

of York, upon the passing of the executors' accounts, allowing the executors a large sum as compensation for their time and services and their care, pains, and trouble in administering the estate.

The other executor was a solicitor. The testator had carried on a retail liquor business in the city of Toronto; and after his death the business was continued by the executors, the license being in the name of the appellant. The solicitor-executor gave much time to the affairs of the estate and business, and rendered professional services when necessary.

The appellant personally attended to the business, and lived upon the premises. She was advised and assisted by her co-executor. The testator died in 1910; the business was sold in 1915; and a large profit was realised.

The appellant desired that her co-executor should receive no more than \$1,000.

The appeal was heard in the Weekly Court at Toronto.

J. A. Paterson, K.C., for the appellant.

W. N. Tilley, K.C., for the solicitor-executor.

THE CHANCELLOR, in a written judgment, said that there was no error in principle in the allowance made, and the only question was one of quantum. On this head the Court is, on appeal, loath to interfere, even though it seems that the allowance is more liberal than the Court would have given if applied to in the first instance: *McDonald v. Davidson* (1881), 6 A.R. 320.

The result of the policy of carrying on the business, instead of winding it up by sale within the usual year for administration, and the success of the result, were shewn by the increase in the value of the estate from \$26,237 to \$230,126.

A good deal of miscellaneous legal business was done and advice given by the solicitor-executor, for which he might have made professional charges but for his position. That was a matter to be taken into account when the value of the executor's service was being estimated: sec. 67 (4) of the Trustee Act, R.S.O. 1914 ch. 121.

The estate had derived its value mainly from the acts and services of the executors after the death of the testator and by the prosecution of the business till a suitable time came for selling. Reference to *Thompson v. Freeman* (1868), 15 Gr. 384, 389.

The English authorities are not in general apposite; but reference might be had to *Brocksopp v. Barnes* (1820), 5 Madd. 90; *Forster v. Ridley* (1864), 4 DeG. J. & S. 452.