he was himself unable to write his name, being, in fact, a marksman; and a son of the prosecutor also swore that his father was unable to write his name, and was a marksman.

Held, Cameron, J., dissenting, that a sufficient *prima facie* case was thus made out, and that the prosecutor's evidence was duly corroborated within the meaning of 32, 33 Vict., cap. 19, sec. 54, and that the onus was then on the prisoner to show that he was authorized to use or write the prosecutor's name.

J. G. Scott, Q.C., for the Crown.

McDougall, contra.

Hughes v. Brooke.

Devise in trust—Refusal to accept—Non-joinder—Continuance of tenancy—Right of devisees in trust to recover rent.

One of the devisees in trust under a will from the first always refused to accept the trust.

Held, that he was not a necessary party plaintiff in an action for the rent of the premises devised, although his formal renunciation in writing was not made until after the rent in question had accrued due.

Defendant was tenant from year to year of the premises in respect of which the rent in question was sought to be recovered, being for three quarters accruing due after the death of the lessor. No notice to quit was given, nor was the tenancy determined by the consent of the parties entitled; on the contrary, defendant recognized the continuance of the tenancy by the payment of rent falling due after the lessor's death.

Held, that the tenancy was not determined by the death of the lessor, and that plaintiffs, the devisees in trust under the lessor's will, were entitled to recover the three quarters in use and occupation.

Held also, that it was no answer for the defendant that he ceased to occupy, for he still held, and might have occupied had he chosen so to do.

Read, Q.C., for plaintiff.

McMichael, Q.C., contra.

Leslie et al. v. Canada Central Railway Company.

Railways and Railway Companies—Wrongful delivery of goods—Trover.

The plaintiffs, nurserymen in Toronto, sent by the Grand Trunk Railway Company fourteen packages of trees, addressed to their own order, to Cobden, a station on defendants' line of railway, receiving the usual shipping note issued by the Grand Trunk Railway Company. The goods were delivered by that company to defendants in the ordinary course, and carried to Cobden. They were intended for one S. there, who had agreed to purchase them from the plaintiffs, but the plaintiffs required payment from him before delivery. Several telegrams passed between S., the station-master, and the plaintiffs, and the station-master, being authorized by the plaintiffs to deliver only half of the packages to S., allowed him to take all, receiving from him the entire freight from Toronto.

Held, that the defendants were liable in trover for the packages thus wrongfully delivered, and that it made no difference that the contract to carry was with the Grand Trunk Railway Company only.

Reeve, for the plaintiffs.

McCarthy, Q.C., contra.

COMMON PLEAS.

IN BANCO. MICH. TERM.
December 27, 1878.

Regina v. Herod.

Criminal law—Evidence—Admissibility of.

On the trial of the prisoner on an indictment for murder, it appeared that the death of the deceased was caused by his being stabbed by a sharp instrument, and that the stabbing took place on the street on a very dark night, with a number of persons about, some hostile and others friendly to the prisoner. Two witnesses swore that they saw prisoner strike the deceased, one stating that he witnessed one, and the other two blows, but no knife or other instrument was seen in his hand. The prisoner's counsel