to shew cause why they should not deliver up a certain promissory note in their possession.

The facts appear from the argument.

On the return of the summons

*Symons* shewed cause.

The agents have unpaid general agency bills, the amount of which greatly exceeds that of the note. Some of these bills have been taxed and judgment obtained upon them; others have only been rendered. Although as against the client the lien of the town agent may be particular, that is, extends only to costs incurred in the particular matter in which the note was received, as against the attorney the lien is a general one, and that independently of any agreement for a lien. Marshall on Costs, 460; Stokes on Liens of Attorneys," 179 *et seq.* *Re Cross*, 4 Chy. Cham. 11, shews that the same principles have been adopted by the Courts here.

*Watson, contra.*

The note is one made by the client to the attorney in payment of a particular bill of costs; it was discounted, and, after protest, was taken up by the attorney out of his own money. Subsequently, at the instance of the client, an order was made for the taxation of this bill, with the usual provisions as to payment and delivery up of papers. The note was sent to the town agents to be used upon the taxation of the attorney's bill, for the sole purpose of being used as evidence of an admission by the client. Before the note was produced or the taxation completed, the agents voluntarily discharged themselves, and refused to deliver up any papers in their possession, claiming to have a general lien thereon. The country attorney denies his liability to the agents; that issue cannot be tried on this application; the question here is one of right between principal and agent, not of liability. The note not having been paid, the attorney need not give the client credit for it, but may proceed on his bill, and if he did so the client would be entitled to the note. This application is merely in anticipation of one by the client, to whom the agents are bound to deliver up the note: *Bell* v. *Taylor*, 8 Sim. 216; Stokes on "Liens of Attorneys, 180. The possession of the agent is possession of the attorney: *Watson* v. *Lyon*, 7 DeG. M. and G. 298. The agents having discharged themselves, cannot set up a lien: *Re Faithfull*, L. R. 6 Eq. 326.

*Symons* in reply.

Although the town agents have discharged themselves, it is not in such a case as this that they would be ordered to deliver up, and if it were it would only be upon an undertaking to return them: *Robins* v. *Goldingham*, L. R. 13 Eq. 440.

Mr. Dalton.—Town agents have a general lien on all documents, money and articles coming into their hands in the general course of their agency business as against the attorney himself, irrespective of the purpose for which they were received: Stoke 179 *et seq.* The decisions in *Re Faithfull* and *Robins* v. *Goldingham* are not applicable to the present case.

*Summons discharged, with costs.*

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Trust and Loan Company v. McGillvray.

*Ejectment by Mortgagee—Staying proceedings—Costs of an abortive sale.*

*Held*, that a mortgagor moving to stay proceedings in an action of ejectment by the mortgagee must pay the costs of an abortive sale under a power in the mortgage.

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This was an action of ejectment by mortgagee against mortgagor.

*Spencer* obtained a summons to stay proceedings upon payment of the principal and interest and costs.

On the return of the summons,

*Marsh* appeared to consent to the order, but produced an affidavit showing that the plaintiffs had proceeded under a power of sale in their mortgage, but that the sale had proved abortive, and submitted that the defendant must pay the costs of this abortive sale as well as the costs of this action before proceedings could be stayed. He pointed out that the proceedings in ejectment were taken to complete the remedy under the power of sale, and, in effect, for the benefit of the mortgagor, for it was found that, when on a sale under mortgage possession could be given, a larger sum was obtained for the property. He cited *Dowll* v. *Neale*, 10 W. R. 627.

*Spencer, contra.*

Mr. Dalton held that the plaintiff was entitled to proceed, unless the defendant paid the costs of the abortive sale as well as the principal, interest, and the costs of this suit.

*Usual order, with above provision as to the costs of the abortive sale.*