

COMPANY—RECONSTRUCTION—APPLICATION FOR SHARES—WITHDRAWAL OF APPLICATION FOR SHARES BEFORE ALLOTMENT—WINDING UP—CONTRIBUTORY.

In re Metropolitan Fire Ins. Co. (1900) 2 Ch. 671, was an application by one Wallace to strike his name off the list of contributories of a company being wound up. The facts were briefly as follows:—The Commercial Fire Ins. Co. entered into a reconstruction or amalgamation agreement with the Metropolitan Fire Ins. Co. whereby the goodwill and business of the Commercial Co. were transferred to the Metropolitan Co., part of the consideration of the transfer being that every member of the Commercial Co. should, in respect of each share held by him therein, be entitled to a certain proportion of partly paid shares of the Metropolitan Co. The agreement provided that members in the Commercial Co. desiring to avail themselves of this provision were to send in their claims within twenty-one days. The liquidators of the Commercial Co. duly gave notice of the agreement to Webster and the number of shares in the Metropolitan Co. he was entitled to claim thereunder, and within the twenty-one days he sent in a claim for an allotment of his shares; before the allotment was made, or any acceptance of his offer, Webster withdrew his application. The Metropolitan Co. having been subsequently ordered to be wound up, the liquidator of the company placed Webster in the list of contributories in respect of the ten shares. Cozens-Hardy, J., granted the application holding that the application sent in by Webster was one that he was entitled to withdraw before acceptance, and was not an acceptance of a prior offer by the Metropolitan Co.

ADMINISTRATION—DEFICIENCY OF ASSETS—VOLUNTARY CREDITORS.

From *In re Whitaker, Whitaker v. Palmer* (1900) 2 Ch. 676, it appears that the English Judicature Act, 1875, s. 10—which provides that in the case of a deficiency of assets in the administration of the estate of a deceased person, the estate is to be administered in accordance with the English Bankruptcy Act, 1883—has had the effect of abrogating the former rule of equity, that voluntary creditors must be postponed to ordinary creditors, and entitles voluntary creditors now to be paid *pari passu* with other creditors. Probably the same result has been attained in Ontario by R.S.O. c. 129, s. 34.