

affidavit constate les mêmes faits que la requête. Je ne vois pas la nécessité de les répéter de nouveau, car la requête se trouve virtuellement appuyée d'un affidavit constatant les faits et les circonstances de la cause.

"L'article 1294 n'exige pas de formule particulière. C'est le principe sur lequel est bâsée toute l'économie de notre Code de procédure (Art. 105 C.P.C.).

"Cette première objection ne me paraît pas suffisante pour m'empêcher d'émettre le bref.

"20. Est-il vrai que le plaignant, dont la plainte est déboutée devant le juge de paix, n'a pas droit au *certiorari*? Une semblable prétention est absolument contraire à la jurisprudence anglaise. Voici ce que dit Paley (t. 7 p.303, ed.1827) sur cette question: "When a writ of *certiorari* is applied for, it is either at the instance of the crown, or of the defendant. First, where the application is a the suit of the crown, it is either by the attorney general *ex officio* or by the private prosecutor. In both these cases alike, it issues of course, and without assigning any grounds (2 *P.R.*, 89; 2 *Hawk P.C.*, c. 27 s. 27). Neither are the restrictions and limitations as to the time of suing out the *certiorari*, nor other regulations, as to notice, recognizances, and the like, attached to an application by the crown or prosecutor. (1 *East*. 293, 303 note d. *R.V.*, *Farewell*, 2 *Str.* 1209, and *S.C.* 1 *East*, 305 from a *M.S.* note). Besides the authority of practice, it has been solemnly decided by the court, upon a review of the subject, that the general words of the statute restraining the issuing of writs of *certiorari* do not apply to prosecutors. (*Per Lord Kenyom*, 1 *East* 305).

"There is this distinction between an application by the attorney general officially, and by a private prosecutor viz.: that in the former, the writ is of absolute right; but in the case of an affidavit prosecutor, though