

has been segregated from the rest of the estate, the expenses and compensation in respect thereof must be borne by such share.

11. Mere mistake of judgment, lack of skill in keeping the accounts, or even the fact that the trustee or executor is found indebted to the estate, will not alone disentitle him to compensation. Only where there has been actual dishonesty, or other serious misconduct, on his part, will he be entirely deprived of some remuneration.

12. Where there are several trustees or executors entitled to share in the total remuneration allowed, it is to be apportioned between them according to the relative values of their respective services.

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*GRAY v. WILLCOCKS.*

AN OLD CAUSE CÉLÈBRE.

Ontario solicitors who issue writs of *fi. fa.* as of course do not in general know of the troubles of their predecessors in issuing process during the first years of the existence of Upper Canada. When the Court of King's Bench was first instituted by the Provincial Statute of 1794, 34 Geo. III. c. 2, no subject had any transferable property in land within its jurisdiction, but that was soon a thing of the past, and the Court ordered a writ of *fi. fa.* against goods and lands as, of course, in any judgment, under the provisions of the Act of 5 Geo. II. which made lands in the Plantations or Colonies subject to simple contract debts, and provided (sec. 4) that in satisfaction of all debts established by judgment of the courts such execution as would go against goods and chattels should operate also against lands and tenements. This was, of course, a marked departure from the English writ of *Elegit*.

Then came the Provincial Act of (1803), 43 Geo. III. (U.C.) c. 1 (assented to by the King on January 4, 1803, after being reserved) which provided that a writ of *fi. fa.* should issue in the first instance only against goods a *fi. fa.* (lands) should not issue till after the return of the *fi. fa.* (goods) and the sheriff