

## SEC. XXXVIII—EQUIVALENT QUESTIONS

If, on a question for rejection, a bill be re-  
§ 484. Former practice as to rejection and second reading of bills. tained, it passes, of course, to its next reading. *Hakew.*, 141; *Scob.*, 42. And a question for a second reading, determined negatively, is a rejection without further question. *4 Grey*, 149. And see *Elsynge's Memor.*, 42, in what case questions are to be taken for rejection.

The House has abandoned the question "Shall the bill be rejected?" (IV, 3391), and the question is now taken in accordance with clause 8 of rule XVI. A vote is not taken on the second reading, the first test coming in the modern practice of the House on the engrossment and third reading.

Where questions are perfectly equivalent, so  
§ 485. Equivalent questions in general. that the negative of the one amounts to the affirmative of the other, and leaves no other alternative, the decision of the one concludes necessarily the other. *4 Grey*, 157. Thus the negative of striking out amounts to the affirmative of agreeing; and therefore to put a question on agreeing after that on striking out, would be to put the same question in effect twice over. Not so in questions of amendments between the two Houses. A motion to recede being negatived, does not amount to a positive vote to insist, because there is another alternative, to wit, to adhere.

The principles set forth in this paragraph are recognized by the practice of the House; but Jefferson's use of the motion to strike as an illustration is no longer justified, because the practice of the House under clause 5(c) of rule XVI does not permit the negative of the motion to strike to be equivalent to the affirmative of agreeing.

A bill originating in one House is passed by the other with an amendment. A motion in the originating House to agree to the amendment is negatived. Does there result from this a vote of disagreement, or must the question on disagreement be expressly voted? The question respecting amendments from another House are—1st, to agree; 2d, disagree; 3d, recede; 4th, insist; 5th, adhere.

§ 486. Equivalent questions on amendments between the Houses.

In the House and the Senate the order of precedence of motions is as given in the parliamentary law, and the motions take precedence in that order without regard to the order in which they are moved (V, 6270, 6324). But a motion to amend an amendment of the other House has precedence of the motion to agree or disagree either before the stage of disagreement has been reached or after the House has receded from its disagreement (V, 6164, 6169–6171; VIII, 3203) even after the previous question has been ordered on both motions before the question is divided (Feb. 12, 1923, p. 3512). See also the discussion in § 525, *infra*. But it has been held that when the previous question has been demanded or ordered on a motion to concur, a motion to amend is not in order (V, 5488). The motion to refer also takes precedence of the motions to agree or disagree (V, 6172–6174), but the demanding or ordering of the previous question does not prevent a motion to refer (V, 5575). The motion to refer takes precedence of the motions to agree or disagree and, under clause 2 of rule XIX is in order pending a demand for or after the ordering of the previous question, before the stage of disagreement has been reached (V, 5575, 6172–6174), but not after the stage of disagreement when the most preferential motion tending to bring the two Houses together is already pending (Speaker Albert, Sept. 16, 1976, p. 30887).

*1st. To agree; 2d. To disagree.*—Either of these concludes the other necessarily, for the positive of either is exactly the equivalent to the negative of the other, and no other alternative remains. On either motion amendments to the amendment may be proposed; *e.g.*, if it be moved to disagree, those who are for the amendment have a right

§ 487. The motions to agree and disagree as related to motions to amend.

to propose amendments, and to make it as perfect as they can, before the question of disagreeing is put.

*3d. To recede.*—You may then either insist or adhere.

§ 488. No equivalent questions on motions to recede, insist, and adhere.

*4th. To insist.*—You may then either recede or adhere.

*5th. To adhere.*—You may then either recede or insist.

Consequently the negative of these is not equivalent to a positive vote the other way. It does not raise so necessary an implication as may authorize the Secretary by inference to enter another vote; for two alternatives still remain, either of which may be adopted by the House.

Under the earlier practice in the House it was held that voting down the motion to recede and concur was tantamount to insistence but not the equivalent of adherence (Speaker Clark, July 2, 1918, p. 8648). But the more recent practice is that when the House disagrees to a motion to recede and concur in a Senate amendment some further action must be taken to dispose of the amendment (Speaker Bankhead, July 9, 1937, p. 7007; Speaker McCormack, Sept. 19, 1962, p. 19945) and the question may recur on a pending motion to insist or such a motion is then entertained from the floor.

#### SEC. XXXIX—THE QUESTION

§ 489. Putting the question.

The question is to be put first on the affirmative, and then on the negative side.

Clause 6 of rule I provides more fully for putting the question.

§ 490. Effect of putting the question in ending debate.

After the Speaker has put the affirmative part of the question, any Member who has not spoken before to the question may rise and speak before the