

specific performance and for the price of the machine or in the alternative for damages for breach of the contract.

Held, that although the written agreement named the price, it provided for deferred payments not therein specified and extrinsic evidence shewing that the parties relegated to future negotiations the determination of the terms and amounts of the deferred payments which were not subsequently arranged there was no completed contract: and the action was dismissed.

Judgment of the County Court of York reversed.

Field, for appellant. *F. E. Hodgins*, K.C., contra.

Province of Nova Scotia.

SUPREME COURT.

Full Court.]

MARSHALL *v.* SCHWARTZ.

[May 4.

Practice—Certiorari—Crown rules.

Appeal from Meagher, J., allowing a certiorari to remove an order for payment of seaman's wages under s. 52 of the Seamen's Act, R.S.C. 1886, c. 74. Appellant relied chiefly on the ground that upon the motion for a writ applicant did not furnish an affidavit verifying the fact that the recognizance and affidavits of justification required by Rule 29 had been filed.

Held, that Rule 29 required such an affidavit, and, following *McIsaac v. McNeill*, 28 N.S.R., the requirements of the rule being prohibitive, were therefore imperative. Appeal allowed with costs.

Lane and *J. A. McDonald*, for appellant. *O'Connor* and *Matheson*, for respondent.

Full Court.]

CREASER *v.* CREASER.

[May 4.

Negligence—Setting fire for fumigating purposes—Stat. of 6 Anne, c. 58.

Defendant placed a tin pan containing sulphur, paper and chips in his hen house for fumigating purposes and after set-