

"L'action est en conséquence maintenue avec dépens."

*P. J. Arthur Cardin, avocat pour les demandeurs.*

*J. B. Brousseau, C. R., avocat pour le défendeur.*

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### COURT OF APPEAL.

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Trial by jury.—New panel of jurors.—Notice to parties.  
—Verbal objections.

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MONTREAL,

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Sir L. A. JETTÉ, C. J., TRENHOLME, CROSS, ARCHAMBEAULT,  
CARROLL, JJ.

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### II. ARCHIBALD *et al.* vs THOMAS CULLEN.

HELD.—10. That the principle underlying the selection of a jury is that both parties should be on an equal footing, nothing can be done without both parties being notified or consenting;

20. That when a panel of jurors becomes exhausted, one of the parties cannot demand by an *ex parte* motion to the court to issue a new panel of jurors; this could only be done by motion in writing with the consent of the other party;

30. That verbal objection and demand to quash this illegal issue of panel of jurors made by the defendants, without a written motion is sufficient.

*Code of civil procedure, articles 3, 439, 449, 452, 460.*

The respondent Cullen instituted an action in damages