

Moderate Summary: The Indian Contract Act, 1872

1 THE INDIAN CONTRACT ACT, 1872 _____ ARRANGEMENT OF SECTIONS
_____ SECTIONS PREAMBLE PRELIMINARY 1. Short title. Extent. Commencement.
Saving. 2. Interpretation -clause. CHAPTER I OF THE COMMUNICATION, ACCEPTANCE AND
REVOCATION OF PROPOSALS 3. Communication, acceptance and revocation of proposals . 4.
Communication when complete . 5. Revocation of proposals and acceptances . 6. Revocation how
made . 7. Acceptance must be absolute . 8. Acceptance by performing conditions, or receiving
consideration . 9. Promises, express and implied . CHAPTER II OF CONTRACTS, VOIDABLE
CONTRACTS AND VOID AGREEMENTS 10. What agreements are contracts . 11. Who are
competent to contract . 12. What is a sound mind for the purposes of contracting . 13. "Consent"
defined . 14. "Free consent" defined . 15. "Coercion" defined . 16. "Undue influence" defined . 17.
"Fraud" defined . 18. "Misrepresentation" defined . 19. Voidability of agreements without free
consent . 19A. Power to set aside contract induced by undue influence . 20. Agreement void where
both parties are under mistake as to matter of fact . 21. Effect of mistakes as to law . 22. Contract
caused by mistake of one party as to matter of fact . 2 SECTIONS 23. What considerations and
objects are lawful , and what not . Void agreements 24. Agreement void, if considerations and
objects unlawful in part . 25. Agreement without consideration, void, unless it is in writing and
registered, or is a promise to compensate for something done, or is a promise to pay a debt barred
by limitation law . 26. Agreement in restraint of marriage, void. 27. Agreement in restraint of trade ,
void. Saving of agreement not to carry on business of which good -will is sold. 28. Agreements in
restraint of legal proceeding void. Saving of contract to refer to arbitration dispute that may arise.
Saving of contract to refer questions that have already arisen . Saving of a guarantee agreement of
a bank or a financial institution. 29. Agreements void for uncertainty . 30. Agreements by way of
wager, void. Exception in favour of certain prizes for horse -racing. Section 294A of the Indian
Penal Code not affected. CHAPTER III OF CONTINGENT CONTRACTS 31. "Contingent contract"
defined . 32. Enforcement of contracts contingent on an event happening . 33. Enforcement of
contracts contingent on an event not happening . 34. When event on which contract is contingent to
be deemed impossible , if it is the future conduct of a living person . 35. When contracts become
void which are contingent on happening of specified event within fixed time. When contracts may be
enforced, which are contingent on specified event not happening within fixed time. 36. Agreement
contingent on impossible events void . CHAPTER IV OF THE PERFORMANCE OF CONTRACTS
Contracts which must be performed 37. Obligation of parties to contracts. 38. Effect of refusal to
accept offer of performance . 39. Effect of refusal of party to perform promise wholly . By whom
contracts must be performed 40. Person by whom promise is to be performed . 41. Effect of
accepting performance from third person . 3 SECTIONS 42. Devolution of joint liabilities . 43. Any
one of joint promisors may be compelled to perform . Each promisor may compel contribution.
Sharing of loss by default in contribution. 44. Effect of release of one joint promisor . 45. Devolution
of joint rights . Time and place for performance 46. Time for performance of promise, when no
application is to be made and no time is specified . 47. Time and place for performance of promise,
where time is specified and no application to be made. 48. Application for performance on certain
day to be at proper time and place . 49. Place for performance of promise, where no application to
be made and no place fixed for performance . 50. Performance in manner or at time prescribed or
sanctioned by promisee . 51. Performance of reciprocal promises 51. Promisor not bound to perform,
unless reciprocal promisee ready and willing to perform. 52. Order of performance of reciprocal
promises . 53. Liability of party preventing event on which the contract is to take effect . 54. Effect of
default as to that promise which should be first performed, in contract consisting of reciprocal
promises . 55. Effect of failure to perform at fixed time, in contract in which time is essential . Effect
of such failure when time is not essential. Effect of acceptance of performance at time other than
that agreed upon. 56. Agreement to do impossible act . Contract to do an act afterwards becoming
impossible or unlawful. Compensation for loss through non -performance of act known to be
impossible or unlawful. 57. Reciprocal promise to do things legal, and also other things illegal . 58.
Alternative promise, one branch being illegal . Appropriation of payments 59. Application of
payment where debt to be discharged is indicated . 60. Application of payment where debt to be
discharged is not indicated . 61. Application of payment where neither party appropriates .

Contracts which need not be performed 62. Effect of novation, rescission, and alteration of contract . 63. Promisee may dispense with or remit performance of promise . 64. Consequences of rescission of voidable contract . 65. Obligation of person who has received advantage under void agreement, or contract that becomes void. 66. Mode of communicating or revoking rescission of voidable contract . 67. Effect of neglect of promisee to afford promisor reasonable facilities for performance . 4 CHAPTER V OF CERTAIN RELATIONS RESEMBLING THOSE CREATED BY CONTRACT SECTIONS 68. Claim for necessities supplied to person incapable of contracting, or on his account . 69. Reimbursement of person paying money due by another, in payment of which he is interested. 70. Obligation of person enjoying benefit of non-gratuitous act . 71. Responsibility of finder of goods . 72. Liability of person to whom money is paid , or thing delivered , by mistake or under coercion . CHAPTER VI OF THE CONSEQUENCES OF BREACH OF CONTRACT 73. Compensation for loss or damage caused by breach of contract . Compensation for failure to discharge obligation resembling those created by contract. 74. Compensation for breach of contract where penalty stipulated for . 75. Party rightfully rescinding contract , entitled to compensation . [CHAPTER VII SALE OF GOODS .] 76. . 77. . 78. . 79. . 80. . 81. . 82. . 83. . 84. . 85. . 86. . 87. . 88. . 89. . [DELIVERY .] 90. .] 91. . 92. . 93. . . 95. . 96. . 97. . . 99. . 100. . 101. . 5 SECTIONS 102. . 103. . 104. . 105. . 106. . [RESALE .] 107. . [TITLE .] 108. . [WARRANTY .] .] 109. . 110. . 111. . 112. . 113. . 114. . 115. . 116. . 117. . 118. . [MISCELLANEOUS .] 119. . 120. . 121. . 122. . 123. . CHAPTER VIII OF INDEMNITY AND GUARANTEE 124. "Contract of indemnity" defined. 125. Rights of indemnity-holder when sued. 126. "Contract of guarantee", "surety", "principal debtor" and "creditor" . 127. Consideration for guarantee. 128. Surety's liability. 129. "Continuing guarantee". 130. Revocation of continuing guarantee . 131. Revocation of continuing guarantee by surety's death . 132. Liability of two persons, primarily liable, not affected by arrangement between them that one shall be surety on other's default. 133. Discharge of surety by variance in terms of contract. 134. Discharge of surety by release or discharge of principal debtor. 135. Discharge of surety when creditor compounds with, gives time to, or agrees not to sue, principal debtor. 136. Surety not discharged when agreement made with third person to give time to principal debtor. 137. Creditor's forbearance to sue does not discharge surety. 138. Release of one co-surety does not discharge others. 6 SECTIONS 139. Discharge of surety of creditor's act or omission impairing surety's eventual remedy. 140. Rights of surety on payment or performance. 141. Surety's right to benefit of creditor's securities. 142. Guarantee obtained by misrepresentation invalid. 143. Guarantee obtained by concealment invalid . 144. Guarantee on contract that creditor shall not act on it until co-surety joins . 145. Implied promise to indemnify surety . 146. Co-sureties liable to contribute equally. 147. Liability of co-sureties bound in different sums. CHAPTER IX OF BAILMENT 148. "Bailment", "bailor" and "bailee" defined. 149. Delivery to bailee how made. 150. Bailor's duty to disclose faults in goods bailed. 151. Care to be taken by bailee. 152. Bailee when not liable for loss, etc., of thing bailed. 153. Termination of bailment by bailee's act inconsistent with conditions. 154. Liability of bailee making unauthorized use of goods bailed. 155. Effect of mixture, with bailor's consent, of his goods with bailee's. 156. Effect of mixture, without bailor's consent, when the goods can be separated. 157. Effect of mixture, without bailor's consent, when the goods cannot be separated. 158. Repayment, by bailor, of necessary expenses. 159. Restoration of goods lent gratuitously. 160. Return of goods bailed on expiration of time or accomplishment of purpose. 161. Bailee's responsibility when goods are not duly returned. 162. Termination of gratuitous bailment by death. 163. Bailor entitled to increase or profit from goods bailed. 164. Bailor's responsibility to bailee. 165. Bailment by several joint owners. 166. Bailee not responsible on re-delivery to bailor without title. 167. Right of third person claiming goods bailed. 168. Right of finder of goods. May sue for specific reward offered. 169. When finder of thing commonly on sale may sell it. 170. Bailee's particular lien. 171. General lien of bankers, factors, wharfingers, attorneys and policy-brokers. Bailments of pledges 172. "Pledge", "Pawnor" and "Pawnee" defined. 173. Pawnee's right of retainer. 7 SECTIONS 174. Pawnee not to retain for debt or promise other than that for which goods pledged. Presumption in case of subsequent advances. 175. Pawnee's right as to extraordinary expenses incurred. 176. Pawnee's right where pawnor makes default. 177. Defaulting pawnor's right to redeem. 178. Pledge by mercantile agent. 178A. Pledge by person in possession under voidable contract. 179. Pledge where pawnor has only a limited interest. Suits by bailees or bailors against wrong-doers 180. Suit by bailor or bailee against wrong-doer. 181. Apportionment of relief or compensation obtained by such suits. CHAPTER X AGENCY Appointment and authority of agents 182. "Agent" and "principal" defined. 183. Who may employ agent. 184. Who

may be an agent. 185. Consideration not necessary. 186. Agent's authority may be expressed or implied. 187. Definitions of express and implied authority. 188. Extent of agent's authority. 189. Agent's authority in an emergency. Sub-agents 190. When agent cannot delegate. 191. "Sub-agent" defined. 192. Representation of principal by sub-agent properly appointed. Agent's responsibility for sub-agent. Sub-agent's responsibility. 193. Agent's responsibility for sub-agent appointed without authority. 194. Relation between principal and person duly appointed by agent to act in business of agency. 195. Agent's duty in naming such person. Ratification 196. Right of person as to acts done for him without his authority. Effect of ratification. 197. Ratification may be expressed or implied. 198. Knowledge requisite for valid ratification. 199. Effect of ratifying unauthorized act forming part of a transaction. 200. Ratification of unauthorized act can not injure third person. 8 Revocation of authority SECTIONS 201. Termination of agency. 202. Termination of agency, where agent has an interest in subject-matter. 203. When principal may revoke agent's authority. 204. Revocation where authority has been partly exercised. 205. Compensation for revocation by principal, or renunciation by agent. 206. Notice of revocation or renunciation. 207. Revocation and renunciation may be expressed or implied. 208. When termination of agent's authority takes effect as to agent, and as to third persons. 209. Agent's duty on termination of agency by principal's death or insanity. 210. Termination of sub-agent's authority. Agent's duty to principal 211. Agent's duty in conducting principal's business. 212. Skill and diligence required from agent. 213. Agent's accounts. 214. Agent's duty to communicate with principal. 215. Right of principal when agent deals, on his own account, in business of agency without principal's consent. 216. Principal's right to benefit gained by agent dealing on his own account in business of agency. 217. Agent's right of retainer out of sums received on principal's account. 218. Agent's duty to pay sums received for principal. 219. When agent's remuneration becomes due. 220. Agent not entitled to remuneration for business misconducted. 221. Agent's lien on principal's property. Principal's duty to agent 222. Agent to be indemnified against consequences of lawful acts. 223. Agent to be indemnified against consequences of acts done in good faith. 224. Non-liability of employer of agent to do a criminal act. 225. Compensation to agent for injury caused by principal's neglect. Effect of agency on contracts with third persons 226. Enforcement and consequences of agent's contracts. 227. Principal how far bound, when agent exceeds authority. 228. Principal not bound when excess of agent's authority is not separable. 229. Consequences of notice given to agent. 230. Agent cannot personally enforce, nor be bound by, contracts on behalf of principal. Presumption of contract to contrary. 231. Rights of parties to a contract made by agent not disclosed. 232. Performance of contract with agent supposed to be principal. 233. Right of person dealing with agent personally liable. 9 SECTIONS 234. Consequence of inducing agent or principal to act on belief that principal or agent will be held exclusively liable. 235. Liability of pretended agent. 236. Person falsely contracting as agent not entitled to performance. 237. Liability of principal inducing belief that agent's unauthorized acts were authorized. 238. Effect, on agreement, of misrepresentation or fraud by agent. CHAPTER XI OF PARTNERSHIP 239. . 240. . 241. . 242. . 243. . 244. . 245. . 246. . 247. . 248. . 249. . 250. . 251. . 252. . 253. . 254. . 255. . 256. . 257. . 258. . 259. . 260. . 261. . 262. . 263. . 264. . 265. . 266. . SCHEDULE — 10 THE INDIAN CONTRACT ACT, 1872 ACT NO. 9 OF 1872 [25th April, 1872.] Preamble —WHEREAS it is expedient to define and amend certain parts of the law relating to contracts; It is hereby enacted as follows: — PRELIMINARY 1. Short title.—This Act may be called the Indian Contract Act, 1872. Extent, Commencement.—It extends to the whole of India 2[3***]; and it shall come into force on the first day of September, 1872. Saving —4*** Nothing herein contained shall affect the provisions of any Statute, Act or Regulation not hereby expressly repealed, nor any usage or custom of trade, nor any incident of any contract, not inconsistent with the provisions of this Act. 2. Interpretation -clause.—In this Act the following words and expressions are used in the following senses, unless a contrary intention appears from the context: — (a) When one person signifies to another his willingness to do or to abstain from doing anything, with a view to obtaining the assent of that other to such act or abstinence, he is said to make a proposal; 1. For the Statement of Objects and Reasons for the Bill which was based on a report of Her Majesty's Commissioners appointed to prepare a body of substantive law for India, dated 6th July, 1866, see Gazette of India, 1867 Extraordinary, p. 34; for the Report of the Select Committee, see *ibid.*, Extraordinary, dated 28th March, 1872; for discussions in Council, see *ibid.*, 1867, Supplement, p. 1064; *ibid.*, 1871, p. 313, and *ibid.*, 1872, p. 527. It has been amended in C.P. by C.P. Act 1 of 1915 and in C.P. and Berar by C.P. and Berar Act 15 of 1938. The Chapters and sections of the Transfer of Property Act, 1882 (4

of 1882), which relate to contracts are, in places in which that Act is in force, to be taken as part of this Act —see Act 4 of 1882, s. 4. This Act has been extended to Berar by the Berar Laws Act, 1941 (4 of 1941) to Dadra and Nagar Haveli by Reg. 6 of 1963, s. 2 and Sch. I to Goa, Daman and Diu by Reg. 11 of 1963, s. 3 and Sch., (w.e.f. 1-10-1965) to Laccadive, Minicoy and Amindivi Islands by Reg. 8 of 1965, s. 3 and Sch., to Pondicherry by Act 26 of 1968, s. 3 and Sch. and has been declared to be in force in — the Sonthal Parganas —see Sonthal Parganas Settlement Regulation, 1872 (3 of 1872), s. 3, as amended by the Sonthal Parganas Justice and Laws Regulation, 1899 (3 of 1899), s. 3. Panth Piploda —see the Panth Piploda Law Regulation, 1929 (1 of 1929), s. 2. It has been declared, by notification under s. 3(a) of the Scheduled Districts Act, 1874 (14 of 1874), to be in force in — The Tarai of the Province of Agra —see Gazette of India, 1876, Pt. I, p. 505; the Districts of Hazaribagh, Lohardaga and Manbhum, and Pargana Dhalbhum and the Kolhan in the District of Singhbhum — see Gazette of India, 1881, pt. I, p. 504. —The District of Lohardaga included at this time the present District of Palamau which was separated in 1894. The District of Lohardaga is now called the Ranchi District —see Calcutta Gazette, 1899, pt. I, p. 44. 2. Subs. by Act 3 of 1951, s. 3 and Sch., for “except Part B States.” 3. The words “except the State of Jammu and Kashmir” omitted by Act 34 of 2019, s. 95 and the Fifth Schedule (w.e.f. 31-10-2019). 4. The words “The enactments mentioned in the Schedule hereto are repealed to the extent specified in the third column thereof, but” rep. by Act 10 of 1914, s. 3 and the Second Schedule. 11 (b) When the person to whom the proposal is made signifies his assent thereto, the proposal is said to be accepted. A proposal, when accepted, becomes a promise; (c) The person making the proposal is called the “promisor”, and the person accepting the proposal is called the “promisee”; (d) 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; (e) Every promise and every set of promises, forming the consideration for each other, is an agreement; (f) Promises which form the consideration or part of the consideration for each other are called reciprocal promises; (g) An agreement not enforceable by law is said to be void; (h) An agreement enforceable by law is a contract; (i) An agreement which is enforceable by law at the option of one or more of the parties thereto, but not at the option of the other or others, is a voidable contract; (j) A contract which ceases to be enforceable by law becomes void when it ceases to be enforceable.

CHAPTER I OF THE COMMUNICATION, ACCEPTANCE AND REVOCATION OF PROPOSALS

3. Communication, acceptance and revocation of proposals. —The communication of proposals, the acceptance of proposals, and the revocation of proposals and acceptances, respectively, are deemed to be made by any act or omission of the party proposing, accepting or revoking by which he intends to communicate such proposal, acceptance or revocation, or which has the effect of communicating it. 4. Communication when complete. —The communication of a proposal 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 in 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. Illustrations (a) A proposes, by letter, to sell a house to B at a certain price. The communication of the proposal is complete when B receives the letter. (b) B accepts A's proposal by a letter sent by post. The communication of the acceptance is complete, as against A when the letter is posted; as against B, when the letter is received by A. (c) A revokes his proposal by telegram. The revocation is complete as against A when the telegram is despatched. It is complete as against B when B receives it. B revokes his acceptance by telegram. B's revocation is complete as against B when the telegram is despatched, and as against A when it reaches him. 12 5. Revocation of proposals and acceptances. —A proposal may be revoked at any time before the communication of its acceptance is complete as against the proposer, but not afterwards. An acceptance may be revoked at any time before the communication of the acceptance is complete as against the acceptor, but not afterwards. Illustration A proposes, by a letter sent by post, to sell his house to B. B accepts the proposal by a letter sent by post. A may revoke his proposal at any time before or at the moment when B posts his letter of acceptance, but not afterwards. B may revoke his acceptance at any time before or at the moment when the letter communicating it reaches A, but not afterwards. **STATE AMENDMENT Uttar Pradesh Amendment**

of section 5 of Act (9 of 1872). —In section 5 of Indian contract Act, 1872, hereinafter in this Chapter referred to as the principal Act, at the end of the first paragraph, the following explanation shall be inserted, namely: —“Explanation —Where an invitation to a proposal contains a condition that any proposal made in response to such invitation shall be kept open for a specified time and a proposal is thereupon made accepting such condition, such proposal may not be revoked within such time.” [Vide Uttar Pradesh Act, 57 of 1976, s. 2] 6. Revocation how made .—A proposal is revoked — (1) by the communication of notice of revocation by the proposer to the other party ; (2) by the lapse of the time prescribed in such proposal for its acceptance, or, if no time is so prescribed, by the lapse of a reasonable time, without communication of the acceptance; (3) by the failure of the acceptor to fulfil a condition precedent to acceptance; or (4) by the death or insanity of the proposer, if the fact of his death or insanity comes to the knowledge of the acceptor before acceptance. 7. Acceptance must be absolute .—In order to convert a proposal into a promise, the acceptance must— (1) be absolute and unqualified; (2) be expressed in some usual and reasonable manner, unless the proposal prescribes the manner in which it is to be accepted. If the proposal prescribes a manner in which it is to be accepted, and the acceptance is not made in such manner, the proposer may, within a reasonable time after the acceptance is communicated to him, insist that his proposal shall be accepted in the prescribed manner, and not otherwise; but if he fails to do so, he accepts the acceptance. 8. Acceptance by performing conditions, or receiving consideration .—Performance of the conditions of a proposal, or the acceptance of any consideration for a reciprocal promise which may be offered with a proposal, is an acceptance of the proposal. 9. Promises, express and implied .—In so far as the proposal or acceptance of any promise is made in words, the promise is said to be express. In so far as such proposal or acceptance is made otherwise than in words, the promise is said to be implied. 13 CHAPTER II OF CONTRACTS, VOIDABLE CONTRACTS AND VOID AGREEMENTS 10. What agreements are contracts .—All agreements are contracts if they are made by the free consent of parties competent to contract, for a lawful consideration and with a lawful object, and are not hereby expressly declared to be void. Nothing herein contained shall affect any law in force in 1[India] and not hereby expressly repealed by which any contract is required to be made in writing² or in the presence of witnesses, or any law relating to the registration of documents. 11. Who are competent to contract .—Every person is competent to contract who is of the age of majority according to the law to which he is subject³, and who is of sound mind , and is not disqualified from contracting by any law to which he is subject. 12. What is a sound mind for the purposes of contracting .—A person is said to be of sound mind for the purpose of making a contract , if, at the time when he makes it, he is capable of understanding it and of forming a rational judgment as to its effect upon his interests. A person who is usually of unsound mind, but occasionally of sound mind, may make a contract when he is of sound mind. A person who is usually of sound mind, but occasionally of unsound mind, may not make a contract when he is of unsound mind. Illustrations (a) A patient in a lunatic asylum, who is at intervals of sound mind, may contract during those intervals. (b) A sane man, who is delirious from fever or who is so drunk that he cannot understand the terms of a contract , or form a rational judgment as to its effect on his interests, cannot contract whilst such delirium or drunkenness lasts. 13. “ Consent ” defined .—Two or more persons are said to consent when they agree upon the same thing in the same sense. 14. “Free consent ” defined .—Consent is said to be free when it is not caused by — (1) coercion, as defined in section 15, or (2) undue influence, as defined in section 16, or (3) fraud, as defined in section 17, or (4) misrepresentation, as defined in section 18, or (5) mistake, subject to the provisions of sections 20, 21 and 22. Consent is said to be so caused when it would not have been given but for the existence of such coercion, undue influence, fraud , misrepresentation or mistake. 15. “Coercion ” defined .—“Coercion ” is the committing, or threatening to commit, any act forbidden by the Indian Penal Code (45 of 1860) or the unlawful detaining, or threatening to detain, any property, to the prejudice of any person whatever, with the intention of causing any person to enter into an agreement. 1. Subs. by Act 3 of 1951, s. 3 and Sch., for “Part A States and Part C States” which had been subs. by the A.O. 1950, for “the Provinces”. 2. See e.g. , s. 25, infra ; the Copyright Act, 1957 (14 of 1957), s. 19; the Carriers Act, 1865 (3 of 1865) ss. 6 and 7; the Companies Act, 1956 (1 of 1956) , ss. 12, 30, 46 and 109. 3. See the Indian Majority Act, 1875 (9 of 1875). 14 Explanation .—It is immaterial whether the Indian Penal Code (45 of 1860) is or is not in force in the place where the coercion is employed. Illustration A, on board an English ship on the high seas, causes B to enter into an agreement by an act amounting to criminal intimidation under the Indian Penal Code (45 of

1860). A afterwards sues B for breach of contract at Calcutta. A has employed coercion, although his act is not an offence by the law of England, and although section 506 of the Indian Penal Code (45 of 1860) was not in force at the time when or place where the act was done. 1[16. "Undue influence " defined .—(1) A contract is said to be induced by "undue influence " where the relations subsisting between the parties are such that one of the parties is in a position to dominate the will of the other and uses that position to obtain an unfair advantage over the other. (2) In particular and without prejudice to the generality of the foregoing principle, a person is deemed to be in a position to dominate the will of another — (a) where he holds a real or apparent authority over the other , or where he stands in a fiduciary relation to the other; or (b) where he makes a contract with a person whose mental capacity is temporarily or permanently affected by reason of age, illness, or mental or bodily distress. (3) Where a person who is in a position to dominate the will of another, enters into a contract with him, and the transaction appears, on the face of it or on the evidence adduced, to be unconscionable, the burden of proving that such contract was not induced by undue influence shall lie upon the person in a position to dominate the will of the other. Nothing in this sub-section shall affect the provisions of section 111 of the Indian Evidence Act, 1872 (1 of 1872). Illustrations (a) A having advanced money to his son, B, during his minority, upon B 's coming of age obtains, by misuse of parental influence, a bond from B for a greater amount than the sum due in respect of the advance. A employs undue influence. (b) A, a man enfeebled by disease or age, is induced, by B 's influence over him as his medical attendant, to agree to pay B an unreasonable sum for his professional services. B employs undue influence. (c) A, being in debt to B, the money-lender of his village, contracts a fresh loan on terms which appear to be unconscionable. It lies on B to prove that the contract was not induced by undue influence. (d) A applies to a banker for a loan at a time when there is stringency in the money market. The banker declines to make the loan except at an unusually high rate of interest. A accepts the loan on these terms. This is a transaction in the ordinary course of business, and the contract is not induced by undue influence.] 17. "Fraud " defined .—"Fraud " means and includes any of the following acts committed by a party to a contract, or with his connivance, or by his agent², with intent to deceive another party thereto or his agent, or to induce him to enter into the contract: — (1) the suggestion, as a fact, of that which is not true, by one who does not believe it to be true ; (2) the active concealment