case is 107. Sitting as judges of fact, and applying, in the words of one of the English Judges, one's common-sense to the circumstances of the case, it does not appear to us, on the petitioner's case, to be reasonably possible that that number, or anything remotely approaching that number, of voters could have been prevented from recording their votes by the irregularity complained of."

And, at pages 165 and 166, the Court goes on:

"At the present election a paper extensively circulated in the district mentioned six as the hour at which the poll closed. There is therefore every reason to think that six o'clock would be generally considered as the closing hour. We think it, therefore, extremely improbable that any appreciable number of voters could have come to the conclusion that they could vote from six to seven, and were prevented from doing so by the closing of the polling-places. If such had been the case, we are satisfied that abundant evidence of the fact could have been easily obtainable. The petitioner did produce one case, that of three brothers, who stated, we believe truly, that they were informed that the hour was seven and were prevented from recording their votes by the improper closing of the poll. But if a number equal to 10 percent, of the actual voters at the ten polling-places in question, or anything like such a number, believed they were entitled to vote after six o'clock, intended so to vote, and were prevented by finding or being informed that the polling-places were closed, the fact must have been a matter of public notoriety. Assuming them to be equally divided, there must have been a considerable number at each polling-place, or assuming, as would be more likely, they were unequally distributed, there must have been a considerable number at some one or other polling-place. They must in many cases have been seen by others and by each other, and have talked of the matter. Even if they had at the time assumed that they and not the Returning Officer had been in error as to the proper time of closing, yet the initiation of the present proceedings has given public notice of the irregularity, and must have informed them that there was at least ground for saying that they had been improperly prevented from voting. It is obviously absurd to suppose that a large number of voters have learned that they were, or at least have good grounds for believing that they were, disfranchised by the wrongful act of the Returning Officer without their taking advantage of this opportunity of having the injury redressed. We know no reason why people who have suffered by the error should not have come forward to say so, and no reason why the petitioner's advisers should not have availed themselves of the information. We know enough of the spirit evoked by a closely-contested election, and by an election petition, to justify us in saying that the difficulty in inducing witnesses to come forward is not one which is usually complained of."

We have received great assistance from the Akaroa case and we adopt the reasoning of the Court in the two quotations we have used from it.

Because of the wording of section 83 "no election shall be declared invalid by reason of non-compliance...unless it appears...that such non-compliance may have affected the result of the election", the burden of proof is on the petitioner to show that by the early closing of the twelve polls in question the result of the election may have been affected. In our view, the petitioner has not discharged that burden. On the contrary, on the evidence adduced from the petitioner's own witnesses, and the impression left with us by them, there is,