

PROVINCE OF CANADA,)
DISTRICT OF QUEBEC.) **IN THE QUEEN'S BENCH.**

CAROLINE J. FERGUSON,

APPELLANT,

AND

CHARLES ROGER,

RESPONDENT.

CASE OF THE APPELLANT.

THE Action, from the judgment in which the present appeal has been instituted, was an action for libel, and was dismissed, with costs, on the ground that the plaintiff had not adduced sufficient evidence of *publication*; the Honorable President of the Court declaring, at the same time, that they were prepared, but for this defect in the evidence, to enter up judgment against the defendant for the full amount of damages demanded.

The plaintiff filed at the enquête a certified copy of the defendant's affidavit, lodged by him as editor and proprietor of the "Quebec Observer," at the office of the Clerk of the Peace for the District of Quebec, (Vide Appendix, A.) and also a newspaper corresponding with the description given in the affidavit.

The Provincial Ordinance 1 Vict.-Cap. XX. Sec. 9, declares such affidavit, or a certified copy, "*in all proceedings civil and criminal*" touching any newspaper mentioned in any such affidavit, or *touching any publication in such newspaper*, to be *conclusive evidence* of the truth of the matters set forth in such affidavit, against every person who has signed the same;—

Sec. XI enacts, that "it shall not be necessary after any such affidavit or affirmation, or a certified copy thereof, shall have been produced in evidence as aforesaid, against the persons who made and signed such affidavit or affirmation, or are therein named according to this Ordinance, or any of them, and after a newspaper, pamphlet or other such paper as aforesaid, shall be produced in evidence, intituled in the same manner as the newspaper, pamphlet or other paper, mentioned in such affidavit or affirmation or copy is intituled, and wherein the name or names of the printer and publisher, or printers and publishers, and the place of printing mentioned in such affidavit or affirmation, for the *plaintiff*, informant, or prosecutor, or person seeking to recover any of the penalties given by this Ordinance, to prove that the newspaper, pamphlet or paper, to which such suit or trial relates, was purchased