CASE COMMENT ON CROWN v. CLARKE (1927)[i]

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INTRODUCTION

The present case revolved around this issue of acceptance and the requirement that, to be valid, acceptance must be given in response to the offer. The sitting judges were Issacs ACJ, Higgins and Starke JJ. The areas of contract law under light are offer and communication of offer.

FACTS OF THE CASE

WA Government (Crown) offered a monetary reward for information leading to the arrest and conviction of people responsible for the murder of two police officers. Clarke was arrested in connection with the murders and made a statement to police about the murders which led to the conviction of other men. Clarke was released and subsequently claimed the reward.

The information for which Clarke claims the reward was given by him when he was under arrest with Treffene on a charge of murder, and was given by him in circumstances which show that in giving the information he was not acting on or in pursuance of or in reliance upon or in return for the consideration contained in the proclamation, but exclusively in order to clear himself from a false charge of murder. In other words, he was acting with reference to a specific criminal charge against himself, and not with reference to a general request by the community for information against other persons. It is true that without his information and evidence no conviction was probable, but it is also abundantly clear that he was not acting for the sake of justice or from any impulse of conscience or because he was asked to do so, but simply and solely on his own initiative, to secure his own safety from the hand of the law and altogether irrespective of the proclamation.

The murders were committed towards the end of April 1926; the proclamation of reward was issued on 21st May; the information was given by Clarke on 10th June and at the trial. One of the murderers, Treffene, was arrested on 6th June, with Clarke; the other, Coulter, was arrested

on 10th June; both were indicted in August and convicted in September of the murder of Walsh; there was an appeal to the Court of Criminal Appeal, which failed; and, after the failure of the appeal, Clarke, on the suggestion of Inspector Condon, for the first time thought of the reward and decided to claim it. But he had seen the proclamation in May. On 6th June, Clarke gave false information in order to screen the murderers; and, as he says, "I had no intention then of doing anything to earn the reward. ... On 10th June, I began to break down under the strain. Manning took down my statement on 10th June at my request. I had no thought whatever then of the reward that had been offered. My object was my own protection against a false [239] charge of murder. ... Up to 10th June I had no intention of doing anything to earn the reward. At the inquest" (where he gave evidence without asking to be allowed to give evidence) "I was committed for trial as an accessory. ... When I gave evidence in the Criminal Court I had no intention of claiming the reward. I first decided to claim the reward a few days after the appeal had been dealt with. Inspector Condon told me to make application. I had not intended to apply for the reward up to that date. I did not know exactly the position I was in. Up to that time I had not considered the position ... I had not given the matter consideration at all. My motive was to clear myself of the charge of murder. I gave no consideration and formed no intention with regard to the reward."

JUDGEMENT AND REASONING

When the case was tried in Western Australia's supreme court, the trail judge, McMillian cj rejected the statement that Clarke was neither relying on the offer nor intending to be an informer. After his arrest, he only told the truth to save himself from the murder charge.

Clarke subsequently appealed to the Full Court and the judges Burnside and Draper JJ rejected the appeal saying that a contract had been formed because Clarke had fulfilled the conditions of the offer. But on the following grounds, judge Northmore J gave a dissenting judgment:

(i) Clarke’s evidence stated that when Evans gave the information, he had no intention of claiming the reward.

(ii) Additionally, the offer was to the first person to give information leading to arrest and conviction.

(iii) Since as one of the murderers, Treffene was arrested as the same time as Clarke therefore not meeting the conditions.

When Clarke appealed to the High Court, they argued that he was unable to claim the reward because it was essential to behave in "dependence on" an offer to accept it and thus create a contract.

The sitting judge Starke J ruled that Clarke did not behave "in accordance with the offer or with the intention to enter into any agreement" when providing data. Although the convictions couldn't have come without the data and proof that he provided, Crown received what he wished, while Clarke gave the data just to clear himself.

The sitting judge Isaacs ACJ indicated the distinction between the motivation and the intention in which he gave an instance saying that I may enter into an agreement where my motivation is to disadvantage another party commercially or monetarily. But the issue of my intention to enter into an agreement would be irrelevant. I could sue another in the hope that the award of damages will bring them out of company-but that hope or motive I have is not a consideration of legal relevance with respect to the award of damages. Thus, while motivation is not important, intention is essential, and knowledge is assumed by intention.

He also indicated the case of Gibbons v Proctor (1891) [2] where a policeman was permitted to retrieve the reward despite not knowing the presence of the same when sending off the data. But it was indicated in Anson on contracts that the choice was incorrect and it was agreed with the same judge Isaacs.

The sitting judge, Higgins J, ruled that the intent and motivation of Clarke is a clear sign that he did it to safeguard himself and clear himself of the charge of murder. Only he decided to claim the reward after the entire arrest, conviction, appeal. It's not that for the reward Clarke didn't know the existence, it's the fact that at that time he didn't think about the reward, so he couldn't have provided the proof to get the reward or enter into a agreement with the one offering.

ANALYSIS

Crown v Clarke is Australia's high court contract law case. The decision took place on November 22, 1927. The first tribunal was the supreme court where McMillian C.J. was judge. It preceded it. The high court sitting judges are Isaacs A.C.J., Higgins, and Starke JJ.

The parties engaged in the case are the Crown appellant and the Evan Clarke respondent. Acceptance happens when the offering party agrees with the offeror's proposal.

So, on May 21, Crown issued a reward saying that if anyone saves data about two policemen's murderer conviction, they would be rewarded.

Treffene and Clarke were detained on June 6 for killing two police officers. Clarke provided data on June 10th that led to Treffene's arrest and he was cleared of the allegations of murder. Later he received the crown for 1000 pounds for prosecution when he was not rewarded for the data.

It seems that there are two primary legal issues. One is Clarke responding to the offer's circumstances. Secondly, his motives.

As stated above, the Crown's promise was to pay the reward "for information leading to the arrest and conviction of the person or persons who committed the assassinations."

Here we refer to Carlil v Carbolic Smoke Ball Co (1893) [3] where it has been indicated that the overall offer of reward is an offer given to anyone who operates in accordance with the faith of that offer and fulfils the circumstances set out therein .

Taking a decision-making ratio, Clarke did not rely on the offer as Judge Isaac indicated, as his true motivation was to clear himself of the conviction. He never designed to accept the offer, so no agreement existed. Therefore, the tribunal ruled in favor of the crown and Clarke did not have the right to receive the prize.

In the American case of Williams v Carwardine (1833) [4] the defendant offered a $20 reward for information leading to the discovery of Walter Carwardine's murderer, and leaflets about

the reward were distributed in the plaintiff's area of residence. The complainant apparently knew about the reward, but it wasn't for receiving the cash when she gave the data. She believed she had only a short time to live and thought she could ease her consciousness by providing the data. The tribunal held that she was entitled to the reward: she was conscious of the offer and complied with its terms and was meaningless to her motivation to do so.

A second case in the US, Fitch v Snedaker (1868), stated that the reward cannot be claimed by a individual who provides data without knowing the offer of a reward. Gibbons v Proctor (1891) is the primary English case on this subject. A reward for data leading to the arrest or conviction of the perpetrator of a specific crime had been advertised and the plaintiff tried to claim the reward, although he had not known of the offer initially. He was permitted to receive the cash, but the outcome does not shed much light on the issue because the complainant knew about the reward offer when the data was provided to the individual named in the advertisement on his behalf.

Only when that specific data is provided to reality would an offer calling for data be accepted, then the informant is entitled to a reward. But it is not accurate until the term "provided Carlill v Carbolic Smoke Ball Company [1892] EWCA Civ 1" is interpreted as being "given in return for the offer. It is indicated as mentioned in the performance of the deal that the offer contemplates and for which the offer is a component. It is indicated as mentioned in the performance of the deal that the offer contemplates and for which the offer is a component.

In this case, the performance is in accordance with the implied method of acceptance, but at the same time it affects the entire purpose of acceptance and performance, but since acceptance is essential for the contractual obligation, since without it there is no agreement and, in the absence of agreement, there would be no contract.

In conclusion, we can conclude that the judgment and reasoning behind it were right and in accordance with the law, since the proof states that Clarke had no intention of getting that reward itself in the first location. It was about getting rid of the criminal charges.

BIBLIOGRAPHY

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ii. https://www.legislation.wa.gov.au/legislation/statutes.nsf/main_mrtitle_232_homepage.html.

iii. *Mitchell, P., & Phillips*, J. (2002).

iv. *Gibbons v Proctor* [1891] 64 LT 594.

v. *Williams v Carwardine* (1833).

vi. *Carlill v Carbolic Smoke Ball Company* [1892] EWCA Civ 1.

ENDNOTE

[i] Crown v Clarke (1927) 40 CLR 227.