



## CHAPTER 36

An Act to amend the Cities and Towns' Act respecting controverted elections

[Assented to, the 24th of March, 1926]

**H**IS MAJESTY, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

**1.** Sections 336, 337, 338, 339 and 340 of the Cities and Towns' Act (Revised Statutes, 1925, chapter 102) are replaced by the following: R. S., c. 102, ss. 336 to 340, replaced.

**"336.** Any person qualified to vote at the election of mayor or alderman may contest the election of a person as mayor or alderman, at whose election he was entitled to vote, and pray either for the annulment of such election, or for the annulment of the election and for a judgment declaring the plaintiff or some other person returned, upon all or any of the following grounds: Contestation of election.

1. That the essential formalities were not observed at the election; Grounds of contestation.

2. That the person returned did not receive the majority of legal votes at such election;

3. That he was not qualified to be elected as such mayor or alderman, as the case may be;

4. That he was guilty of corrupt practices prohibited by his act, either personally, or by an agent, with or without his authority, knowledge or sanction.

The hearing and decision of such contestation, in term or in vacation, shall be had before the Superior Court, in the district or county in which the municipality, where the election was held, is wholly or partly situated. Hearing and decision before the Superior Court.

**"337.** No contestation of an election may be exercised by means of any other procedure than that indicated in Procedure.

this act, save the case, provided for by section 987*a* of the Code of Civil Procedure, of a contestation based on the absence of qualification of the person holding office.

Mode of  
contesta-  
tion.

“**338.** The contestation shall be instituted by an ordinary suit, which shall be served upon the party whose election is being contested within thirty days after the proclamation of the election of such person, under penalty of forfeiture.

Deposit as  
guarantee  
for costs.

“**339.** The writ of summons shall not be issued until there has been deposited in the hands of the clerk of the court, at the same time as the application for the writ, a sum of five hundred dollars for the costs.

Increase of  
deposit.

During the progress of the suit, the court may, of its own accord or upon a motion to that effect, order that the deposit be increased, at its discretion.

Return, etc.

“**339a.** 1. The action shall be returned within six days of service, and the proceedings thereafter shall be subject to the rules and delays of summary actions.

Particulars  
of action,  
etc.

2. The plaintiff, in his action, shall state the date, the place and circumstances of any act, matter or thing which may justify the conclusions. He may also indicate therein who are entitled to the office in question, stating the facts of a nature to establish such right, and ask that they be declared elected, but, in such case, the person whose election is contested, may allege and prove that certain votes given to the other candidate were not legal.

Defendant  
failing to  
plead.

“**339b.** If the defendant fails to plead within the delays prescribed by the Code of Civil Procedure, all the allegations of the declaration shall be considered as denied by the defendant.

Hearing.

“**339c.** Notwithstanding the provisions of the Code of Civil Procedure respecting inscription for proof and hearing, the date and place for the same shall be fixed by the judge, on motion of either party, notice whereof must be given to the adverse party at least one clear day before that of its presentation.

Notice.

Provisions  
applicable.

“**339d.** 1. If, upon the issues, it be necessary to count, or to examine, or to deal otherwise with the ballot-papers used at the election, or to examine or deal otherwise with the poll-books or other documents connected therewith, or to summon the persons who have conducted the election or acted therein in any manner whatever, the court or judge shall, for such purposes or any of them, have all the jurisdiction, power and authority vested in the court or any judge thereof in similar matters by the Quebec Controverted Elections' Act (Chap. 5).

2. When any election is contested under this act and the seat is not claimed for any candidate, in the action, no <sup>Seat un-</sup>recriminatory allegation or evidence shall be allowed on <sup>claimed.</sup> behalf of the defendant.

“**339e.** Notwithstanding article 46 of the Code of Civil Procedure, interlocutory judgments, rendered during the progress of a suit in contestation of election under this act, shall not be subject to appeal; any party may, however, <sup>Interlocutory judgment not subject to</sup> take exception to such judgments, which may then be <sup>appeal.</sup> revised at the same time as the final judgment, if the latter is taken to appeal.

“**339f.** The court may, by its judgment, confirm or annul the election or declare that another person has been duly elected. If such judgment is based solely on corrupt acts, it cannot be rendered unless it be proved that such corrupt acts have had the effect of changing the result of the election. <sup>Powers of court.</sup>”

“**340.** An appeal from the final judgment shall lie to the Court of King’s Bench, composed of five judges. <sup>Right of appeal.</sup>”

Such appeal must be taken within fifteen days from the date of the judgment, and shall be heard, with priority over other appeals, at the first sitting of the court after the inscription in appeal, with typewritten factum and record for each of the judges of the Court of King’s Bench. <sup>Delay.</sup> <sup>Factum.</sup>

The judgment of the Court of King’s Bench shall be final.” <sup>Judgment final.</sup>

**2.** The said act is amended by inserting therein, after section 341 thereof, the following section: <sup>R. S., c. 102, s. 341a, added.</sup>

“**341a.** The provisions of this division shall apply to all cities and towns, notwithstanding any provisions to the contrary enacted by the special acts governing them.” <sup>Provisions applicable.</sup>

**3.** This act shall not affect pending cases. <sup>Pending cases.</sup>

**4.** This act shall come into force on the day of its sanction. <sup>Coming into force.</sup>

