and, the appeal having been subsequently brought, the execution was superseded. The appeal was dismissed, and the judgment debt and costs were afterwards settled by arrangement between the parties.

Held, that the sheriff had not so withdrawn from the seizure as to disentitle him to poundage or an allowance in lieu thereof, and that, notwithstanding the superseding of the execution, he was entitled, under Rule 1233, to such allowance, the words "from some other cause" in that Rule being wide enough to cover the case.

Brockville and Ottawa R.W. Co. v. *Canada Central R.W. Co.*, 7 P.R. 372, and *Morrison* v. *Taylor*, 8 P.R. 390, approved and followed.

The court will not interfere with the discretion exercised by the Master in fixing the amount of the allowance.

Langton, Q.C., for the sheriff of Toronto.

W. R. Smyth for the plaintiff.

D. Armour for the defendants.

DIVISION COURTS.

7th Div. Ct., North. and Durham.] [Dec. 13, 1894.

CHRISTIE *v.* CASEY. BROOMFIELD, GARNISHEE.

Division Courts—Attachment of debts—Accruing rent—Apportionment.

KETCHUM, J.J.: Rent accruing, but not yet payable, cannot be attached in the Division Courts.

In *Massie* v. *Toronto Printing Co.*, 12 P.R. 12, it was held that rent which had accrued by virtue of R.S.O., c. 136 (1877), (now c. 143 of R.S.O., 1887), up to date of the attaching order, could be attached under Rule 370 (now 935), by which debts "owing or accruing" are made attachable; but I think that decision conflicts with *Webb* v. *Stenton*, L.R. 11 Q.B.D. 518.

In the Division Courts, debts, to be attachable, must be "due or owing," and there must be a "debt," "*debitum in presenti*," though it may be "*solvendum in futuro*." Accruing rent is not such a debt; *per* CROMPTON, J., in *Jones* v. *Thompson*, E.B. & E. 63, as cited in *Webb* v. *Stenton*, at p. 523. The Act, R.S.O., c. 143, s. 2, does not make it such a debt, nor does it make it a debt "due or owing," but "accruing," *de die in diem*. See *In re United Club and Hotel Company*, W.N. 1889, page 67.

MANITOBA.

COURT OF QUEEN'S BENCH.

KILLAM, J.] [Nov. 3, 1894.

THE QUEEN *v.* KENNEDY.

Criminal law—Warrant of commitment—Jurisdiction of Indian agent—Indian Act, s. 117, 53 Vict., c. 29, s. 9 (D.), and 57-8 Vict., c. 32, s. 8 (D.).

The prisoner was confined in jail by virtue of a warrant of commitment signed by the Indian agent for Clandeboye Indian Agency, in Manitoba, issued pursuant to a conviction by said agent for an offence against the Indian Act. The warrant did not show where the offence had been committed, and it was stated that the conviction was equally defective.