

As to costs  
and disposal  
of deposit.

11. If the recount or final addition does not so alter the result of the poll as to affect the return, the judge shall order the costs of the candidate appearing to be elected to be paid by the applicant, and the moneys deposited as security for costs shall be paid out to the said candidate on account thereof, so far as necessary ; and the judge shall tax the costs on giving his decision ; and if the deposit is insufficient, the party in whose favour costs are allowed shall have his action for the balance. 5

\*12. [In taxing the costs the judge shall, as nearly as may be, follow the tariff of costs to be allowed with respect to proceedings in the county court, or in the province of Quebec to the Superior Court, or the North-west Territories to the Supreme Court.] 10

R.S.C., c. 8, s. 64, *part* ; 1891, c. 19, ss. 9 and 10. 15

Failure of  
judge to act.

90A. In case of any omission, neglect or refusal of the judge to comply with the foregoing provisions of the next preceding section, or to proceed with the recount or final addition therein provided for, then any party aggrieved may, within eight days thereafter, make application— 20

(a.) in the province of Ontario, to a judge of any division of the High Court of Justice ;

(b.) in the province of Quebec, to a judge of the Court of Queen's Bench ;

(c.) in the provinces of Nova Scotia, New Brunswick, Prince Edward Island and British Columbia, to a judge of the Supreme Court of the province ; 25

(d.) in the province of Manitoba, to a judge of the Court of Queen's Bench ; and

(e.) in the North-West Territories, to the Supreme Court *in banco*,— 30

Remedy.

for an order commanding the judge to comply with such directions, and to proceed with and complete such recount or final addition.

Order of court  
for hearing.

2. Such application may be made upon affidavit, which need not be entitled in any matter or cause, setting forth the facts relating to such omission, refusal or neglect ; and the judge to whom the application is made shall, if it appears that there is such omission, refusal or neglect, make an order appointing a time, within eight days, and a place for the consideration of such application, and directing the attendance of all parties interested at such time and place, and giving such directions for the service of the order, and of the affidavit or affidavits upon which the order was granted, upon the judge so alleged to be in default, and upon the other parties interested, as he thinks proper, and, if the circumstances appear to him to warrant it, may direct that service upon any of such parties may be substitutional, or may be made by mail, or by posting, or in such other manner as he thinks fit. 40 45

Notice to  
judge and  
others.

Affidavits  
may be filed.

3. The judge complained of, or any of the parties interested, may file in the office of the clerk, registrar or prothonotary of the court, to a judge of which the application is made, affidavits in reply to those filed by the applicant, and upon demand shall furnish him with copies thereof. 50

Order of court  
after hearing.

4. At the time and place appointed by him, or at any other time and place to which the hearing may be adjourned, 55