that majority while leaving a majority, however small, affects the majority but does not affect the election of the candidate who has the majority. He remains the elected candidate.

It is from this point that Mr. Fagan asks us to travel the enticing, but very often disenchanting, road of assumption. In plain terms, he asked us to assume on the evidence that if the polls concerned had opened at 9:00 a.m. and closed at 8:00 p.m. a number of those who did not vote in the election would have voted and because they did not vote the result of the election "may" have been affected. In other words, he asks us to assume that more than 283 voters—Mr. Marshall's majority—might have voted and by doing so might have changed the vote that Mr. Batten received—I do not think we need consider Mr. Hillyard's vote—so as to give him the greatest number of votes of the three candidates and thus to make him the elected candidate. Mr. Fagan says that it is more reasonable to assume this than to assume that some number short of 283 might have voted so that the result would not have been affected. Mr. Fagan also put it this way, that the question is whether or not the early closing of the polls interfered, in the circumstances here, with the rights of the voters in the relevant Divisions by preventing some and deterring others from voting to such an extent that the majority of the voters in the District may not have been able to vote for the candidate of their choice and that, therefore, the result of the election may have been affected. He points out that a number of people have appeared as witnesses, some of whom said that they tried to vote but could not because the poll had closed early, and others of whom said that they did not vote because they had been told the poll had closed at or after 7:00 p.m. and before 8:00 p.m., which was the hour within which they had intended to vote, and he says that many others might have been deterred by being told or by hearing in some other way that the poll had closed prior to 8:00 p.m., before they were ready to vote. He does not say that all who heard of the early closing had intended to vote but he says that such information would have spread rapidly in small communities and a great number may have been deterred. He adds that it is reasonable to assume that if thirty-six persons who had intended to vote came as witnesses, there might have been others who did not come forward but who had intended to vote after 7:00 p.m., sufficient in number that the result of the election may have been affected.

To the suggestion that if any great number had been prevented or deterred from voting, who really wished to vote, and had felt their rights had been interfered with, a cloud of witnesses would have appeared. Mr. Fagan answers that perhaps they did not wish to be mixed up in the case. If that is so, the petitioner is the one who suffers but unfortunately no one can do anything about it. As against that, two witnesses who tried to vote said that they had heard over the radio or had read in a paper that the poll would close at 8:00 p.m. In our view, if they heard or read that, then those other witnesses who attempted to vote after 7:00 p.m. and those who intended to vote but did not attempt to when told after 7:00 p.m. that the poll had closed at 7:00 p.m. or later but before 8:00 p.m., must have heard it or read it or known it some other way, because, obviously, they must have intended to go to the poll between 7:00 p.m. and 8:00 p.m.; and there were a few others who said that they had intended to vote a short time before 8:00 p.m. because they thought 8:00 p.m. was the usual closing time of the polls. If they had known or had thought that the poll closed at 7:00 p.m. then, presumably, they would have voted before 7:00 p.m. assuming, of course, that it was convenient to go before that hour. As we have seen, it was not convenient for some. In those circumstances, in our view, it is reasonable to assume that