

tion under ordinary circumstances the vendor or the purchaser can say after a lot has been knocked down, "I am dissatisfied with the price and withdraw the authority given to the auctioneer": see *Day v. Wells*, 30 Beav. 220.

ADMINISTRATION OF ASSETS—INSOLVENT ESTATE—CROWN DEBT—PREROGATIVE
RIGHT TO PRIORITY OF PAYMENT—PRIORITY.

In *Re Bentinck, Bentinck v. Bentinck*, (1897) 1 Ch. 673, Stirling J., determined that where the Crown is entitled to the prerogative right of payment of a simple contract debt in priority to other creditors, and the assets are more than sufficient to pay the Crown debt and specialty debts, that the assets ought first to be apportioned rateably between the specialty and simple contract debts, and that the Crown debt ought then to be taken out of the amount apportioned to the simple contract debts. It would seem as far as Ontario is concerned that the prerogative right of payment in priority to other creditors has been abolished by statute both as regards debts due to the Dominion: as to which see 14 & 15 Vict., c. 9, and 29 & 30 Vict., c. 43 of the old Province of Canada; and also as regards debts due to the Ontario Government as to which: see R.S.O. cc. 94, 110; *Attorney-General v. Clarkson*, 15 O.R. 632; 16 A.R. 202; *Maritime Bank v. The Queen*, 17 S.C.R. 657; 1892, A.C. 437.

PRACTICE—DISCOVERY—PRODUCTION OF DOCUMENTS—"POSSESSION OR POWER"
SOLICITOR'S LIEN—ORD. XXXI. r 12 (ONT. RULES 308, 313).

Lewis v. Powell, (1897) 1 Ch. 678, is a practice case. In his affidavit on production of documents the plaintiff stated that certain documents were in the hands of his former solicitors who "hold them subject to their lien for their bill of costs against me." Their right to costs he disputed and claimed to have a cross-claim against the solicitors for negligence. The defendant applied for a further and better affidavit and it was held by Stirling, J., that the affidavit was insufficient and that the plaintiff was bound to satisfy the Court by affidavit that he had done his best to procure the production of the documents, he therefore made the order asked for, giving the plaintiff leave to apply, in the event of his finding a difficulty in the way of obtaining the documents.