

plaintiff has little or no property. The defendant is a man of substance. The appeal was very learnedly and with much force argued on each side. . . . The word "lien" was not used over the telephone, but the clearest kind of statement was made that plaintiff's solicitor would look to the defendant for his costs of action. The claim so made could, in the circumstances, rest upon no other footing than a lien, and as between solicitors the words used were sufficient. They go much further than those used in *Sullivan v. Pearson*, L. R. 4 Q. B. 153, 38 L. J. Q. B. 65; besides, that case was not determined on the letter. Thus there was notice on the 14th of the month to defendant's solicitor of the lien claimed. . . . I am precluded by what I said in *Sanvidge v. Ireland*, 14 P. R. 29, from holding that notice to the solicitor was not notice to the defendant. . . . In *Boursot v. Savage*, L. R. 2 Eq. at p. 142, Kindersley, V.-C., says: "It is a moot question upon what principle this doctrine rests," and "my solicitor is *alter ego*; he is myself." I allow the appeal. Defendant is to pay plaintiff's solicitor his costs of the action between solicitor and client, the costs of the motion and the costs of this appeal, all are to be taxed, and paid forthwith, thereafter. Thomas Hodgins and John Fox were not properly made parties. . . . I give no costs against them, nor to them.

R. M. C. Toothe, London, solicitor for plaintiff.

E. Meredith, London, solicitor for defendant.

Moss, J.A.

JANUARY 27TH, 1902.

CHAMBERS.

Re HOLLAND.

Will—Legacy Duty—Discretion of Executors to Pay out of Residue—Executors may, before a Year from Death of Testator, Credit Amount of a Legacy on Mortgage, Payable at any Time, Given by Legatee, if Satisfied of Sufficiency of Assets—Legatee Predeceasing Testator—Lapse.

Manning v. Robinson, 29 O. R. 483, approved.

Motion by widow of a testator and one of his executors under Rule 938, for advice of the Court.

The testator directed his executors to pay his just debts, funeral and testamentary expenses, and, after giving certain legacies, devised the residue of his estate.

R. C. Clute, K.C., for applicants.

R. U. McPherson, for residuary legatee.