

ENGLISH CASES.

EDITORIAL REVIEW OF CURRENT ENGLISH
DECISIONS.

(Registered in accordance with the Copyright Act.)

LANDLORD AND TENANT — EXECUTION AGAINST TENANT — BANKRUPTCY OF
TENANT — RENT IN ARREAR — PRIORITY OF LANDLORD — 8 ANNE, c. 14 (c. 18
IN REV. STATS.), s. 1 — TRUSTEE — COSTS.

In re Neil Mackenzie (1899) 2 Q.B. 566, is a case which, although a bankruptcy one, deserves careful attention, from the fact that the Court of Appeal has laid down the law under the statute, 8 Anne, c. 14 (c. 18 in the Rev. Stats.) governing the rights of a landlord as against execution creditors and trustees in bankruptcy. In this case the point at issue was this: A sheriff had seized in execution and sold the goods of a tenant, and subsequently received notice from a trustee in bankruptcy of the tenant having been adjudicated bankrupt, and a demand of the proceeds of the sale; the landlord of the premises on which the execution was levied also gave notice to the sheriff of his claim for rent, but the notice was not given until after the sale. The question was, therefore, whether, under these circumstances, the landlord or the trustee had the better right. The Court of Appeal (Lindley, M.R., and Jeune, P.P.D., and Romer, L.J.) decided that to the extent of one year's arrears of rent the landlord's claim was entitled to priority. With regard to the costs of the appeal, the trustee respondent asked that they should be ordered to be paid out of the bankrupt's estate, but this was refused and he was personally ordered to pay them. The Court refused to follow *Ex parte Stapleton* (1879) 10 Ch. D. 586, holding that the Court must consider what was the trustee's right in each particular case. We may note that the statute of Anne, under which the case was decided, is one of those Imperial statutes in force in this province by virtue of the R.S.O. c. 111, s. 1, and it is greatly to be wished that the Ontario Government would provide the public with an authentic collection of all such statutes.

PRACTICE DISCOVERY EXAMINATION FOR DISCOVERY.

Dalglish v. Lowther (1899) 2 Q.B. 590, turns upon a simple point of practice. The action was for slander and the plaintiff in