



SO HELP
ME GOD

A history of
oaths of office

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Oaths of Office

DUTY AMIDST CHAOS

On the most chaotic of days, our leaders have exclaimed, “So help me God!”

Dallas, Texas

At 12.30 on the afternoon of 22 November 1963, the President of the United States of America was assassinated as he passed the grassy knoll. John F. Kennedy was pronounced dead at 1 o'clock. At 2.38 that afternoon, Lyndon B. Johnson took the oath of office, laying his hand upon a Catholic missal found on a side table in Kennedy's bedroom on Air Force One, and became President of the United States of America.

At his second inauguration in 1965, Johnson reverted to the customary practice and placed his hand on the family bible as he recited the oath required by the Constitution of the United States of America:

I, Lyndon Baines Johnson, do solemnly swear that I will faithfully execute the Office of President of the United States, and will to the best of my ability, preserve, protect and defend the Constitution of the United States.

So help me God!

Four years earlier, at his inauguration in 1961, Kennedy had commenced his inauguration address, after making the oath, with the following words:

We observe today not a victory of party but a celebration of freedom—symbolising an end as well as a beginning—signifying renewal as well as change. For I have sworn before you and Almighty God the same solemn oath our forebears prescribed nearly a century and three quarters ago.

Yarralumla, ACT

On 11 November 1975, the Governor-General, Sir John Kerr, took the extraordinary step of dismissing a prime minister, Gough Whitlam. Malcolm Fraser took an oath as the caretaker prime minister on that day. Whitlam became the Leader of Her Majesty's

Loyal Opposition—it remained *loyal* because its members were still bound by the oath or affirmation of allegiance they had made upon becoming senators and members of the House of Representatives. As long as all continued to act according to their oaths, Australian government continued despite the chaos.

In 2020, the National Archives of Australia released letters between the Private Secretary to Her Majesty the Queen and Sir John Kerr relating to this event. The correspondence was keenly awaited by those who believed it would shed light on the role Buckingham Palace played in the dismissal of Gough Whitlam. When asked for comment, a spokeswoman at Buckingham Palace said:

At Her Majesty’s Coronation on 2 June 1953, the Queen swore an oath to govern the Peoples of Australia “according to their respective laws and customs”. Throughout her reign, Her Majesty has consistently demonstrated this support for Australia, the primacy of the Australian Constitution and the independence of the Australian people . . .

In 1953, the Queen had sworn an oath to govern the peoples of Australia according to their respective laws and customs. In 1975, she acted accordingly, respecting Australian laws and customs.

These words said to God did, at least in some way, make a difference to the worlds into which they were uttered.

CREATING TRUST THROUGH OATHS

Society depends on its members having reason to believe that they can trust one another and those who wield power over them. In certain circumstances, the state needs to establish there is reason to believe someone can be trusted for a specific purpose. The oath is an ancient way of establishing such trust.

What is an oath?

In Australia, an oath is a pledge that invokes divine witness.

A pledge is a solemn promise. Pledges arise when I give my word to you as guarantee. “I give you my word” captures the essence of a pledge. Solemnisation of a promise changes the focus from a contract between parties who treat at arm’s length to that of people committed to one another because they stand in a special relationship. Thus, a pledge is not merely a promise. It is a solemn promise. The promise can either be solemnised religiously, in which case it is referred to as an oath, or without reference to religion, in which case it is referred to as an *affirmation* or *declaration*.

Historically the pledge's promise could only be solemnised by invoking God. In time, the affirmation provided a non-religious alternative, although the default position was that an oath should be sworn unless the person in question objected to doing so, in which case an affirmation would be allowed as an exception. Eventually, the oath and affirmation have come to be regarded in law as equally legitimate options.

Recently, the distinction between oaths and affirmations has been dispensed with in some instances, in favour of a single *pledge* that has interchangeable religious and non-religious solemnisation options. Whichever method is chosen, its purpose is to bind the conscience of the oath-maker.

How do solemn promises give rise to trust?

When I make a solemn promise to you, you have reason to trust me. Making a promise does not guarantee how I shall actually behave in future, but it gives you some reason to believe that I will behave in a certain way. This gives rise to trust. When you have reason to believe that I can be trusted to behave in a certain way in future, there is *hope* that the future will go well—rather than mere *wishful thinking* that it will go well.

Truth, in this context, has at least three interwoven strands, which are apparent in the cognates *true*, *trust*, and the slightly older *troth*. First, there is the accurate telling of what happened in the past—saying what is true. This is the most widely used meaning of truth, but truth is much more than that. Secondly, there is trusting people to do what they say—that they will 'be true to their word.' Finally, there is the third, and grandest meaning of truth as a pledge that someone 'will stay true to you.' This grander meaning of truth extends to loyalty—even in uncertain and dangerous situations. There is a bond of relationship between the parties. It creates mutual confidence that each party will act for the other's good in future situations—and certainty that neither will betray the other to harm. Such promises are instances of *troth*. The marriage ceremony used to include the words, "I plight thee my troth,"—famously, when Prince William married Catherine Middleton, they completed their vows with "and thereto I give thee my troth."

Oaths of office are pledges of troth. When people make a solemn promise upon taking public office, they pledge their loyalty, and to give the best of their abilities, and in the best interests of those to whom they are making the pledge. This distinguishes it from a contractual obligation, which must be discharged according to the terms of the contract. Pledges bind the moral conscience of officeholders to act to fulfil the promise for the sake of those who are part of the newly created relationship. The pledge *binds* because their conscience does not merely prod or urge them to act, but mandates they act in conscientious fashion.

AUSTRALIAN PRACTICE

The current form of oaths required by Australian law is derived from reforms in nineteenth-century England, particularly those recommended by the Royal Commission into Oaths and Affirmations in 1867. The commissioners built on earlier efforts to catalogue the manifold oaths that the British state required, and which had developed over centuries. They produced a voluminous report that ran to some 300 pages. The commissioners recommended radically reducing the number of oaths and creating two principal forms of oath. First, a *general* oath of *allegiance* and, secondly, *particular* oaths that replaced the oaths of service historically required of those charged with performing a specific *duty* for the state.

The oaths-particular included the witness oath and the oath for military service. The commissioners also recommended a number of mixed oaths, which combined the general oath of allegiance and a particular oath of specific duties, such as the judicial oath. In doing so, they distilled ornately worded expressions of duties into shorter phrases to capture their essential elements. For example, the lengthy judicial oath of duties was pared back to the core promises such as to “do right to all manner of people under the laws and usages of this realm, without fear or favour, affection or ill will.” In doing so, they preserved commitments to anti-corruption and impartiality that go back to at least the twelfth century. The commissioners’ recommendations were substantially enacted and their approach to the oaths-general (of allegiance), and oaths-particular (of duties) shapes the wording of many oaths and affirmations still used in Australia.

Most of the oaths, affirmations, and pledges required by public institutions in Australia are set out in law. The solemn promises made by federal ministers when they are commissioned by the Governor-General are, however, a matter of constitutional convention.

Often, the legislation requires that a person “make and subscribe” an oath or affirmation. Oaths and affirmations are *made* by reciting the text set out in the legislation; they are then *subscribed* by signing (‘scribe’) under (‘sub’) the prescribed text with one’s signature as a record of the pledge that has been made. Where legislation specifies that another officeholder must witness the pledge, that person will usually countersign the document, as a record that all the requirements were satisfied.

Pledges will often be made in a public or private ceremony, although this is usually not legally prescribed. This reflects the oath’s profoundly social nature—enabling a community to participate in the event, enhancing the memorable nature of the moment, and impressing upon the pledge-maker the deeply considered frame of mind in which the pledge should be made.

There are three contexts in which the state needs to be able to trust a person, and establishes this trust by requiring the person to make a solemn promise. These are contexts in which

the state needs to trust a person's sense of *loyalty*, *duty*, and *honesty*. Ultimately, these align with the full meaning of the word 'truth'—loyalty is a pledge of *troth*, duty is a pledge to be *trustworthy*, and honesty pledges what one says is *true*.

Pledges of loyalty

Oaths of loyalty invoke the idea of *allegiance*, which can be traced back historically to the obligation owed by a vassal to his liege lord in a feudal society. More generally, it has the sense of fidelity or faithfulness owed by a subject to the sovereign, which in Australia is the Queen of Australia (as distinct from the British Crown). In some circumstances, this emphasis of a duty of allegiance to a sovereign has been displaced by an emphasis on the pledge of loyalty by a citizen to the state. These pledges invoke a sense of one's highest obligation; that one will act in the interests of the person or entity to whom one pledges allegiance or loyalty, and that the pledge-maker will place the interests of this person or entity before the interests of any other person or entity (including the pledge-maker's own self-interest). In other words, it is intended to overcome the risk of betrayal.

When a person pledges loyalty, this gives others reason to trust that the person will not act in a way that benefits the interests of a foreign power, or anyone else who seeks to undermine the interests of the person or entity to whom loyalty is owed. The person can still have commitments to other people or entities (including self-interest), provided those commitments are not incompatible with the primary obligation owed to the person or entity to whom loyalty is pledged.

A pledge of citizenship-loyalty is often required as part of a process of *naturalisation*, the process through which a person who is an *alien* becomes a *citizen*. A pledge of loyalty is also a requirement for assuming certain public offices which require the officer to promise to place the interests of the sovereign (allegiance) or the state (loyalty) before any other interests.*

Pledges of duty

Pledges of duty are required of those holding vice-regal, ministerial, judicial, military, policing, and civic offices in Australia.

In its broadest sense, an *office* means simply a *duty* or *responsibility*.

The origin of oaths of duty is in the mediaeval period. Mediaeval life was based on offices or duties. This was the context in which oaths of office were formed. In this context, there were oaths sworn for all manner of roles that required trustworthiness. In the 1200s and 1300s, these included mayors, bailiffs, coroners, keepers of the rolls of chancery, tax collectors, and

* See appendix (a) for the citizenship pledge and appendix (b) for the oath and affirmation of allegiance taken by parliamentarians.

so forth. Oaths proliferated into many quasi-public offices, such as those in charge of the public scales in the market square (especially for weighing spices), the brokers of important dye-plants, and mediaeval surgeons. It is likely ‘professions’ arose in this time. Upon entry, an individual must ‘profess’ to serve in a certain manner, and the act of their role is the living out of that vow, hence a ‘profession’. This continues today in the professions of priests, doctors, and lawyers, amongst others.

It has been suggested by Mark R. Rutgers, in the *American Review of Public Administration*, that the oath is perhaps the ultimate means to set public office apart. By requiring a person to pledge that the public interest shall prevail over private interest, the oath links personal conscience with public values in a way that is beyond the transient politics of the day—it invokes a sense of “public spiritedness” that sacrifices individual interests for the common good of society. This is necessary, Rutgers argues, because public office has a very special status, unlike any other employment in society: someone is granted access to the most significant powers in society in the form of public authority.

Rutgers also argues that the oath of office aligns the public life and the private conscience. It creates a social and moral bond between the oath-takers and their fellow citizens, and aligns an individual’s conscience with the common good (or the constitution as the procedural and institutionalised expression of it)—in the use of state authority. The primary purpose of an oath of office is to provide security or trust and common direction. It gives expression to a person’s preparedness to give the best and highest moral commitment to act in the public interest.

On the occasion of his swearing-in as Chief Justice of the High Court of Australia, Sir Gerard Brennan explained the judicial promises. He said that the first promise is allegiance to the Crown, the symbolic fount of justice. The second promise was to “do right to all manner of people according to law without fear or favour, affection or ill-will.” This second promise expresses an aspiration to impartiality and independence in the administration of justice and is an oath of duty. “Justice,” Sir Gerard said, “is not done in public rallies. Nor can it be done by opinion polls or in the comment or correspondence columns of the journals.” Rather, the judge must decide the case “in the lonely room of his or her own conscience in accordance with the law.” In this way, the pledge aligns the conscience with the common good.*

Pledges of honesty

A pledge of honesty is often required of those giving evidence in person in a court of law, before a royal commission, or in parliamentary proceedings, including select committees

* See appendix (f) for the oaths of office that a Governor-General or State Governor must take upon assuming vice-regal office; appendix (g) for those required by law and convention of a politician upon becoming a member of the executive; appendix (h) for details of the judicial oath; appendix (i) for oaths of office taken by members of the Australian Defence Force and the various police forces; and appendix (j) for pledges taken by those holding civic office at the local government level.

and standing committees. This pledge gives all those involved in the proceedings, but particularly those who must weigh up the witness's evidence, reason to trust that the pledgemaker is telling the truth. The form of these pledges is substantially the same in each of these contexts, and involves a promise to tell "the truth, the whole truth, and nothing but the truth"; an expression that has been used in courts since at least the thirteenth century.

Pledges of honesty are also common in written documents. A statutory declaration is a written statement declared to be true to the best of the declarant's knowledge and belief, and which is signed by the declarant before an authorised witness. An affidavit is a written statement given as evidence in court proceedings. Affidavit is Latin for "he has sworn", which means the deponent has made an oath (though a deponent can choose to affirm instead). Affidavits differ from statutory declarations in that the person swearing an affidavit swears its contents to be true, rather than declaring it to be true *to the best of his or her knowledge and belief* as is the case with statutory declarations.

Honesty is essential in the justice system, not just for those directly involved, but for broader confidence in the justice system itself.*

LAW AND RELIGION

In antiquity it was believed that gods would visit immediate judgement on a person who broke a promise. Hence, as recorded in Greenleaf, Wigmore and Harriman's *A Treatise of the Law of Evidence* (16th edn, 1899), the Roman form of an oath involved holding a flintstone in the right hand and uttering the formula, *Si Scient fallo, tum me Diespiter, salva urbe aresque, bouis ejiciat, ut ego hano lapidem* ("by Jupiter—and if I lie may Jupiter use this rock to smash me"). According to Tyler's *Oaths: their origin, nature, and history* (2nd edn, 1835), the earliest Christians refused to utter any imprecation. This appears to explain why, from Constantine onwards, the imprecation (a spoken curse) gave way to a religious asseveration (a solemnised promise) made *invocato Dei omnipotentis nomine* ("invoking the name of the Almighty") and/or *sacrosantis evangeliis tactis* ("holding the sacred gospel"). The Christian oath involved shifting from calling upon God to attend to man, and instead calling upon man to attend to God. God is not reminded to punish man, but rather man is reminded that he will eventually be judged by God. An oath was understood as a promise as though to God personally, and the shared belief in an omniscient God, who ultimately rewards those who tell the truth and punishes those who do not, allows the person to whom the promise is made to rely on, and trust, the person making the promise.

* Appendix (c) provides details of the pledges required in superior courts throughout Australia. The form of the witness oath is substantially the same across the jurisdictions.

It appears, however, that, as the oath developed in the Christian world, there was some religious syncretism and mixing of theologies. *Tyler on Oaths* explains there was a practice amongst some Christians to add pagan curses into their oaths.

This development was not simply a matter of Christianising a classical practice. When the oath concludes, “So help me God,” it involves a recognition of the weakness of human nature and calls upon a God who helps people in their weakness; a God who is the source of all strength, and who demonstrates how to keep our deepest promises. The Christian, Jewish, and Muslim faiths maintain that the faithful’s salvation relies upon the pledge-keeping ability of God, and that God is the ultimate example of a pledge-maker.

Whereas in classical theology it was necessary to draw the gods’ attention to human misconduct, God’s name is invoked to draw oath-makers’ attention to their omniscient God in Christian theology. This is a signal to the oath-receiver(s) that the oath-maker holds a belief that God will mete out rewards and punishments for actions. As a result, it gives the oath-receiver reason to believe in the fidelity of the promise and it requires oath-makers to treat the keeping of it as a matter of conscience.

The common law has always regarded oaths as effective because of this religious foundation, but it has never been concerned with the theological basis for this religious foundation. Reports of the Australian Law Reform Commission and the New South Wales Law Reform Commission trace the common law’s approach back to the 1744 decision of Lord Hardwicke in *Omychund v Barker*. In that case, his Lordship held that “all that is necessary to an oath is an appeal to the Supreme Being as thinking him the rewarder of truth and the avenger of falsehood.” It was for this reason that the oaths of Catholics and Jews—but not atheists—could be accepted in Protestant England.

Decisions shortly after *Omychund v Barker* indicate that the law is not concerned with conflicting beliefs about the nature of the deity as much as with shared beliefs about future rewards and punishments that flow from belief in the deity. Theological disagreements did not matter, so long as there was some commitment to a God who rewarded truth-telling and punished lying.

Greenleaf, Wigmore and Harriman elucidate what the common law regarded as insufficient grounding for one’s pledge: one’s own character or honour, one’s regard for the common interests of society, or the fear of the legal punishment inflicted for perjury. These may all influence a witness’s propensity to tell the truth, but the common law considers none of these to be a sufficient safeguard for ensuring the strict adherence to the truth that the law requires. Ultimately, the aim of the oath, at law, is to “bind the conscience”. To be bound means that pledge-makers must act in accordance with their conscience rather than simply being informed or prodded by it. For the religious this means binding oneself to the judgement of God, who is the source of all truth.

HISTORICAL ORIGINS

Oaths appear to have had a central place in the public life of many societies in antiquity. This means their precise origin is uncertain. Athenian citizens committed themselves to contributing to good government. We know that oaths were required of citizens and members of the Boule, Heliast, and other democratic institutions in Athens. Lysias writes that, after selection by lot, the taking of an oath demonstrated the chosen man was worthy of public office. Indeed, Lycurgus of Athens, famously said, “it is the oath which holds democracy together.”

Roman law introduced the peculiarity of requiring a definite form of words in order for an oath to have an effect. The most famous Roman oath was the *sacramentum* which was required to join that keystone Roman institution—the Roman army.

It follows that, although the current practice can be traced back to the Christian oaths that were a feature of the civil administration of England after the Norman Conquest, the oath has a long pre-Christian history and should not be seen as a distinctly Christian innovation. The Norman oaths are detailed in the *Modus Faciendi Homagium & Fidelitatem* (“The Manner of Doing Homage & Fealty”, circa 1275), which records the early use of the witness oath and the phrase, “So Help Me God!” It is notable for listing the specific oaths associated with each public office—including that taken by the keeper of the town scales.

The oath became entangled in politico-religious conflict in England following the Reformation. When Henry VIII broke from Rome and declared himself the head of the Church of England on earth, he was excommunicated by the pope. This meant that he was now subject to the papal *deposing power*, dating back to Pope Gregory VII. According to this doctrine, a king who has been excommunicated by the pope should be removed (deposed) by the pope’s loyal followers. To address this threat, Henry demanded oaths of allegiance to himself that also purported to expunge previous oaths to the Catholic Church. In 1588, Pope Sixtus V issued a sentence and deposition of Queen Elizabeth I which purported to absolve Catholics of their oaths of allegiance to Elizabeth, and also to make it lawful for Catholics to depose her. In 1605, a conspiracy of English Catholics tried to assassinate her successor, King James I, when he attended Parliament at the Palace of Westminster. The Gunpowder Plot very nearly succeeded, and led to a new oath of allegiance to King James which included the formula:

I do further swear that I do from my heart abhor, detest, and abjure, as impious and heretical this damnable doctrine and position—that princes which be excommunicated by the pope may be deposed or murdered by their subjects or by any other whatsoever. And I do believe that the pope has no power to absolve me from this oath . . .

Politico-religious tensions began to subside when the Protestant succession was essentially settled with the Glorious Revolution of 1688. This settlement allowed for the gradual

broadening of the categories of those who were enabled, by legislation, to swear the oath of high office beyond English Protestants to English Catholics and all manner of other Christian denominations, as well as non-Christians, including Jews and Hindus.

In the eighteenth century, provision was made for solemn promises to be made in the form of affirmations rather than oaths. This development was intended to address the predicament of various Protestant sects in England who were not part of the Church of England, most notably the Quakers and the Moravians. These Nonconformist Christians took literally the words that Jesus speaks in the Sermon on the Mount (Matthew chapters 5-7), not to swear an oath, "But let your 'Yes' be 'Yes' and your 'No' be 'No.' Whatever is more than these is of the evil one." They maintained that their conscience would not allow them to swear an oath but that, since their conscience was already bound to let their yes be yes and their no be no, there was no need for an oath. Rather, it was sufficient for them to *affirm* that their conscience was already bound. The solution was to amend the law to provide that these Nonconformists need not swear an oath, but instead they could solemnly and sincerely make an affirmation. This concession was made to people who were Christians, but who believed on theological grounds that they could not swear an oath.

Notably, even the father of classical liberal thought, the beacon of the new movement for tolerance, John Locke, wrote in his *Letter on Toleration*, "Promises, covenants and oaths, which are the bonds of human society, can have no hold upon an atheist." So long as this was the prevailing understanding, atheists were not permitted to make solemn promises. It prevailed until 1888, when legislation allowed atheists to make an affirmation.

Charles Bradlaugh, who was elected as the Member of Parliament for Northampton in 1880, was an ardent atheist and founder of the National Secular Society. After winning election to office, he was unable to take his seat in the House of Commons, as he was not allowed either to swear an oath or make an affirmation under the prevailing rules, which were upheld when he challenged them in court. Bradlaugh's struggle saw him being arrested, imprisoned, fined, and facing repeated by-elections. Ultimately, his efforts resulted in statutory reform which enabled atheists to affirm, and so take their seats in Parliament. Similar legislative provision was made for atheists to make an affirmation as an alternative to the witness oath.

Statistics from the Parliamentary Library show around a third of new members of both Houses of the Commonwealth Parliament have chosen to make an affirmation on being elected to Parliament since the 1970s.

REFORM

Commonwealth governments and State and Territory legislatures have periodically revisited the oaths required by Australian law.

Oaths of allegiance and naturalisation of aliens

Perhaps the most significant example of law reform in relation to oaths was the introduction of the *pledge of commitment* by the Commonwealth Parliament in place of the *oath of allegiance* in the process for naturalising aliens.

Prior to 1949, Australians were legally categorised only as British subjects. From 26 January 1949 onwards, the *Nationality and Citizenship Act 1948* provided for non-aliens to be naturalised as Australian citizens as well as British subjects.

The oath of allegiance was a requirement for obtaining citizenship. The Minister for Immigration, Arthur Calwell, said in his second reading speech at that time:

This [Bill] . . . seeks to establish for the first time the principle of Australian citizenship, while maintaining . . . the common bond of British nationality . . . [it] will enable Australia to proclaim its own national citizenship and establish the duties and responsibilities as well as the rights and privileges that are inherent in it.

The oath prescribed by the Act was:

I, A. B., swear by Almighty God that I will be faithful and bear true allegiance to His Majesty King George the Sixth, his heirs and successors according to law, and that I will faithfully observe the laws of Australia and fulfil my duties as an Australian citizen.

In this oath, the familiar general oath of allegiance sat alongside promises to do particular duties including to observe Australian laws and fulfil the duties of citizens. The only amendment was that between 1966 and 1986 the phrase “renouncing all other allegiance” was included.

Major legislative reform in 1993 substituted a new pledge emphasising citizenship in place of the old oath or affirmation that emphasised allegiance. The new wording is:

From this time forward, [under God,] I pledge my loyalty to Australia and its people, whose democratic beliefs I share, whose rights and liberties I respect, and whose laws I will uphold and obey.

In explaining the reason for this change in his Second Reading speech, the Minister, Neil O’Keefe, focused on the need to move on from the feudal origins of ‘allegiance’:

The pledge calls upon applicants to make a commitment of loyalty to Australia, the nation and its people. This contrasts with the present oath or affirmation of allegiance, which is made to a sovereign by a subject and has its origins in feudal times.

Allegiance was characterized as outmoded; as an idea harking back to feudal systems of governance. This reform also more subtly reflects a shifting emphasis away from ‘subject’ to ‘citizen’. By 1993, the common bond of British subjects had been overshadowed by the bond of a unique Australian identity. This reflected a cultural shift in Australia from a shared British identity to a shared multicultural identity.

The reform reflected not only the shift from a British Australia to a multicultural Australia, but the changing conception of Australians as subjects owing allegiance to the sovereign to citizens owing loyalty to one another, a citizenship-loyalty.

The move also involved dispensing with the terminology of ‘oath’ and ‘affirmation’ and replacing these with two versions of a single ‘pledge’. As the Minister explained in his Second Reading speech:

Alternate versions of the pledge have been included, allowing one to choose either the version using the words ‘under God’ or the version with no religious connotations. This approach properly reflects our diverse society, with its commitment to the fundamental principle that people should have the right to express their faith and to celebrate it. The fact that a significant number of people will want to express their deep commitment to this country in religious terms is therefore specifically catered for and formalises a choice currently available at other solemn occasions, for example, in courts and at swearing in ceremonies.

This reform subtly altered the settlement that had arisen over time: with the oath as having an implied default status, which had the affirmation as an exception. The reform created a new settlement with the religious and non-religious options that are unambiguously equal in status.

Proposals to abolish the witness oath

Various law reform commissions have called for reform of the witness oath in courts of law. The focus of these calls has not often been on the nature or wording of the promise that the witness is required to make (“to tell the whole truth”), but on the methods for solemnising this promise.

The Australia Law Reform Commission considered the question of how best to solemnise the witness’s promise in the 1980s as part of the investigations that led to Australia’s uniform evidence law regime. The majority’s view in the report was as follows:

To those who take the oath seriously (and this covers a great many people) the demands of conscience are more likely to elicit the exact truth than the highly uncertain threat of a prosecution for perjury . . .

It is striking here that the majority considered that for believers the certain judgement of the divine, was more certain than the enforcement of laws against perjury. They continued:

the fact remains that a religious oath contains two potential sanctions compared with the one potential sanction of the affirmation—divine sanction and penal sanction as compared to penal sanction alone. It is difficult, therefore, to reject the possibility that the oath may encourage some witnesses to be more truthful and accurate than they would have been if they simply affirmed.

Thus the majority recommended retaining the current options of an oath and an affirmation.

In the *Australian Bar Review*, Ben Chen discussed the relative position of oaths and affirmations in Australian courts. His research shows that, until the 1990s, Australian courts favoured the common law rule dating back the mid-1700s that oaths could only be taken by those who believed both in God future rewards and punishments. However, the right to affirm was still often presented as an exception, and it was not until the 1990s that the interchangeability became the norm through legislative reform. Today, these reforms amount to a general right to swear or affirm in every Australian jurisdiction without explanation.

In a minority report of the Australian Law Reform Commission, Michael Kirby articulated an alternative position, which has been adopted in numerous reports. This position focuses on: the possibility of different weight being given to witnesses' testimony based on whether they choose the oath or affirmation option; the possibility of discrimination; the proposition that religious belief is declining, limiting its utility for improving truth-telling outcomes; and the thought that it is not appropriate to invoke religion in a secular court system. Concerns have also been raised that the oath is peculiarly Christian or particularly superstitious.

The Victorian Parliament's 2002 Inquiry into Oaths and Affirmations and Multicultural Considerations noted that the most drastic option for reform—the complete removal of the religious oath and its replacement with a secular affirmation or solemn pledge to tell the truth—has found favour with a number of law reform bodies. These include the Irish Law Reform Commission, the Auld Review of the Criminal Courts of England and Wales, the Ontario Law Reform Commission, the English Criminal Law Revision Committee, the Law Reform Commission of Canada, and the majority of the Northern Territory Law Reform Committee.

In 2016, the South Australian Law Reform Institute proposed abolishing the oath and affirmation and replacing it with one form of solemn promise with no religious component in its solemnisation. This recommendation has not been adopted.

The Victorian *Oaths and Affirmations Act 2018* took another approach. It allows witnesses to swear an oath by Almighty God or “the person may name a god recognised by the person’s religion.” This retains but broadens the religious option.

It appears that the religious oath has been retained in courts ultimately, as with many common law rules, on account of its practical utility. Overall, there are many people—perhaps a majority—who are deeply and personally affected by the thought of swearing falsely on a text they consider to be sacred.

Revision of oaths of political office

Constitutional convention has seen ministers take an oath of office as well as the Executive Councillor’s oath since Federation. The oath of ministerial office has traditionally included both the form of the general oath of allegiance as well as an oath of office promising faithful execution of the duties of that office. From 1901 until the 1990s, this oath appears to have remained relatively unchanged. Since the republic debate in the 1990s, reform of this ministerial oath has centred on whether ministers should swear an oath of loyalty to Australia and its people, or an oath of allegiance to the Queen of Australia.

As the oath is a matter of custom, rather than law, successive prime ministers have advised the Governor-General to vary the oath that is administered to the incoming ministry. There has been a sharp divide along party lines. Since Paul Keating’s term, Australian Labor Party prime ministers have dropped the oath of allegiance, preferring to pledge loyalty in other forms. Paul Keating and Julia Gillard made pledges to “the Commonwealth of Australia”, and Kevin Rudd to “the Commonwealth of Australia, her land and her people”. Since John Howard’s term, all prime ministers drawn from the Liberal Party of Australia have retained the oath of allegiance to the sovereign, but have supplemented it with an additional pledge to serve “the people of Australia”.

Although there were obvious resonances with his advocacy of an Australian republic, Paul Keating justified the removal of the oath of allegiance to the sovereign on the basis that this is already required of all parliamentarians, and as ministers are drawn from members of the parliament, they have already sworn allegiance to the sovereign.

Professor Enid Campbell notes in the *Monash University Law Review* that, to be eligible to serve in the Commonwealth Parliament, a person must satisfy section 44 of the Australian Constitution, and so is already a subject. The implication is that the oath of allegiance is more of a ceremonial than legal significance. Campbell also proposes that the object of any loyalty should be Australia and its people, rather than the Queen of Australia, or maybe even the Australian Constitution, as is the case in the United States of America. Campbell proposed this in the context of the Australian referendum on a republic. To amend the oath of allegiance for new senators and members required by the Constitution would require a referendum.

Similar movements have occurred at the State level, although this has only required statutory reform. In 2006, legislation in New South Wales provided that new members of Parliament and the Executive Council were no longer to swear an oath of allegiance, but rather the following pledge of loyalty:

Under God, I pledge my loyalty to Australia and to the people of New South Wales.

(With the option to omit 'Under God'.)

When the government changed, however, the legislature passed the *Constitution Amendment (Restoration of Oaths of Allegiance) Act 2012*, providing parliamentarians and Executive Councillors with the options of making an oath or affirmation of allegiance and/or a pledge of loyalty.

The Australian Public Service and Border Force

From 1901 until 1973, members of the Australian Public Service swore an oath of allegiance to the Crown. Since then, public servants have been governed by law and charters of values. There have been various suggestions to reinstate an oath, including the recommendations of the Australian Law Reform Commission for an oath of confidentiality.

Other common law jurisdictions, such as the United States and Canada, have retained an obligation to swear an oath of service, which promises “faithful execution”, defence of the nation, and confidentiality. In 2016, the United Kingdom’s Casey Review received ministerial support for its recommendation that public servants, including those employed by the NHS and BBC, should swear an oath of support of British values. Such values, it was said, might include tolerating the views of others, believing in freedom of speech, freedom of religion, freedom from abuse, equality, democracy, and the democratic process, and respect for the rule of law. Critics of this move, such as the Liberal Democrats, branded the proposal “superficial” and “divisive”. This move to affirm national values through an oath has not been implemented.

Although there is currently no move to reintroduce an oath for the Australian Public Service, when the Australian Border Force was established, provision was made for its members to take an oath. An explanatory statement issued by authority of the Minister for Immigration and Border Protection explained its purpose:

The oath or affirmation sets a clear up-front marker about the standards of professionalism and conduct expected of the Australian Border Force Commissioner and officers of the Australian Border Force. By making and subscribing an oath or affirmation, the Australian Border Force Commissioner and officers of the Australian Border Force would subscribe to behaviour that upholds public service professionalism and ethics, and the reputation of the Australian Border Force.

Reforms in context

The preceding survey of successful and unsuccessful attempts at reform allows us to draw several conclusions about the commitments underpinning public policy in relation to these pledges.

Overall, moves to reform the current practice have focused on religious solemnisation and the perceived need to remove this option. These moves have largely been resisted, and religious solemnisation has been retained in the ceremonies of naturalisation, admission to public office, and giving evidence in court.

For most of its history, modern Australia has accepted the settlement comprising separate categories of a religious 'oath' and a non-religious 'affirmation'. This settlement respects the seriousness of the difference in the basis for religious and non-religious solemnisation. This has been undermined, however, by recent developments towards a single 'pledge', which, whilst it permits for religious and non-religious solemnisation, also diminishes the distinction between them. The oath-and-affirmation settlement acknowledged the fact of different worldviews at work underlying the solemnisation in each case. For a long time, it has been considered important to recognise the distinctiveness of these two categories, so as to make apparent which pledges had an explicitly religious foundation.

The pledge of commitment made as the final step in acquiring Australian citizenship was motivated by a desire to replace a mediaeval notion of allegiance with a more contemporary sense of loyalty.

Similarly, reshaping of the oath and affirmation of office made by federal ministers can be seen largely to reflect the competing approaches of the two major political parties to Australia's status as a constitutional monarchy rather than a focus on religious solemnisation.

Proposals to replace the oath and affirmation made by witnesses with a new pledge to tell the truth have been unsuccessful. At least part of the motivation for this reform appears to be a desire to ensure that all witnesses solemnise their promise in the same way, lest a jury be influenced by the means by which a particular witness chooses to solemnise the promise.

What is clear from the successful and unsuccessful reforms is that lawmakers remain committed to the idea that individuals should be able to choose either to solemnise their promises religiously or non-religiously, and that these should be regarded as equally legitimate options. This remains the case whether the terminology differs (oath and affirmation) or not (religious and non-religious forms of a pledge).

The requirement that a solemn promise be made in order to hold public office is also consistent with international human rights norms. In 2014, when legislation was proposed which would require members of the Australian Border Force to make an oath and affirmation of office, a statement of the Bill's compatibility with international human rights

norms was prepared and considered by the parliamentary committee as required by the *Human Rights (Parliamentary Scrutiny) Act 2011*. It was concluded that the proposed oath and affirmation did not violate human rights norms because

requiring employees responsible for exercising significant enforcement powers to subscribe to behaviour that upholds public service professionalism and ethics . . . does not represent an unreasonable qualification of the right to take part in public affairs and elections . . . To the extent that it may also limit human rights, those limitations are reasonable, necessary and proportionate.

As the foregoing historical section demonstrates, the oath is not a Christian institution. It has its origin in earlier religious traditions, and remains open to those of any faith. In 2013, for instance, Ed Husic took the oath of office swearing on the Quran in accordance with his Islamic faith. The thought that a Muslim can make an oath according to Australian law is hardly remarkable given that, in 1744, it was established in the case of *Omychund v Barker* that the common law permitted an Indian witness of the Hindu religion to give evidence after swearing to tell the truth by touching the foot of a brahmin.

The history of oaths and affirmations in England and Australia has affirmed religious diversity. As such, the current practice does not present a challenge for multiculturalism or secularism, any more than it does for protecting human rights. Rather, it affirms the ideal of an inclusive tolerance which seeks to embrace some of the most important of people's values in the public sphere, as an ideal of true tolerance which allows people's full identity to be expressed as part of public life.

BOLSTERING TRUST IN AUSTRALIAN SOCIETY

The public benefit of oaths, ultimately, is that they engender trust in public institutions and processes.

Declining trust in Australian society

There has been a severe loss of public trust in Australian institutions in recent decades. In his social research, Hugh Mackay has observed this decline in trust in many different areas of life. Whether in politicians or political parties, organized religion, banks, big business, unions, or the mainstream media, Mackay has documented this deterioration of trust by Australian citizens in these institutions which are central to their society. This is concerning, as it is the trust of citizens in each other as well as in their shared institutions, that allows a society to function.

Mackay identifies a paradox at the heart of this decline: Australians have generally become less judgemental of the choices of individuals. Australians have even come to prize such a non-judgemental attitude as a hallmark of their culture. At the same time, however, Australians have become more suspicious of institutions and do not trust them to do the right thing on their behalf. This paradox suggests that institutional trust is linked to levels of trust in the people in those institutions to behave morally. In this context, pledges have become even more important, as they direct the public to the importance of the commitment undertaken by officeholders, and oath-makers to the importance of binding themselves in conscience to their duties and acting accordingly.

Attempts to restore trust

Former Chief Justice of New South Wales, Jim Spigelman, has proposed the recognition of a new branch of government that is dedicated to increasing the public's perception of the integrity of government decisions. This new branch has risen up alongside—and is intertwined with—the three traditional branches of government: the legislature, the executive and the judiciary. Though there have been audit offices since the nineteenth century, the number of bodies which exist to ensure the integrity of government has exploded. Myriad bodies are now responsible for ensuring public faith in government. The rise of this branch of government occurred with administrative law reforms in the 1960s–70s. These include the independent commissions against corruption, which investigate corruption of members of parliament; the commissioners for integrity and privacy, which ensure the integrity of the government's actions towards the private lives of its citizens; the ombudsman, who acts as an agent on behalf of citizens to ensure just and fair administrative decisions; and parliamentary ethics committees, which scrutinise whether members of government are working for private gain. According to Spigelman, these constitute a phenomenon large enough that they may reasonably be considered a whole new branch of government.

Increasing levels of government activity have made it harder both to scrutinise individual decision-makers and to form channels of accountability for each decision. The more individual responsibility is taken, the less integrity 'policing' is required. The notion of a religious oath introduces a divine witness, and this implies an individual will be held accountable at some point, which can assist public confidence in the integrity of governance.

Pledges as the linchpin of government

In a very practical way, solemn promises are the foundation of our political system. Writing in the *Journal of Law, Religion and State*, Nicholas Aroney points out that if politicians break their solemn promises through corruption, then the public relies on judges to exercise

their judicial power according to their solemn promises—without bias or corruption—and convict them. If judges instead act with bias and so break their oaths, we expect parliaments to vote to remove them. If all these officers were simultaneously to refuse or to fail to act in accordance with their solemn promises, the state would fall apart. The alignment of personal conscience with a promise, to do the good thing according to the highest standards of morality, has practical importance to the integrity of our political edifice.

Would removing oaths further reduce trust in Australian institutions?

The oath places a commitment to integrity at the core of government and is undoubtedly the oldest integrity tool in public life. Oaths have been demanded of those in public life for hundreds—even thousands—of years because civilised societies require trust in their institutions. This reflects a long recognition that private religious belief can bring significant benefits both to public life and the common good. In an age of diminishing trust, removing or reducing the efficacy of the oath appears to be a step in the wrong direction.

On the occasion of his swearing-in as Chief Justice of the High Court of Australia, Sir Gerard Brennan explained that the ceremony of taking an oath of office is not an “empty ritual” or “formal procedure” but rather “a public witnessing of the making of two solemn pledges for the performance of which the oath taker will be responsible not only to this Court and this country but also to his Creator.”

WORDS SPOKEN TO GOD

Our life in common depends upon trust in the honesty and good faith of those with whom we live. As Cicero writes in *De Officiis* (“On Moral Duty”), faith is at the heart of civilisation:

But in an oath the point to be considered is not what it threatens, but what it means . . . what you positively promise as in the presence of God ought to be performed. The question, then, no longer concerns the anger of the gods . . . but it is a question of honesty and good faith . . . He, then, who profanes an oath, profanes Faith, whom—as it is said in Cato’s speech—our ancestors chose to have in the Capitol, hard by the shrine of Jupiter Best and Greatest.

Cicero points out that Faith was the deity placed in the centre of their city, and seems to imply good faith was central to their whole civilisation. An oath is a matter of aligning our thoughts with our words and actions and is an important way through which we come to trust one another and live in society. Humanity does not just utilise words to describe the world; we also bind ourselves to a certain form of behaviour in the future through our use of language. In this way, we have reason to believe that we can rely on one another, and we can create an orderliness out of an uncertain future.

Sir Thomas More, Chancellor of England during the reign of Henry VIII, refused to swear an oath to which his conscience could not assent. This led to a reversal of his circumstances, from high office to the Tower of London.

This is dramatised in *A Man for All Seasons*. In one scene, More's daughter visits him in prison and tries to persuade him to alter his course:

Margaret More: Father, "God more regards the thoughts of the heart than the words of the mouth." Well, so you've always told me.

Sir Thomas More: Yes.

Margaret More: Then say the words of the oath and in your heart think otherwise.

Sir Thomas More: What is an oath then, but words we say to God?

The words spoken to God in an oath remain a foundation for trust and confidence in public life today.

Human pledges of loyalty, duty, and honesty have helped us order the chaos of the future and helped to form a society of trust.

And so it comes as no surprise that, on the most chaotic of days, our leaders have exclaimed, "So help me God!"

APPENDIX

Oaths of loyalty

(a) upon becoming an Australian citizen

Australian Citizenship Act 2007

Section 26 (1):

A person must make a pledge of commitment to become an Australian citizen . . .

Section 27 (1):

A pledge of commitment must be made in accordance with either of the forms set out in Schedule 1.

Schedule 1:

1 Form of pledge no. 1

From this time forward, under God, I pledge my loyalty to Australia and its people, whose democratic beliefs I share, whose rights and liberties I respect, and whose laws I will uphold and obey.

2 Form of pledge no. 2

From this time forward, I pledge my loyalty to Australia and its people, whose democratic beliefs I share, whose rights and liberties I respect, and whose laws I will uphold and obey.

(b) upon becoming a parliamentarian

Constitution of the Commonwealth of Australia

Section 42:

Every senator and every member of the House of Representatives shall before taking his seat make and subscribe before the Governor-General, or some person authorised by him, an oath or affirmation of allegiance in the form set forth in the schedule to the Constitution.

The Schedule to the Constitution:

Oath

I, A.B., do swear that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law. So Help Me God!

Affirmation

I, A.B., do solemnly and sincerely affirm and declare that I will be faithful and bear true allegiance to Her Majesty Queen Victoria, Her heirs and successors according to law.

NOTE - The name of the King or Queen of the United Kingdom of Great Britain and Ireland for the time being is to be substituted from time to time.

States and Territories

A similar oath or affirmation of loyalty is required by the following States' constitutions:

- **Victoria**
Section 23 of the *Constitution Act 1975* requires members of both Houses of the Parliament to take an oath or affirmation of allegiance as set out in the second schedule to the Act;
- **Tasmania**
Section 30 of the *Constitution Act 1934* requires members of both Houses of the Parliament to take an oath or affirmation of allegiance as prescribed by sections 3, 13, and 19 of the Promissory Oaths Act 2015;
- **South Australia**
Section 42 of the *Constitution Act 1934* requires members of both Houses of Parliament to take an oath or affirmation of allegiance as set out in that section.

In **Queensland**, the oath or affirmation of allegiance is combined with an oath or affirmation of office. Section 22 of the *Constitution of Queensland 2001* requires members of the Legislative Assembly to take an oath or affirmation of allegiance and of office as set out in schedule 1, in the following terms:

I, ..(name).., do sincerely promise and swear (or, for an affirmation—do sincerely promise and affirm) that I will be faithful and bear true Allegiance to Her (or His) Majesty..(name of Sovereign).. as lawful Sovereign of Australia and to Her (or His) heirs and successors, according to law; and I will well and truly serve the people of Queensland and faithfully perform the duties and responsibilities of a member of the Legislative Assembly to the best of my ability and according to law

So help me God! (or omitted for an affirmation).

In the **Northern Territory**, section 13 of the *Northern Territory (Self-Government) Act 1978* requires members of the Legislative Assembly to make an oath or affirmation of allegiance in the form set out in schedule 2 and an additional oath or affirmation of office in the form set out in schedule 3, in the following terms:

OATH

I, A.B., do swear that I will render true and faithful service as a member of the Legislative Assembly of the Northern Territory of Australia: So help me God!

AFFIRMATION

I, A.B., do solemnly and sincerely promise and declare that I will render true and faithful service as a member of the Legislative Assembly of the Northern Territory of Australia.

In New South Wales, Western Australia, and the Australian Capital Territory, legislators are provided with two options from which to choose:

- **New South Wales**

Section 12 of the *Constitution Act 1902* requires members of both Houses of the Parliament to take a pledge of loyalty or an oath or affirmation of allegiance:

- (1) *A Member of the Legislative Council or the Legislative Assembly is not permitted to sit or vote in the House to which the Member has been elected until the Member has taken the pledge of loyalty or oath of allegiance before the Governor or other person authorised by the Governor for that purpose.*
 - (2) *The pledge of loyalty is to be in the following form—Under God, I pledge my loyalty to Australia and to the people of New South Wales.*
 - (3) *A Member may omit the words “Under God” when taking the pledge of loyalty.*
 - (4) *The oath of allegiance is to be in the following form (with the name of the reigning Sovereign substituted, where appropriate)—I swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth II, Her heirs and successors according to law. So help me God.*
- (4A) *A Member may, instead of taking an oath of allegiance, make an affirmation to the same effect.*
- (4B) *It is not necessary for a Member who has taken or made an oath or affirmation of allegiance to take or make that oath or affirmation again after any demise of the Crown, including by or on abdication.*

- **Australian Capital Territory**

Section 9 of the *Australian Capital Territory (Self-Government) Act 1988* requires members of the Legislative Assembly to make an oath or affirmation of allegiance as set out in schedule 1 to that Act, however, this provision is overridden by section 6A of the *Oaths and Affirmations Act 1984* which provides:

- (1) *A member of the Legislative Assembly must, before taking his or her seat, make and subscribe either or both of the following:*

- (a) an oath or affirmation in accordance with the form in schedule 1A, part 1A.1;
- (b) an oath or affirmation in accordance with the form in schedule 1A, part 1A.2.

(2) This section has effect despite the Self-Government Act, section 9 (1).

Schedule 1A to the Act states:

Part 1A.1

Oath

I, A.B., swear (or the person taking the oath may promise) by Almighty God (or the person may name a god recognised by the person's religion) that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth, Her heirs and successors according to law. So help me God! (or the person may use a similar expression recognised by the person's religion)

Affirmation

I, A.B., solemnly and sincerely declare and affirm that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth, Her heirs and successors according to law.

Part 1A.2

Oath

I, A.B., swear (or the person taking the oath may promise) by Almighty God (or the person may name a god recognised by the person's religion) that I will faithfully serve the people of the Australian Capital Territory as a member of the Legislative Assembly and discharge my responsibilities according to law. So help me God! (or the person may use a similar expression recognised by the person's religion)

Affirmation

I, A.B., solemnly and sincerely declare and affirm that I will faithfully serve the people of the Australian Capital Territory as a member of the Legislative Assembly and discharge my responsibilities according to law.

- **Western Australia**

Section 22 of the *Constitution Act 1889* requires members of both Houses of the Parliament to take an oath or affirmation as set out in Schedule E to the Act, which provides the following two options:

Either —

- (a) *I, [name], [insert an oath or affirmation according to the Oaths, Affidavits and Statutory Declarations Act 2005] that I will faithfully serve the people of Western Australia as a member of the *Legislative Council/Legislative Assembly.*
- or —*

(b) I, [name], [insert an oath or affirmation according to the Oaths, Affidavits and Statutory Declarations Act 2005] that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors, according to law and will faithfully serve the people of Western Australia as a member of the *Legislative Council/Legislative Assembly.

Sections 4 and 5 of the *Oaths, Affidavits and Statutory Declarations Act 2005* state:

Section 4

(1) *If under this Act or any other law or the exercise of the Royal Prerogative a person has to take an oath, the form of the oath is to begin with one of the following, according to the person's preference —*

(a) *I swear by Almighty God...;*

(b) *I swear by [name of a deity recognised by his or her religion]...;*

(c) *I swear, according to the religion and the beliefs I profess,*

Section 5

(4) *The form of the affirmation is as follows —*

I sincerely declare and affirm ... ,

which words replace those set out in section 4(1) as the beginning of any oath.

Oaths of honesty

(c) upon giving evidence in a court of law

Uniform Evidence Acts

The following jurisdictions have adopted the uniform evidence laws:

- **Commonwealth of Australia**—*Evidence Act 1995*
- **New South Wales**—*Evidence Act 1995*
- **Victoria**—*Evidence Act 2008*
- **Tasmania**—*Evidence Act 2001*
- **Australian Capital Territory**—*Evidence Act 2011*
- **Northern Territory**—*Evidence (National Uniform Legislation) Act 2011*

Section 21 of the Commonwealth version of the Act provides:

(1) *A witness in a proceeding must either take an oath, or make an affirmation, before giving evidence.*

- (2) *Subsection (1) does not apply to a person who gives unsworn evidence under section 13.*
- (3) *A person who is called merely to produce a document or thing to the court need not take an oath or make an affirmation before doing so.*
- (4) *The witness is to take the oath, or make the affirmation, in accordance with the appropriate form in the Schedule or in a similar form.*
- (5) *Such an affirmation has the same effect for all purposes as an oath*

Schedule:

Oaths by witnesses

I swear (or the person taking the oath may promise) by Almighty God (or the person may name a god recognised by his or her religion) that the evidence I shall give will be the truth, the whole truth and nothing but the truth.

Affirmations by witnesses

I solemnly and sincerely declare and affirm that the evidence I shall give will be the truth, the whole truth and nothing but the truth.

All the other versions mirror this other than the following two variations:

- Section 21 of the Victorian *Evidence Act 2008* contains an additional subsection (6) providing that “For the purposes of subsection (4), in the case of a child or a person with a cognitive disability, the following words are taken to be a similar form of oath or affirmation—‘I promise to tell the truth.’”
- Section 21 of the Northern Territory *Evidence (National Uniform Legislation) Act 2011* does not refer to a schedule, because of the provisions in schedule 1 of the Territory’s *Oaths, Affidavits and Declarations Act 2010*. Subsection (4) of the Tasmanian version provides that “A witness is to take an oath by answering “I swear” or make an affirmation by answering “I affirm” in reply to the oath or affirmation being tendered in accordance with form 1 or form 3 in Schedule 1”; the question being “Do you swear by Almighty God (or by a god recognised by your religion) that the evidence you shall give will be the truth, the whole truth and nothing but the truth?” or “Do you solemnly and sincerely declare and affirm that the evidence you shall give will be the truth, the whole truth and nothing but the truth?”

Sections 23 and 24 of the Commonwealth version provides:

23 Choice of oath or affirmation

- (1) *A person who is to be a witness or act as an interpreter in a proceeding may choose whether to take an oath or make an affirmation.*

- (2) *The court is to inform the person that he or she has this choice.*
- (3) *The court may direct a person who is to be a witness to make an affirmation if:*
 - (a) *the person refuses to choose whether to take an oath or make an affirmation; or*
 - (b) *it is not reasonably practicable for the person to take an appropriate oath.*

24 Requirements for oaths

- (1) *It is not necessary that a religious text be used in taking an oath.*
- (2) *An oath is effective for the purposes of this Division even if the person who took it:*
 - (a) *did not have a religious belief or did not have a religious belief of a particular kind; or*
 - (b) *did not understand the nature and consequences of the oath.*

Other Australian jurisdictions

In **Western Australia**, the oath or affirmation takes the form of a statement, rather than the answer to a question, as section 97 of the *Evidence Act 1906* provides:

- (1) *Subject to any other Act in which express provision is made to the contrary, in any civil or criminal proceeding, or in any inquiry or examination in any court or before any person acting judicially, every witness other than—*
 - (a) *a witness the evidence of whom may be received pursuant to this Act though not given on oath; and*
 - (b) *a witness called for the purpose only of producing a document, where there is another witness called or to be called who can identify the document; and*
 - (c) *counsel giving evidence of the terms of a compromise reached between the parties to litigation in which he acted for one of those parties; and*
 - (d) *a judge, or counsel, giving evidence by way of explanation of a case in which he acted as such, shall give evidence on oath.*
- (2) *In any criminal proceeding, no accused person shall be entitled to make a statement of fact at his trial, otherwise than by way of admission of a fact alleged against him so as to dispense with proof of that fact, unless such statement is made by him as a witness.*
- (3) *The form of oath for a witness is as follows—*
I [insert an oath or affirmation according to the Oaths, Affidavits and Statutory Declarations Act 2005] that the evidence I will give in this case will be the truth, the whole truth and nothing but the truth.

In **South Australia**, it is notable that although the witness is required to answer a question, the question to be put to the witness who swears or affirms is not stipulated in law, and so is a matter of convention—the Evidence Act only specifies what the answer to the question must be in each case in section 6 of the *Evidence Act 1929*, which provides:

- (1) *An oath shall be administered and taken as follows:*
 - (a) *the person taking the oath shall hold a copy of the Bible (being a book that contains the New Testament, the Old Testament or both) in his hand and, after the oath has been tendered to him, shall say “I swear”; or*
 - (b) *in any other manner and form which the person taking the oath declares to be binding on his conscience; or*
 - (c) *in any other manner or form authorised or permitted by law.*
- (2) *Where an oath has been lawfully administered and taken, the fact that the person taking the oath had no religious belief, or that the oath was not taken so as to be binding on his conscience, shall not affect, at law, the validity or effect of the oath.*
- (3) *A person is permitted, and should be offered the choice, to make an affirmation instead of an oath in all circumstances in which, and for all purposes for which, an oath is required or permitted by law.*
- (4) *An affirmation is to be administered to a person by asking the person “Do you solemnly and truly affirm” followed by the words of the appropriate oath (omitting any words of imprecation or calling to witness) after which the person must say “I do solemnly and truly affirm”.*
- (5) *Every affirmation has, at law, the same force and effect as an oath.*
- (6) *No oath or affirmation is invalid by reason of a procedural or formal error or deficiency.*

In **Queensland**, the law reflects the position before affirmation was given equal status to the oath, and the default position is that the witness should swear an oath. Unlike some other jurisdictions, in Queensland the oaths are read to the witnesses, who must then signify their assent. Sections 23–25 of the *Oaths Act 1867* provide:

23. *Witnesses may be sworn in civil causes in open court in the following form or to the like effect— “The evidence which you shall give to the court [and jury sworn] touching the matters in question between the parties shall be the truth the whole truth and nothing but the truth So help you God.”.*
- 23A. *Witnesses may be sworn in any judicial or other proceedings in respect of which a form of oath to be sworn therein is not provided in this Act in the following form or to the like effect— “The evidence which you shall give to the court [or in these proceedings] shall be the truth the whole truth and nothing but the truth So help you God.”.*

24. *Any person may be sworn on the voire dire in the following form or to the like effect— ‘You shall true answer make to all such questions as the court shall demand of you So help you God.’.*
25. *Witnesses may be sworn on criminal trials in open court in the following form or to the like effect— ‘The evidence which you shall give to the court and jury sworn between our Sovereign Lady the Queen and the prisoner [or prisoners or defendant] at the bar [or the defendant] shall be the truth the whole truth and nothing but the truth So help you God.’.*

Those who object to making an oath are provided for in sections 17–19 of the Act:

17. *Affirmation instead of oath in certain cases*

- (1) *If any person called as a witness or required or desired to make an oath affidavit or deposition objects to being sworn it shall be lawful for the court or judge or other presiding officer or person qualified to administer oaths or to take affidavits or depositions to permit such person instead of being sworn to make his or her solemn affirmation in the words following videlicet—*

‘I A.B. do solemnly sincerely and truly affirm and declare etc.’.

- (2) *Which solemn affirmation shall be of the same force and effect as if such person had taken an oath in the usual form and the like provisions shall apply also to every person required to be sworn as a juror.*

18. *Quakers and Moravians permitted to make a solemn affirmation or declaration instead of oath*

- (1) *Every person being or having been of the persuasion of the people called Quakers Moravian shall be permitted to make his or her solemn affirmation or declaration instead of taking an oath in all places and for all purposes whatsoever where an oath is or shall be required either by the common law or by an Act of Parliament already made or hereafter to be made which said affirmation or declaration shall be of the same force and effect as if he or she had taken an oath in the usual form.*
- (2) *However, every such affirmation or declaration shall be in the words following that is to say—*

‘I A.B. being [or having been as the case may be] one of the people called Quakers [or one of the persuasion of the people called Quakers and every person being or having been a Moravian as the case may be] do solemnly sincerely and truly affirm and declare.’.

19. *Separatists instead of an oath may make the following affirmation*

- (1) *Every person for the time being belonging to the sect called separatists who shall be required upon any lawful occasion to take an oath in any case where by law an oath is or may be required shall instead of the usual form be permitted to make his or her solemn affirmation or declaration in these words following videlicet—

‘I A.B. do in the presence of Almighty God solemnly sincerely and truly affirm and declare that I am a member of the religious sect called separatists and that the taking of any oath is contrary to my religious belief as well as essentially opposed to the tenets of that sect and I do also in the same solemn manner affirm and declare.’*
- (2) *Which said solemn affirmation or declaration shall be adjudged and taken and is hereby enacted and declared to be of the same force and effect to all intents and purposes in all courts of justice and other places whatsoever where by law an oath is or may be required as if such separatists had taken an oath in the usual form.*

(d) upon making an affidavit or statutory declaration

Statutory declarations

In **New South Wales**, section 24 of the *Oaths Act 1900* stipulates that the form for a statutory declaration must either be that in schedule 8 to the Act:

I, _____, do solemnly and sincerely declare that _____, and I make this solemn declaration conscientiously believing the same to be true, and by virtue of the provisions of the Oaths Act 1900.

or the form in schedule 9 to the Act:

I, _____, of (residence), do hereby solemnly declare and affirm that [the facts to be stated according to the declarant’s knowledge, belief, or information, severally]. And I make this solemn declaration, as to the matter (or matters) aforesaid, according to the law in this behalf made—and subject to the punishment by law provided for any wilfully false statement in any such declaration.

Other jurisdictions make similar provision for such declarations.

Affidavits

In **New South Wales**, Part 5 of the *Oaths Act 1900* stipulates the process for affidavits and other jurisdictions make similar provision for affidavits.

Oaths of duty

(e) Upon being empanelled as a juror

In New South Wales, section 72A of the *Jury Act 1977* provides:

- (1) *The form of oath or affirmation to be taken or made by a person before serving as a juror is an oath or affirmation that the person will give a true verdict according to the evidence.*
- (2) *The oath or affirmation may be administered, taken or made in the manner provided for by the Oaths Act 1900 or in the prescribed manner.*
- (3) *For the purposes of this section, the prescribed manner of administering, taking or making the oath or affirmation is—*
 - (a) *the person taking or making the oath or affirmation repeats the words of the oath or affirmation, or*
 - (b) *the officer administering the oath or affirmation repeats the words of the oath or affirmation and the person taking or making the oath or affirmation indicates his or her assent to the oath or affirmation by uttering the words “So help me God” (in the case of an oath) or “I do” (in the case of an affirmation).*
- (4) *The words of the oath or affirmation are the following words, or words to the following effect—*
 - (a) *“I swear by Almighty God that I will give a true verdict according to the evidence” (in the case of an oath),*
 - (b) *“I solemnly and sincerely declare and affirm that I will give a true verdict according to the evidence” (in the case of an affirmation).*
- (5) *If an oath is administered, taken or made in the prescribed manner, it is not necessary that a religious text be used by the person who is taking the oath.*

[Note. Under section 11A of the Oaths Act 1900, a copy of the Bible, New Testament or Old Testament is used in administering an oath.]
- (6) *If an oath is taken by a person before serving as a juror, the fact that the person taking it did not have a religious belief or did not have a religious belief of a particular kind does not for any purpose affect the legality or validity of the oath.*
- (7) *An oath or affirmation taken or made by a person before serving as a juror is not illegal or invalid by reason of a failure to administer, take or make the oath or affirmation in accordance with this section.*

All States and Territories have similar provisions:

- **Victoria**—section 42 of the *Juries Act 2000*
- **Queensland**—sections 21 and 22 of the *Oaths Act 1867*
- **South Australia**—section 33 of the *Juries Act 1927*
- **Tasmania**— section 38 of the *Juries Act 2003*
- **Western Australia**— section 105 of the *Criminal Procedure Act 2004*
- **Northern Territory**— section 58 of the *Juries Act 1962*
- **Australian Capital Territory**—section 45 of the *Juries Act 1967*

Federal Court of Australia

Rule 3.14 of the *Federal Court (Criminal Proceedings) Rules 2016* provides that jurors must make an oath or affirmation similar to that made in New South Wales.

(f) upon assuming vice-regal office

Letters Patent Relating to the Office of Governor-General of the Commonwealth of Australia 2008

Clause II (b):

Before assuming office, a person appointed to be Governor-General shall take the Oath or Affirmation of Allegiance and the Oath or Affirmation of Office in the presence of the Chief Justice or another Justice of the High Court of Australia. Letters Patent Relating to the Office of Governor-General of the Commonwealth of Australia

Clause V:

For the purposes of these Letters Patent –

- (a) *a reference to the Oath or Affirmation of Allegiance is a reference to the Oath or Affirmation in accordance with the form set out in the Schedule to the Constitution of the Commonwealth of Australia; and*
- (b) *a reference to the Oath or Affirmation of Office is a reference to an Oath or Affirmation swearing or affirming well and truly to serve Us, Our heirs and successors according to law in the particular office and to do right to all manner of people after the laws and usages of the Commonwealth of Australia, without fear or favour, affection or ill will.*

State Governors

Similar oaths or affirmations of allegiance and office must be made upon appointment as a State Governor:

- **New South Wales**—section 9A of the *Constitution Act 1902*
- **Victoria**—section 6 of the *Constitution Act 1975*
- **Queensland**—section 6A of the *Constitution of Queensland 2001*
- **South Australia**—section 5 of the *Oaths Act 1936*
- **Tasmania**—clause II of the Letters Patent made by the Governor of Tasmania on 21 November 2015 and sections 13–14 of the *Promissory Oaths Act 2015*
- **Western Australia**—clause 17 of the *Letters Patent Relating to the Office of Governor of the State of Western Australia 1986*

In the **Northern Territory**, the Administrator is required by section 42 of the *Northern Territory (Self-Government) Act 1978* to make similar oaths or affirmations of allegiance and office.

Provision is also made in each case for similar oaths or affirmations to be made by lieutenant-governors or administrators (New South Wales and Victoria), acting governors (Queensland), deputy of the Governor (Western Australia), and Acting Administrator or deputy of the Administrator (Northern Territory).

(g) upon assuming ministerial office

Commonwealth of Australia

Section 62 of the Constitution prescribes that “There shall be a Federal Executive Council to advise the Governor-General in the government of the Commonwealth, and the members of the Council shall be chosen and summoned by the Governor-General and sworn as Executive Councillors, and shall hold office during his pleasure.” It does not, however, prescribe the oath or affirmation to be taken by Federal Executive Councillors, and so the text of this solemn promise is a matter of convention rather than law.

In 2005, the Prime Minister, John Howard, informed the House of Representatives in response to a question in writing:

The forms of words employed in oaths and affirmations taken by Federal Executive Councillors are as follows:

Executive Councillor’s Oath

I, [NAME], being chosen and summoned by the Governor-General of the Commonwealth of Australia to be a member of the Federal Executive Council, do swear that I will, when required, advise the Governor-General (or the person for the time being administering the Government of the Commonwealth of Australia) to the best of my judgment, and consistently with the good government of the Commonwealth of Australia, and that I will not disclose the confidential deliberations of the Council. So help me God!

Executive Councillor’s Affirmation

I, [NAME], being chosen and summoned by the Governor-General of the Commonwealth of Australia as a member of the Federal Executive Council, do solemnly and sincerely affirm and declare that I will, when required, advise the Governor-General (or the person for the time being administering the Government of the Commonwealth of Australia) to the best of my judgement, and consistently with the good government of the Commonwealth of Australia, and that I will not disclose the confidential deliberations of the Council.

Section 64 of the Constitution provides that “The Governor-General may appoint officers to administer such departments of State for the Commonwealth as the Governor-General in Council may establish. Such officers shall hold office during the pleasure of the Governor-General. They shall be members of the Federal Executive Council, and shall be the Queen’s Ministers of State for the Commonwealth.”

There is no legal requirement that Ministers of State take an oath of office, however, there is a longstanding convention that they do so. The form of the oath currently in use reads as follows:

I, [NAME], do swear that I will well and truly serve the people of Australia in the office of [OFFICE], and that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, Queen of Australia. So help me God!

States and Territories

There are similar provisions in the constitutions of each of the States and Territories:

- **New South Wales**—section 35CA of the *Constitution Act 1902*
pledge of loyalty or oath/affirmation of allegiance and Executive Councillor’s oath of office
- **Victoria**—section 23 and section 88AA of the *Constitution Act 1975*
oath/affirmation of allegiance and oath/affirmation of office
- **Queensland**—sections 43 and 48 of the *Constitution of Queensland 2001*
oath or affirmation of allegiance and of office as a minister and oath/affirmation of office and of secrecy as a member of the Executive Council of Queensland

- **South Australia**—section 6 and 6A of the *Oaths Act 1936*
oath/affirmation of allegiance, official oath/affirmation, and oath/affirmation of fidelity
- **Tasmania**—section 4 of the *Promissory Oaths Act 2015*
executive councillor’s oath/affirmation, oath/affirmation of allegiance, and the official oath/affirmation
- **Western Australia**—clause 19 of the *Letters Patent Relating to the Office of Governor of the State of Western Australia 1986*
oath/affirmation of allegiance and “the usual” oaths/affirmations of office
- **Northern Territory**—section 38 of the *Northern Territory (Self-Government) Act 1978*
oath/affirmation not to divulge any information of which the person becomes aware by reason of membership of the Executive Council of the Northern Territory of Australia or by reason of holding Ministerial office
- **Australian Capital Territory**—Ministerial appointments do not require a pledge in addition to that taken upon becoming a member of the Legislative Assembly as required by section 9 of the *Australian Capital Territory (Self-Government) Act 1988*

(h) upon assuming judicial office

High Court of Australia and other Federal courts

Section 11 of the *High Court of Australia Act 1979* provides:

A person who is appointed as a Justice after the commencement of this Act shall, before proceeding to discharge the duties of his or her office, take an oath or make an affirmation in accordance with the form in the Schedule.

Schedule:

I, , do swear that I will bear true allegiance to Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law, that I will well and truly serve Her in the Office of Chief Justice [or Justice] of the High Court of Australia and that I will do right to all manner of people according to law without fear or favour, affection or ill-will. So Help me God!

or

I, , do solemnly and sincerely promise and declare that [as above, omitting the words “So help me God!”].

Similar provision is made for an oath of office for Judges of the Federal Court of Australia in section 11 of the *Federal Court of Australia Act 1976*.

Section 26 of the *Family Law Act 1975* requires Judges of the Family Court of Australia to take an oath or affirmation of allegiance and an oath or affirmation of office.

States and Territories

In **New South Wales**, section 8 of the *Oaths Act 1900* provides that the oath of allegiance and the judicial oath “shall be tendered to and taken by” Judges of the Supreme Court and justices of the peace. The judicial oath is set out in schedule 4 to the Act:

I, do swear that I will well and truly serve our Sovereign Lady Queen Victoria in the office of, and I will do right to all manner of people after the laws and usages of the State of New South Wales without fear or favour, affection or ill-will.

So help me God.

Section 12 of the *Oaths Act* provides that:

any person who objects to take an oath may instead of taking such oath make a solemn affirmation in the form of such oath substituting the words “solemnly, sincerely and truly declare and affirm” for the word “swear” or for any other word or words to the like effect and omitting the words “so help me God” or any other word or words to the like effect.

Section 9 of the *Oaths Act* makes similar provision for District Court Judges, Magistrates, and other judicial officers “who are required by order of the Governor to take the same”.

Similar provisions are made in the other States and Territories:

- **Victoria**
section 113GB of the *Supreme Court Act 1986* and order 14.04 of the *Supreme Court (Miscellaneous Civil Proceedings) Rules 2018*
Section 7 of the *Magistrates’ Court Act 1989* and regulation 6 of the *Magistrates’ Court General Regulations 2014*
- **Queensland**
Section 59 of the *Constitution of Queensland 2001*
Section 3 of the *Oaths Act 1867*
- **South Australia**
Section 7 of the *Oaths Act 1936**

* This Act was passed in the ‘year of the three Kings’ (George V, Edward VIII, and George VI) and, as such, is one of the few remaining references to Edward VIII on the statute books. Thus the judicial oath in this Act reads: “I, do swear that I will well and truly serve Our Sovereign Lord King Edward the Eighth, His Heirs and Successors, according to law, in the office of, and I will do right to all manner of people after the laws and usages of this State, without fear or favour, affection or ill will. SO HELP ME GOD!”

- **Tasmania**
Sections 7, 8, and 9 of the *Promissory Oaths Act 2015*
- **Western Australia**
Section 13 of the *Supreme Court Act 1935*
Section 11 of the *District Court of Western Australia Act 1969*
Section 13 of the *Family Court Act 1997*
Section 11 of the *Justices of the Peace Act 2004*
Section 4 of the *Magistrates Court Act 2004*
- **Northern Territory**
Sections 37 and 41J of the *Supreme Court Act 1979*
Section 65 of the *Local Court Act 2015*
- **Australian Capital Territory**
Section 19 of the *Supreme Court Act 1933*

(i) upon assuming military or policing office

Australian Defence Force

Regulation 12 of the *Defence Regulation 2016* provides:

(6) *A person must, before being appointed or enlisted or as soon as practicable after being appointed or enlisted:*

(a) *take the oath set out in clause 1 of Schedule 1; or*

(b) *make the affirmation set out in clause 2 of Schedule 1.*

Schedule 1 to the Regulation provides:

1 Form of oath

The oath is as follows:

I, (insert full name of person) swear that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law, as a member of the (insert Royal Australian Navy, Australian Army, or Royal Australian Air Force) (insert for the period of (number of years), and any extensions of that period, or until retiring age,) and that I will resist Her enemies and faithfully discharge my duty according to law. SO HELP ME GOD!

(person's signature)

Taken and subscribed before me on (insert date)

(insert signature, name and title of the person before whom the oath is taken and subscribed)

2 Form of affirmation

The affirmation is as follows:

I, (insert full name of person) promise that I will well and truly serve Her Majesty Queen Elizabeth the Second, Her Heirs and Successors according to law, as a member of the (insert Australian Navy, Australian Army, or Australian Air Force) (insert for the period of (number of years), and any extensions of that period, or until retiring age,) and that I will resist Her enemies and faithfully discharge my duty according to law.

(person's signature)

Made and subscribed before me on (insert date)

(insert signature, name and title of the person before whom the affirmation is made and subscribed)

Federal, State and Territory police forces

In **New South Wales**, section 13 of the *Police Act 1990* provides:

- (1) Before a person exercises any of the functions of a police officer, the person must take the oath or make the affirmation of office as a police officer in accordance with the regulations.
- (2) A police officer is not required to take a further oath or make a further affirmation after a change in the officer's position in the NSW Police Force, so long as the officer remains in the NSW Police Force.

The oath and affirmation are set out in regulation 7 of the *Police Regulation 2015*:

- (1) The form of the oath required to be taken by a police officer under section 13 of the Act is as follows:

I, , do swear that I will well and truly serve our Sovereign Lady the Queen as a police officer without favour or affection, malice or ill-will until I am legally discharged, that I will cause Her Majesty's peace to be kept and preserved, and that I will prevent to the best of my power all offences against that peace, and that while I continue to be a police officer I will to the best of my skill and knowledge discharge all my duties faithfully according to law. So help me God.

- (2) The form of the affirmation is the same as the form of the oath, except that:
 - (a) the words "solemnly, sincerely and truly declare and affirm" are to be substituted for the word "swear", and
 - (b) the words "So help me God" are to be omitted.

There are similar provisions for each police force in Australia:

- **Victoria**
Sections 50 and 192 of the *Victoria Police Act 2013*
- **Queensland**
Section 3.3 of the *Police Service Administration Act 1990* and regulation 4 of the *Police Service Administration Regulation 2016*
- **South Australia**
Sections 25 and 60 of the *Police Act 1998* and regulation 88 of the *Police Regulations 2014*
- **Tasmania**
Section 36 of the *Police Service Act 2003*
- **Western Australia**
Section 10 of the *Police Act 1892*, although West Australian police are required to subscribe to an engagement rather than swear an oath or affirmation
- **Northern Territory**
Sections 26, 32 and 37A of the *Police Administration Act 1978*

The Commissioner, Deputy Commissioners, members and special members of the Australian Federal Police are required by section 36 of the *Australian Federal Police Act 1979* to enter into an undertaking relating to the performance of his or her duties and to make the oath or affirmation prescribed by regulations 13 and 14 of the *Australian Federal Police Regulations 2018*.

Australian Border Force

Section 24 of the *Australian Border Force Act 2015* provides for the oath or affirmation as set out in Schedule 1 of the *Australian Border Force (Oath and Affirmation) Rule 2015*.

In the schedule, Form 1 is the oath:

*I, [*insert name], swear on the [*insert religious book] to conduct myself with integrity and honesty in the exercise of my powers and performance of my duties as [*the Commissioner/*an officer] of the Australian Border Force.*

I will uphold the significant trust that is placed in me as a result of my role. I will, to the best of my ability, skill and knowledge, faithfully and professionally discharge all my duties according to law, and in such a manner that at all times upholds the good reputation of the Australian Border Force.

*So help me [*God/*a god recognised by his or her religion].*

Form 2 is the same as Form 1 except that the pledge-maker solemnly and sincerely affirms and declares, and does so without a religious book.

(j) upon assuming civic office

In **New South Wales**, section 233A of the *Local Government Act 1993* provides that a councillor must make an oath or affirmation of office in the following form:

I [name of councillor] swear/solemnly and sincerely declare and affirm that I will undertake the duties of the office of councillor in the best interests of the people of [name of council area] and the [name of council] and that I will faithfully and impartially carry out the functions, powers, authorities and discretions vested in me under the Local Government Act 1993 or any other Act to the best of my ability and judgment.

A similar oath or affirmation of civic office if required by law in the following States:

- **Victoria**
oath or affirmation of office prescribed by section 30 of the *Local Government Act 2020* and regulation section 5 of the *Local Government (Governance and Integrity) Regulations 2020*
- **Queensland**
declaration of office prescribed by section 169 of the *Local Government Act 2009* and regulation 254 of the *Local Government Regulation 2012*
- **South Australia**
undertaking prescribed by section 60 of the *Local Government Act 1999* and regulation 6 of the *Local Government (General) Regulations 2013*
- **Tasmania**
declaration of office prescribed by section 321 of the *Local Government Act 1993* and section 40 of the *Local Government (General) Regulations 2015*
- **Western Australia**
declaration prescribed by section 2.29 of the *Local Government Act 1995*

In the Northern Territory there is no legal requirement that a councillor must take an oath or affirmation although each individual council may require a pledge as a matter of custom.

There is no local government in the Australian Capital Territory.

So Help Me God: a history of oaths of office has been prepared by Damien Freeman and David Corbett with research assistance from Ethan Westwood under the guidance of the following committee:

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Cover image

Artist unknown, *Antependium* c1730 France (detail).
Velvet, and silver and gilt stitches and silk damask.
Australian Catholic University Art Collection.

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