
**CONSTITUTIONAL LAW—PREROGATIVES OF THE
CROWN.**

Questions arise occasionally on this subject which reveal things hard to be understood and misty and confusing in their character. The last one that we know of is to be found in the *Law Times* (*Re H. J. Webb v. The Smithfield London*, reported at p. 295 of vol. 153, and referred to on page 319). It is not to the fact and findings of that case that we desire to refer but rather to the comments of our contemporary on the condition of the law as to Crown prerogatives.

The Master of the Rolls in giving judgment held that the Crown had no claim to priority by virtue of its prerogative in that case, which, however, unconsciously revealed the constitutional position (we quote from our contemporary) "on which Professor Dicey laid stress. 'The whole province,' wrote Professor Dicey, 'of so-called constitutional law is a sort of maze in which the wanderer is perplexed by unreality (by what if I might venture to do so, I would call "shams") by antiquarianism and by conventionalism.' Professor Dicey insists that the true scope and character of constitutional law are concealed by the hopeless confusion both of language and of thought introduced into the whole subject from the habit of applying old and inapplicable terms to new institutions, and especially of ascribing in words to a modern and constitutional king the whole, and perhaps more than the whole, of the powers actually possessed and exercised by William the Conqueror. The Master of the Rolls said that 'he thought that the expression debt due to the Crown was an unfortunate one, for it suggested the exercise of the prerogative in circumstances long passed away. It suggested the right of the Sovereign to be paid for his own use or for the public use as determined by him sums due to him to the exclusion of the rights of his subjects. At the present time, when the Departments included under the expression the Crown, or some of them, had become, especially during the war, great trading corporations, the prerogative had to be exercised in quite different circumstances and in respect of quite different subject-matter. Again, the payment in priority of a debt due to the Crown was not now a payment to the Sovereign for his own or