

During
excluded time
documents to
be under seal.

forenoon ; and during such excluded time and recess for refreshments, the judge shall place the ballot papers and other documents relating to the election close under his own seal and the seal of such other of the said persons as desire to affix their seals, and shall otherwise take precautions for the security of 5 such papers and documents.

Mode of
proceeding
with the
recount.

*7. The judge shall, in the case of a recount, proceed to recount the votes according to the rules set forth in section 81 and shall verify or correct the ballot paper account and statement of the number of votes given for each candidate; and 10 upon the completion of such recount, or as soon as he has so ascertained the result of the poll, he shall seal up all the said ballot papers in separate packets.

Powers of
judge.

8. The judge shall also, if necessary or required, review the decision of the returning officer with respect to the num- 15 ber of votes given for a candidate at any polling place, where the ballot box used was not forthcoming when he made his decision, or when the proper certificates or papers were not found therein; and for the purpose of arriving at the facts, shall have all the powers of a returning officer with regard to 20 the attendance and examination of witnesses.

Casting vote
in case of tie.

9. The judge shall forthwith certify the result of the recount or final addition to the returning officer, who shall then declare to be elected the candidate having the highest number of votes; and in case of an equality of votes, the returning officer 25 shall give the casting vote.

Return not to
be made until
judge's cer-
tificate is
received.

10. The returning officer, after the receipt of notice from the judge of the recount or final addition, shall delay making his return to the Clerk of the Crown in Chancery until he receives a certificate from the judge of the result of such recount or 30 final addition; and upon receipt of such certificate the returning officer shall proceed to make his return.

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 35 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 40 balance.

How costs
shall be taxed.

*[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 in the North-West Territories to the 45 Supreme Court.]

R.S.C., c. 8, 64 *part*; 1891. c. 19, ss. 9 and 10; 1898, c. 14, s. 32. Ingram's Bill, clause 18.

Failure of
judge to act.

*91. In case of any omission, neglect or refusal of the judge to comply with the foregoing provisions of the next pre- 50 ceeding section, or to proceed with the recount or final addition therein provided for, then any party aggrieved may, within eight days thereafter, make application—

(a.) in the province of Ontario, to a judge of any division of the High Court of Justice; 55