

become a member of a company under this Act, and whose name is entered in the register.' In this respect there is an essential difference between the requisites of membership as regards persons who subscribe the memorandum, and those who otherwise agree to become members. The former, as we have seen (p. 80), become ipso facto on the registration of the company, members irrespective of entry in the register of members; but the latter do not become members until agreement, plus entry in the register. This distinction is recognized in *Nicol's Case*, 29 C.D. 421. In that case A. had agreed to take shares, and shares had been allotted to him; but his name had not been entered in the register. After some years, the agreement for membership not having been acted on, a winding-up order was made, and it was sought to place A. on the list of contributories, on the ground that he was a member. The learned judges were all of opinion that he had never become a member, that he had only agreed to be a member. Cotton, L.J., said that the question was, whether, under the circumstances, A. had become an actual member or had only agreed to become a member, and stated that 'there was in this case no actual membership, although it would have been possible, if proper proceedings had been taken, to render the membership complete'; and Bowen, L.J., said: 'It appears to me that A. never acquired the status of a member of the company. I think that he remained with contractual obligations to the company which the company had for a time a right to enforce against him. . . . According to the twenty-third section of the Act I think he had not become a corporate member'; and Fry, L.J., said that the section 'makes the placing of the name of a shareholder on the register a condition precedent to membership.' The result, therefore, in the case of an agreement to take shares not perfected by entry on the register, is that there is an agreement which the Court may or may not think ought to be specifically enforced, but there is no membership."

Similarly, having regard to s. 3 of the Ontario Companies Act, the agreement to take shares not perfected by subscribing