
From: Andrew Curtin [REDACTED]
Sent: Monday, 18 May 2009 10:45 AM
To: LCARC
Subject: Submission on the Modernization of the Oath of Allegiance
Attachments: Submission.pdf

The Acting Research Director,
Legal, Constitutional and Administrative Review Committee,
Parliament House,
George Street,
Brisbane Qld. 4000

by e-mail: lcarc@parliament.qld.gov.au

Dear Mr. Finnimore,

Re: Submission on the Modernization of the Oath of Allegiance

Capacity and Contact Details

I, Andrew Michael Curtin, of [REDACTED] in the State of Queensland can also be contacted at e-mail address [REDACTED] and on telephone number [REDACTED] and I make this submission in my private capacity.

Issue 3

Any modernization of the Oath of Allegiance set out in Schedule 1 to the *Constitution of Queensland Act* (2001) and required to be sworn by:

- the Governor of Queensland pursuant to s. 31 of the Act;
- Deputy Governors of Queensland pursuant to s. 41 (5) of the Act;
- Members of the Queensland Executive Council pursuant to s. 48 (3) of the Act
- Ministers of the Crown for Queensland pursuant to s. 43 (5) of the Act;
- Acting Ministers of the Crown for Queensland pursuant to s. 46 (3) of the Act;
- Members of the Parliament of Queensland pursuant to s. 22 of the Act; and
- Judges of the Courts of Queensland pursuant to s. 59 of the Act

before commencing their official duties should be most accurately to reflect the State's current constitutional arrangements. This rationale was adopted by the Brumby government in relation to the Oath of Allegiance in Victoria last October.

Since Queensland is one of the six sister States which united indissolubly in the federal Commonwealth, it is appropriate for Queenslanders to pledge allegiance to their sovereign, the Queen of Australia, whose position under the Constitution of the Commonwealth remains undisturbed. This is accurately reflected in the current formula of the Oath which styles the Queen as "lawful Sovereign of Australia."

However, the effect of ss. 10 and 7 (5) of the *Australia Acts* (1986) was to transfer sovereignty over Queensland from the Queen of the United Kingdom to The Queen as Queen of Queensland.

Since, pursuant to s. 7 (2) of the *Australia Acts* (1986), the Governor of a State exercises the powers and functions of the Queen in relation to that State, it would be most appropriate for the

Governor of Queensland to pledge allegiance to The Queen as Queen of Queensland because is the sovereignty of the Queen of Queensland which, under the Queensland Constitution, the Governor of Queensland will exercise.

Similarly, Ministers of State are the Ministers of State for Queensland and advise the Governor on the exercise of The Queen's powers in relation to Queensland. It would be appropriate for the Ministers of State for Queensland to pledge their allegiance to the Sovereign of Queensland whose representative they will advise.

This same analysis applied to member of the Executive Council of Queensland. It also applied to the Judges of the Courts of Queensland and Members of the Parliament of Queensland.

This is not to suggest that Queensland is its own country but it does acknowledge that, within the federation, the State of Queensland is a polity which enjoys a legitimate sovereignty within its proper sphere. For this reason, it would be most appropriate for The Queen to be styled in the Oath as lawful Sovereign both of Australia and of Queensland. The reformulated Oath might read:

"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 of Queensland and to Her (or His) heirs and successors, according to law..."

The Oath of Office in which the officeholder promises well and truly to serve the people of Queensland in faithfully discharging the office to the best of the officeholder's ability is appropriate. The two limbs of the Oath distinguish between the officeholder's loyalty to the Crown and the duty to discharge the office for the benefit of the people of Queensland. Moreover, the emphasis on serving the people "of Queensland" in any particular office reinforces that the officeholders allegiance belongs not only to The Queen as Queen of Australia but, more specifically, to the Queen of Queensland under whose sovereignty the office will be discharged.

With many thanks,

Yours sincerely,

Andrew Curtin

18th. May, 2009

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Legal, Constitutional and Administrative Review Committee,
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With many thanks,

Yours sincerely,
Andrew Curtin

A. M. Curtin

Mr. Stephen Finnimore