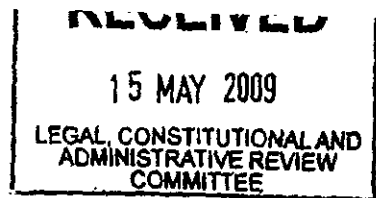




AUSTRALIAN REPUBLICAN MOVEMENT (QLD)



PO Box 87
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13 May 2009

The Research Director
Legal, Constitutional and Administrative Review Committee
Parliament House
George Street
BRISBANE QLD 4000

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Dear Sir/Madam

RE: Issue 3 Submission – Modernising of oaths and affirmations

The Australian Republican Movement submits that this country has moved to the point that a colonial pre-democratic oath of allegiance is completely inappropriate and as such the Oaths or Affirmations of Allegiance contained in Schedule 1 of the *Constitution of Queensland 2001* be amended and modernised to reflect the popular sovereignty of the people of Queensland. We propose the following language.

“ I, ..(name).., do sincerely promise and swear (or, for an affirmation – do sincerely promise and affirm) that I will well and truly serve Australia and 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).”

The current *Oath or affirmation of allegiance and of office – member of the Legislative Assembly* in Schedule 1, *Constitution of Queensland 2001* requires a member of Parliament to sincerely promise and swear (affirm) allegiance to both the Queen and the people of Queensland. The conflict within this *Oath or affirmation of allegiance* to the Queen is that it is wrong in democratic theory because the oath should not be to the Queen or to the head of state, be it a president or the Queen. It should be to the people of Queensland and to Australia; it should not be to a head of state. The current oath is also open to criticism in that it has mixed allegiances, that is, one oath offering allegiance to two different things. This is confusing and wrong, and it defeats the entire purpose of having an oath. It seems that if there is to be an oath, there should not be mixed or confused allegiances.

Whilst I am certainly a republican, and happy to proclaim that, and whilst I would expect that all republicans who are serious about being republicans would support this submission, a whole range of people who are not republicans would, I think, also support this submission. This is because the change to the *Oath or affirmation of allegiance* does not replace loyalty to the Queen with loyalty to a president. It replaces allegiance to a Head of State—who at the moment happens to be a hereditary monarch—with allegiance to Australia and the people of Queensland. That is, the *Oath or affirmation of allegiance* itself is neither

monarchist nor republican; it is about democratic theory and about accepting that our real legitimacy comes from Australia and from the people of Queensland, not from someone who happens to be a head of state.

With the modernisation of the *Oath or affirmation of allegiance*, the allegiance of members of Parliament will be directed where it belongs: to Australia and to the people of Queensland. The legitimacy of the Queensland Parliament is based upon the principles of democracy. Sovereignty does not lie with a State or with a head of State but with the country in which we live and with the people of this State. Presently, members swear their allegiance to a Head of State. Their allegiance is not to a head of State, or even to the State itself, but to the people who elect them and whom they represent.

If members of Parliament are to go through a process of swearing or giving allegiances, it ought to mean something. Swearing or declaring an oath as they currently do is largely meaningless. It is simply a form of words with nothing really attached to it. Changing the current Oath to the one proposed gives it a meaning that has substance. Of course, the fact that our head of State is an overseas monarch makes the Oath utterly irrelevant. The same objection would remain even if the oath were made to an Australian, even to a republican head of State. It would not be a declaration of real significance. It would not be an oath to the source of the legitimacy of members of Parliament. It would not be an oath to where sovereignty actually resides.

As well as replacing the oath or affirmation to the Queen, we propose the *Oath or affirmation of allegiance* taken by members when they become Ministers and members of the Executive Council also requires altering. The logic and reasoning for this change is the same as that lying behind the change to the members' *Oath or affirmation of allegiance*. One flows logically from the other.

Queensland is not the only State or Territory of Australia that has modernised its Oaths and Affirmations. In the Australian Capital Territory Oaths and Affirmation Act 1984, section 6A sets out the obligations of members of that Assembly to undertake an oath or affirmation. Schedule 1A sets out one of the alternative oaths as:

I ... swear 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!

Legislation was passed in the Western Australian Parliament. The Oaths, Affidavits and Statutory Declarations (Consequential Provisions) Bill 2005 of Western Australia provides:

I ... swear, according to the religion and the beliefs I profess, that I will faithfully serve the people of Western Australia as a member of the Legislative Council/Legislative Assembly.

The particularly interesting aspect of the debate in the Western Australia Parliament *Hansard* is that when the legislation was before that Parliament it had a number of provisions of which this was simply one and it was the other provisions that generated the controversy and the excitement. To the people of Western Australia, moving to a pledge or declaration seemed to have been taken as a commonplace and ordinary thing, and did not seem to generate much opposition from conservatives or others in the Western Australian Parliament. A number of years ago the Australian Citizenship Amendment Act altered the pledge of commitment to be taken by new Australian citizens. For about a decade now, in accordance with Federal legislation, the pledge has read as follows:

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.

This proposal is not specifically republican. While I would expect every republican who is serious about being a republican to support it for obvious reasons, it still institutes an Oath or Affirmation that is appropriate, whether we are a monarchy or a republic. The proposal in the submission is moderate, reasonable and almost modest. It can hardly be described as radical. It simply means that members of Parliament express their allegiance in the way they should. In a democracy allegiance should be to the people, not to a head of state. It should be an allegiance to the people that is represented, not to the person at the top of the tree or structure. Allegiance should not be to someone who lives thousands of miles away, but to the people members of Parliament represent, the people who elect them. The proposed change is not about a republic or a monarchy. It means that as members of Parliament they should pledge their allegiance not to a head of state, be it a monarchy or president, but to the sovereignty and source of their legitimacy. It pledges their loyalty where it is truly owed—to Australia and the people of Queensland.

Referring to the sovereignty of the people of Queensland in the *Oaths or affirmation of allegiance* is in keeping with public sentiment. Recent public opinion polls and the 2020 Summit show there is a groundswell of support for an Australian republic. Recently the Governor General made comment while in Africa that Australia would one day become a republic. It has been almost eighteen months now since the Rudd Federal Ministry took an Oath to Australia, its land and its people rather than to Queen Elizabeth II, her heirs and successors. There has been no public outcry or sense of disappointment about the change. It has been overwhelmingly positively received throughout Australia. This constitutes evidence of support for the inclusion in the Queensland Constitution of reference to the sovereignty of the people of Queensland.

Symbols are important. The oaths of allegiance have been changing around Australia. The parliamentary Oaths have already been amended in NSW, WA and ACT. It should be noted that Queensland ALP policy is committed to modernising Queensland's symbols and processes to ensure they reflect Australia's independence.

The current *Oath or affirmation of allegiance and of office – member of the Legislative Assembly* in Schedule 1, *Constitution of Queensland 2001* needs to be modernised so that members of Parliament can pledge their allegiance not to a head of state, be it a monarchy or president, but to the sovereignty and source of their legitimacy, that is, pledging their loyalty where it is truly owed—to Australia and the people of Queensland.

Yours faithfully



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