

Reliance was, however, placed by counsel for the respondent on the observations of Mellish, L.J., in *Spargo's Case*, L. R. 8 Ch. 407, at p. 410, which are as follows: "It appears to me that you must shew your shares to have been fully paid up. When you take shares you become bound to pay cash for them. If you do not do so, and the company, nevertheless, registers them in your name as fully paid up, and you sell them to bona fide holders as fully paid up shares, they are not liable to pay calls on them, but how is your original liability to pay got rid of?" In that case it became unnecessary for the Court to consider whether the liability was got rid of, and it is not to be forgotten that, as has been pointed out by high authority, observations of the character of those of the Lord Justice addressed to counsel in the course of their argument have not the weight even of obiter dicta. . . .

[Reference to *Buckley on Companies Acts*, 8th ed., pp. 44, 45, 640; *Lindley on Partnership*, 6th ed., pp. 113, 114.]

Under the English Companies Act, past members within a year after they have ceased to be members, are made liable in the event of the company being wound up, under certain conditions and with certain limitations as to the extent of their liability to contribute to the assets of the company, and legislation of a similar character is found in the Bank Act of Canada.

The Ontario Companies Act, under which the Warton Beet Sugar Company was incorporated, does not contain any provision of a similar character, and the only persons upon whom calls may be made are the shareholders of the company, which I take to mean those who are shareholders when the call is made: see secs. 32, 34, 37.

I find nothing in the Winding-up Act which creates any liability on the part of a past member of a company, when such a member is not subjected to such a liability by the Act under the authority of which the company is created or some Act relating to it.

Section 44 of the Winding-up Act, though very general in its terms, can, I think, notwithstanding the use of the words "or otherwise," have no application to any liability which is not one of the shareholder or member as such, and sec. 45 is designed, I have no doubt, to meet such cases as are dealt with in the provisions of the Bank Act to which I have referred, and to provide for cases in which, as under