

54/95 “Church Ministry Ordinances”

(A report from the Standing Committee.)

Synod Resolutions

1. Resolution 54/95 reads -
“Synod asks the Standing Committee to arrange as a matter of urgency for a report to be produced on the Church Ministry (Baptism) Ordinance 1995 and the other Church Ministry Ordinances, to seek the views of ministers and parish councils, and to refer these matters to the first day of the first session of the next Synod.”
2. By resolutions 53/95 and 56/95, the Synod in 1995 deferred the committee stage of 1 and the second reading stages of the other 4 “Church Ministry Ordinances” to the 44th Synod. There is a separate report on the Baptism proposal as requested by the Synod in resolution 53/95.

Church Ministry Ordinance 1993

3. The 5 “Church Ministry Ordinances” are bills to amend the Church Ministry Ordinance 1993. They were introduced in our Synod in 1993 but have been deferred each year since then due to lack of time and a variety of proposed amendments.
4. The General Synod was the catalyst for the 5 bills but they have coincided with a need for our Diocese to have a clearer statement of our rules on ministry than the Canons of 1603 provide.
5. The Church Ministry Ordinance 1993 was conceived as the means of restating our rules and it now has 2 schedules, for Confessions and Lessons. Other schedules were to be added from time to time, or existing schedules were to be amended or deleted. The schedule on Confessions is identical with a General Synod canon adopted by our Synod in 1993 but the schedule on Lessons, although based on a General Synod canon, is not identical with that canon.
6. The 5 proposed new schedules to our Church Ministry Ordinance 1993 are based on 4 provisional canons and 1 canon of the General Synod, but they are not identical with those documents. So far Sydney has failed to clearly assent to or dissent from the 4 provisional canons (they were passed in 1992) and we must act promptly if we are to have any impact in consideration of the provisional canons prior to the next General Synod meeting.

“Church Ministry Ordinances”

7. The “Church Ministry Ordinances” on Baptism, Confirmation, Holy Communion and Services are -
 - (a) to assent to General Synod provisional canons;
 - (b) to repeal certain of the Canons of 1603; and
 - (c) to make new rules as schedules to the Church Ministry Ordinance 1993.

8. The Church Ministry (Robes) Ordinance is -
- (a) to repeal certain of the Canons of 1603; and
 - (b) to make new rules as a schedule to the Church Ministry Ordinance 1993.

9. Each Ordinance purports to vary the trusts of any property held on a trust which is inconsistent with the schedule proposed to be inserted in the Church Ministry Ordinance 1993, so as to be consistent with that schedule.

What is a Provisional Canon?

10. Section 28 of the 1961 Constitution (page 128 of the *7th Handbook*) enables the General Synod to pass provisional canons, to refer those provisional canons to the synods of each diocese and for each synod to assent to or dissent from those provisional canons. A synod may make a report and recommendations to the General Synod.

11. If every diocesan synod assents to a provisional canon, it becomes a canon. Otherwise it has a further second reading and committee stage at the next General Synod meeting when any reports/recommendations from diocesan synods are considered. It may then pass as a canon or as a provisional canon once more.

12. If a provisional canon becomes a canon, it must be adopted by an ordinance of the synod of a diocese before it operates in that diocese. So the giving of assent to a provisional canon by our Synod is not necessarily a signal that we will adopt it.

Appointment of Committee

13. We appointed a committee comprised of Mr N.M. Cameron, Mr G.O. Blake, Mr Justice K.R. Handley, Bishop D.W.B. Robinson, Mr R. Tong and Mr Justice P.W. Young to give its views on whether the Synod, by the method of the various Church Ministry Ordinances, can enact law in this Diocese.

Powers of the Synod

14. In an interim report our Committee indicated that, if the Synod of the Diocese of Sydney has power to make the Church Ministry Ordinances presently before it, that power arises from one or more of the following sources -

- (a) the powers under the 1961 Constitution to assent to General Synod provisional canons;
- (b) the 3rd of the 1902 Constitutions which provides, so far as is relevant, that the Synod “may make ordinances upon and in respect of all matters and things concerning the order and good government of the Anglican Church of Australia and the regulation of its affairs within the Diocese”; and
- (c) the wide powers of the Synod to govern and control the management and user of church property under section 24 of the

Anglican Church of Australia Trust Property Act 1917 and the powers to vary trusts set out in section 32 of the Act.

15. In so far as a Church Ministry Ordinance seeks to assent to a provisional canon of the General Synod the Ordinance is within the power of the Synod.

16. However there is disagreement among the members of the Committee about whether the Synod has powers to make laws on baptism, confirmation, Holy Communion, lessons, robes and services in the manner proposed by the various Church Ministry Ordinances.

17. The construction of the 3rd of the 1902 Constitutions is central to the issue -

“3. The Synod of each Diocese may make ordinances upon and in respect of all matters and things concerning the order and good government of the Anglican Church of Australia and the regulation of its affairs within the Diocese, including the management and disposal of all Church property, moneys, and revenues (not diverting any specifically appropriated, or the subject of any specific trust, nor interfering with any vested rights), except in accordance with the provisions of any Act of Parliament, and for the election or appointment of church-wardens and trustees of churches, burial grounds, church lands, and parsonages. And all ordinances of the Synod shall be binding upon the Bishop and his successors, and all other members of the Church within the Diocese, but only so far as the same may concern their respective rights, duties, and liabilities as holding any office in the said Church within the Diocese.”

18. Our Committee reported that it has been unable to agree on one view of the Synod's powers to pass these ordinances. Mr Justice Handley was away when the Committee reported. The Standing Committee has referred the report back to the Committee for further consideration as it is important that we proceed together as far as possible.

But Where to Now?

19. The Standing Committee recommends that the Church Ministry Ordinances be deferred for 12 months to enable the Standing Committee to make a further report. The Standing Committee has resolved to invite Canon Peter Jensen, Archdeacon Paul Perini, Dean Boak Jobbins, the Rev Dr Roger Chilton, the Rev Graham Crew, the Rev Dr Rod Irvine and the Rev Jim Ramsay -

- (a) to recommend to the Standing Committee and the Synod a response for the General Synod on Provisional Canons P4, P5, P6 and P7 of 1992; and
- (b) to advise the Standing Committee and the Synod whether these Provisional Canons and the Canon Concerning Vesture of Ministers 1992 are likely to be acceptable to most clergy and laity in the Diocese and likely to be mostly observed by most clergy in the

Diocese and, if not, to recommend changes which may be expected to produce that acceptance and observance.

20. In view of this recommendation and to contain printing costs, the Church Ministry Ordinances have not been printed for this session of the Synod. Copies can be obtained from me or Mark Payne on request.

For and on behalf of the Standing Committee

WARREN GOTLEY
Diocesan Secretary

18 November 1996