

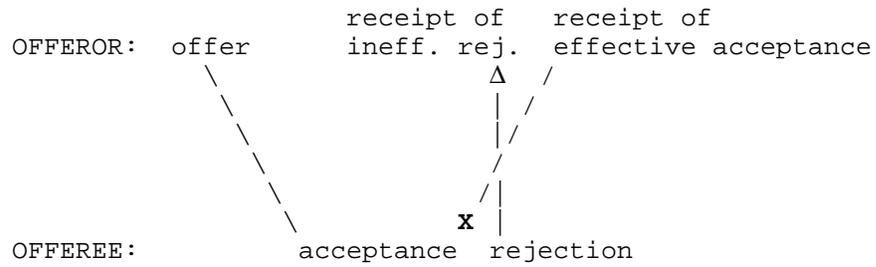
REVIEW OF THE MAILBOX RULE AND RELATED RULES

Prof. Bell

I. Rules for Forming Contracts via Correspondence

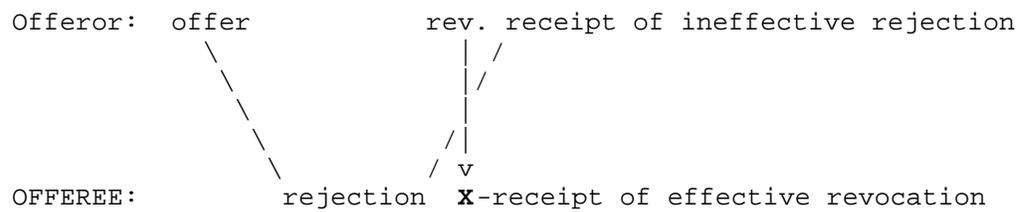
- A. Generally, acceptance is effective when sent, regardless of whether it reaches the offeror. *See* Restatement (2nd) § 63.
1. But note that exceptions apply (*see id.*):
 - a. if the offer provides otherwise;
 - b. if acceptance is not made in a manner and by a medium invited by the offer; or
 - c. to acceptance under an option contract, which is effective upon receipt by the offeror.
 2. Note also that *id.* § 40 modifies the mailbox rule when an earlier rejection arrives before a later acceptance (see below).
- B. Generally, revocation is effective when received by the offeree. *See* Restatement (2nd) § 42. But note that an exception applies in the case of option contracts, per *id.* § 37.
- C. Generally, rejection or counter-offer is effective when received by the offeror. *See* Restatement (2nd) § 40. But note that, per *id.*, an acceptance sent after an otherwise effective rejection or counter-offer:
1. operates only as a counter-offer if the offeror receives it after the earlier-sent rejection or counter-offer (thus providing an exception to the mailbox rule); and
 2. operates as an acceptance if the offeror receives it before the earlier-sent rejection or counter-offer.
- D. A useful mnemonic: Acceptance on answer; revocation or rejection on receipt.

F. Rejection trumped by earlier acceptance (effective at "X")

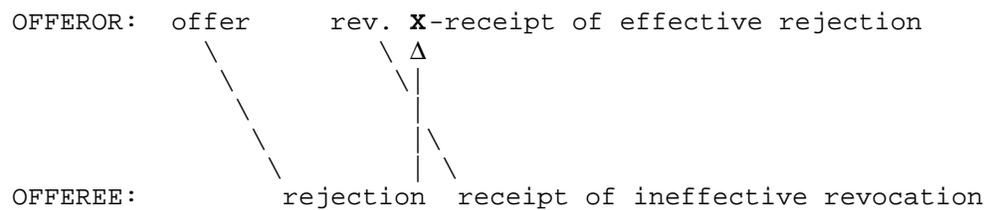


NB: But see Comment c and Illustration 7 to Restatement (2nd) § 63, providing that the offeree may be estopped to enforce the contract against an offeror who reasonably relies on the earlier-received rejection.

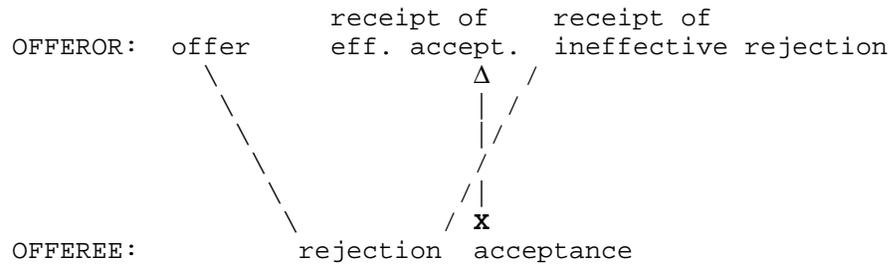
G. Rejection trumped by faster revocation (effective at "X")



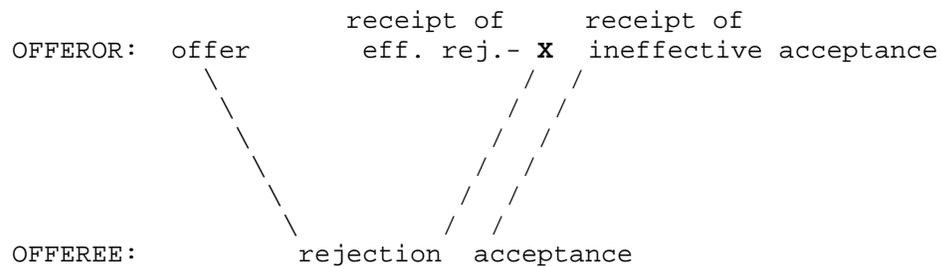
H. Revocation trumped by faster rejection (effective at "X")



I. Rejection trumped by later acceptance (effective at "X")

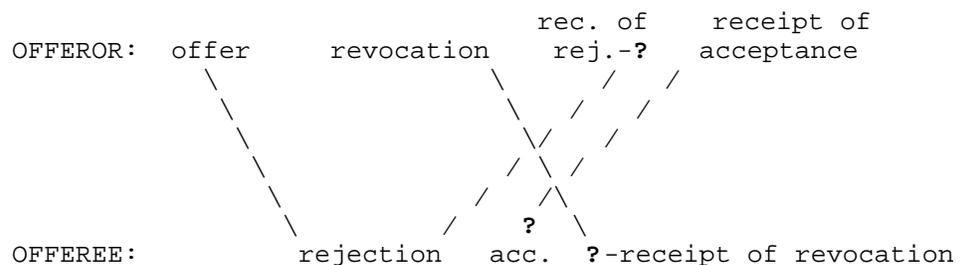


J. Acceptance trumped by earlier rejection (effective at "X")



NB: Even though here the acceptance is sent before the receipt of the rejection, Restatement (2nd) § 40 modifies the mailbox rule to provide that a prior-sent rejection or counter-offer will, if received before the putative acceptance, render that acceptance a mere counter-offer.

K. A Puzzle: Rejection, Revocation, or Acceptance?



NB: E, *supra*, suggests that the acceptance sent prior to the receipt of the revocation will trump that revocation. G, *supra*, suggests that the prior-received revocation will trump the later-received rejection or counter-offer. J, *supra*, suggests that the rejection or counter-offer sent prior to and received before the acceptance will trump that acceptance.