

*Held*, that such policy-holders would in no sense be shareholders, and were not liable to calls, or to be asked to contribute to pay debts or liabilities.

*In re Great Britain Life*, 16 Chy. Div. 246, followed.

The application to wind up the association was made by a person alleged to be a duly elected member of the company.

*Held*, that even if the applicant were a duly elected member, numbers of associations incorporated under the Benevolent Societies Act, where there is no stock or share capital, are not liable as partners, and are not, therefore, liable to be called upon to pay debts of the company; therefore the applicant could not be a contributory within the meaning of the Winding-up Act, and the order obtained upon his application must be vacated and set aside with costs.

[TORONTO, Feb. 9, 1893.]

This was an application to settle the list of contributories in the matter of the Cosmopolitan Life Association, sought to be wound up under the provisions of the Ontario Winding-up Act, R.S.O., c. 183.

*Shepley*, Q.C., appeared for the association and liquidator.

*Walker*, Q.C., *McCarthy*, Q.C., and other counsel, for the various persons sought to be made contributories.

MCDUGALL, Co.J.: This company was incorporated under the provisions of the Act respecting Benevolent, Provident, and other Societies, R.S.O., 1877, c. 167, re-consolidated in 1887 as c. 172. It was incorporated originally as an equitable, mutual provident society on the 16th May, 1883; and on the 3rd July, 1890, the above name was changed, under the provisions of R.S.O., c. 172, to that of the Cosmopolitan Life Association. The original incorporators were Edmund A. Sparling, George W. Badgerow, Thomas C. Irving, Henry Graham, and Eugene Baker. The objects of the association, as set out in their original declaration made for the purpose of incorporation, was "to associate and continue together upon various classifications, to be regulated by by-laws, persons who become members of the society, and who contribute to a common fund to aid and support the families of deceased members, and for personal benefit in case of permanent disability, and also for the distribution of the accumulations of the society, after providing for the expense thereof, among the members at the time and in the manner regulated by by-laws."

No by-laws were filed, and none existed until long after the date of the original letters of incorporation. The five incorporators were named the first trustees or managing officers, and they were to hold office until their successors were appointed. They were directed by the terms of the charter to forthwith call a general meeting of all members of the society at Toronto, at which meeting their successors were directed to be appointed; and the annual meeting was directed to be held yearly on the third Thursday of May in each year - the first of such meetings to be held on the third Thursday in May, 1884. At these annual meetings the trustees were to be re-elected. The trustees were empowered to make by-laws, rules and regulations for the government of the society, provided such by-laws or rules were submitted for approval and confirmation at the next annual meeting of the society, or some special meeting called for that purpose. The by-laws made by the trustees were to remain and be in force until repealed or disallowed by vote of the members of the society.

There appears to have been nothing done whatever under these letters of incorporation for more than six years. No annual meetings were held, and no successors to the trustees were elected. On June 21st, 1890, three of the five