

11° That the appellant does not consider himself as liable to pay the costs of suit in the Court below, if the action be dismissed ; but that Thomas Aylwin has given him to understand he himself would pay the costs.—(17th Interrogatory.)

The perusal of this uncontradicted evidence carries such a conviction of fraud as could leave no doubt in the minds of the Court below and the appellant's action was, on the 19th of June last, finally dismissed with costs.

From this Judgment, however, the present Appeal has been brought, and the reasons assigned are reducible to two, vizt.

1° That the Court below have erroneously admitted the Respondent's Exceptions and ordered proof thereon.

2° That the Appellant's Conclusions ought in Law to have been awarded unto him.

The Respondent's Answers are of course General.

QUEBEC, 12th November, 1816.