Chairman, I am uncompromisingly opposed to clause 14, I mean to a part thereof, which gives the Press Council the power to force a newspaper or a newspaper-man to disclose the source of the information of anything that has been published in the newspaper.

SHRI P. D. HIMATSINGKA (West Bengal): It does not say so.

SHRI H. P. SAKSENA: It does, My hon. friend does not see the inner meaning of it, because I am afraid he has no journalistic experience.

SHRI J. S. BISHT: But he is one of the press barons of India

SHRI H. P. SAKSENA: Sir, I will remove myself to a safe place because Mr. Bisht . . .

SHRI JASPAT ROY KAPOOR: Mr. Bisht is getting dangerous.

(Shri H. P. Saksena moves to another seat)

MR. CHAIRMAN: Yes, please go on.

SHRI H. P. SAKSENA: Mr. Kapoor says that Mr. Bisht is getting dangerous, but I may say that I am danger-proof. He should know that.

Sir, the Bill before the House has received a mixed welcome. On the one hand some hon. Members have greeted it unconditionally, while there are others who are not satisfied with the length to which the Bill goes. But I am in the happy position of being able to inform you, Sir, that we are all united on the view that the Bill should be referred to a Select Committee, I cannot put the case for the reference of the Bill to a Select Committee as strongly and as powerfully as my esteemed friend Diwan Chaman Lall did yesterday.

12 NOON.

I cannot believe that so soft-hearted and so noble a soul as Dr. Keskar will throw away such a unanimous view of

the Members of the House with regard to the reference of the Bill to the Select Committee.

SHRI V. K. DHAGE (Bombay): Mr. Bisht excepted.

SHRI H. P. SAKSENA: As was very thoroughly explained by my friend, Diwan Chaman Lall, excepting the addition of the very high gratitude of the majority of the Members of the House, nothing will be lost by its being referred to a Select Committee. There is no post-chase hurry for rushing this Bill through in this fag end of the Session. The Members are prepared to sit extra hours and finish the work of the Select Committee within a very very short period of time.

MR. CHAIRMAN: Dr. Keskar, listen to the speeches.

SHRI H. P. SAKSENA: Sir, it is very easy to talk of journalistic ethics and of raising the standards of the press of the country but, Sir, words alone do not make matters better than we find them today. Words have to be supplemented by the actions and the provisions that we include in the Bills that are placed before the House. It is easy to say that the standard of the press of the country has to be improved, that it has to be raised. It has to be raised decidedly but we should all combine to help in raising the standard. Merely saying that we want the moral force to be exercised is not good. Where is that moral force and who is to exercise it and upon whom is it to be exercised? Can we exercise it as my friend, Professor Wadia very pointedly enquired yesterday, on people who have got no conscience, on People who have got no souls, on people who are wedded to the use of blackmail and all that sort of rubbish things by which they have gained notoriety of being designated as the gutter press and the yellow press?

SHRI JASPAT ROY KAPOOR: We hope that the moral force of the unanimous demand of the Members for a Select Committee will have that effect on the Minister.

SHRI H. P. SAKSENA: I also hope so and I share that hope but then, for the benefit of my friend, Mr. Bisht, I may say, that he appears to have lost all sense of good and moral things by his long association with an occupation which he has happily forsaken now.

THE MINISTER FOR INFORMATION AND BROADCASTING (DR. B. V. KESKAR): What of Mr. Kapoor then, poor man?

SHRI H. P. SAKSENA: Mr. Kapoor is all right.

SHRI JASPAT ROY KAPOOR: You cannot invite him to say anything against me.

SHRI H. P. SAKSENA: My hon. friend, Mr. Sapru, wanted—he pressed and emphasised—that this Council should be a judicial body. Now, his knowledge of law is so vast that I do not find myself equal to or capable of differing from him and I am satisfied when he says that this Council should have a judicial . . .

SHRI P. N. SAPRU (Uttar Pradesh): Quasi-judicial.

SHRI H. P. SAKSENA: . . . yes, quasi-judicial status, that it must be correct.

Sir, the main object of the Bill, as I have understood it, is to raise the standard of journalism in our country. The question devolves into how to acquire that laudable object. The non-cooperating attitude that the hon. Minister for Information and Broadcasting is adopting at this time will not go to raising the standard of the press or to removing the evils that are rampant at present. He should seek co-operation from all directions from which it can be had, and pray, let him not adopt a non-cooperating attitude. Sir, I am not forgetful of the fact that the provisions of the Bill do contain some useful points for which nobody would be more grateful than I am because I even now look upon myself as belonging to the noble fraternity of journalists and I shall be very happy if, by any little effort of mine, I could help improve their status. For instance,

Mr. Bisht catalogued yesterday so many things that have already been done for the journalists and for which we are all thankful to the hon. Minister in charge of this measure but then the crux of the matter is the raising of the standards of the press and that has got to be done. This miserable Bill, I am sorry, cannot be expected to fulfil those expectations which we had for long entertained with regard to the Press Council.

Now, Sir, very many friends, failing to get any relief from anywhere else have fallen victim to the temptation of suggesting, something penal, provided in the Bill and they have suggested that the Council that we are going to form should be empowered to penalise lightly in the first instance, more severely in the second and still more in the third the erring newspapers. I do not know where it will lead us to if we go on tinkering with journalism in this way. I am not satisfied with the provisions with regard to the raising of the standards and, therefore, Sir, I strongly recommend that the only course open to us at this moment is to accept the motion for the reference of the Bill to a Select Committee and I am sure that the Members of the Select Committee, putting their heads together, will evolve a better formula, will improve the trend of the Bill and make it worthwhile for the House as a whole to accept it in due course.

PROF. HUMAYUN KABIR: Mr. Chairman, even at this late hour, I would add my voice to those who have appealed to the hon. Minister for Information and Broadcasting to accept the motion for reference to a Select Committee. I will not at this stage, go into the details of the Bill; different speakers have pointed out how the different provisions of the Bill require a far greater scrutiny than actually appears to have been given to them. I would refer to only one clause of the Bill, clause 23, under which regulations are to be framed. It also provides for the manner of holding any enquiry under this Act. Yesterday, you will remember, Sir, there was a great deal of discussion about this question

[Prof. Humayun Kabir.]

of enquiry and, under clause 14(2)(b), about the recovery and production of a document as a part of such enquiry. And in sub-clause (3) of the same clause it is said that every inquiry held by the Council shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code. Reading these clauses together it follows that though the enquiries will be judicial or quasi-judicial, the regulation determining the manner in which enquiries are to be held will not come directly before this House for scrutiny. Only the rules will be placed for consideration of the House and for approval. Even there the hon. Mr. Kapoor has pointed out very clearly that the provision as it exists in the Bill now is not satisfactory. Members of this House or of the other House may not have adequate time to express their opinion on the manner in which the rules are framed. Since the question of holding enquiries which is the keynote of the whole Bill, is covered under regulations and as the House has no power to go into the framing of regulations at all, I think, far greater scrutiny will have to be exercised before this Bill is passed.

I know the anxiety of the hon. Minister to get this Bill through as quickly as possible but I do not think that the procedure which has been followed till now will make for quick passage of this Bill. After the doubts and debates which have been raised, I am sure that every clause shall be debated upon and if we have, as we were told yesterday some 26 or 28 Bills pending and we have a debate on every clause of this Bill, I think it will be a waste of the Government's time if this Bill is now proceeded with in the House instead of being referred to a Select Committee. I will not however go into that in any greater detail. The hon. Minister must have found out himself that if yesterday he had accepted the motion for reference to Select Committee, perhaps this Bill would have been disposed of by lunch time yesterday if not earlier. Today we are again approaching lunch time but still we have not done with this and if

every clause is debated, it is doubtful if this Bill can go through this House today because there will be further discussions and disputes.

I am not basing my case so much on this point as on another consideration which has been very vividly presented by the hon. Minister himself. He himself said that the attempt to improve the quality of the Press will be through moral pressure. This Council when it is set up will be a Council which can only censure but will have no penal powers. His idea is that if the consensus of opinion of respected journalists goes against a particular paper or a particular writer in a particular paper, that particular journal or that particular journalist will be overwhelmed or brought to shame by this expression of opinion of his peers. If that is the purpose of the Bill, I would now ask the hon. Minister as to what kind of an example he himself is setting? Here there is a consensus of opinion in this House and I think with the exception of one single Member every Member, whether speaking from this side or that side, appealed to him that this Bill should be referred to a Select Committee. Now if he himself flouts what is practically the unanimous opinion of the House, how can he expect that journalists who would be subjected to the same kind of pressure, journalists, about whom a lot of things has been said—I do not agree with all of them; there are good journalists and there are bad journalists and as a person who is also a kind of a journalists and who can describe himself as a journalist even today as the editor of a paper, I would not accept all the harsh things which have been said about journalists though I do concede that there are journalists who do not live up to their profession—how can he expect that the journalists would respond to such moral pressure? When the same kind of moral pressure and consensus of opinion has no value, no significance and no effect in a House like this on so conscientious and sensitive a person as the hon. Minister

DR. B. V. KESKAR: I am not sensitive.

PROF. HUMAYUN KABIR : . . . how can he expect that a journalist who is expected to be harder and who is expected to be more immune from this kind of pressure will respond to similar moral pressure? The hon. Minister said just now that he is not sensitive. If he says that he is not sensitive, then I have nothing to add but to say he should be. (Mr. Deputy Chairman in the Chair). But I would say that persistence in a particular course of action in spite of all round opposition from the vast majority of his peers is not always a sign of strength. That kind of attitude is sometimes a sign of admission of want of strength and is described by some in terms which are not quite complimentary. However, even from the point of view of quick despatch of business in this House—even if he is not willing to consider the moral question—I think it would be advisable even at this stage to accept the motion for reference to Select Committee. We can only appeal to him and I hope that even at this late stage he will respond to the appeal expressed by so many different members from different parts of the House with different background, by men with legal background, by journalists with experience and by men who may be regarded as laymen. Practically everyone, with one single exception, has asked for a reference to the Select Committee and I would leave it to the hon. Minister to decide whether he would go against what is practically the unanimous wish of the House.

SHRI N. R. MALKANI (Nominated): Sir, this Bill in a sense is an important Bill because it gives body and substance to one of the most important recommendations of the Press Commission. It made a number of recommendations and among them I think this was one of the most important and we have been expecting this Bill now for a long time. It has come to us now. I think we generally agree that we should have a Press Council which is not only technically efficient consisting of journalists but also a body which should be independent—a body independent of whom?—of any

pressures, political, of the Government, a body which should be as far as possible non-official and not official. Personally I would wish such a body to be entirely non-official, self-created by journalists. There are associations of doctors, of lawyers and of engineers, self-acting and independent where men, as it were, sit in judgment on their peers, and that is the best judgment. I do not know whether the Press in India is sufficiently strong to set up such a Council which is entirely non-official and which is created by the journalists and editors themselves.

The next question is how to appoint the Council and this Council is appointed in a way by the Government. I wish it were not so appointed, but fortunately the appointment is mainly confined to the appointment of the Chairman. If the Council has to be created by the Government, then it is best that the Government should appoint a Chairman, and very carefully, but not the members as far as possible. I am of the opinion that there should be no restriction of any kind about the appointment of the Chairman, that he should not necessarily be a judge of the High Court. When I spoke on the Report of the Press Commission last time, I said the very same thing that we need not have a Chairman who is necessarily a Judge of the High Court. We have not enough of them; for we want them for so many other functions and purposes; and why have the superstition that only a Judge of the High Court can be impartial? Sir, here in this House, for the matter of that there is a panel of Vice-Chairman, selected as it were from both sides of the House and as soon as the Member gets into that Chair, he becomes very impartial, very sober, very much chastened. Put him here on the benches and he shouts in opposition; he even breaks the rules and commits small little faults and offences; but put him in the Chair, and he behaves differently. Sir, it is the office, it is the tenure, it is the position which is important. So long as I remain here, I may say anything. Put me there and perhaps I would bleat like a goat, very

[Shri N. R. Malkani.]

sweetly, very persuasively and very softly. When you put a man in a position which requires impartiality, he acts up to it; he is bound to act up to it. Why do we think that only a Judge of the High Court or any Judge for that matter can be impartial? Even a lawyer could be impartial. Some of the lawyers have become High Court Judges. Why not a Professor? Why debar the Professors? For the matter of that why debar anybody, if he is eminent and if he is qualified otherwise? We have come to understand—and I believe it too—that the Chairman of the Council need not have a legal or technical knowledge. After all, it is not an enquiry of a legal nature; it is a comprehensive general enquiry about the conduct of the Press. It does not require any technical knowledge. I would leave the door wide open to the Government, to appoint anybody as Chairman, anybody who is qualified, who is eminent and who is considered impartial.

[THE VICE-CHAIRMAN (SHRI P. S. RAJGOPAL NAIDU) in the Chair]

Sir, I am glad that so far as the membership is concerned, there is a good cross-section about it. There are Members of Parliament; also, there are journalists, editors, and so forth. It is a good cross-section. But I wish that so far as the representatives of the Indian language papers were concerned, it was not three, but perhaps five. Out of thirteen members, he says at least three—why not, Sir, at least five? Indian languages and other papers are growing in importance and Indian languages also have got editors who are important and very influential people, some of them of papers which have got a very wide circulation. I would rather wish that three were made five—and not left at three, considering that Indian languages in India shall have more importance than foreign languages in the future.

Sir, coming next to the functions of the Council, I find that there is a little overlapping in the functions; there is a kind of repetition. I believe that this section is not properly drafted. Clause

12, sub-clause (2) (a) says: "to help newspapers to maintain their independence;"—independence from what, independent of whom? It is not mentioned. I would rather put words like 'freedom of expression'—to maintain the freedom of expression of the press. That is wider and yet clearly defined. 'Independence' is to me very vague and it does not specify independence from whom and for what. Sub-section (b) says—and that is really the crux of the whole section—the main point of that clause is :—

'to build up by all possible means a code of conduct for newspapers and journalists in accordance with the highest professional standards.'

It is a good provision, but I see no reason for sub-clause (c) and sub-clause (d). It is practically repeating the same thing in different terms, in different words. It is loading the section for nothing. Sub-clauses (c) and (d) may be misunderstood, because to my mind (c) and (d) are covered by sub-clause (b). It is only increasing the number of functions right upto (k). I think that the functions should be reduced and emphasis should be properly laid on sub-clauses (a) and (b).

Sir, coming to clause 14 regarding the general powers of the Council, I find this section is the most controversial. I wish the Council had almost no powers, but had influence, persuasion, and moral power.

SHRI J. S. BISHT: In that case they will have no power of inquiry.

SHRI N. R. MALKANI: It does not matter, to my mind. It matters as to who are in the Council, choosing the Chairman who is an eminent person and the members who are also eminent persons. And if they give a verdict, it will be correct and upheld. Take myself, I am a member of the Congress. No legal action generally can be taken against me within the rules. But I am very careful with the Working Committee members. I am very careful with the P.C.C. and executive committee members. And their verdict I accept as very important.

SHRI J. S. BISHT: But even there it varies.

SHRI N. R. MALKANI: Once in my life a very important problem arose for me, in my mind and I went to Gandhiji for its solution. I rarely went to him for any personal matter. And once he said for this purpose. "To be judged properly by the Congress, give up the Congress". He said: "Give up the Congress". And I felt I could not give it up. I was a part of it and would be judged by the Congress and the judgment of the Congress would be for me supreme in my life. And if the Congress judge me in such a way as to eliminate me, throw me out, eject me, practically speaking, it cuts me through. To my mind, if the Council is properly constituted and the members are upto their duties and impartial, any judgment by them would be considered as valid and that would have influence and power.

Sir, to my mind when you talk of exercising moral influence, then legal powers are not necessary. They may not be given. A person may not go to you, but if you pass a judgment on him, that judgment is bound to have great influence on him and if the judgment is correct and righteous. Members must build up their reputation; they must build up their prestige. This is not building up prestige, but giving them powers of law. To my mind, this is only secondary. They may be given powers, but I would certainly wish that the Council should build up its own reputation in such a way that the powers may not be exercised, may not be used. The moral power should be so well established that the legal power may not be used at all.

SHRI J. S. BISHT: Then why have law at all?

SHRI N. R. MALKANI: So far as this body is concerned, I wish it was entirely non-official; it should act and work as if it was a non-official body.

So far as the selection of the members is concerned, there are panels to be submitted to a committee. I would

make that committee as independent as possible. I would not put the Vice-President there. I would put in there the Chief Justice of the Supreme Court, the Speaker of the Lok Sabha and the Chairman of the Rajya Sabha. But I would not put in there the Vice-President of the Republic, to make it as far as possible non-official, impartial and to remove any suggestion or any insinuation about the influence of the Government in the composition of the Council. This is all that I have got to say.

With regard to the appointment of a Select Committee, Members mostly have agreed about it. I think that their demand may be conceded and I think that the Select Committee can give its report in a very short time, before the session ends. There will be no delay in bringing the Bill again before the House and getting it passed.

SHRI H. C. DASAPPA (Mysore): Mr. Vice-Chairman, I join with practically all the Members in welcoming this measure. On that I do not think there is any dispute. There is not one soul here who has not welcomed this measure. The only trouble is whether this should not have first of all gone to a Select Committee and scrutinised there and then the House could have taken up the consideration of the report of the Select Committee. This is not the first time I am expressing my views on this subject. There have been more than one occasion when I have said that every measure of importance must go before a Select Committee before it is brought for consideration before the House. I have also had some experience of legislative business and what generally we would do is that when such motions would be brought up before the Legislature for consideration, even if such a majority as we had here in this House yesterday and today was not there and a fair fraction of the House was keen that it should go before a Select Committee, we would accept the motion to send it to a Select Committee and have it to report as early as possible during the same session, so that any question of delay would be obviated. If it is a

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question of a small amendment of an Act here and there necessitated by our experience of handling the measures, certainly it may come up and there is no point in going through the elaborate procedure of a Select Committee. But if it is a new measure or if it is an amending one in material particulars of an existing enactment, then I think the normal rule should be that it should be referred to a Select Committee. It need not sit during the inter-session period, but during the session days. Give it a week's time or a little more if you choose and then get the report and consider it. Now, I want somebody to explain why this procedure has not been adopted in this case. I want to know who exactly is responsible for this affair. I would like to know from the hon. Minister why he has not chosen to observe this salutary procedure in the case of this new Bill. It is not an amending Bill. It is not just interfering with a clause or two, but it is a new enactment altogether. Obviously there were departures from the recommendations of the Press Commission. I certainly credit the hon. Minister with a fair assessment of the atmosphere through which the Press Commission's Report passed. He should certainly have known that this Bill would raise a certain amount of controversy. In fact in his opening speech, when he introduced the motion for consideration, he himself referred to some of those important clauses. Therefore, Sir, I join with my hon. friends in making what may be the last moment appeal to the hon. Minister to give due regard to the will expressed, to the overwhelming opinion in favour of referring this Bill to a Select Committee. I think that way lies the true building up of democracy, of democratic practices and of parliamentary conventions. If you go against it, you may succeed by all means in trying to push it through, but I am afraid you are not building up democracy. Now I appeal to my hon. and good friend, for whom I have great regard, to kindly drop any of his own pet views on this matter and fall in line with the general view expressed here. I say this not merely from a pro-

cedural angle or point, though that itself has a great significance and value, but judging from the various remarks that the hon. Members have made it is fairly obvious that this measure is bristling with highly controversial points which do need further consideration. I do not want to repeat the same arguments over and over again, and I agree with the hon. Minister in his desire to implement the recommendations of the Press Commission as early as possible. Sir, when the Report of the Press Commission was under consideration here, we had all earnestly pleaded that the recommendations must be implemented as early as possible. In fact some of the amendments that were moved meant no more than this, viz. that the recommendations should not be delayed in action but should be implemented as early as possible. So, I entirely sympathise with the hon. Minister's desire to push through this Bill which seeks to implement a very important recommendation of the Press Commission. There is no doubt about it. But, Sir, as I said, if a short time is given for its consideration in a Select Committee, I do not think we will lose much. In fact, as hon. Members have already said, what does it matter if it is delayed a bit? Who are the persons who are affected by this? No doubt the Government is there, then there is the Parliament which is interested in healthy legislation, then there are the vast millions of the reading public, but the most important people directly concerned are the men in the profession. Do we today have such a demand from the profession that it must be implemented immediately? I do not see any such demand; I do not see it at all. If the Press itself is not so eager to have it pushed through, why should either the hon. Minister or we be more anxious than the Press itself?

DR. B. V. KESKAR: The Press does not want it at all.

SHRI H. C. DASAPPA: No, Sir. I am very sorry to see that the hon. Minister says that the Press does not want a Press Council. I have not heard any opinion expressed by the Press that the

Press Council should not be brought into being. I would be glad to be enlightened on this by the hon. Minister. His sources of information are many more. But as I see, Sir, it is not a question of the Press not being anxious to have a Press Council constituted, but possibly they may have objections, very strong objections, possibly reasonable objections, to certain of the provisions in the Bill. Sir, I do not want to repeat many of the arguments, but take, for instance, the clause with regard to the composition of the Council itself. We have thirteen members from among the working journalists out of twenty-five. I do not know why that figure twenty-five should be so sacrosanct. No doubt the Press Commission has referred to that number, but we may vary it according to our requirements. I say that because I have a positive aversion to this number thirteen for the working journalists. You may make it twelve or fourteen. Why we should think of thirteen, I do not know. That probably is because the Press Commission have said that you must have a Press Council in which not less than half of the members should be representatives of working journalists. Therefore, they have made it thirteen. But still I would plead that it may be either twelve or fourteen, and I do not think it matters very much.

I then come to (b) of clause 4(3) where we seek to give representation to those who carry on the business of management of newspapers. It says "six members from among persons who own or carry on the business of management of newspapers". Now we have got newspapers and newspapers. We have got what are known as English newspapers, and then we have got what are known as the language newspapers—I am sorry to say this because every newspaper must have some language. I mean the Indian language newspapers. We seek to give special representation to the Indian language newspapers so far as the working journalists are concerned. What, Sir, I ask, have the proprietors or those who carry on the business of management of Indian language newspapers committed not to have a reser-

vation of seats on this Press Council? It is very necessary, and for my part I would very greatly emphasise that there must be a special representative for the Indian language newspapers, and say this not because of anything except that I fear looking at the way in which these newspapers are carried on today, I fear that it will be very difficult for the owners or proprietors of Indian language newspapers to get into this body. We have got to depend upon the goodness of the persons who are asked to nominate these men. I envisage, Sir, that a time will come when there will be election for this Press Council as for most other professional Councils. There will be organisations and bodies in the country so developing themselves as to command the respect of the public, who can claim to represent the entire profession, whether of the Indian language newspapers or the other newspapers. In such a case I see no reason why those organisations should not return these members to the Press Council. So many Boards we have got and we have got an elective element there, and I think it would be good if we introduce the elective element in the Press Council also. I see no prospects of it as the Bill stands at present. I can very well understand that, in the first instance, you should nominate all the members, but I would have very much wished that the rules and regulations should have provided for election of certain of these members at the close of three or four years.

Then, Sir, I would deal with another point. I do not know exactly the number of newspapers—I forget it for the moment—I am pretty sure that it runs into some thousands, three or four thousand, and they are spread over the whole country, districts and towns. Can we reasonably expect that this one Press Council would be able to have a kind of, I do not say supervision but, control over the entire range of these newspapers all over the country? I would have very much wished that apart from the Central Press Council, we have had regional Press Councils or even State Press Councils with appropriate powers which may not be

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as much as the Central Press Council would have, but at any rate with powers for the purpose of carrying on investigation or enquiry or things like that, if not for punishment or for censure. I would have very much wished that this Press Council Bill had also provision for these regional or State Press Councils. As it is, I feel that the work would be enormous. Then there is the question of languages. We have got any number of languages in this land and if it is, say, the Oriya language, unless there are some Oriya-speaking Members on this Press Council, it will be very difficult for them to catch the spirit of the statements made. Likewise is the case in regard to Tamil, Telugu, Malayalam, Canarese, Marathi and so on. So, in this great country with so many different languages, I think there is a very strong case for having State and regional Press Councils.

Now, I come to some of these vexed clauses, namely, clauses 12, 13 and 14. I think that clause 12 has been dealt with at great length by all friends. I come to clause 13 which lays down that the manner of the enquiry may be provided by regulations. I quite understand that this is comprehensive enough for making such regulations even with regard to matters provided under clause 14.

[MR. DEPUTY CHAIRMAN in the Chair.]

It is a very wide expression and it is evident that the hon. Minister has felt it very necessary that they should invest the Press Council with powers and they should be expressly stated here. Otherwise, it may be open to a certain amount of objection that powers have been conferred under regulations which were not contemplated by the Bill itself. I think therefore that the hon. Minister is perfectly justified in having clause 14.

Sir, a lot of arrows have been thrown at this clause. But I am inclined to agree with the hon. Minister in having it in the present shape. I do not think,

as certain hon. Members have spoken, that this Bill has to be considered from the point of view of only delinquents and dishonest people. These rather—what you may call—‘stringent’ provisions are meant for such journals as do not observe journalistic ethics. If some journals have some regard to journalistic ethics, there will not be any need for these provisions. The country knows very well, we know very well and every hon. Member knows very well, what kind of journalism is there in India. Sir, we know of a kind of scurrilous writing of the so-called ‘yellow’ journals. It is there in every country and how it came to be known as ‘yellow journalism’, I do not know. It started in America. Sir, I do not think that we are behind any nation in respect of the magnitude of the evil of yellow journalism. Therefore, it is very necessary that there must be provisions like these in the interests both of the press as well as the public so that this yellow journalism can be prevented as far as possible. I justify this on other grounds as well and I think the very important ground is the security of the State which is paramount. We cannot suffer any press which will tamper with that security. We have had instances—rather sad and unfortunate instances—where certain important papers have been lifted from the External Affairs Ministry. Suppose there is a paper which chooses to resort to this questionable method of lifting important papers involving the security of the State and gives publicity to it. I ask: Is there any hon. Member here who thinks it not appropriate to call upon the paper to disclose the source of its information? I think any nation today, as democracy stands, must be armed with the power to prevent people who resort either to fifth-column activities or sabotage in the country I think this provision as it is, must be in the Bill. I have no doubt about that. I do not think that the Press Council constituted as it is with a majority of representatives of working journalists reinforced by the proprietors and owners of the press themselves will try to abuse this power conferred on it. I will even go so far as to say that in an important matter

involving secrecy, where open publicity is not advisable, there is nothing to prevent the Press Council from holding its enquiry *in camera*. In fact, it is one of the suggestions which I thought I should make and I would like the Select Committee to consider this question, namely, that, if the Council so chooses, it can hold an enquiry *in camera*.

DR. B. V. KESKAR: It is not to be a public enquiry.

SHRI H. C. DASAPPA: Sir, friend, the hon. Minister just whispers across that this may not be an open enquiry. I have not the slightest data to think that this could be anything other than an open enquiry. The moment it assumes the character of a Civil Court according to sub-clause (3) of clause 14, I think you cannot prevent the public from coming there, or the lawyers from being engaged and the whole thing being reported in the press. So, you should provide there that it is open to the Press Council to hold an enquiry *in camera*.

There are great many other points also which I would like to mention why certain enquiries should be held *in camera*. For instance, this particular clause 14, sub-clause (2) (a) says that the Council can summon and enforce the attendance of persons and examine them on oath. I am astonished that some hon. Members who should take very strong exception to (b) "requiring the discovery and production of document" hardly notice the question that witnesses could be examined on oath. What is the implication of examination on oath? The implication is that, if the person being examined does not choose to answer questions put to him by the Council, well, he can be hauled up under section 179 of the Indian Penal Code. He will be liable for criminal action if he does not choose to disclose the information which is within his knowledge. When such a strong provision is there, I myself do not understand why we should throw up our hands in horror with regard to (b).

Sir, I have only one small point to make and I will sit down. That is with

regard to the question of cess. Some hon. Members said that this Press Council should provide for cess also. But I feel this becomes a question of a financial measure and it requires probably the President's approval and sanction and it can very well come under a separate measure. And it will all go into the Consolidated Fund and the amount could be made over or transferred to this fund which is earmarked for the Press Council. I therefore feel that this is a salutary measure but with certain undesirable features—I need not put this so very strongly—there are features which can be greatly improved upon. There are certain omissions which have got to be made up, and I would, with all the emphasis that I can command, plead before the House and the hon. Minister to see if we could refer this measure to a Select Committee even within this short time. I do not object to this measure being reported upon even tomorrow, because I do not think it will require more than two hours for the Select Committee to consider this.

SHRI AKBAR ALI KHAN (Andhra Pradesh): Mr. Deputy Chairman, notwithstanding the unanimous decision of the House that the Bill should not be dealt with here but should be sent to a Select Committee, notwithstanding certain sweeping observations made by my learned friend, Master Saksena, notwithstanding the fact that I fully realise that in the case of all important measures, Bills are referred to a Select Committee, notwithstanding the fact that certain very eminent Members of this House have urged that this should be referred to a Select Committee, I am inclined to submit that the matter should be dealt with here, with the understanding that it should be put on the Statute Book before we go in for the next elections. I say this for two or three reasons.

First, let us go into the background and history of the Press Regulations and the desirability of having a Press Council. When the legal profession had its own Council, when medical practitioners had their Council, why was a

[Shri Akbar Ali Khan.]

Council denied to the Press in pre-independence days? It was on the ground that they did not want to give that prestige, that independence, to our press which is enjoyed by the press in all democratic countries. Notwithstanding the appointment of the Press Commission and its recommendations, we have not so far had a Press Council as a thing living and working. Viewed in that light, I consider that the sooner we have a Press Council, the better it is. That is the reason why I want the matter to be dealt with here and put on the Statute Book before we close this session and not delayed by entrusting it to the Select Committee.

The other reason is that the points that have been raised are so few and so limited that I feel that they could well be discussed here, and thoroughly discussed, and if necessary amendments accepted. There are matters in the Bill as it is that may not be quite desirable and need alteration. For example, I can give the provision relating to the Chairman. There has been a lot of discussion as to who should be the Chairman and also as to who should appoint the Chairman. I feel that the recommendation of the Press Commission that the Chairman should be a serving or a retired High Court Judge and that he should be appointed by the Chief Justice of India is a very sound one, and I think that the Government should take it up. I do not mean to say that outside the legal sphere there are not eminent men; certainly there are very eminent men, but in view of the provisions of clauses 13 and 14 which clearly lay down that the enquiry will be conducted as a civil court, in view of the fact that the persons concerned have to face certain penalties, I feel that the Chairman should be a legal person, not because I feel that the judicial people have any superior brains but the training that they get, the education that they get, certainly prepares them for such important positions. And when we are having this Press Council after waiting for so long, I think we should have somebody as the Chairman who will conduct the whole business in a legally correct and balanced manner.

While I agree with the recommendation of the Press Commission in regard to the appointment of the Chairman, I do not agree with their recommendation regarding finance. I quite realise that there are certain big financial magnates in our press who can subscribe for it, but this way of financing will be a disadvantage to the weaker sections of the press. If we leave it to the people concerned, then those who are not financially well off, may not count for much. I think that in the conditions as they are now, Government should bear this expense. To have a separate cess, I think, is fundamentally against the financial principles and rules according to which every cess or tax collected should go into the Consolidated Fund of India and then alone it can be spent. So, I do not agree with that part of the report of the Press Commission.

My third point is this: There has been, I think, some misunderstanding, regarding the power of censure given to this Council in clause 13. Let us understand quite clearly that we are not giving any governmental powers to this Council. If we trace the history of this, if we study the recommendations of our own Press Commission as well as those of the Royal Commission in Great Britain, we cannot but come to the conclusion that we want to create moral consciousness and responsibility in our press people so that on the one hand they will safeguard the independence of the press against the Government and other authority and on the other hand see that the standards of the news papers are high. We do not want to give them the power to punish. There is enough provision in the Penal Code. It was only to fortify the Government in view of the observations made in the Supreme Court judgment in the case of Romesh Thapar and certain other Patna cases interpreting the "security of the state" that we had to go in for the first amendment of our Constitution. The first amendment relates to this aspect. Later on, also, we had the Press Objectionable Matters Act. We know the amount of heat generated then and the amount of opposition that

was there to these measures. In view of that, is it not desirable that we should have a responsible body of the press brethren themselves to see who acts properly and who does not and to pass their moral judgment? But certainly I am against giving them penal authority.

There is one more reason why I oppose sending this Bill to a Select Committee. No doubt, it is on the understanding that this measure will be put on the Statute Book before we rise for the next session, and before we go in for the next elections. Otherwise, I am one with my other friends that it should go to a Select Committee, *i.e.* if we cannot pass it before the general elections. I know—and I am sure every Member knows—that at the time of elections what kind of propaganda goes on. How important it is, how urgent it is, in the interest of the country that we should safeguard the position and see that the communalism, the sectarianism, etc. which come to the surface at the time of the general elections, as far as possible, are eliminated. If we have a Press Council, I am sure the press will feel greater responsibility and Government will not have to go in for the provisions in the Penal Code on every occasion which we all detest strongly. It is with that object in view that I feel that it would be healthy, it would be better and it would be in the greater interest of the whole country and in the best interest of our Press that we have this measure, of course, with necessary modifications as suggested by the learned Members, and to pass this Bill without referring it to any Select Committee.

MR. DEPUTY CHAIRMAN: The Minister, Dr. Keskar will reply after Lunch. The House stands adjourned to 2 P.M. We meet again at 2 P.M. and then go on till 6 o'clock and beyond, if necessary, and finish all the stages of the Bill.

AN HON. MEMBER: We may sit up to 5.30 P.M.

MR. DEPUTY CHAIRMAN: We have to finish all the stages of the Bill today.

The House then adjourned for lunch at one minute past one of the clock.

The House re-assembled after lunch at two of the clock, with **MR. DEPUTY CHAIRMAN** in the Chair.

ALLOCATION OF TIME FOR GOVERNMENT BUSINESS DURING THE REMAINING PART OF CURRENT SESSION

MR. DEPUTY CHAIRMAN: I have to inform Members that the Business Advisory Committee at its meeting held today has recommended allocation of time as follows for Government business during the remaining part of the current session of the **Rajya Sabha**:—

1. The Press Council Bill, 1956 (Consideration and Passing) All stages to be completed before the House rises today.
2. The Young Persons (Harmful Publications) Bill, 1956, as Passed by the Lok Sabha (Consideration and Passing) 1 hour 30 minutes.
3. The Administration of Evacuee Property (Amendment) Bill, 1956, as passed by the Lok Sabha (Consideration and Passing) 1 hour.
4. The Displaced Persons (Compensation and Rehabilitation) Amendment Bill, 1956, as passed by the Lok Sabha (Consideration and Passing) 1 hour.
5. The Faridabad Development Corporation, Bill, 1956, as passed by the Lok Sabha (Consideration and Passing) 2 hours.
6. The Motor Vehicles (Amendment) Bill, 1956, as passed by the Lok Sabha (Consideration and Passing) 4 hours.
7. The Suppression of Immoral Traffic in Women and Girls Bill, 1956, as passed by the Lok Sabha (Consideration and Passing) 3 hours.
8. The Representation of the People (Fourth Amendment) Bill, 1956, as passed by the Lok Sabha (Consideration and Passing) 1 hour.