

12/98 Review of Standing Orders

(A report from the Standing Committee.)

Introduction

1. In 1998 the Synod of the Diocese of Sydney resolved as follows (resolution 12/98) -

“Synod requests that the Standing Committee review and, if possible, simplify the Standing Orders.”.

2. On 16 November 1998 the Standing Committee appointed a committee to review the existing standing orders and make recommendations to the Standing Committee. The existing standing orders (the “1968 Standing Orders”) are set out in the Schedule to the Standing Orders Ordinance 1968 which is printed on pages 313 to 330 of the *Seventh Handbook*.

3. Subsequently, the committee recommended a total rewrite of the 1968 Standing Orders and drafted a proposed new ordinance which incorporated its recommendations. The Standing Committee considered that the committee’s proposals were worthy of further consideration and asked that a copy of the proposed ordinance be sent to each member of the Synod for comment by 31 August 1999. The committee was asked to review any comments and make recommendations about whether the proposed ordinance should be promoted to the Synod this year and, if so, in what form.

4. Comments were received from 10 persons. Some pointed out typographical errors and made suggestions about drafting. Generally, these suggestions have been adopted. Other comments made suggestions involving points of principle. Some of those have been incorporated in the revised draft of the proposed ordinance. Other suggestions have not been adopted.

5. On the recommendation of the committee the Standing Committee has approved the promotion of a proposed ordinance, the Conduct of Business of Synod Ordinance 1999, to the 1st session of the 45th Synod.

Proposals for Change

6. In preparing the proposed ordinance the following principles have been adopted -

- (a) using simpler language;
- (b) setting out the rules of procedure in a more user friendly way;
- (c) where considered appropriate, simplifying those rules of procedure; and
- (d) dispensing with those provisions of the 1968 Standing Orders which are considered to be redundant.

7. The proposed ordinance completely revises the 1968 Standing Orders and so it is impracticable to specifically refer to each proposed change. Rather, the following comments focus upon the major areas

where the proposed ordinance differs from the 1968 Standing Orders. For assistance, a table is attached which compares, in a general sense, the provisions of the 1968 Standing Orders with the rules of procedure recommended in the proposed ordinance.

Commencement

8. If adopted at the forthcoming session of the Synod, clause 4 of the proposed ordinance makes it clear that the new rules will not apply until after the session.

Name of the Proposed Ordinance

9. The choice of the name of the proposed ordinance, the "Conduct of the Business of Synod Ordinance 1999" is intentional. The term "standing orders" is thought to be old fashioned and is not in common usage. The proposed name more clearly indicates the purpose of the proposed ordinance.

Layout of the Proposed Ordinance

10. The proposed ordinance is divided into 6 parts. The first rule in parts 2, 3, 4 and 5 provides a summary of what the remainder of the part is about. In each case the rule is not essential, but it should assist the average Synod member in understanding the rules of procedure.

President of the Synod

11. Clause 4 of the 1968 Standing Orders provides, in effect, that in the absence of the Archbishop the Synod is adjourned until the next regular day of sitting.

12. Clause 5(d) of the revised 1902 Constitutions (which took effect last year) contemplates that in the absence of the bishop of a diocese, and his commissary, a person selected by the Synod shall be the President. Specifically the clause provides -

"The Bishop of the Diocese, or in the absence of the bishop a commissary appointed by such Bishop in writing, or, in the absence of the Bishop and of such commissary, a person selected by the Synod shall be president of the Synod, and may adjourn, prorogue, and dissolve the same with the concurrence of the Synod."

13. Having regard to clause 5(d), the proposed ordinance includes a rule, proposed rule 1.2, which deals with the presidency of the Synod in the absence of the Archbishop. At the request of the Archbishop, the rule expressly states that the President does not have authority to assent to an ordinance of the Synod unless authorised to do so under the 1902 Constitutions.

Quorum

14. Under clause 2(1) of the 1968 Standing Orders a quorum at the first meeting of each Synod, and at any time when a proposed ordinance is being considered, is not less than one-quarter of the members of each order. At other times the quorum is 22 clerical members, exclusive of the

President, and 44 lay members. Under proposed rule 1.3, the quorum, when a proposed ordinance is being considered, will remain at one-quarter of the members of each house. Otherwise, 50 members of the house of clergy and 100 members of the house of laity will be a quorum. This is an increase on the current requirements but, given the present size of the Synod, it is considered that this is justified.

15. In light of the proposed quorum requirements, it is thought that there is no need to retain the provision in the third sentence of clause 41 of the 1968 Standing Orders whereby the Synod may determine that there be a special quorum for the consideration of a particular matter.

Officers and Committees of the Synod

16. Part 2 of the proposed ordinance identifies the officers and committees of the Synod and sets out their functions. The part brings together provisions dealing with the Secretaries of the Synod, the Chairman of Committees, the Deputy Chairman or Chairman of Committees, the Committee of Elections and Qualifications, the Committee for the Order of Business and the Minute Reading Committee.

17. The proposed ordinance does not provide for a Committee concerning the Presidential Address found in clause 14A of the 1968 Standing Orders. In recent times, where a matter raised in the Presidential Addresses has been of particular interest to Synod members, the Synod has resolved to request that the Standing Committee or some other body take appropriate action. It is also open to the Archbishop to appoint his own committee to deal with matters arising from his address. In light of this, it is considered that there is no compelling reason for a separate committee established for the sole purpose of dealing with matters arising from the Presidential Address.

18. Where appropriate, the provisions in the proposed ordinance dealing with officers and committees of the Synod reflect current practice, or provide consistency in the time of appointment.

Order of Business

19. The Order of Business of the Synod is set out in Part 3 of the proposed ordinance.

20. The Order of Business for the first day of a session is similar to that specified in the 1968 Standing Orders except that a provision has been inserted giving priority to motions for proposed ordinances which have been referred from a previous session of the Synod. It is considered to be unsatisfactory that ordinances be consistently delayed. Proposed ordinances from a previous sessions should take priority over new ordinances, subject to the right of the Synod to change that priority.

21. The Order of Business for the second and third days of a session is specified in proposed rule 3.3 and the order of business for the fourth and later days is specified in proposed rule 3.4. These are similar to the existing rules in the 1968 Standing Orders, except that motions about proposed ordinances are given priority.

22. In the draft ordinance circulated to Synod members for comment, it was proposed that provisions for the tabling of petitions be deleted, and to provide that members could only give notice of questions on the first and second days of a session. As a result of comments received, the provisions for the tabling of petitions have been restored (see proposed clauses 3.2(i), 3.3(e) and 6.2) and proposed rule 3.3 amended to provide that questions may be asked on the first, second and third days of a session, as under the 1968 Standing Orders.

Numbers of Members to Object etc

23. Under the 1968 Standing Orders -

- (a) any one member can object to a motion being taken formally (Standing Order 12);
- (b) any 30 members can require that a vote be taken by ballot (Standing Order 47);
- (c) any 5 members may require that a vote on an ordinance be taken by houses (Standing Order 55);
- (d) any 6 members can object to a proposed ordinance being taken formally (Standing Order 65); and
- (e) any 10 members can object to a suspension of the Standing Orders by notice without motion (Standing Order 57).

24. At the suggestion of a member of the Synod, these numbers have been made consistent in the equivalent rules in the proposed ordinance. The number 8 has been adopted as the standard number since, under clause 5(b) of the revised 1902 Constitutions, any 8 members may require that a vote on an ordinance, rule or resolution be taken by houses. See proposed rules 4.5, 4.12, 5.4 and 6.5.

Select Committees

25. The proposed ordinance does not contain provisions for the establishment of select committees of the Synod. Over the last 30 years, it is believed that the Synod has only appointed 1 select committee (being the Select Committee on Clerical Enquiries appointed in 1994). In recent times, the select committee procedure has been rarely used. Further, in recent years, questions arose about whether a Synod could appoint a select committee to deliberate and report to the next Synod. If these concerns are correct, the effectiveness of select committees is diminished. If the Synod wishes to establish a committee to consider a matter, it can do so by ordinary motion (and has done so on at least 41 occasions over the last 30 years). Further, there is a large degree of flexibility in how such committees can be established. Accordingly, it is considered that there is no compelling reason which justifies the need for special rules for select committees.

26. One member of the Synod objected strongly to the deletion of the provisions for the establishment of select committees saying that the proposal "strikes at the heart of a very fundamental power of the Synod to take matters into its own hands when it judges the occasion warrants it." The member argued that the set procedures of nomination and

election, and the rule for the convening of meetings of a select committee, give it a solemnity appropriate for a Synod enquiry which relates to a matter which the Synod wishes to take out of the hands of the Standing Committee or treat in a different way from normal Synod committees. The committee which prepared the proposed ordinance considered these comments but does not agree with them.

Time Limits for Speeches

27. In rule 4.6 it is proposed that the same time limits on speeches apply as in clause 35 of the 1968 Standing Orders except that speeches in meeting of the Synod in Committee (the proposed term for a Committee of the Whole Synod) be reduced from 10 minutes to 5 minutes, subject to the Synod having power to allow a speaker to speak for a longer time. This reduction in speaking times in committee has been adopted by the Synod in recent years, and so the proposal merely reflects that practice.

Divisions

28. Clauses 47(1), 55 and 56 of the 1968 Standing Orders provide for divisions. These provisions are rarely used and, given that it is proposed that any 8 members can call for voting by ballot, the rules for divisions need not be retained. Accordingly, they are deleted from the proposed ordinance.

Referral and Deferral of Ordinances

29. Clause 53(2) of the 1968 Standing Orders allows the Synod to *refer* a proposed ordinance to the next session of the same Synod and *defer* a proposed ordinance to a session of the next Synod. The reason for the distinction between referring and deferring an ordinance is not clear. Indeed, an inspection of the Synod minutes over the years shows that the Synod has resolved to *refer* ordinances to a session of the *next* Synod! There is no good reason for distinguishing between referring and deferring a proposed ordinance, and so it is proposed that the distinction be abolished and that the rules of procedure allow for the referral of an ordinance to either the next session of the same Synod or a session of the next Synod - see rule 5.11.

Ordinance Procedure

30. The rules in Part 5 of the proposed ordinance are intended to simplify the procedure relating to ordinances. The following changes are suggested.

- (a) It is proposed to delete the requirement that "private members" bills be endorsed by at least 6 members of the Synod.

One member of the Synod has objected to this proposal on the basis that the Synod would be flooded with "private members" bills some of which might be quite ill considered, each of which would have to be considered provided that due notice was given.

The introduction of a "private members" bill is, in essence, the moving of a motion. The existing Standing Orders (and the proposed rules) allow a single member of the Synod to give notice of a motion. The Synod determines if a motion is ill considered when it votes on the motion. For consistency, it is considered that the Synod should determine if a proposed ordinance is ill considered when it considers a motion for its introduction. This being the case, there is no compelling reason for requiring that a bill be endorsed by at least 6 members before it may be introduced.

- (b) The procedure for the introduction of a proposed ordinance has been simplified by combining the motions for leave to introduce and the first reading into one motion for the introduction of the proposed ordinance - see rule 5.3.
- (c) The procedure for formal ordinances has been simplified - see rules 5.3 and 5.4.
- (d) The concept of a second reading has been deleted and replaced with a motion that the proposed ordinance be approved in principle - see rule 5.4.
- (e) The concept of a third reading has been abolished. After the text of a proposed ordinance has been settled, the final stage, subject to recommittal, is a motion that the proposed ordinance pass as an ordinance of the Synod - see rule 5.6.
- (f) Rule 5.8 is a simplified provision enabling a proposed ordinance to be recommitted at any time before the Synod passes the proposed ordinance. The rules for recommittal in clause 67(6) and 68(2) of the 1968 Standing Orders are detailed and subject to conditions, and it is thought that such detail and conditions are necessary.

31. Under the 1968 Standing Orders, the second reading of a bill occurs on a later day to the first reading. At the suggestion of a member of the Synod, proposed rule 5.3(4) will allow the Synod to consider approving an ordinance in principle immediately after the proposed ordinance has been introduced. Thus, the proposal is that the "second reading" may immediately follow the "first reading". This principle will not apply if the mover seeks to have a proposed ordinance considered formally but the Synod disagrees. In that case, the motion that an ordinance be approved in principle must be considered no earlier than the next day: see proposed rule 5.4.

Recourse to Parliamentary Practice

32. Under clause 72 of the 1968 Standing Orders, recourse is to be had to the standing orders of the Legislative Assembly in cases not provided for in the 1968 Standing Orders. The proposed ordinance does not retain this principle. It provides that any question of procedure is to be determined by the President, subject to the ability of the Synod to determine differently (rule 4.2(4)). It is considered that where a question of procedure arises which is not expressly dealt with by the Synod's rules

of procedure, the President (and the Synod) should be free to determine how the Synod will proceed. While the standing orders of the Legislative Assembly may well be persuasive, they should not apply automatically. In any event, the 1968 Standing Orders are very comprehensive (as are the rules in the proposed ordinance) and it is only rarely that recourse has been had to the standing orders of the Legislative Assembly.

Archbishop's Discretions

33. The proposed ordinance contains 2 provisions which impact on the Archbishop's discretions. First, under rule 3.2, the Archbishop *must* table a document appointing a commissary. Under the equivalent provision in clause 9 of the 1968 Standing Orders the Archbishop *may*, but is not obliged to, appoint a commissary. The committee considers that the appointment of a commissary (who under the 1902 Constitutions exercises the powers of the Archbishop when he is absent from the province) is desirable. Secondly, proposed rule 4.16(3) gives the Synod power to alter a decision of the President on whether a motion is substantially the same as one which has already been resolved at the same session. The Synod does not have such a power in the equivalent provision in clause 50 of the 1968 Standing Orders but such a power is consistent with the principle reflected in proposed rule 4.2(4) and clause 31 of the 1968 Standing Orders. One member of Synod expressed strong objection to this second proposal.

Recommendation

34. Synod pass the proposed ordinance as an ordinance.

For and on behalf of the Standing Committee

MARK PAYNE
Diocesan Secretary

29 September 1999

Comparison of Provisions

1968 Standing Orders	Proposed 1999 Rules of Procedure
Clause 1	Rules 1.1(1) and (2)
Clause 2	Rules 1.4(1) and (2)
Clause 3	Rule 1.4(3)
Clause 4	Rule 1.2
Clause 5	Rules 3.2 and 3.3
Clause 6	Rule 2.2
Clause 7	Rule 2.2
Clause 8	-
Clause 9	Rule 3.2
Clause 10	Rule 4.3(4)
Clause 11(1)	Rule 3.3
Clause 11(2)	Rule 3.4
Clause 12	Rule 4.5
Clause 13	Rules 2.5 and 6.1
Clause 14	Rule 2.6
Clause 14A	-
Clauses 15 to 23 inclusive	-
Clauses 24 to 26 inclusive	Rule 6.2
Clause 27	Rule 6.3
Clause 28	Rule 4.2(1)
Clause 29	Rule 4.2(2)
Clause 30	Rule 4.2(3)
Clause 31	Rule 4.2(4)

1968 Standing Orders	Proposed 1999 Rules of Procedure
Clause 32	Rule 4.2(5)
Clause 33(1)	Rule 4.2(6)
Clause 33(2)	Rules 4.2(6) and (7)
Clause 34	Rule 4.13
Clause 35	Rule 4.6
Clause 36 (first sentence)	Rule 4.7(1)
Clause 36 (second sentence)	Rule 4.11
Clause 37	Rule 4.4
Clause 38	Rule 4.7(2)
Clause 39	Rule 4.3
Clause 40	Rule 4.3
Clause 41 (first sentence)	Rules 3.2, 3.3, 3.4 and 3.5
Clause 41 (second sentence)	Rule 3.5
Clause 41 (third sentence)	-
Clause 42	Rule 4.8
Clause 43	Rule 4.9(1)
Clauses 44(1) to (4)	-
Clauses 44(5) to (10)	Rules 4.9(2) to (8)
Clause 45	Rule 4.14
Clause 46	Rules 1.4(3), 4.13 and 4.14
Clause 47(1)	Rules 4.12 (1) to (3)
Clauses 47(2) and (3)	Rule 4.10
Clause 48	Rule 4.15
Clause 49	Rule 4.16(1)

1968 Standing Orders	Proposed 1999 Rules of Procedure
Clause 50	Rule 4.16(2)
Clauses 51 and 52	Rule 1.4(3)
Clause 53(1)	Rule 4.13(1)
Clause 53(2)	Rules 5.9 and 5.11
Clause 53(3)	-
Clause 54 (first sentence)	-
Clause 54 (second sentence)	Rule 6.4
Clause 55 (first sentence)	-
Clause 55 (second sentence)	Rule 4.13(3)
Clause 56	-
Clause 57	Rule 6.5
Clause 58	Rule 4.17(6)
Clause 59	Rule 4.17(6)
Clause 60	Rule 4.4(2)
Clause 61	Rule 4.17(3)
Clause 62	Rules 2.3(2) and 4.17(5)
Clause 63	Rule 2.4(4)
Clause 64(1)	Rule 5.3(1)
Clause 64(2)	-
Clause 64(3)	-
Clause 64(4)	Rule 5.2
Clause 65(1)	Rule 5.3(1)
Clauses 65(2) to (7)	Rules 5.3(2) to (4) and 5.4
Clause 66(1)	Rules 5.3(4) and 5.4(9)

1968 Standing Orders	Proposed 1999 Rules of Procedure
Clause 66(2)	Rule 5.5(1)
Clauses 66(3) and (4)	Rules 5.5(2) to (11)
Clauses 67(1) to (5)	Rule 5.6
Clause 67(6)	Rule 5.8
Clause 67(7)	Rule 5.7(2)
Clause 68(1)	Rule 5.7
Clause 68(2)	Rule 5.8
Clauses 68(3) and (4)	Rule 5.7
Clause 69	Rule 6.7
Clause 70	-
Clause 71	Rule 6.5
Clause 72	-