

By section 2 such affidavit or affirmation shall set forth the real and true names, etc, of the printer or publisher of the newspaper and of all the proprietors; and by sec. 6 if the number of publishers does not exceed four the affidavit or affirmation shall be made by all, and if they exceed four it shall be made by four of them; sec. 5 provides that the affidavit or affirmation may be taken before a justice of the peace or commissioner for taking affidavits to be used in the Court of Queen's Bench.

*Held*, affirming the decision of the Court of Queen's Bench (6 Man. L. R. 578), 1. That 50 Vict. c. 23, contemplates and its provisions apply to the case of a corporation being the sole publisher and proprietor of a newspaper.

2. That sec. 2 is complied with if the affidavit or affirmation states that a corporation is the proprietor of the newspaper and prints and publishes the same. Gwynne, J., dissenting.

3. That the affidavit or affirmation, in case the proprietor is a corporation, may be made by the managing director.

4. That in every proceeding under sec. 1 there is the option either to swear or affirm, and the right to affirm is not restricted to members of certain religious bodies or persons having religious scruples.

5. That if an affidavit or affirmation purports to have been taken before a commissioner, his authority will be presumed, and need not be proved in the first place.

By sec. 11 of the Libel Act, actual malice or culpable negligence must be proved in an action for libel unless special damages are claimed.

*Held*, that such malice or negligence must be established to the satisfaction of the jury, and if there is a disagreement as to these issues the verdict cannot stand.

*Held*, further, that a general allegation of damages by loss of custom is not a claim for special damages under this section.

*Per Strong, J.*—Damages by loss of custom must be specifically alleged and the names of the customers given, otherwise evidence of such damages is inadmissible.

Appeal dismissed with costs.

*McCarthy, Q.C.*, for appellant.

*Robinson, Q.C.*, for respondents.