

remaining six were more than the quorum required by the by-laws. *Scadding v. Lorant*, 3 H.L.C. 443; *Bank of Liverpool v. Sigelow*, 12 N.S.R. 236, and *Munster v. Cammell Co.*, 21 Ch.D. 183, followed.

4. It was not necessary that a ballot should be taken for the election of directors when no more than the necessary number were nominated.

Appeals allowed with costs.

*McLeod*, for plaintiffs. *Hoskin*, for defendants.

### KING'S BENCH.

Mathers, J.]      IN RE IDEAL FURNISHING CO.      [Feb. 27.

*Winding-up Act—Lien under writ of execution placed in sheriff's hands after commencement of the winding-up.*

The claimants' writ of execution was placed in the sheriff's hands after the service of the notice of the presentation of the petition for a winding-up order, but before the order was made, and there was no doubt that, if section 66 of the R.S.C. c. 129, were still in force, they would have had no lien; but they contended that the law had been changed in the revision of 1906, and that, under section 84 of R.S.C. 1906, c. 144, they had a right to proceed under their execution to realize their judgment.

*Held*, that sub-section 1 of the new section 84, is so far as applicable to the facts of this case, is not different in effect from the former section 66. Standing alone and taken literally it would mean that a writ of execution could never become a lien on the goods of a company, whether the company was being wound up or not. It must therefore be read in connection with section 5, which defines when the winding up shall be deemed to commence, and must be construed as relating only to a company in process of being wound up.

*Quare*, what would be the result in a case where the sheriff had sold the goods and had the proceeds of the sale in his hands when notice of petition was served? Under the old section, the money would have gone to the liquidator, but to obtain that result under section 84 as it now stands, sub-section 2 would have to be read into sub-section 1.

The execution creditor's claim was disallowed, but in view of the uncertainty caused by the change in the form of the Act, without costs.