

**Submission**  
**to**  
**Inquiry into Oaths and Affirmations**  
**with Reference to the Multicultural Community**

**conducted by the**  
**Victorian Parliament**  
**Law Reform Committee**

**From SALT SHAKERS**  
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This submission includes an introduction, discussion, responses to the points in the terms of reference and questions asked in the Discussion Paper and a conclusion.

## **1. Introduction**

The current system of oaths and affirmations in Victoria is quite adequate in dealing with our community and does not need to be changed.

## **2. Discussion**

### **2.1 The Australian Community**

We acknowledge that our community is made up of people from many races and differing religious beliefs.

However, the latest census figures from the 2001 census confirm that the vast majority of Australians – 68 % - identify themselves as Christians (12.6 million people). About 23 % of Australians say they have no religion and only 3 % say they have a different religion.

Australia, and Victoria in this particular instance, is overwhelmingly still a Christian nation where the laws are based on Christian traditions.

Thus the standard practice that is currently used in Victoria - of assuming that someone will use the standard oath of swearing on the Bible, starting with the words “I swear by Almighty God” - is the most acceptable alternative.

Christian values and traditions, based on the Ten Commandments, form the basis of our laws. If this presumption is removed we might well ask, “What are our laws based on?” Are they based on witchcraft, or on shari’a law or on aboriginal cultural laws?

## **2.2 Alternatives are already allowed**

We believe that the current system already adequately allows people, under the Evidence Act to, choose not to use the standard oath of swearing on the Bible, starting with the words. “I swear by Almighty God”.

The Evidence Act already allows people to choose to use an affirmation that has no religious content at all. This provides a totally adequate option for those people who have no religious belief.

This affirmation relies on the integrity of the person. “I, A.B. do solemnly, sincerely and truly declare and affirm...”

The Evidence also allows for people of another faith to request the sacred text of their faith if they wish. Since only 3% of people say they have another religion this is a very small section of the community. The actual figures in the 2001 census for Australia are Hindu 95,473; Islam 281,578; Judaism 83,993; Aboriginal traditional religions 5,224 and Other Religious groups 87,145.

The Act already allows for the officer to discern if the person is likely to need another sacred text (for instance by the dress of the person).

If the situation allowed people to choose a sacred text or an oath, we could find ourselves in a situation where a book of spells or the Celestine Prophecy (New Age) or a book of Druid religious beliefs were being used in our courts to swear oaths – in addition to the Qur’an, the Torah and the Vidas of Hinduism. To this we could add Rob Hubbard’s text for Scientology and the Book of Mormon.

Is this a suitable option? We contend that this would be a totally unworkable situation.

To move to a situation where the court provided all these texts and then asked what sort of oath a person will swear is totally unnecessary.

### **Key Global Questions**

- The current rules in the Evidence Act are appropriate.
- Swearing an oath on the Bible should remain as the primary oath. People already have the option to swear an affirmation or an oath on their own text if they wish. This should not be changed.

- The system of oath-taking should definitely retain a religious element – which should be primarily the Bible - and should not be replaced by a ‘non-religious affirmation or a solemn promise to tell the truth’.

### **3. Responses to the terms of Reference:**

#### **a. The significance of sacred texts to witnesses, other parties and jury members of particular faiths;**

If a huge variety of texts are encouraged and allowed in the court situation, it could result in a situation where the witness, the defendant and each of the jury members each took a different oath and swore on a different sacred text – each of which may be irrelevant to the others. In fact they may be highly offensive to the individual beliefs of the others involved.

Allowing the standard practice of an oath sworn on the Bible unless the person requests an alternative is the best option, both for simplicity and for the integrity of the court system.

#### **b) The provision of a sufficient range of appropriate texts and minimum standards in this regard for all Victorian jurisdictions;**

This is one of the problems when one ventures into a situation of allowing everyone to choose their own text for swearing oaths.

The Discussion paper talks of having certain texts available but we must ask “Where would it end?” How many texts would need to be provided to meet the demands of each group? And would some religious texts not be allowed? If that was the case then those groups (perhaps witches, pagans, Mormons, etc ) might get upset at not having their own sacred text available. See the comments above. A veritable library would have to be available. The Court should not have to supply these texts.

The best solution – leave it as it is. The Bible as standard – or a request by the person to use an oath with out religious content or provide their own.

#### **a) The provision of cultural awareness training to all court staff and persons before whom affidavits are sworn and the development of appropriate and sensitive practice by all such persons**

This is where we really enter the realm of the ‘politically correct’. There is no need for such ‘cultural awareness’ training to ascertain the individual needs of the person’s religious or cultural beliefs.

All that is needed is politeness and the administration of the oath as normal. If the person requests the oath or an alternative text, that is a simple procedural manner that just needs to be dealt with by common courtesy, not an elaborate training process in ‘sensitivity’.

**d) Whether the classes or groups of people currently permitted to witness affidavits and statutory declarations are sufficiently accessible to, and reflective of, the diversity of the Victorian community.**

The range of people permitted to witness affidavits and statutory declarations should be based on a range of factors, but should not have to consider race or religion. The range of permissible occupations and qualifications is already broad enough. It must be remembered that these documents can be used in court proceedings and the integrity of these statements must be maintained.

Most people should have no problem contacting someone who is on the list. In terms of Justices of the peace, the factors that may be considered could include geographical location, qualifications and availability to the public. However, race or religion per se – as in some sort of quota system – should not be considered.

#### **4. Conclusion**

We believe that the system we have at present where the Bible is used as the primary system of swearing an oath should be retained. It already allows for people to make an affirmation or swear on their own sacred text. It is not the role of the court to supply this text. In addition, we believe that training in ‘cultural awareness is not required for staff or judges.