

C H A P. 54

An Act to amend the Code of Civil Procedure respecting trials by jury

[Assented to 25th April, 1903]

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

1. Article 437 of the Code of Civil Procedure is amended C. C. P., 437, by replacing the word : "fifty," in the fifth line, by the amended word : "eighty."

2. Article 439 of the said Code is replaced by the fol- C. C. P., 439, lowing articles : replaced.

"439. The prothonotary then strikes from the list prepared by him the names of all persons entered thereon, whom he, personally or by public notoriety, knows to be dead or absent from the district, as well as the names of those who, by affidavit or written proof, appear to be so dead or absent from the district. Prothonotary to strike certain names from list.

If there then remain upon the list fifty-two names or over, the parties proceed alternatively to strike from the list the name of one of the persons therein designated, to the number of twelve each, paraphing each name struck out. The first twenty-eight names then remaining form the panel from which the twelve jurors who are to serve in the case are taken. Twelve names to be struck out by parties alternatively.

Whenever, in the cases provided for by Articles 435 and 436, the jurors are under the judge's order to be specially qualified, the names of the first fourteen traders and of the first fourteen non-traders, or of the first fourteen persons speaking the French language and of the first fourteen persons speaking the English language then remaining, form such panel. If jurors are to be specially qualified.

" 439a. If there do not remain upon such special list fifty-two names, after the prothonotary has so struck the names of the persons who are dead or absent from the district, he shall, at once, add thereto the first ten names on the list of jurors in civil matters, after the last name already taken, of the persons who are specially qualified if it has been so required by the order of the judge, and he shall, as before, strike from such list the names of those persons who are dead or absent from the district, and, if there are still less than fifty-two names on the special list, If fifty-two names do not remain on list.

he shall add ten other names from the list of jurors in civil matters and strike therefrom such as are dead or absent from the district and so on until fifty-two names remain on the special list, after which the parties proceed as provided by the previous Article.

Prothonotary may strike out names by consent.

“**439b.** Upon application by one of the parties, supported by affidavit setting forth that any person whose name is entered on the special list is subject to any disqualification or disability, or is exempt from serving as a juror, the prothonotary may with the consent of both parties, strike off such name from such list.

Proceedings if prothonotary does not strike name objected to.

If, however, any party applies for the striking by the prothonotary of any name on the list, and the other party objects, the prothonotary shall thereupon prepare a supplementary list containing a number of jurors equal to those objected to, which names shall be added to the panel, but such jurors shall not be called upon to serve unless in place of those who have been objected to.

Costs of objection not maintained by court at trial

If, at the time of the trial, the objections taken to the jurors are not sustained, the additional costs, occasioned thereby, shall be taxed against the party taking the same.

C. C. P., 441, amended.

3. Article 441 of the said Code is amended by inserting therein, after the words : “prothonotary may,” in the second line, the words : “proceed under the provisions of Article 439 to strike the names of those who are dead or absent from the district, and may”.

C. C. P., 443, amended.

4. Article 443 of the said Code is amended by replacing the words : “twenty-six persons whose names compose the panel” in the fourth line, by the words : “twenty-eight persons whose names compose the panel, together with those persons whose names are added under Article 439b.”

Coming into force.

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