

that no act or omission of the D. R. O. in dealing with a ballot before or after it has been cast by a voter, would warrant me in disallowing it for the candidate indicated by the voter. But just look at it! The voter comes to the poll, it is found he is entitled to vote, he asks and receives a ballot paper from an officer appointed to issue it. The voter marks the ballot with an X for the candidate of his choice. He folds it up and gives it again to the same officer, who drops it into the ballot box then and there. The same day, at the close of the poll, and when everything is fresh in the mind of the officer, the ballot box is opened, and surely it would be a monstrous thing if the same officer could (in effect) say, "True, I supplied that bit of paper as a ballot, true you marked it properly, but I did not comply with the requirements of the statute; I must reject it." Yet that is just what I am asked to do. The law never could have contemplated anything so unjust. My finding, acting under the Rule A., so far as this enquiry is concerned, is that all the ballot papers in the several ballot parcels opened by me were supplied by the several D. R. O., and I include the written ones, of which I say more presently. If substantial injury has been caused by neglect of the D. R. O., there is a proper tribunal to rectify it. There is one particular act of the D. R. O. I might have referred to before; it is alleged that the number put on the ballots is the number on the voters' list, and so furnishes the means of knowing the voter, and that this vitiates the votes. Assume for the sake of argument that the voters' list number would be a means of identification. How can I know, as a matter of fact, that the number on the ballot and that on the voters' list correspond. The voters' list is not before me. As I have already said, it forms no part of the material committed to me as evidence, and the argument being based on a fact I cannot assume and have no means of "finding," seems to me to fall to the ground. Very possibly the fact is as alleged; but the parties are standing on their strict legal rights, and I cannot go beyond my authority in dealing with them. I think the case before me is different from that which my brother Clark dealt with in a very able judgment. I judge that he thinks with me that it is not permitted to look at the voters' list as evidence.

But for some reason disclosed to him in the examination of the ballots, he saw in *certain* bal-

lots with numbers, not in all, sufficient to warrant him in coming to the conclusion that the numbers furnished marks by which the voter could be identified. I do not see any such indication in the numbered ballots before me; there is nothing to show me when they were numbered—nothing that would make the fact reasonably clear to my mind on the mere inspection. I should certainly say they do not appear to have been put there by the voter. As I understand the learned Judge Clark, we are at one as to guiding principles; if we differ it is in the application of these principles. I can only hope I am right in the strong view I entertain as to no act of the D. R. O., as I have stated, disfranchising a voter. With regard to the written ballots, I have a word or two to add. In two of the polling divisions, namely, No. 15, Huntsville, and No. 21, Huldum Hill, the parcels when opened contained both written and printed ballots. [The particulars in these were then given.] How this happened, or why written ballots were used, I know not; I can see that all were counted. The voting with these papers was extensive on both sides. They appear to have been deliberately prepared, cut into the usual size of printed ballots. All were of the same general character, and I would say prepared on a uniform plan, the writing being the same in one of the polling sub-divisions. All, or nearly all, appeared to have the initials of the D. R. O., and as far as I could judge, nothing showed any indication of fraud or corrupt intention. Now when the D. R. O. opened their ballot boxes and found these written ballots, they would, if they had not supplied them, be at once attracted by their appearance; but they passed and counted them for both candidates. They, in effect, found that these ballots had been supplied by them, and I have no ground to doubt the fact that they were. They were wanting in the full particulars of the printed ballots, but they were supplied to voters as ballots and used as such, and I think I should consider and count them as good. It may be as contended, the ballots are wanting in essential details required by the Election Act, and there is a great deal of force in what Mr. Lash urges on many points. I cannot accept the contention that the act of giving these papers by the D. R. O. was an absolutely void act, though an Election Court might avoid the election by reason of the act, considering it went to the merits and ran counter to the Elec-