

**OATHS, AFFIDAVITS AND STATUTORY DECLARATIONS BILL 2003**  
**OATHS, AFFIDAVITS AND STATUTORY DECLARATIONS (CONSEQUENTIAL PROVISIONS)**  
**BILL 2003**

*Cognate Debate*

On motion by Mr J.A. McGinty (Attorney General), resolved -

That leave be granted for the Oaths, Affidavits and Statutory Declarations Bill 2003 and the Oaths, Affidavits and Statutory Declarations (Consequential Provisions) Bill 2003 to be debated cognately, and that the Oaths, Affidavits and Statutory Declarations Bill 2003 be declared the principal Bill.

*Second Reading - Cognate Debate*

Resumed from 4 December 2003.

**MR C.J. BARNETT** (Cottesloe - Leader of the Opposition) [4.40 pm]: Before I begin my comments on these Bills, I indicate that I am not the principal speaker for the Opposition on these Bills; that will be the member for Nedlands. However, I wish to make a few introductory comments before the member for Nedlands and other members speak on the Bills. These Bills are being dealt with cognately, which is logical. According to the Attorney General's second reading speech, these Bills seek to accomplish two changes: first, to consolidate various legal provisions that are relevant to the making of oaths, affirmations, affidavits and statutory declarations; and, secondly, to provide for what is termed a religiously neutral form of oath. The Attorney General claimed in his second reading speech that that is entirely appropriate in our multicultural community. The point I want to make is very simple. I recognise the cultural diversity and the wide range of religions within our society. One of the strengths of our Australian society is that we not only tolerate and respect other religions but also give people full freedom to pursue their religion and their God, whoever their God might be.

However, that is not the issue that I am seeking to raise. The issue to me is that Australia is essentially a Judeo-Christian society. In saying that, I am not casting any adverse reflection on any other religion. Whenever an Australian census is conducted, around 70 per cent of Australians describe themselves as Christian, or from the broad Judeo-Christian philosophy or church that underpins our society. That is the reality. That does not mean that those 70 per cent of people are necessarily devout and go to church every Sunday. However, the vast majority of Australians, myself included, regard themselves as Christian in the sense that we have been brought up in a society that is based on traditional Judeo-Christian values. Those values are reflected in our law, our institutions and our customs. When we come into the Parliament every day, the Speaker begins by making a statement that refers to God, and he says the Lord's Prayer. As a school child I, and I imagine probably also every member of this Chamber, said the Lord's Prayer at the beginning of the school day. I went to Sunday school. Most of us probably did. That is the reality. That is the nature of our society. Why would we seek to change a reference to God so long as there is an alternative for those who do not want to make a reference to a God? People may have different views as to who is their God. If a Christian refers to God, we probably understand what he is talking about. If a Muslim refers to God, the word is the same. Does it really matter?

Ms M.M. Quirk: Allah.

Mr C.J. BARNETT: Yes. We have all heard Muslims refer to God. For Muslims, God is Allah. The reason that an oath is solemn and binding is that an oath is sworn according to the conscience of the person as reflected by his or her religious beliefs. A person who is agnostic, atheist or just does not wish to make an oath with reference to God - any God - can choose to make an affirmation. There is a choice, and there should be a choice. We should not change something that is part of the tradition, culture and custom of our society. That is accepted by the vast majority of Australians, no matter what their ethnic, racial or religious background. We already give people who choose not to swear an oath the alternative of making an affirmation. That in no way discriminates against or penalises those people. That is all that is needed. Why do we need to take the reference to God out of oaths, affidavits and statutory declarations? Why do we need to undermine and weaken one of the traditional pillars of our society? What is so offensive about saying "I swear by Almighty God" or "So help me God"? The vast majority of Australians do not find that offensive. They feel quite comfortable with that. For the majority of people who swear an oath it is a reminder, given their upbringing in Australia, that an oath is solemn and binding, not only legally in the sense that they cannot commit a perjury, but also because they have sworn that oath according to their conscience.

I disagree with the Attorney General. I do not believe the Labor Government should be removing references to God from our laws and oaths simply because a small group of people in the population may object. Those people have a valid alternative. They can make an affirmation - a so-called religiously neutral alternative. The vast majority of Australians, including Australians born outside this country and from varying religious, racial

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and ethnic backgrounds, are quite happy to swear an oath to Almighty God, and they should be allowed to continue to do so. This Government seems to want to change the values of our wider society to accommodate a perceived minority. I believe the Government has got it wrong, because that perceived multicultural minority is probably not concerned about this matter at all. Who has lobbied, requested or demanded of this Government that it remove references to God? I cannot imagine that people have done that. I can imagine that some people in society - I respect their view - would want to have an alternative to referring to God that was equally valid at law. There is no justification for removing the reference to God. I believe that in seeking to do so, the Attorney General will offend people in the community who have strong religious values. He will also offend people who regard themselves as Christians even though they are not devout practising Christians. I would fit into that category, as would probably the majority of Australians who have been brought up according to Christian values and traditions. Whether they go to church every Sunday is not the point. I and most other people in Australia regard themselves as Christians. Seventy per cent of Australians describe themselves in that way in the census. Why change something that is accepted and proper?

This issue is not new. In November 2001 the Victorian Parliament's Law Reform Committee formed a special subcommittee of five members to look at this same issue. The committee produced a report titled "Inquiry into Oaths and Affirmations with Reference to the Multicultural Community". The Labor Government in Victoria looked at this issue and set up a parliamentary group to examine it. That inquiry received 52 written submissions and heard from 29 witnesses representing 17 different organisations - I would imagine mainly religious organisations. Over 50 people attended public hearings, and many people contributed to the community consultation forum co-convened by the Victorian Multicultural Commission and the Ethnic Communities Council of Victoria. Papers were issued in a variety of languages. The subcommittee went through a full consultation process. It also travelled, as parliamentary committees are prone to do, to San Francisco, New York and London to examine what had happened there. Victoria is probably a more multicultural community than Western Australia, I imagine, but its population has a similar composition. The chairman of the committee stated in his foreword to the report to the Victorian Parliament -

The giving of evidence under oath or affirmation is a process whereby witnesses "vouchsafe the truth." It is important that the evidence is given in a manner that marks the solemnity and importance of the occasion and is consistent with the value system of the individual.

He went on to state -

The Committee found that the current legislation and associated procedures in Victoria could be improved. The Committee felt that the diversity in the Victorian community would be reflected most effectively by a legislative regime which treats the oath, made in accordance with the religious belief of the witness, and the affirmation, which is secular, as equal options. Under proposed amendments, the Court would give people the choice between these options. The Committee found that this model is best reflected in the Commonwealth *Evidence Act 1995* and hence recommends that these provisions be adopted in Victoria.

In other words, the committee said that the solemnity, tradition and religious beliefs of people, no matter what their religion and no matter who their God might be, should be respected. People should be allowed to swear according to their God, whoever and in whatever form their God might be, in order to give the solemnity and commitment to an oath when giving evidence or at a swearing in. So long as there is an affirmation for people who choose to affirm, what could be better and fairer than that? It is entirely consistent.

The Victorian Bar Association, in making observations arising from a discussion paper of the Victorian Parliament Law Reform Committee, said -

The power of an oath is that it binds the conscience of the person swearing it, not merely that there is the possibility of a temporal sanction in the event of perjury being established. The Bar sees no need for such radical change, and believes that the concerns in relation to the multicultural community raised in the discussion paper would be met by amendment of the Victorian Evidence Act along the lines of the Commonwealth Evidence Act provisions.

At the end of all its considerations, including the information it gained through world travel, the Victorian Parliament Law Reform Committee concluded that the form of oath and affirmation as described in the Commonwealth's Evidence Act 1995 was the most relevant form for all individuals. The oath for use in commonwealth jurisdictions of law is cited in the commonwealth Evidence Act and used in the Federal Court and the High Court - lawyers can tell me where else it is used. The oath reads -

I swear . . . by Almighty God . . . that the evidence I shall give will be truth, the whole truth and nothing but the truth.

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It is a very simple oath. It does not say which God. There are options. If people do not want to use the word "swear", they can use the word "promise" and people can substitute the word "God" with another word, for example, in their religion: "I swear by Almighty Allah." The conscience and the power of that religious value, however strong or weak it might be, is there and people can either swear or promise, whichever word they feel comfortable with. They can use the word "God" - which is a generic term used across many religions - or a more specific term to describe their God. That is the oath. Alternatively, if people do not wish to do that, for whatever reason, they can make an affirmation. The commonwealth version of the affirmation is -

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.

That is a religiously neutral form.

I do not support the Bill. I do not object to some of the legal changes made by the Attorney General, but I do not support the Bill for the simple reason that, as found by the Victorian Parliament inquiry, it is unnecessary to accommodate the variety of religious beliefs in multicultural Australia. People can refer to God as a generic God, or substitute a specific term if they wish to specify their religion.

The second reason I do not support the Bill is that I find it an affront, to be honest. I find it an affront that this Parliament and this Labor Government should attempt to remove the reference to God in oaths and swearings in our community. I do not recall the Labor Party telling the people of Western Australia at the last election that any reference to God in oaths would be deleted. Who does the Labor Party think it is to make changes about people's personal and, for many, strongly held convictions? I can imagine that thousands of people will go into a court or be sworn into a position of office and expect to swear by Almighty God or to place their hand on *The Bible* if they choose to do so. They will do that because it means something to them. Who are we in this Parliament to take away that right? That is what this Bill will do. It will not give a right or equality to a multicultural minority; it will take away a right from the vast majority of people, no matter what their religious or ethnic background might be. Who do we think we are in this Parliament to take away people's right to express their religious values and to swear accordingly? I do not believe I have that right. I believe religion is very personal, very private and cherished by individuals. Although I disagree with the Bill, I ask members opposite to consider this: none of us has the right to interfere with and dictate to people how they practise or interpret their religion. None of us in this Parliament has that right. I hope that the Attorney General will reconsider the Bill, stop the debate and think about it. I do not doubt the veracity of the Attorney General's motivation. I suggest that he reconsider his belief that there are people in the community, from various ethnic or religious groups, who somehow feel that they are treated in a lesser way than other people by the form of our oath. The Victorian inquiry considered the matter and concluded that the commonwealth form of oath was acceptable to everyone. Obviously, most multicultural groups share that view. If the Attorney General wishes to modernise the oath to get a degree of consistency, why does he not accept the recommendations of the Victorian Parliament and go down the line of the Commonwealth? I am not fussed about the wording of the oath, but people should be able to preserve their right to swear by Almighty God.

I am not particularly religious and I am not portraying myself in that way. However, when I came into this Parliament I chose to swear on *The Bible*, as I would for anything that I solemnly do, for the simple reason that I was raised in a Christian environment. I regard it as part of my culture and part of my tradition. Most Australians feel the same. I do not believe this Parliament should take that right away from me or from any other Australian, no matter what their race or religion.

**MS S.E. WALKER** (Nedlands) [4.57 pm]: I concur entirely with the comments of the Leader of the Opposition, and have some more comments to make. I will refer to the Victorian report, which is very important. I apologise to the Attorney General and to the Chief Justice; I was sent the report and I have it with me. It is a very small report. I thought the Attorney General was referring to a thick report. Because of all the other material I have been given, I have not had a chance to have a thorough look at it. However, as someone who has conducted many trials and heard people give evidence, I can tell the Attorney General that to swear to God means something to people.

I had a conversation with the Very Reverend Dr John Shepherd, Dean of St George's Cathedral, Perth. He said that he would not mind me quoting him. He felt that the new oath put forward by the Attorney General would lose its significance. He sent me a copy of the prayers that were used by different religions on the Commonwealth Day observance at St George's Cathedral this year. The different religious groups in those prayers used the word "God". I will refer first to an article to give the broad groupings of religions in Australia. *The Australian* on Thursday, 18 March 2004 published an analysis of religions in Australia. I have with me a further analysis, which I will refer to later. Broadly speaking 1.9 per cent of the population follow Buddhism;

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68 per cent follow Christianity; 0.5 per cent follow Hinduism; 1.5 per cent follow Islam; 0.4 per cent follow Judaism; and 15.2 per cent follow no religion. Of course, people who have no religion can use the affirmation.

Mr J.N. Hyde: That last figure has grown by 30 per cent in the past 12 months.

Mr P.G. Pental: From a very tiny base.

Mr J.N. Hyde: It is still growing.

Ms S.E. WALKER: The member for Perth can stand and speak. This is important to me. I feel strongly about it. I have done a lot of research on it. If the member wants to stand and show us the research he has done on it, he should do so. Normally he contributes nothing, so he should not interrupt what I am trying to say on an important issue.

I will read from the observance held at the Perth Cathedral this year because it is important. It refers to the countries of the Commonwealth. The dean stated -

This is now the twenty fourth year that a Multi Faith Observance, such as we are celebrating today, has been conducted at St George's Cathedral, Perth. This Observance, held in conjunction with the Joint Commonwealth Societies' Council in Western Australia is based on one similarly observed at Westminster Abbey, London.

The Commonwealth of Nations is made up of fifty-three independent countries comprising one quarter of the world's population.

Since 1947 it has grown from a membership of only five countries, and now includes many races, differing systems of belief, and stages of social and economic development.

In his second reading speech the Attorney General said that changing the oath is about recognising the multicultural community. Religions go across communities. As I have said, I attended the Chinese New Year service at the Anglican church in West Perth. Most of those Chinese people are Christians. The dean went on to say -

Today's Observance affirms the rich cultural, ethnic and spiritual diversity within the Commonwealth. We gather to express the unity in diversity of our common faith in the supremacy of that which is both Divine and most truly human.

Members should not forget that we are talking about an oath that is made in court. It refers to God: "I swear by Almighty God, that I will speak the truth, the whole truth, and nothing but the truth". That oath does not refer to a religion; it refers to a god. It is religiously neutral. That is why the Attorney General was wrong when he said in his second reading speech that the oath that he will introduce will be religiously neutral.

I will read some of the prayers that were read at that observance. The first reading was by the Islamic representative, who stated, "In the name of God, Most Gracious, Most Merciful". At the end of his prayer he said, "Praise, then, each of you, the Name of your Great Lord". The second reading was by the Hebrew representative, who spoke of proclaiming the greatness of God. The Sikh representative said, "The wonder of the Lord have I beheld". The Buddhist representative - I take this on board - did not mention God. The Victorian parliamentary committee recognised that the Buddhist faith does not have a god. The sixth reading was by a Hindu representative, who said, "Worship Him as the manifold, the origin of all being, the adorable God who abides in one's own thoughts, the primeval". God is mentioned all the way through that prayer. The main religions in Australia are Buddhism, Christianity, Hinduism, Islam and Judaism. The Uniting Church representative said, "Loving God, you have created a world which is filled with your glory". The Islamic representative said in Arabic, "All praise be to God, Lord of the Worlds". The Jewish representative said in Hebrew, "Our lord our God".

Mr A.D. McRae: These are prayers.

Ms S.E. WALKER: Sure, they are prayers. However, those religions have a god.

Ms A.J. MacTiernan: What about Buddhism?

Ms S.E. WALKER: I have covered that. The minister has popped into the Chamber with her bag on her shoulder, eating a lolly. I am talking about something serious and the minister interjects with something that is trivial. If she wants to say something, she should stand and say it.

Ms A.J. MacTiernan interjected.

Ms S.E. WALKER: The minister should take her foghorn and go somewhere else.

Several members interjected.

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Ms S.E. WALKER: The point is that the Dean of St George's Cathedral in Perth -

Several members interjected.

The SPEAKER: Order, members!

Ms S.E. WALKER: Someone mentioned fire and brimstone. Government backbenchers and the Minister for Planning and Infrastructure may not give this issue much credence, but many people who are Christians believe in God. The silliness and the immaturity of government members are reprehensible. We are discussing something important.

I accept that we have a multicultural society. I know that the Chief Justice has done a review of oaths and affirmations.

Ms A.J. MacTiernan: Another godless communist.

Ms S.E. WALKER: Sorry; did the minister say that the Chief Justice is a communist?

Ms A.J. MacTiernan: He is another godless communist.

Mr P.G. Pental interjected.

Ms S.E. WALKER: He was good enough to send me a copy of his report on the review of oaths and affirmations, and the Attorney General also has a copy. The report states -

In February 1999, Mr Andrew Henderson, then Research Assistant to the Chief Justice, prepared a brief research report on the subject. He found that the question of religious oaths was considered by the Australian Law Reform Commission in its report on evidence in 1987. In that report the Commission recommended the prescription of an appropriate single form of religious oath . . . This . . . was duly accepted by the Commonwealth government and a single form oath and affirmation was prescribed by legislation for use in Federal Courts.

As I read the report of the Chief Justice, I found no mention of the recent report by the Victorian parliamentary committee in October 2002 titled "Inquiry into Oaths and Affirmations With Reference to the Multicultural Community". When I questioned the minister during debate, he said that he had not looked at this report before the Bills were introduced.

Mr J.A. McGinty: Yes, I had.

Ms S.E. WALKER: Okay, and he has ignored it.

Mr J.A. McGinty: Did I misunderstand your question? Is this the Chief Justice's report?

Ms S.E. WALKER: No; the Victorian report.

Mr J.A. McGinty: No, I have not read it.

Ms S.E. WALKER: The Attorney General should read that report; it is very extensive. The resources available to the Chief Justice are not the same as those available to Parliaments, as can be seen from the extent of the review undertaken by the Victorian Parliament. Its ultimate recommendation was to go with the commonwealth provision. The executive summary of the report states -

The multicultural community is the main reference point for analysis in this Inquiry into oaths and affirmations in courts and the making of statutory declarations and affidavits. The Committee examines the extent to which current legislation and associated procedures are reflective of the diversity of cultural and religious practices in the Victorian community.

The Committee found that the current legislation and associated practices could be improved in a number of respects. In particular, the Committee believes that a legislative regime which treats the oath (whether on the Bible or in any other form appropriate to the range of religious practices) and the affirmation as equal options would be more appropriate and have the added benefit of consistency with the Commonwealth legislation.

The report goes on to state -

The Committee's consultation process revealed that there are currently some problems with perceived or actual discrimination on the basis of the choice of oath or affirmation and with assumptions being made about a witness's religion. This evidence, coupled with more direct evidence received about training currently offered, indicated that there is a need for improved training for court officers and others.

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The Chief Justice mentioned in a letter to me that the genesis of the oaths and affirmations project arose out of the multiplicity of forms of oaths and affirmations currently in use. He said that part of the issue was the streamlining of the court process. I am sure the Chief Justice would not mind me quoting from his letter. It states -

The *Evidence Act* does, however, refer to an alternative form of oath in s 98 -

He is referring to oaths and affirmations -

described somewhat incorrectly in the heading to the section as the “Scotch form” of oath. Historically, the variation between the ordinary and the Scottish form of oath was that the witness did not take up the Bible, but raised his or her ungloved right hand. The *Evidence Act* then prescribes the form as:

“I swear by Almighty God, that I will speak the truth, the whole truth, and nothing but the truth.”

The Chief Justice further states -

I consider that that form of oath should be recognised. I also formed the opinion that we could happily drop the more extended form of Scottish oath which is set out in the papers. . . .

Otherwise, as to witnesses, if the present forms were to be retained, the only addition I would suggest, if it is ascertainable, would be a form of oath according to the rights of the Buddhist religion, particularly as a greater proportion of our population is now of Asian origin.

When the member says the Chief Justice supports the legislation, I am a bit confused. It may be that that report by the Chief Justice has been superseded by an Act of the Victorian Parliament. It is important to look at who was consulted and what they had to say. At page 87 the report states -

Justice Mushin of the Family Court of Australia was one witness who argued for the retention of a religious oath. He submitted that many people “would feel affronted by not having the opportunity to make a religious oath.” He also made the point, echoed by other witnesses before the Committee, -

The Leader of the Opposition has already pointed out how many submissions were made -

that many people live their lives according to their religious beliefs and that this is extended to making an appropriate religious oath: . . .

Representatives of different faiths put this view even more strongly. For instance, the Buddhist Council of Victoria also emphasised the significance of a culturally relevant religious oath and warned the Committee against adopting a “one-size-fits-all” approach to oaths and affirmations: . . . .

I now refer to the adoption of the relevant provision of the Evidence Act. The report continues -

The most prominent supporter of the adoption of the provisions of the Commonwealth *Evidence Act 1995* was the Family Court of Australia which currently operates under these rules. Many other witnesses supported the adoption of the Commonwealth provisions as a fallback to their preferred provision. For instance, a number of witnesses who supported the reversal of the order of preference of the oath and affirmation . . . indicated that the adoption of the Commonwealth provisions would be the most acceptable alternative.

If the Attorney General reads that report he will see that this committee in Victoria was incredibly thorough in its research.

Mr A.D. McRae: With an itinerary like that, no wonder.

Ms S.E. WALKER: I have read this report and it is very, very comprehensive and very fair. The committee consulted with representatives of all multicultural people and it came up with the view that the oath that should apply should be the oath that is in the commonwealth provisions. It is also important - I think my leader referred to this - why people take the oath in court. At page 28 the report states -

**The early development of the common law**

Eventually the conviction that truth was determined by the presence or absence of immediate divine intervention was supplanted by the notion that the oath had an effect on the ‘mind and emotions’ of the witness. As one early American case put it:

By laying hold of the conscience of the witness, and appealing to his sense of accountability, the law best insures the utterance of truth.

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Going back to my time in the Albany court, in a courtroom it is everything to do with finding the truth. The imperative is to get to the truth. Swearing to God - not everybody does - means something to a lot of people, even people who are Christians but do not go to church, particularly baby boomers, a lot of whom were sent to church when they were young but now say they do not go to church. In fact, a lot of people who do not go to church but are Christians still feel that the reference to God means something. It does mean something. It means something to a lot of people, because, as I pointed out, the commonwealth observance was represented by all the religions across Australia. It means something to every one of those religions except Buddhism. I do not cast aspersions on anyone in relation to that; I am merely making the observation.

There are more than just five religions. Other religions are grouped under the ones I have already mentioned. I refer to a document from the web site of the Office of Multicultural Interests entitled "Western Australian Diversity Statistics"; it refers to all sorts of religions. It indicates that Buddhism accounts for two per cent of the Western Australian population, but 67 per cent of the people in Western Australia are Christians. To be a Christian, a person could belong to any of these religious groups: Anglican, Baptist, Brethren, Catholic, Churches of Christ, Lutheran, Oriental Christian, Greek Orthodox, Macedonian Orthodox, other Orthodox, Presbyterian and Reformed, Salvation Army, Uniting Church, Pentecostal and Protestant, as well as other religions. The total for Christians is 67 per cent. Other religious groups are Hinduism 0.5 per cent, Islam one per cent, Judaism 0.4 per cent, Sikhism 0.1 per cent, other religions 0.38 per cent. All of those religions have a God. Buddhism accounts for two per cent of the population in Western Australia; "no religion", for 15 per cent.

As the Leader of the Opposition said today, who does the Attorney General think he is? He may be the Attorney General, but he should not be interfering with people's lives in this way. It was mentioned that the Anglican Archbishop supports this. When I speak with the dean, he indicates that he does not support it at all. When I speak to other Anglicans, they tell me that they do not support it. Changing people's religious observances in this way is very arrogant. I speak from my heart when I read this. If I were to take an oath in accordance with my religious beliefs compared with the oath that the Attorney General is proposing, it would not mean the same thing to me. Although I do not go to church regularly, I am a Christian, and it would not mean the same thing.

I know it is getting late and I have 40 minutes left, but I understand we will not be doing the third reading today. I would like to return to some of these issues when we do the third reading, because I would like to put some other material on the record. When I was considering this Bill, I asked one of the Clerks to provide me with the form of prayer that the Speaker uses every day in the Legislative Assembly. As soon as we come into the House, the Speaker says -

ALMIGHTY GOD we humbly beseech Thee . . .

The Attorney General has not changed that.

Mr P.G. Pental: You wait!

Ms S.E. WALKER: I know. He has not changed that yet. Because the Attorney General has the power, he changes things for ideological reasons. I do not know -

*Point of Order*

Mrs C.L. EDWARDES: The member for Nedlands indicated that because it is Thursday evening, and in the interests of brevity, she was not going to produce during the second reading debate some of the other material that is in her possession. The member indicated that she was happy to introduce that material during the third reading. As I understand the standing orders, she is not allowed to introduce new material at that stage. Given the reference that she has made, could the Speaker make a ruling to assist the House how best to deal with that issue?

The SPEAKER: I thank the member for Kingsley for the point of order. The third reading debate is far more restrictive than the second reading debate. However, if the member speaks to, and does not range from, the Bill, the inclusion of information pertaining to the Bill is allowable. The second reading debate allows far more material to be included than is the case in the third reading. It is up to the individual member whether she will introduce information during the third reading. However, the member must stick strictly to the Bill. I do not know whether that helps.

Mr J.A. MCGINTY: Further to the point of order, it is not the Government's intention to take issue concerning the narrow confines of the third reading debate you described. It would be a matter for you, Mr Speaker, but it is not our intention to raise any points in that regard.

The SPEAKER: I do not know whether that is a point of order or point of explanation.

*Debate Resumed*

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Ms S.E. WALKER: I thank the member for Kingsley and the Attorney General. People would like their points of view to be heard on these matters. In relation to religious diversity in Western Australia and languages spoken, the Office of Multicultural Interests outlines -

Western Australia is a multi-faith society where over 100 religious faiths are practised. Approximately two thirds of the population in Western Australia and Australia identified with the Christian faith. Other religions practised by more than 1,000 people in Western Australia include Hinduism, Islam, Judaism and Sikhism.

The Attorney General should not forget that those faiths have a God. The languages spoken are: English, 79 per cent of the population; Italian, two per cent; Chinese, two per cent; Vietnamese, one per cent; indigenous, 0.3 per cent; German, 0.4 per cent; Greek, one per cent; and other languages, 8.3 per cent. I mention that to show what a multicultural society we are. Statistics are provided on the origins of people who have come to Western Australia - they come from all over the world. Their background and culture do not matter on this issue because religion transcends all across the board. Statistics show clearly that most people in Australia who have a faith, have a God. There is nothing wrong with the current oath.

The Attorney General said in his second reading speech -

In a modern State such as Western Australia, the way in which oaths, affirmations, affidavits and statutory declarations are made should reflect the needs of the twenty-first century, rather than those of more historic times.

The Attorney General could not be more wrong. For some reason, the Attorney is embarrassed about our history. I am not embarrassed by it, nor should he be. The Attorney's argument does not stand up with regard to changing the oaths to make us more relevant to the twenty-first century. The Attorney claimed that the changes are entirely appropriate to a multicultural community. They are not. I have demonstrated that to be the case. Our community is multicultural, but this Bill will change something about our reference to our religion and our Gods, and it transcends the multicultural community. Members of the Liberal Party feel very strongly about this matter because it goes to a person's spirit and beliefs. Our values are that when we give an oath to God, it has a greater conviction than the oath proposed by the Attorney General.

**MR P.G. PENDAL** (South Perth) [5.25 pm]: I will not hold the House for more than a couple of moments. I find the Bill and its principal clause an affront on two levels. First, I share the views expressed by the Leader of the Opposition a few moments ago. I have heard him express those views in the past, and I endorse them entirely. I am also affronted that we should be dealing with a Bill of this kind at all, when it sets out to solve a problem that does not exist. This is against a background of a crowded legislative program. I would have thought that we should be giving some serious attention and extra time to other issues that are in reality a problem. There may be possibilities for improving the law of Western Australia.

Let me repeat to the Attorney General, through you, Mr Speaker: we are dealing with a problem that does not exist. For 110 years, under the Constitution Act of 1889, people have been able to do one of two things. If they believe in God, as do 85 per cent of people, they swear an oath. If they do not believe in God, as is the case with 15 per cent of the population, they affirm that they are about to tell the truth, or, in the case of members of Parliament, they affirm that they will be faithful to the Sovereign in the performance of their duties. That is the end of the problem.

Where is the need for a new Bill that changes a set of words that excludes a belief system that is shared by 85 per cent of the population? It is my view and experience in life that, even among the 15 per cent of people who do not believe in God, people have a sense of awe or reverence about some belief system. Most of those people, even though they do not believe in God, feel comfortable with the notion of leaving those structures in place. In other words, they are not entirely sure, but they do not want to see things disturbed for the sake of being disturbed.

What does this measure come down to? It is a new onset of political correctness that should be beneath the Attorney General and the Premier. It is political correctness at its most offensive. I ask: to what extent has the Attorney General been canvassed by anyone to have the reference to a formal God excluded from the oath? Has there been one solid request to the Government that it be done?

Mr J.A. McGinty: Yes - by the Chief Justice.

Mr P.G. PENDAL: The Chief Justice does not legislate in Western Australia.

Mr J.A. McGinty: You asked me whether anyone asked the Government to do it.



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Mr P.G. PENDAL: That is right. I am aware that the Chief Justice asked for it. That is one person from 1.9 million people. Tell me the answer to the second question. Can the Attorney General tell me of anyone who has approached the Government who is offended by the dual system that allows the 85 per cent of people who believe in God to swear an oath, and the 15 per cent who do not to make an affirmation? We are so amateurish in this matter. The Commonwealth had this sorted out in naturalisation ceremonies - as members will know - years ago. This is in much the same way that the Constitution Act 1889 had it sorted out, not only in 1889 when the British gave us a Constitution, but for a long time before that. It is a simple proposition. I do not want, for example, the 15 per cent who do not believe in God to be forced into saying that they do. However, no-one is forced to do that. It is interesting, incidentally, that before people can be sworn in as members of this place they must swear or affirm allegiance to the Sovereign Lady, Queen Elizabeth II, her heirs and successors according to law. If they do not do that, they may not take up their seat here or in the other House. For 100 or so years, we, the 85 per cent, have respected the notion that not everyone believes in God. Fifteen per cent do not and many of that 15 per cent are not sure. However, they have the facility to affirm, and that is the end of the problem. Why is the Parliament debating legislation that amounts to political correctness gone mad? Why are we not dealing with some of the legislation that I keep hearing is of pressing concern to the people of Western Australia? This Bill is not reform; it is pettiness gone mad. It is the result of a pedantic mind at work. I do not think the Chief Justice was advocating it at all. He was expressing a view. If the Government wants to find a new way, this is not the way it is done. The words in the Bill are "I swear, according to the religion and the beliefs I profess, that . . .". Already, by definition, allowance is made for 15 per cent of people who do not have a religion. Under this Bill they will be asked to swear by something that is untrue.

Mrs C.L. Edwardes: There is an affirmation.

Mr P.G. PENDAL: I realise that is the case. That underscores the point I made earlier. We are trying to find a solution to a problem that does not exist.

Mr P.D. Omodei: The intent of the legislation is to take the word "God" out of the swearing in.

Mr P.G. PENDAL: It is clear that the intent is to take out any reference to God. If the Attorney General is embarrassed by that term, he has the facility already at law to affirm every day of the week. I am affronted that we are being asked to deal with something that at one level represents an attack on the views of 85 per cent of the people of Western Australia. I am affronted because I am being asked to spend some time in this House on something that is not a problem. Where are this Government's priorities? Has it run out of puff? The Government is a few percentage points behind in the polls after three and a half years in government so it must invent things to bring into the Parliament. This package of six or seven Bills contains some important matters. I spoke on the reform of the Magistrates Court, but I can tell members that, in 24 years in Parliament, not one single, solitary person has ever asked me to do something about the reference to God because that person felt insulted. The reality is that people do not feel insulted. If they believe in God, they take the oath; if they do not believe in God, they affirm. Where is the problem? I will repeat that question. I hope that the Attorney General will provide an answer. If the day has come in this place when our legislative program is governed by one single person, albeit a very respected person who sits at the head of the judiciary, and that alone, we have come to a sorry pass. I suggest that the House reject the Bill. It is the weakest link in a generally strong chain of legislation introduced by the Attorney General some time ago. There is no reason for it.

Some years ago, landmark court cases allowed people to escape blasphemy charges if they did not believe in God. In other words, people can hardly be blasphemous to a creator called God if they do not believe in him. That sounds pretty sensible to me. That was a matter of some substance. For goodness sake, let us not spend Parliament's time seeing problems amidst an area in which there are no problems at all. I oppose the Bill.

**MR P.D. OMODEI** (Warren-Blackwood) [5.35 pm]: I support the previous speaker's view. My view is very similar. I am at a loss to understand why the Government has introduced this legislation. I can only refer to the Attorney General's comments that the Chief Justice's view is that the legislation should be changed. I do not know who is governing this State or who makes the laws. I thought the Parliament of Western Australia made the laws. Given the evidence heard before the Parliament today, this Bill is an absolute nonsense. In my 15 years as a member of Parliament, I have not heard clamouring from the community for the oath to be changed. During that time, I have been a minister responsible for various portfolios. For two or three years I was the Minister for Multicultural and Ethnic Affairs. Many people may not know that I presided over Western Australia's first multicultural policy. During that time of interaction with 265 ethnic groups in Western Australia, not once did anyone raise with me concerns about the oath of allegiance or the need to swear to God. If we take the word "God" out of the oath to Parliament, it will be an absolute shame. The Government should be ashamed of this action. The Attorney General, who I understand has a Roman Catholic background, has presided over legislation relevant to same-sex couples and their capacity to adopt children. It beggars belief.

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As the member for South Perth quite rightly said, when we became members of this place, there was a choice of swearing an affirmation of allegiance to the Queen, which excludes reference to God, or stating an oath of allegiance along these lines: "I, Paul Domenic Omodei, do swear that I will be faithful and bear true allegiance to Her Majesty Queen Elizabeth the Second, her heirs and successors according to law. So help me God." One thing sticks in my mind about the swearing-in ceremony three years ago: the majority of members of the Labor Party did not swear the oath. They took the option to swear an affirmation of allegiance. Is that why this legislation has been introduced? Is that why people in the caucus room did not question this legislation? It leads me to believe that is the case and that the majority of the members of the Legislative Assembly who are members of the Labor Party in Western Australia, at least, are part of that 15 per cent of people who do not believe in God. I have not received one letter, representation or delegation from either the 67 per cent of Christians or the 85 per cent of people who believe in God that we should change this legislation - not one.

I ask members to consider this. As the member for South Perth has said, we are sitting here on a Thursday evening. We all know what the normal sitting hours of this Parliament are. Tomorrow I will have a very busy day in my electorate - two ministers will be visiting my electorate, a south west local government conference is being held there, and there are pressing meetings that I need to attend. At the end of this sitting tonight I will jump in my car, no matter for how long we have been sitting, and drive for four hours to get to my home at Eastbrook. I have been a bit tired lately. I have fallen asleep a couple of times. I do not mind if I kill myself; I just hope it will be sharp and sweet. However, if I kill or maim someone else, my family will have to live with it, and I will have to live with it, forever and a day. The Leader of the House, who has a religious background, knows that this legislation is important to members on this side of the Parliament. There is no reason whatsoever that we should need to stay in this place to any ridiculous hour. The Leader of the House can stand as soon as I sit down and move that the House adjourn, and we can then give this legislation due deference by giving it the time that it deserves. These are very important Bills. People in the community regard reference to God as being of vital importance. If I were to abrogate my responsibility to those people by hopping in my car and driving home, I would forever have to respond to my mother, who goes to church every Sunday and prays for me -

Mr P.G. Pental: She has good reason to!

Mr P.D. OMODEI: Last week we were picking grapes very early on a Sunday morning, and when mum turned up at lunch time I said, "Where have you been? You should have been here picking grapes. You have done it every other year" - she is only 79 - and she said, "My son, I have been in church praying for you." Well, that fixed my argument! Many people in the community are devoutly religious. They fear and love God. Their whole lives revolve around God and their religion. Members can imagine that it would be anathema to them that the Parliament of Western Australia would take the word "God" out of oaths, affidavits and statutory declarations. I implore those members opposite who come from a Christian background to speak on this issue and make a decision to take this legislation out of this Parliament. This legislation is not necessary. Eighty-five per cent of people in the community are happy with the way things are at the moment. I, like others, have said that we believe that the 15 per cent of people in the community who are not God fearing do not have a problem with the word "God" being in oaths, affidavits and statutory declarations. I am very disappointed, as one who has had 15 years in this place, that today the Government is proposing to take one of the fundamental planks of society out of our legislation.

**MR J.P.D. EDWARDS** (Greenough) [5.43 pm]: I also oppose the Oaths, Affidavits and Statutory Declarations Bill 2003 and the Oaths, Affidavits and Statutory Declarations (Consequential Provisions) Bill 2003. I believe that Australia operates along the lines of the Westminster system of Parliament and the Constitution that was formulated and given to us by the United Kingdom early in our history. I was fortunate to be sent to a school - some would say not so fortunate - that required us to attend chapel every morning of the week for 15 minutes, and for one hour on Sundays. God has played a major role in my life for probably 10 years as a child, and also later as a teenager. That does not necessarily mean that I am a good Christian. However, I have Christian values. As other members have said, 75 per cent or 80 per cent of the Australian population have Christian values, or Judeo-Christian values, or whatever people would like to call them. I cannot see for the life of me why we should take the word "God" out of oaths, affidavits and statutory declarations. After all, that has been part of our history for a long time. People who do not wish to swear an oath to Almighty God have the opportunity of making an affirmation. That system has worked extremely well for many years. It seems to be working as well now as it has in the past. What is so important about this Bill that it has been brought into the Parliament? I believe that we - particularly people like me who have come to Australia from another country - should be adding to our society, rather than trying to erode the beliefs and laws that have stood us in very good stead for the past 100 years. I believe this is one of those laws. This Bill will erode part of our historical value. I cannot see why that needs to be so. If it is really the case that the Attorney General has brought this Bill into the Parliament only because the Chief Justice of the State has passed a comment with regard to this matter, then

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that is unfortunate. I suggest that if the Attorney General were to speak to people on the street, he would get another answer. I agree with the other members on this side of the House who have spoken on this Bill. There is a good reason that the word "God" is in our oath. Those of us who wish to swear an oath before God should be allowed to continue to do so. I oppose the Bill.

**MRS C.L. EDWARDES** (Kingsley) [5.46 pm]: I also oppose the Oaths, Affidavits and Statutory Declarations Bill 2003 and the Oaths, Affidavits and Statutory Declarations (Consequential Provisions) Bill 2003. I believe the Attorney General is wrong when he states in his second reading speech that this Bill provides for a religiously neutral form of oath, and that is entirely appropriate in our multicultural community. I endorse the comments that have been by other speakers about the lack of a call from members of the multicultural community for a change to the oath. I have had a long association with many different multicultural groups. I have never heard one such call. The Attorney General has called the new oath a religiously neutral form of oath. I have no idea what the new oath means. We all know what "I swear by Almighty God" and "So help me God" mean. The new oath begins as follows -

I swear, according to the religion and the beliefs I profess, that . . .

What young person today would understand "the religion and the beliefs I profess"? They understand "I swear by Almighty God". They understand exactly what the Attorney General is talking about when he makes reference to God. I suggest not one person on the street would understand "according to the religion and the beliefs I profess". The Attorney General states in his second reading speech that one of the reasons that a person may make an affirmation, rather than an oath, is that the taking of an oath is contrary to his or her religious belief or conscience. That makes a lot more sense than saying "the religion and the beliefs I profess". It is very badly drafted. It does not meet the need that I think the Attorney General wants to achieve. It certainly does not meet the needs of the community. The ordinary person in the street would understand that "I swear by Almighty God" means that he is swearing that whatever he has said is the truth by Almighty God. What does "according to the religion and the beliefs I profess" mean? Will that bind a person's conscience? The only oath that will bind a person's conscience is an oath that he or she understands. The oath that people understand is the one they have been brought up with. They understand that oath absolutely. They do not understand "according to the religion and the beliefs I profess". I put it to members that most people do not even know what "profess" means. What the Attorney General is proposing is a nonsense. It is wrong. The Attorney General may be able to write God out of oaths, affidavits and statutory declarations, but he will not be able to write God out of people's lives, because that is what they understand.

**MR R.F. JOHNSON** (Hillarys) [5.49 pm]: I oppose this Bill and I will explain why. I have been brought up as a Christian all my life, and I have tried to live a Christian way of life. Yes, I believe in God. I sometimes question some of the events that take place internationally and even within my own family; however, most Christians do from time to time. Ultimately, I believe that a Christian way of life is the only way of life for me and my family.

The important issue here is that the belief in God - the Christian belief - is very great to young people and children. Certainly, my four children and my grandchildren are taught Christian values; and with Christian values comes a belief in God as well. It is up to people when they reach adulthood to decide whether they believe in God. Some adults make a choice to not hold a belief in God; that is a decision they must make. However, I must ask what is the issue that is so significant to the Attorney General and the Labor Party that they want to remove God from oaths and affidavits?

I know that many members on the other side of the House have Christian beliefs and quite a few are Catholics. Very often Catholics are stronger believers than those who attend the Church of England or who are Baptists or Methodists; very often Catholics tend to take their religion to a further degree.

Mr J.L. Bradshaw: I am sorry to interrupt, but what you have just said is very debatable.

Mr R.F. JOHNSON: Catholics give an impression that their belief is stronger. They have confessions. They believe that if they confess their sins to a priest, those sins will be abolished. They hold that belief very strongly, and I do not criticise them one iota for that belief. In life people must have something to believe in. As far as I am concerned, the Christian way of life is an extremely important belief to hold. It is an extremely important moral standard to have, because that is how society evolves.

This Labor Government and the Attorney General in particular have diminished the values of family life and the way we behave. The Attorney General brought into Parliament gay and lesbian law reform. He has brought into the Parliament his own personal social agenda. It is a very sad day when that happens. It was bad enough when he pandered to a small minority of people in society and brought in the gay and lesbian law reform. He did not consider the true family way of life that is very important to Australian people. He has brought into the

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Parliament his social agendas and today he brought in another one. I should ask how many atheists there are on the other side of the House.

Ms M.M. Quirk: God knows!

Mr R.F. JOHNSON: God certainly knows! He will know when the member for Girrawheen gets to the pearly gates whether she believes in him, and whether she holds her beliefs in any significant way at all. The member for Girrawheen has never said a truer word in this House than what she just said by way of interjection.

Mr P.G. Pental: You can almost say that it was divine inspiration! It is the only time she has been guilty of that.

Mr R.F. JOHNSON: That is absolutely correct. We bring some amusement into this issue because it is so serious that if we did not have some humour, we would be almost in despair. This Bill is part of a typical socialist agenda.

Ms M.M. Quirk: Socialist!

Mr R.F. JOHNSON: Dare I say that it is the slow road to communism? This Attorney General is the one leading the charge to communism, and he is doing so by having brought in this Bill today.

I had the great honour, privilege and pleasure of being the Minister for Citizenship and Multicultural Interests in the last Court coalition Government. I visited many multicultural groups around Western Australia. There are 180-odd different multicultural groups in Western Australian society. Those groups, which included Catholics, various forms of Christian religions, Muslims, Buddhists and many other forms of religion, all basically believe in a god. God comes with a different name to many of those religions; however, not one of those groups ever said to me, "I think you've got it wrong, minister. I think your Parliament should change the laws of the land so that when we make a solemn oath, we do not do it to God." The member for Girrawheen said, "God knows!" I hope the member for Girrawheen believes that God is the supreme being. She is nodding her head, so I accept that. However, if that is true, how can she demean that position by voting for this legislation?

The Labor Party members should be given a free vote on this Bill today, and not be forced to vote along party lines. We know what the Labor Party does. The Labor Party's decisions go to Caucus and every single member is bound by the caucus decision, even those Christians among the Labor Party members.

I know there are members in the Labor Party and other parties who do not say prayers. When you, Mr Speaker, say prayers in the morning or afternoon - whenever we sit - I know the members who do not join you in those prayers. I know them because I actually open my eyes sometimes and look around to see who they are. I therefore know who is not saying prayers in this Chamber. I hold nothing against them for that, because I forgive them their trespasses. The most important thing is whether God will forgive them. That is God's decision, not mine.

As I said, not one multicultural group has said that it wants the oaths changed so that people do not have to swear to God any more. Who will we swear to in future? Will it be to the president of this country, if that comes eventually? Will it be to the Prime Minister or the Queen's representative? We will just not say anything. Here we go on the slow, downward trend to despair. That is what is happening under this Labor Government. Members should make no mistake about what is happening under this Labor Government and the Attorney General - this socialist Government. The Premier, the Cabinet and this Labor Party are taking us back 20 or 30 years in many areas. Industrial relations is a classic example. They are taking us back in time in our standards and family values. They are taking us back to a time when perhaps the family was not valued as much as it is today. Certainly they are taking us back in time today with this Bill.

The Attorney General said that he wants oaths and affirmations to be religiously neutral. Why? Who gave the Attorney General the right to decide that they should be religiously neutral?

Ms M.M. Quirk: It is the separation of church and state.

Mr R.F. JOHNSON: Separation of church and state! I tell the member for Girrawheen that the church does not interfere in the State in this Parliament. The unions might interfere in this State, but the church does not. This Parliament is the authority that makes the laws of this State, which is how it should be.

The Attorney General says that oaths and affirmations should be religiously neutral. Does he mean that we should not swear to God because there are a certain number of atheists in society? Does he mean that because there are people of different religious persuasions, we should not swear to God because their God is a different God from our God? That may be what he means. It will be interesting to hear what he says. Perhaps he will respond to that question, because I want to know what he truly means by that. If he is just pandering to a small minority, as he has done so many times in the past three years, that is a disgrace. It is a shame on this

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Government, and it will be a shame on this Parliament. I understand that members on this side of the Chamber will vote against the Bill. They will do so because they have strong beliefs in our standards and morals and in our Christian and other values. I certainly will vote against this Bill. One day the Attorney General will be judged by the highest being. Before that day comes, he will be judged by the people in Western Australia, because most people do not know about this Bill. Most of the people in Western Australia do not have a clue that this Bill is before the House today. They do not have a clue that the Attorney General and the Labor Government want to remove the need for people to swear on oath to God that they will tell the truth. Who will people swear to in the future if it will not be God? Will they swear to the Attorney General? If that is the case, God help us. Will they swear to the Premier? Will they swear to the unions, because they are the ones who control the Labor Party? We do not know to whom people will swear, but the reference to God will be removed so that the oath is religiously neutral. This is typical political correctness. That is the agenda of the Attorney General.

I implore Christian members on the other side of the Chamber to either vote against this Bill or abstain from voting. I implore them not to vote for this Bill. It is morally wrong. Members would be bereft of any clear Christian thinking to vote for this Bill. Some people will say that I am talking a lot of rubbish and making a big thing out of nothing. I am not, and neither did my colleagues who have spoken against the Bill. We have strong beliefs, principles and morals - things that create a good society. I am proud of my colleagues on this side of the Chamber for the beliefs they hold and the values they display.

At the end of the day, the most important Government in this world is the Government of the family. Never mind the federal, state or local governments; we must never forget that the most important Government in the world is the Government of the family within the family. All we have seen from the Labor Government day after day, year after year is the diminution of the values, morals and standing of the family. I applaud my colleagues. I will not condemn members opposite who support this Bill. That is not for me to do; it is for someone else to do. I ask the Christians among them to seriously think about whether they want to support this Bill, because this is just another diminution of Christian values and respect for God and the Christian way of life.

**MR J.L. BRADSHAW** (Murray-Wellington) [6.03 pm]: I also oppose the legislation. The Government was wrong to bring this legislation before the House. It seems that the Government is heading down the path of Sodom and Gomorrah with the legislation that has been introduced in this House over the past three years, including the gay legislation and so on. Now it wants to remove the reference to God from our oaths.

A constituent in my electorate, Sister Cabrini, taught the Attorney General. She has been tearing her hair out over the past few years over the legislation introduced by the Attorney General, whom she taught at the Catholic school in Bunbury many years ago.

Mr P.G. Pental interjected.

**MR J.L. BRADSHAW**: This is more than a failure; this is a total failure. Sister Cabrini will certainly tear a few more hairs out of her head when she hears about this legislation. She is a great lady and has been a great community worker and teacher over the years. In her latter years she has helped people, mainly in the Italian community, in the Bunbury region as a social-type worker. I have great respect for her. She has been very upset that the Attorney General, who was one of her students, has brought this type of legislation to the Parliament.

I repeat: I oppose this legislation. There is no need for it. It will be interesting to know when the Government plans to prevent the reading of the Lord's Prayer in the Parliament. Obviously that is the next step, if it is removing from oaths the reference to God. This is definitely a step in the wrong direction and I oppose the legislation.

**MR J.A. MCGINTY** (Fremantle - Attorney General) [6.05 pm]: First of all I will correct a few myths. This is the implementation of a recommendation that has come from not only the Chief Justice but also all the judges of the Supreme Court. To that end, I table a copy of the Chief Justice's report "Review of Oaths and Affirmations".

[See paper No 2240.]

**MR J.A. MCGINTY**: It arose in this way: in 1998 the Chief Justice was concerned that the oaths and affirmations for the swearing in of witnesses did not adequately cater for witnesses, victims and offenders from non-English speaking or non-Judaean-Christian backgrounds. The taking of oaths for people of those backgrounds, he thought, was in need of review. It is interesting that the report I have just tabled from the Chief Justice observed that the oaths and affirmations current at that time were largely taken from Boland's and Sayer's *Oaths and Affirmations* published in 1961. Some of the oaths, including the oaths for "strange religions", were considered to have potential to cause offence to certain members of the community. Others were clearly the result of historical precedent rather than contemporary consultation. The Chief Justice's report observed that. As a result, the Chief Justice undertook consultation with religious leaders, the Office of Multicultural Interests and 20 local

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ethnic associations, as well as the entire contingent of judges and masters of the Supreme Court of Western Australia.

Mr P.G. Pental: Did you undertake any form of consultation with those people?

Mr J.A. McGINTY: That work had been done. That report was provided to me by the Chief Justice.

Mr P.G. Pental: He did that as part of his review. I am asking did you do it as part of your review.

Mr J.A. McGINTY: I did not repeat the work that he had undertaken.

Mr P.G. Pental: That expresses the shallowness of your approach.

Mr J.A. McGINTY: I thank the member for South Perth.

Three options were considered by the Chief Justice in his report. The first of those options was to review and update each individual oath in the current handbook and agree on procedures for the production and storage of the principal religious text in respect of each religious denomination. The second option was to adopt the prescribed single form religious oath and affirmation in current usage in federal courts - some reference has been made to that. The third option was to adopt a single form of oath that omits the name of a principal deity. The suggested proposal, which is the proposal in the Bill now before the House, took the following form: I swear according to the religion I profess, that the evidence I shall give in this case shall be the truth, the whole truth and nothing but the truth. It was a recommendation of the Supreme Court of Western Australia that, to cater for all circumstances and to retain and promote religion and religious beliefs in the oath that people take, that was the form of oath that would cover all circumstances.

Ms S.E. Walker interjected.

Mr J.A. McGINTY: The member should listen to this, because it is important. This is a serious debate and I want the opportunity to put on the record why this has taken place, because it is painfully obvious, after listening to the debate, that a lot of people are reacting emotionally to this issue. They are not looking at the facts, what is proposed and what the legislation does. I want to explain that. The federal oath runs something like this: I swear by Almighty God that the evidence I shall give will be the truth, the whole truth, and nothing but the truth - or words to that effect. This observation is made in the Chief Justice's report -

Discussions with registry officials in the Federal Court of Australia about the effectiveness of the prescribed oath and affirmation revealed that the prescribed forms still produce some confusion. For instance, the prescribed form of religious oath asks a witness to swear by "Almighty God" or alternatively by "a god recognised by his or her religion".

In other words, if a Muslim came before the court, that Muslim would swear by Allah that the evidence he was to give was the truth, the whole truth, and nothing but the truth. The report continues -

Witnesses must therefore be alert to the need to change the name of the principal deity in the oath. It was found that in some cases, due to the often highly stressful nature of legal proceedings, the witness would 'miss' the change, and be forced to repeat the oath.

A Muslim might swear the standard form of oath to swear by Almighty God, having realised that he was not swearing to tell the truth according to Allah. He would then have to be re-sworn and his evidence recommenced.

Mr P.G. Pental: Rubbish!

Mr J.A. McGINTY: The member should argue with the Chief Justice, not me. This is his report. Members may not like it. This is the problem, members are not interested in listening.

Several members interjected.

The SPEAKER: Order, members.

Mr J.A. McGINTY: I am quoting the Chief Justice directly. The member for South Perth should try reading the report. A little bit of education and a few facts, and actually reading things, can be quite enlightening. I know where the member is coming from, but he should base his argument on fact and not on pure emotion, which is what he is doing.

Mr P.G. Pental interjected.

Ms S.E. Walker interjected.

The SPEAKER: Order, members.

Mr J.A. McGINTY: They are the words used in the Chief Justice's report as the reason for the approach adopted when the Commonwealth reformed its oaths and affirmations laws that were still problematic. The Chief Justice

Mr Jim McGinty; Mr Colin Barnett; Ms Sue Walker; Mrs Cheryl Edwardes; Speaker; Mr Phillip Pental; Mr Paul Omodei; Mr Jeremy Edwards; Mr Rob Johnson; Mr John Bradshaw

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has committed it to writing. He has written to me endorsing this report and supporting its implementation in the legislation that is before the House.

Mr P.G. Pental interjected.

The SPEAKER: I am sure that when the member for South Perth and the member for Nedlands gave their contributions, they were allowed to say in their speeches what they wanted to say. Even if they do not agree with anything the Attorney General says, he at least has the right to say what he is currently contributing.

Mr J.A. McGINTY: The Chief Justice then consulted with religious leaders, who were supportive of the change in the form of oath to that contained in this legislation, and on that basis it formed the basis for his recommendation to the Government that the oaths and affirmations be altered accordingly. For that minority of the population who are not Christian and who do not believe in a god, the affirmation has always been there - or always in recent times. That is an affirmation that they can take that deals with them. That deals with the point made by the member for South Perth. I think he said 15 per cent of the population do not believe in a god. The affirmation is there to cater for those people. I am talking about those people from a predominantly Christian community, where there are nonetheless significant minorities, who do not believe in a Christian god. They still need to swear oaths, and they should be given the right to swear an oath. The federal arrangement allows them to swear to a god other than Almighty God.

Mr P.G. Pental: What you said is untruthful. What you said does not refer to a Christian god. Nothing in the Constitution refers to an oath to a Christian god. Your ignorance is driving this, and you have just demonstrated that again.

Mr J.A. McGINTY: I thank the member for South Perth; he is very kind.

Mr P.D. Omodei interjected.

The SPEAKER: Members!

Mr J.A. McGINTY: I suggest members read the report before they make their ignorant statements. The religious leaders of Perth were consulted and they supported the recommendation of the Chief Justice. If people have a criticism to make, they should make it of the person who made the report - that is, the entire judiciary in the Supreme Court, all judges and masters. It is the Chief Justice's report. The Chief Justice has written to me supporting the implementation of his own report, because that is what will cover all situations in the court when it comes to allowing people to swear according to their beliefs and their religion. We have ensured that what is retained in the oath is the religion and the beliefs that people profess. Those religious beliefs underpin the current oath; they will underpin the future oath to cater for every circumstance. I have tabled a copy of this report for the information of members so that they will know that this is supportive of religion; it is supportive of every eventuality that might happen in a court. In no way is it what has been described by members opposite. They have set up a straw man in order to attack the Bill. This report deals with the issue as identified by the Chief Justice of Western Australia, and this legislation seeks to give effect to that. It is not an attempt, in any way, shape or form, to abolish or diminish religion as the basis of an oath, or religious beliefs, or beliefs in a deity. It is to make sure that every Western Australian can take an oath according to his or her religious beliefs. I am amazed that people find that offensive. I commend the Bill to the House.

Question put and a division taken with the following result -

**Extract from Hansard**  
[ASSEMBLY - Thursday, 1 April 2004]  
p1584d-1599a

Mr Jim McGinty; Mr Colin Barnett; Ms Sue Walker; Mrs Cheryl Edwardes; Speaker; Mr Phillip Pental; Mr Paul Omodei; Mr Jeremy Edwards; Mr Rob Johnson; Mr John Bradshaw

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Ayes (22)

Mr P.W. Andrews	Mr J.N. Hyde	Ms S.M. McHale	Ms J.A. Radisich
Mr C.M. Brown	Mr J.C. Kobelke	Mr A.D. McRae	Mr E.S. Ripper
Mr A.J. Carpenter	Mr R.C. Kucera	Mr N.R. Marlborough	Mr M.P. Whitely
Mr A.J. Dean	Mr F.M. Logan	Mrs C.A. Martin	Ms M.M. Quirk ( <i>Teller</i> )
Mr J.B. D'Orazio	Ms A.J. MacTiernan	Mr M.P. Murray	
Dr J.M. Edwards	Mr J.A. McGinty	Mr J.R. Quigley	

Noes (13)

Mr R.A. Ainsworth	Mr J.H.D. Day	Mr R.F. Johnson	Mr J.L. Bradshaw ( <i>Teller</i> )
Mr C.J. Barnett	Mrs C.L. Edwardes	Mr P.D. Omodei	
Mr D.F. Barron-Sullivan	Ms K. Hodson-Thomas	Mr P.G. Pental	
Dr E. Constable	Mr M.G. House	Ms S.E. Walker	

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Pairs

Mr P.B. Watson	Mr W.J. McNee
Mr M. McGowan	Mr R.N. Sweetman
Mr J.J.M. Bowler	Mr A.D. Marshall
Mr S.R. Hill	Mr T.K. Waldron
Dr G.I. Gallop	Mr M.W. Trenorden
Mr D.A. Templeman	Mr B.J. Grylls

Independent Pair

Dr J.M. Woollard

Question thus passed.

Bill (Oaths, Affidavits and Statutory Declarations Bill 2003) read a second time.

*Consideration in Detail*

**Clauses 1 to 17 put and passed.**

**Schedule 1 put and passed.**

**Schedule 2: Authorised witnesses for statutory declarations -**

Mr J.A. McGINTY: I move -

Page 17, after item 17 - To insert the following -

18.      A member of the National Insurance Brokers      Insurance broker  
                 Association of Australia (ACN 006 093 849).

Mr P.D. OMODEI: Will the Attorney General explain the reason for this amendment?

Mr J.A. McGINTY: This amendment will add members of the National Insurance Brokers Association to the list of people who act as witnesses for statutory declarations. They were not initially included in that list. We received representations from the National Insurance Brokers Association that its members should be able to witness statutory declarations, and we have agreed to that. It is not a major issue. The amendment has been moved for the necessary purpose of tidying up this matter.

**Amendment put and passed.**

**Schedule, as amended, put and passed.**

**Title put and passed.**