

AGENDA 2.3.9

Changes to the LCA voting system

(See also Agenda 2.4.13)

PROPOSED MOTION

Submitted by LCA NSW District Church Council

BE IT RESOLVED that the Constitution, the By-laws of the Church, the By-laws of the Church — Constitution of the Districts, and the By-laws of the Church — By-laws Part A of the Districts be amended so that voting majorities be determined by reference to registered delegates present and voting, and that quorums be determined by reference to delegates who have been registered and who have not been excused; to wit:

Constitution, Article 11 [*re* dissolution]

11.1.3 The motion must be presented at a duly constituted General Synod and shall require a majority of three-quarters of all the three-quarters majority of registered delegates present and voting of the General Synod.

Constitution, Article 13 [*re* alterations to the constitution]

13.2 Notice of any such motion to amend, alter, add to or repeal any of the rules shall be given on the agenda of the convention, and any motion to amend, alter, add or repeal shall require a two-thirds majority of registered delegates present and voting all the delegates registered at the convention.

By-laws of the Church, Section 7.2 [*re* convening the General Synod]

7.2.5 All delegates and consultants shall register for the convention at the time and place announced by the Secretary. For the purpose of all matters relating to quorum, the term “registered delegates” shall mean all delegates to the General Synod entitled to vote, who have registered pursuant to this section and have not been excused pursuant to Section 7.2.7.

7.2.6 For the purpose of transacting business in general, a majority of registered delegates the maximum number of persons entitled to vote according to the rules shall form a quorum. For the purpose of voting on a resolution for dissolution or amalgamation pursuant to Article 11 or a motion of a District to dissolve or amalgamate, quorum shall constitute three quarters of registered delegates. For the purpose of voting on alterations to the constitution pursuant to Article 13, matters of doctrine pursuant to Section 7.3.28, and for suspension of the By-laws pursuant to Section 7.3.29, quorum shall constitute two thirds of registered delegates.

7.2.7 All delegates and consultants shall attend all sessions regularly until the close of the convention. Delegates who arrive late or leave early or who are absent or unable to attend shall submit a written apology to the Secretary. If circumstances warrant, a delegate may request of the Chairperson that the delegate be excused from remaining sessions of the General Synod; the delegate shall be excused at the Chairperson’s discretion.

By-laws of the Church, Section 7.3 [*re* transacting business at the General Synod]

7.3.26.2 For the purpose of all matters relating to voting, the determination of a majority shall be made by reference to the sum of formal ‘yes’ and ‘no’ votes; abstentions and informal ballots (as determined by the Chairperson) shall not be considered. Unless otherwise stipulated, a simple majority of those registered delegates present and voting shall decide the motion, and in the event of an equality of votes the Chairperson

shall in addition to a deliberative vote have a casting vote, or refer the motion for further discussion.

- 7.3.28.1 Matters of conscience and of doctrine shall have precedence over other matters and any rules relating to time limits and number of times a person may speak may be suspended by the ruling of the Chairperson or by a majority of ~~those~~ registered delegates present and voting.
- 7.3.28.3 For a resolution on a matter of doctrine to be deemed to be the official position of the Church it shall require a two-thirds majority of ~~all the~~ registered delegates present and voting at the convention.
- 7.3.29 Any of the By-laws in Section 7.3 may, if the need arises, be suspended in respect to any business of the convention, by a two-thirds majority of ~~those~~ registered delegates present and voting.

Constitution of the Districts, Article 11 [*re dissolution*]

- 11.2.2.3 The motion must be presented at a duly constituted General Synod and shall require a ~~majority of three-quarters of all the~~ three-quarters majority of registered delegates present and voting of the General Synod.
- 11.2.3.3 The motion must be presented at a duly constituted District Synod and shall require a ~~majority of three-quarters of all the~~ three-quarters majority of registered delegates present and voting of the District Synod.
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Constitution of the Districts, Article 13 [*re alterations to the constitution*]

- 13.2 Notice of any motion to amend, alter, add to or repeal any of the rules shall be given on the agenda of the convention, ~~and Any such motion shall require a two-thirds majority of all the registered delegates at the convention, unless the motion relates to an amendment, alteration, addition or repeal already approved or recommended by General Synod or General Church Council of the Church, in which case the motion shall require a simple majority of those registered delegates present and voting. Any such motion not already so approved or recommended shall require a two-thirds majority of registered delegates present and voting.~~

By-laws Part A of the Districts, Section 7.3 [*re transacting business at District Synod*]

- 7.3.26.2 Unless otherwise stipulated, a simple majority of ~~those~~ registered delegates present and voting shall decide the motion, and in the event of an equality of votes the Chairperson shall in addition to a deliberative vote have a casting vote, or refer the motion for further discussion.
- 7.3.29 Any of the By-laws in Section 7.3 may, if the need arises, be suspended in respect to any business of the convention, by a two-thirds majority of ~~those~~ registered delegates present and voting.

BE IT FURTHER RESOLVED that these amendments become effective immediately upon the carrying of this motion.

REASONS FOR THE MOTION

1. The proposed changes are intended to make the voting scheme more reflective of the will of the synod, particularly in the special circumstances of doctrinal matters and

dissolution.

Defining “registered delegates”

2. In respect of voting matters, the current constitution uses several different phrases when referring to delegate roll: “*the maximum number of persons entitled to vote*” [Section 7.2.6], “*all the registered delegates of the General Synod*” [Article 11.1.3], and “*all the delegates registered at the convention*” [Article 13.1], as well as the phrase “*those delegates voting*” in Article 7.3.26.2 and elsewhere. For consistency, the proposal introduces the defined term “*registered delegates*” in the proposed changes to Article 7.2.5.
3. At General Synod, including the most recent Eighteenth General Convention, delegates have been excused by the Chairperson for reasons such as illness and family emergencies. The proposed change formally authorises the Chairperson to excuse delegates, and also give effect to such an action on the pool of voting delegates (for if excusing delegates has no effect, it would be a meaningless exercise). Hence Article 7.2.5 defines “*registered delegates*” as those who have registered with the Secretary (as provided by the current constitution), but excludes any delegates excused by the Chairperson. This defined term is used for all matters relating to voting and quorums.

Majorities

4. The current language relating to the transaction of ordinary business at General Synod, Article 7.3.26.2, provides that motions shall be decided by “*a majority of those delegates voting*”. This concept is maintained, but for clarity and consistency, the proposal uses the phrase “*a simple majority of registered delegates present and voting*”. (A conforming change is made to Article 7.3.26.2 of the District By-laws Part A.)
5. Article 7.3.29 currently requires a two-thirds majority for changing the rules by which convention business is conducted. The concept is maintained, using consistent language: “*a two-thirds majority of registered voters present and voting*”. (A conforming change is made to Article 7.3.29 of the District By-laws Part A.)
6. The proposal adds an introductory sentence to Article 7.3.26.2, which clarifies, in the context of a written ballot, the status of abstentions and informal votes (*ie*, ballots that are left blank, where both yes and no boxes are filled in, or otherwise ambiguous as to the intentions of the voter): The proposed language makes it clear that, if more ‘yes’ votes are received than ‘no’ votes, the motion carries; if more ‘no’ votes are received than ‘yes’ votes, the motion fails.
 - a. According to one authority on parliamentary procedure, “an abstention is not a vote and is not counted as a vote”. Instead, an abstention is an election not to vote. Thus abstentions are counted, but do not count.
 - b. Similarly, an informal ballot does not constitute a vote, thus do not count when determining a majority.
 - c. The election or failure to cast a formal ballot is, in effect, a decision to allow delegates choosing to cast ballots to determine the issue. Strictly speaking, the term “registered delegates present and voting” therefore excludes delegates choosing to abstain or failing to cast a formal ballot. However, the additional language is proposed to add certainty.
7. At General Synod, including the most recent Eighteenth Convention, blank and other informal ballots were received and identified as such, although the current constitution is silent on the practice. The proposed language formally authorises the Chairperson to determine whether a ballot is formal or informal.

Supermajorities

8. Supermajorities are typically required to carry motions relating to the constitution of a group. In the current constitution, two-thirds majorities are required for changes to the constitution [Article 13.2], while a three-quarters majority is required to dissolve or amalgamate [Article 11.1]. The proposed changes maintain the supermajority requirements.
9. As the basis for determining a majority, the current formulation uses all delegates, whether or not they are attending the session, and whether or not they are casting formal ballots or choosing to abstain. This proposal changes the basis to “*a ___ majority of registered delegates present and voting*” — the same as for conducting ordinary business. This means that the question will be determined by delegates able to be influenced by other delegates in the room — a key reason why proxy votes are discouraged at all levels of church governance. Furthermore, this change respects the choice of delegates who abstain: When a delegate chooses not to vote, the delegate should not be deemed to have voted one way or another on the motion.
10. Note that no changes are proposed to the supermajority requirement relating to congregations electing to withdraw from membership in the church [Article 4.3], which requires votes to withdraw from two-thirds of all voting members of a congregation. This is a legitimate requirement for a congregation, that such an important decision be made by the congregation as a whole, rather than by those attending a given congregational meeting.
11. Inability or failure to attend a voting session is of minimal concern with synods: The list of delegates is highly prescribed by the constitution and by-laws [Articles 7.2 and 7.3, Section 7.1]. Notice of convention dates is given a year or more in advance, making it simple for the nomination of delegates to be formalised in writing [Section 7.1.3]. If a delegate cannot attend, an alternate can be appointed [Article 7.6], whether from the delegate’s own parish or elsewhere [7.1.4]. Once at synod, delegates register with the Secretary [Section 7.2.5] and are expected to “*attend all sessions regularly until the close of the convention*”. Most importantly, by definition synod is comprised of the delegates who convene, unlike congregations, whose members may or may not be in attendance at a given congregational meeting.
12. The NSW District Church Council submits that giving significance to abstentions on matters of constitution, dissolution, and doctrine, and that preventing missing or informal ballots from skewing the formally expressed opinion of synod, outweigh the concern that delegates have been excluded from making these critical decisions.

Quorum

13. When a similar motion was discussed at the Eighteenth Convention of General Synod, delegates expressed concern that a vote could be taken at a poorly attended session, in which case a supermajority of those present and voting would not represent the will of the entire delegate roll.
14. This proposal preserves the integrity of synod in such an unlikely scenario through the mechanism of ‘quorum’ — the minimum number of delegates required to conduct business. The current constitution establishes a majority of “*the maximum number of persons entitled to vote*” as the quorum; the proposal maintains this principle for matters of ordinary business, with the language rectified to reflect the formal definition of “*registered delegates*”.
15. By-laws Part A Section 7.3.2 requires the Chairperson to “*ensure that a quorum is present at all times*”. This proposal establishes that the quorum for matters requiring a supermajority is increased accordingly. For example, quorum for voting on dissolution or amalgamation would be three-quarters of registered delegates.

16. The requirement of a 'super quorum' ensures that a so-called blocking minority can always defeat a measure either by ballot or by depriving a session of quorum.
 - a. For example, consider a roll of 120 delegates deliberating a motion to amend the constitution. Assume only 70 delegates are in favour, when 80 'yes' votes would be required in a full session to carry the motion (absent abstentions and informal ballots). Assume further that, late in a session, 20 delegates who would have voted 'no' have left the chamber. If the matter were put to the vote at that time, the tally of 70 'yes' and 30 'no' would see the motion carried. However, if the 30 remaining delegates opposed to the motion were to leave the chamber, the session would no longer be quorate, and the vote could not be put.
 - b. Now consider the same roll of 120 delegates, but where 70 are in favour, 30 are opposed, and 20 would choose to abstain. The abstainers vote neither 'yes' nor 'no', but agree to abide by the will of delegates voting 'yes' or 'no'. Of the 100 delegates choosing to express a position, more than 67% are in favour, and the motion would be carried. Note also that, even if all 30 'no' voters were to leave the chamber, the remaining 90 members would properly constitute a quorum.
 - c. As the examples above illustrate, a super quorum requirement ensures that no motions can be carried when more than one-third of voting delegates object (in the case of constitutional and doctrinal matters), or more than one-fourth object (in the case of dissolution or amalgamation).
17. Note that the proposed changes to determining the outcome of a vote are extended to the District constitutions, but not the explicit requirement of super-quorums for dissolution, amalgamation, or alterations to the constitution. This is because the definition of quorum is not addressed by the District constitution or By-laws Part A; Districts are welcome to enact conforming rules in their By-laws Part B.

Immediate effect

18. The final clause of this motion stipulates that, if the motion be carried, it take immediate effect. It has been the practice, over previous synods, that amendments to the constitution or by-laws take effect only after the close of the convention. However, there is no such requirement in either Article 12 [relating to by-laws] or Article 13 [relating to alterations to the constitution]. In contrast, By-Laws Part A Section 7.3.29 sets out the rule for suspending by-laws, which is obviously intended for immediate effect. Thus the constitution admits immediate changes, rather than prohibits them.
19. There are certain cases where changes to the constitution cannot practically be given effect until after the convention is closed. For example, if the number of delegates or selection procedures were changed, it would be impermissible to expel existing delegates or add new delegates mid-convention or mid-synod. With respect to purely procedural amendments, however, the critical issue is whether giving immediate effect would be practical.
20. With respect to quorum, By-laws Part A Section 7.3.2 currently requires the Chairperson to continuously monitor whether the convention is quorate. This entails counting the delegates present, and comparing that sum to the total number of delegates. This proposal does not impose any greater duty on the Chairperson, but simply clarifies the number to which the delegates present should be compared. Rather than being impractical, this amendment would make it easier for the Chairperson to discharge his or her duty.
21. With respect to voting, here too the proposal clarifies how majorities are determined. It uses a single rule for all ballots, replacing the current requirement of different rules for different types of measures. Again, rather than being impractical, the amendment would add clarity, and would reduce and simplify the voting rules.

22. Arguably, changing the rules during the course of the convention might confuse delegates. We submit that the inconsistency of the current rules already is confusing. If this proposal is presented early in the proceedings, the very fact of discussing the proposal will increase delegates' understanding of the rules by which the convention is to proceed. At the same time, if the synod were to agree to adopt the new rules, and the new rules were therefore to be front of mind, it would be even more confusing if the old rules were to remain in place.
23. It is possible that the synod could cast votes on a proposal relating to a doctrinal or constitutional matter, such that the new rules would yield a different outcome than the old rules. In that the old rules artificially inflate the number of 'no' votes by abstentions, informal ballots, and absent ballots, the likely case would be a proposal that would carry under the new rules and fail under the old rules. It is important to consider the ramifications:
 - a. Consider if the new voting rules were accepted by the synod, but not given effect until the next convention. Thus a proposal could fail, even if, by the rules agreed by delegates as fairer and better than the current rules, it would have passed. Would that be viewed as unfair? We believe the answer would be yes.
 - b. Conversely, consider if this proposal were given immediate effect, thus allowing a proposal to carry, even though it would have failed under the old rules. Would it be viewed as unfair that the motion carried using rules which the delegates agreed were an improvement on the old rules, and which the delegates agreed to apply to the proposal at hand? Claiming an unfair result because fairer rules were used would seem to be a *non sequitur*.
24. In sum, if the synod determines precisely how the current voting rules can be improved, and if the synod agrees that the improved voting rules should apply immediately, there is no constitutional reason to continue using the old rules. On the other hand, if the synod determines precisely how the current voting rules can be improved, it would be contrary to natural justice to continue to use inferior rules to make important decisions about the future of the church.

Conclusion

25. The NSW District Church Council submits that issues requiring a supermajority are so critical to the future of the church that the voting mechanism should reflect the will of synod delegates with the highest fidelity and integrity. We must respect delegates who abstain, by ensuring that their decision not to vote isn't arbitrarily converted into a vote one way or the other. More importantly, we must respect the synod process as a whole. At synod, we gather together, wholly expecting our deliberations to be influenced by the Holy Spirit, and then we vote. Decisions intended to be made this way should not be impacted by absences (excused or not) or by informal ballots. The protocols by which delegates are nominated and registered, supplemented by the proposed changes to the quorum rules, virtually eliminate the scenario where these issues could be decided in an unrepresentative fashion. Therefore we must respect delegates who are present and voting, and let their votes be accurately and faithfully tabulated.
26. If we, the synod, agree to improve the voting rules, there is no reason that the synod cannot agree to apply the voting rules immediately. To the contrary, agreeing to fix the rules, but postponing the effect until after important decisions are made, threatens the perceived integrity of those decisions.

Also submitted by the following congregations, using identical text:

1. *St Paul's Lutheran Congregation, Sydney NSW*
2. *Church of the Good Shepherd Tuggeranong Lutheran Parish, ACT*

Holy Cross Lutheran Congregation, Belconnen ACT