
“Acceptance” and “offer” in relation with Gunpowder and lighted match

Ananya Rai,

B.A.LL.B., Indore Institute of Law, Indore

INTRODUCTION

“Acceptance is to an offer what a lighted match is to train of gunpowder.” Here, in this statement Anson briefly explained the term “Acceptance” and “offer” in relation with Gunpowder and lighted match.

Just as when the lighted match comes in contact with gunpowder, there would be an explosion and it will not be possible to bring back or revoke the gunpowder to the original position. Similarly, after the offer is accepted it creates a contract whereby both the parties become bound and none of them go back. Here, Gunpowder is an offer and lighted match is an acceptance. There is also a possibility that in course of time the gunpowder may have become damp or the which has been removed will not create any explosion. And, by the lapse of time prescribed in such proposal for its acceptance or, if no time is so prescribed, by the lapse of a reasonable time, without communication of the acceptance.

According to the Section 6 of the Indian Contract Act, 1872

Once the offer lapses or is revoked, it is incapable of being converted into contract by being accepted. Thus, the acceptance of the offer while the same is still alive, would result in an contract creating obligations for both the parties.

The effect of acceptance of an offer has been explained by Anson in the following words:

“Acceptance to an offer is what a lighted match is to a train of gunpowder. It produces something that cannot be recalled or undone. But the powder may have lain until it has become damp, or the man who laid the train may remove it before the match is applied. So an offer may lapse for want of acceptance or be revoked before acceptance. Also the offeree may decide to reject the offer. Until an offer is accepted, it creates no legal rights, and it may be terminated at any time.”

Just as when the lighted match comes in contact with gunpowder, there would be an explosion and then it will not be possible to bring the things in normal position, similarly after an offer is accepted, it creates a contract whereby both the parties become bound and none of them go back.¹

WHAT HAPPENS AFTER EXPLOSION OR AFTER ACCEPTANCE CANNOT BE UNDONE

There is a possibility that in course of time the powder may have become damp or the train of gunpowder may have been removed, and in that event the damp powder or the one which has been removed, will not create any explosion. In the same way, the offer lapses if the same is not accepted within the prescribed time, or, if no time is prescribed, by remaining unaccepted until the expiry of the reasonable time, or else the offer could be revoked by notice of revocation by the offeree. Once the offer lapses or it is revoked, it is incapable of being converted into a contract by being accepted. Thus the acceptance to an offer while the same will still be alive, would result in a contract without obligation between two parties.

¹ R.K. Bangia, Law of Contract-i 29 (7th ed., Allahabad Law Agency, 2017)

In Gajendra Singh v. Nagarpalika Nigam, Gwalior

It has been held by the M.P High Court, that if an authority calling tenders decided not to go ahead and accept a tender, the tenderers or even the highest tenderer could not force the authority to accept the tender and enter into a contract with him. No right accrues to a tenderer until his tender has been accepted. Similarly, a person inviting a tender has a right to reject any tender or even the highest tender. In such case a tenderer has no cause of action if his tender is not accepted.

Although acceptance of an offer results in a contract but a mere agreement to agree, or an agreement to enter into a contract itself does not result in a contract.

OFFER BY CONDUCT

It is well established fact that offer is accepted by conduct. But conduct will only amount to acceptance if it is clear that the offeree did the act with the intention of accepting the offer. The Court first examine evidence which are in the facts and circumstances of the case of the "offeree" which was such as amounted to as unequivocal acceptance of the offer made. If the facts of the case disclose that there was no reservation in signifying acceptance by conduct, it must follow that the offer has been accepted by conduct.

In accordance with Section 8, of the Indian Contract Act 1872, if it is disclose that offeree had reservation in accepting his conduct then it may not amount to the acceptance. In the above scenario conclusion can be drawn through the **Bhagwati Prasad Pawan Kumar v. Union of India** , where decision had been taken on the ground that protest and non-acceptance must be conveyed before the cheques are encashed and if cheques are encashed without protest then the offer stood unequivocally accepted and the "offeree" is bound to it.

ESSENTIALS OF VALID ACCEPTANCE

There are some basic necessities which convert the offer into a valid acceptance. Henceforth, these are the following conditions-

Acceptance must be communicated by the offeree to the offeror-

It is important to communicate to make the offer, a valid acceptance. Communication is the most important and powerful tool which can resolve anything around the globe. In the same way to make an offer into a valid acceptance there should be a communication between the two parties. Acceptance of an offer can be of two types- orally and other is in written format. When the parties are face to face communication should be oral when they are at distant place, communication could be made by post, by telegram, by a messenger on phone, through a messenger, or it may be in any reasonable manner.

Acceptance must be absolute and unqualified –

It is important that the acceptance must be absolute and unqualified. It should be in complete form as it places no ground for any further negotiation related to terms and policies for the finalization of contract. It is a keypoint that may be that conditional or qualified acceptance is not the proper acceptance for the creation of the valid contract.

Acceptance must be in accordance with some usual or prescribed mode-

According to Section 7(2),

The acceptance must be 'expressed' in some usual or reasonable manner, unless the proposal prescribes the manner in which it is accepted." It means that if the manner of acceptance has been prescribed by the proposal, the acceptance has to be in that prescribed manner, otherwise the same may be made in some usual or reasonable manner.

Usual and reasonable manner referred to the manner which is usually adopted in a particular kind of transaction according to the usage or custom of trade.

Prescribed mode is the one in which proposal prescribes any particular manner of acceptance, the acceptance must be made in that manner. The manner of acceptance may include the requirement of fulfillment of certain conditions, such as the payment of an advance.

Acceptance must be made while the offer is still subsisting-

According to Section 6, it is clearly mentioned about the certain conditions in which an offer can be revoked, or when the offeree can withdraw the offer. After the offer has been withdrawn or lapsed, there is nothing to do with the offer, the offer can only be accepted when it is alive and still subsisting. Acceptance after the lapse of an offer cannot give rise to contract. Similarly, after the rejection or lapsing of an original offer by counter offer it is not possible to go back. In such a case also, once the offer has lapsed, an attempt to accept the same would not give rise to any legal obligation.

Requirements for an acceptance-

There are some important elements which play a key role in order in the field of acceptance

Acceptance must be from a person to whom the proposal made –

It was held that communication of an acceptance from an unauthorized person is invalid. It can be explained briefly through the **Powell v. Lee 1908** judgment in which the defendant is held liable for the damage done to plaintiff's land caused by defendant's dangerous acts, even if defendant is not negligent.

Acceptance must be signified to the proposer –

It was held that unless an acceptance is given to the offerer, it amounts to no acceptance. In the case **Felthouse v. Bindley, 1863** it was held that nephew is not liable to pay compensation to Felthouse, as there was no acceptance on the side of Bindley for selling the horse and the

conclusion drawn from this is that the acceptance cannot be assumed if there is no notification of acceptance, or implied acceptance through action present, one cannot impose obligations on an unwilling party and silence does not contribute to the acceptance.

It is required that there be an act which signifies the acceptance –

The statement implies that for an acceptance to be completed, a mere mental decision is not sufficient. An external manifestation of the decision is must. The judgment came from **Bhagvandas Goverdhandas Kedia v. M/s Girdharilal Parshottamdas And Co. & Ors in India 1966 AIR 543 1966 SCR (1) 656**

CONCLUSION

The researcher after the research on the topic "Acceptance to an offer is what the lighted matchstick is the train of gunpowder." It has been concluded that the statement given by Anson in which he signifies that once the offer has been accepted it can't be revoked. He supported his statement with the exemplary like matchstick and gunpowder.

OFFER= GUNPOWDER

ACCEPTANCE=LIGHTED MATCHSTICK

As same as lighted matchstick came in contact with the gunpowder the sudden explosion take place and converted into ashes which cannot be then convert into its primary stage as same when the offer is accepted by the offeree by one or the other various means then it cannot be cancelled out.

There is also a condition in which the time can be lapsed just same as powder may have lain until it has become damp, or the man who laid the train remove it before the matchstick has been applied. So an offer may lapses for want of acceptance or be revoked before acceptance. Also the

offeree may decide to reject the offer. Until the offer is accepted, it creates no legal right, and it may be terminated any time.

There is also a possibility that after explosion or after the acceptance cannot be undone. There is a possibility that a powder may have become damp in a course of time or the train of gunpowder may have become removed in the same way removal of powder not create any explosion. In the same way offer lapses if not accepted within the prescribed time or if no time is prescribed by remaining unaccepted until the expiry of the reasonable time or else the offer could be revoked by the revocation by the offeree.

Then the researcher has concluded the valid essentials which are require for acceptance. The presence of these essentials make the contract valid.

Then the researcher with the help of various case which had been laid down under Section 4, Section 5, Section 7 and Section 8 draw the conclusion about the acceptance of an offer .

The researcher also take the cases which explain the general rules that are the REQUIREMENT FOR ACCEPTANCE. In this section, the the three requirements for an acceptance has goodly defined with relevant cases.

BOOKS

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