

SOLICITOR—LIEN FOR COSTS—LIEN WAIVED BY TAKING SECURITY.

In re Douglas (1898) 1 Ch. 199, North, J., determined that where a client, on retaining a solicitor to negotiate a loan, signed a document by which she charged her interest in the property offered as security for the proposed loan, with the payment of the solicitor's costs, that that was such a taking of security for his costs by the solicitor as amounted to a waiver of his lien on his client's documents in his possession for such costs.

CONTRIBUTORY MORTGAGE—TRUSTEE—PRIORITY.

Stokes v. Prance (1898) 1 Ch. 212, was a case between contributory mortgagees to determine a question of priority. The plaintiffs were trustees of the will of Hester Stokes, and on the advice of their solicitors advanced £3,000 on the security of a mortgage for £6,000, the remainder of the mortgage being advanced by the solicitors, the mortgage was taken in the name of two trustees who made a declaration of trust as to £3,000 for the plaintiffs and as to the further sum of £3,000 "residue of the said sum of £6,000 and the residue of the interest to become due and payable" under the mortgage in trust for the solicitors. By another contemporaneous document the solicitors guaranteed the plaintiffs the sufficiency of the security and the repayment of the sum of £3,000 and interest. The solicitors afterwards assigned their interest in the security to other persons, and were afterwards adjudicated bankrupts. The security proving deficient, the plaintiffs claimed that they were entitled to be paid their claim in priority to that of the assignees of the solicitors. Stirling, J., was of opinion that the use of the word "residue" which was relied on as creating a priority in favour of the plaintiff's portion of the loan did not have that effect, and neither had the solicitors' guarantee of the loan in favour of the plaintiffs, nor yet the fact that the plaintiffs' making the loan in the way they did was a breach of trust brought about by the advice of the solicitors; these were liabilities personal to the solicitors for which the plaintiffs could prove against their estates in bankruptcy, but did not in the opinion of the learned Judge in any way affect the question of priority.