

ing officer, without requiring any declaration, allowed her and her daughter (not sworn to secrecy) to go into the voting compartment. . . . The scrutineers (including Ellis, the applicant) stated that they were willing and consented thereto. Mrs. McLaren . . . was, in the same way, for the same reason, and upon the same explanation and consent, accompanied by her son-in-law. Mrs. Berlanquet and Mrs. McLaren both marked their ballots themselves, and both swear that the presence of their relatives in the voting compartment did not affect the manner in which they marked their ballots. It nowhere appears that the relatives could or did see the way in which the ballots were marked or the contrary, and it seems manifest that perfect good faith was observed . . . In this class, again, it is not the right to vote, but the manner of voting, that is objected to . . .

(4) Jessie Ferguson's vote, it is contended, should not have been counted. . . . She went into the booth with the intention of voting. She was handed two ballot-papers, one for councillors and one for the by-law; she took them and went into the compartment; returning, she says, she handed them to the deputy returning officer, but does not remember what she said. . . . The deputy returning officer placed both the ballots in the ballot-box. His affidavit says: "From the remark of Miss J. Ferguson, when she handed me her ballot re the by-law, that she did not wish to vote on the by-law, I have always considered that her ballot . . . was one of the unmarked ballots." There were six unmarked or spoiled ballots in the box at this polling place.

I have no great difficulty . . . in arriving at the same conclusion. . . .

(5) Ann McManus, it is said by Kelly, "on receiving her ballot-paper from the deputy returning officer, was allowed by him to mark her ballot in public and without retiring into the compartment." The deputy returning officer and others swear that no one was allowed to mark his ballot in a place where any one could see how she or he marked it.

I do not find that the McManus incident is specifically denied, but, taking it exactly as sworn to by Kelly, the vote is not invalidated by an irregularity in voting.

The result is that there are but 10 votes about which there is any question, in my judgment. But it is necessary that there should be 21 struck off, so that, if full effect be given to these 10 (or indeed the whole 15) the result will not assist the applicant. . . .

Even if we are to look at the County Court Judge's figures, I am not bound by his findings. . . .