

Example. E bought certain property from B "subject to contract". The terms of the formal contract were agreed and each party signed his counterpart. E posted his counterpart but B in the meantime changed his mind and did not post his counterpart. Held, there was no binding contract between the parties [*Eccles v. Bryan* (1948) Ch. 93].

Agreement to agree in future

If the parties have not agreed upon the terms of their contract but have made an agreement to agree in future, there is no contract. Lord Wensleydale observed that "an agreement to be finally settled must comprise all the terms which the parties intend to introduce into the agreement. An agreement to enter into an agreement upon terms to be afterwards settled between the parties is a contradiction in terms. It is absurd to say that a man enters into an agreement till the terms of the agreement are settled; until those terms are settled, he is at liberty to retire from the bargain." [*Ridgeway v. Wharton*, (1857) 6 H.L.C. 238].

Examples. (a) An actress was engaged by a theatrical company for a certain period. One of the terms of the agreement was that if the play was shown in London, she would be engaged at a salary to be mutually agreed upon. Held, there was no contract [*Loftus v Roberts* (1902) 18 T.L.R. 532].

(b) *Montreal Gas Co. v. Vasey*, (1900) A.C. 595, discussed in the preceding Chapter.

(c) *Foley v. Classique Coaches Ltd.*, (1934) 2 K.B. 1, discussed earlier in this Chapter.

COMMUNICATION OF OFFER, ACCEPTANCE AND REVOCATION

An offer, its acceptance and their revocation (withdrawal) to be complete must be communicated. When the contracting parties are face to face and negotiate in person, a contract comes into existence the moment the offeree gives his absolute and unqualified acceptance to the proposal made by the offeror. When the parties are at a distance and the offer and acceptance and their revocation are made through post, i.e., by letter or telegram, the rules contained in Secs. 3 to 5 apply. These rules are as follows:

Mode of communication (Sec. 3)

The communication of offer, its acceptance and their revocation respectively are deemed to be made by any (a) act, or (b) omission, of the party offering, accepting or revoking. Such act or omission must, however have the effect of communicating such offer, acceptance or revocation. In other words, offer, acceptance or revocation may be communicated by words spoken or written, or by conduct. Thus installation of a weighing machine at a public place is an offer, putting of a coin in the slot of the machine is the acceptance of the offer, and switching off the machine amounts to revocation of the offer.

When is communication complete (Sec. 4)?

Communication of offer [Sec. 4, para 1]. The communication of an offer is complete when it comes to the knowledge of the person to whom it is made.

Example. A proposes, by a letter, to sell a house to B at a certain price. The letter is posted on 10th July. It reaches B on 12th July.

The communication of the offer is complete when B receives a letter, *i.e.*, on 12th July.

Communication of acceptance (Sec. 4, para 2). The communication of an acceptance is complete—

as against the proposer when it is put into a course of transmission to him, so as to be out of the power of the acceptor ;

as against the acceptor when it comes to the knowledge of the proposer.

Example. B accepts A's proposal, in the above case, by a letter sent by post on 13th instant. The letter reaches A on 15th instant. The communication of the acceptance is complete, as against A, when the letter is posted, *i.e.*, on 13th, as against B, when the letter is received by A, *i.e.*, on 15th.

Communication of revocation (Sec. 4, Para 3). Revocation means "taking back" "recalling" or "withdrawal". It may be a revocation of offer or acceptance. The communication of a revocation is complete—

as against the person who makes it, when it is put into a course of transmission to the person to whom it is made, so as to be out of the power of the person who makes it ;

as against the person to whom it is made, when it comes to his knowledge.

Examples. (a) A proposes, by a letter, to sell a house to B at a certain price. The letter is posted on 15th May. It reaches B on 19th May. A revokes his offer by telegram on 18th May. The telegram reaches B on 20th May. The revocation is complete as against A when the telegram is despatched, *i.e.*, on 18th. It is complete as against B when he receives it, *i.e.*, on 20th.

(b) T offered, by a letter of October 1, to sell goods to B in New York. B received the offer on 11th and immediately telegraphed his acceptance. On 18th, T wrote a letter revoking his offer. The letter was received by B on 20th. *Held*, the revocation was of no effect until it reached B. A contract was made on 11th October when B accepted the offer [*Byrne & Co. v. Van Tienhoven*, (1880) 5 C.P.D. 344]. Lindley J. observed in this case, "A state of mind not notified cannot be regarded in dealings between man and man, and that an uncommunicated revocation is, for all practical purposes and in point of law, no revocation at all."

Time for revocation of offer and acceptance (Sec. 5)

Time for revocation of proposal (Sec 5, para 1). A proposal may be revoked at any time before the communication of its acceptance is complete as against the proposer, but not afterwards.

Time for revocation of acceptance (Sec. 5, para 2). An acceptance may be revoked at any time before the communication of the acceptance is complete as against the acceptor, but not afterwards.

Example. A proposes by a letter sent by post to sell his house to B. The letter is posted on the 1st of the month. B accepts the proposal by a letter sent by post on the 4th. The letter reaches A on the 6th.

A may revoke his offer at any time before B posts his letter of acceptance, *i.e.*, 4th, but not afterwards.

B may revoke his acceptance at any time before the letter of acceptance reaches A, *i.e.*, 6th, but not afterwards.

Loss of letter of acceptance in postal transit

Acceptance is complete as against the offeror as soon as the letter of acceptance is posted. The contract is complete even if the letter of acceptance goes astray or is lost through an accident in the post. But in order to bind the offeror, it is important that the letter of acceptance is correctly addressed, sufficiently stamped and posted. If it is not correctly addressed and sufficiently stamped, the communication of acceptance is not complete within the meaning of Sec. 4 even if it is posted. Lord Cottenham L.C., in delivering the judgment in the House of Lords in *Dunlop v. Higgins*, (1849) 1 H.L.C. 381 enunciated the principle in the following words : "If the letter of acceptance is posted in due time, the acceptor is not responsible for any casualties in the post office If the party accepting the offer puts his letter into post on the correct day, has he not done everything he was bound to do ? How can he be responsible for that over which he has no control ?"

Contracts over telephone or telex or oral communication.

Modern business is mostly done through telephone or telex. A contract by telephone, or telex has the same effect as an oral agreement entered into between the parties when they are face to face. But the offeree must make sure that his acceptance is properly received, i.e., heard and understood by the offeror [*Kanhaiyalal v. Dineshwara Chandra*, A.I.R. (1959) M.P. 234].

Example. A makes an offer to B across a river or a courtyard. B shouts back accepting A's offer, but A does not hear B's reply as it was drowned by an aircraft flying overhead. There is no contract at that moment. If B wishes to make a contract, he must wait till the aircraft is gone and then shout back his acceptance so that A can hear what B says. Until A hears B's reply, there is no contract.

An example given in *Entores v. Miles Far East Corporation*, (1955) 2 All E.R. 493 is enlightening in this connection :

"Now take a case where two people make a contract by telephone. Suppose, for instance, that I make an offer to a man by telephone, and, in the middle of his reply, the line goes 'dead' so that I do not hear his words of acceptance. There is no contract at that moment. The other man may not know the precise moment when the line failed. But he will know that the telephone conversation was abruptly broken off, because people usually say something to signify the end of the conversation. If he wishes to make a contract, he must, therefore, get through again so as to make sure that I heard."

The principle of the *Entores* case was endorsed by the Supreme Court in *Bhagwan Dass Kedia v. Girdharilal*, A.I.R. (1966) S.C. 543.

When does an offer come to an end ?

An offer may come to an end by revocation or lapse, or rejection.

Revocation or lapse of offer. Sec. 6 deals with various modes of revocation of offer. According to it, an offer is revoked—

1. *By communication of notice* of revocation by the offeror at any time before its acceptance is complete as against him [Sec. 6 (1)].

Example. At an auction sale, A makes the highest bid for B's goods. He withdraws the bid before the fall of the hammer. The offer has been revoked before its acceptance.

2. *By lapse of time* if it is not accepted within the prescribed time. If however, no time is prescribed, it lapses by the expiry of a reasonable time [Sec. 6 (2)].

Examples. (a) *Ramsgate Victoria Hotel Co. v. Monoteffore*, (1866) L.R. 1 Ex. 109, discussed earlier in this Chapter.

(b) S offered to sell wool to B on Thursday and agreed to give him three days' time to accept. B accepted the offer on Monday, but by that time S had sold the wool. *Held*, the offer had lapsed [*Head v. Diggon*, (1828) 3 M. & R. 97].

3. *By non-fulfilment by the offeree of a condition precedent to acceptance* [Sec. 6 (3)],

Example. S, a seller, agrees to sell certain goods subject to the condition that B, the buyer, pays the agreed price before a certain date. If B fails to pay the price by that date, the offer stands revoked.

4. *By death or insanity of the offeror provided* the offeree comes to know of it before acceptance [Sec. 6 (4)]. If he accepts an offer in ignorance of the death or insanity of the offeror, the acceptance is valid.

In addition to the above cases dealt with in Sec. 6, an offer is also revoked—

5. *If a counter-offer is made to it* [*U.P. State Electricity Board v. Goel Electric Stores*, A.I.R. (1977) All. 494, 497]. Where an offer is accepted with some modification in the terms of the offer or with some other condition not forming part of the offer, such qualified acceptance amounts to a counter-offer.

Examples. (i) W offered to sell a farm to H for £ 1,000. H offered £ 950. W refused the offer. Subsequently, H offered to purchase the farm for £1,000. *Held*, there was no contract as H by offering £ 950 had rejected the original offer. The counter-offer to a proposal amounts to its rejection [*Hyde v. Wrench*, (1840) 3 Beav. 334].

(b) An offeree agreed to accept half the quantity of goods offered by the offeror on the same terms and conditions as would have applied to the full contract. *Held*, there was no contract as there was a counter-offer to the offer [*Trin v. Hoffman*, (1873) 29 L.T. 71].

6. *If an offer is not accepted according to the prescribed or usual mode*, provided the offeror gives notice to the offeree within a reasonable time that the acceptance is not according to the prescribed or usual mode. If the offeror keeps quiet, he is deemed to have accepted the acceptance [Sec. 7 (2)].

7. *If the law is changed*. An offer comes to an end if the law is changed so as to make the contract contemplated by the offer illegal or incapable of performance.

An offer can, however, be revoked subject to the following rules :

1. It can be revoked at any time before its acceptance is complete as against the offeror.

2. Revocation takes effect only when it is communicated to the offeree.

3. If the offeror has agreed to keep his offer open for a certain period, he can revoke it before the expiration of that period only—

- (a) if the offer has in the meantime not been accepted, or
- (b) if there is no consideration for keeping the offer open.

Rejection of offer. An offeree may reject the offer. Once he does that he cannot subsequently accept it. Rejection of the offer may be express or implied.

Express rejection. The offeree may reject the offer expressly, i.e., by words written or spoken. Express rejection is effective only when notice of rejection reaches the offeror.

Implied rejection. Rejection of the offer is implied by law—

(a) where the offeree makes a counter-offer [*Hyde v. Wrench*, (1840) 3 Beav. 334], or

(b) where the offeree gives a conditional acceptance (*Jordon v. Norton*, discussed earlier in this Chapter).

SUMMARY OFFER

An offer is an undertaking by the offeror to be contractually bound in the event of a proper acceptance of the offer by the offeree. It may be made by *express* words spoken or written, or it may be *implied* when it is inferred from the conduct of the offeror or from the circumstances of the case. It is *specific* when it is made to a particular person, and *general* when it is made to the world at large. In the former case, it is called a *specific offer*; in the latter case, it is called a *general offer*.

Legal rules as to offer. (1) It must be intended to create legal relations. (2) It must be certain. (3) It must be distinguished from (a) a declaration of intention, and (b) and invitation to make offer. (4) It must be communicated to the offeree. (5) It must be made with a view to obtaining the assent of the offeree. (6) It must not contain a term the non-compliance of which would amount to acceptance. (7) A statement of price is not an offer.

Lapse of offer. An offer lapses or comes to an end—(1) By communication of notice of termination of offer to the offeree. (2) By lapse of the specified or reasonable time. (3) By death or insanity of the offeror. (4) By a counter-offer. Counter-offer is an offer to the original offer. (5) By not being accepted according to the prescribed or usual mode. (6) By non-fulfillment of a condition precedent.

Communication of offer, acceptance and revocation. The communication of a *proposal* (offer) is complete when it comes to the knowledge of the person to whom it is made. The communication of an *acceptance* is complete—as against the proposer when it is put into a course of transmission to him; so as to be out of the power of the acceptor; as against the acceptor, when it comes to the knowledge of the proposer. The communication of a *revocation* is complete—as against the person who makes it, when it is put into a course of transmission to the person to whom it is made so as to be out of the power of the person who makes it; as against the person to whom it is made, when it comes to his knowledge (Sec. 4).

Special terms of offer. These must be brought to the notice of the other party before the acceptance of the offer, otherwise the acceptor will not be bound by such terms. Where the acceptor knows that there are some special terms, and his attention is drawn to them, he is bound by them if he accepts the offer.

Contract by telephone or telex. It has the same effect as an oral agreement entered into between the parties when they are face to face.

ACCEPTANCE

Legal rules as to acceptance. 1. It must be absolute and unqualified. 2. It must be communicated to the offeror. 3. It must be according to the prescribed or usual mode. 4. It must be given within the prescribed or reasonable time. 5. It must show an intention to fulfil the promise. 6. It cannot precede an offer. 7. It must be given by the specific person to whom the offer is made. If the offer is general, it may be accepted by any person. 8. It must be given before the offer lapses. 9. Mental acceptance is no acceptance.

Effect of silence on acceptance. The acceptance of an offer cannot be implied from the silence of the offeree unless the offeree has by his previous conduct indicated that his silence means that he accepts.

Acceptance subject to contract. An acceptance subject to contract means that the parties do not intend to be bound until a formal contract is prepared and signed by them.

Agreement to agree in future. If the parties have not agreed upon the terms of their agreement but have agreed to agree in future, there is no contract.

TEST QUESTIONS

1. What is an 'offer'? When is it complete? State the rules of a valid offer.
2. Discuss briefly the law relating to communication of offer, acceptance and revocation. When may an offer and acceptance be revoked?
3. What essential conditions are necessary to convert a proposal into a promise?
4. How can an offer be accepted? State briefly the rules relating to the communication of acceptance. Can there be a tacit acceptance of an offer? How can an offer be accepted by acting upon it?
5. How and on what grounds does a proposal stand revoked? Is there any limit in time after which revocation of a proposal cannot be made?
6. Explain what is meant by (i) lapse of an offer, and (ii) a counter-offer.
7. (a) Is an agreement to agree in future a contract?
(b) "There cannot be a contract to make a contract." Comment.
8. Is an offer made in haste or under great emotional excitement a valid offer?
9. Illustrate how silence by the offeree may sometimes constitute an acceptance of an offer.
10. If the letter of acceptance of an offer is lost in postal transit, is the offeror bound by the acceptance?
11. "An acceptance to be effective must be communicated to the offeror." Are there any exceptions to this rule?
12. Comment on the following statements:
 - (a) A mere mental acceptance not evidenced by words or conduct is, in the eyes of the law, no acceptance.
 - (b) Acceptance is to offer what a lighted match is to a train of gunpowder. It produces something which cannot be recalled or undone.
 - (c) A contract is formed when the acceptor has done something to signify his intention to accept, not when he has made up his mind to do so.
 - (d) The offer and the acceptance bring the parties together, but the law requires some further evidence of their intention to create an obligation.
 - (e) Performance of the conditions of a proposal is an acceptance of the proposal.
 - (f) An agreement may be made in any manner whatsoever provided the parties are in communication.
 - (g) Whereas an offer is not held to be made until it is brought to the knowledge of the offeree, acceptance may, in certain circumstances, be held to be made though it has not come to the knowledge of the offeror.

PRACTICAL PROBLEMS

Attempt the following problems, giving reasons:

1. Are the following offers valid?
 - (a) A garment store gave the following advertisement in a newspaper: "Special sale for tomorrow only. Men's Night Suits reduced from Rs. 200 to Rs. 100."
 - (b) P says to Q, "I will sell you a camera." P owns three different types of cameras of various prices.
 - (c) An auctioneer displays a refrigerator before a gathering in an auction sale.
 - (d) A advertises in *The Statesman* that he would pay Rs. 200 to anyone who finds and returns his lost dog.

[Hint: In cases (a), (b) and (c) there is no offer. In case (d) there is a valid offer. Any person can accept it by performing the act with knowledge of the reward (*Fitch v. Snedaker*)].
2. A tells B in the course of a conversation with him that he will give Rs. 10,000 to anyone who marries his daughter with his consent. B marries A's daughter with A's consent. Is he entitled to recover this amount?
[Hint: No, as what A tells B is a statement of intention (*Re Ficus*)].

3. A sees a rare book displayed in a shop. It is labelled "First Edition Rs. 15." A enters the shop and puts Rs. 15 on the counter and asks for the book. The bookseller does not agree to sell saying that the real price of the book is Rs. 50 and that it had been marked as Rs. 15 by mistake. Is the bookseller bound to sell the book for Rs. 15 ?

[Hint : No (*Pharmaceutical Society of Great Britain v. Boots Cash Chemists*)].

4. A sent a telegram to B, "will you sell your car ? Quote lowest price." B sent a reply "Lowest price Rs. 25,000". A sent a second telegram to B, "I agree to buy your car for Rs. 25,000." B thereafter refuses to sell. (a) Can A compel B to do so ? (b) Is there a contract between A and B ?

[Hint : (a) No. (b) No (*Harvey v. Facey*)].

5. A sent a letter to B offering to sell his house to B. The next day, A wrote another letter revoking his offer. Meanwhile, B had accepted A's offer by return of post. What is B's remedy, if any, against A : (a) If A's letter of revocation reaches B before B's letter of acceptance reaches A ; (b) If B's letter of acceptance is lost in the post ; (c) If B's letter of acceptance is posted an hour after the posting of A's letter of revocation ?

[Hint : In all the three cases there is a concluded contract between A and B (i.e., as soon as the letter of acceptance is posted by B (Sec. 4)].

6. B offered to sell his house to A for Rs. 50,000. A accepted the offer by post. On the next day, A sent a telegram withdrawing the acceptance which reached B before the letter. (a) Is the revocation of acceptance valid ? (b) Would it make any difference if both the letter communicating acceptance and the telegram communicating revocation of acceptance, reach B at the same time ?

[Hint : (a) Yes. (b) If A opens the telegram first (and this would be normally so in case of a rational person) and reads it, the acceptance stands revoked. If he opens the letter first and reads it, revocation of acceptance is not possible as the contract has already been concluded (Sec. 4)].

7. On the 5th of a month A makes an offer to B, by a letter which reaches B on the 6th. On the 7th B posts his letter of acceptance. Meanwhile, on the 6th A posts a letter to B revoking the offer. On seeing it B sends a telegram to A on the 8th confirming the acceptance given through his letter of the 7th. Discuss the legal effects of the three letters and the telegram.

[Hint : The contract is concluded between A and B on 7th when B posts the letter of acceptance. It is assumed that the letter of A revoking offer reaches B after B has posted the letter of acceptance. The telegram only confirms acceptance already given (Secs. 4 and 5)].

8. A offers, by a letter, to sell a certain article to B who receives the letter the next day. B immediately posts his letter of acceptance. The same evening A posts a letter revoking the offer. A's letter of revocation and B's letter of acceptance cross in the post. Is there a contract between A and B ?

[Hint : Yes (Secs. 4 and 5)].

9. A offers by a letter to sell his car to B for Rs. 15,000. B, at the same time, offers by a letter to buy A's car for Rs. 15,000. The two letters cross each other in the post. Is there a concluded contract between A and B ?

[Hint : No (*Tyrn v. Hoffmann*)].

10. S offers to sell B his car for Rs. 50,000. T, standing nearby, says, "I will take it if B does not take it." B is not interested in the car. (a) Does a contract arise between S and T ? (b) What will be the position if T says to S "Here is the money, I take the car."

[Hint : (a) No (b) S may or may not accept T's offer].

11. A offers to sell a house in Bombay to B for Rs. 50,000. The offer is communicated to B in Delhi by an express letter. The letter is delayed in the censor office. Before A's letter reaches B, B receives a telegram from A revoking his offer. Is there a contract between A and B ?

[Hint : No (Sec. 5)].

12. A intends to make an offer to B and tells C about it. C informs B of the contemplated offer but A himself does not communicate the offer to B. B accepts the offer and informs A about the acceptance. Is there a contract between A and B ?

[Hint : No].

13. P advertises in a daily newspaper that he will give a prize of £ 1,000 to the first person to swim the English Channel and back during the month of August. F, who has read the advertisement, sets off from Dover on 1st August and reaches the coast of France on 2nd August. On that day, a further advertisement appears in the

same newspaper stating that the offer of the prize has been withdrawn. On 3rd August *F* completes the return swim to England. Can *F* recover the prize?

[Hint: Yes. The second advertisement is ineffective so far as *F* is concerned].

14. *A*, a merchant, sent his son, to *Agra* with a letter for *B*, an *Agra* merchant. In the letter *A* offered to sell to *B* a quantity of cloth and required *B* to give his reply to *C*. *B* sent away *C* without a reply but decided later to accept *A*'s offer by telegram. The telegram reached *A* before *C*'s return. Has a valid contract come into existence?

[Hint: No, provided *A* informs *B* within a reasonable time that the acceptance is not according to the mode prescribed (Sec. 7 (2)).

15. *A* made an offer to sell some goods to *B* conditional on receiving a reply by return of post. *A* gave the letter to his peon to post but the peon forgot to post it immediately and actually posted it after seven days. On receiving *A*'s letter, *B* wrote a reply, accepting the offer, and duly posted it by return of post. In the meantime, not having heard from *B*, *A* sold the goods to *C*. Has *B* any legal remedy against *A*?

[Hint: There is a contract between *A* and *B* (Sec. 4). But since *A* has already sold the goods, *B* can recover damages from *A*].

16. *P* applied for the principalship of a local college, and the Governing Body passed a resolution appointing him. After the meeting, a member of the Governing Body privately informed him of the resolution. The resolution was subsequently rescinded. *P* claims damages. Will he succeed?

[Hint: No, as private communication is not a communication by the Governing Body].

17. *A* offered to sell his car to *B* for Rs. 60,000. *B* said, "I accept your offer. Here is Rs. 50,000 in cash and a 60-day promissory note for the balance." Did a contract result?

[Hint: No, as the acceptance is conditional].

18. An auctioneer advertised in a newspaper that a sale of office furniture would be held at Delhi. *B*, a broker of Bombay, reached Delhi on the appointed date and time. But the auctioneer withdrew all the furniture from the auction sale. The broker sues him for his loss of time and expenses. Will he succeed?

[Hint: No, (*Harris v. Nickerson*)].

19. In August *H* applied for shares in a company. Shares were allotted to him, the letter of allotment was sent to the company's agent to deliver by hand to *H*. Before the letter was delivered, *H* withdrew his application. Is there a contract between the company and *H*?

[Hint: No (*National Savings Bank Association, Re*, (1867) L.R. 4 Eq. 9)].

20. *A* offers to buy *B*'s house on certain terms; an answer to be given within six weeks. *B* within that time writes to *A* a letter purporting to accept but in fact containing a material alteration of the terms. *A* then withdraws his offer. *B* writes again still within six weeks correcting the error in his first letter and accepting the terms originally proposed by *A*. Is there a contract between *A* and *B*?

[Hint: No. Subsequent acceptance within the period of six weeks will not result in a contract as the original offer of *A* has been withdrawn].

21. There are two distinct firms having the same name, one located in Gurdaspur, Punjab, and the other in Delhi. *D* intends to make an offer to the Gurdaspur firm, but the letter containing *D*'s offer is erroneously sent to the Delhi firm. The Delhi firm, surmising that the offer was intended for the Gurdaspur firm, forwards the letter to it. Has the offer been duly communicated?

[Hint: No, because Delhi firm is not *D*'s agent and had no authority to forward the letter].

22. *A* sees an article marked "Price Rupees Twenty" in *B*'s shop. He offers *B* Rs. 20 for the article. *B* refuses to sell saying the article is not for sale. Advise *A*.

[Hint: *A* cannot force *B* to sell him the article at Rs. 20. Marking of price of an article amounts to an invitation to offer and not an offer (*Pharmaceutical Society of Great Britain v. Boots Cash Chemists*)].

23. *A* teaches his parrot to recite an offer and then sends the parrot to *B*. The bird repeats the recitation. Is this a valid offer?

[Hint: Yes].

24. *A* enters a taxi and directs the driver to take him to a club. The driver refuses to take him because the trip is too short. What are the rights of *A*?

[Hint: There is a contract between *A* and the taxi driver as soon as *A* enters the taxi].

3

Consideration

Consideration is one of the essential elements to support a contract. Subject to certain exceptions, an agreement made without consideration is *nudum pactum* (a nude contract) and is *void*.

Consideration is a technical term used in the sense of *quid pro quo* (i.e., something in return). When a party to an agreement promises to do something, he must get "something" in return. This "something" is defined as *consideration*. In the words of Pollock, "*consideration is the price for which the promise of the other is bought, and the promise thus given for value is enforceable.*" [Pollock on Contracts, 13th ed., p. 113].

Example. A agrees to sell his car to B for Rs. 10,000. Car is the consideration for B and price is the consideration for A.

DEFINITION OF CONSIDERATION

In the English case of *Currie v Misa*, (1875) L.R. 10 Ex. 153, consideration was defined by Lush J. as follows :

"A valuable consideration in the sense of the law may consist either in some *right, interest, profit or benefit* accruing to one party, or some *forbearance, detriment, loss or responsibility* given, suffered or undertaken by the other." But to this definition there should be added that "the benefit accruing or the detriment sustained was in return for a promise given or received."

The definition in *Currie v. Misa*, in effect, means that consideration must result in a *benefit* to the promisor, and a *detriment* or loss to the promisee, or a detriment to both, e.g., A lends his bicycle to B who promises to return it after use. This results in a benefit to B (as he gets the use of the bicycle) and a detriment to A (as he parts with his bicycle) which is consideration to support B's promise to return the bicycle.

Justice Paterson defines consideration in the following words : "Consideration means something which is of some value in the eye of law ... It may be some *benefit* to the plaintiff or some *detriment* to the defendant." [*Thomas v. Thomas*, (1842) 2 Q.B. 851]. There are two leading cases which explain this point.

Abdul Aziz v. Masum Ali, (1914) 36 All. 268. The secretary of a Mosque Committee filed a suit to enforce a promise which the promisor had made to subscribe Rs. 500 to the re-building of a mosque. *Held*, "the promise was not enforceable because there was no consideration in the sense of benefit", as "the person who made the promise gained nothing in return for the promise made", and the secretary of the Committee to whom the promise was made, suffered no detriment as nothing had been done to carry out the repairs. Hence the suit was dismissed.

Kedar Nath v. Gauri Mohamed, (1886) 14 Cal. 64. The facts of this case were almost similar to those of the previous case, but the secretary in this case incurred a liability on the strength of the promise. *Held*, the amount could be recovered, as the promise resulted in a sufficient detriment to the secretary. The promise could,

however, be enforced only to the extent of the liability (detriment) incurred by the secretary. In this case, the promise, even though it was gratuitous, became enforceable because on the faith of the promise the secretary had incurred a detriment.

Sec. 2 (d) defines consideration as follows : "When at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do or to abstain from doing, something, such act or abstinence or promise is called a consideration for the promise."

Consideration, if we analyse this definition, may be :

(1) An *act*, i.e., doing of something. In this sense consideration is in an *affirmative* form.

Example. A promises B to guarantee payment of price of the goods which B sells on credit to C. Here selling of goods by B to C is consideration for A's promise.

The act must not however be one which one is under a legal duty to perform. This point has been explained later in this Chapter.

(2) An *abstinence* or *forbearance*, i.e., abstaining or refraining from doing something. In this sense consideration is in a *negative* form.

Examples. (a) A promises B not to file a suit against him if he pays him Rs. 500. The abstinence of A is the consideration for B's payment.

(b) L filed a suit against T, his tenant, for possession of premises and arrears of rent. The suit was decreed in his favour. In execution, L obtained an order for attachment of movable property of T. In consideration of T agreeing not to appeal against the decree L allowed him one month's time to pay the balance of decretal amount and vacate the premises. *Held*, the agreement was valid [*Gousmohoddin v. Appasahib*, A.I.R. (1976) Knt. 90].

The act or abstinence which forms the consideration may be a past, present or future one.

(3) A *return promise*.

Example. A agrees to sell his horse to B for Rs. 10,000. Here B's promise to pay the sum of Rs. 10,000 is the consideration for A's promise to sell the horse, and A's promise to sell the horse is the consideration for B's promise to pay the sum of Rs. 10,000.

Need for consideration

The reason why the law enforces only those promises which are made for consideration is that *gratuitous* or *voluntary promises are often made rashly and without due deliberation*. The law looks with disfavour upon an exchange of promises which would result in one of the parties obtaining "something for nothing". It supplies no means nor affords any remedy to compel the performance of an agreement made without sufficient consideration. If A promises to pay B Rs. 100 for nothing, B neither doing nor promising to do anything in return to compensate A for his money, A's promise has no force in law. Likewise, an offer made containing a promise not to revoke it and keep it open does not prevent the offeror from revoking the offer if it is not supported by consideration [*Sharad Trading Co. v. State*, A.I.R. (1980) M.P. 91].

LEGAL RULES AS TO CONSIDERATION

1. **It must move at the desire of the promisor.** An act constituting

consideration must have been done at the desire or request of the promisor. If it is done at the instance of a third party or without the desire of the promisor, it will not be a good consideration.

Examples. (a) A saves B's goods from fire without being asked to do so. A cannot demand payment for his services.

(b) B spent some money on the improvement of a market at the desire of the Collector of the district. In consideration of this D who was using the market promised to pay some money to B. Held, the agreement was void being without consideration as it had not moved at the desire of D [*Durga Prasad v. Baldeo*, (1880) 2 All. 221].

2. **It may move from the promisee or any other person.** Under the English Law, consideration must move from the promisee [*Tweddle v. Atkinson*, (1861) 1 B. & S. 392]. Under the Indian Law, consideration may move from the promisee or any other person, i.e., even a stranger. This means that as long as there is consideration for a promise it is immaterial who has furnished it. But the stranger to consideration will be able to sue only if he is a party to the contract.

Example. An old lady, by a deed of gift, made over certain property to her daughter D, under the direction that she should pay her aunt, P (sister of the old lady), a certain sum of money annually. The same day D entered into an agreement with P to pay her the agreed amount. Later, D refused to pay the amount on the plea that no consideration had moved from P to D. Held, P was entitled to maintain suit as consideration had moved from the old lady, sister of P, to the daughter, D [*Chinnaya v. Ramayya*, (1882) 4 Mad. 137].

3. **It may be an act, abstinence or forbearance or a return promise.** This has already been explained. Thus it may be noted that the following are *good considerations* for a contract :

(1) *Forbearance to sue.* If a person who could sue another for the enforcement of a right agrees not to pursue his claim, this constitutes a good consideration for a promise by the other person. This results in a benefit to the person not sued and a detriment to the person who could sue.

Examples. (a) A borrows from B Rs. 100 at 20 per cent p.a. but fails to pay the amount. When B is about to file a suit, A agrees to pay a higher rate of interest. B, as a result, does not file the suit. This forbearance on the part of B to file a suit is a sufficient consideration and B can enforce the promise by A to pay the higher rate of interest.

(b) D is ready to sue her husband for maintenance allowance. On husband's agreeing to pay her a monthly allowance by way of maintenance, she forbears to sue. Held, the wife's forbearance to sue amounts to consideration for the husband's agreement for payment of maintenance allowance [*Debi Radha Rani v. Ram Dass*, A.I.R. (1941) Pat. 282].

(2) *Compromise of a disputed claim.* Compromise is a kind of forbearance. As such the same principle, as discussed above, applies to the *bona fide* compromise of a disputed claim even though ultimately it might appear that the claim was wholly unfounded. But, originally, the claim should be reasonable and the person claiming should honestly believe that it is a valid claim. He should also act *bona fide*. If it turns out that the claim was frivolous and the claimant was not acting *bona fide*, the other party can claim compensation.

(3) *Composition with creditors.* A debtor who is financially embarrassed may call a meeting of his creditors and request them to accept a lesser amount in satisfaction of their debt. If the creditors agree to it, the agreement is binding both upon the debtor and the creditors and this amounts to a compromise of the claims of the creditors.

4. It may be past, present or future. The words used in Sec. 2 (d) are : "... has done or abstained from doing (*past*), or does or abstains from doing (*present*), or promises to do or to abstain from doing (*future*) something...." This means consideration may be past, present or future.

(1) *Past consideration.* When consideration by a party for a present promise was given in the past, i.e., before the date of the promise, it is said to be past consideration.

Example. A renders some service to B at latter's desire. After a month B promises to compensate A for the services rendered to him. It is past consideration. A can recover the promised amount.

Under the English Law, past consideration is no consideration as, in the words of Anson, it is "a mere sentiment of gratitude or honour prompting a return for benefits received."

(2) *Present or executed consideration.* When consideration is given simultaneously with promise, i.e., at the time of the promise, it is said to be present consideration. In a cash sale, for example, consideration is present or executed.

Example. A receives Rs. 5,000 in return for which he promises to deliver certain goods to B. The money A receives is the present consideration for the promise he makes to deliver the goods.

(3) *Future or executory consideration.* When consideration from one party to the other is to pass subsequently to the making of the contract, it is future or executory consideration.

Example. D promises to deliver certain goods to P after a week ; P promises to pay the price after a fortnight. The promise of D is supported by the promise of P. Consideration in this case is future or executory.

5. It need not be adequate. Consideration, as already explained, means "something in return". This "something in return" need not necessarily be equal in value to "something given". The law simply provides that a contract should be supported by consideration. So long as consideration exists, the Courts are not concerned as to its adequacy, provided it is of some value. "The adequacy of the consideration is for the parties to consider at the time of making the agreement, not for the Court when it is sought to be enforced." [*Bolton v. Madden*, (1873) L. R. 9 Q. B. 57]. Consideration must, however, be something to which the law attaches value though it need not be equal in value to the promise made. The Courts do not exist to repair bad bargains.

Anson (*The English Law of Contract*, 26th ed., p. 87) observes in this connection : Consideration need not be adequate to the promise, but it must be of some value in the eye of the law. The Courts will not make bargains for the parties to a suit and, if a man gets what he contracted for, will not inquire whether it was equivalent to the promise which he gave in return.

Examples. (a) A purchased from B an old table for Rs. 500. It would be a difficult, if not impossible, task for the Court to ascertain

whether the price paid was adequate or not or whether the table worth the price paid.

(b) B promised to pay certain bills if H would hand over a guarantee to him. H handed over the guarantee but it turned out to be unenforceable. Held, as B received what he had asked for there was consideration for his promise, although guarantee was of small value than he had supposed [*Haigh v. Brooks*, (1839) A. & E. 209].

According to Explanation 2 to Sec. 25, an agreement to which the consent of the promisor is freely given is *not void merely because the consideration is inadequate*. However the inadequacy of the consideration may be taken into account by the Court in determining the question whether the consent of the promisor was *freely given*.

Example. A agrees to sell a horse worth Rs. 10,000 for Rs. 100. A's consent to agreement was freely given. The agreement is a contract notwithstanding the inadequacy of the consideration. But, if A says that his consent was not freely given, the inadequacy of the consideration is a fact which the Court should take into account in considering whether or not A's consent was freely given.

6. It must be real and not illusory. Although consideration need not be adequate, it must be real, competent and of some value in the eyes of the law. There is no real consideration in the following cases :

(1) *Physical impossibility.*

Examples. (a) A promises to put life into B's dead wife should B pay him Rs. 500. A's promise is physically impossible of performance.

(b) A charter party contained a clause that a particular ship would sail on a specified day. This date had already expired when the contract was entered into. The consideration in this case is physically impossible [*Hall v. Cazenove*, (1804) 4 East 477].

(2) *Legal impossibility.*

Example. A owes Rs. 100 to B. He promises to pay Rs. 20 to C, the servant of B, who in return promises to discharge A from the debt. This is legally impossible because C cannot give discharge for a debt due to B, his master [*Harvey v. Gibbons*, (1675) 2 Lev. 161].

(3) *Uncertain consideration.*

Example. A engages B for doing a certain work and promises to pay a "reasonable" sum. There is no recognised method of ascertaining the "reasonable" remuneration. The promise is unenforceable as consideration is uncertain.

(4) *Illusory consideration.*

Example. Two of the crew of a ship deserted it half way through a voyage. The captain thereby promised to divide the salary of the deserters among the rest of the crew if they worked the vessel home. Held, they could not recover the amount as the consideration was illusory. They were already under an obligation to bring the vessel home [*Stilk v. Myrick*, (1809) 2 Camp. 37].

7. It must be something which the promisor is not already bound to do. A promise to do what one is already bound to do, either by general law or under an existing contract, is not a good consideration for a new promise, since it adds nothing to the pre-existing legal or contractual obligation. Likewise, a promise to perform a public duty by a public servant is not a consideration.

Examples. (a) A promised to pay B, who had received summons to appear at a trial in a civil suit, a certain sum being a compensation for the loss of time during his attendance. *Held*, the promise was without consideration for B was under a duty imposed by law to appear and give evidence [*Collins v. Godefroy*, (1831) 1 B. & Ad. 956].

(b) There was a promise to pay to the Vakil an additional sum if the suit was successful. *Held*, the promise was void for want of consideration. The Vakil was under a *pre-existing contractual obligation* to render the best of his services under the *original contract* [*Ramchandra Chintaman v. Kalu Raju*, (1877) 2 Bom. 302].

But where a person being already under a legal or contractual duty to do something undertakes to do something more than he is bound to do under the original contract, this will be a good consideration for the promise.

8. It must not be illegal, immoral or opposed to public policy (Sec. 23). The consideration given for an agreement must not be unlawful. Where it is unlawful, the Courts do not allow an action on the agreement. This point is explained in detail in the Chapter on "Legality of Object".

STRANGER TO CONTRACT

It is a general rule of law that only parties to a contract may sue and be sued on that contract. This rule is known as the doctrine of *privity of contract*. "Privity of contract" means relationship subsisting between the parties who have entered into contractual obligations. It implies a mutuality of will and creates a legal bond or tie between the parties to a contract.

There are two consequences of the doctrine of privity of contract :

(1) A person who is not a party to a contract cannot sue upon it even though the contract is for his benefit and he provided consideration.

(2) A contract cannot confer rights or impose obligations arising under it on any person other than the parties to it. Thus, if there is a contract between A and B, C cannot enforce it.

Example. S bought tyres from the Dunlop Rubber Co. and sold them to D, a sub-dealer, who agreed with S not to sell these tyres below Dunlop's list price and to pay the Dunlop Co. £ 5 as damages on every tyre D undersold. D sold two tyres at less than the list price and thereupon the Dunlop Co. sued him for the breach. *Held*, the Dunlop Co. could not maintain the suit as it was a *stranger* to the contract [*Dunlop Pneumatic Tyre Co. Ltd. v. Selfridge & Co. Ltd.*, (1915) A. C. 847].

Exceptions. The following are the exceptions to the rule that "a stranger to a contract cannot sue" :

(1) *A trust or charge.* A person (called beneficiary) whose favour a trust or other interest in some specific immovable property has been created can enforce it even though he is not a party to the contract [*Madhu Trading Co. v. Union of India & Others*, A. I. R. (1979) NOC 47 (Delhi)].

Examples (a) A agrees to transfer certain properties to be held by T in trust for the benefit of B. B can enforce the agreement (i.e., the trust) even though he is not a party to the agreement [*M. K. Rajai v. John*, A.I.R. (1965) Ker. 203].

(b) A husband who was separated from his wife executed a separation deed by which he promised to pay to the trustees all

expenses for the maintenance of his wife. *Held*, the agreement created a trust in favour of the wife and could be enforced [*Gandy v. Gandy*, (1884) 30 Ch. D. 57].

(c) A had a son SA and B had a daughter DB. A agreed with B that in consideration of the marriage of DB with SA, he (A) would pay DB, his daughter-in-law, an allowance of Rs. 500 a month for her life in perpetuity. He created a charge on certain properties for the purpose of payment and conferred power on DB to enforce it. *Held*, DB, although not a party to the agreement, was clearly entitled to recover the arrears of the allowance [*Khwaja Mohd. Khan v. Hussani Begum*, (1910) 37 All. 410].

(2) *Marriage settlement, Partition or other family arrangement*. When an arrangement is made in connection with marriage, partition or other family arrangements and a provision is made for the benefit of a person, he may sue although he is not a party to the agreement.

Examples. (a) Two brothers, on a partition of joint properties, agreed to invest in equal shares a certain sum of money for the maintenance of their mother. *Held*, she was entitled to require her sons to make the investment [*Shuppu Ammal v. Subramaniyan*, (1910) 33 Mad. 2].

(b) J's wife deserted him because of his ill treatment. J entered into an agreement with his father-in-law to treat her properly and to else pay her monthly maintenance. Subsequently she was again ill-treated and also driven out. *Held*, she was entitled to enforce the promise made by J to her father [*Daropti v. Jaspal Rai*, (1905) 11 P.F. 171].

(c) A mother agreed to pay to her younger son in the event of the failure by the elder son to pay to the younger son the amount which fell short of the younger son's share in the assets left by their father. The agreement was made to purchase peace for the family. *Held*, it was a valid family arrangement creating liability of mother to her younger son [*Commissioner of Wealth Tax v. Vijayaba*, A.I.R. (1979) S.C. 982].

(3) *Acknowledgement or estoppel*. Where the promisor by his conduct, acknowledges or otherwise constitutes himself as an agent of a third party, a binding obligation is thereby incurred by him towards the third party.

Example. A receives some money from T to be paid over to P. A admits of this receipt to P. P can recover the amount from A who shall be regarded as the agent of P.

(4) *Assignment of a contract*. The assignee of rights and benefits under a contract not involving personal skill can enforce the contract subject to the equities between the original parties [*Krishan Lal Sadhu v. Promila Bala*, A.I.R. (1928) Cal. 518]. Thus the holder in due course of a negotiable instrument can realise the amount on it even though there is no contract between him and the person liable to pay.

(5) *Contracts entered into through an agent*. The principal can enforce the contracts entered into by his agent provided the agent acts within the scope of his authority and in the name of the principal.

(6) *Covenants running with the land*. In cases of transfer of immovable property, the purchaser of land with notice that the owner of the land is bound by certain conditions or covenants created by an agreement affecting the land shall be bound by them although he was not party to the original agreement which contained the conditions or covenants [*Tulk v. Moxhay* (1919) 88 LJ KB 861].

A CONTRACT WITHOUT CONSIDERATION IS VOID—EXCEPTIONS

The general rule is *ex nudo pacto non oritur actio*, i.e., an agreement made without consideration is void. Secs. 25 and 185 dealt with the exceptions to this rule. In such cases the agreements are enforceable even though they are made without consideration. These cases are :

1. *Love and affection* [Sec. 25 (1)] Where an agreement is expressed in writing and registered under the law for the time being in force for the registration of documents and is made on account of natural love and affection between parties standing in a near relation to each other, it is enforceable even if there is no consideration. In simple words, a written and registered agreement based on natural love and affection between near relatives is enforceable even if it is without consideration [*Ram Dass v. Krishan Dev*, A.I.R. (1986) H.P. 9].

Examples. (a) F, for natural love and affection, promises to give his son, S, Rs. 1,000. F puts his promise to S in writing and registers it. This is a contract.

(b) By a registered agreement, V, on account of natural love and affection for his brother, R, promises to discharge his debt to B. If V does not discharge the debt, R may discharge it and then sue V to recover the amount [*Venkataswamy v. Rangaswamy*, (1903) 13 M.L.J. 428].

Nearness of relationship, however, does not necessarily import natural love and affection.

Example. A Hindu husband, after referring to quarrels and disagreement between him and his wife executed a registered document in favour of his wife agreeing to pay her for maintenance, but no consideration moved from the wife. *Held*, the agreement was void for want of consideration [*Rajlukhy v. Bhoothnath*, (1900) C.W.N. 488], as the essential requirement that the agreement is made on account of natural love and affection between the parties was missing.

2. *Compensation for voluntary services* [Sec. 25 (2)]. A promise to compensate, wholly or in part, a person who has already voluntarily done something for the promisor, is enforceable, even though without consideration. In simple words, a promise to pay for a past voluntary service is binding.

Examples. (a) A finds B's purse and gives it to him. B promises to give A Rs. 50. This is a contract.

(b) A supports B's infant son. B promises to pay A's expenses in so doing. This is a contract.

(c) A says to B, "At the risk of your life you saved me from a serious accident. I promise to pay you Rs. 1,000." There is a contract between A and B.

3. *Promise to pay a time-barred debt* [Sec. 25 (3)]. A promise by a debtor to pay a time-barred debt is enforceable provided it is made in writing and is signed by the debtor or by his agent generally or specially authorised in that behalf. The promise may be to pay the whole or any part of the debt. The debt must be such "of which the creditor might have enforced payment but for the law for the limitation of suits".

A debt is barred by limitation if it remains unpaid or unclaimed for a period of three years. Such a debt becomes legally irrecoverable.

Example. D owes C Rs. 1,000 but the debt is barred by the Limitation Act. D signs a written promise to pay C Rs. 500 on account of the debt. This is a contract.

4. *Completed gift* (Expl. 1 to Sec. 25). The rule "No consideration, no contract" does not apply to completed gifts. According to Expl. 1 to Sec. 25, nothing in Sec. 25 shall affect the validity, as between the donor and donee, of any gift *actually made*.

5. *Agency* (Sec. 185). No consideration is necessary to create an agency.

6. *Charitable subscription* where the promisee on the strength of the promise makes commitments, *Le.*, changes his position to his detriment. Refer to *Kedar Nath v. Gauri Mohamed* discussed earlier in this Chapter.

SUMMARY

Consideration means *something in return*. It is the price for which the promise of the other is bought. It must result in a benefit to the promisor and/or detriment to the promisee or both. Sec. 2 (d) defines it as follows: "When at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing something, such act or abstinence or promise is called a consideration for the promise."

Legal rules as to consideration. 1. It is essential to support every contract. 2. It must move at the desire of the promisor. 3. It may move from the promisee or any other person. 4. It may be past, present or future. 5. It need not be adequate. 6. It must be real and not illusory. 7. It must not be something which the promisor is already legally or contractually bound to do. 8. It must not be illegal, immoral or opposed to public policy.

Stranger to contract. The general rule is that a stranger to a contract cannot sue. But he may sue where—(1) a trust or charge is created in some specific immovable property in favour of him; (2) a provision is made in a marriage settlement, partition or family arrangement for his benefit; (3) there is an acknowledgement of a liability by the promisor or the promisor constitutes himself as agent; (4) he is the assignee of rights and benefits under a contract not involving personal skill; (5) he enters into a contract through an agent; and (6) there are covenants running with the land.

An agreement made without consideration is void (Sec. 25). The following are the exceptions to this rule, *Le.*, no consideration is required in case of (1) a written and registered agreement based on natural love and affection between parties standing in a near relation to each other [Sec. 25 (1)]; (2) A promise to compensate wholly or in part, a person who has already voluntarily done something for the promisor [Sec. 25(2)]; (3) a promise by a debtor to pay a time-barred debt if it is made in writing and is signed by the debtor or by his agent [Sec. 25 (3)]; (4) an agency (Sec. 185); (5) a completed gift (Expl. 1 to Sec. 25).

TEST QUESTIONS

1. Define consideration. Why is it essential in a contract? What are the legal rules regarding consideration?

2. Give some instances of consideration, other than the payment of money, sufficient to support a contract.

3. Define consideration and point out the salient features of the term 'consideration' as defined in the Indian Contract Act.

4. Discuss types of consideration. What will happen if consideration is missing in an agreement?

5. Explain consideration as an element of a valid contract and discuss the effect of (i) total absence, and (ii) inadequacy, of consideration.

6. "Insufficiency of consideration is immaterial; but an agreement without consideration is void." Comment.

7. Will you regard the following as good consideration to support a contract: (a) Forbearance to sue; (b) Compromise of disputed claims; and (c) Performance of a pre-existing legal and/or contractual obligation.

8. "A contract without consideration is void." Comment.

9. Explain the term 'consideration' and state the exceptions to the rule : "No consideration, no contract."

10. "A man cannot acquire rights under a contract to which he is not a party." Discuss. Are there any exceptions to this rule ?

11. "A stranger to a contract cannot sue." Are there any exceptions to this rule ?

12. Consider the doctrine of privity of contract and give an account of the exceptions to the doctrine.

PRACTICAL PROBLEMS

Attempt the following problems, giving reasons :

1. A promises a subscription of Rs. 10,000 to the National Defence Fund. He does not pay. Is there any legal remedy against him?

[Hint : No (*Abdul Aziz v. Masum Ali*)].

2. Can A recover in the following cases ?

(a) B gets into difficulties while swimming in the river Ganga and cries for help. A hears the cry, removes his coat and dives into water and rescues B. B, who is full of gratitude, promises to pay A Rs. 200 but fails to do so.

(b) B writes to A, "At the risk of your own life, you saved me from a serious motor accident. I promise to pay you Rs. 1,000."

(c) While B is away on holiday, a storm damages the roof of B's house, and his neighbour, A, carries out the necessary repairs. On his return, B promises to pay A Rs. 200 for the work done and materials supplied.

(d) A finds B's purse and gives it to him. B promises A to give him Rs. 100.

(e) A, who is B's friend, seeks the help of a few persons in putting down a fire in B's house. B promises to give A Rs. 100 for his timely help.

[Hint : Yes. A can recover the amount from B in all the cases (Sec. 25 (2)).

3. A owes B Rs. 1,000 but the debt is barred by limitation. A gives a letter to B agreeing to pay him Rs. 500 on account of the debt. Is this a valid agreement ?

[Hint : Yes (Sec. 25 (3)).

4. A, being in dire need of money, sells his new car purchased two months ago at a cost of Rs. 1,72,000 for Rs. 11,000. Afterwards A seeks to set aside the contract on the ground of inadequacy of consideration. Will he succeed ?

[Hint : No].

5. A, B and C enter into a contract under which A promises both B and C that if B will dig A's garden, he (A) will give Rs. 50 to C. Can C compel A to pay the money on B's digging A's garden according to the terms of the contract ? Give reasons.

[Hint : Yes].

6. A's uncle in a sudden display of generosity promises him a watch as a gift on his next birthday. If the uncle fails to give the watch, can A do anything about it legally ?

[Hint : No].

7. A's scaffolding fell down on his neighbour, B, who was injured. B threatened to bring suit against A unless the latter paid him Rs. 500 within ten days as compensation for his injuries. A promised but later refused to pay, claiming that there was no consideration for his promise. Can B recover the amount ?

[Hint : yes]

8. A Muslim lady sued her father-in-law to recover arrears of allowance payable to her by him under an agreement between him and her own father in consideration of her marriage. Will she succeed ?

9. A's car breaks down on G.T. Road. He asks B, a passing motorist, to tow the car to the nearest garage. B tows the car and in return A promises to pay B at the garage Rs. 200 as payment for his trouble. Is A bound by his promise ?

[Hint : Yes (Sec. 25 (2)).

10. A agrees for a sum of Rs. 5,00,000 to construct for B a building, according to plans and specifications. When A has completed half the work he threatens to