

colours. Therefore, the number is something belonging to the candidate, and not something distinct. There is no direction where the number is to be placed, and it might be placed anywhere near the name, before or after it, or above or under it. It is different with the names of the candidates. They must be separated from each other. Each must have a separate part of the ballot paper for itself, and must therefore be in a separate division. Accordingly, we find the form in the schedule divided by lines drawn from right to left, with as many divisions as there are candidates. I think these are the divisions intended by the statute, and that the divisions containing the numbers are mere subdivisions of the divisions containing the names. In other words, it is the same division of the ballot paper which contains each candidate's name and number. It would be a strange construction of the statute which would hold that, on a ballot from which the immaterial and useless upright lines were omitted, a cross near the number or even to the left of it would be good, as it clearly would be, but that on a ballot containing those lines a cross so placed would be bad; and yet, a ballot in either form would be good, and might be used with propriety in either election. I think a construction leading to such a result ought not to be adopted, if it can be avoided. In my opinion, there is a very plain sense in which, notwithstanding the upright line, the space containing the number may be regarded as a part of the division of the ballot containing the candidate's name, and therefore I am bound to hold that it is so, and to affirm the validity of ballots marked within that space. I therefore think that the learned judge's decision was quite right, and that those twenty votes were properly allowed and counted by him.

There is another ballot, No. 117, which was rejected both by the deputy returning officer and by the learned judge, presumably on account of having a considerable portion of the blank part on the right-hand side removed, a section of equal width from top to bottom, and about three-tenths of the whole width of the original paper. The part removed had none of the printed matter of the ballot upon it, except perhaps a portion of the lines from left to right separating the names of the candidates. In other respects this ballot is perfect, and properly marked for McDiarmid. The argument which was strongly urged against its allowance was that the voter might carry away with him the part removed, and use it to show that he had voted for McDiarmid. I have hesitated a great deal over this ballot, but, upon the whole, I do not think there is anything in the Act requiring me to reject it. Section 112 (3) requires ballots to be rejected on which anything in addition to the printed number and the deputy returning officer's name or initials is written or marked, by which the voter can be identified. There is nothing of that kind here, and I do not feel at liberty to extend the language of the legislature so as to include such a case as this within the prohibition, and thereby to disfranchise the voter, who has in every respect marked his ballot distinctly and properly: In *Thornbury*, 16 Q.B.D. at p. 753. Section 103 requires the voter to mark and to fold and to return to the deputy returning officer the very ballot paper which has been given to him, and by s. 105 no person who has received one is to take it away out of the polling place. It might be argued that he is required to return the whole ballot paper, and not merely a part of it, and that the prohibi-