2. Bargaining and agreeing: Offer, acceptance, and formation

This chapter focuses on agreement between parties as a requirement in the formation of a contract. Agreement is said to be reached when one party (the ‘offeree’) makes an offer to another proposing certain terms by which he intends to be bound, which that other party accepts as made. An agreement will only be taken to have been reached if the acceptance perfectly mirrors the offer. This chapter first examines the relatively straightforward situation of a seller and buyer bargaining over a prospective sale. It explains the distinction between an offer, an invitation to treat, and a counter-offer, as well as the importance of communicating acceptance and applicability of the postal rule to modern forms of communication. It also considers how the principles of offer and acceptance translate to other forms of contracting. The chapter covers the most influential and important cases in the subject area.
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