

notes and mortgages" if there were, at the time of his death, mortgages which would answer the description in the will.

3. A legacy lapses if the legatee dies before the testator unless it can be regarded as a legacy to a class: Theobald on Wills, p. 780.

4. The executors in this case should be allowed as compensation the following commissions: One half of one per cent. on cash in the bank, three per cent. on collection of all other sums, and one per cent. on all payments out.

Hoskin, for executors. *Macdonald*, K.C., for infants.

Province of British Columbia.

SUPREME COURT.

Full Court.]

PIPER v. BURNETT.

[April 29.

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

The granting of an order directing appellant to give security for costs is a matter within the discretion of the judge applied to, and his decision ordinarily should not be interfered with.

Ward v. Clark (1896) 4 B.C. 501 overruled.

R. W. Hannington, for respondent. *Woods*, for appellant.

Full Court.]

ANDERSON v. CITY OF VANCOUVER.

[April 28.

Examination of parties.

A park commissioner, being a legislative functionary, not subject to the control or direction of the municipal corporation, is not an officer of the latter body within the meaning of Order XXXIa, and is not examinable under said Order XXXIa before trial in proceedings against the corporation.

W. A. Macdonald, K.C., for the corporation. *Reid*, K.C., contra.