

by this Act, the whole verified on oath; and if such lists or statements, or any of them, or copies thereof, cannot be obtained, he shall ascertain, by such evidence as he is able to obtain, the total number of votes given to each candidate at the several polling places, and to that end may summon any such deputy returning officer, his poll clerk, or any other person, to appear before him at a day and hour to be named by him, and to bring all necessary papers and documents with him,—of which day and hour and of the intended proceedings the candidates shall have due notice; and the returning officer may then and there examine on oath such deputy returning officer or poll clerk, or any other person, respecting the matter in question.

Duty of returning officer if statement is not in ballot box

2. In case of an adjournment by reason of any deputy returning officer not having placed in the ballot box a statement of the ballot papers counted by him, the returning officer shall in the meantime use all reasonable efforts to ascertain the exact number of votes given for each candidate in the polling district of such deputy returning officer, and to that end shall have the powers set out in the next preceding subsection.

Return of candidate appearing to have majority.

3. In any case arising under this section the returning officer shall return the candidate appearing to have the majority of votes, and shall mention specially in this report to be sent with the return the circumstances accompanying the disappearance of the ballot boxes, or the want of any statement as aforesaid, and the mode by which he ascertained the number of votes given to each candidate.

Not obeying summons, and indictable offence.

*1. Any person refusing or neglecting to attend on the summons of a returning officer issued under this section shall be guilty of [an indictable offence and liable to a penalty of two hundred dollars or to imprisonment for a term not exceeding two years, with or without hard labour, or to both.]

1891, c. 19, s. 8. Ingram's Bill, clause 16.

Custody of ballot boxes after election.

*89. After the close of the election the returning officer shall cause to be deposited in the custody of the sheriff or of the registrar of deeds in the county or registration division, [or of the postmaster in the locality,] in which the nomination was held, the ballot boxes used at the election; and the sheriff or registrar shall, at the next ensuing election, deliver such ballot boxes to the returning officer named for such election.

R.S.C., c. 8, s. 69.

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RECOUNT OR FINAL ADDITION BY JUDGE.

Provision for recount or final addition of votes by a judge.

*90. If, within four days after that on which the returning officer has made the addition of the votes for the purpose of declaring the candidate or candidates elected, it is made to appear, on the affidavit of a credible witness, to the judge of the county court of the county or union of counties, or to the judge of the judicial district in which the electoral district or any part thereof is situated, or in the province of Quebec to a judge of the Superior Court ordinarily discharging his duties in the judicial district in which the electoral district or any part thereof is situated, or in the North-West Territories to a judge of the Supreme Court, that a deputy returning officer at an election in such electoral district in counting the votes —(1) has improperly counted, or (2) has improperly rejected

Grounds for application.