Free debate by elected representatives is perhaps the most essential feature of a parliament. Each question proposed for the House to decide is inherently debatable unless this right has expressly been taken away by the Standing Orders. While there are several types of motion that are not debatable, generally these relate to procedural matters, and preventing them from being debated means the time of the House can be focused on allowing members to speak about the legislation and other business before it.

**DEBATE ARISES AFTER QUESTION PROPOSED**

Where a debate is permitted, the member who moves a motion then has the right to speak to it. This allows the member to explain the motion and the policy behind it, and to advocate its adoption by the House. Once the member has spoken, the Speaker proposes the question for the House to consider—whether to agree to the motion. Once the question is proposed, the House proceeds to debate the motion’s merits.

In general, each member may speak only once to a question before the House. The main exception is in committee, where members may speak more than once, and there are a few other exceptions. After an amendment to a motion has been moved, a member who spoke before the moving of the amendment can speak again. In some cases, the member who moved a motion can conclude the debate by speaking in reply to the contributions of other members. Members may also speak again in debate to correct a misrepresentation of their speech by a subsequent speaker.

**DECIDING WHO SPEAKS**

There are generally 120 members of the House. One, the Speaker, presides and does not take part in the debate. Another, the mover, has concluded his or her speech when the debate is thrown open to other members. There are therefore 118 potential candidates for the privilege of speaking to the question before the House. In most cases the real number of potential speakers is likely to be much

1 SO 103(1). See p 213.
2 SO 109.
3 SO 128.
4 See “Speeches in reply”, p 221.
5 SO 110. See pp 264–265.
lower than this, because not all members will be present or will wish to take part in the particular debate. Only on the Address in Reply, Prime Minister’s statement and Budget debates will large numbers of members of the House participate in a debate. Even so, priority of speaking in a debate must be decided. Before a debate, the Business Committee may set out the arrangements for the debate, and party whips then have the job of co-ordinating particular speakers accordingly. Taking account of these arrangements, it is the role of the Speaker or Chairperson to decide which particular member can speak next, within the framework of the House’s rules on the order of calling members in debate.

Obtaining the call
When a member wishes to speak to a question, he or she must rise and request the Speaker’s attention. If the Speaker then recognises the member by name, the member then has the “call”—the right to speak at that time—and may proceed to speak.\(^6\) If more than one member is seeking the call, the Speaker exercises a discretion as to which of those members should speak, and the member selected is then entitled to speak.\(^7\) The Speaker’s discretion could operate arbitrarily, with each member trying to “catch the Speaker’s eye” but being entirely ignorant of the criteria (if any) the Speaker employed to decide who should be next to speak. In fact, the Standing Orders, Speakers’ rulings and practices devised by the Business Committee have laid down ground rules for the exercise of this discretion. Members can thus predict fairly accurately how the Speaker will exercise the discretion to call members in any particular instance.

Allocation of calls
Until a change to the electoral system brought about a multi-party environment, New Zealand had had a two-party system in the House for some 60 years. In these circumstances Speakers had allocated calls to speak in debate on the principle that contributions alternated between the two sides of the House.\(^8\)

Vestiges of this principle are still applied in deciding on the allocation of calls, but in a Parliament with more parties represented it is obviously no longer a sufficient criterion on its own. Furthermore, the direct election of parties to the House through proportional representation has brought more recognition of the party-representative nature of a member’s contribution to debate, and thus the need to recognise this explicitly in the rules. A new set of criteria to guide the Speaker in allocating calls was therefore adopted in 1995 and set out in the Standing Orders.\(^9\) The Speaker takes account of these criteria, but ultimately it is the Speaker’s decision whom to call to speak in any particular instance. If, for example, the call is given to a member by the Speaker in misapplication of those criteria, it cannot be taken away (although the member may in these circumstances voluntarily surrender it).\(^10\) On the other hand, if a member who has been called does not have speaking rights at all because he or she has already spoken in the debate, the Speaker will terminate the member’s speech on becoming aware the call was invalidly given.\(^11\)

Factors guiding the Speaker
In addition to the vestigial influence of the principle of calls alternating between the two sides of the House, the Standing Orders require the Speaker to take four other factors into account in deciding whom to call to speak.\(^12\)

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6 (1987) 479 NZPD 7804 Wall.
7 SO 105.
8 (1936) 245 NZPD 279 Barnard; (1948) 280 NZPD 596–597 McKeen.
9 SO 106.
11 (1998) 574 NZPD 14422 Revell (Deputy Speaker).
12 SO 106.
If possible, a member of each party should be able to speak in each debate
It is desirable that at least one member of each party should be able to participate
(if they wish) in each debate that is held. But, as the Standing Order recognises,
this will not always be possible. On the first reading of Members’ bills, private
bills and local bills only 10 members can speak. In many other debates only 12
members can do so. Small parties and independent members cannot expect to be
represented in every debate. An independent member, in particular, is regarded as
1/120th of the House and this will guide the Speaker in determining when to give
the call to an independent, though the member’s expertise and particular interest
in the subject under debate will also weigh in the balance.13

Overall participation in a debate should be approximately proportional
to party membership in the House
Party proportionality in participation in each debate is desirable. But only very
approximate effect can be given to this criterion, especially given the principle of
being as inclusive as possible in respect of party participation.

Priority should be given to party spokespersons in order of size of party
membership in the House
The leading spokesperson for each party should be called as early as possible in
each debate. This guides the order in which parties are given an opportunity to
participate in debates in the House.

The seniority of members and the interests and expertise of individual
members who wish to speak
The seniority of members and their interests and expertise come into play in the
longer debates such as the Budget and the Address in Reply debates and in debates
on conscience issues that are not being conducted along party lines. In debates on
conscience issues, the Speaker exercises a more obvious discretion as to whom to
call. But generally it is a matter for each party to determine who represents it in any
particular debate.14

Party arrangements
Allied with the guidance for the Speaker in deciding how to exercise the discretion
to call members in a debate, there is likely to be a set of arrangements between
the parties as to the sequence in which party members will be called. While they
are always subject to the Speaker’s discretion, arrangements are drawn up in the
Business Committee, which devises guidance to help members be reasonably
sure about when they may be called upon to speak on the various stages of bills.
These arrangements differ depending upon the party make-up of each Parliament.
They are adapted if party numbers change during the term of a Parliament. The
Business Committee also has the power to determine how the time for debate on
an item of business is to be allocated among the parties represented in the House.15
It does this for the Wednesday general debate by approving a roster of the speaking
slots to be given to each party in each debate. Parties may exchange these slots
among themselves as they see fit.

Apart from lists drawn up by the Business Committee and its formal
determinations, the party whips will often draw up speaking lists for longer
debates. The Speaker will invariably follow these in giving the call. These pre-
arrangements of speaking slots are considered a more efficient use of members’
time than competing for a call in the Chamber at random. But the fact that a
member is not on a party’s speaking list does not deprive him or her of the right to

15 SO 79(f).
seek the call. On the other hand, the fact that almost all debates in the House are subject to some limitation rules means that not all members can speak on every occasion that they wish to. The Speaker will endeavour to see that each member gets a fair chance to speak while, at the same time, being fair to other members.16

Speeches in reply
There is no longer any general right for the mover of a motion in the House to speak for a second time in the debate as the concluding speaker in reply. This rule was abolished in 1999.17 A right to speak for a second time in reply to a debate only exists where this is expressly set out in the Standing Orders. It is provided that the member in charge of the bill may speak in reply to the first reading debate on a Member’s, a private or a local bill, and also that the Minister may reply to the Budget debate.18 In these circumstances the member or Minister is called upon by the Speaker to reply when the debate has otherwise concluded.

Speaking in the committee of the whole House
The criteria for the allocation of speeches in the House apply also to speeches in the committee of the whole House. But, in committee, members can speak more than once to the same question. There is no specific limit to the number of times a Minister or member in charge of a bill or other matter can speak in committee. Other members can have up to four speeches on each question proposed during the committee stage of a bill, but all four calls are not often used.

Consecutive calls to the same member can be given in a committee of the whole House.19 This is entirely at the discretion of the Chairperson—no member can demand consecutive calls. In deciding whether to award another call, the Chairperson will consider the particular interest of the member and the overall proportionality of calls in the debate.20 For example, the Chairperson has flexibility to give a further call to a party’s primary spokesperson on the business being considered.21 The relevance and quality of the member’s contribution on the initial call will also be influential.

The Business Committee has general powers to organise debates, and specific functions to determine arrangements for the way a committee will consider a bill22 and how long will be available for considering votes and annual reviews in committee.23 It may do so by setting time limits for debates in the committee of the whole House and determining how the calls will be allocated amongst members.24

16 (1992) 530 NZPD 11440 Gray.
18 SOs, App A. Moreover, the Minister who has made a ministerial statement can reply to comments by other members about the statement, though that procedure is not initiated by a motion and is not regarded as a debate as such (see pp 263–264).
19 Until 2003, preference was given to members who had not spoken. However, that rule was suspended and later revoked for the purpose of enabling consecutive calls. (30 April 2003) [2002–2005] 1 JHR 558; Standing Orders Committee Review of Standing Orders (11 December 2003) [2002–2005] AJHR I.18B at 22.
20 (12 October 2004) 620 NZPD 16018 Hartley (Chairperson).
22 SO 301(1)(a).
23 SO 350(3).
24 See, for example: Business Committee determinations of 26 November 2014 (that an additional two hours be transferred from the debate on the Prime Minister’s statement to the annual review debate in the committee of the whole House); and 18 October 2012 (that in the committee stage on the Alcohol Reform Bill the question on provisions dealing with the age for sale and purchase of alcohol on licensed premises be put without debate).
TIME LIMITS OF SPEECHES

Individual speeches

Appendix A of the Standing Orders sets out a comprehensive list of individual speaking times in particular debates. In addition, the Business Committee has power to determine the speaking times of individual members on an item of business. The committee may use this power in respect of a particular debate to be held in the House or of all debates of a particular class. In both the 46th and 47th Parliaments, for example, it decided to vary the speaking times on the debate on the introduction of all Members’ bills to accommodate the general time limits to the particular party alignments of those Parliaments.

There is a general rule that each member is entitled to speak for 10 minutes except where expressly provided to the contrary. But Appendix A expressly provides for the time to speak in so many instances that falling back on this rule is the exception. To determine how long a member may speak to the question before the House, the type of debate must be considered. The shortest period allowed for an individual speech is five minutes (two minutes are permitted for a Minister to reply to comments on a ministerial statement), while the longest allowed an ordinary member is 15 minutes. The Minister of Finance in delivering the Budget is not limited in time at all. Extended times (up to 30 minutes) are prescribed for party leaders in major debates. Time taken up in interpreting a member’s speech (whether the interpretation is rendered by the member or the official interpreter) is not counted against the time for the member to speak, though this has become rare with the implementation of simultaneous interpretation of Te Reo Māori.

Time limits on speeches have been a part of parliamentary procedure since 1894. Before that, individual members were unrestricted in the length of time they could address the House—the longest ever speech was that of Mr WL Rees, who spoke for some 24 hours in 1876. The adoption of time limits at the end of the 19th century obviated for some time the necessity to adopt the more draconian procedures that the United Kingdom House of Commons was then forced to accept in the face of obstruction by Irish members.

Splitting calls

An individual speaking time (in a debate subject to an overall time limit or one in which there are a limited number of calls) may be shared between two members of the same party or between two members of different parties if both parties agree. The party or the parties that wish to utilise this right inform the Speaker in advance, and the Speaker, in calling the first of the two members to speak, informs the House that the call is to be shared. When members have shared a call in this way each is regarded as having spoken in the debate and cannot speak again.

In some circumstances, a Minister has been permitted to complete the interrupted speech of another Minister when a debate is resumed. Leave has been given for a member to complete the interrupted speech of another member who was unable to complete it herself because of illness. The member completing the speech was not regarded as having spoken in the debate.

Debating amendments

An amendment is generally debatable together with the motion it seeks to amend. However, a question is proposed on an amendment to a motion, which means

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25 SO 121(1). References to speaking times are references to Appendix A of the Standing Orders.
26 SO 79(f) and (g).
29 SO 121(2).
30 See p 240 (“Resumption of adjourned or interrupted debate”).
32 SO 126.
that a member who has spoken before the moving of the amendment may speak a further time.\textsuperscript{33} In practice, however, restrictions on the overall length of the debate will usually prevent members exercising this right. While amendments are not usually debatable separately, if amendments are considered in their own right, the time limit on a member’s speech is the same as the time limit applicable to the original motion.\textsuperscript{34}

**Time taken for points of order**

As all individual speeches are limited in some way, members are jealous to protect their time from being eaten into by points of order (which are not speeches to a question and do not have a time limit of their own\textsuperscript{35}). In general, a member has no right to claim an allowance for time lost in dealing with a point of order, but most Speakers allow members extra time for such interruptions by not counting the time taken up on a point of order as part of the member’s speech.\textsuperscript{36} This applies especially when the point of order is decided in favour of the member speaking. However, where points of order are raised because the member speaking is transgressing against the rules of the House, the Speaker will be less likely to allow extra speaking time in compensation.\textsuperscript{37} A certain amount of flexibility is essential for the Speaker in this matter. On the one hand, if extra time were not allowed, a member’s opponents could deny the member any speaking time at all by a constant series of spurious points of order. On the other hand, a member who persists in speaking irrerelevantly or using unparliamentary language cannot expect any concessions for time lost as a result of any resulting disorder.

In committee, with its generally shorter speaking times, the practice has been to stop the clock when a point of order is raised. The Chairperson will subsequently decide whether the time occupied in determining the point of order is to be deducted from the speech. On the other hand, when the Chairperson intervenes to point out that the member speaking is not being relevant, the clock is not stopped and the member loses that time.\textsuperscript{38}

**Expiry of time for speech**

When the time limit for a member’s speech is reached, the Speaker ends the speech by interrupting and informing the member that the time has expired. However, it is usual for members to be warned towards the end of the available time for each speech. An electric warning bell at the Speaker’s Chair is sounded five minutes before the end of a 15-, 20- or 30-minute speech and two minutes before the end of a 10-minute speech. The warning bell may be rung by the Speaker when one minute is remaining of a five-minute speech, but generally this is done only by prearrangement. Other arrangements than these may be made if the member speaking or the whips ask for them and the presiding officer agrees. The time limit for speeches continues to apply even if the Speaker inadvertently omits to sound the warning bell.

Speeches in committees of the whole House have a standard time limit of five minutes, although the Chairperson has discretion to allow consecutive calls. When the five-minute time limit is reached, the call is ended with the ringing of the electric bell at the Table. No warning is given when a member’s speaking time is nearly ended.

\textsuperscript{33} SO 128(a).
\textsuperscript{34} SOs, App A.
\textsuperscript{35} (1904) 128 NZPD 175–176, 187 Guinness.
\textsuperscript{36} (1969) 361 NZPD 1146 George (Deputy Speaker).
\textsuperscript{37} (1962) 330 NZPD 905–906 Algie.
\textsuperscript{38} (1992) 524 NZPD 7893 Anderson (Deputy Chairperson).
MANNER OF SPEAKING

Physical arrangements for speaking

Members are allocated individual seats in the Chamber. While they are expected to address the House from their allocated positions, there is no rule requiring this and members may speak from another seat within the seating allocated to their party that is unoccupied at the time or even come to the Table for the purpose. The Minister or member in charge of a bill in committee, for instance, always speaks from a position at the Table immediately on the Chairperson’s right. Other members frequently speak from a position closer to the presiding officer’s chair than their own seat, especially in committee.

Members must stand to speak in debate. But the Speaker may permit a member to speak from a sitting position by reason of disability.

Forms of address

In debate a member addresses the Speaker, and the House only indirectly through the Speaker. Members do not address each other directly. The origins of this practice are obscure, but it does, to some extent, help restrain quarrels or personal recriminations in the House, by figuratively interposing the Speaker between members. Members may not address each other directly in the second person. According to the rules of the House, references to “you” are taken to be directed at the Speaker and will be ruled out of order, for it is not in order to involve the Speaker in the debate. However, the application of this rule is at the sole discretion of the Speaker.

It was formerly a rule that members could not refer to each other by their names, but this rule was abolished when half of the House came to be elected from party lists and so had no electorates by which they could be referred to. Consequently, members can now refer to each other by name (or by electorate or position held if they prefer to). But this does not authorise familiarity. A full name, title or position should be used, not just a member’s first name. Nicknames are not permitted as a form of address, nor may members assign a title to a member’s name.

Debate in the House is a discussion among the members of the House present in the Chamber. Unlike the practice in select committees, where non-members of the House take part in the proceedings, only members take part in debates. For this reason members should not address remarks to anyone in the gallery or outside the House. Outside the House includes people listening to the broadcast of parliamentary debates. Members should address the Chair, not the “listener”.

LANGUAGES

Official languages

Members have the option of addressing the House in English, Te Reo Māori, or New Zealand Sign Language. For many years, the House’s procedures have reflected
the status of Te Reo Māori as an official language of New Zealand. Similarly, with
the recognition of New Zealand Sign Language as an official language in 2006, the
House has provided for the language to be used in its proceedings.

English and Te Reo Māori

Most contributions to debate are made in English, but to an increasing extent Te
Reo Māori is being used both in the Chamber and in committees, especially the
Māori Affairs Committee. The use of Te Reo Māori in the Chamber is not by any
means new. The first speech in Te Reo Māori was made (through an interpreter) in
1868,53 and many Māori members spoke in Te Reo Māori in the 19th and early 20th
centuries. The practice then was for the member to give his own interpretation
or for an interpreter authorised by the Speaker to interpret the speech standing
alongside the member for this purpose. As Te Reo Māori was not at that time an
official language, no extra speaking time was allowed to the member for the time
spent interpreting a speech.

Interpretation

Te Reo Māori was given official recognition in the House in 1985 and subsequently
declared an official language of New Zealand.54 Members have the right to use
Te Reo Māori and are not obliged to give an interpretation of their remarks
made in it.55 However, as not all members have competence in Te Reo Māori, a
simultaneous interpretation of speeches in Te Reo Māori is provided by an official
interpreter working in a room near the Chamber. The interpretation is available
to members through earpieces at their seats in the House, and can be accessed by
viewers of Parliament TV. This service commenced for proceedings in the House
in 2010,56 replacing the previous practice of interrupting remarks in Te Reo Māori
periodically so that an interpretation could be given by an interpreter who stood
next to the Speaker. Simultaneous interpretation had already been introduced (in
2000) for contributions in Te Reo Māori in the Māori Affairs Committee.

The interpretation is given under the control of the Speaker. If a member
interprets for himself or herself, the member must be careful to do so accurately
so as to avoid any accusation of misleading the House.57 Any such error of
interpretation by a member should be corrected as soon as it is appreciated,
but there is no such requirement on the member where the error is made in the
simultaneous interpretation.58 An interpretation is not a polished version of what a
member has said. It will always be somewhat rough and ready.59 Given the different
origins of the Māori and English languages there will always be differences over
how to render one language into the other.60

The object of the interpretation is to enable members to have a reasonable, but
not necessarily total, understanding of what is said. If the member speaking does not
agree with the interpretation he or she is at liberty to clear up a misunderstanding
on a point of order, but such a member cannot control the interpretation that is
given by the official interpreter. Such control is exercised by the Speaker on behalf
of the House.

It is not considered necessary to interpret from English into Te Reo Māori.61
The interpretation in the House is the oral rendering of words used in debate
in Te Reo Māori into English.62 The interpreter is not a translator providing an

53 (1868) 2 NZPD 270.
54 Māori Language Act 1987, s 3.
55 (1990) 308 NZPD 2336 Burke.
56 (9 February 2010) 660 NZPD 8641.
58 (3 March 2004) 615 NZPD 11495 Hunt.
60 (3 March 2004) 615 NZPD 11496 Hunt.
English version of documents written in Te Reo Māori that may be relevant to the debate. Translation is a different process and takes place off the floor of the House when a speech given in Te Reo Māori is translated into English for inclusion in *Hansard*.

The interpreter, as a member of the staff of the Office of the Clerk, cannot be brought into the debate or asked to give assurances to the House about the accuracy of translations of documents presented to the House by Ministers or other members, any more than could any other official be appealed to in the course of a debate about a matter in issue between members.

**New Zealand Sign Language**

New Zealand Sign Language (NZSL) was made an official language of New Zealand in 2006. Members can address the House in NZSL by right. Members who wish to address the House in NZSL should provide advance notice so that simultaneous interpretation services can be arranged. If simultaneous interpretation services are unavailable, the Speaker may give a member extra time so that a spoken translation can be supplied.

It is important for the hearing-impaired community to have access to parliamentary proceedings. The House provides NZSL signers for broadcasts of significant events for the hearing-impaired community. Budget speeches by party leaders have been interpreted into NZSL in recent years. Question time has also been interpreted during annual weeks of celebration of the language. These signers are situated in a studio within the parliamentary precincts; the attendance of NZSL interpreters in the House itself is rare.

**Other languages**

Members have the right to use English, Te Reo Māori or NZSL in the House, but other languages are used from time to time. This is particularly common in members’ maiden speeches, when new members have used other languages with a particular cultural or familial significance to them. In these circumstances the members concerned provide their own interpretation and translation of the language that they have spoken, though they are not usually accorded additional time for this purpose.

Occasionally, members employ phrases that are from other languages but are accepted in English usage—for example, some terms from French or Latin—or they use isolated foreign words such as greetings. These terms are permitted in the course of debate and are included in *Hansard* without any translation.

**CONTENTS OF SPEECHES**

In general terms, members have absolute freedom of speech in debate and must exercise their own judgement as to how they use it. For instance, there is no rule preventing members from releasing private information, though in practice members will often take care not to reveal personal details where it is inappropriate. However, there are a number of rules that limit what a member can say in the House.

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63 (16 February 2005) 623 NZPD 18731 Hartley (Deputy Speaker).
64 (16 February 2005) 623 NZPD 18739 Hunt.
66 SO 108.
68 Ibid.
71 SO 108.
Relevance

The overriding principle as to what may be said is that all debate must be relevant to the question before the House. Nevertheless, the particular rules detailed below—unparliamentary language, issues before the courts, and so on—are instances of material that is out of order despite the fact that it may be relevant and therefore, on the face of it, suitable for inclusion in a speech. In these cases, even though it is relevant, the particular reference is not permitted on other grounds of parliamentary policy.

What is relevant depends exclusively on the question before the House. In a few debates—notably the debates on the Address in Reply, Prime Minister’s statement, Budget, and Imprest Supply bills—the discussion can range over the whole sphere of Government activity and public affairs. The concept of what is relevant in these debates is virtually boundless, and members may introduce almost anything without fear of being ruled irrelevant.

In other debates the field is much narrower, and focuses on the specific proposition before the House. The Speaker may give members some licence to mention other matters in passing, but will call them back to the subject-matter at hand. An incidental mention of irrelevant material does not make it relevant, nor can a member bring a matter into the ambit of a debate by arguing for its inclusion. Irrelevant interjections also do not warrant discussion.

If a member persists in advancing irrelevant arguments the Speaker may, after publicly warning the member, terminate the speech.

At each stage of the passage of legislation, the concept of relevancy changes as the purpose of the House’s consideration of the legislation changes. The question of relevancy is considered further as each different type of debate is looked at elsewhere in this work.

Tedious repetition

The Speaker may also terminate the speech of a member who persists in repeating arguments that, though relevant, have been advanced earlier in the member’s own speech or by other members in the debate. This is known as “tedious repetition”. An argument becomes tediously repetitive only if the Speaker serves notice that its repetition will be regarded as being so. In the absence of such a warning from the Speaker, the fact that other members find a member’s speech tedious is immaterial.

Anticipating discussion

Members are not entitled to anticipate discussion of general business or an order of the day until that business or order is properly reached.

In administering the rule against anticipating discussion, the Speaker must have regard to the likelihood of the business or order actually coming before the House for debate within a reasonable time. If it is not likely to come up for debate on the same sitting day, the Speaker may permit references to it. Applying this discretion, the Speaker has permitted references in the general debate to the general principles of a bill on the same day that its committee stage was to be debated.

73 SO 111(1).
74 (1903) 127 NZPD 359 Guinness.
75 (1931) 229 NZPD 673 Statham.
76 (1936) 244 NZPD 772 Barnard.
77 SO 111(2).
78 SO 111(2).
79 SO 113(1).
80 SO 113(2).
81 (9 February 2011) 670 NZPD 16595 Barker (Assistant Speaker).
82 (20 June 2012) 681 NZPD 3145 Smith.
Quotations

Members are permitted to use quotations to illustrate or support points that they wish to make in the course of their speeches. Formerly a restrictive view of quotations was taken. Members were expected to give their own views on the measure under debate and the quotation of outside comment on the matter under discussion was prohibited. This is no longer the practice. Quotations are permitted provided that they are relevant to the subject of debate and are themselves inherently in order. Quotations must be as free from unparliamentary language as a member’s own words,83 indeed, effectively a member makes a quotation his or her own by incorporating it into the member’s speech. So no improper reflections on another member can be made by means of a quotation from a letter or a newspaper.84

Members are under no obligation to disclose the source of a quotation used in debate.85 Similarly, members cannot be required to quote accurately or fully (although they must beware of deliberately misleading the House). Members naturally choose that portion of an article that best serves their argument and they are not obliged to read other portions that might not be so favourable, even in the face of the urgings of their opponents in the House.86

If a Minister, in the course of a speech, quotes from an official document, any member can require the Minister to lay the document on the Table.87 The Minister is then obliged to table the document unless it is confidential. (See pp 618–619.) There is no obligation on members who are not Ministers to table a document from which they have quoted.88

References to the Sovereign or the Governor-General

Members must not use the names of the Sovereign or the Governor-General disrespectfully in debate or for the purpose of influencing the House in its deliberations.89 This rule does not strictly apply to a Governor-General designate, such references being a question of taste. References to the Sovereign’s representatives in her other realms are not excluded from debate, so references to actions of the Governor-General of Australia at the time of that country’s constitutional crisis in 1975 did not contravene the rule.90

References to proceedings of a committee

References to the confidential proceedings of a committee are prohibited until those proceedings are reported to the House.91 Effectively, this (at least temporarily) prevents references to what takes place at a select committee during consideration and deliberation and during the hearing of private or secret evidence. (Committees of the whole House conduct all of their business in public.) But this rule does not prevent a member referring to a bill or other business just because it happens to be before a select committee. What may not be referred to is information given to the committee in confidence and discussions at the committee among the members themselves behind closed doors. The committee’s public proceedings can be referred to if they are relevant to the matter before the House. Once the committee has reported, all of its proceedings (except secret evidence) can be referred to.

83 (1899) 106 NZPD 105 O’Rorke.
84 (1898) 102 NZPD 70 O’Rorke; (1974) 391 NZPD 2467 Whitehead.
86 (1973) 383 NZPD 1853 Whitehead.
87 SO 376.
88 (1972) 381 NZPD 2706 Harrison (Deputy Speaker).
89 SO 118.
90 (1976) 403 NZPD 689 Jack.
91 SO 114.
UNPARLIAMENTARY LANGUAGE

Members have a duty to use the privilege of free speech responsibly, and one control mechanism is the prohibition on the use of unparliamentary language. Expressions used in debate may be ruled to be “unparliamentary” and be required by the Speaker to be withdrawn. The rules against unparliamentary language are designed to prevent personal invective and insults, and while they do not totally eliminate such exchanges, they do restrain members and provide a framework within which members’ speeches can be judged and controlled.

Offensive or disorderly words

Members are not permitted to use any offensive words against the House. In addition, the Speaker is required to intervene whenever any offensive or disorderly words are used in the Chamber, whether by the member speaking in the debate, or by another member by way of interjection or other comment. As for comments by a member to a neighbour, it does not matter that it was not intended that the Chair should hear what was said (or another member, if another member objects and brings it to the Chair’s attention). If it is heard, it is within the jurisdiction of the Speaker, and if it is offensive or disorderly it must be withdrawn.

What is offensive or disorderly? There are some specific types of references that the Standing Orders hold to be unparliamentary—personal reflections and imputations of improper motives. These might equally be regarded as offensive or disorderly; indeed, it may be very difficult to determine under precisely which provision of the Standing Orders an expression is being ruled out of order.

Whether a particular phrase is offensive or disorderly depends upon the context in which it is used, and an expression acceptable in one context may be unacceptable in another. A list of expressions ruled out of order each year is published in the index to Hansard. Most such expressions are references to other members or parties. They may have been ruled to be unparliamentary because they could lead to disorder in the House, or because they are offensive in themselves, or because they are personal reflections.

In determining whether an expression is disorderly or offensive, Speakers take account of the state of the House at the time it is uttered. The Chair does not like to be constantly intervening in a debate any more than a referee likes to be continually blowing the whistle to interrupt a football match. If the advantage rule can be applied to both pursuits, it will be. However, where there is a real chance that disorder will arise if a statement is allowed to pass, the Speaker will take action.

Personal reflections

The Standing Orders specifically prohibit imputations of improper motives against a member, offensive references to a member’s private affairs and all personal reflections.

Imputations of improper motives cover allegations of any form of corruption. Members have a duty to expose anything in the nature of bribery or corruption on the part of other members, but they must not do this by making veiled suggestions in debate. Such allegations must be raised with the Speaker as a matter of privilege, charging the member explicitly with impropriety.
References to a member’s private affairs are not automatically out of order. They are debarred only if they are very undesirable, insulting or offensive. In judging whether something is offensive, the Chair should be guided to some extent by the reactions of the member to whom the remark is directed. If he or she does not object to it, it will generally be allowed to pass. Often personal references are irrelevant to the question before the House; but, if it is relevant, reference may be made to a member’s occupation or profession, age or marital status, or property, provided this is not done in an insulting or injurious way. The general preference is to discourage such references, however, as they tend to reduce the standard of debate, and repeated references could provoke retaliation and lead to disorder in the House.

It is a well-established rule that members should not question the conduct or character of another member’s spouse, partner or family member except when a member introduces such people’s conduct into the debate. But if a spouse, partner or family member holds a political, commercial or public position separate from the relationship to a member, they may be referred to in debate. In these circumstances members must distinguish between quoting the person in question because of a position they hold and quoting them in the capacity of their personal relationship to the member.

If any personal reflection is made the member against whom it is made may raise it with the Speaker. The Speaker will intervene to protect the member if, in the Speaker’s view, the reflection attributes something dishonourable to the member or is very undesirable, insulting or offensive. An accusation of racism, for example, falls into this category and will invariably be ruled out of order if applied to a member or party. On the other hand, there is no right for a member to have contestable remarks ruled out automatically.

Accusations of lying

It is a clear personal reflection to accuse another member of lying or of attempting deliberately to mislead the House. Accusing a member of lying (whether allegedly inside or outside the House) is something that has been consistently ruled out of order. If an accusation that a member had deliberately misled the House was correct, the member would have committed a contempt, and any member who believes that another member has misled or tried to mislead the House should raise this as a matter of privilege. That a member must not accuse another of lying does not mean that the correctness of another’s statements may not be questioned, and it is in order to accuse a member of having misled the country. But, while a member is free to criticise another member, a member cannot (in debate) accuse another member of having made a statement (on any occasion) knowing it to be incorrect or untrue, or impute a deliberate untruth to another member.

References to the absence of a member

It is a convention of the House that members do not refer to the absence of other members from the Chamber (at that time or previously). This is not an absolute
rule and can be overridden if the fact of the absence is important enough to warrant referring to it.\(^{115}\) There may be something intrinsic to the absence that makes it necessary to refer to it. But this does not mean that any member has the right to override the convention as a matter of choice. It is for the Speaker to decide whether such a reference is justified. It is not a breach of the convention to refer to the fact that a member did not speak in a particular debate\(^{116}\) or to urge a member to take part in the current debate.\(^{117}\)

The convention also applies to references to the absence of members from a meeting of a select committee,\(^{118}\) but referring to the fact that a member was not a member of a particular committee and so did not attend its hearings is permissible.\(^{119}\)

References to parties

The examples discussed above have been mainly of unparliamentary expressions directed at individual members, but many unparliamentary expressions are directed at groups of members—the Government or parties. It was ruled many years ago that, since the Government consists of members of Parliament, a term cannot be applied to the Government that cannot be applied to members individually,\(^{120}\) and this principle extends equally to other groups or parties. Thus, allegations of corruption on the part of the Government or a party and offensive terms applied to a party are just as disorderly as equivalent expressions applied to an individual member.\(^{121}\)

A type of allegation to which parties are particularly prone is that of being dominated by an influential group in the country such as farmers, trade unions or the brewing industry. Such an allegation against one member raises the same issues. In carrying out their parliamentary duties, members must be free to act in the best interests of the country as a whole, and suggestions of domination or direction from outside are unacceptable,\(^{122}\) although, of course, members receive external advice and are lobbied by interest groups outside the House and take these considerations into account in forming their opinions. A fine line has been drawn between suggestions that a party has been influenced in its policy by an outside body, which is in order, and a suggestion that it is being instructed or dominated by that body, which is not.\(^{123}\)

References to persons outside the House

In general, there is nothing to prevent a member commenting severely on the conduct of people outside the House, but only if it is relevant to the debate before the House.\(^{124}\) Indeed, it is important for members to be free to speak out where this is necessary in the public interest. Members have been exhorted to use this privilege responsibly with regard to people who cannot defend themselves in the Chamber or vindicate themselves in a court of law, but this is left largely to the judgement of members. However, if a reference to a person outside the House is regarded as so insulting by a section of the House that, were it to stand unchallenged, it might provoke disorder, that would be a ground for requiring it to be withdrawn.

Anyone who claims to be adversely affected by a reference to them in the House may apply to the Speaker to have a response put before the House. (See Chapter 38.)

116 (1979) 426 NZPD 3224 Harrison.
117 (2000) 583 NZPD 2030 Roy (Chairperson).
118 (1979) 423 NZPD 1142–1143 Harrison.
120 (1905) 134 NZPD 447 Guinness.
121 (1914) 171 NZPD 603 Lang; (6 April 2005) 624 NZPD 19625 Wilson.
122 (1952) 297 NZPD 475, 889 Oram; (8 May 2014) 698 NZPD 17696 Carter.
123 (1979) 428 NZPD 4742–4743 Harrison.
124 (1979) 424 NZPD 2294 Harrison.
Withdrawal of unparliamentary language

If the Speaker considers an expression to be unparliamentary, the usual course of action is to direct the member to withdraw it. If the expression has been grossly insulting towards another member or the House, or if the member who has been ordered to withdraw is unruly, the Speaker may also require him or her to apologise to the House for the conduct. When ordered to withdraw an expression, a member must do so without qualification or reservation.125 If the member adds any words while withdrawing the expression, the withdrawal is qualified and does not satisfy the Speaker’s requirement.126 Similarly, if a member is required to apologise, unless required to apologise in a certain way (for example, to refer to the injured member), the apology must be made without qualification.127 When the Speaker has ordered a member to withdraw a remark and this has been done to the Speaker’s satisfaction, that remark is retracted and cannot be alluded to further by that member or by others speaking subsequently in the debate.128 But a comment having been withdrawn does not mean that it is expunged from the record, as it has been uttered and can be reported by the news media, for example. The remark is ruled out only for the purposes of debate in the House, which continues with its business without further reference to it.129

If the Speaker considers that a member’s conduct during a debate has been grossly disorderly and that the mere withdrawal of and apology for an expression used would not reflect adequately the gravity of the transgression, further disciplinary powers, such as ordering the member to leave the Chamber or naming the member, may be invoked. (See Chapter 11.) In one case, the House has censured a member by motion without notice for using obscene language.130

MATTERS CONCERNING THE ADMINISTRATION OF JUSTICE

The House has adopted a number of rules designed to maintain respect for the judiciary and to avoid members breaching a suppression order or causing prejudice to any pending judicial proceedings. Apart from these specific rules, members are required to exercise their privilege of free speech in Parliament responsibly and to respect the position of the judiciary in its particular sphere of action, just as they would expect the judiciary to respect the privileges of Parliament.131

Offensive references to judges

Members are not permitted to use offensive or unbecoming words against any member of the judiciary.132 This rule applies to the judge’s conduct in presiding in court or when heading a royal commission or a commission of inquiry.133 Successive Speakers have held that members must not reflect on or speak disrespectfully of a judge.134 This might be done, for example, by linking a particular court with the Government of the day—a clear case of questioning its impartiality—and this is not allowed to pass without intervention from the Chair.135 A distinction must be drawn between disagreement with and criticism of a judgment delivered by a court on the one hand, and allegations directed at the judge that he or she has been consciously unfair or unjust on the other.136 The House is an appropriate forum in
which to consider the implications of a legal decision, and criticism may be made of the effects of a finding. There may also be criticism of a court system. This is not only allowed; it is the duty of members, if they consider the public good requires amendments to the judicial system, to advocate such change. It is incumbent on the Speaker and members, however, to uphold the dignity of the judiciary and not to attack judges themselves.

Having said that, in exceptional circumstances the House still has a high constitutional duty to perform that would of its nature involve the criticism of a judge. To preserve the independence of the judiciary it is provided by law that a judge of the High Court (which includes all judges of the Supreme Court and the Court of Appeal) can be removed from office only by the Sovereign or the Governor-General, acting on an address from the House of Representatives. In the exceptional case of such an address being moved in the House (none ever has), the conduct of the judge concerned would be a relevant object of criticism. But if specific charges such as would call into question a judge’s fitness to hold office are to be made in the House, they must be brought forward in a motion, which can then be debated in the normal way. Such charges cannot be made in the course of debate on another matter.

Sub judice rule

The Standing Orders prohibit reference in any debate to any matters awaiting or under adjudication in a court from the time the case has been set down for trial or otherwise brought before the court, subject to the discretion of the Speaker. This rule is commonly called the sub judice rule. It also applies to such references in any motion or in any question to a Minister.

The purpose of the rule has been described as “to safeguard the interests of fundamental justice”, so that, for example, popular prejudice against a defendant is not aroused by parliamentary statements. In the case of judge-only or appellate proceedings, it is extremely doubtful that any prejudice could arise from discussion of a case, in the House or elsewhere. But there is another strand to the rule, which is perhaps more important in a practical sense. This is the implicit acknowledgement by the legislature that the proper forum in which to resolve legal disputes is the courts; and that the legislature, above all other institutions, should take extreme care not to undermine confidence in the judicial resolution of disputes by intruding its views in individual cases. After all, if it is not satisfied with the courts’ resolution of a particular legal issue, Parliament always has the option of changing the law. In the sub judice rule the House applies more rigorous inhibitory standards to itself than do the news media in reporting judicial proceedings. This is not anomalous given the constitutional relationship between the House and the courts; the House and the news media are not in the same situation. It is paralleled by the greater latitude the news media has to criticise the House than do the courts.

Scope of the sub judice rule

The House’s sub judice rule takes effect regarding criminal cases from the moment a charge is made and for other cases from the time proceedings are initiated by filing the appropriate document in the registry or office of the court. The

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137 (1927) 212 NZPD 479 Statham.
139 (1932) 233 NZPD 435 Statham.
140 SOs 115 and 116(1).
142 Re Lonrho plc [1990] 2 AC 154 (HL) at 209.
143 (8 May 2014) 698 NZPD 17691 Carter.
145 Pepper (Her Majesty’s Inspector of Taxes) v Hart [1993] AC 593 (HL) at 638 per Lord Browne-Wilkinson; Hamilton v Al Fayed [1999] 1 WLR 1569 (CA) at 1586 per Lord Woolf MR.
146 SO 115(1).
restraint ceases when the verdict and sentence are announced or when judgment is given.\(^\text{147}\) (It also ceases if the Attorney-General directs that summary proceedings be stayed, in which circumstances there is no matter awaiting adjudication by a court.\(^\text{148}\) If notice of appeal is given, the restraint reaps from the time of the notice until the appeal has been decided.\(^\text{149}\) Preliminary inquiries by the police following a complaint to them cannot be excluded from comment if a legal action has not been instituted, but as soon as legal proceedings are commenced the rule applies.\(^\text{150}\) Individual members cannot waive the application of the rule to legal proceedings in which they are involved.\(^\text{151}\)

The sub judice rule applies only to matters before a New Zealand court as defined in the Standing Orders.\(^\text{152}\) This definition includes the following courts:

- Supreme Court\(^\text{153}\)
- Court of Appeal\(^\text{154}\)
- High Court\(^\text{155}\)
- Court Martial of New Zealand\(^\text{156}\)
- Court Martial Appeal Court\(^\text{157}\)
- Employment Court\(^\text{158}\)
- Maori Appellate Court\(^\text{159}\)
- Maori Land Court\(^\text{160}\)
- Environment Court\(^\text{161}\)
- District Courts (which include the Family Courts and Youth Courts).\(^\text{162}\)

Members are not banned from traversing matters that are before a tribunal or body that is not included in this definition of a New Zealand court. So reference to matters that are the subject of inquiry by a royal commission or a commission of inquiry is not out of order.\(^\text{163}\) Similarly, an inquiry by an Ombudsman is outside the scope of the rule.\(^\text{164}\) Administrative tribunals set up under legislation to adjudicate on statutory rights created by the legislation are not courts of law at all,\(^\text{165}\) so their proceedings do not fall within the scope of the sub judice rule. However, members should always consider whether it is in the public interest to discuss such matters.

**Application of the sub judice rule**

The House has not adopted a rule that leaves itself completely unable to intervene once a matter goes before a court, and the right of the House to intervene in

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\(^{147}\) SO 115(2).

\(^{148}\) Criminal Procedure Act 2011, s 176(1).

\(^{149}\) SO 116(3).

\(^{150}\) (1975) 400 NZPD 3437 Whitehead.

\(^{151}\) (1997) 564 NZPD 5239 Kidd.

\(^{152}\) SO 3(1) New Zealand court. Previously the Standing Orders linked the sub judice rule with any “court of record”. This term was not defined in the Standing Orders, requiring reference to several statutory provisions that established various courts as courts of record. The Privileges Committee considered this unhelpful, and recommended that the relevant courts be listed instead in the Standing Orders. (Privileges Committee Question of privilege relating to the exercise of the privilege of freedom of speech by members in the context of court orders (28 May 2009) [2008–2011] AJHR I.17A at 18).

\(^{153}\) Supreme Court Act 2003, s 6.

\(^{154}\) Judicature Act 1908, s 57(1).

\(^{155}\) Judicature Act 1908, s 3(1).

\(^{156}\) Court Martial Act 2007, s 8.

\(^{157}\) Court Martial Appeals Act 1953, s 4(6).

\(^{158}\) Employment Relations Act 2000, s 186(1).

\(^{159}\) Te Ture Whenua Maori Act 1993, s 50.

\(^{160}\) Te Ture Whenua Maori Act 1993, s 6(1).


\(^{162}\) District Courts Act 1947, s 3(1); Family Courts Act 1980, s 4; Children, Young Persons, and Their Families Act 1989, s 433.

\(^{163}\) (1934) 240 NZPD 367 Statham.

\(^{164}\) (1977) 410 NZPD 320 Jack.

\(^{165}\) Proceedings Commissioner v Air New Zealand Ltd (1988) 7 NZAR 462 (Equal Opportunities Tribunal).
certain circumstances is recognised by the Standing Orders. The House expressly reserves to itself the right to legislate on any matter.\textsuperscript{166} Notwithstanding the sub judice rule, a bill dealing expressly with litigation before a court may be introduced and proceeded with. The House’s right to legislate on any matter is paramount.

Furthermore, the sub judice rule is subject to the discretion of the Speaker.\textsuperscript{167} To enable the Speaker to exercise this discretion effectively, a member who intends to refer to a matter awaiting adjudication in a court must give written notice to the Speaker of this intention.\textsuperscript{168} The Speaker has regard to the member’s written notice in determining whether to exercise this discretion and also balances the privilege of free speech against the public interest in maintaining confidence in the judicial resolution of disputes, and takes into account the constitutional relationship of mutual respect between the legislative and judicial branches of government, and the risk of something said in debate prejudicing a matter awaiting or under adjudication.\textsuperscript{169}

It has been emphasised, for example, that it would be wrong to apply the sub judice rule to cases generally in such a way as to inhibit members in discussing penalties for offences. The House is not debarred from discussing possible or desirable penalties for drink or drug offences or any other type of offence merely because some cases involving such offences are currently before a court. To apply the Standing Order so generally would be to stultify debate in the House.\textsuperscript{170} The law in general may be discussed, but not its application to a particular case that is before the court.\textsuperscript{171} When a Minister made a statement to the House of Commons about a finding that the Minister was in contempt of court,\textsuperscript{172} the Speaker exercised his discretion to permit members to question the Minister on the statement, even though notice of appeal against the finding had been lodged and the sub judice rule still applied.\textsuperscript{173}

The sub judice rule is applied differently too depending upon the stage at which the matter under adjudication has reached. Thus any reference to a criminal case is unlikely to be allowed up to the point at which the verdict is reached. However, where only sentence is outstanding, although the rule continues to apply, the Speaker may take a less exclusionary approach. References to the case that do not obviously impinge on sentencing (such as, for example, the performance of non-judicial agencies involved with the convicted person or the victim) may be permitted in the interval between verdict and sentence.

There has been growing recognition in New Zealand, and in other Commonwealth legislatures with a similar rule, that judges are not so faint-hearted that some obscure remark made in Parliament would cause them immediately to alter a judgment they would otherwise deliver. Such a view would be grossly insulting to the judiciary. There is, nevertheless, a greater danger that remarks made in the House and widely reported could influence jurors engaged on a case. In administering the rule, Speakers have tried to be realistic by not excluding all discussion on matters of public interest merely because a court is addressing the matter, while maintaining the underlying purpose of the rule of avoiding any real danger of prejudice to persons before a court and to maintain the separation of powers between the legislature and the judicature.

\textsuperscript{166} SO 115.
\textsuperscript{167} SO 115.
\textsuperscript{168} SO 115(2); Standing Orders Committee Review of Standing Orders (27 September 2011) [2008–2011] AJHR L.188 at 26, implementing recommendations from Privileges Committee Question of privilege relating to the exercise of the privilege of freedom of speech by members in the context of court orders (28 May 2009) [2008–2011] AJHR L.17A.
\textsuperscript{169} SO 115(3).
\textsuperscript{170} (1981) 441 NZPD 3337–3338 Harrison.
\textsuperscript{171} (1985) 464 NZPD 5596, 5617 Wall.
\textsuperscript{172} M v Home Office [1992] QB 270.
\textsuperscript{173} (2 December 1991) 200 GBPD HC at 30.
Matters suppressed by court order

If members wish to refer to a matter that is suppressed by a court order, they must give written notice to the Speaker seeking the exercise of the Speaker’s discretion. To fail to do so knowingly can be considered a contempt. Members have judged such a transgression so seriously that it has been suggested that the Speaker report the member’s conduct to the House immediately and refer it to the Privileges Committee as a question of privilege. The Speaker has indicated to the House that where members have not given any such notice, the sub judice rule will be interpreted strictly in debate. Further, documents tabled in the House will not (unless ordered by the House to be published) be circulated by the Clerk of the House in contravention of an order of the court.

Other references to judges

Judges appear before select committees from time to time to give evidence on matters that they consider warrant their contribution. In these circumstances there is no rule or convention to prevent members referring to the fact that a judge appeared before a committee.

INTERJECTIONS

Strictly speaking, a member is entitled to be heard in silence. A speech can be interrupted only by a point of order, or matter of privilege, or the suspension or adjournment of a sitting. However, in practice, other members do not always sit listening to the member speaking in mute respect; they interject comments or questions into the debate. This has become an established custom of the House, but interjectors do not have the floor, and the type and frequency of their interjections must be kept within bounds.

As an interjection is an attempt to contribute material to the debate, it is subject to all the rules that have already been discussed for the contents of members’ speeches. An interjection must be relevant to the issue being debated. An irrelevant comment made by way of interjection is disorderly and does not justify a reply from the member who is speaking. The reason for permitting interjections at all is to enable members to elicit further information or to test the arguments being used by the member speaking. Interjections do not allow a member who does not have the floor to address arguments for or against the measure under discussion. Members can do this when called on to speak in their own right. The Speaker will, therefore, often intervene if an interjecting member is tending to monopolise the time of the member speaking by putting forward arguments opposing his or her views.

Speakers have for many years asked that interjections be “rare and reasonable”. A continuous series of interjections or a running commentary on a member’s speech is out of order. An interjection by way of contradiction is out of order, as is a question to a member speaking to which the speaking member takes exception.
Members must stop interjecting when called to order by the Chair.\footnote{187}{(1923) 200 NZPD 231 Statham.} They may interject only from a seat in the Chamber, and must not make interjections while standing or leaving their seats or while moving around the Chamber.\footnote{188}{(31 March 2015) 703 NZPD 2186 Mallard (Assistant Speaker).} It is also disorderly for a member to change seats in order to facilitate interjection—for example, by moving nearer to the microphone of the member speaking or to a position more noticeable by or distracting to that member.\footnote{189}{(1963) 335 NZPD 609 Algie.} Members have seats of their own in the Chamber but they often occupy another seat temporarily to discuss something with a colleague or even to speak in the debate from a seat nearer the Speaker’s Chair, and they may interject from any seat they happen to be sitting in, provided they did not move seats originally for that specific purpose. The occasional interjection from a member who is not sitting in his or her own seat may be passed off as a subsidiary reason for sitting in that seat, but if the member embarks on a series of interjections the Speaker will be persuaded very soon that the member’s motive for occupying the seat is to interject, and the member will be ordered to stop interjecting or return to his or her own seat.\footnote{190}{(1984) 458 NZPD 885 Arthur; (4 November 2004) 621 NZPD 16658 Robertson (Chairperson); (17 October 2006) 634 NZPD 5842 Robertson (Chairperson); (13 March 2014) 697 NZPD 16695 Robertson (Assistant Speaker).} Speakers have also ruled against members and Ministers in charge of bills taking advantage of the live microphone at the Table to interject.\footnote{191}{(26 October 2010) 668 NZPD 14813 Barker (Chairperson).}

\section*{Yielding}

One method for accommodating interjections is the practice of yielding or giving way. This derives from the House of Commons practice whereby the interjector seeks to rise during the course of another member’s speech with a question or comment relevant to a point made by that member. The member who has the floor may “give way” and resume his or her seat temporarily (or refuse to do so) so that the question can be asked or the comment made.\footnote{192}{(2000) 531 12223–12224 Gray.}

A member may yield to another only for the purpose of allowing the other to refer to matters raised by the member speaking. Yielding is a way of allowing the making of an interjection, not of a speech. It should only be for a brief period, after which the member with the call resumes speaking. Yielding is not a means of transferring the call or of developing a subject at length. If too much time has been taken by the member who intervenes, the Speaker will interrupt and ask the original member to resume his or her speech.\footnote{193}{(1988) 486 NZPD 2266 Burke.}

The time taken up by the member who interjects in this way is counted as part of the time of the member who gave way.\footnote{194}{(1988) 486 NZPD 2266 Burke.}

\section*{Inclusion of interjections in Hansard}

Hansard reporters are present in the Chamber at all times and may hear interjections and identify the members making them even when the remarks are inaudible on the broadcast. However, interjections are not transcribed unless they are responded to by the member who has the call. Thus it is the member who is speaking who effectively decides whether an interjection will be recorded in Hansard. For this reason the wittiest and most effective interjections may be omitted from Hansard because they leave their object speechless.

\section*{Provoking interjections}

A member speaking is under some obligation not to provoke interjections. If a member directs a constant series of questions to a member or to members present
in the Chamber, the member is inciting them to disorder and may be asked to desist by the Speaker. Members often ask questions, rhetorical or not, in the course of their speeches and they are not obliged to give members opposite an opportunity to reply there and then. Those members can seek the call and answer the questions later in the debate. However, there comes a point where the employment of this debating tactic tends to lead to disorder and the Speaker feels obliged to intervene. A member speaking could yield time for an interjection in reply to questions that member has asked in the course of the speech, but the Speaker cannot require the member to yield.

**VISUAL AIDS**

Members regularly seek to add a visual impact to their speeches by brandishing graphics or objects that illustrate points they wish to make. Appropriate visual aids can be used by a member speaking, provided that they do not inconvenience other members or obstruct the proceedings of the House.

The Speaker is the judge of whether such an object is appropriate and whether it is too inconvenient or obstructive. Members have been counselled not to trivialise Parliament by introducing inappropriate objects into the Chamber, and the Speaker will refuse to permit an object to be used if, in the Speaker’s opinion, it would lower the esteem in which the institution is held. In judging whether an aid is convenient, the size of the object to be used will also be a consideration. The Speaker will generally require that the visual aid be confined to the desk of the member speaking. A member sitting at the same bench as the member with the call may assist by showing the visual aid, but it is not acceptable for visual aids to be shown from other benches. The Speaker will not permit a demonstration to be staged in the Chamber.

While members do not have to seek prior permission from the Speaker to use a visual aid, the object will sometimes be visible on being brought into the Chamber before the member’s speech commences. In these circumstances the Speaker’s permission to bring the object into the Chamber in the first place must be obtained. This can be done privately.

Any visual aid may be displayed only while the member is speaking and must be removed from the Chamber at the end of the speech. Members often deploy visual aids during question time; in this case the Speaker applies the same principles as are used when members seek to use visual aids in debate.

The Speaker will order the removal of more permanent visual displays; for example, when members have pinned notices or pennants to their seats or to the sides of their correspondence trays and displayed them prominently for a few days. The introduction into the Chamber of an object designed to make or illustrate a point in a member’s speech is acceptable when it is reasonably necessary for that purpose, but objects introduced for the purpose of making a silent comment on

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197 The pair of bloomers held up by Mabel Howard to emphasise a point about the cost of ladies’ underwear is a famous example (David Gee Our Mabel (Milwood Press Ltd, Wellington, 1977) at 155). Other members have introduced grocery items and charts. A member introducing a bill on drug misuse showed the House a stash can, a hookah pipe and other drug paraphernalia he wished to make illegal (“Ban on drug equipment considered” The Dominion (26 November 1992)).
198 SO 112(1).
200 (1997) 559 NZPD 1382–1385 Revell (Chairperson).
201 (27 May 2010) 663 NZPD 11375 Smith.
203 Ibid.
204 SO 112(2).
issues, or that remain in the Chamber for a period of time, are not acceptable.\textsuperscript{205} Advertising is not permitted in the Chamber.\textsuperscript{206}

**INTERRUPTION OF DEBATE**

A number of matters may cause the House to lay aside temporarily a debate upon which it is engaged. These matters do not necessarily permit the interruption of a member speaking. Most interruptions to a debate can only arise between speakers, not while a member is actually speaking.

Interjections might interrupt a member’s speech, but they are contributions to the debate rather than interruptions of it if they are properly made. However, a member’s speech or the debate is liable to be interrupted in other ways.

- The Speaker may be called upon to rule on a point of order.\textsuperscript{207}
- A matter of privilege may arise relating to the conduct of strangers present.\textsuperscript{208}
- The sitting or a debate may be suspended at a regular time or in accordance with a determination of the Business Committee, or in the event of disorder or an emergency.\textsuperscript{209}
- A message from the Governor-General may be read to the House (this will only be done between speakers).\textsuperscript{210}
- An unsworn member may take the oath or affirmation entitling the member to take a seat in the House (again only between speakers).\textsuperscript{211}
- A motion may be made to exclude the press and the public from the galleries (but the moving of such a motion may not interrupt a member speaking).\textsuperscript{212}
- A Minister may make a ministerial statement or a member may make a personal explanation or a maiden statement (also not so as to interrupt a member speaking).\textsuperscript{213}

When a debate is interrupted by one of these events, the interruption is temporary as far as the sitting is concerned. When the interruption is concluded, the debate immediately resumes at the point it had reached.

**ADJOURNMENT OF DEBATE**

A debate may be adjourned by its interruption at the adjournment of the House, or by virtue of a decision of the House or a determination of the Business Committee. The adjournment automatically suspends the debate for a period, and usually it will not be resumed until a subsequent sitting day.

When a debate is still running at the time appointed for the adjournment of the House or for the House to go on to other business, any debate in progress is automatically interrupted and set down for resumption on the next sitting day.\textsuperscript{214} A debate is not regarded as having commenced—and thus is not considered to have been interrupted by the adjournment—if no member has started speaking to move the motion concerned.\textsuperscript{215}

\textsuperscript{205} (1982) 444 NZPD 1070 Harrison.
\textsuperscript{206} (7 June 2011) 673 NZPD 19066–19067 Smith; (1999) 578 NZPD 17631 Braybrooke (Chairperson);
(14 October 2009) 658 NZPD 6993 Smith.
\textsuperscript{207} SOs 131(a) and 132(a).
\textsuperscript{208} SOs 131(b) and 132(b).
\textsuperscript{209} SOs 50(1), 79, 131(c), 132(c), and 177(1).
\textsuperscript{210} SO 132(d).
\textsuperscript{211} SO 132(e).
\textsuperscript{212} SO 132(f).
\textsuperscript{213} SO 132(g).
\textsuperscript{214} SO 133(2).
\textsuperscript{215} See, for example: New Zealand Superannuation and Retirement Income (Pro Rata Entitlement) Amendment Bill on the Order Paper for 27 August 2015. When the order of the day for a bill’s first reading had been called (26 August 2015), but the member in charge of the bill had not started moving the motion, the first reading debate was not considered to have been interrupted.
Motions for adjournment of debate

In addition to interruption by the automatic operation of the rules of the House, a debate may be adjourned purposefully, either to a later hour on the same day or to a subsequent day, by a motion to that effect.\textsuperscript{216} A motion for the adjournment of a debate is sometimes referred to as a dilatory motion, for it can be used to delay proceedings. However, its use in the House of Representatives as an instrument of delay has been severely curtailed by the fact that, if it is moved, the question on it is put forthwith and determined without amendment or debate.\textsuperscript{217}

A motion for the adjournment of a debate can be moved only by a member who is called to speak in the debate. The member must therefore have speaking rights. A member who has already spoken to the question cannot move the adjournment of the debate. A member proposing to move the adjournment must do so immediately on being called to speak. The member cannot speak to the question and then move the adjournment, nor can the member preface the adjournment motion with an explanation of why it is to be moved. If the member offers such a prefatory explanation, the member is treated as speaking to the question and cannot move the adjournment of the debate. If the motion for the adjournment is defeated, the member may continue the speech. If the member does not continue in these circumstances, he or she loses the right to speak.\textsuperscript{218}

Resumption of adjourned or interrupted debate

A debate is resumed at the point it had reached when it was adjourned or interrupted, whether under the Standing Orders or on a motion.\textsuperscript{219} The member who was speaking when the debate was interrupted or on whose motion a debate was adjourned has the right to speak first when the debate is resumed.\textsuperscript{220} For this purpose, the member must seek the call when the debate is resumed, otherwise other members can be called to speak. If the member whose speech was interrupted does not exercise the right to speak first on the resumption of the debate, the speech is concluded.\textsuperscript{221} An exception has been made when the conclusion of a sitting has interrupted the speech of a Minister moving a motion. In this case, on the resumption of the debate another Minister has been permitted to complete the speech in order to aid the House’s understanding of the policy of the bill or motion concerned, and in light of the collective responsibility of Ministers.\textsuperscript{222}

When a debate has been adjourned by a motion, the member who moved the debate’s adjournment is not obliged to exercise the right to speak first, and may speak later in the debate if he or she wishes. Such a member does not need to declare an intention to do this when the debate resumes; the right to do so applies automatically.\textsuperscript{223} A member resuming the debate in these circumstances cannot again move its adjournment. The right to do so applies only when first being called to speak.

ENDING DEBATE

A debate ends when:

- the maximum number of speeches allowed for the debate has been reached
- the time limit for a debate is reached
- a closure motion is accepted
- no members with speaking rights wish to speak
- all members have exhausted their speaking rights.

\textsuperscript{216} SO 133(1).
\textsuperscript{217} SO 133(1).
\textsuperscript{218} SO 135.
\textsuperscript{219} SO 54.
\textsuperscript{220} SOs 54 and 134.
\textsuperscript{221} SO 54.
\textsuperscript{222} (8 September 2015) 708 NZPD 6325–6327 Mallard (Assistant Speaker).
\textsuperscript{223} (1985) 468 NZPD 8562 Wall.
Once the debate has concluded, the Speaker “puts” the question to the House for a decision, and the House then decides the question through a vote.224

RESTRICTIONS ON THE LENGTH OF DEBATE

The House has imposed strict restrictions on the length of most debates, by stipulating either a maximum number of speeches (which themselves are limited in length) or an explicit time limit for the whole debate. These rules represent an attempt to balance, on the one hand, reasonable expectations for the progress of bills and other business, with legitimate claims for the House’s time, on the other hand, to scrutinise, discuss, and even delay that business. This balance is occasionally adjusted through amendments to the Standing Orders, but there is constant active engagement between members to manage the House’s time. In particular, the House has given the Business Committee a much greater role in structuring debates so as to make the most effective use of House time.

Compared with some legislatures, members take the opportunity to filibuster less frequently as parties can discuss in the Business Committee how a debate should be structured. The New Zealand House of Representatives has not deemed it necessary to employ more draconian ways of terminating or limiting the debate, such as the guillotine motion that is occasionally used in the Parliament of Australia’s House of Representatives.

Time limits on the whole debate

Some debates have overall time limits imposed on them, the Standing Orders specifying the number of hours each may last. The Business Committee has power to vary these time limits.225 The debates subject to such time limits include the Address in Reply debate, the debate on the Prime Minister’s statement and most financial debates, such as the Budget debate.

Where a debate is subject to a time limit, it is taken to include any time expended on points of order in the course of debate, at least when the points of order arise directly out of that debate. So no extra time is added to the whole debate for time spent on points of order (but time may be added to individual speeches in the debate, in accordance with the principles discussed above).226

When the time allowed for a debate expires, the member speaking is immediately interrupted. There is no provision for an extension of the debate to allow his or her speech to be concluded.227 Indeed, other members who might have expected to get the opportunity to speak may miss out altogether if much of the debating time has been expended on points of order. In the case of the Budget debate, where there is provision for the Minister to speak in reply to the debate, the debate is interrupted 10 minutes before it is due to conclude and the Minister is given the opportunity to speak in reply.

Restrictions on the number of speakers

For most debates, except those subject to overall time limits as discussed above, there are restrictions on the number of speeches that may be made. This applies, for example, to debates on the various stages of bills. Generally, 12 speeches are allowed for each debate, although on the first reading of Members’ bills, private bills or local bills only 11 speeches are permitted, nine of which are limited to five minutes. In addition, the practice of splitting calls between two or more members

224 See Chapter 17.
225 SO 79(d). See, for example: the Business Committee determination of 26 November 2014, which transferred an additional two hours to the annual review debate.
226 Similarly, any time spent interpreting members’ speeches is regarded as part of the debate and counts against the total time allowed for it: (1999) 579 NZPD 18503 Neeson (Assistant Speaker). The availability of simultaneous interpretation means this is no longer an issue.
227 (1986) 472 NZPD 3096 Wall.
means that more members can speak in a debate than the allotted number of
calls.

In such debates, even if a member does not use all of the individual speaking
time available to him or her, no extra speeches are allowed. In debates that are
subject to a simple time limit, by contrast, time saved by individual members in
speaking may permit more members to participate in the debate.

The Business Committee may use its power to set limits on the number of
speakers. It does so reasonably often for debates on Government notices of motion,
which are not restricted in this way under the Standing Orders, by limiting the
debates to one speaker from each party and setting an agreed time limit for each
of the speeches.228

CLOSURE

A closure motion is a motion that, if carried, brings the debate then in progress to
an immediate conclusion even though there are still members who wish to speak
in it. The closure motion in its present form was introduced in 1931, replacing
a number of less potent weapons for curtailing debate. It is now an established
aspect of parliamentary procedure, but because most debates in the House are
now time-limited it is principally used in the committee of the whole House.

The closure motion is a motion moved by a member in the course of a debate
asking the House to end its debate and proceed forthwith to decide the issue. The
Speaker has to decide whether it is appropriate that a closure motion be put to
the House at that point. But it is the House, in voting on the closure motion, that
decides if the debate should end, not the Speaker.

Moving the closure

The closure procedure is invoked by a member seeking the call in debate in the
ordinary way and moving “That the question be now put”.229 In order to be in a
position to move the closure motion, the member must be called to speak to the
question under debate,230 so only a member who still has a right to speak to the
question before the House is in a position to move the motion. Once the member
has been called to speak, he or she can move the closure motion.231 It may be
moved from wherever the member happens to be sitting when called to speak.232
The moving of a closure motion is itself treated as a speech, and once it has been
moved the member’s right to speak has been exhausted, regardless of whether the
motion is accepted by the Speaker or agreed to by the House.233 But where, for
example in committee, a member may speak more than once to a question, there is
nothing to stop the member moving the closure on the second or subsequent call
he or she takes.234

The actual words that the member must use in moving a closure motion are
prescribed in the Standing Orders and the member must add nothing to them
either before or after moving the motion.235 The member cannot, for instance, give
reasons for moving the motion. If a member adds anything to the terms of the
motion it is not properly moved and will be declined at that point.236 Members

228 See, for example, the Business Committee determination of 12 August 2015 allocating one five-minute
speech to each party in the debates on appointments to the Independent Police Conduct Authority
and the Abortion Supervisory Committee.
229 SO 136(1).
230 SO 136(1).
233 SO 136(1); (1971) 373 NZPD 2376 Jack; (1985) 468 NZPD 8562 Wall.
235 Ibid.
have sometimes employed minor variations on the words of the motion set out in the Standing Orders. If such a variation is recognised at the time, and if it is judged by the Speaker to involve more than a simple courtesy to the House, the motion will be declined. But, even if a motion has been moved incorrectly, it will be allowed to stand if the House has agreed to it before objection is taken.

Restrictions on who may accept closure motions

Because the Chair is invested with an onerous discretionary authority as to whether to accept a closure motion, only certain presiding officers may accept the motion.

In the House, no temporary Speaker may accept a closure motion. This means that only the Speaker, the Deputy Speaker or an Assistant Speaker may do so. Similarly, in committee, no temporary Chairperson may accept the motion (although on one occasion this power was conferred on a temporary Chairperson). In committee only the Chairperson (who is the Deputy Speaker or an Assistant Speaker) may accept the closure. Occasionally, if the Deputy Speaker or an Assistant Speaker is not available when the House is about to go into committee, the House appoints another member as acting Chairperson. Such a member can accept a closure motion.

Limited-time debates

Where the Standing Orders prescribe the time allowed for a debate (whether by stating the time or limiting the number of speakers) or where the Business Committee has used its power to prescribe the time, no closure motion may be accepted. To do so would frustrate the Standing Orders or the determination. This means that most debates in the House are not subject to closure motions, since limits are prescribed for them. But debates in committee are not subject to time limits, unless the Business Committee can agree on them, so the closure is still frequently employed there.

Acceptance of closure motion

The Standing Orders leave the decision on whether to accept a closure motion solely to the Speaker (or other member presiding). The Speaker may accept the closure if, in his or her opinion, it is reasonable to do so.

In deciding whether to accept a closure motion the Chair will always take into account the length of time spent debating the question and the number of members who have participated in the debate. The Chair will try to ensure that a party of large numbers gets an appropriate number of calls and, if possible, that all parties make a contribution to the debate. However, this does not mean that overall proportionality of party participation in the debate must be achieved before a closure can be accepted. That is a relevant consideration, but it does not bind the Chair in determining whether to accept a closure motion. The degree to which members have been relevant or repetitious in the debate will also influence the presiding officer’s decision. Whether the Minister in the chair has engaged sufficiently has also influenced the decision of the Chair. The acceptance

237 (23 February 2010) 660 NZPD 9209 Smith.
238 SO 136(4).
240 SO 172(1).
242 SO 136(2).
243 SO 136(3).
244 (1998) 574 NZPD 1409 Kidd.
245 (1998) 574 NZPD 14085 Roy (Chairperson).
246 (2001) 394 NZPD 1125 Braybrooke (Deputy Speaker).
248 (3 November 2015) 709 NZPD 7664 Mallard (Chairperson).
of the closure is about the content of the debate and the way the committee is conducting itself. The number of times a closure motion is moved is not a relevant consideration when the presiding officer is determining whether sufficient time has been given over to the debate. Whether a closure motion is accepted or not will always depend upon circumstances. For example, the drafting of a bill can influence the decision—it can be expected that a part of a bill consisting of numerous subparts will be subject to a longer debate before a closure motion will be accepted than otherwise would be the case.

If the Speaker or Chairperson declines to accept a closure motion or if a closure motion is put to the vote and defeated, the debate continues. There is no rule preventing a closure motion that has been put to the vote and defeated being moved again, though in these circumstances it is unlikely that the Speaker or Chairperson would accept another closure motion until a reasonable amount of further debate had ensued.

The Speaker will not review a decision of a Chairperson, in committee, to accept or refuse to accept a closure motion.

**Putting the closure motion**

If the Speaker or Chairperson decides to accept a closure motion, the presiding officer puts the question “That the question be now put” to the House for decision. This question is determined forthwith by the House or committee without any amendment or debate.

Once a closure motion has been accepted, the House will usually agree to it. But this does not have to follow; the House may turn the motion down if members decide that they wish to continue the debate. This is no reflection on the Speaker. The Speaker in accepting a closure motion is not deciding to terminate a debate; the Speaker is giving the House an opportunity to do so. Although it is unusual, the House (or the committee) may turn this opportunity down.

**Putting the question following agreement to the closure**

If a closure motion is carried, the Speaker proceeds to put the question that the House has just ordered to be put. There is no further opportunity for amendment or debate. Where an amendment has been moved or lodged before the closure motion is carried, not only is the question on the amendment put, so is any other question already proposed from the Chair. The House works its way back to the main question by putting the question on all intervening amendments that have been moved or lodged, and by deciding them without further amendment or debate. The main question is then similarly decided forthwith. The Standing Order does not provide for a closure motion only in respect of an amendment or a motion related to the matter under consideration, such as a motion proposing a change to a vote during the Estimates debate with further debate or amendment to the main question then following. This would defeat the purpose of the closure motion. A closure motion, when agreed to, closes off all further debate on the main question too.

In both the House and the committee, any time for the sitting to conclude or be interrupted is deferred once a closure motion has been carried to allow these
questions to be put. Thus the House or committee may continue sitting after the time has arrived for the sitting to be suspended, or for the committee to report progress or for the House to adjourn, in order in each case to complete voting on questions consequential on the carrying of a closure motion.

Amendments

Members are not denied the opportunity to have their amendments put to the House because a closure motion has been carried before an amendment to the motion has been considered. If a proposed amendment has been notified on a Supplementary Order Paper (as most ministerial amendments in committee are) or is handed in to the Table before the closure motion is accepted, and is in order, it is put to the House for decision (without any debate) even though it has not been formally moved. Conversely, after a closure motion has been carried, a member may not withdraw an amendment on a Supplementary Order Paper or an amendment that has been handed in to the Table, without leave.

LAPSE OF DEBATE

It is possible that a debate may terminate without the question on the motion being put to the House at all. This happens when a motion lapses under the Standing Orders. Any motion for the adjournment of the House under debate at 10 pm (6 pm on a Thursday) lapses, for there is no occasion to put it to the vote when the time for the rising of the House has arrived in any case. Motions to debate a matter of urgent public importance and to hold a general debate on a Wednesday also lapse at the conclusion of the time prescribed for them under the Standing Orders, and no question is put on them at the end of the debate for the House to decide.

Furthermore, no question is put on the third reading of a bill, on an amendment in the committee of the whole House, on a motion to change a vote or on a motion that has the force of law, if a financial veto certificate has been issued in respect of it.

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258 SO 53.
259 (12 November 2003) 613 NZPD 10003 Hunt.
260 SO 138(2).
261 (1986) 470 NZPD 1052 Terris (Chairperson).
262 SO 51(1).
263 SO 390(2).
264 SO 392(2).
265 SOs 328(3), (4) and 329(2); (5 December 2007) 644 NZPD 13575 Simich (Chairperson).