

Province of British Columbia.

SUPREME COURT.

Drake, J.] IN RE PEARSE ESTATE. [Feb. 17, 1903.

Mortmain Act—Whether in force in B. C. — Probate duty.

Petition by trustees and executors of a will to obtain the opinion of the Court on questions arising under the will.

Held, 1. The statute, 9 Geo. II., c. 36, relating to charitable uses and commonly known as the Mortmain Act, is not in force in British Columbia.

2. Probate duty is in the nature of a legacy duty and is payable in the first instance out of the estate.

Note:—In *Re Brabant* in 1889, Gray, J. held the Mortmain Act not to be in force in B.C., and in *Sweetman v. Durieu*, Walkem, J. gave a similar decision in 1897. Neither decision was reported.

Full Court.] NORTH VANCOUVER v. KEENE. [Nov. 20, 1903.

Municipal corporation—Officer of—Tenure of office—Removal of officer—Tax sale—Commission on proceeds.

Appeal from judgment of HENDERSON, Co. J., dismissing plaintiff's action and giving defendant judgment on counter claim. Defendant had been treasurer of the municipality and on a dispute arising about his right to charge commission on the purchase price of lands sold at a tax sale he paid himself out of the funds contrary to orders and was dismissed without notice.

Held, allowing the appeal, that under s. 45 of the Municipal Clauses Act a municipal officer holds office "during the pleasure of the Mayor or Council," and so may be removed at any time without notice or cause shewn therefor.

A tax sale by-law provided that the collector should be entitled to a commission on all arrears of taxes collected:

Held, that where lands were bid in by the municipality because the amount offered at the sale was less than the arrears of taxes and costs owing on the lands the collector was not entitled to a commission on the price of lands so bid in.

Williams, K.C., and *Heisterman*, for appellant. *Wilson*, K.C., Atty.-Gen., for respondent.

Full Court.] CENTRE STAR v. ROSSLAND MINERS' UNION. [Jan. 6.

Venue—Change of—Convenience—Fair trial.

The writ was issued in Rossland where all parties resided. The venue was laid in Victoria and defendants applied on the ground of greater con-