Voting is the most significant procedure of the House, through which the will of the people—as expressed in parliamentary elections—is realised in the form of particular decisions that determine the laws and governance of the country. It is of fundamental importance that these decisions are settled with absolute clarity and certainty. This chapter explains the House’s decision-making process.

MAJORITY REQUIRED

All questions put to the House are decided by a majority of votes in favour of or against the question. Each member is entitled to a single vote, or can abstain. A simple majority of the votes cast is enough to decide the matter.1 Abstentions are ignored for this purpose, though they are noted in the record of the decision.2

There must be a positive majority for a resolution to be carried; in the event of a tie, the question is lost. The only exception is when the committee of the whole House considers a provision in a bill—the provision remains in the bill even if the question for its retention is tied.3 In this case, a positive majority is needed to amend the bill by getting rid of a provision. There is no casting vote vested in the Speaker.4

A qualified majority of votes is required for changing certain provisions of the electoral law.5 And if a proposal is made for any legislative provision to be entrenched, a qualified majority (rather than a simple majority) of votes in favour of it must be obtained for it to succeed. A proposal for legislative entrenchment is a provision in a bill or an amendment to a bill to the effect that the provision or amendment could itself only be repealed or amended by a majority of more than 50 per cent plus one of all members of the House. In this case the proposed provision or amendment must itself receive that same level of support for it to be adopted when it is considered at the committee stage.6 If a proposal for entrenchment does not attain the qualified majority, it is lost.

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1 SO 139(2).
2 SOs 139(2), 143(4) and 150(1).
3 SO 305(1). See p 444.
6 SO 266.
PUTTING THE QUESTION

The Speaker begins the debate on a motion by proposing a question based on it, so members know what decision is before them for discussion. When the debate is ended, the Speaker states the question again for the House and asks if the House agrees to the motion. This is called putting the question. The question is put after each debate, except in the few cases where the question lapses. If a member seeks the call while the Speaker is still putting the question, then the Speaker can allow the member to speak. But the debate is over once the question has been put from the Chair; no member may speak further to the question.

Members must then express an opinion for or against the motion. Once the question has been put and a vote has begun, it must be completed—the adjournment or suspension of the sitting is delayed if a vote is in progress at the time. Moreover, the House will deal with any other questions that must be put without debate, and the interruption of the sitting is further postponed for this purpose. This requirement for the House to complete its decision on a question that is in the process of being decided can be set aside only by leave.

If the question is complicated or it is convenient to vote on parts of it separately, it can be divided. But this must be done by leave; there cannot be a motion or amendment to divide a question. On occasion, the Speaker has suggested that it may be convenient to the House to vote on different parts of a question separately.

VOICE VOTE

The method by which the House votes initially on any question is by a vocal expression of opinion for or against the question—a voice vote. The majority of voices decides “Aye” or “No” to the question. In most cases this method of deciding a question is sufficient, without the House needing to employ further voting procedures to settle matters.

Deciding the result on voices

In a voice vote, it is up to the Speaker to decide whether the Ayes or the Noes “have it”—that is, which side is in the majority. If the Speaker is not satisfied that members gave their voices in a way that allows the will of the House to be deduced confidently, the Speaker can ask the members to repeat the process, by putting the question again.

To determine whether the Ayes or the Noes have it, no decibel reading is taken; the Speaker uses intuitive judgement. Visitors in the gallery or people in the broadcast audience sometimes perceive that the less vocal side is declared to have prevailed in a voice vote, and ask why this occurs. It is the Speaker’s job to judge where the majority falls, on the basis of the voices, not to register who can shout loudest or most vehemently. For this purpose, the Speaker can expect that in all normal circumstances the Government will be in the majority. When a vote is not being taken on party lines, the Speaker needs to make an instant assessment of the will of the House from the strength of the voices, but these occasions are relatively few.

The Speaker’s determination of where the majority lies on the voices is often sufficient: either the House decides without any dissenting voice, or the members who have found themselves in the minority acquiesce in the Speaker’s judgement about the result. When the outcome for the motion is finalised on the basis of the voice vote alone, the official record shows the House’s decision as unanimous.

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7 SO 139(1).
8 See Chapter 16, “Lapse of debate”.
9 (28 May 2014) 699 NZPD 18443 Tisch (Chairperson).
10 SO 53(a); (2000) 586 NZPD 4309 Roy (Chairperson).
11 SO 53(b); (13 March 2013) 688 NZPD 8542–8543 Roy (Deputy Speaker).
13 SO 140.
14 SO 139(2).
Call for a further vote

After the Speaker has declared a result on the voices, members in the minority who are not satisfied with this method of determining the matter can instigate a more formal testing of the waters. They achieve this by objecting that the votes for the other side “have it” and then calling for a further vote to be held. Such a challenge to the result declared on the voices must be made straight away, otherwise the House will go on to its next business and it will be too late for a further vote on that question.

The right to challenge the Speaker’s assessment of how the voice vote has gone lies only with those in the putative minority. For this purpose, the members in the minority as declared by the Speaker do not have a right to call for a further vote just to test the position of other members in the House. The Speaker can refuse to allow a further vote if it is clear that a member calling for it was in the majority as declared by the Speaker on the voice vote.

PARTY VOTES

Most contested votes in the House are conducted by way of a system of party voting. This system allows the party complexion of the House, as imparted by the party vote at general elections, to be reflected directly in the decisions it makes. Party voting was introduced in 1996 in anticipation of the first MMP election, and is based on a system of collective voting used in the Netherlands.

When a party vote is held votes are cast as a block by party representatives on behalf of each of the various parties recognised in the House. However, each member remains free to withdraw his or her vote from the party vote and to use it in a different way from that of the party.

Procedure for conducting vote

Casting of votes

A party vote is held if members call for a further vote following a voice vote, unless the Speaker determines that a personal vote is required. The Speaker directs the Clerk to conduct a party vote. For this purpose the Clerk calls on each party in turn, in order of their size, to cast its votes. Parties with the same number of members

<table>
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<tr>
<th>TERM OF PARLIAMENT</th>
<th>PARTY VOTES (HOUSE)</th>
<th>PARTY VOTES (CWH)</th>
<th>PARTY VOTES TOTAL</th>
<th>PERSONAL VOTES (HOUSE)</th>
<th>PERSONAL VOTES (CWH)</th>
<th>PERSONAL VOTES TOTAL</th>
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<tr>
<td>45th Parliament: 1996–1999</td>
<td>410</td>
<td>1,033</td>
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<td>2,496</td>
<td>12</td>
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<td>2,672</td>
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<tr>
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<td>404</td>
<td>966</td>
<td>1,370</td>
<td>14</td>
<td>21</td>
<td>35</td>
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15 SO 140.
16 (14 May 2014) 698 NZPD 17781–17782 Tisch (Assistant Speaker).
17 (1987) 481 NZPD 9620–9621 Wall.
18 (17 November 2015) 710 NZPD 8051–8052 Mallard (Assistant Speaker).
21 The following table sets out the numbers for party votes and personal votes since the current voting procedures were introduced in 1996.
22 SOs 140–141; (14 May 2014) 698 NZPD 17781–17782 Tisch (Assistant Speaker).
are called in order of the relative size of their electoral support at the last election. Each party is called on by its parliamentary name,\(^{24}\) and the call is directed to the leader of the party, or a member authorised by the leader, to cast the vote.\(^{25}\)

In practice a whip or a member acting as whip casts the vote for each party. While parties are always invited to vote in order of size, if a party fails to vote when called (in which case no vote is recorded\(^{26}\)) or votes and subsequently wishes to correct its vote, it can intervene while the vote is in progress and record its vote even though by doing so it votes in a different order from that suggested by its size in the House.\(^{27}\) A vote is cast from any seat the member happens to be occupying, including a Minister in the chair, but cannot be cast from the floor of the House.\(^{28}\) The whip or other member casting the vote stands in his or her place and responds to the Clerk by stating how the party casts its votes. If a party is present in the Chamber it must vote, and may not have a proxy vote recorded on its behalf.\(^{29}\)

Following the casting of votes by parties, independent members are called on (in alphabetical order) to vote. Finally, if votes have not been cast for the total number of members of the House at this point, the Clerk will ask if there are any other votes. Members who wish to specifically record a vote that is contrary to their party (and have not been included in their party’s vote) then have an opportunity to do so in person or by proxy.\(^{30}\)

**Declaration of result**

When all parties and members have had a reasonable opportunity to vote, the Clerk calculates the total of the Ayes, Noes and abstentions and hands the list to the Speaker. The Speaker can allow members more time to vote if there is confusion or a mistake over a vote has occurred, so that the matter can be clarified rather than a dubious result being declared; but there is a limit to the indulgence given by the Speaker in these circumstances.\(^{31}\) Once the Speaker is satisfied with the result, the Speaker declares it to the House.\(^{32}\) Any error can be corrected subsequently only under the Standing Orders provisions for correcting errors or by leave of the House.

**Interjections during vote**

Interjections during the conduct of a party vote are regarded as particularly serious since there is no debate in progress, so they can have no justification. In particular, members are not permitted to comment as the party votes are cast.\(^{34}\) Indeed, the Speaker has suggested that interjections at this point, as well as promoting confusion, could, if intimidatory, amount to a breach of privilege.\(^{35}\) Comments made during voting are not recorded.\(^{36}\)

**Party vote totals**

A party vote is a collective vote cast on behalf of up to all of the members of the party concerned. Parties may cast votes up to their total parliamentary memberships as

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\(^{24}\) (2000) 586 NZPD 4548 Hunt. The name used is that notified to the Speaker as the party’s name for parliamentary purposes under SO 35(1)(a).

\(^{25}\) SO 143(1)(a).

\(^{26}\) (1997) 561 NZPD 2640 Braybrooke (Chairperson).

\(^{27}\) (1998) 569 NZPD 9778 Revell (Deputy Speaker).

\(^{28}\) (2001) 593 NZPD 10635 Braybrooke (Chairperson); (2001) 597 NZPD 13650 Braybrooke (Chairperson).

\(^{29}\) (20 March 2013) 688 NZPD 8784 Roy (Chairperson).

\(^{30}\) SO 143(1)(d).


\(^{32}\) SO 143(1)(e).


\(^{34}\) (2000) 586 NZPD 4548 Hunt.


\(^{36}\) (22 March 2011) 671 NZPD 17439 Smith.
advised to the Speaker. To be included in a party’s vote (or participate in any vote) a member must have been sworn in. A member who is suspended by the House may not be included in any party vote total. Where a party has suspended a member from its caucus, its parliamentary membership has not changed and the party may continue to include the member in its party vote totals. But where a party expels a member from its caucus, its parliamentary membership changes and so does its party vote. In these circumstances the member becomes an independent member and is no longer included in a party’s vote.

**Presence in parliamentary precincts**

Any member present in the parliamentary precincts at the time of a party vote can automatically be included in the party vote total cast for that party. For this purpose, members are regarded as present if they are attending a select committee meeting, or attending official business approved by the Business Committee, or if they are on an official inter-parliamentary delegation. Party vote totals can also include a limited number of proxy votes, as explained below.

**“Zero” vote**

The Speaker has ruled that it is not acceptable for a party to cast a “zero” vote, and that such a vote will be treated as the absence of a vote. That is, if a party announces “zero” as its vote, it is treated as not participating at all, and accordingly there will be no record of its participation in the vote. If a party wishes to have its position recorded as neither for nor against the motion, it can simply abstain.

**Casting of proxies on party votes**

**Authority to cast proxies**

The leader of the party or the senior whip of the party, or any member acting for the time being in the House as leader or senior whip, holds a standing authority to exercise a proxy vote for all members of the party, unless a member directs otherwise. Members do not need to give their whip specific authority to vote on their behalf in a party vote. That is inherent in membership of the party.

**Limit on proxy votes**

During a party vote, there are restrictions on the number of proxy votes that may be cast for a party. If the party wishes to cast its full complement of votes, it therefore must be careful about the number of its members who are absent from the parliamentary precincts at the time. Proxy votes may not exceed 25 per cent of the party’s total membership in the House. This figure is rounded up to the nearest whole number. Thus a party of seven members can exercise proxy votes for two of its members (25 per cent of its membership, rounded upwards to the next whole number). It therefore needs to have five of its members present in the precincts (or officially recognised as present) in order to cast its full total of seven votes in a party vote. If, for example, only four of its members were present it would have to reduce its party vote total to six.

A member who has been suspended from the service of the House is still part of a party’s parliamentary membership, unless the member is recognised by the

37 SO 35(1)(c).
38 SO 95.
41 SO 143(1)(c). See Chapter 11 for discussion of the parliamentary precincts.
42 SO 37(2).
44 SO 154(4).
45 SO 37(2). See Chapter 3.
46 For example, a party with five members can cast up to two proxy votes. See Standing Orders Committee Review of Standing Orders (11 December 2003) [2002–2005] AJHR I.18B at 21.
Speaker as independent. A suspended member thus is counted when the limit on proxy votes for his or her party is calculated. The limit does not include any member to whom the Speaker has granted permission to be absent. In this case, the member’s proxy can be cast in addition to the full number of proxy votes the party is usually entitled to cast.

There is no limit on the number of proxies that may be exercised in the period from the declaration of a state of national emergency until it is terminated or expires.

**Presence or absence of party**

A party that has six or more members must have at least one member present in the Chamber when the vote is held—its votes cannot be cast on its behalf by a member who is not in that party. On the other hand, a party consisting of up to five members, and any independent member, may have their votes cast on their behalf by proxy. But the proxy may be exercised only if one of the members of the party or the independent member is present in the parliamentary precincts for the purposes of the Standing Orders or is absent from the House with the permission of the Speaker. When a member exercises a proxy for another party, the member does not have to state that a proxy is held. The member merely casts the vote.

**Split-party votes**

A party vote is normally cast wholly on one side or other of the question (or as an abstention) but it can be distributed over the three options: Aye, No and abstention. This is known as a split-party vote.

Split-party voting has been employed as an alternative to holding a personal vote on a conscience issue since it saves time compared with a full personal vote. Where a party casts a split-party vote, the member casting the vote must deliver a list to the Clerk, immediately after the vote, showing how each member of the party has voted in that case. This information is published in the *Journals* and in *Hansard*.

**Members voting contrary to their party**

Members voting on a question in a way contrary to their party’s position have traditionally been described as “crossing the floor”. This was originally a reference to the fact that to vote contrary to his or her party a member had to physically enter the division lobby on the opposite side of the Chamber to that frequented by his or her party colleagues on that vote. Today members vote by entering the lobbies only on personal votes, which (as such votes are largely reserved for conscience issues) are not party matters in any case. The expression “crossing the floor” therefore is no longer literally accurate. Nevertheless, it is a metaphor still often employed for the action of a member who votes contrary to the position taken by his or her party on a particular question. Party or collective voting has not removed the ultimate right of a member to vote on any question as he or she sees fit. Members may still “cross the floor”.

Consequently, the whip or other member casting the party vote must omit from the party’s number any vote for a member who wishes to vote contrary to the party. The whip will usually have been advised or otherwise know of this beforehand.

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47 SO 155(2) and (3). See Chapter 4.
49 SO 143(3).
50 SO 37.
51 SO 38(1), (2).
52 (1996) 553 NZPD 11159–11160 Hilt (Chairperson).
53 SO 143(1(b).
54 SO 143(2).
55 SO 143(4).
But in the absence of any prior indication from the member concerned, the whip is entitled to presume that the party can cast the member’s vote in the party’s total. To withdraw that authority the member must take the initiative by “contracting out” his or her vote from the vote for the party. If the whip does not know that a member wishes to vote contrary to the party position and casts a vote for all members of the party, it is incumbent on the member intending to vote against the party to raise a point of order so that the vote can be corrected. In any case, if a member casts a vote contrary to his or her party when the party has already voted at its full strength, the inconsistency will need to be resolved by the Speaker before the result of the vote can be declared.

Sometimes a party may not vote at its full strength because of the absence of a number of its members or because of dissidence within its caucus. Which of these possibilities represents the position may not be apparent, especially if no member actually votes against the party on the vote. But the Speaker is not concerned with the reason a party has not voted its full strength, and will not entertain requests for an explanation from the party.56

A vote contrary to a member’s party vote is cast after other votes (by proxy if desired).57 (How such members are identified when they rise to cast their votes is a matter for the Chair. It could be done either by the members themselves or by the Chair.58) But there is no provision for a member who is voting on the same side of a question as his or her party to cast a vote separately from the party—for example, because the member wishes to emphasise some disagreement with or separation from the party. A member of a party voting on the same side of the question as the party can participate in a party vote only by being included in the party’s total.59

PERSONAL VOTES

If the issue on which a vote is to be held is a conscience issue, the alternative to a party vote is a personal vote.60 A personal vote may also be held in addition to a party vote if the Speaker considers that a personal vote might make a material difference to the result.

Conscience issues

The Speaker is the judge of whether a particular vote is to be treated as a conscience issue. In these circumstances the Speaker may permit a personal vote to be held instead of a party vote.61 Matters that are to be treated as conscience issues and are therefore to be the subject of a personal vote will almost invariably have been discussed beforehand by the Business Committee and arrangements made to warn members in advance that the relatively unfamiliar practice of holding a personal vote is to be followed. Members can then arrange to be present for the vote or can issue a proxy so that their position is reflected in the vote. It is regarded as highly undesirable to hold a personal vote without adequate forewarning of members. Apart from informal communications to members through their representatives on the Business Committee, the Leader of the House would normally refer to forthcoming legislation being treated as a conscience issue in the Thursday business statement, and the Speaker will announce to members in the House as early as possible that a

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56 (18 February 2003) 606 NZPD 3495 Hunt.
57 SO 143(1)(d).
59 Ibid, at 4720.
60 SO 142.
61 SO 142; (11 July 2013) 692 NZPD 11996–11997 Tisch (Assistant Speaker). See Chapter 7 for conscience issues.
personal vote will be held. Where the House needs to decide procedural matters in association with a conscience issue, the Speaker may deal with any procedural decisions through party votes.

Therefore, the Speaker will not be easily persuaded that a personal vote should be held without advance warning. If, for example, a debate on a matter follows normal party lines, it is most unlikely that the Speaker will accede to a request at the end of the debate for a personal vote to be held. Nor is a personal vote likely to be permitted on a matter outside the traditional range of subjects that are regarded as conscience issues. The fact that members have or are alleged to have views on an issue that differ from those of their parties is not a ground to treat the issue as a conscience issue. Conscience issues generally arise because parties do not have a position on an issue at all, not because members disagree with the party position. The party vote procedures themselves cater (by offering the option of a split-party vote) for members who wish to vote contrary to their parties’ positions.

**Personal vote following party vote**

The Speaker may also permit a personal vote to be held following a party vote if a member requests one and the decision on the party vote was so close that a personal vote might make a material difference to the result.

The Speaker has emphasised that closeness on a party vote result cannot, by itself, be enough to justify holding a personal vote. Depending on party standings in the House, every party vote might be close. A decision to permit a second vote, this time on a personal vote basis, can arise out of confusion as to the outcome of the first, although in this case the Standing Orders provide for a second vote of the same kind as the first to be held and the Speaker would have to be convinced that following an uncertain outcome from a party vote, there were good reasons why a personal vote rather than a second party vote should be employed. Similarly, where the result of a party vote is clear, the fact that a number of members have voted against their parties is immaterial.

**Procedure for personal votes**

If the Speaker agrees that a personal vote is to be held, the Speaker directs the Clerk to ring the bells. This is the same electronic bell that is rung before each sitting of the House. It is activated from the Clerk’s chair at the Table and is audible all over the parliamentary complex, though the fact that the bells fail to ring in any part of the buildings does not invalidate a vote.

After ordering the bells to be rung, the Speaker directs those members who are for the Ayes to pass to the right of the Speaker (that is, into the Ayes lobby), those for the Noes to pass to the left (into the Noes lobby) and members abstaining to come to the centre (that is, to the Clerk at the Table). The Speaker appoints a teller for each side.

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62 See, for example: (1997) 562 NZPD 3468 (Shop Trading Hours Act Repeal (Easter) Amendment Bill); (1997) 562 NZPD 3831 (Casino Control (Poll Demand) Amendment Bill); (1998) 574 NZPD 14457, 14471 (Gaming Law Reform Bill); (6 November 2013) 694 NZPD 14438 (New Zealand International Convention Centre Bill); (13 March 2013) 688 NZPD 8543 (Marriage (Definition of Marriage) Amendment Bill).
63 (11 July 2013) 692 NZPD 11996–11997 Tisch (Assistant Speaker).
64 (9 May 2012) 679 NZPD 2147–2158 (Gambling (Gambling Harm Reduction) Amendment Bill); (1997) 560 NZPD 2087–2088 (Compulsory Retirement Savings Scheme Referendum Bill).
66 SO 144.
68 SO 152(1).
70 (1985) 462 NZPD 4606 Wall.
71 SO 145(1)(b).
Tellers

The tellers are members who act as poll clerks and actually record the vote cast by each member. There is a teller for each side of the question. The Speaker accepts voluntary offers to serve as tellers. If no member wishes to act as teller for one side of the question, the Speaker immediately declares the result in favour of the other side.72

A member who has accepted appointment as a teller and begun to act in that capacity must continue to act unless excused by the Speaker.73 Other members are entitled to observe the work of the tellers in any part of the Chamber or the lobbies.74

Time for ringing the bells

The Standing Orders require the bells to be rung for seven minutes.75 However, this has been found to be unnecessary where votes are followed in quick succession and members have already made their way to the Chamber from other parts of the parliamentary complex. Therefore, the Speaker has a discretion to ring the bell for only one minute where a vote follows another vote without any intervening debate or other proceeding occurring.76 In all cases the Speaker exercises the discretion to permit a one-minute bell if there is likely to be no prejudice to members participating in the vote.

Locking the doors

The doors at either end of the lobbies and the doors at the far end of the Chamber are closed and locked on the Speaker's command when the bells have stopped ringing. The Speaker usually orders this to be done immediately after the seven minutes (or one minute, as the case may be) have expired, but may allow the doors to remain open longer,77 for example, if there is doubt as to whether the bells were operating in a part of the building. When the doors have been locked in this way, all entry to and exit from the Chamber and lobbies is prevented. No further members can enter to cast a vote. They have missed the vote and their names cannot be recorded. While locking the doors is a necessary procedure designed to ensure that all members present when the vote is taken do vote and that no other members can enter subsequently and participate, failure to lock the doors adequately does not invalidate the vote, and is not sufficient reason for retaking it.78

Once the doors have been locked, the Speaker restates the question for the benefit of members who had arrived after it was first stated.79

Obligation to vote

Every member within the locked doors is obliged to vote or record an abstention.80 However, members can vote or have proxies recorded for them only after they have taken the Oath of Allegiance.81

If a member is locked in and inadvertently fails to vote, there is no procedure allowing that member to vote on a subsequent occasion, or the Speaker to amend the numbers to include the member.82 The Speaker may amend the numbers only in the case of error or confusion concerning the result. A member's failure to vote may be an error on the member's part, but it is not an error in the conduct of the vote. While the Standing Orders do not provide for any penalty for a failure to vote,
a member who wilfully refused to vote or record an abstention could be held to be in contempt of the House. Where a member fails to vote through inadvertence, he or she should take the first opportunity to apologise to the House for the lapse.

**Vote follows voice**

Members are subject to another obligation when voting in a personal vote. This obligation is expressed in the maxim: “vote follows voice”. Members are bound to vote in any ensuing personal vote in the same way as they indicated orally when the question was put to the House at the conclusion of the debate. Members, having given their voices one way on this occasion, must give their votes in the same way in the personal vote. Similarly, any member who challenges the Speaker’s judgement of where the majority of votes lies on the voice vote has to vote consistently with that challenge in the subsequent personal vote.

A number of members in New Zealand’s parliamentary history have given their voice with one side on the voice vote and then subsequently tried to vote with the other side. In these cases, on objection being taken, the Speaker has ordered the member’s name to be recorded on the side of the question to which the member gave his or her voice, and the vote list is amended accordingly. However, objection must be made to the member’s inconsistent action before the numbers have been announced by the Speaker; after that point the member’s vote stands.

Other apparent inconsistencies are not formally held against members. A member may speak in the debate on one side of the question and vote on the other, and a member is not compelled to vote for a motion or amendment that he or she has moved. A Minister has, for example, introduced a bill and indicated to the House in introducing it that he intended to vote against it.

**Voting**

A member votes by entering the appropriate lobby and declaring his or her name to the teller on duty. The teller crosses out that member’s name on a vote list that has been printed with all members’ names on it. To abstain on the question, a member approaches the Clerk at the Table, who records the member’s abstention. Members do not wait until the bells have ceased ringing and the doors have been locked before beginning to cast their votes. Members vote while the bells are still ringing. The Speaker, who must also vote, does not leave the Chair but asks another member to ensure that the Speaker’s vote is recorded.

It is expressly provided that once a member has cast a vote or an abstention, he or she must remain within the Chamber or the lobbies until the numbers are declared by the Speaker. Members voting while the bells are ringing are voting with the doors to the Chamber and the lobbies still open. They are required to remain until the doors have been locked and all proceedings on the vote have terminated, at which point the doors are re-opened and members are free to leave if they wish. The vote of any member who fails to remain in the Chamber or voting lobbies until the result has been declared is disallowed.

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84 (1979) 427 NZPD 4320–4321 Harrison.
85 (1890) 68 NZPD 292 O’Rorke.
86 (1899) 107 NZPD 315 O’Rorke.
87 See (9 October 1860) [1860] JHR 160 for the first example of this happening.
88 (1876) 21 NZPD 379 Fitzherbert.
89 (1888) 62 NZPD 198 O’Rorke.
90 (1991) 515 NZPD 2100 (Smoke-free Environments Amendment Bill (No. 2)).
91 SO 145(1)(e).
92 SO 146.
93 SO 146.
Order during a vote

During a personal vote there is considerable movement of members in the Chamber, and between the Chamber and the lobbies. Members move around and talk to each other in a way that would be unacceptable during the course of debate. The Speaker has warned members that this must not get out of hand and, in particular, that banter between members at this time must not degenerate into verbal intimidation.94

Conclusion of the vote

When all members have cast their votes, the tellers sign the respective vote lists as an authentic record of the vote and deliver them to the Clerk at the Table, who checks them and hands them to the Speaker.95 The tellers are obliged to satisfy themselves as to the numbers recorded before signing and parting with the vote lists.96 If the lists are handed back to the Clerk before the doors have been locked, any member who has not yet voted may still do so.97 To allow for this, the Clerk does not hand the lists up to the Speaker until the doors have been locked. The Speaker, on receiving lists that are properly signed, accepts them as correct unless there are good grounds to suggest that there has been an irregularity.98 But a personal vote is not completed until the Speaker has actually announced the result to the House.99 Up to this point the lists can be corrected on the tellers’ authority. Thus, when it was realised, after the lists had been checked but before the result had been announced, that a member present had not voted, the member’s name was added to the list when it was established which side he would have voted on.100

The Speaker announces the result of the vote to the House,101 and then directs that the doors be unlocked.

VOTING ON MULTIPLE OPTIONS

The House can adapt its voting procedures to different situations. For example, the House has, by leave, provided for a matter to be decided by an election from options. The decision on the age for the sale and purchase of alcohol in 2012 was made in a committee of the whole House by way of a personal vote to elect one of three options. Members voted by entering the Noes lobby, where Clerks recorded the selection made by each member in turn. Provision was made that, if none of the three options obtained a majority of votes cast in the election, a personal vote would then be held between the two options that gained the most support in the first ballot.102

Furthermore, the Business Committee now has the power to determine how a committee of the whole House will consider a bill, and could by determination set out an extension of its powers in respect of the way a question is to be decided.103

ERRORS

It occasionally happens that errors occur in recording or tallying the numbers who have voted in a party or personal vote. If such an error is discovered before the results are declared by the Speaker, they are corrected by the Clerk or the teller. During a party vote, if a member is inaudible when casting votes, or the Clerk at

95 SO 145(1)(f).
96 (1985) 468 NZPD 9064 Wall.
97 (1980) 436 NZPD 5600 Harrison.
98 (1985) 468 NZPD 9064 Wall.
100 (1992) 525 NZPD 8799–8800.
101 SO 145(1)(f).
103 SO 301(1).
the Table is unsure about the votes that a member has cast, the member can be asked to cast the votes again. Errors discovered subsequent to the declaration of the result may be corrected by the Speaker. Errors may be more significant than a mere miscounting of names struck through. Thus, a member has been recorded as having voted on both sides of a question. When it was established that the member concerned had in fact voted in only one lobby, the Speaker corrected the result accordingly. Other errors may result from the numbers of the votes cast being misheard or miscalculated. The Speaker may use the Speaker’s power to correct errors that occurred in committee. (Where the error is recognised before the committee has reported the bill on which the error occurred back to the House, the Chairperson corrects it.)

If there is such confusion concerning the numbers reported that the Speaker feels unable to resolve it by ordering a correction, the Speaker may direct that a second vote be held. But before taking this extreme action, the Speaker must be satisfied that there is a serious prospect that the count on the vote is indeed wrong. The mere circumstance of a door not being locked, for instance, is not a ground for a second personal vote to be held. There has to be a real element of doubt as to the numbers.

There are other mistakes that cannot be corrected at all. For example, the circumstance of a member locked in the Chamber and forgetting to vote cannot be corrected by adding the member’s name to the list. Similarly, a member who enters the “wrong” lobby for whatever reason is bound by the vote actually given and cannot have his or her name struck off the list. Members cannot have their votes altered by appealing to the Speaker to correct the vote list, whether their wish to do this results from initial error or second thoughts. On the other hand, when a member had actually voted but his name did not appear on the list, the Speaker was able to order the list’s correction.

The error that the Speaker may correct or that can be corrected by a second vote must be one connected with the administrative procedures for holding or recording a vote. It does not include an individual member’s error or confusion as to his or her own vote. Such a correction can only be made if the House gives leave. A recent, though uncommon, practice is for members to seek leave following the outcome of a vote to have their parties’ voting intentions recorded in the Journals as a separate entry and without changing how the party vote—as it actually happened—is recorded.

RECORDS OF VOTES

The number of votes cast for each party in a party vote must be recorded in the Journals. The votes of independent members and members voting contrary to their parties are listed by name. In addition, where a party casts a split-party vote, the names of its members voting in the various categories must be recorded in the Journals and in Hansard. The results of all personal votes with the names of the members voting or abstaining must also be recorded in the Journals. The vote

104 SO 152(2).
105 (1978) 419 NZPD 1836 Harrison.
106 (1900) 113 NZPD 688 O’Rorke; (1998) 569 NZPD 10092 Kidd.
107 SO 152(1).
108 (1985) 468 NZPD 8858 Wall.
110 (1876) 23 NZPD 526 Fitzherbert.
112 (1887) 58 NZPD 295 O’Rorke; (1994) 542 NZPD 3446.
113 (29 May 2014) 699 NZPD 18471 (Parental Leave and Employment Protection (Six Months’ Paid Leave) Amendment Bill).
114 SO 143(5).
115 SO 143(5).
116 SO 150(1).
lists must also show if a vote or abstention was cast by proxy.\textsuperscript{117} The name under which a member is recorded in the list is the name by which the member wishes to be known in parliamentary proceedings.\textsuperscript{118}

When a vote list was misplaced after the result had been announced in the House, it was not possible to print a list showing how members voted, only the numbers voting.\textsuperscript{119}

**GENERAL POINTS ABOUT PROXIES**

Voting by proxy was introduced along with party voting in 1996.\textsuperscript{120} Proxy voting is a means by which a member who is absent from the Chamber and cannot vote in person has his or her vote recorded. A proxy vote cannot be recorded for a member who has not taken the Oath of Allegiance.\textsuperscript{121} A proxy on a personal vote cannot be recorded if the member is actually present in the Chamber, but a member in a part of the House from which it is impossible to vote, such as in the gallery, can have a vote recorded by proxy.\textsuperscript{122} A number of aspects of the proxy system are discussed above under party voting.\textsuperscript{123}

**Conferring proxies**

A proxy is an authority given by one member to another authorising the other to cast a vote or record an abstention in the member’s name.\textsuperscript{124} The leader or whips possess a general proxy under the Standing Orders in respect of members of their party voting in party votes, though a member may withdraw this.\textsuperscript{125} This general proxy does not apply on personal votes.\textsuperscript{126} A proxy for a personal vote must be issued from one individual to another. A proxy must be signed and dated by the member giving it, recording the member’s name and the name of the member to whom it is given, and stipulating the period or business in respect of which it is given.\textsuperscript{127}

A proxy may be open in character, applying to all business for an indefinite period and leaving it to the proxy holder to decide how to use it. A proxy does not have to direct the holder on which side of a question a member wishes it to be exercised, though, of course, it can, and in the case of a proxy for a vote on a conscience issue it is likely to do so. The onus lies on the member giving a proxy to direct the proxy holder how to exercise it if he or she sees fit to give such a direction. If the member giving the proxy does direct how it is to be used, it must be exercised only as authorised.\textsuperscript{128}

A proxy cannot be transferred by the named holder to another member,\textsuperscript{129} but a member is at liberty to give out more than one proxy. If any dispute arose as to overlapping proxies, the Speaker would decide which, if any, applied.

**Withdrawal or amendment of proxy**

A proxy can be withdrawn or amended at any time by the member who gave it, provided this is done before it is exercised in any particular case.\textsuperscript{130} It cannot be

\textsuperscript{117} SO 150(2).
\textsuperscript{118} (1989) 499 NZPD 11114.
\textsuperscript{119} (1886) 55 NZPD 147–148 O’Rorke; (1 December 1982) [1982] JHR 408.
\textsuperscript{121} Constitution Act 1986, s 11(1).
\textsuperscript{122} (2001) 590 NZPD 8154 Hunt.
\textsuperscript{123} See pp 204–207.
\textsuperscript{124} SO 154(1).
\textsuperscript{125} SO 154(4).
\textsuperscript{126} (1998) 573 NZPD 13392 Kidd.
\textsuperscript{127} SO 154(2).
\textsuperscript{128} (1998) 569 NZPD 10452 Kidd.
\textsuperscript{129} SO 155(1); (1998) 569 NZPD 10452 Kidd.
\textsuperscript{130} SO 154(3).
Withdrawal or amendment of a proxy does not have to be effected in writing. It can be done orally, for example by telephone, or by electronic means such as email or text. But it must always be communicated directly to the proxy holder. It is not sufficient that a member has made public comments apparently inconsistent with the proxy or indicated to another member an intention to withdraw a proxy. Withdrawal of a proxy or any qualification to be placed on a proxy’s exercise must be conveyed directly to the proxy holder.132

**Disputes over proxies**

If there is a dispute about whether a valid proxy exists or about the propriety of its exercise, the Speaker decides the matter, having examined the proxy if need be. But proxy obligations are matters between the member giving the proxy and the member exercising it and the Speaker will not intervene at the behest of other members. The Speaker will accept the word of the member exercising a proxy if a question arises during a vote as to its proper exercise. Ultimately, if a proxy were deliberately misused this would constitute a contempt.134

**RESOLUTION OF A QUESTION**

When a question is put to the House and decided, whether on the voices or following a party vote or personal vote, it is said to be agreed to or not as the case may be. Where fewer than 20 members vote or abstain on a personal vote no decision at all is arrived at, and certain decisions require a qualified majority of votes to be carried. If it is agreed to, the question becomes a resolution or order of the House. Previously, a distinction was made between the two terms whereby a resolution expresses the opinion of the House, while by an order the House expresses its will. However, recently the term “resolution” has been used almost exclusively to describe the outcome when any motion has been passed by the House. In principle, mere resolutions of the House do not have legal effect, but statute may attach legal consequences to a resolution or confer powers on the House that it exercises by passing a resolution (for example, recommending the appointment of certain officers).

All decisions of the House are recorded in the Journals and are matters of public record. Occasionally, the Speaker is specifically directed by the House to convey a resolution or order of the House to a person at whom it is directed or who is specially affected by it. All members are at liberty to convey resolutions of the House to anyone they consider should have them drawn to their attention.

**RESCISSION OF RESOLUTION**

Any resolution of the House may be formally rescinded. A resolution may be revoked even though it was passed many years ago. A motion for rescission of a resolution can be moved after notice has been given in the ordinary way.139

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133 SO 155(1).
134 (1998) 566 NZPD 8013 Braybrooke (Chairperson).
135 SO 151.
136 See p 246.
137 Dyson v Attorney-General [1912] 1 Ch 158. See Chapter 2.
138 For example: New Zealand Superannuation and Retirement Income Act 2001, s 73(3).
139 SO 104.