

INDIAN STAND OVER TELEPHONIC ACCEPTANCE UNDER INDIAN CONTRACT
ACT,1872

Jay Kumar Gupta, 2nd year, Bachelor of Business Administration-Bachelor of Law (Hons.) student from School of Law, Narsee Monjee Institute of Management Studies, Bangalore, India.

Email: jaykumargupta.nmims@gmail.com

ABSTRACT

This research paper deals with the area of telephonic acceptance in contracts. Telephonic acceptance comes under the ambit of instantaneous communication. Telephonic communications have been very fast which has always led to disputes regarding the communication of offers and acceptance. This area has been interpreted in judicial matters. This research paper has done extensive research on the nitty-gritties of problems arising out of this matter and also tried to present all the possible solutions to it. It deals with the landmark cases dealing with such matters and also critically analyzed all the judgments given on such matters. Positions in various countries like USA and UK have also been researched for a better understanding of the problem and to figure out all the possible means to deal with it. Whatever the position in England and the United States of America, the same has been adopted in India. It will be right to say that the judicial precedents given in UK and USA, especially UK have shaped the stance of India over such matters. Recent case laws have also been added which gives a deep insight into the opinions of the judicial organ over this issue. Our Indian Contract Act,1872 has failed to recognize the latest and newer modes of contracts, and contracts through the telephone are one of such kind. Initially, the postal rule used to apply to such matters. But after various landmark judgments, such stands have been changed. This research also deals with the relations and differences between postal and instantaneous communications in making the contract. This has been done to dig out the issues involved considering both the modes of communication same. It needs time to update the age-old provisions in the Indian Contract Act,1872, and replace or modify them keeping in mind the newer circumstances.

Keywords- Acceptance, Telephonic Acceptance, Postal Acceptance, Position in U.K. and U.S.A, Solutions, etc.

LITERATURE REVIEW

➤ ARTICLES

“What is Communication & modes of Communication under the Indian Contract Act? (Last Visited: June 6, 2022)”¹

- This article gives a detailed view of the mode of communication in Contracts. Various modes of communication have been discussed very lucidly
- Telephonic acceptance has been discussed here briefly which gives a good insight into the instantaneous mode of communication.

“Telephonic offer and acceptance under the Indian Contract Act, 1872(Last Visited: June 6, 2022)”²

- This article gives a detailed case analysis of the case “BHAGWAN DAS VS GIRDHARILAL”.
- Facts, Contention of the parties, Summary of the Judgement, Judgement analysis, Opinions, and suggestions have been written perfectly.

¹ Law Circa, What is Communication & modes of Communication under the Indian Contract Act?(Last Visited: June 6,2022) <https://lawcirca.com/what-is-communication-modes-of-communication-under-the-indian-contract-act/>

² Jus Dicere,Telephonic offer and acceptance under the Indian Contract Act, 1872(Last Visited: June 6,2022) <https://www.jusdicere.in/telephonic-offer-and-acceptance-under-the-indian-contract-act-1872/>

“Is Section 4 of Contract Act, 1872 in pace with 21st century’s Online Blogs (March 13, 2018)”³

- The author very critically examines section 4 of the Indian Contract Act with the present scenario.
- The author has contended that section 4 of the Indian Contract Act and provided suggestions that are quite useful and insightful.

➤ **JOURNAL ARTICLES**

T. J. W., Contracts--Acceptance by Telephone--Place of Contract, 61 W. Va. L. Rev. (1958)⁴

- This paper gives detailed research on the position of telephonic acceptance in the United States of America. Various case laws have been used to present the scene vividly.
- Restatements by various jurists have been added which makes this work a perfect reference for use.

Dishman, William M. Jr. (1959) "Contracts--Place Where Made When Acceptance is by Telephone,"⁵

- This paper examines the position in the United Kingdom of telephonic communication and acceptance. It gives a detailed factual analysis of the various judgments and restatements of various jurists.

➤ **BOOKS**

Law of Contract & Specific Relief by Avtar Singh⁶

- The author talks about telephonic acceptance very broadly. Numerous case laws have been cited. Views of various jurists have also been given.
- The place of contract had been controversial in the case of telephonic acceptance.

Pollock & Mulla’s the Indian Contract Act,1872 by R. Yashodh Vardhan⁷

- The author talks about the validity of the contracts made over the telephone.
- Modifications are needed in the current laws to make it at pace with the present scenarios
- Section 4 of the Indian Contract Act,1872 has been critically discussed and analyzed.

STATEMENT OF PROBLEM

When a court decides on a problematic contract, the court may consider how a reasonable person views the situation, rather than the intent of the parties involved. Common sense is the basis for this, as neither party is expected to be unwilling to be held liable for damages in the event of a breach of his or her side of the contract. A contract is formed when an offer is made and the second party accepts it with explicit or implied consent. Such issues exist in the case of contracts made through telephonic conversation. The place where the contract has formed still creates problems in the

³ Ayush Pandia, Is Section 4 of Contract Act, 1872 in pace with 21st century, SCC Online Blogs (March 13, 2018) <https://www.sconline.com/blog/post/2018/03/13/is-section-4-of-contract-act-1872-in-pace-with-21st-century/>

⁴ T. J. W., Contracts--Acceptance by Telephone--Place of Contract, 61 W. Va. L. Rev. (1958) <https://researchrepository.wvu.edu/cgi/viewcontent.cgi?article=3958&context=wvrl>

⁵ Dishman, William M. Jr. (1959) "Contracts--Place Where Made When Acceptance is by Telephone," Kentucky Law Journal: Vol. 48 : Iss. 1 , Article 9. <https://uknowledge.uky.edu/cgi/viewcontent.cgi?article=3254&context=klj>

⁶ Avtar Singh. *Law of Contract (a Study of the Contract Act, 1872) and Specific Relief*. 10th ed. Lucknow: Eastern Book Co., 2008

⁷ Pollock & Mulla - *The Indian Contract Act* (16th edition), Lexis Nexis, (2019)

disputes. There is no standing and established law that deals with it. We are relying on court precedents and discretion as of now. It is necessary to find a permanent solution to these such cases.

RATIONALE OF STUDY

The notion of the 19th century people is that the technological advancements at that time reached their maximum. But we all know their predictions were wrong. They failed to predict that there will be more technological advancements in the upcoming future. For example, locomotives have become high-speed trains, posts have been replaced with emails, and cable telephones to today's smartphones. Earlier, posts used to take several days to reach their destination but now it can be achieved within a few minutes with the help of modern communication technologies like fax, email, telephones, etc. Despite such technological advancements we are still using the age-old laws and using rules of the postal rule for cases that involved any instantaneous mode of communication. Hence, instantaneous modes of communication like fax, email, telephones, etc. should be included in the present legal times.

The purpose of this paper is to critically discuss the pros and cons of the question. Do postal rules apply to email, phone, fax, etc.? It contains the general conclusions of the contract and explains the history and application of postal rules. The process of communication via email is explained, and various pros and cons of the main questions are critically discussed. Finally, the completion of the homework is evaluated together.

RESEARCH OBJECTIVES

The purposes of this research are:

1. To understand the relationship between postal rule and other modes of instantaneous communication.
2. To understand the existing laws, precedents, and stand of various countries like U.K. and U.S.A over the contracts through the instantaneous mode of communication.
3. To understand whether section 4 of the Indian Contract Act, 1872 is in pace with the 21st century.
4. To understand the various judicial decisions and opinions over this matter.
5. To find out the possible ways to resolve this issue.

RESEARCH QUESTIONS

1. Whether or not applying the rule of postal communication with the instantaneous mode of communication like telephone, fax, email, etc.
2. Whether or not section 4 of the Indian Contract Act, 1872 inculcates the new technological advancements?
3. What should be the place of the contract if it is made through any instantaneous mode of communication like telephone, fax, etc?
4. What are the means and measures which can be taken to combat the issues arising in it?
5. Is there any need to update or modify the pre-existing laws and rules in India for such cases?

RESEARCH METHODOLOGY

Various methods of research methodology are used for this research paper:

- Descriptive Legal Research: The author has given his efforts to stick to the facts of the cases cited issues involved rather very much judgmental about it. The author has not given too many personal opinions on the issues involved.
- Analytical Legal Research: The author, with the help of available facts and information, has critically analyzed the whole range of facts and information.
- Applied Legal Research: The author has also tried to find the solution to the issues and problems with the available facts and information. Basing the practical problem, the author aimed to find the solution through action research in a practical context.

- Fundamental Legal Research: The author has also aimed to find additional information and data to enhance the knowledge to answer the questions. Adding to the existing knowledge was one of the aims of legal research.
- Conceptual Legal Research: The author has used the opinion of various jurists and renowned personalities to formulate and re-interpret the existing ideas.
- Empirical Legal Research: The author has also used his experience and observations to find the solutions to the problems and to prove his stance.

INTRODUCTION-ACCEPTANCE

Acceptance is considered to be like a lit match to a barrel of dynamite when it comes to a proposal.⁸ For a contract to be valid, a valid offer must be communicated before the offer has been accepted. What constitutes valid acceptance?

Acceptance as defined in Section 2 (b) of the Indian Contract Act 1872⁹

"The offer is said to be accepted when the person to whom the proposal has been made expresses his acceptance thereto,"

The aforesaid definition stipulates that acceptance completes when the offeree to whom the offer was given unequivocally accepts the offer.

When someone accepts a proposal, it will become a promise. Let's have a look at an example. B accepts a proposal to shop for his car for two lakh rupees. This has now become a promise. When a proposal is adopted, it becomes final and unchangeable. Any legal obligations don't create by a proposal, but when it is accepted, it becomes a promise. It is also irreversible since legal obligations are formed among the parties. An offer can be withdrawn before it is accepted. On the other hand, Acceptance cannot be revoked or withdrawn once it has been stated.¹⁰

ESSENTIALS OF VALID ACCEPTANCE

1. The offer can only be accepted by the person to whom it was made.

A proposal or offer can only be accepted by the person to whom it was expressly made. Anyone unknown or not authorized by the offeree will be unable to take it.

In the case of Boulton v. Jones¹¹, Boulton purchased Brocklehurst's business, but Brocklehurst failed to convey the selling of his shop to all of his purchasers. Jones, one of Brocklehurst's clients, unknowing about the change in ownership, gave an order. Boulton acknowledged the order and delivered them to Jones. Jones consumed some of the products delivered.¹² And later, Jones declined to pay. Since this was the case of the specific offer as Boulton was never given the offer, hence it was concluded that he could not accept it and thus no contract existed. If the proposal is a general offer, anyone who knows about it can accept it but the same cannot be applied to specific offers.¹³

What are the Legal Requirements for Acceptance?

2. It is to be unqualified and absolute.

Acceptance must be absolute and whole. Conditional acceptance isn't possible since it would be regarded as a counteroffer, negating the original offer.¹⁴

⁸ Jeetu Kanwar, 'Revocation', Law Times Journal (July 15,2019)

<https://lawtimesjournal.in/revocation/#:~:text=The%20Indian%20Contract%20Act%20lays,offer%20is%20now%20not%20possible>

⁹ The Indian Contract Act,1872, & 2(b), No. 9, Acts of Parliament,1872(India)

¹⁰ Egyankosh, Offer and Acceptance, Unit 2(Last visited: July 6,2022)

<https://egyankosh.ac.in/bitstream/123456789/13367/1/Unit-2.pdf>

¹¹ Boulton vs. Jones { 1857 } 2H AND N564

¹² Ipsa Loquitur, Boulton v Jones (Last visited: July 6,2022) <https://ipsaloquitur.com/contract-law/cases/boulton-v-jones/>

¹³ upcounsel, Types of Offers in Contract: Everything You Need to Know (Last visited: June 6,2021)

<https://www.upcounsel.com/types-of-offer-in-contract>

¹⁴ The Editor of SCC Online, can a conditional acceptance of an offer be considered a concluded contract? Supreme Court answers,SCCOnline Blog(January 7,2021) <https://www.sconline.com/blog/post/2021/01/07/can-a-contract-be-considered-concluded-if-the-acceptor-adds-a-new-condition-while-accepting-an-offer-supreme-court-answers/>

Let's take a glance at an illustration. B accepts A's offer of \$2,000/- for his bicycle. Later If B says he will take it in 1500/-. It is not a valid acceptance of a counteroffer. Communication must be made in a specific way. If the manner is not specified, it must be communicated regularly and reasonably, i.e., as part of normal company operations. Implied acceptance can also be made by a particular action, act, or occurrence. Silence, on the other hand, is not recognized as a sign of acquiescence by the law.¹⁵ As a consequence, the offeror cannot indicate that the proposal is assumed accepted if no answer is received.

3. . It is necessary to communicate acceptance.

For a proposal to become a contract, it must be communicated to the promisor. If no specific format has been specified, the transmission must occur in any form that would be acceptable in the ordinary course of events.¹⁶ Additionally, when the offeree accepted the proposal, he must have to communicate his acceptance to the offeror. If he is unaware of the offer, he will be unable to accept it.¹⁷ So, if A offers to manufacture something for B and B has given his acceptance to this offer. Accepting the offer writes a letter of acceptance to A but forgets to mail it. Since the acceptance was not communicated to the offeror, hence it is an invalid contract.

4. It must operate in the specified mode.

Acceptance must always be done according to the offeror's instructions. If no such way is mentioned, it must be an extremely suitable way that might be used in normal company operations. If the promisee does not use the mode of communication as specified in the contract or against the offeror's instructions and communicated the acceptance in another means. If the promisor fails to convey that he wanted in the mode which he prescribed or agreed upon it then it will be presumed that he agrees to it.¹⁸

Example: A makes a ten-lakh-rupee bid for B's land. He insists that B respond via post. By email, B accepts A's offer. Now A can ask B to deliver the acceptance in the format he or she wants. If A fails to do just that, it will be assumed that he has acknowledged B's acceptance and has made a promise.

5. Acceptance that is implied

Section 8 of the Indian Contract Act of 1872¹⁹ legitimates the acceptance by the promisee through his conduct or deeds. As a result, it is legal for a person to perform specified actions that point to the fact that he has accepted an offer.²⁰ Suppose, A offers to buy 100 tonnes of iron from B for the price of 1000/- and B delivers the goods to A, the conduct of B tells that he has accepted the contract.

CONTRACTS INTER ABSENTEES

Those contracts where the contracting parties are not physically in presence while entering into a contract are called contracts inter absentees. They use various other modes and mediums for the communication of offers and acceptances. Contracts inter absentees include postages, telegrams, telephones, etc.²¹

ACCEPTANCE AND COMMUNICATION OF ACCEPTANCE

Communication by telephone is classified as an instantaneous mode of communication. It is because communications that are communicated through telephone reach the other party in a fraction of time in the form of electronic signals or simple terms it is the fastest mode of communication. Other instantaneous communications include fax, telex, etc. The communication in the case of the

¹⁵ LawShelf, Silence as Acceptance (Last visited: June 6,2021) <https://lawshelf.com/coursewarecontentview/silence-as-acceptance> and Felthouse vs Bindley (1862) 11 Cb (NS) 869; [1862] EWHC CP J35; 142 ER 1037

¹⁶ SRD Law notes, What are the essentials of a valid acceptance(Last visited: June 6,2022) https://www.srdlawnotes.com/2017/06/what-are-essentials-of-valid-acceptance_28.html

¹⁷ Lalman Shukla v. Gauri Dutt, (1913) 11 ALJ 489 and Fitch v. Snedekar, (1868) 38 N.Y. 248

¹⁸ ACCEPTANCE AND MODES OF ACCEPTANCE UNDER INDIAN CONTRACT ACT 1872(Last Visited: June 6,2022) <https://lawcirca.com/acceptance-and-modes-of-acceptance-under-indian-contract-act-1872/>

¹⁹ The Indian Contract Act,1872, & 2(b), No. 9, Acts of Parliament,1872(India)

²⁰ Bankrate,Acceptance(Last visited: June 6,2022)

<https://www.bankrate.com/glossary/a/acceptance/#:~:text=Implied%20acceptance%20is%20an%20acceptance,or%20action%2Dbased%20in%20nature.>

²¹ I. C. Saxena, THE THEORY IN CONTRACTS INTER PRAESENTES, Vol. 9, No. 3, pp. 453-461, Journal of the Indian Law Institute (July-September,1967) <https://www.jstor.org/stable/43949947>

telephone is completed when the communication of acceptance has been communicated to the promisee. In the case of telephonic communication, when the promisee listens to the proposal then the proposal is said to be communicated but in the case of telex, when the proposal is received and read by the promisee then it is said to be communicated.²²

WHEN ACCEPTANCE IS COMPLETE

In case when parties are physically present, then the promisee can easily communicate his acceptance to the proposer. But when the parties are in a distant place while the communication then they have to rely on the external sources of their transmission. It is always assumed that the offeree knows whether his communication of acceptance is received by the offeror or not. In case he thinks that the communication hasn't been received by the offeror due to some disturbances, then he can again communicate the same to the offeror.²³ When acceptance reaches the offeror, then the contract can be said to be concluded. It is quite contrary to the postal mode of communication, where the acceptance in respect of the proposer completes when the communication of acceptance is put in transmission to be out of the power of the offeree.²⁴

PLACE OF CONTRACT

In India, the place where the promisee relies upon his acceptance to the offeror will be the place of the contract when parties at a distance communicate their offer and acceptance through the instantaneous mode of communication like telephone or telex.²⁵

In English law, the place where the proposer receives the communication of acceptance by the promisee will be the place of contract when parties at a distance communicate their offer and acceptance through an instantaneous mode of communication like telephone or telex.

BHAGWAN DAS VS GIRDHARILAL²⁶

In this case, the respondents made a contract with the appellants. This contract was made by long-distance telephonic conversation. Ahmedabad was the place where the offer was made and Khamgaon was the place where the acceptance was spoken. After the allegations of a breach in the contract between them. A lawsuit was filed in the court of Ahmedabad.

The petitioners objected to the issue that the Ahmedabad court does not have jurisdiction over this matter. Contrary to this, the Ahmedabad court held that it has full jurisdiction over this matter.²⁷

The petitioner wanted the contract to be executed at Khamgaon. Just because the offer was made from Ahmedabad for purchasing the goods. The jurisdiction to entertain this legal suit could not be given to the Ahmedabad court. Despite that, in the judgment by the trial court at Ahmedabad, it was said that through any instantaneous mode of communication like the telephone, when a contract is made, then the place of the contract will be the place at which the acceptance was delivered to the offeror. Therefore, the civil court is entitled to have jurisdiction to entertain the suit. The decision of the trial court was validated by the High Court.²⁸

Revision appeal at the Supreme Court filed by the petitioner requesting to repeal the decision.

In the Supreme Court, the pressure was put on by the petitioners. They contended that place, where the place of the contract should be the place where the offer was accepted in the case through

²² "Contracts. Acceptance by Telephone Is Effective Where Spoken." Virginia Law Review, vol. 45, no. 1, 1959, pp. 121–23. JSTOR, <https://doi.org/10.2307/1070668>. Accessed 6 Jun. 2022.

²³ advocatespedia the law encyclopaedia, Acceptance by Telephone (Last visited: June 5,2022) https://advocatespedia.com/Acceptance_by_Telephone

²⁴ Law Circa, What is Communication & modes of Communication under the Indian Contract Act?(Last Visited: June 6,2022) <https://lawcirca.com/what-is-communication-modes-of-communication-under-the-indian-contract-act/>

²⁵ Jus Dicere,Telephonic offer and acceptance under the Indian Contract Act, 1872(Last Visited: June 6,2022) <https://www.jusdicere.in/telephonic-offer-and-acceptance-under-the-indian-contract-act-1872/>

²⁶ Bhagwandas Goverdhandas Kedia Vs. M/S Girdharilal Parshottamdas 1966 AIR 543

²⁷ The editor of Law Express, Bhagwandas Goverdhandas Kedia Vs. Girdharilal Parshottamdas Case Analysis, Law Express (Last visited: June 4,2022) <https://thelawexpress.com/bhagwandas-goverdhandas-kedia-vs-girdharilal-parshottamdas-case-analysis>

²⁸ Patil Rushikesh, Case Summary: Bhagwandas Goverdhandas Kedia v. M/S. Girdharilal Parshottamdas, LawLex.org (Last visited: June 6,2022) <https://lawlex.org/lex-bulletin/case-summary-bhagwandas-goverdhandas-kedia-v-m-s-girdharilal-parshottamdas/23630>

telephone, and the court within that territorial jurisdiction where the offer has been accepted, should only entertain lawsuits in case of any breach.

Held:

Making an acceptable offer at a different place is not a cause of action in a breach of contract claim for damages. Usually, the basis of a contract is formed by the acceptance of an offer and the communication of that acceptance. The indication must be made in the same visible manner that the law considers adequate.

In the case of a telephonic conversation, the parties are close to each other. Parties can hear and comprehend each other's voices. The indication of offer and acceptance, rejection, or counter-offer happens in real-time over voice communication. An electrical impulse involvement leads to the immediate and fast exchange of messages. It all happens from a distance and does not affect the nature of the conversational material. In such a way that it becomes equivalent to a post or telegraph offer and acceptance. The middleman between the offeror and the offeree is the post office, however, the intervention ends once the two parties are telephonically connected and can listen to each other straight away, in the case of a telephonic phone conversation.²⁹

SIMILAR CASE LAWS

In the famous case of *Adam's v. Lindsell*³⁰, the plaintiff is a wool manufacturer and the defendant is a fleece supplier. The defendant made an offer to supply his fleece to the plaintiff on 2nd September 1875 and due to the misdirection of the post, the offer letter was got by the defendant on 5th September 1875. First day itself, the letter of acceptance was posted by the plaintiff which reached the plaintiff on 9th September 1875. Surprisingly, the defendant denied supplying the fleece.

It was held that it was a valid contract. Acceptance was completed when the plaintiff put his letter of acceptance in the transmission as out of his power.

A similar ratio decidendi was applied in the case of *Baroda Oil Cakes Traders*³¹. In this case, the offer and acceptance were communicated by telegram. When the agreement has authorized communication acceptance by post or telegram, the contract is complete when the acceptance is put into a course of transmission by the offeree i.e by posting a letter or dispatching a telegram. It was contended by the defendants to apply the same rule as applicable on contracts made over the telephone.

CRITICAL ANALYSIS OF THE JUDGEMENT

1. The court's decision was proper, and it rightly decided the matter. The case's decision concludes that the telephone call was adequate to express the acceptance of an offer. The contract was made the instant the proposer listened to the offer being approved over the phone. No time limit was there for any revocation of the offer.
2. However, the court's conclusion was not under current Indian regulations in terms of contracts created through telephone conversations. There was no technological advancement when the contract act was made in 1871. No telephones or fax used to be in the home of the people. Despite this, the thinking was congruent with another case. An offer is considered to be conveyed when the offeree gets it through some external hint of the proposer's wish to propose a contract.
3. The court did an excellent work of defending its conclusion. A contract is said to be made and the contract is finalized when the promisee places the acceptance into a path of transmission by posting a letter, sending a telegraph, or making a phone call. The Supreme Court of India properly states that in a teleconference, the situation is the same as if the

²⁹ Ayush Bansal, Case Commentary: *Bhagwandas Goverdhandas Kedia vs. Girdharilal Parshottamdas & Co. & Ors*, *Libertatem Magazine* (June 5, 2021) <https://libertatem.in/law-notes/case-commentary-bhagwandas-goverdhandas-kedia-vs-girdharilal-parshottamdas-co-ors/>

³⁰ *Adam v Lindsell* EWHC KB J59; (1818) 1 B & Ald 681; 106 ER 250

³¹ *Baroda Oil Cakes Traders vs Parshottam Narayandas Bagulia* AIR 1954 Bom 491, (1954) 56 BOMLR 575, ILR 1954 Bom 1137

parties were in the same room, and therefore the contract by post principle does not apply to these transactions. When assent is sent by mail, the contract is considered complete when the letter of acceptance is received; however, when assent is received over the phone, the contract is completed when the offeror listens to the acquiescence on his end, rather than when the acceptor communicates the words of assent. As a result, the legal interpretation is fair and just in this case. The court's ruling is fair and adequate. One argument about the paucity of telecommunications in India in 1966 was left out of the decision, although this does not distract from the case's merits.

4. In 1966, this case was decided. The policies were evaluated. The consequences of this decision are hard to figure out. Since 1966, the updating and modification of the Indian Contract Act, of 1872 have been done multiple times. Establishing governmental policies dedicated to this sector is a long-sighted idea.

RATIO DECIDENDI

Section 4 of the Indian Contract Act, 1872³², can be used to determine the ratio decidendi under this case as per its constitutionality. The transmission of a proposal is accomplished, according to Section 4, when it gets to the recognition of the person to whom it is made. Once it is put in a course of transit to him so that it is out of the strength of the acceptor; when it realizes the proposer; The transmission of rejection is accomplished as opposed to the person who makes it when it is put into a channel of transmission to the person to whom it is done so that it is beyond the person's capabilities; as opposed to the person to whom it is made when it comes to his awareness. In this example, the suggestion of acceptance was conveyed over the phone, indicating that the plaintiff heard it right away. Although the drafters of the Indian Contract Act did not anticipate contracts being established over long distances, courts must follow what is practical under present legislation. According to the court's verdict, the proposer accepted the intimation as soon as he heard it, forming the contract.³³

FIRM KANHAIYALAL V. DINESH CHANDRA³⁴

The Court of Appeal in this example did not no longer regard contracts through immediate communications consisting of phone or Telex withinside the identical way that contracts through postal communications have been treated. It seemed an agreement made through phone or Telex as no special in precept from an agreement negotiated through the events in person, and hence carried out the not unusual place regulation rule that the recognition of a suggestion ought to be communicated to the offeror, and that the location wherein the agreement is made is the location wherein the offeror gets the notification of the offeror's recognition. The Court of Appeal refused to increase the unique rule governing contracts through submitting to Telex contracts, keeping that the agreement is entire whilst the recognition is given over to the Post Office, which acts because the offeror's agent disseminates the recognition.

As a result, the acceptor's powerful emission of recognition and the proposer's expertise in recognition are each immediate. As a result, the applicability of Section four's the verbal exchange of recognition provisions to such contracts is dominated. They had been in no way meant to use contracts made through tele-cell smartphones or different current strategies of immediate communications, which had been unknown in 1872 while the Contract Act turned into followed and had been now no longer taken into consideration through the Act's framers. If, as I believe, the provisions of Section four concerning the final touch of the verbal exchange of recognition cannot be implemented to contracts remodeled the tele-cell smartphone or thru different simply immediate communications, then the overall rule that a suggestion needs to be communicated to the offeror need to be observed in such contracts.

³² The Contract Act of India, 1872, & 4, No. 9, Acts of Parliament, 1872 (India)

³³ Jus Dicere, Telephonic offer and acceptance under the Indian Contract Act, 1872 (Last Visited: June 6, 2022)

<https://www.jusdicere.in/telephonic-offer-and-acceptance-under-the-indian-contract-act-1872/>

³⁴ Firm Kanhaiyalal vs Dineshchandra AIR 1959 MP 234

The utility of this not unusual place regulation rule to smartphone contracts is in no manner incompatible with the Contract Act's provisions or with the standards of justice, equity, and top conscience. There may be no enforceable settlement in a settlement mentioned orally with the aid of using the events withinside the presence of every different till the offeror obtains the reputation with the aid of using listening to and knowledge of it. The events are, without a doubt, at a distance in smartphone contracts.

However, the conversation is on the spot and oral. The rule that a proposal isn't entire till its miles are received, heard, and understood with the aid of using the offeror could consequently observe to contracts remodeled the tele-cell smartphone withinside the equal manner that contracts negotiated withinside the bodily presence of the events could. If a tele-cell smartphone agreement is most effective entirely while the offeror gets the attractiveness, the location in which the agreement is made is the location in which the attractiveness is received.

The difficulty is if the defendant made the provide from Ranganj, it was given to the plaintiff's interest at Ratlam, and the defendant offeror acquired information of the plaintiff-popularity offeree's at Ramganj. If on the opposite hand, the plaintiff at Ratlam became the offeror, it became conveyed and acquired with the aid of using the defendant at Ramganj, and the plaintiff acquired statistics of the defendant's popularity at Ratlam. In both cases, the plaintiff's criticism could be heard with the aid of using the capable courts in Ratlam and Ramganj, both due to the fact the provide became acquired there or due to the fact the popularity became acquired and the settlement became made there. The fit can for this reason be heard with the aid of using the Civil Judge, First Class, Ratlam, no matter whether or not the plaintiff or defendant became the offeror.

Denning L.J. said in *Entores Ltd. v. Miles Far East Corpn*³⁵, that the postal rule does now no longer observe instant modes of conversation inclusive of tele-cell smartphones and telex. It might be ludicrous to presume that the agreement changed into mounted and that the events might now no longer touch every different once more if a tele-cell smartphone line "went dead" simply earlier than the offeree replied "yes." The identical can be stated for telex. The agreement changed into most effective mounted whilst and in which the telex changed into received, as a result, London changed into the location of formation.

Cohen, J. held in *N.M. Superannuation Pty. Ltd. v. Hughes*³⁶, a selection of the New South Wales Supreme Court, that if a fax is left switched on, its proprietor is indicating their readiness to get hold of messages on it, and that it turned into enough for a be aware to be communicated through fax in such circumstances, even though the report arrived out of doors of ordinary enterprise hours. Other digital modes of communication, consisting of e-mail, are probable to observe the equal rules, however, they haven't begun to be examined in court.

CRITICAL ANALYSIS OF THE JUDGEMENT

1) In this section, there is a lack of information about the modalities of communication.

Dealing with today's speedy shape of conversation is a key situation at the moment. When the conversation is accomplished via cutting-edge media which include e-mails, tele-cell smartphone calls, faxes, and mainly social media systems on the internet, the trouble will become lots greater problematic. The Information Technology Act of 2000 describes how digital messages are communicated; however, it now no longer deals with how those messages are used to make contracts.

2) Modern communication modes are capable of acting both instantly and slowly.

"The conversation of a popularity is entire as in opposition to the proposer while it's far set in a direction of transmission to him, to be out of the energy of the acceptor, and as in opposition to the acceptor, in terms of the proposer's knowledge," says Section 4. It is stated to install a transmission direction here, however, no particular transmission is indicated; hence, it consists of all kinds of transmissions, together with e-mail and Facebook. Even though e-mail and Facebook conversation

³⁵ *Entores Ltd v Miles Far East Corporation* [1955] EWCA Civ 3

³⁶ *Hughes v NM Superannuation Pty Ltd* (1993) 29 NSWLR 653, 670

fall below Section 4, no clean rule has been hooked up as to whether or not postal policies or policies of on-the-spot conversation might be handled similarly to e-mail and Facebook contracts. It seems to be the spot conversation while a person sends a message through Facebook or e-mail and the opposite character responds immediately. If someone sends a message with the aid of using e-mail or Facebook Chat Messenger, however, the different aspect does now no longer reply immediately, it seems to be non-on a spot conversation. When searching at the character of e-mail and Facebook conversation, it can be labeled as each on the spot and non-on the spot.

3) What communication norms should be followed?

"The statute becomes created at a time while telephones, wireless, Telstar, and Early Bird have been now no longer considered," Justice Hidayatullah stated. The Information Technology Act of 2000 does now no longer comply with any postal or immediate verbal exchange rules. The dispatch of a digital file happens while it enters a laptop aid outdoor the manipulation of the originator, and the receipt might arise withinside the case of e-mail while the message enters the addressee`s digital mailbox; thus, the settlement is entire while the message enters the addressee's mailbox, in line with Section thirteen of the Information Technology Act of 2000. If we categorize e-mail or Facebook verbal exchange as immediate verbal exchange, i.e., telex, telephone, fax, the settlement is concluded concerning the proposer's knowledge, in line with Entores Ltd. v. Miles Far East Corpn. The settlement isn't fulfilled if the proposer does now no longer listen to the attractiveness for confusion or noise. In the case of an e-mail or Facebook settlement, the settlement is entire as quickly as the email or message is sent.

RECENT JUDICIAL DECISION

ASIANET SATELLITE COMMUNICATION LTD. V. SATHYADHARA COMMUNICATIONS PVT. LTD.³⁷

FACTS

The petitioner is working each as a Multi-System Operator (MSO) and a Local Cable Operator (LCO), in phrases of "The Telecommunication (Broadcasting and Cable Services) Interconnection Regulation 2004" (as amended from time to time), withinside the State of Kerala. It distributes alerts of numerous TV channels directly, in addition to via different cable operators, to man or woman subscribers. The respondent is a broadcaster who has a TV channel via way of means of the call of "Darshana TV". A carriage settlement dated 8.8.2011 changed into signed among the events. This settlement changed into legitimate for 365 days from 1.9.2011 to 31.8.2012. As in step with the settlement, the petitioner changed into to hold and retransmit alerts of the "Darshana TV" channel of the respondent. For the carriage of this channel, the respondent changed into paying a quantity of Rs. 60 lakhs in step with exceptional taxes, in the course of the settlement. This settlement or the charge below it isn't in dispute. The dispute relates to a length beginning from 1.9.2012 until the disconnection of carriage of alerts via way of means of the respondent on 20.11.2013. It is the case of the petitioner that even though the settlement dated 8.8.2011 expired on 31.8.2012 via way of means of efflux of time, each of the events has been desirous of persevering with courting in phrases of clause 8.2 of the same. As in step with this clause the settlement can be renewed for an additional length, on phrases and situations collectively ideal to the events. On 17.10.2012 the petitioner addressed a letter to the respondent asking it to make a proper request for the continuation of the telecast of its alerts so that the phrases of renewal settlement might be discussed. This letter of the petitioner changed into a response via way of means of the respondent on 19.10.2012. This letter drew the interest of the petitioner toward a few issues withinside the petitioner`s community and additionally issues regarding the site of the respondent's channels. On 28.2.2013, the petitioner dispatched an e-mail to the respondent regarding a telephonic communique with the chairman of the respondent agency and enclosing a draft settlement. This is now no longer ideal for the respondent.

³⁷ ASIANET SATELLITE COMMUNICATION LTD. V. SATHYADHARA COMMUNICATIONS PVT. LTD. 2015 SCC ONLINE TDSAT 1623

HELD:

Right here, Acceptance isn't provided made via way of means of the petitioner via way of means of the respondent and hence, there's no concluded contract.

INSTANTANEOUS COMMUNICATION AND THE POSTAL RULE

Over time, courts needed to consider whether the scope of the postal system could be expanded to include new advances in communication such as Example: Immediate communication. With advances in electronic means, sending and receiving messages tends to be consistent, and all rules have been created to handle the time delay between the two: B. Postal rules have been abolished. Telephone conversations are treated as conversations between two people in the same room, so reception rules apply. This means that the provider must receive a declaration of acceptance before signing a contract. This differs from postal rules in that the provider must confirm receipt. However, in other cases, the submission does not necessarily mean that the approval has been submitted.³⁸

In 1955, Sir Denning, in the case of *Entores Ltd v. The Miles Far East Corporation*³⁹ cites many examples of when acceptance is communicated and when it is not and concludes that "the rules for immediate communication between the parties are different from the rules for posts." The contract will not be concluded until the offeror consents, and the contract will be concluded at the place where the consent is received. Therefore, unlike the postal system, the offeror seems to be responsible for effectively communicating the consent before signing. Contract. This differs from postal regulation in that the law is less favorable to consumers, but it looks more practical and fairer in the sense that both parties are aware of their respective positions. This is because the immediate communication is confirmed rather than posted. We also expect to receive a declaration of acceptance by notifying you immediately during normal business hours. However, the problem arises when the message is not instantaneous when using the instantaneous method.

At *Brinkibon Ltd v Stahag Stahl*⁴⁰, Sir Fraser addressed this issue and stated that he would take responsibility and risk if the recipient of the message chose not to carry his machine. *Mondial Shipping and Chartering BV v. At Astarte Shipping Ltd*⁴¹, the court reaffirmed this and stated that it was limited to business hours and that notifications sent late Friday could not be sent until the next business day (Monday morning). This sounds reasonable because it is impractical to treat every message sent as if it were always unrelated to face-to-face conversations. Immediate procedures have been used for many years since the above incidents and have little or no business impact. This may indicate that they are considered fair and acceptable by society.

ELECTRONIC COMMUNICATIONS AND THE POSTAL REGULATION

The introduction of computers was another issue that courts had to deal with. A contract was signed via the internet. B. CDs purchased from the online shop will be treated in the same way as transactions made at the shop. The customer places the item in the virtual shopping cart and proceeds to checkout, where they provide the seller with credit card details. This constitutes an invitation to purchase. Make a transaction "similar to the situation of the *British Pharmaceutical Manufacturers Association v Boots Cash Chemists Ltd*"⁴². Only then will the order confirmation be displayed on the website. This often means that the order will only be accepted when it is shipped. Electronic Commerce (EC Directive) Rule 2002 explicitly regulates contracts between consumers and businesses that sell through websites. This means that the "receipt" rule applies to Internet contracts. You can access it. Internet contracts are considered an immediate communication channel, so postal

³⁸ StuDocu, 'Drawing on relevant case law, discuss the application of the 'postal rule' in the formation of a contract. Does it have any place in today's world?' (Last Visited: June 7, 2022) <https://www.studocu.com/en-gb/document/university-of-northampton/law-of-contract/contract-law-essay-postal-rule/13694265>

³⁹ *Entores Ltd v. The Miles Far East Corporation* EWCA Civ 3., 2 QB 327

⁴⁰ *Brinkibon Ltd v Stahag Stahl GmbH* [1983] 2 AC 34

⁴¹ *mondial shipping and chartering bv v astarte shipping ltd* 1995 com lc 1011

⁴² *Pharmaceutical Society of Great Britain v. Boots Cash Chemists* [1953] 1 QB 401

rules do not apply. However, because regulation is a major law, in this case, Congress has prioritized the "receipt" rule over the "shipping" rule.

Since the Electronic Commerce Regulations (EC Directive) do not apply to email, there is confusion as to whether an email is "instant" or "non-instant", the former being outside the scope of postal regulations. Technically, email is as fast as fax or teletex, but email is not sent directly between the two devices. Instead, it is routed through the server. Eliza Mik argues that "email messages are exchanged independently between contracting parties without establishing an end-to-end simultaneous traffic path," and "explaining email as no delay is technical. You need to make sure that the postal rules apply to the email because it is not correct. Basic." The second argument comes from one of the reasons for email restrictions above. If the law requires people to "trust email", it is hypocritical not to apply the same criteria to email. After pressing send, the person loses control of the receipt as if he had packed the receipt in his mailbox.⁴³

On the other hand, scholars suggest several reasons why the postal system should not be extended to email. The basic argument for the purpose and reason of the postal rules, when introduced in the 18th century, was that it was the only means of communication other than face-to-face conversation. Some Capps remind us that the 21st century has a variety of instant communication technologies that enable us to effectively reach non-instantaneous messages. Message reception is a technological advance that supports this. Fees that support the application of postal rules to email suggest that businesses need to use this service to ensure that they receive messages.

POSTAL ACKNOWLEDGEMENT: When does the offer acceptance process end?

If the recipient of the proposal agrees under the Indian Contract Law, the proposal will be deemed to have been accepted. Therefore, if the target recipient approves the plan, it is considered accepted. The proposal is communicated and accepted. An absentee contract is one in which the parties to the contract are not in the same room at the time the contract is signed. In the event of an absent contract, the contracting parties communicate their proposals and consents using a variety of techniques, including B. Mail, telegram, telegram, telephone, email, etc.

However, how can one know when a contract has been formed? Or how can a party request a contract cancellation? Or when is the offer and acceptance communication complete between the offeror and the offeree?

All of these concerns are addressed in the following sections.

Telex or telephone communication, fax, or email communication are all considered "instantaneous" ways of communication. They're called so because, in the absence of the contracting parties, the communication of an offer, acceptance, or counter-offer reaches the party in a fraction of a second or microseconds, i.e., instantly via electronic signals.⁴⁴

Furthermore, the next part deals with telephone and telex, whereas the following section deals with fax. The Indian Contract Act, 1872, Section 2 Clause (b)⁴⁵, specifies that the proposal is claimed to be accepted when the person to whom it is made signifies his approval of it. As a result, when the offeree signs off on a plan, he is considered to have accepted it. The communication of a proposal through telephone or telex is said to be complete when the proposal is conveyed to the offeree, i.e., in the case of telephone, when the offeree hears the offer, and in the case of telex, when the offeree gets and skims the offer. Before the offeree accepts the proposal and expresses his approval to the offeror, a person may renounce the plan at any time. When the recipient of the offer receives the revocation notice, the revocation notice is complete. He doesn't have to read it. According to Section 5, proposals can be withdrawn at any time before the final notice of approval to the proposer, but

⁴³ Law Teacher. November 2013. The Postal Acceptance Rule. [online]. Available from:

<https://www.lawteacher.net/free-law-essays/contract-law/postal-acceptance-rule-and-modern-communication-contract-law-essay.php?vref=1> [Accessed 7 June 2022].

⁴⁴ Prince Chandak, Communication of acceptance and Post Box rule in Contract law, Law Column (Last visited: June 7, 2022) <https://www.lawcolumn.in/communication-of-acceptance-and-post-box-rule-in-contract-law/>

⁴⁵ The Indian Contract Act, 1872, & 2 cl. b, Acts of Parliament, 1872 (India)

cannot be withdrawn thereafter. According to §4⁴⁶, the transmission of the revocation to the expired person is completed when it is placed on the transmission channel to the person to whom it is addressed, outside the person claiming his ability. Towards the person to whom it was addressed, when it concerns their knowledge.

As a result, the proposal may be canceled before the proposer posts the acceptance letter. If the provider is aware of the cancellation of the offer, this is considered complete. If you accept, the offer is irreversible. When everything is ready, accept it. If all parties are present at the same time when the proposal is made, the respondent can simply give his or her approval. However, neither party is ahead of the other, so you need to rely on other sources to convey your message. When using the telephone as a means of communication, the acceptor records whether the provider has heard the message and allows the message to be resent if there is a problem delivering the accepted message. In the case of consent, the contract is signed when the provider receives the consent, that is when it receives the consent message. For telephone or telex communications, the postal acceptance completion rule, which declares acceptance completed during transmission, does not apply. Where the transaction takes place If the parties remotely submit proposals and acceptances by phone or telex, the place where the transaction takes place is where the recipient speaks with the proposer and announces acceptance of the proposal. As a result, if the respondent shows consent, a contract to that effect will be concluded. If the parties are separated and submit their proposal and acceptance over the phone or telex, the place of conclusion of the contract under English law is where the provider receives the notice of acceptance of the proposed person. Therefore, if the provider receives a declaration of acceptance, the place where the notice is received is also the place where the contract was signed. Once he gives consent and his words are placed in the communication channel, he cannot withdraw his consent. Innovations allow phones to send message signals instantly, allowing providers to instantly know the acceptance of offer recipients. As a result, it may be said that the provider will ask for consent when the subject expresses consent, and as a result, the contract will be concluded at the place where the subject expresses consent. When the recipient of the offer accepts the offer and notifies the provider, a contract is formed through the instant communication channel. The notice must be in the form of an equivalent appearance that is considered sufficient by law. For telegrams and emails, a contract is signed when the recipient accepts the offer during the sending process.

This standard does not apply to direct communication means such as the telephone. The contract is formed when the respondent accepts the proposal and notifies the provider of the acceptance, even if the parties are physically separated. With this notice, the offer and acceptance of the contract are legally binding. As a result, postal rules do not apply to immediate communication lines. This is because telephone conversations are conducted in the sense that both sides are in front of the other and each participant can hear the other's voice. "A telephone is an instant communication of voice implying offer and acceptance, rejection and counteroffer." The intervention of an electrical impulse that results in the instantaneous communication of messages from a distance does not change the character of the conversation, making it analogous to a suggestion and acceptance via post or Telegram." Also, no third or external agency is involved in communicating the acceptance of one party to another via telephone, making it a conversation that will be taken as instantaneous mode, and thus it is analogous to a suggestion and acceptance via post or Telegram."

POSITION IN THE UNITED STATES OF AMERICA⁴⁷

The provider has submitted an account action based on a specific risk reinsurance agreement. Due to the differences in fraudulent law between Pennsylvania and New York, the enforceability of a contract is partially determined by the location of the contract (New York law includes a clause that

⁴⁶ The Indian Contract Act, 1872, & 4, Acts of Parliament, 1872 (India)

⁴⁷ T. J. W., Contracts--Acceptance by Telephone--Place of Contract, 61 W. Va. L. Rev. (1958)
<https://researchrepository.wvu.edu/cgi/viewcontent.cgi?article=3958&context=wvrl>

prevents the contract from being enforced within a year. Written by; Pennsylvania law omits this provision).

P has an office in Philadelphia, so he flew to New York to contact D about the offer. After returning to Philadelphia to offer a job, D called P and accepted it by phone. The court overturned the lower court's ruling and concluded that the telephone offer would be accepted when the language was spoken.⁴⁸

According to RESTATEMENT (SECOND), Conflict of Laws 826,1958, "If acceptance is sent by other means (other than an agent), the place of formation of the contract is the state in which the acceptance was sent". "The place where the contract is signed is where the approver expresses his consent when the telephone consent is provided," adds the same recast comment C, referring to the factual scenario in question. Acceptor refers to acceptance by a contract partner. "

In other words, according to Contract & 65,1932, "when the parties are in the same room, audio acceptance follows the same criteria as verbal acceptance". There are no comments or examples in this section. Compared to Williston, Contracts 82 (rev. ed. 1938), the paraphrase supports the idea that the contract will be executed where it is heard. "Telephone contracts offer the same similarities as contracts made in the presence of the parties," said Professor Williston. In the next sentence, he implements this idea further. "The bidder should not take advantage of the opportunity to hear the acceptance addressed to him in later circumstances. If the provider needs to hear what is said, the time and place of education are not when and where the recipient says, but when and where the provider hears.

Professor Corby could not find a single example in favor of contract restatement, so in 1 Corby, Contract 79,1950 he used the Law Conflict Restatement Approach.

Case law does not currently support the paraphrase of the treaty or Professor Williston's position, and the number of countries challenging this issue is growing rapidly. Inevitably, the court upheld the speaker's position that the contract would be formed at his or her place of business. Professor Williston's views were found to be logically valid in some of these judgments.⁴⁹ Compared to letters and telegrams, telephone promises look like verbal promises. This argument fails because the courts seem to believe that the uniformity of telephone, telegraph, and mail acceptance is good. Despite the absence of direct cases in West Virginia, evidence of the court's opinion in telegraph and postal proceedings suggests that the state will follow a majority position, which is supported by telephone directors. According to the court of Deegan's Coal Co. v Hedrick⁵⁰, the contract accepted by phone "probably was accepted by phone and began to detain Deegan the moment it was accepted."

The fact that the court used the term "moment of acceptance" instead of "moment of acceptance" means that the contract is formed at the end of the acceptor's telephone line. The fact that it means can be important. Galloway vs Standard Fire-in. Co.⁵¹ supports the extension of the previous conclusion. In the case of this mail acceptance, the court found that: "In general, it is the place of acceptance, not the place of acceptance, that determines the contract" (we do not try to limit it to the mail). Coal in three states.⁵² The court stated that "generally, a contract is considered to have been formed where the offer was accepted, or where the last act necessary to fulfill it was taken." (1931). Another reason for believing that West Virginia is in favor of a majority vote is in state v. Davis⁵³. Mr. D, who was selling alcoholic beverages, contacted Mr. A and said that he would pay when the order arrived. According to the court, in this case, acceptance was declared at the place where the purchase agreement was signed.

⁴⁸ Linn v. Employers Reinsurance Corp. 153 A.2d 483 (Pa. 1959) 153 A.2d 483

⁴⁹ Traders Oil Mill Co.v. Arnold Bros. Gin Co., 225 S.W. 2d 643 (1949); Pearson v. Electric Service Co., 116 Kan. 300, 201 S.2d 643 (1949) ; Traders Oil Mill Co. gegen Arnold Bros. Gin Co., 225 S.W. 2d 643 (1949) ; Traders Oil Mill Co. gegenArnoldBros. Gin Co., 225 SW 2 (Tex. Civ. App. 1949)

⁵⁰ Deegan's Coal Co. v Hedrick, 91W. Va. 877, 113 H.E. 262. (1922)

⁵¹ Galloway vs Standard Fire-in. Co., 45 W. Va. 237, 31 S.E. 969 (1898)

⁵² Co.v. Superior Elkhorn By-products Coal Co., 110 W. Va. 455, 158 S.E. 661

⁵³ state v. Davis, 62 W. Va. 500, 60 S.E. 584 (1907)

In addition to these signs, there is a strong debate about contract consistency. Currently, the majority of states believe that telephone acceptance should follow the same rules as telegrams and letters, and West Virginia courts are expected to agree with this court, which finds that: increase. In legal transactions, we believe it is especially important that the place of conclusion of the contract is determined in the same way, regardless of the state in which the proceeding was filed. "The rights and obligations of the contracting parties have filed proceedings and encouraged shopping in the forums," he said. I was looking for a place to sell real estate, not just a bill of sale," said A, and D agreed.

POSITION IN UK⁵⁴

It is important to consider the possible justification for the existence of acceptance in the declaration of acceptance, as the law applicable to the conclusion of the contract is determined by the place of acceptance. The most common argument in this position is based on the contract-making analogy that applies to letters.⁵⁵ To understand the importance of this similarity, *Adam v. Lindsel*⁵⁶ set a precedent that the issuance of a letter of acceptance is a contract.

As Professor Grismore⁵⁷ points out, at the time of the ruling, the subjective theory of mutual consent was predominant, and it was controversial whether the offer could create a lasting receptivity to the respondent. However, the court concluded that the contract could not be completed by mail until an agreement was reached. As a result, courts tended to rule that "the proposal is valid, but no longer valid until the subject's recipient has the opportunity to declare its acceptance through clear and explicit actions." Such actions were considered to send a letter of acceptance and did not require open action against the other party.

The posting rules are not required by the objective theory and, in fact, contradict the communication requirements of the objective theory, but the court upholds Adams' decision and does not provide evidence that the principles will change. In addition, the justification provided as a last resort to maintain the Adams case, which focused on the recipient's ability to send acceptance by email⁵⁸, is a strong foundation for expanding its application to other modes of communication provided.

Given this development, it's easy to see how this principle extends to telegraph⁵⁹, telephone⁶⁰, and postal contracts. Criticizing these extensions of the principles is criticizing the principles themselves, and even Williston says that the argument is "academic" because Adams' litigation rules law is so well-defined. I admit it. Indeed, with the passage of a postal ordinance that allows senders to retrieve letters before delivery, some courts have ruled that a letter of acceptance must be received to bind the contract, but that ordinance. Has nothing to do with Adams' decision, which was based on the manifestation of explicit acceptance, not the control of writing⁶¹. It should also be noted that the UK believes that if the acceptance of the telex is received because of its speed, it will be sufficient to form a contract. US courts did not have to rule on this type of communication, but, if necessary, courts apply British rules to ignore the need for commerce uniformity. Some of these decisions should not be used to impede our progress towards a more unified system.

In the main proceedings, the court emphasized the importance of consistency across all communication channels. When two companies in the same state accept separate offers from the outside, one uses the telephone and the other uses the telex as a means of communication. The importance of necessity becomes clear. The former company is subject to the laws of its own

⁵⁴ Dishman, William M. Jr. (1959) "Contracts--Place Where Made When Acceptance is by Telephone," *Kentucky Law Journal*: Vol. 48 : Iss. 1 , Article 9. <https://uknowledge.uky.edu/cgi/viewcontent.cgi?article=3254&context=klj>

⁵⁵ *Bank of Yolo v. Sperry Flour Co.*, 141 Cal. 814, 74 Pac. 855 (1903); *Trinity Universal Ins. Co. v. Mills*, 293 Ky. 463, 169 S.W.2d 311 (1943).

⁵⁶ *Adam vs. lindsell* EWHC KB J59; (1818) 1 B & Ald 681; 106 ER 250

⁵⁷ Grismore, *Contracts* § 48 at 70 (1947).

⁵⁸ 1 Williston, *Contracts* § 83 (1929).

⁵⁹ *Cowan v. O'Connor*, [1888] 2 Q.B. 640; *Restatement, Contracts* § 64 (1932).

⁶⁰ *Bank of Yolo v. Sperry Flour Co.*, supra note 4; *Trinity Universal Ins. Co. v. Mills*

⁶¹ 1 Williston, *Contracts* § 81 (1929).

country, while the latter is subject to the state laws of bidders under British control. Such a situation creates ambiguity in the application of conflict of law rules. The rule states that the legality of a contract is governed by the country in which the contract was signed. Both commitments came from the same source as if the commitment letter was mailed.

The concept of the Lynn case does not prevent the parties from deciding when to accept in a way that suits their purpose⁶². For the binding conclusion of the contract, the provider has the option of requiring receipt of a declaration of acceptance. It's certainly not a big deal for the provider to make this specification part of the offer and remove all questions.⁶³

When making a quote over the phone, it is no exaggeration to say that all contracts comply with the laws of your country. It is important to understand that not all aspects of a telephone contract comply with the law of the place where acceptance is declared.⁶⁴ The court generally ruled that the performance of the contract would be subject to the law of the place of performance consistent with the rules of conflict of law.

The author believes that the main instance shows the correct contract formation rules. It's worth noting that just a month after the Lynn case was resolved, a similar problem arose in California and the same concept was re-established.⁶⁵

Kentucky, like any other country, accepts this premise. Since the Adams case is such an established precedent, it is not surprising that all other modes of communication need to be considered in the same way to reach a unified system.

HOW ONE CAN RESOLVE THE PROBLEMS WITH SUGGESTIONS

Section 4 of the Contract Act,1872⁶⁶ requires additional adjustments to reflect the basic elements necessary for contract formation. We need information about the different modalities of communication and whether they happen instantly. Appropriate standards must also be established for this type of communication. Given the nature of Facebook and email communication, not only postal rules but also instant communication rules need to be applied. As already mentioned, the nature of momentary communication and the rules of post existed in these modern means of communication. If the negotiation begins immediately, you should contact us immediately, regardless of how the negotiation ends, and the contract will be completed when the proposer approves it. However, if it is not a temporary negotiation, the postal rules must be applied and the contract will be completed when the acceptance is sent and will be out of the control of the acceptor. If the contract is an instance type, the provider can waive it before receiving the consent, but if it is a non-immediate contract, the provider has enough time to cancel the offer before the consent is given. The sender of a fax or email cannot immediately be known if the communication was successful. Therefore, unless the sender can immediately confirm that the message was sent properly, the criteria for delivery by mail also apply to communications sent by fax, email, or other electronic means. There seems to be.⁶⁷

CONCLUSION

Section 4 of the Indian Contract Act,1872 is currently not keeping up with the modern world. Changes/reforms are needed to modify, including the parts that make it easier to conclude contracts. As you can see from the previous cases and judgments. After the English decision at Entores Ltd. v. The Supreme Court of Miles Far East Corp.⁶⁸, in Bhagwandas Goverdhandas Kedia v Girdharilal

⁶² Household Fire Ins. Co. v. Grant, [1879] 4 Ex. D. 216, 223.

⁶³ Restatement, Conflict of Laws § 826 (1934)

⁶⁴ Cardon v. Hampton, 21 Ala. App. 438, 109 So. 176 (1926); Bank of Yolo v. Sperry Flour

⁶⁵ Trinity Universal Ins. Co. v. Mills

⁶⁶ The Indian Contract Act,1872, & 4, No. 9, Acts of Parliament,1872(India)

⁶⁷ Ayush Pandia,Is Section 4 of Contract Act, 1872 in pace with 21st century,SCC Online Blogs(March 13,2018)

<https://www.sconline.com/blog/post/2018/03/13/is-section-4-of-contract-act-1872-in-pace-with-21st-century/>

⁶⁸ Entores Ltd v Miles Far East Corporation [1955] EWCA Civ 3

Parshottamdas & Co⁶⁹, Section 4 of the Contract Law applies only to non-direct forms of communication, not when direct forms of communication are used. I decided. Did it. The court found that the drafter of the contract law was not intended for immediate termination. If the offer and consent are sent by phone, telex, or another direct contact, the postal rules do not apply and the contract will be concluded upon receipt of the consent. Therefore, the above default principle is only relevant if the contract is not signed immediately. "Email communication has some characteristics of instant communication, but it is a fragmented process with many steps. Email messages are split into multiple packets and delivered over multiple routes. Also, unlike the direct communication method, even if the sender receives the delivery confirmation, the sender only displays the delivery to the mailbox, and the other party confirms, that is, recognizes whether the mail was sent normally. No. There is no way to know. From the receipt. Therefore, email messages fall into the category of non-instantaneous communications. The above standard rules apply to email contracts. Also, postal rules do not appear to be completely abolished. Nevertheless, it can be applied to current non-immediate means of communication such as email. According to Singapore courts, email is not instant. This is because the message may arrive in an "incomplete" state, depending on the "protocol" on which the message is sent. In this case, we compare unopened and unopened emails and conclude that postal standards need to be applied to the emails. The fact that Congress did not pass the law on this matter, but clarified the rules for contracting through the website, may indicate that the traditional postal system will continue to apply. Email is similar to a post, but it's faster, so it seems natural to apply the "receive" criteria when the email message between the parties is momentary and direct. It seems to be.

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