

been taken before the writ was acted upon—and, had the sheriff not withdrawn, the Court would have, no doubt, restrained him from proceeding under sec. 13 of the Act. Section 17 provides that “every attachment or execution put in force against the estate or effects of the company after the making of the winding-up order shall be void.” In *Royle v. Busby*, 6 Q. B. D. 171, it appears that the sheriff seized goods of a company on 31st July, 1879, and a petition to wind up the company was presented on 26th July, 1879, an order made on 7th November following, ordering the company to be wound up, and the sheriff’s officer continued in possession until 17th November, when he was served with a copy of the winding-up order; it was held that he was not entitled to any fees, the execution proving abortive. It was contended that until the winding-up order was made there was always the chance of the petition being dismissed, and therefore the levy and possession, at all events up to the date of the winding-up order, were beneficial to the creditors, in the sense that they conferred on them the chance of reaping the fruits of their *fi. fa.*, but Lord Selborne, at p. 176, said: “In the present case the judgment debtor was a joint stock company, against which there was pending, when the execution issued, a petition to wind-up, on which a winding-up order was afterwards made. The effect of that winding-up order was to defeat the execution, by the operation of sec. 163 of the Companies Act, 1862.” See also the judgment of Mr. Justice Osler in *Shaver v. Cotton*, 23 A. R. at p. 435.

In my opinion, Rule 1190 does not apply to entitle the claimant to poundage on the execution in question. His other fees will no doubt be paid by the execution creditor and added to the claim. I therefore disallow the claim without costs.

NOVEMBER 12TH, 1904.

DIVISIONAL COURT.

RE VILLAGE OF SOUTHAMPTON AND COUNTY OF
BRUCE.

*Municipal Corporations — County By-law — Alteration of
Boundaries of Local Municipalities — Misdescription —
Petition—Notice—Waiver—Arbitration and Award—Mo-
tion to Quash By-law—Application by Minor Municipality.*

Appeal by corporation of village of Southampton from
order of MACMAHON, J., 3 O. W. R. 729, 8 O. L. R. 106, dis-