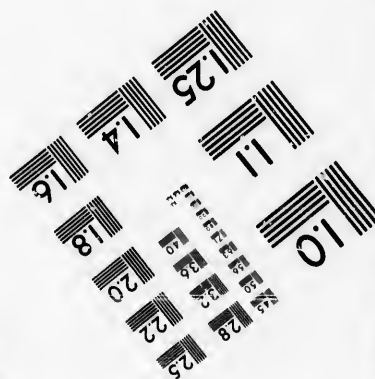
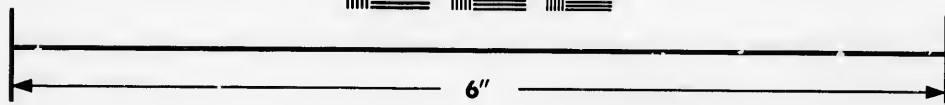
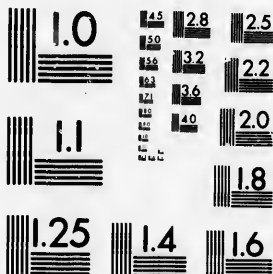


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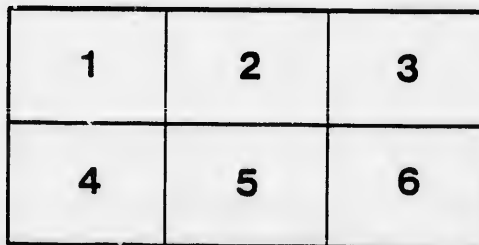
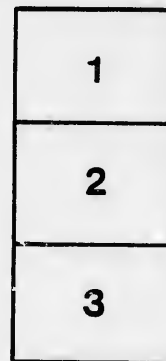
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MADE PURSUANT TO

THE CONTROVERTED ELECTIONS ACT, 1873

BY

THE QUEBEC JUDGES

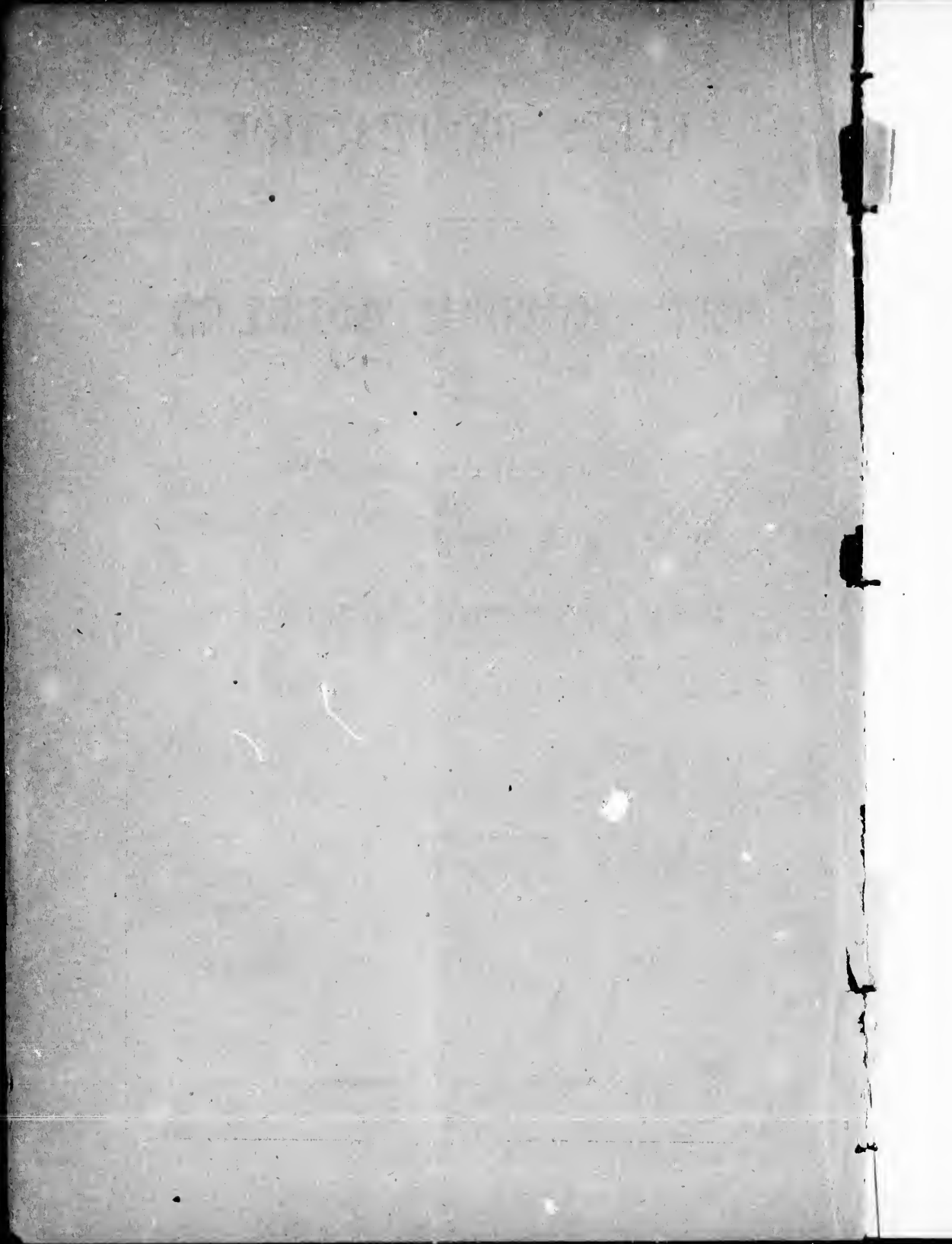
FOR

THE QUEBEC DIVISION

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RULES OF PRACTICE

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THE CONTROVERTED ELECTIONS ACT, 1873

BY

THE QUEBEC JUDGES

FOR

THE QUEBEC DIVISION



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CANADA,
Province of Quebec. }

GENERAL RULES

FOR

THE QUEBEC DIVISION

MADE PURSUANT TO

THE CONTROVERTED ELECTIONS ACT, 1873

*By the undersigned Judges of the Superior Court
designated in the said Act*

"THE QUEBEC JUDGES"

I.

The Prothonotary of the Superior Court for the District of Quebec is appointed Clerk of the Election Court for "The Quebec Division" and shall perform the duties of that office by himself or his lawful Deputy.

The Prothonotary of the Superior Court in each of the several Judicial Districts comprised within "The Quebec Division" is appointed Clerk of the Court sitting within such District for the trial of any Election Petition or Petitions for all, each and every the purposes of "The Controverted Elections Act, 1873," and shall perform the duties of that office by himself or his lawful Deputy.

II.

The Sheriff, Criers and Bailiffs of the Superior Court in the several Judicial Districts comprised within "The Quebec Division" are hereby appointed, within their respective Dis-

trict, officers of the Election Court for all, each and every the purposes of "The Controverted Elections Act, 1873," and shall perform as such officers the same duties and functions as they perform for the said Superior Court together with such other duties as may be specially prescribed to them.

III.

The Presentation of an Election Petition shall be made by leaving it at the office of the Clerk of the Election Court; and such Clerk, or his deputy, shall (if required) give a receipt which may be in the following form :

" Received on the _____ day of _____
at the office of the Clerk of the Election Court, a petition touching the election of A B, a member for purporting to be signed by [insert the names of Petitioners]

" (Signed) _____ B C

" Clerk of the Election Court. "

With the Petition shall also be left a copy thereof for the Clerk to send to the Returning Officer, pursuant to sect. 11, sub-sect. 6 of the Act.

IV.

An Election Petition shall contain the following statements—

1o. It shall state the right of the Petitioner to petition within section 10 of the Act.

2o. It shall state the holding and result of the election, and shall briefly state the facts and grounds relied on to sustain the prayer.

V.

The Petition shall be divided into paragraphs, each of which as nearly as may be, shall be confined to a distinct portion of the subject; and every paragraph shall be numbered consecutively; and no costs shall be allowed of drawing or copying any Petition not substantially in compliance with this rule, unless otherwise ordered by the Court or one of the Election Judges.

VI.

The Petition shall conclude with a prayer, as, for instance, that some specified person should be declared duly

returned or elected, or that the election should be declared void, or that a return may be enforced (as the case may be) and shall be signed by all the Petitioners.

VII.

The following form, or one to the like effect, shall be sufficient :

CANADA,
PROVINCE OF QUEBEC, } *IN THE ELECTION COURT*
The Quebec Division }

THE CONTROVERTED ELECTIONS ACT, 1873.

Election of a member for the House of Commons for [state the place] holden on the _____ day of _____ A. D.

The Petition of A, of _____ [or of A, of _____ and B, of _____ *as the case may be*] whose names are subscribed.

1o. Your Petitioner A is a person who was duly qualified to vote at the election to which this petition relates [or claims to have had a right to be returned or elected at the above election; or was a candidate at the above election] and your Petitioner B [here state in like manner the right of each Petitioner]

2o. And your Petitioners state that the election was holden on the _____ day of _____, A. D. when A B, C D and E F were candidates, and the Returning Officer has returned A B as being duly elected.

3o. And your Petitioners say that [*here state the facts and grounds on which the Petitioners rely*].

Wherefore your Petitioners pray that it may be determined that the said A B was not duly elected or returned, and that the election was void [or that the said E F was duly elected and ought to have been returned, [*or as the case may be*].

(Signed)

A
B

VIII.

Evidence need not be stated in the Petition, but the Court, or one of the Election Judges, may order such particulars as may be necessary to prevent surprise and unnecessary expense and to insure a fair and effectual trial, and upon such terms, as to costs or otherwise, as may be ordered.

IX.

When a Petitioner claims the seat for an unsuccessful candidate, alleging that he had a majority of lawful votes, the party complaining of and the party defending the Election or return shall each, six days before the day appointed for trial, deliver, to the Clerk of the Election Court, and also at the respective elected domiciles of the Petitioners and Respondent, as the case may be, a list of the votes intended to be objected to, and of the heads of objection to each such vote; and the Clerk shall allow inspection and office copies of such lists to all parties concerned; and no evidence shall be given against the validity of any vote, nor upon any head of objection not specified in the list, except by leave of the Court or one of the Election Judges, upon such terms as to amendment of the list, postponement of the enquiry and payment of costs, as may be ordered.

X.

When a Respondent, in a Petition under the Act, complaining of an undue return and claiming the seat for some person, intends to give evidence to prove that the Election of such person was undue, pursuant to the 54th section of the Act, such Respondent shall, six days before the day appointed for trial, deliver to the Clerk of the Election Court and also at the domicile of the Petitioner, a list of the objections to the Election upon which he intends to rely; and the Clerk shall allow inspection and office copies of such lists to all parties concerned; and no evidence shall be given by a Respondent of any objection to the Election not specified in the list, except by leave of the Court or one of the Election Judges, upon such terms as to amendments of the list, postponement of the inquiry and payment of costs, as may be ordered.

XI.

With the Election Petition there shall be fyled in writing an election of domicile by the Petitioner or by his Attorney, if he has one, at some place within a mile of the Office of the Clerk where the said Petition shall be deposited. In default of his doing so, the Office of the said Clerk shall be deemed to be the domicile of the said Petitioner for all the purposes of his said Petition.

If the Petitioner appear by Attorney the latter shall, at the same time, fyle a written appearance.

XII.

The Respondent shall, within five days from the service of the Petition and Recognizance upon him as herein provided, file at the office of the Clerk of the Election Court a written appearance signed by him or his Attorney, and a written election of domicile shall be made and filed by the said Respondent or his Attorney, in the same manner as required of the Petitioner, by the last preceding rule: and in default of his so doing the office of the said Clerk shall be deemed to be his domicile for all the purposes of the petition.

XIII.

The Clerk of the Election Court shall keep a book or books at his office in which he shall enter all the elections of domicile made and filed at his office under the present rules, which book shall be open to inspection by any person during office hours.

XIV.

The Clerk of the Election Court shall, upon presentation of the Petition, forthwith send a copy of the petition to the Returning Officer, pursuant to Section 11 of the Act; and shall therewith send the name of the Petitioner's Attorney, if any, and give the elected domicile, if any made as prescribed, and, if none made, shall say so.

The costs of publication of this and any other matter required to be published by the Returning Officer, shall be paid by the Petitioner, or person moving in the matter, and shall form part of the general costs of the Petition.

XV.

The time for giving the notice mentioned in section 12 of the Act, shall be within five days from the presentation of the Petition, and the said notice shall consist of the service on the Respondent, or on each of the Respondents, of the Petition and Recognizance and of a certificate of the Clerk of the day when the said Petition and Recognizance were filed at his office, and of the date and amount of the deposit, if any made.

XVI.

The deposit of money, by way of security for payment of all costs, charges and expenses payable by the Petitioner,

shall be made by payment into the hands of the Clerk of the Election Court subject to the orders of the Court or of an Election Judge.

XVII.

The Clerk of the Election Court shall keep a book open to inspection of all parties concerned in which shall be entered, from time to time, the amount deposited and paid out, and the Petition to which it is applicable.

XVIII.

The Recognizance as security for costs may be acknowledged before one of the Election Judges, or the Clerk of the Election Court, or any Prothonotary of the Superior Court or a Justice of the Peace.

There may be one Recognizance acknowledged by all the sureties or separate Recognizances by one or more [not exceeding four], as may be convenient.

XIX.

The Recognizance shall contain the name and usual place of abode of each surety, with such sufficient description as shall enable him to be found or ascertained: and may be as follows:—

CANADA, }
PROVINCE OF QUEBEC, } *IN THE ELECTION COURT*
The Quebec Division

THE CONTROVERTED ELECTION ACT, 1873.

Be it remembered that on the day of in the year of Our Lord, before me [name and description] came A. B. of [name and description as above prescribed] and acknowledged himself [or severally acknowledged themselves] to owe to our Sovereign Lady the Queen the sum of one thousand dollars [or the following sums, (that is to say) the said C. D. the sum of \$, the said E. F. the sum of \$, the said G. H. the sum of \$, the said J. K. the sum of \$], to be levied of his [or their respective] goods and chattels, lands and tenements, to the use of Our Sovereign Lady the Queen, Her Heirs and Successors.

The condition of this Recognizance is, that if [here insert the names of all the Petitioners and if more than one, add or any of them] shall well and truly pay all costs, charges and expenses, in respect of the Election Petition signed by him [or them] relating to the Election of a member for the House

of Commons for the [*here insert the name of the Electoral district*] which shall become payable by the said Petitioner [*or Petitioners, or any of them*] under "The Controverted Elections Act, 1873" to any person or persons, then this Recognizance to be void, otherwise to stand in full force.

(Signed)

[*Signatures of Sureties*]

Taken and acknowledged by the above named [*names of sureties*] on the _____ day of _____ at _____ before me.

C. D.

A justice of the Peace [*or as the case may be.*]

XX.

The Recognizance or Recognizances shall be left at the office of the Clerk of the Election Court, by or on behalf of the Petitioner. in like manner as before prescribed for the leaving of a Petition, forthwith after being acknowledged.

XXI.

An objection made to the security shall be heard and decided by the Clerk of the Election Court, subject to Appeal within five days to one of the Election Judges.

XXII.

Such hearing and decision may be either upon affidavit, or written proof, or personal examination of witnesses, or in any or all these manners as the Clerk or Judge may think fit.

XXIII.

If, by order made upon objection to the security, such objection be allowed and the security be declared insufficient, the Clerk of the Election Court or one of the Election Judges shall, in such order, state what amount he deems requisite to make the security sufficient.

XXIV.

The costs of hearing and deciding the objections made to the security given shall be paid as ordered by the Clerk of the Election Court or one of the Election Judges, and in default of such order shall form part of the general costs of the Petition. The order of the Clerk of the Election Court

for payment of costs shall have the same force as an order made by one of the Election Judges.

XXV.

The costs of hearing and deciding an objection upon the ground of insufficiency of a surety or sureties, shall be paid by the Petitioner, and a clause to that effect shall be inserted in the order declaring its sufficiency or insufficiency, unless, at the time of leaving the recognizance with the Clerk, there be also left with the Clerk an affidavit of the sufficiency of the surety or sureties, sworn by each surety before a justice of the Peace, which affidavit any Justice of the Peace is hereby authorised to take, or before some person authorised to take affidavits in the Superior Court, that he is seized or possessed of real or personal Estate, or both, above what will satisfy his debts, of the clear value of the sum for which he is bound by his Recognizance, which affidavit may be as follows :

CANADA, }
PROVINCE OF QUEBEC, } *IN THE ELECTION COURT.*
The Quebec Division.

THE CONTROVERTED ELECTIONS ACT, 1873.

I. A. B. of [*as in recognizance*] make oath and say, that I am seized or possessed of real [*or personal or real and personal as the case may be*] estate above what will satisfy my debts of the clear value of \$

Sworn etc.

Signed.

XXVI.

Notice of the time and place of the trial of each Election Petition fixed by the Election Court shall be given in writing, by the Clerk of the Election Court, by sticking notice up in his office, sending one copy by the Post to the Petitioner, another to the Respondent, and a copy by the Post to the Sheriff of the district where the Election Petition is to be tried, fifteen days before the day appointed for the trial.

The Sheriff shall forthwith publish the same in the Electoral district.

XXVII.

The sticking up of the notice of trial at the office of the Clerk of the Election Court shall be deemed and taken to

be notice in the prescribed manner within the meaning of the Act ; and such notice shall not be vitiated by any miscarriage of, or relating to, the copy or copies thereof to be sent as already directed.

XXVIII.

The notice of trial may be in the following form :—

CANADA,
PROVINCE OF QUEBEC, } *IN THE ELECTION COURT.*
The Quebec Division.

THE CONTROVERTED ELECTIONS ACT, 1873.

Election Petition of [name the Electoral district]

Take notice that the above Petition [or Petitions] will be tried at _____ on the _____ day of _____ and on such other subsequent days as may be needful.

Dated the _____ day of _____

Signed, by order,

A. B.

Clerk of the Election Court.

XXIX.

Notice of the time and place of the trial of each Election Petition shall be transmitted by the Clerk of the Election Court to the Clerk of the Crown in Chancery ; and the Clerk of the Crown in Chancery shall, on or before the day fixed for the trial, deliver or cause to be delivered, to the Clerk of the Judge who is try the Petition or his Deputy, the Poll Books, for which the Clerk or his Deputy shall give, if required, a receipt. And the Clerk shall keep in safe custody the said Poll Books until the trial is over and then return the same to the said Clerk of the Crown. And such delivery and return may be made by post.

XXX.

The Election Court or any Judge of the Election Court may, from time to time by order made upon the application of a party to the Petition or by notice in such form as the Court or Judge may direct to be sent to the Sheriff, postpone the beginning of the trial to such day as the Court or Judge may name, and such notice when received shall be forthwith made public by the Sheriff.

XXXI.

In the event of the Judge not having arrived at the time appointed for the trial, or to which the trial is postponed, the commencement of the trial shall *ipso facto* stand adjourned to the ensuing day, and so from day to day.

XXXII.

No formal adjournment of the Court for the trial of an Election Petition shall be necessary, but the trial is to be deemed adjourned and may be continued from day to day until the enquiry is concluded: and in the event of the Judge who begins the trial, being disabled by illness or otherwise, it may be recommenced and concluded by another Judge of the Election Court.

XXXIII.

All affidavits and papers in any matter in the Election Court or in any Court for the trial of an Election Petition, may be intituled as follows:

CANADA, }
PROVINCE OF QUEBEC. } *IN THE ELECTION COURT.*
The Quebec Division. }

THE CONTROVERTED ELECTIONS ACT, 1873.

XXXIV.

The reasonable costs of any witness shall be ascertained by the Clerk of the Court, where he was examined, and the certificate allowing them shall be under his hand.

XXXV.

The order of a Judge to compel the attendance of a person, as a witness, may be in the following form:—

(Put title of the Court as at rule 33.)

Trial of the Election Petition for the Electoral District of

To A. B. *(describe the person).*

You are hereby required to attend before the Court for the above trial at *(place)* on the day of
at the hour of *(or forthwith as the case may be)*
to be examined as a witness in the matter of the said Petition,

and to attend the said Court until your examination shall have been completed.

As witness my hand

A. B.,
Judge of the said Court.

XXXVI.

In the event of its being necessary to commit any person for contempt, the warrant may be as follows :—

At a Court holden on _____ at _____ for the trial of an Election Petition for the Electoral District of _____ in the Province of Quebec, before one of the justices of Her Majesty's Superior Court for the Province of Quebec and one of the Judges for the trial of Election Petitions in "The Quebec Division" pursuant to "The Controverted Elections Act, 1873."

Whereas A. B. has this day been guilty, and is by the said Court adjudged to be guilty of a contempt thereof, the said Court does, therefore, sentence the said A. B. for his said contempt to be imprisoned in the common gaol for the District of _____ for _____ calendar months, and to pay to Our Lady the Queen a fine of _____ and to be further imprisoned in the said gaol until the said fine be paid; and the Court further orders that the Sheriff of the said District, and all constables, and officers of the peace of any district or place where the said A. B. may be found, shall take the said A. B. into custody and convey him to the said gaol, and there deliver him into the custody of the gaoler thereof to undergo his said sentence; and the Court further orders the said gaoler to receive the said A. B. into his custody, and that he shall be detained in the said gaol in pursuance of the said sentence.

Signed the _____ day of _____ A. D.
S. M.

XXXVII.

Such warrant may be made out and directed to the Sheriff or other person having the execution of process of the Superior Court, as the case may be, and to all constables and officers of the peace of the district or place where the person adjudged guilty of contempt may be found, and such warrant shall be sufficient without further particularity, and shall and may be executed by the persons to whom it is directed, or any or either of them.

XXXVIII.

Notice of an application for leave to withdraw a Petition shall be in writing, and signed by the Petitioners or their attorney specially authorized.

It shall state the ground on which the application is intended to be supported.

The following form shall be sufficient :—

CANADA,
PROVINCE OF QUEBEC, } *IN THE ELECTION COURT.*
The Quebec Division.

THE CONTROVERTED ELECTIONS ACT, 1873.

“ Electoral District of _____ Petition of (state
name of Petitioners) presented _____ day of _____

The Petitioner proposes to apply to withdraw his Petition upon the followings ground (here state the grounds) and prays that a day may be appointed for hearing his application.

Dated this _____ day of _____
(Signed),

XXXIX.

The notice of application for leave to withdraw shall be left at the office of the Clerk of the Court where the proceedings are then being had.

XL.

A copy of such notice of the intention of the Petitioner to apply for leave to withdraw his Petition shall be given by the Petitioner to the Respondent, and to the Returning Officer, who shall make it public in the electoral district to which it relates, and shall be forthwith published by the Petitioner in the *Quebec Official Gazette*.

The following may be the form of such notice :—

CANADA,
PROVINCE OF QUEBEC, } *IN THE ELECTION COURT.*
The Quebec Division.

THE CONTROVERTED ELECTIONS ACT, 1873.

In the Election Petition for _____ in
which _____ is Petitioner and
Respondent.

Notice is hereby given, that the above Petitioner has on the _____ day of _____ lodged at the Clerk's Office, notice of an application to withdraw the Petition, of which notice the following is a copy (set it out).

And take notice that, by the rule made by the Judges, any person who might have been a Petitioner in respect of the said Election, may within ten days after publication by the Returning Officer of this notice, give notice in writing of his intention on the hearing, to apply for leave to be substituted as a Petitioner.

(Signed)

XLI.

Any person who might have been a Petitioner in respect of the Election to which the Petition relates, may within ten days after such notice is published by the Returning Officer, give notice, in writing, signed by him or on his behalf, to the Clerk of the Court, where the proceedings are then being had, of his intention to apply at the hearing to be substituted for the Petitioner, but the want of such notice shall not defeat such application, if in fact made at the hearing.

XLII.

The time and place for hearing the application shall be fixed by one of the Election Judges and whether before the Election Court or the Judge, as the case may be, but shall not be less than ten days after the notice of the intention to apply has been given to the Clerk as hereinbefore provided, and notice of the time and place appointed for the hearing shall be given to such person or persons, if any, as shall have given notice to the Clerk of an intention to apply to be substituted as Petitioners, and otherwise in such manner and at such time as the Court or the Judge directs.

XLIII.

The security on behalf of the substituted Petitioner shall be given within two days after the order of substitution, or such other time as the Court or the Judge may order.

XLIV.

Notice of abatement of a Petition by death of the Petitioner or surviving Petitioner, under the section 44 of the said Act, shall be given by the party or person interested in the same manner as notice of an application to withdraw a

Petition, and the time within which application may be made to the Court or to the judge, by motion or Petition, to be substituted as a Petitioner, shall be one calendar month or such further time as upon consideration of any special circumstances the Court or the Judge may allow.

XLV.

If the Respondent dies, or is summoned to Parliament as a Member of the Senate, or if the House of Commons have resolved that his seat is vacant, any person entitled to be a Petitioner under the Act in respect of the election to which the Petition relates, may give notice of the fact in the Electoral District by causing such notice to be published in the *Quebec Official Gazette*, and by leaving a copy of such notice signed by him or on his behalf with the Returning Officer and a like copy with the Clerk of the Court where the proceedings are being had.

XLVI.

The manner of the Respondents giving notice to the Court or to the Judge that he does not intend to oppose or further to oppose the Petition, shall be by leaving notice thereof in writing signed by the Respondents at the Office of the Clerk of the Court, where the proceedings on the Petition are then being had.

XLVII.

Upon such notice being left at the Clerk's Office, the Clerk shall forthwith send a copy thereof, by the Post, to the Petitioner or his Attorney and to the Sheriff who shall cause the same to be published in the Electoral District.

XLVIII.

The time for applying to be admitted as a Respondent in either of the events mentioned in the 45th section of the Act shall be, within fifteen days after such notice is given as hereinbefore directed, or such further time as the Court, or one of the Election Judges, may allow.

XLIX.

Three days before the time appointed for the trial of any Election Petition, the Petitioners shall leave with the Clerk of the Court for the trial of the Election Petition, for the use of the Judge at the trial, fairly written on one side of the paper

only, a copy of the Petition and of all the proceedings thereon, which show the several matters to be tried — including the particulars of objections on either side; the correctness of which copy, in so far as the proceedings are filed with the Clerk of the Election Court, shall be certified by the said Clerk. The Judge may allow amendment of the said copy, or in default of such copy being delivered, the Judge may refuse to try the Petition or may allow a further time for delivery of the copy, or may adjourn the trial—in every case upon such terms, as to costs and otherwise, as the Judge shall see fit to impose.

L.

Writs of Subpœna *ad testificandum* and *duces tecum*, under the Seal of the Election Court, for the attendance of witnesses before the Court for the trial of any Election Petition, may be issued at any time by the Clerk of the Election Court, which writs may be in the following form :

CANADA,
PROVINCE OF QUEBEC, } *IN THE ELECTION COURT.*
The Quebec Division.

— SUBPŒNA —

VICTORIA, *by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith.*

To

We command you that, all excuses being laid aside, you and every of you be and appear in your proper persons before our Election Judge, assigned to try the Election Petition for (name the Electoral District) at _____ in the District of _____ on the _____ day of 187____, at _____ o'clock in the _____ noon of the same day, and so from day to day until the said Election Petition shall be tried, or otherwise disposed of, to testify all and singular you or either of you know in the matter of the said Election Petition — and also that you bring with you, and produce at the time and place aforesaid (describing what is to be produced in the ordinary way) — and this you or any of you shall by no means omit, under the penalty upon each of you of four hundred dollars.

Witness the Honorable (the senior Election Judge) one of the Judges of our Election Court, at Quebec, in the District of Quebec, the _____ day of _____ 187____.

(Signed) A. B.
Clerk of the Election Court.

L I.

Costs shall be taxed and certified by the Clerk of the Court where the proceedings took place, subject to revision by one of the Election Judges, within thirty days after final adjudication. And any such revision of costs taxed as incident to the trial of any Election Petition shall, if practicable, be by the Judge who presided at such trial; and, if not so taxed within thirty days, then the said costs shall be taxed and certified by the Clerk of the Election Court subject then to revision by any Judge of the Election Court.

L II.

The Petitioner or Respondent may, at any time after the delay above mentioned, on leave previously obtained from the Court or the Judge, appear by Attorney who shall forthwith file an appearance and an election of domicile at the Clerk's Office, where afterwards service of documents may be legally effected.

L III.

When the Election Court shall, under section 15 of the Act, have fixed the place and time for the hearing of the case and the production of evidence, each of the parties shall be bound, forthwith, to elect a domicile within a mile of the place so fixed; and in default thereof, all services required to be made, during the trial, respecting proceedings to be had before the Judge, on any party so in default, may be made at the Office of the Clerk where the said petition is tried.

L IV.

Thirty days after the trial of any Election Petition the Judge shall return to the Clerk of the Election Court the evidence and proceedings before the said Judge and his finding on the said Petition, which evidence, proceedings and return shall form part of the records of the said Election Court.

L V.

No proceeding under the Controverted Elections Act, 1873, shall be defeated by any formal objection.

LVI.

Any Rule made or to be made in pursuance of the said Act shall be published by copy thereof being put up in the Office of the Clerk of the Election Court.

Quebec, 16th February, 1874.

(Signed)

W. C. MEREDITH, Ch. J. S. C.

A. STUART, J. S. C.

Jos. N. BOSSÉ, J. C. S.

J. MAGUIRE, J. S. C.

N. CASULT, J. C. S.

H. E. TASCHEREAU, J. C. S.

U. J. TESSIER, J. C. S.

T. McCORD, J. S. C.

