

not prosecute for the purpose of preventing such action, or prosecution being instituted by any other person, nor for the purpose of delaying or causing such action to miscarry, nor for the purpose of saving such defendant from the payment of the whole or any part of such penalty, nor of procuring to him any advantage,—but that I institute such prosecution or action in good faith, and for the purpose of recovering, exacting and enforcing the payment of such penalty with all practicable celerity.

(Signature,) M. N.

Sworn before me, at
 this day of the }
 month of 18 . }

P. S.,
 Justice of the Peace.

C A P. V I I I .

An Act to make better provisions for the trial of Controverted Elections of Members of the Legislative Assembly of the Province of Quebec.

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[Assented to 23rd February, 1875.]

HER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

I.—INTERPRETATION.

- Title.** 1. This act shall be known and may be designated and cited as “The Quebec Controverted Elections Act, 1875.”
- Repeal.** 2. The act passed by the legislature of this province, in the thirty-sixth year of Her Majesty’s reign, chapter five, intituled:—“*An act to provide for the decision of controverted elections by the judges, and to make better provision for the prevention of corrupt practices at elections*” is repealed; and all the acts and enactments repealed by such act shall remain repealed, notwithstanding its repeal.
- Application.** 3. All elections which take place after the passing of this act shall be subject to the provisions thereof, and their validity shall only be contested in conformity with the provisions thereof.
- Interpretation.** 4. In interpreting this act, unless it be otherwise provided, or unless there be something in the context of the provisions thereof indicating a different meaning, or requiring another construction :
- Judge.** 1. The word “judge” means any one of the judges of the superior court of the province, or such superior court held by any one judge thereof ;
- Member.** 2. The word “member” means any person elected to serve as one of the members of the legislative assembly of the province ;
- Election.** 3. The word “election” means the election of a member to serve in the legislative assembly of the province ;
- Electoral district.** 4. The expression “electoral district” means any county or other place, or portion of this province, entitled to return a member to the legislative assembly ;
- Candidate.** 5. The word “candidate” means the person elected as member at any election, and any person nominated as a candidate at such election ;
- Corrupt practice.** 6. The term “corrupt practice” means any act declared such by section 248 of *The Quebec election Act*, or by any other act of the legislature of this province ;
- Rule.** 7. The expression “rule” means all rules to be made as prescribed by section 15 ;
- Prescribed.** 8. The word “prescribed” means prescribed by this act, or ordained by some rule made under this act ;
- Prothonotary.** 9. The word “prothonotary” includes the “deputy prothonotary.”

5. For the purposes of this act, the expression "the ^{Speaker} speaker" means the speaker of the legislative assembly.

When the office of speaker is vacant, or when the speaker is absent from the province, or is unable to act, the clerk of the legislative assembly, or any other officer, for the time being discharging the duties of the clerk of the legislative assembly, shall be deemed to be substituted for, and included in, the expression "the speaker."

6. An "election petition" is a petition complaining of an ^{Election petition.} undue return, or undue election of a member, or of no return, or of a double return, or of any unlawful act by any candidate not returned, by which he is alleged to have become disqualified to sit in the legislative assembly, or of the conduct of any returning officer or deputy returning officer.

7. If the delay established by this act for the institution ^{Delay.} of any proceeding, or the accomplishment of any matter, expires or falls upon a holiday, such delay shall be extended to the next following day, not a holiday, and such matter may be performed on such following day.

8. The words "court or judge" shall be substituted for ^{32 V., c. 3, s. 15 amended.} the words "election committee" wherever they occur in section 15 of the act of the legislature of this province, 32 Victoria, chapter 3, intituled: "An act for securing the independence of the legislature of this province."

II.—JURISDICTION.

9. The superior court of this province shall have juris- ^{Superior Court.} diction over election petitions and over all proceedings to be had in relation thereto, subject nevertheless to the provisions of this act.

10. The cause of action shall be deemed to have arisen ^{Place of presentation, trial and hearing.} at the place where the election was held. The election petition shall be presented and tried, in the judicial district in which such place lies; but the final hearing shall take place before the superior court sitting in review, in conformity with section 82 and the following sections of this act.

11. In all proceedings had under the authority of this ^{Powers of judge.} act, the judge in term or in vacation shall have the same powers, jurisdiction and authority as the superior court sitting in term, subject always to the provisions of this act.

Precedence. 12. Proceedings had under this act, shall have precedence over all other causes or proceedings.

Officers of court. 13. The various officers of the superior court shall, with reference to all election petitions, have the same powers and be subject to the same obligations, as if such petition were an ordinary case, within the jurisdiction of the superior court.

Non-resident judge. 14. Whenever any petition is presented, in a district in which there is no resident judge, the judge to whom the district is assigned, shall, on notice from the prothonotary, acquainting him with the day on which he should attend, be present in the court house in such district, as often as his presence is required for any proceeding on an election petition or relating thereto.

Rules. 15. The judges of the superior court, or a majority of them, may, from time to time, make, revoke, or alter general rules or orders, for the effectual execution of this act, and of the intention and object thereof, for the regulation of the practice and procedure, with respect to election petitions and the trial thereof, and for the certifying and reporting thereon.

Effect of rules. 16. Any rule made in virtue of the preceding section, and not inconsistent with this act, shall be deemed to be within the powers conferred by the provisions of this act, and shall, until revoked, have the same force as the provisions thereof.

Submission to legislative assembly. 17. A copy of all rules, and of all modifications made therein under section 15 of this act, shall be laid before the legislative assembly, within three weeks after they are made, if the legislature be then sitting, and if the legislature be not then sitting, within three weeks after the then next session of the legislature.

Rules, &c., governing election petition of commons. 18. Until rules have been made in pursuance of this act, and in all cases unprovided for by such rules when made, the principles, practice and rules, on which election petitions touching the election of members of the house of commons of Canada are, at the time of the passing of this act, dealt with, shall be observed, so far as consistently with this act they may be so observed.

III.—PRESENTATION OF THE ELECTION PETITION.

Petitioner. 19. An election petition may be presented :

1. By one or more electors, who were qualified to vote at the election to which the petition relates or whose names were entered on the lists of electors which availed at such election ; or

2. By one or more candidates at such election.

20. The petition may be in any prescribed form ; but if, ^{Form.} or in so far as, no form is prescribed, it need not be in any particular form.

21. The petition must however, in all cases, complain of the undue election or return of a member, or that no return has been made, or that a double return has been made, or of matters contained in any special return made, or of some unlawful act by a candidate not returned, by reason whereof, he may become ineligible, or of the unlawful conduct of any returning officer or deputy returning officer. <sup>Allegations re-
quired.</sup>

22. The petition shall be signed by the petitioner, or, if ^{Signature.} there are more than one, by all the petitioners.

23. The petition must be presented within thirty days ^{Delay.} after the day of publication in the *Quebec Official Gazette*, of the notice of election by the clerk of the crown in chancery, under section 213 of *The Quebec Election Act*, and not later.

24. Nevertheless, if the petition questions the validity ^{Delay.} of a return or election, upon a specific allegation of corrupt practice committed since the time of the return of election, such petition may be presented within thirty days after the date of the commission of the corrupt practice alleged, provided that such corrupt practice falls within the scope of the sections 267 and 268 of *The Quebec Election Act*.

25. Presentation of a petition shall be made by delivering it at the office of the prothonotary, during office <sup>Mode of pre-
sentation.</sup> hours.

26. At the time of the presentation of the petition, the petitioner shall give security for the payment of all costs, charges and expenses, that may become payable by him : ^{Security.}

1. To any person assigned as a witness on his behalf ;
2. To the member whose election or return is called in question ;

3. To the returning officer, or deputy returning officer if their conduct is complained of ;

4. To the candidate not elected, whose conduct is complained of.

Deposit.

27. The security shall be one thousand dollars, and shall be given by a deposit of such sum with the prothonotary, who shall transmit the same to the office of the provincial treasurer, in the manner prescribed for judicial deposits.

The deposit shall be valid if made in gold coin or in notes of any incorporated bank, or in Dominion bonds or debentures.

The prothonotary shall give a receipt for such deposit, which shall be evidence of the sufficiency thereof.

Case of several petitioners.

28. Several persons may be made respondents to the same petition, and their cases may, for the sake of convenience, be tried at the same time.

But as regards the security required by sections 26 and 27, and for all other purposes of this act, such petition shall be deemed to be a separate petition against each respondent.

Petitions against officers.

29. Wherever an election petition complains of the conduct of any returning officer or deputy returning officer, such officers shall, for all the purposes of this act, except the admission of respondents in their place, under section 112, be deemed to be respondents.

Resignation of seat.

30. An election petition may be presented, or the trial thereof be proceeded with, notwithstanding the acceptance by the respondent of an office of profit under the crown, or the resignation of his seat.

Continuation.

31. The trial of an election petition may be proceeded with, notwithstanding the prorogation of the legislature or the dissolution of the legislative assembly.

Idem.

32. If one or more petitioners refuse or neglect to continue the contestation, the other petitioners may nevertheless continue the proceedings.

Plumitif.

33. The prothonotary shall keep a special register or *plumitif* of all petitions presented under this act, and shall further draw up a list thereof in the order in which they were presented.

List.

Such list shall be styled "*The Quebec contested elections list.*"

Access to the list.

34. The prothonotary shall keep, at his office, a copy of such list, open to the inspection of any person making application.

35. If more than one petition is presented, relating to the same election and return, all such petitions shall be bracketed together on the list, and shall be dealt with, as far as may be, as one petition. Case of several petitions.

IV.—SERVICE.

36. The petitioner shall cause each respondent to be served with a copy of the petition, a notice of the presentation thereof and of the security, and a copy of the deposit receipt required, within five days after the day on which the petition shall have been presented, or within the time prescribed. Service.

37. Such service may be made within such longer time, as the judge shall be entitled to grant, regard being had to the difficulty of effecting service, or to special circumstances. Delay.

38. If the respondent or respondents, cannot be served personally, or at their domicile, within the time granted by the judge, the service may be effected upon such other person, or in such other manner as the judge, on the application of the petitioner, may appoint. Delay extended.

39. The services required by the three preceding sections shall be made, as nearly as may be, in the manner in which a writ of summons is served in civil matters. Manner of service.

V.—PRELIMINARY OBJECTIONS.

40. Within five days after the service of the petition as hereinbefore prescribed, the respondent may produce in writing any preliminary objections or grounds of insufficiency, which he may have to urge against the petitioner, or against the petition, or against any further proceeding thereon. Delay.

He shall, in such case, at the same time, file a copy of such objections or grounds, for the petitioner. Copy.

41. The judge shall then hear the parties and their witnesses upon such objections and grounds, and shall decide the same in a summary manner. Hearing and decision.

Such judgment, if in favor of the petitioner, shall not be susceptible of being reversed, until the hearing on the merits before the superior court sitting in review; if, however, it has the effect of dismissing the petition, the case may be submitted to such court, upon inscription filed within the eight days following, and by observing the formalities prescribed in the case of inscription upon the merits.

VI.—CONTESTATION ON THE MERITS.

- Delay.** **42.** Within five days after the decision upon the preliminary objections, if the same are not allowed, or on the expiration of the time for presenting the same, if none be presented, the respondent may file a written answer to the petition, together with a copy for the petitioner.
- Issue joined.** **43.** Whether such answer be or be not filed, the petition shall be held to be at issue, after the expiration of the delays mentioned in the preceding section; the judge may at any time thereafter, upon the application of either party, fix some convenient time and place, for the trial of the petition.

VII.—TRIAL.

- Order of trial.** **44.** Petitions inscribed on the list of contested elections, as far as conveniently may be, shall be tried in the order in which they stand on such list.
- Judge.** **45.** Every election petition shall be tried, before a judge.
The judge may, at such trial, decide any question raised as to the admissibility of the evidence offered, or admit such evidence under reserve.
- Place of trial.** **46.** The trial of an election petition shall take place in the electoral district, the election or return for which is in question.
But the judge may, if for special circumstances it appears to him desirable that the trial should be held elsewhere than in such electoral district, appoint such other place for the trial, as may to him appear most convenient.
- Special clerk.** **47.** The judge may appoint a clerk for the trial of an election petition at a distance from the *chef lieu*.
Such clerk, on being sworn by the judge, shall have the same powers and obligations, as the prothonotary would have had if personally acting.
The fees of such clerk shall be payable in money.
- Adjournment.** **48.** The judge may, during the trial, adjourn the proceeding from time to time, and from any one place to another, as to him may seem most convenient.
- Witnesses.** **49.** Witnesses shall be subpoenaed and sworn, as nearly as circumstances will admit, in the same manner as in ordinary cases, within the jurisdiction of the superior court,

50. On the trial of an election petition, the judge may also, by an order under his hand, compel the attendance of any person as a witness, whom he believes able to give any information respecting the election, to which the petition refers. Summons by order of judge.

51. The judge may employ a short-hand writer to take down the depositions of the witnesses at the trial of the petition ; and the costs incurred thereby, shall be deemed to be costs in the cause. Short-hand writer.

Such short-hand writer shall be sworn by the judge ; and the transcribed notes given by him of the various depositions, shall be drawn up and certified correct by him, under the oath he has so taken.

52. No person shall be excused from answering, any question put to him under this act, touching any election or the conduct of any person thereat or in relation thereto, on the ground that the reply to such question would render him liable to legal proceedings under *The Quebec Election Act*. Obligation to answer.

But no answer given by such person shall be used against him in such proceeding, if the judge has given him a certificate that he claimed the right to be excused from answering on the grounds aforesaid, and made full and true answers to the satisfaction of the judge. Protection.

53. The reasonable expenses incurred by any person, in appearing to give evidence at the trial of an election petition, shall be allowed him by a certificate signed by the judge or prothonotary, according to the scale of fees and expenses allowed witnesses in the superior court. Witnesses expenses.

54. Unless the judge otherwise directs, any charge of corrupt practices may be gone into and evidence in relation thereto received, before any proof has been given of participation on the part of any candidate, or his agents, in respect of such corrupt practices. Proof of corrupt practice.

55. On the trial of a petition, the respondent may give evidence to show that any other candidate has been guilty of corrupt practice in the same manner and with the same effect as if he had himself presented a petition complaining of such election or of the conduct of such candidate. Proof against another candidate.

But before entering into such proof, the respondent shall give notice thereof to such candidate, if he be not already in the cause, who may cross-examine the witnesses against him and produce others on his own behalf. Notice.

56. The rules of evidence shall be those of the law of England. Rules for proof.

It shall not be necessary to produce the writ of election, or the proclamation or commission of the returning officer, but parol evidence of such facts shall constitute sufficient proof that the election have been held.

The archives, registers, journals and documents of the various departments of the Legislature, and all those public in their nature, the keeping of which is required by law, as also official copies and extracts of such papers or documents shall be *prima-facie* proof of the contents thereof.

VIII.—SPECIAL EXAMINATION OF THE PARTIES AND OTHER PERSONS.

Examination of parties.

57. Any party to an election petition, whether petitioner or respondent, may at any time after such petition is at issue, before or pending the trial, be examined in the manner hereinafter prescribed, by a party adverse in interest touching any matter or question raised by such petition. The party thus examined may be then further examined on his own behalf, touching any matter upon which he had been interrogated in the first instance.

Examination of parties common in interest.

58. When one of several petitioners or respondents has been examined, any other petitioner or respondent united in interest with him, may be interrogated in his own behalf or on behalf of those united with him in interest, to the same extent as the party examined in the first instance.

Such explanatory examination shall be proceeded with immediately after the interrogatories specified in section 57, and not at any future period, except by leave of a judge.

Examination of another candidate.

59. If, by an election petition, the seat is claimed for a candidate who is not a party to the petition, such candidate may be examined as if he were a petitioner.

Before whom held.

60. The interrogation or examination made under this act, shall be held by, or before a judge, or an advocate, named by the judge as special examiner in the case of a preliminary examination.

Parties summoned.

61. Every examination shall take place, the parties, their counsel, agents or attorneys being either present or summoned.

Re-examination.

62. The party so examined shall be subject to cross-examination and re-examination.

Mode.

Such examination, cross-examination and re-examination shall be conducted as nearly as may be, in the mode now

in use in causes in the superior court, subject however, to the provisions of this act.

63. Every party or other person may be summoned ^{Witnesses.} to appear for interrogation before the examiner, by writ of *subpœna ad testificandum* or *duces tecum*, in like manner as he might be at the trial of the petition.

64. Every party or other person, on whom a writ of this nature is served, shall be bound to attend before the ^{Obligation to appear.} examiner, and shall be entitled to be taxed for his appearance and his expenses, as if he had been summoned to appear at the time of the trial. ^{Taxation.}

65. Any sheriff, gaoler, or other officer having the custody of any prisoner, shall, if ordered by any judge, bring ^{Prisoner examined.} such prisoner before the examiner to be examined.

66. Forty-eight hours' notice of any such examination or cross-examination shall be given to the parties to the suit, or their attorneys, agents, or counsel. ^{Notice.}

67. Any party, or other person refusing or neglecting to attend at the time and place appointed for his examination, or cross-examination, or refusing to be sworn, or to answer any lawful question put to him by the examiner, or by any party entitled so to do, or his counsel, agent or attorney, may be punished by the judge, as for contempt of court; ^{Contempt of court.} ^{Proviso:} subject to the application of section 52 of this act.

68. If any witness objects to any question which may be put to him, the question, as well as the objection, shall be taken down in writing by the examiner, and transmitted by him to the office of the prothonotary, to be there filed. ^{Objections of witness.}

The judge shall decide on the validity of such objection, and the costs of such objection shall be in the discretion of the judge.

69. The depositions taken upon such examination, shall be taken down in writing by the examiner, not ordinarily by question and answer, but in the form of a narrative. ^{Mode of taking down deposition.}

When they are completed, they shall be read over to the witness, and signed by him in the presence of the parties, or of such of them as may think fit to attend. ^{Signature.}

If the witness refuses or is unable to sign, mention thereof shall be made at the end of his deposition, and the examiner shall sign the same.

70. The examiner may, on each examination, report any special fact, which he may deem advisable. ^{Special fact.}

Special question or answer. **71.** The examiner may, at his discretion, put down in writing any particular question or answer, if there is any special reason for so doing.

Objection by parties. **72.** If any questions are objected to by any of the parties, the examiner, shall, without however deciding, note the objection on the deposition.

Depositions transmitted. **73.** When the examination before the examiner shall have been concluded, the depositions shall, after having been authenticated by his signature, be transmitted by the examiner to the office of the prothonotary, to be there filed. Any party to the petition may obtain copies of such depositions, upon payment of the sum prescribed.

Use of depositions. **74.** Any party to a petition may declare in writing, in the commencement of the trial of the petition, his intention to use depositions taken by or before the examiner.

IX.—DEMAND FOR THE PRODUCTION OF DOCUMENTS.

Production order. **75.** Any party to any election petition, whether petitioner or respondent, may, at any time after such petition is at issue, before or pending the trial thereof, obtain an order of a judge requiring the adverse party to produce, within a delay of ten days after the service of the rule, under oath, at the office of the prothonotary, all documents in his custody or power relating to the matters in question, saving all lawful exceptions.

Nature of order. **76.** The rule referred to in the preceding section shall be a rule in the nature of a side bar rule.

Service. **77.** It shall not be necessary that this rule be served on the party personally; the service, which shall be made on the counsel, agent or attorney of the party, shall be sufficient.

Oath. **78.** The affidavit to be made by the party producing the documents may be in the form annexed to this act, or in other terms equivalent, as required by the facts.

Refusal. **79.** Any party neglecting or refusing to obey a rule for the production of documents, may be punished as for contempt of court.

Use of documents. **80.** When the documents demanded shall have been filed at the office of the prothonotary, the party requiring such production, or his counsel, agent or attorney, may inspect the same and take certified copies thereof.

81. If the party, who has been demanded for such documents, wishes to avail himself of any lawful exception, he must, when producing the documents, assign sufficient reasons, supported by his affidavit, to prove that he should not be held to produce them. Exception.

X.—INSCRIPTION AND JUDGMENT.

82. Any party to an election petition may, forthwith on the conclusion of the trial, file an inscription for hearing before the superior court sitting in review, at the office of the prothonotary of the district, in which the petition has been presented. Inscription.

This inscription shall be accompanied, if the petition has been presented elsewhere than at Quebec or Montreal, by the payment to the prothonotary of a sum of ten dollars for making up and transmitting the record. Payment.

83. Notice of the inscription shall be given to each adverse party. Notice.

84. The superior court sitting in review, shall, for the hearing of all causes to be heard under this act, be composed, when the same is practicable, of the judge who has presided at the trial and of two other judges. Composition of the court.

85. The hearing of causes instituted in virtue of this act, in the judicial districts of Quebec, Three Rivers, Saguenay, Chicoutimi, Gaspé, Rimouski, Kamouraska, Montmagny, Beauce and Arthabaska, shall be had in the city of Quebec. Place of hearing.

That of causes instituted in the judicial districts of Montreal, Ottawa, Terrebonne, Joliette, Richelieu, Saint-Francis, Bedford, Saint-Hyacinth, Iberville and Beauharnois, shall be had in the city of Montreal.

86. If the trial has been held in any district, other than those of Montreal and Quebec, the record, with a copy of all orders rendered in the cause, shall be transmitted by post, registered, to the prothonotary of the superior court at Quebec or Montreal, as the case may be, who shall enter them in a special plumitif or register. Transmission of record.

The record and the orders so transmitted shall remain of record, in the office of the prothonotary receiving the same.

87. All the proceedings shall be conducted as in an ordinary case in review. Procedure.

Additional days.

88. The superior court sitting in review may appoint, for the hearing of election petitions, as many additional days as to it shall seem advisable.

Judgment.

89. The superior court sitting in review shall determine :

1. Whether the member whose election or return is complained of, has been duly elected, or declared elected ; or
2. Whether any other person, and who, has been duly elected ; or
3. Whether the election was void ; and
4. All other matters arising out of the petition or requiring its determination.

No appeal.

90. Such judgment shall not be susceptible of appeal.

Transmission of the judgment.

91. One certified copy of such judgment shall be transmitted without delay to the speaker, and another to the prothonotary of the district, in which the petition was presented.

Report of the court.

92. When any charge is made in an election petition of any corrupt practice having been committed at the election, the court shall further transmit to the speaker, together with its judgment, a report in writing, stating :

1. Whether any corrupt practice has or has not been proved to have been committed by or with the knowledge and consent of any candidate at such election, stating the name of such candidate, and the nature of such corrupt practice ;
2. The names of any persons against whom, during the examination of the petition, the commission of any corrupt practice has been proved ;
3. Whether corrupt practices have, or whether there is reason to believe, that corrupt practices have extensively prevailed at the election to which the petition relates.

Special report.

93. A special report shall, at the same time, be transmitted to the speaker, as to all questions and matters arising in the course of the trial of the petition, and which, in the judgment of the court, ought to be submitted to the legislative assembly.

Special case.

94. If, upon the application of all the parties to a petition, it appears to the judge that the question raised by the petition can be conveniently stated as a special case, such judge may direct the same to be so stated.

Each such special case shall be inscribed and heard before the superior court sitting in review, which shall thereupon give such judgment as to justice may appertain.

If the decision is final, a certified copy of the judgment on such special case, shall be transmitted to the speaker; but if the decision is not final, the record shall be remitted for further proceedings to be had on the petition.

XI.—WITHDRAWAL, ABATEMENT OF THE PETITION AND DISCONTINUATION OF PROCEEDINGS BY THE RESPONDENT.

95. No election petition shall be discontinued without the leave of the judge or court before whom it is pending, given upon application made for that purpose. ^{Authorisation required.}

96. No such application shall be made until the petitioner has given, in the manner, within the delays, and at the place prescribed by the rules, in the electoral district for which the election or return is in question, notice of his intention to discontinue his petition. ^{Notice.}

This notice shall be also published in the *Quebec Official Gazette*.

97. On the hearing of such application, any person who might have petitioned against the election, may apply to the judge or to the court before whom the case is pending, to be substituted in lieu of the petitioner so desiring to discontinue his petition. ^{Substitution of petitioners.}

98. The judge or the court before whom the case is pending, may, if he or it think fit, substitute as petitioner any such applicant, and may further, if the withdrawal is, in their opinion induced by any corrupt bargain or consideration, order that the security given on behalf of the original petitioner, remain as security for any costs that may be incurred by the subsequent petitioner, and that to the extent of the sum named in such security, the original petitioner shall be liable to pay the costs of the substituted petitioner. ^{Order as to security.}

99. If no such order be made, with respect to the security given on behalf of the original petitioner, security similar to that required at the presentation of a petition, and subject to the like conditions, shall be given on behalf of the substituted petitioner, before he proceeds with his petition, and within the delay prescribed by the judge or court before whom the case is pending. ^{Other security.}

The amount of security may however be reduced, as the circumstances of the case may require.

100. Subject always to the conditions hereinabove set forth, the substituted petitioner, shall, as nearly as may be, ^{Position of the substitute.}

stand in the same position, subject however to the same liabilities, as the original petitioner.

Costs.

101. If the petitioner withdraw his petition, he shall be liable to pay the costs of the respondent, unless the judge or the court before whom the case is pending, otherwise orders.

Consent required.

102. If there are more petitioners than one, the application to withdraw the petition must be made with the consent of all the petitioners.

Report to be made.

103. In every case of the withdrawal of a petition, the judge or the court before whom the case is pending, if of opinion that such withdrawal was the result of any corrupt arrangement, or in consideration of the withdrawal of any other petition, shall report such opinion to the speaker, with the circumstances attending the withdrawal of the petition.

Substitution on refusal to proceed.

104. If the petitioner neglects or refuses to proceed, the judge or the court before whom the case is pending, may permit one or more persons to be substituted as petitioners, according to the principles and rules hereinabove set forth.

Death of petitioner.

105. An election petition shall be abated by the death of a sole petitioner, or of the survivor of several petitioners.

Previous costs.

106. The abatement of a petition shall not affect the liability of the petitioner to the payment of costs previously incurred.

Notice.

107. On the abatement of any petition under section 105 of this act, notice of such abatement shall be given in the electoral district, for which the election or return has been contested, in the manner, and within the delays, and at the place prescribed by the rules.

Such notice shall be also published in the *Quebec Official Gazette*.

Substitution.

108. Within the prescribed delay, any person who might have petitioned against the election, may apply to the judge or the court before whom the case is then pending, to be substituted as petitioner.

Idem.

109. The judge or the court before whom the case is pending, may, if he or it think fit, substitute such applicant to the original petitioner.

Security.

Such substituted petitioner shall be obliged to furnish security similar to that required at the presentation of an

election petition, but the amount may be reduced as circumstances may require.

110. If, during the trial of any election petition, it happens : Special events.

1. That the respondent dies ; or
2. That the legislative assembly has declared his seat vacant ; or
3. That he has given notice that he does not intend to oppose, or further to oppose the petition ; or
4. That he is summoned to the Legislature, as a legislative councillor,

Notice of each such event shall be given.

Such notice, as well as that mentioned in paragraph 3 of this section, shall be given in the same manner, as that required for the withdrawal of an election petition. Notice.

111. Within the delay prescribed, any person who might have petitioned against the election, may apply to the judge or court before whom the case is pending, to be admitted as respondent to oppose the petition, or so much thereof as may still remain undisposed of. Substitution of respondent.

112. Such person shall accordingly be admitted to oppose the petition, or so much thereof as may remain undisposed of, either in place of the respondent, or with any other respondent if there be any. Idem.

Any number of persons, not exceeding three, may be so admitted.

113. The persons thus admitted shall be liable for the costs thereafter incurred, according to the result of the case. Costs.

114. If any of the events mentioned in section 110 of this act happen during the trial of an election petition, the judge or the court before whom the cause is pending, shall adjourn the proceedings, to the end that the notice required as above mentioned may be given. Adjournment.

115. Whenever a respondent shall have given the prescribed notice, that he does not intend to oppose or further to oppose the petition, the judge or the court before whom the case is pending, shall immediately report the same to the speaker. Report.

116. The respondent cannot, after having given such notice, appear or act in any proceeding as a party interested against such petition, nor shall he, until the legislative assembly has received the final report on the petition, sit or vote in the legislative assembly. Incapacity of respondent discontinuing.

Case of a
double return.

117. When, on a petition complaining of a double return, the respondent has given notice that he does not intend to oppose the petition, and no party has been admitted to oppose the petition, the petitioner may, provided there be no petition against the other member declared elected in such double return, withdraw his petition, by giving notice to the prothonotary.

The judge or the court before whom the case is pending, shall immediately report the fact to the speaker.

XII.—DUTIES OF THE SPEAKER.

Duties of the
speaker.

118. The speaker shall, at the earliest practical moment after having received the judgments and reports, adopt all the proceedings necessary for confirming or altering the return of the returning officer, or for the issuing of a new writ for a new election within thirty days, or for otherwise carrying the final judgment into execution, as circumstances may require.

He may, for the issuing of such writ of election, address his warrant, under his hand and seal, to the clerk of the crown in chancery.

Communica-
tion to leg. ass.

119. The speaker shall, without delay, communicate to the legislative assembly, the judgments and the reports received, and his own proceedings thereon.

Special report.

120. When a special report has been received, the legislative assembly may make such order in respect of such special report as it may deem proper.

XIII.—COSTS.

Tariff of advo-
cates' fees.

121. The judges of the superior court, or the majority of them, may, from time to time, make, revoke or alter a tariff of fees to be paid to advocates and counsel, on proceedings to be had in relation to election petitions.

A copy of each such tariff shall be transmitted to the legislative assembly, in the same manner as the rules.

Prothonota-
ries' fees.

122. The expenses and fees of prothonotaries and other taxes imposed on proceedings, in actions of the highest class in the superior court, shall be exigible in proceedings on an election petition, in so far as the latter resemble those mentioned in the first instance.

Decision as to
costs.

123. All costs, charges and expenses resulting from the presentation of an election petition and of the proceedings consequent thereon, shall be payable by the petitioner or by the adverse parties, in such manner and in such propor-

tions as the judge or court before whom the case is pending, may determine.

124. The judge or court before whom the case is pending, shall disallow all costs, charges and expenses, which in their opinion, have been caused by vexatious conduct, or unfounded allegations or objections, on the part of either the petitioner or respondent, and with the view of discouraging any needless expense, shall throw the burden of paying the same on the parties by whom it was caused, whatever be the result of the contestation. Needless costs.

125. The costs shall be taxed in the manner ordinarily observed in civil actions, by the judge or any of the judges of the district, in which is the record. Taxation.

126. In the event of costs being awarded against the petitioners, a statement of costs due to his witnesses and to each party, with a certificate of taxation, shall, within the thirty days next after the rendering of the decision, be produced in the office of the prothonotary in which is the record. Costs against petitioner.

At the expiration of such delay, if the amount of costs so established does not exceed the deposit, the petitioner may withdraw the residue.

127. Such persons, at the expiration of such delay of thirty days, shall be entitled to receive, from the provincial treasurer, out of the amount deposited as security, the sum taxed in their favor, if the total amount of the various certificates do not exceed the amount of the deposit. Payment of costs.

If the amount exceed that of the deposit, each such person shall receive only his proportion thereof; and he may afterwards cause to be issued a writ of execution against the property of the petitioner, for the balance of his costs, in the manner ordinarily followed in civil actions.

128. If the respondent is condemned in costs, such costs shall be taxed, and may, at the expiration of thirty days from the rendering of the judgment, be levied by writ of execution, in the manner usually pursued in civil causes. Costs against respondent.

XIV.—COMING INTO FORCE OF THIS ACT.

129. This act shall come into force on the day of its sanction. Entry into force of act.

APPENDIX.

Form mentioned in section 78 of this act.

CANADA,
PROVINCE OF QUEBEC, } SUPERIOR COURT.
District of . }

Election for _____, held the
day of _____

I _____ of _____, make
oath and say :

1. That I have, in my possession or in my power, the documents referring to the matters in question, mentioned in the first and second parts of the first schedule hereunto annexed.

2. I object to the production of the said documents referred to, in the second part of the said first schedule.

3. (*Mention the motive of the objection, and verify the facts as far as possible.*)

4. I had, but have no longer in my possession or in my power, the documents referring to the matters in question mentioned in the second schedule hereunto annexed.

5. The documents last mentioned were in my possession or power for the last time, the (*say when*).

6. (*State what has become of the documents last mentioned, to whom you delivered them, or in whose possession they now are.*)

7. To the best of my knowledge, of my remembrance, and of my information and belief, I have not now, nor ever had in my own possession, custody or power, or in the possession, custody or power of my agents or attorneys, agent or attorney, or in the possession, custody or power of any one, in my name and for myself, any deed, account, account books or report, voucher, receipt, letter, memorandum, paper or writing, or any copy or extract of any document of this character, or document whatever referring to the matters in question, or to any one of them, or in which any entry is made relating to these matters, or any of them, other than the documents mentioned in the first and second schedules hereunto annexed.

Sworn, &c.

(*Annex the schedules mentioning the documents in question.*)