

Mathers, J.] **REX EX REL. TUTTLE V. QUEENEL.** [May 7.

Quo warranto—Qualification of relator—Relator put forward by real prosecutor.

An application for leave to exhibit an information by way of quo warranto to unseat a person as school trustee should be dismissed if the relator is a person not really interested in the matter complained of but merely put forward as a nominal relator by the real prosecutor because of the latter's want of qualification to be such relator. Shortt on Informations, p. 155; *Rex v. Dawes*, 4 Burr. 2120; *King v. Parry*, 6 A. & E. 810, and *Reg ex rel. Stuart v. Standish*, 6 O.R. 408, followed.

A member of the board who voted for payment of the account of a brother member for wood supplied for the school would not be qualified to be relator in proceedings to unseat the latter by reason of such payment.

Curran, for applicant. F. M. Burbidge, for defendant.

Province of British Columbia.

COURT OF APPEAL.

Full Court.] **PIPER V. BURNETT.** [April 29.

Practice—Security for costs of appeal—Order LVIII, r. 15a—Discretion.

Held, on appeal (see p. 336) that the order made was within the discretion of the judge below, and should not be interfered with, *Ward v. Clark* (1896) 4 B.C. 501 overruled.

Hannington, for appellant. Woods, for respondent.

Full C. [April 29.

IMPERIAL TIMBER & TRADING CO. V. HENDERSON.

Ship—Mortgage—Registration—Priority—Right of execution creditor against holder of an unregistered mortgage.

Ships being specially exempted from the operation of the Bills of Sale Acts, and there being no provision in the Merchants Shipping Act penalizing neglect to register a mortgage against a ship, an execution creditor cannot seize and sell in priority to an unregistered mortgage.

Taylor, K.C., for appellant. Craig, for respondent.