

was not to sell until after 12 months from the time he received his fi. fa. (lands). After this Act the clerk issued a fi. fa. (goods), as of course, without consulting the court, but deemed it requisite to receive further order before he issued the execution against lands.

John Gray had obtained judgment against William Willcocks. In Michaelmas Term, 46 Geo. III., Nov. 6, 1805, Mr. Scott (afterwards Attorney-General and Chief Justice) obtained from the court (Powell and Thorpe, JJ.) a rule calling upon the defendant to shew cause why a fi. fa. (lands) should not issue, on the judgment in debt, the fi. fa. (goods) being returned, and it was directed that the Rule should be personally served on the defendant. After an enlargement, the matter was argued, and on Jan. 13th, 1806, the court divided, Powell, J., being in favour of the issue of the fi. fa. (lands), but Thorpe, J., holding that such a writ could not validly be awarded. This was the third time the point had been argued. The first time, Allcock, J., had held that the writ should not, Powell, J., that it should issue. The second time, Allcock, C.J., and Cochrane, J., considered that it should not, Powell, J., that it should issue.

This time the matter went to the Court of Appeal. This court sustained Thorpe, J.; and the plaintiff appealed to the Privy Council. The Board on February 15, 1809, reversed the Court of Appeal. On July 13, 1809, the Court of Appeal remitted the record to the Court of King's Bench, in order that a writ of execution "should issue against the lands and tenements of the defendant for satisfaction of the plaintiff's debt and judgment," and on July 14, 1809, Mr. Justice Powell had the satisfaction of sitting in court (composed of Scott, C.J., and himself) when a fi. fa. (lands) was directed to issue in accordance with his opinion.

And so *Gray v. Willcocks* is a leading case, of which not one Ontario lawyer in a hundred has ever heard.

There never has since been any question as to the liability of lands to execution; the only question has been, "what is