

MEREDITH, C.J.C.P.

MARCH 4TH, 1913.

RE EMPIRE ACCIDENT AND SURETY CO.

BARTON'S CASE.

Company—Winding-up—Shareholder—Liability as Contributory—Evidence—Onus—Receipt of Dividends—Directors.

Appeal by Barton's executors from the ruling of the Referee as in the previous case, argued at the same time and by the same counsel.

MEREDITH, C.J.C.P.:—The appeal in this case was argued with that in Fail's case, the evidence in the two cases having been taken together, and some of the facts being applicable alike to each case.

The appellant's contention is, that there was not sufficient evidence to warrant the finding of the Referee that Barton was a shareholder of the company; but, upon the evidence adduced before the Referee, it is impossible for me to give effect to that contention.

A certificate, dated the 1st June, 1905, that Barton was the holder of one hundred shares of the capital stock of the company, upon which \$2,500 had been paid, was issued, and was produced by Barton's executors upon a subpoena, on the reference: and it was proved, upon the reference, that the executors had received two dividends from the company upon that one hundred shares of stock in the company: so that a case for putting the executors upon the list was quite made out, without taking into consideration the evidence of Boles, and the fact that Barton's name appears upon the copy of the list of shareholders as the owner of 75 and 25 shares; and that case was not contradicted or met in any way in evidence by the respondents.

The appeal must be dismissed; the respondent is entitled to his costs of it from the appellants.