same as that laid down by Judge Hughes, while the Judge of the Counties of York and Peel, and other Judges, take a different view, viz.: that the process of the Superior Courts in the hands of the Sheriff when acted on, under the above circumstances nullify the Writ of Attachment for the Division Court, and supersede the seizure made thereunder.

This point is one that the Commissioners under the Statute might with advantage settle by Rule at their next meeting.—*Ed. L. J.*]

(County of Essex—A. Chewett, Judge.)

IN RE. THE GREAT WESTERN R. W. CO.

Appeal from the Court of Revision.

The Great W. R. W. Co. in appeal from decision of the Court of Revision of the Corporation of Windsor, Essex. The whole assessed property in Windsor was, in round numbers, £120,000, about £60,000 of which belonged to the Great W. R. W. Co.

There was no evidence adduced before the Court of Revision, under 26 sec. 16 Vic. ch. 181, by the G. W. R. W. to reduce the amount previously settled by the assessors; and that court having received evidence *ex parte*, confirmed that assessment.

Before the County Judge, under 28 sec., on the appeal, no evidence was offered to shew that that amount was too much, except what was done by the County Council under 38 sec., on the annual equalization of the county rates, apparently for county purposes, but which equalization reduced the valuation of property in Windsor from about £120,000 down to about £90,000.

It is contended by the appellants that this reduction in the equalization is sufficient evidence here to shew that the assessment of the individual case of the G. W. R. W. should be reduced in the same ratio.

At first sight this would appear reasonable; but on close examination of the Statute, it is by no means so clear that this is proper evidence for the County Judge, on appeal, to go upon in any case. I am strongly inclined to think that it is not, as the equalization by the County Council was no doubt intended to take place under the Statute *after* the duties of the assessors and decision of the Court of Revision, if required; and even *after* the decision of the County Judge, in case of an appeal from the Court of Revision, and is apparently intended for other purposes than the guidance of the assessors, or the Court of Revision, or the Court of Appeal, as to the amount that each individual ought to be assessed in the first instance, as the duties of either of them would or ought to be conducted so as to correct the Assessment Rolls before they are sent to the County Council for the purpose of equalization. In this case it so happened, by parties not being prepared to go into the appeal at an early day, that the county equalization took place before the case was heard, though after the assessment by the Judge for the hearing; otherwise *in this*, and as I think was intended by the Act, *in all cases*, judgment would have been had on appeal before the equalization, which could not have been in evidence, of course.

It is quite clear that for the purpose of county rates, the amount, increased or reduced by the equalization, is the guide by which the inferior municipalities must be rated in raising their individual proportion of the rates for county purposes. But that increase or reduction must be made by the inferior municipalities, (see 23 sec.,) and *not* by the County Judge on appeal from the Court of Revision, as, if the Judge did it, it could only extend to the individual case, and would increase or reduce *again* by data taken from the county equalization, what the inferior municipality was bound also to increase or reduce by the same *equalization*. In this case the Municipal Council of Windsor would first reduce the valuation for assessment of the whole village, from £120,000 to £90,000, i.e., £30,000 less by the effect of the 32 sec. on the equalization; and if the Judge took the equalization as a guide, and sent in the order (28 sec.) to correct the Assessment Roll under it, the individual £60,000 valuation for assessment of the G. W. R. W. property would be reduced £15,000 more, which could not have been intended, it, in fact, having the effect (taking the same data as evidence) of reducing the assessed value of the G. W. R. W. property about 25 per cent. less in proportion than any other property in the same village. The decision of the Court of Revision, for these reasons, should be considered to stand untouched.

MONTHLY REPERTORY.

Notes of English Cases.

COMMON LAW.

H. OF L. LANG *v.* BROWN. *May* 8.

Arbitration—Enlarging time for award—Umpire.

A deed of submission was entered into, to A. and B., and in the event of their differing in opinion, to any umpire they might appoint, and the parties agreed to submit to "whatever the arbitrator or umpire should determine by an award or awards interim or final," and gave powers to them to enlarge the time. Within the last enlargement of time made by A. and B., they delivered no award, but having agreed upon all matters except two, they appointed C. as umpire in and concerning those two matters, and to that extent devolved upon him all the powers competent to an umpire. C. then enlarged the time for making the award generally, and within that time, but after the expiry of the last enlargement made by themselves, A. & B. delivered their award regarding those matters which they had not referred to the umpire.

Held, reversing the decision of the Court of Session that the award of the arbitrators was not within the proper time, for that the enlargement made by the umpire was not applicable to their award, being beyond his powers as regarded them.

H. OF L. DREW *v.* DREW. *March* 8.

Arbitration—Rescinding submission—Misconduct of arbitrator—Waiver of irregularity.

Where an arbitrator, to whom certain disputed debts between A. & B. had been referred, was one of several trustees who had lent part of the trust monies to A. unknown to B., who on discovering the fact, and that A. was insolvent, applied to the court to rescind the submission:—

Held, the interest in the arbitrator was too remote to warrant the court in rescinding.

Where an arbitrator examines witnesses behind the back of one of the parties, such party is justified in at once abandoning the reference, and applying to the judge to rescind the submission, but if he continue, after the fact has come to his knowledge, to attend the subsequent proceedings, this will be a waiver of the irregularity, and he cannot afterwards set aside the award on that ground.

H. OF L. WALKER *v.* STEWART. *March* 13.

Covenant in conveyance as to use of water construction.

A. conveyed to B. in fee a parcel of land lying about twenty yards from a stream, the soil, and both banks of which,