

Recount in case of equality of votes.

(6) Where, on the official addition of the votes, there is an equality of votes between candidates and an additional vote for one of such candidates would entitle one of such candidates to be declared elected, the returning officer shall apply for a recount to a judge to whom an application pursuant to section 54 could be made, and the provisions of that section and section 55, except those that relate to a deposit or to costs, shall apply *mutatis mutandis* to an application under this section and, subject to subsection (19) of section 54, no costs shall be taxed or payable as a result of a recount made on an application under this section."

DISCUSSION DRAFT

Canada Elections Act.

Subsections (13) to (16) of section 54 of the said Act are repealed and the following substituted therefor:

Certificate showing number of votes cast for each candidate.

"(13) At the conclusion of the recount, the judge shall seal all the ballot papers in separate packages, add the number of votes cast for each candidate as ascertained at the recount, and forthwith prepare his certificate in writing, in the form prescribed by the Chief Electoral Officer, showing the number of votes cast for each candidate, and a copy of such certificate shall be delivered, forthwith, by the returning officer to each candidate or his representative, at the place where the recount is made, or, if a candidate is neither present nor represented at that place, the certificate shall be transmitted by the returning officer to such candidate by registered mail.

Determination of candidate elected where votes equal.

(14) Where on a recount there is an equality of votes between candidates and an additional vote for one of such candidates would entitle one of such candidates to be declared elected, the returning officer shall, forthwith after such recount, determine by lot, in the presence of the judge and in the manner to be selected by the judge, which of the candidates shall be declared elected, and that candidate shall be declared elected in the manner prescribed in subsection (1a) of section 56.

Costs and taxation.

(15) If the recount does not so alter the result of the poll as to affect the return, the judge shall

- (a) order the costs of the candidate appearing to be elected to be paid by the applicant, and
- (b) tax such costs, following as closely as possible the tariff of costs allowed with respect to proceedings in the court in which the judge ordinarily presides.

Disposition of deposits; action for balance.

(16) The moneys deposited as security for costs shall, so far as necessary, be paid out to the candidate in whose favour costs are awarded and if the said deposit is insufficient the party in whose favour the costs are awarded has his action for the balance.

Only one recount.

(17) Where a recount is made on the application of a returning officer pursuant to subsection (6) of section 51, no further recount shall be made pursuant to this section.

Clerical assistants.

(18) Subject to the approval of the Chief Electoral Officer the judge may retain the services of such clerical assistants as are required for the proper performance of his duties under this section.