

A Study on Kinds of Goods with Special Reference with Sales of Goods Act, 1930

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Abstract: Goods' have been defined under section 2(7) of the Sale of Goods Act, 1930, to include every kind of movable property, including stocks, shares, crops, grass, severable objects, etc. It is supplemented by the definitions of movable and immovable property under section 3(36) and section 3(26) of the General Clauses Act, 1897. This paper lays down certain dilemmas that have not been resolved despite the definitions and examines the case laws that may shed light on the same. It also examines the difference between English and Indian law on this issue. Primarily, it seeks to clarify whether certain commodities such as electricity, lottery tickets, software programs, money, etc. can be included within the definition of "goods". This research paper primarily investigates the dilemma regarding the scope of definition of "goods" for the purposes of Sale of Goods Act, 1930 (hereinafter referred to as the 'Act'). I have differentiated the position of law in England and India. However, due to the vastness of the definition I have limited the scope of my paper to three of the major commodities which have been subject of controversies, namely: Electricity, Lottery tickets, and Software programs. The main aim of this paper is to study about the different kinds of goods with special reference to sales of goods act. Objectives are To study about buyer and seller, to study about goods and kinds of goods, to study about delivery and actual delivery, symbolic delivery and constructive delivery, to study about breach of contract under sales of goods act. The survey was limited to 1524 samples because of the time constraint. The dependent variable is the substitute agent is liable to the principal and there is no direct contract between the sub agent and the principal. The independent variable is occupation. The analysis of the survey is done by using chi-square. The paper concludes that most of the people are aware about the agreements and aware about the contracts for sales of goods.

Keywords: Contract, sale of goods act, goods, vendor, purchaser

I. INTRODUCTION

The Sale of Goods Act, 1930 in this alluded to as the Act, is the law that oversees the closeout of merchandise in all pieces of India. It doesn't make a difference to the province of Jammu and Kashmir. The Act characterizes different terms which are contained in the demonstration itself. Give us a chance to see beneath.

BUYER AND SELLER

According to the sec 2(1) of the Act, a purchaser is somebody who purchases or has consented to purchase products. Since a deal comprises an agreement between two gatherings, a purchaser is one of the gatherings to the agreement. The Act characterizes dealer in sec 2(13). A dealer is somebody who sells or has consented to sell products. For a deal to appear, both the purchasers and dealer must be characterized by the Act. These two terms speak to the two gatherings of a deal. A black out contrast between the meaning of purchaser and dealer set up by the Act and the everyday significance of purchaser and vendor is that according to the demonstration, even the individual who consents to purchase or sell is qualified as a purchaser or a merchant. The genuine exchange of products doesn't need to occur for the recognizable proof of the two gatherings of a deal.

GOODS

One of the most vital terms to characterize is the merchandise that are to be incorporated into the agreement available to be purchased. The Act characterizes the expression "Products" in its sec 2(7) as a wide range of versatile property. The sec 2(7) of the Act goes as pursues: "Each sort of mobile property other than noteworthy cases and cash; and incorporates stock and offers, developing harvests, grass, and things appended to or framing some portion of the land which are consented to be cut off before deal or under the agreement of offer will be viewed as products".As should be obvious, offers and stocks are likewise characterized as merchandise by the Act. The term significant cases mean those cases which are qualified to be implemented or started by a suit or lawful activity. This implies those cases where an activity, for example, recuperation by sale, suit, discounts and so forth could be started to recoup or understand the case.

1. EXISTING GOODS

The goods that are referred to in the contract of sale are termed as existing goods if they are present (in existence) at the time of the contract. In sec 6 of the Act, the existing goods are those goods which are in the legal possession or are owned by the seller at the time of the formulation of the contract of sale. The existing goods are further of the following types:

A) SPECIFIC GOODS

As indicated by the sec 2(14) of the Act, these are those merchandise that are "distinguished and settled upon" when the agreement of offer is framed. For instance, you need to sell your cell phone on the web. You put a notice with its image and data. A purchaser consents to the deal and an agreement is shaped. The versatile, for this situation, is a particular decent.

B) ASCERTAINED GOODS

This is not characterized by the law but rather by the legal understanding. This term is utilized for explicit products which have been chosen from a bigger arrangement of merchandise. For instance, you have 500 apples. Out of these 500 apples, you choose to sell 200 apples. To sell these 200 apples, you should isolate them from the 500 (bigger set). Accordingly you indicate 200 apples from a bigger gathering of unknown apples. These 200 apples are currently the found out merchandise.

C) UNASCERTAINED GOODS

These are the goods that have not been explicitly distinguished but rather have rather been left to be chosen from a bigger gathering. For instance, from your 500 apples, you choose to sell 200 apples however you don't indicate which ones you need to sell. A vender will have the freedom to pick any 200 apples from the part. These are hence the unascertained goods.

2. FUTURE GOODS

In sec 2(6) of the Act, future goods have been defined as the goods that will either be manufactured or produced or acquired by the seller at the time the contract of sale is made. The contract for the sale of future goods will never have the actual sale in it, it will always be an agreement to sell. For example, you have an apple orchard with apples in it. You agree to sell 1000 apples to a buyer after the apples ripe. This is a sale that has to occur in the future but the goods have been identified already and the agreement made. Such goods are known as future goods.

3. CONTINGENT GOODS

Contingent goods are actually a subtype of future goods in the sense that in contingent goods the actual sale is to be done in the future. These goods are part of a sale contract that has some contingency clause in it. For example, if you sell your apples from your orchard when the trees are yet to produce apples, apples are a contingent good. This sale is dependent on the condition that the trees are able to produce apples, which may not happen.

DELIVERY

The conveyance of products means the deliberate exchange of ownership starting with one individual then onto the next. The goal or the final product of any such procedure which results in the merchandise coming into the ownership of the purchaser is a conveyance procedure. The conveyance could happen notwithstanding when the products are

moved to an individual other than the purchaser yet who is approved to hold the merchandise in the interest of the purchaser. There are different types of conveyance as follows:

- **ACTUAL DELIVERY:** If the products are physically surrendered to the ownership of the purchaser, the conveyance is a real conveyance.
- **CONSTRUCTIVE DELIVERY:** The exchange of products should be possible notwithstanding when the exchange is affected without an adjustment in the ownership or care of the merchandise. For instance, an instance of the conveyance by attornment or affirmation will be a productive conveyance. In the event that you get a bundle in the interest of your companion and consent to clutch it for him, it is a productive conveyance.
- **SYMBOLIC DELIVERY:** This sort of conveyance includes the conveyance of a thing in token of an exchange of some other thing. For instance, the key of the godowns with the products in it, when given over to the purchaser will comprise an emblematic conveyance.

4. THE DOCUMENT OF GOODS OF TITLE

From the Sec 2(4) of the demonstration, we can say this "incorporates the bill of replenishing, dock-warrant, distribution center guardian's declaration, railroad receipt, multimodal transport record, warrant or request for the conveyance of products and some other archive utilized in the standard course of business as confirmation of the ownership or control of merchandise or approving or implying to approve, either by support or by conveyance, the holder of the report to move or get products subsequently spoke to."

5. MERCANTILE AGENT

Trade specialist is somebody who has expert in the standard course of business, either to sell or dispatch products under the agreement for the benefit of the either of the gatherings. Models incorporate barkers, representatives, factors and so on.

6. PROPERTY [SECTION 2(11)]

In the Act, property signifies 'proprietorship' or the general property for example all proprietorship right of the products. A deal comprises the exchange of responsibility for by the merchant to the purchaser or an understanding of the equivalent.

7. INSOLVENT [SECTION 2(7)]

The Act characterizes a ruined individual as somebody who stops to pay his obligations in the standard course of business or can't pay his obligations as they become due, regardless of whether he has submitted a demonstration of bankruptcy or not.

8. PRICE

In the Act, the price is defined as the money consideration for a sale of goods.

9. QUALITY OF GOODS

In Sec 2(12) of the Act, the quality of goods is referred to as their state or condition.

The main aim of this paper is to study about the different kinds of goods with special reference to sales of goods act.

OBJECTIVES:

- To study about buyer and seller , to study about goods and kinds of goods , to study about delivery and actual delivery, symbolic delivery and constructive delivery , to study about breach of contract under sales of goods act .

II. REVIEW OF LITERATURE

Products of the soil are generally sold with a view to severance and though they may sometimes be of the nature of land for the purpose of the Law of Property (Miscellaneous Provisions) Act 1989, they are usually goods within the meaning of the Act of 1979. (Simon, "Goodwill Und Goodwill-Transfer") Nor would crops sold with the land on which they are growing because they are not in such a case to be 'severed before sale or under the contract of sale' as section 61 requires. (Figure 2: Comparisons of Morphological Characteristics of *V. Berusand Related Species*) Existing goods: goods actually in existence when the contract is made. (Thomas) They may be either specific or unascertained in the sense that they have yet to be appropriated to the contract (section 5(1)). (Simon, "Goodwill-Transfer Und Produktlinienpolitik") Future goods, goods yet to be acquired or manufactured or grown by the seller (section 5(1)) as in *Sainsbury V Street*. (Simon, "Die Steuerung Des Goodwill-Transfers") Where the seller agreed to sell to the buyers a crop of some 275 tons of barley to be grown by him on his farm. Specific goods, goods identified and agreed upon at the time the contract of sale is made (section 61(1)). (Simon, "Goodwill Und Käuferverhalten") The sale of a raincoat at a market stall. Unascertained goods: as where A agrees to sell to B 200 bags of flour from a stock of 2000 lying in A's warehouse. (Simon, "Die Marketingstrategie Bei Dynamischem Goodwill-Transfer") The main problem in examination terms arises in question which is concerned with when ownership in such goods passes from seller to buyer. (Simon, "Modelle Des Dynamisch-Produktübergreifenden Goodwill-Transfers") This problem will be considered below. (Simon, "Die Marketingstrategie Bei Dynamischproduktübergreifendem Goodwill-Transfer") These terms are implied into the contracts that included in the sale of goods act. The defendant will be given an action for the damages if they breach the terms of sale of goods act. (Simon, "Modelle Des Indirekten Dynamischen Goodwill-Transfers") Where the slightness of the breach renders it unreasonable for a non-consumer buyer to reject the goods, for breach of the implied terms as to the description, quality or fitness or sample, then the buyer can only claim damages for a breach of warranty. (Simon, "Modelle Des Indirekten Dynamischen Goodwill-Transfers") This amendment moderates the traditionally strict approach of English Law to contractual breach in a commercial context. (Simon, "Modelle Des Statisch-Produktübergreifenden Goodwill-Transfers"). In Section 12(1), there is an implied condition on the part of the sales that in the case of: A sale, he has the right to sell the goods if the situations show a different intention. (Zanoni) An agreement to sell, he will have the right to sell the goods at the time when the property is to pass. (Leake) Section 12(1) provides that, unless the circumstances show a different intention, there is an implied condition on the part of the seller that in a case of a sale he has the right to sell the goods, and that in the case of an agreement to sell, he will have the right to sell the goods at the time when the property is to pass. (Rowland v Divall) held that the rejection of the goods is found to be in breach of s 12 will allow the buyer to recover full price paid, with no payment for the buyer's use of the goods. In the case of *Rowland v Divall* (1923), plaintiff bought a car from defendant and used it for several months. (Bloom) It then realized that defendant has no title to this car and the plaintiff is bound to return it back to the true owner. (Helms) He sued defendant for recover back the purchase-money that he had paid as on a total failure of consideration. (Rauschenberg) The court held that he is entitled to recover the whole of it price because the consideration for the use of car had totally failed. (CCH Australia and Limited) Section 12(1) might be construed as meaning that the seller must have the power to give ownership of the goods to the buyer, but if the goods can only be sold by infringing a trademark, the seller has no right to sell for the purposes of s 12(1). (Aristotle) For instance, the case of *Niblett v Confectioners' Materials Co*, a firm who dealt in confectioners' materials agreed in writing to sell condensed milk in tins and of a price including insurance and freight from New York to London. (Kerouac) Payment was made in case on receipt of the shipping documents and the defendants were paid the price. There were 1,000 cans which bore labels with the word 'Nissly' on them. This make Nestle Company notice about it and recommended that this was a breach of its registered trademark. The defendants were required to remove the name and brand in order to be able to sell the goods without being sued by Nestle for infringement of trade mark. They could only sell them at a loss without any mark. Held by the court of appeal, that the seller was in breach of the implied condition set out in section 12(1) of the sales of good Act. A person who can sell goods only by infringing a trademark has no right to sell, even though he may be the owner of the goods. Section 12(2) provide that there is an implied warranty that the goods are free until the time when the property is to pass, from any charge or encumbrance not disclosed or known to the buyer before the contract is made, and that buyers will enjoy quiet possession of the goods except so far as it may be disturbed by the owner or other person entitled to the benefit of any charge or

encumbrance so disclosed or known. In Section 12(2), an implied warranty is that the goods must be free from encumbrances not disclosed known to the buyer and the buyer will enjoy quiet possession of goods. This point can be illustrated in the case *Microbeads AG v Vinhurst Road Markings Ltd* (1975). In this case, the court of appeal held that they could include breach of section 12(2) but not breach of section 12(1). There had been no breach of section 12(1) at the time of the sale so that A had not infringed that sub-session but since B’s quiet possession had been disturbed after sale, A was in breach of section 12(2). Goods’ have been defined under section 2(7) of the Sale of Goods Act, 1930, to include every kind of movable property, including stocks, shares, crops, grass, severable objects, etc. It is supplemented by the definitions of movable and immovable property under section 3(36) and section 3(26) of the General Clauses Act, 1897. This paper lays down certain dilemmas that have not been resolved despite the definitions and examines the case laws that may shed light on the same. It also examines the difference between English and Indian law on this issue. Primarily, it seeks to clarify whether certain commodities such as electricity, lottery tickets, software programs, money, etc can be included within the definition of “goods”.

III. MATERIALS AND METHODS

This paper used both primary and secondary information which are collected from the general public through the simple random sampling method. The research paper is done in both doctrinal and non-doctrinal method. The questions related to the was also taken into account. The survey was limited to 1524 samples because of the time constraint. The primary sources of information are taken from the books and statutes and secondary sources of information are taken from the articles of the journals, working papers, thesis and presentation papers. The dependent variable is the substitute agent is liable to the principal and there is no direct contract between the sub agent and the principal. The independent variable is occupation. The analysis of the survey is done by using chi-square.

IV. ANALYSIS AND DISCUSSION

FREQUENCY TABLE

Table 1: Occupation

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Business	379	24.9	24.9	24.9
	Private company employee	493	32.3	32.3	57.2
	Government job	486	31.9	31.9	89.1
	unemployed	166	10.9	10.9	100.0
	Total	1524	100.0	100.0	

From the above table it is clear that the Occupation of business people with frequency 379 out of 1500 and percent 24.9 out of 100 and valid percent 24.9 out of 100 and cumulative percent 24.9. The private company employee with frequency 493 out of 1500 and percent 32.3 out of 100 and valid percent 32.3 out of 100 and cumulative percent 57.2. The Government job with frequency 486 out of 1500 and percent 31.9 out of 100 and valid percent 31.9 out of 100 and cumulative percent 89.1. The unemployed people with frequency 166 out of 1500 and percent 10.9 out of 100 and valid percent 10.9 out of 100 and cumulative percent 100.0.

Table 2: Marital status

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Married	603	39.6	39.6	39.6
	Unmarried	921	60.4	60.4	100.0
	Total	1524	100.0	100.0	

From the above table it is understood that married people are of frequency 603 out of 1524 and percent of 39.6 out of 100 and valid percent of 39.6 out of 100 and cumulative percent of 39.6. Unmarried people are of frequency 921 out of 1524 and percent of 60.4 out of 100 and valid percent of 60.4 out of 100 and cumulative percent of 100.0.

Table 3: Monthly Income

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	15000 – 30000	431	28.3	28.3	28.3
	30001 – 40000	489	32.1	32.1	60.4
	40001- 50000	405	26.6	26.6	87.0
	Above 50001	198	13.0	13.0	100.0
	Total	1523	99.9	100.0	
Missing	System	1	.1		
Total		1524	100.0		

From the above table it is understood that monthly income 15000 - 30000 are of frequency 431 out of 1524 and percent of 28.3 out of 100 and valid percent of 28.3 out of 100 and cumulative percent of 28.3. The monthly income 30001 - 40000 are of frequency 489 out of 1524 and percent of 32.1 out of 100 and valid percent of 32.1 out of 100 and cumulative percent of 60.4. The monthly income 40001 - 50000 are of frequency 405 out of 1524 and percent of 26.6 out of 100 and valid percent of 26.6 out of 100 and cumulative percent of 87.0. The monthly income above 50001 are of frequency 198 out of 1524 and percent of 13.0 out of 100 and valid percent of 13.0 out of 100 and cumulative percent of 100.0.

Table 4: Occupation

		Frequency	Percent	Valid Percent	Cumulative Percent
Valid	Business	379	24.9	24.9	24.9
	Private company employee	493	32.3	32.3	57.2
	Government job	486	31.9	31.9	89.1
	unemployed	166	10.9	10.9	100.0
	Total	1524	100.0	100.0	

From the above table it is clear that the Occupation of business people with frequency 379 out of 1500 and percent 24.9 out of 100 and valid percent 24.9 out of 100 and cumulative percent 24.9. The private company employee with frequency 493 out of 1500 and percent 32.3 out of 100 and valid percent 32.3 out of 100 and cumulative percent 57.2. The Government job with frequency 486 out of 1500 and percent 31.9 out of 100 and valid percent 31.9 out of 100 and cumulative percent 89.1. The unemployed people with frequency 166 out of 1500 and percent 10.9 out of 100 and valid percent 10.9 out of 100 and cumulative percent 100.0.

HYPOTHESIS

NULL HYPOTHESIS

There is no significant in the relation between independent variable gender and dependent variable with the statement that Whether the breach of contract happen if the sale of goods has been made by fraud.

ALTERNATIVE HYPOTHESIS

There is significant in the relation between independent variable gender and dependent variable with the statement that Whether the breach of contract happen if the sale of goods has been made by fraud.

Table 5: Gender - Breach of contract happen if the sale of goods has been made by fraud

Crosstab

		Breach of contract happen if the sale of goods has been made by fraud						
			Strongly agree	Agree	Neutral	Disagree	Strongly Disagree	Total
Gender	Female	Count	310	199	152	59	12	732
		% within Gender	42.3%	27.2%	20.8%	8.1%	1.6%	100.0%
		% within 19. Breach of contract happen if the sale of goods has been made by fraud	58.1%	52.5%	40.8%	33.1%	20.0%	48.0%
	Male	Count	224	180	221	119	48	792
		% within Gender	28.3%	22.7%	27.9%	15.0%	6.1%	100.0%
		% within 19. Breach of contract happen if the sale of goods has been made by fraud	41.9%	47.5%	59.2%	66.9%	80.0%	52.0%
Total	Count	534	379	373	178	60	1524	
	% within Gender	35.0%	24.9%	24.5%	11.7%	3.9%	100.0%	
	% within 19. Breach of contract happen if the sale of goods has been made by fraud	100.0%	100.0%	100.0%	100.0%	100.0%	100.0%	

Table 5 - DISCUSSION : From the above table it is understood that female among 732, 310 strongly agree, 199 agree, 152 neutral, 59 disagree, 12 strongly disagree that breach of contract happen if the sale of goods has been made by fraud. Male among 792, 224 strongly agree, 180 agree, 221 neutral, 119 disagree, 48 strongly disagree that breach of contract happen if the sale of goods has been made by fraud.

Chi-Square Tests

	Value	df	Asymptotic Significance (2-sided)
Pearson Chi-Square	67.133 ^a	4	.000
Likelihood Ratio	69.094	4	.000
Linear-by-Linear Association	65.669	1	.000
N of Valid Cases	1524		

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 28.82.

From the above table it is clear that the chi square test value is less than 0.05. Hence the **ALTERNATIVE HYPOTHESIS** is accepted and the Null hypothesis is rejected.

Table 5: RESULT

In cross tab between gender and public awareness Whether the breach of contract happen if the sale of goods has been made by fraud , the Pearson chi square value is .000, $P < 0.05$. Thus the null hypothesis is rejected with regard public awareness Whether the breach of contract happen if the sale of goods has been made by fraud and the alternative hypothesis is accepted with public awareness Whether the breach of contract happen if the sale of goods has been made by fraud.

HYPOTHESIS

NULL HYPOTHESIS

There is no significant in the relation between independent variable gender and dependent variable with the statement that Whether distribution agreement predominantly a contract for the sale of goods, services.

ALTERNATIVE HYPOTHESIS

There is significant in the relation between independent variable gender and dependent variable with the statement that Whether distribution agreement predominantly a contract for the sale of goods, services.

Table 6: Gender - Is a distribution agreement predominantly a contract for the sale of goods, services.

Crosstab

		Is a distribution agreement predominantly a contract for the sale of goods, services.			
		Yes	No	Total	
Gender	Female	Count	499	233	732
		% within Gender	68.2%	31.8%	100.0%
		% within 20.Is a distribution agreement predominantly a contract for the sale of goods, services.	58.2%	35.0%	48.0%

Male	Count	359	433	792
	% within Gender	45.3%	54.7%	100.0%
	% within 20.Is a distribution 2ment predominantly a contract for the sale of goods, services.	41.8%	65.0%	52.0%
Total	Count	858	666	1524
	% within Gender	56.3%	43.7%	100.0%
	% within 20.Is a distribution 2ment predominantly a contract for the sale of goods, services.	100.0%	100.0%	100.0%

Table : 6 - DISCUSSION: From the above table it is understood that female among 732, 499 said yes and 233 said no that distribution agreement predominantly a contract for the sale of goods, services. Male among 792, 359 said yes and 433 said no that distribution agreement predominantly a contract for the sale of goods, services.

Chi-Square Tests

	Value	df	Asymptotic Significance (2-sided)	Exact Sig. (2-sided)	Exact Sig. (1-sided)
Pearson Chi-Square	80.667 ^a	1	.000		
Continuity Correction ^b	79.741	1	.000		
Likelihood Ratio	81.580	1	.000		
Fisher's Exact Test				.000	.000
Linear-by-Linear Association	80.614	1	.000		
N of Valid Cases	1524				

a. 0 cells (0.0%) have expected count less than 5. The minimum expected count is 319.89.

b. Computed only for a 2x2 table

From the above table it is clear that the chi square test value is less than 0.05. Hence the **ALTERNATIVE HYPOTHESIS** is accepted and the Null hypothesis is rejected.

Table :6 - RESULT

In cross tab between gender and public awareness distribution agreement predominantly a contract for the sale of goods, services, the Pearson chi square value is .000, $P < 0.05$. Thus the null hypothesis is rejected with regard public awareness distribution agreement predominantly a contract for the sale of goods, services and the alternative hypothesis is accepted with public awareness distribution agreement predominantly a contract for the sale of goods, services.

V. DISCUSSION

The Sale of Goods Act 1979 is an Act of the United Kingdom which regulates contracts in which goods are sold and bought. The Sale of Goods Act performs several functions. Buyer is a person who wants to buy something from seller and seller is a person that sells out something that a buyer wants. To purely define Sales of Goods Act, it is a contract in which goods are sold and bought, it means whereby the seller transfers the property in the goods to the Buyer for a consideration called price. The Sale of Goods Act lays down a small number of compulsory legal rules concerned with an array of presumptions and implied terms, which aim to reflect the commercial expectations in the most commonly agreed sales contracts. In the absence of contrary agreement these terms will govern a contract within the Act's remit. Now that the law has imposed more responsibility on the seller which will be able to protect all buyers, because, nowadays, the modern law has proved that buyers have become more and more driven to rely on the honesty, skill and judgment of the seller. In many situations, the rules contained in the act only apply where the parties have failed to make express arrangements as to their obligations. In Section 61, good includes all personal chattels but excludes all the services or chooses in action or money.

VI. CONCLUSION

Through the course of this exploration paper I have attempted to recognize a portion of the real debates encompassing certain products and their consideration in the meaning of "merchandise" according to S.2(7) of the 'Demonstration'. The dialog demonstrated that "power" (notwithstanding being an impalpable decent) goes under the ambit of products, while on a similar hand lottery tickets (being portable merchandise as such) are barred on the grounds that they are "significant cases". This encourages us to demonstrate that being a versatile property in itself is certifiably not a definitive confirmation of being a "decent". Likewise, the discussion on programming projects explained the significance of "attractiveness" part of "products". Subsequently, it clear that because of quick improvements in science and innovation, the meaning of merchandise can't be compartmentalized into straight coat qualifications and the extent of this segment will extend after some time.

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