

by direct evidence: *implied* contracts by circumstantial evidence of the agreement. The only difference between the two is in the mode of proof. The term "contracts implied in law" is applied to those contracts raised by law from facts and circumstances, without any actual agreement between the parties.

Agreement must include an offer on one side and acceptance on the other, communicated between the parties, and such offer and acceptance may be communicated by acts as well as by words. Bidding at an auction is an offer; the fall of the auctioneer's hammer is acceptance. The time tables of a railway company constitute an offer of a contract to carry, the taking of a ticket is the acceptance. A contract may be proved from a correspondence between the parties if there is found in it a proposal and an acceptance. Terms offered and representations made during negotiation of a contract, but not contained in the final agreement, are not included in the contract.

Acceptance in order to complete the contract must be communicated to the party making the offer, and must be absolute, unconditional, unqualified, and in the exact terms of the offer. An offer can be accepted only by the person to whom it is made. If a person represents himself as another for the purpose of inducing a contract, he cannot enforce a contract so obtained. Acceptance of office as director of a company, when certain shares have been allotted as qualification for the office, will complete the contract to take the shares. There may be a sufficient communication of acceptance of an offer when the terms of the offer are complied with, as when an order is given for goods to be delivered to a third party, and the goods are so delivered, though the person ordering is not notified yet the contract is complete.

In communications by post the post office is usually treated as agent of the sender only. But when a person making an offer *expressly* or *impliedly* authorizes an acceptance by post, the *posting* of the acceptance completes the contract. And the same rules apply to communication by telegraph. But a telegraph company is the sender's agent