

LAW REFORM COMMITTEE

Inquiry into oaths, statutory declarations and affidavits for multicultural community

Melbourne – 1 August 2002

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Mr P. Armstrong, Chief Executive Officer, Melbourne Magistrates Court.

The CHAIRMAN — Mr Armstrong, on behalf of the Victorian parliamentary Law Reform Committee I welcome you to our hearing on the oaths and affirmations inquiry and invite you to speak to your paper.

Mr ARMSTRONG — Thank you. In discussions with the Chief Magistrate and other deputy chief magistrates we came up with a fairly short document just addressing the problems as we see them.

One of the main things, I suppose, is the legislation currently. With the chief magistrate, after this had been raised, we looked at it and agreed that something should be done. However, technically the legislation probably precludes us from acting upon it straightaway, because one of the requirements of the legislation is that a person will take the current form of oath, which is an oath on the Bible, unless the person objects for religious reasons and the magistrate or the court determines that it is against the person's religious belief or they have no religious belief. So the court agrees that the use of the Bible is an antiquated practice.

There was some discussion about whether it should be by affirmation, or alternatively, whether it should be by a person being asked what form of oath they would feel bound by. That is the main discussion which has occurred.

We agree that there is a need, as I think is highlighted in the document, for explanations and for brochures, et cetera, to be produced, because nothing at all is produced at this stage. Although some of the magistrates feel bound, the suggestion from the chief was that perhaps we could implement straightaway that the bench clerks could ask a person whether they want to take an affirmation or the oath on the Bible. However, because of the legislation, some magistrates have argued at this stage that that would not be appropriate unless the legislation is amended. The rest of it is covered in the document.

Similarly, I have discussed it with Magistrate Wilmoth from the Children's Court, and I am aware that Ms Wilmoth has put in a one or two-page document as well, which I have been given a copy of, which also indicates what occurs in the Children's Court area. It goes on on the same basis. That is basically our position.

The CHAIRMAN — We will commence questions. The Evidence Act 1958 provides that any oath may be administered in any manner which is now lawful. This section appears to be the source of law for the accommodation of alternative religious oaths.

Can you give any examples of additional oaths which have been accommodated in the past? For example, the manual for the Supreme Court includes the Buddhist oath. Would a Buddhist in the Magistrates Court be able to swear an oath in accordance with his or her religion?

Mr ARMSTRONG — Yes. Generally it usually boils down to the three — by affirmation, by the Bible, or by the Koran would be the three most common forms in the Magistrates Court by a long way. The others are very rarely used.

The CHAIRMAN — In the experiences of the staff of the courts in the past have there been many difficulties with which oath a person should take, or uncertainty or delay in the court process?

Mr ARMSTRONG — No, there is no uncertainty in the process. It is more a matter of, if a person objects, when they object — as I say, it is usually for the Koran, or they object to taking the Bible — then the magistrate believes they should make the inquiry as to what the person should take, whether it is on the Koran, whether it is for a Buddhist or whether it is an affirmation.

Ms HADDEN — Your written submission states that qualified staff to witness affidavits and declarations are appointed on a need basis to ensure that adequate numbers are available to all members of the community. Can you elaborate on this?

Mr ARMSTRONG — Yes. It means that persons qualify as clerks of courts after doing four internal subjects, several seminars and courses and having spent two years in courts, 18 months of which must have been in a Magistrates Court. However, when they qualify there is also an interview process whereby they are interviewed. Unless it is believed that they have appropriate knowledge and experience to perform the duties of a court registrar or deputy court registrar, they are not appointed to be a registrar or deputy registrar. If there is a need or if we believe they are suitable to be a registrar or a deputy registrar, then they are appointed, and can therefore take oaths, et cetera.

Ms HADDEN — Do you ensure that your staff are from a range of ethnic backgrounds or that they are able to speak languages other than English?

Mr ARMSTRONG — There is a list of people who can speak languages other than English. It came out about six or seven years ago, when the government looked at having a list of people, and there is some payment for it. In general the majority of persons in the Magistrates Court would be of Anglo-Saxon background. We have attempted to advertise for recruits in various other ethnic areas, particularly in the Koori press and in Vietnamese areas. We advertise extensively in country Victoria. But at the moment the majority of registrars and deputies would be of Anglo-Saxon background.

Mr KATSAMBANIS — In your submission you make a point that the court does not believe a distinction should be drawn between affidavits and statutory declarations in relation to witnessing requirements, particularly for people qualified to be witnesses. That is something that strikes a chord with me. There is a difference in the type of affirmation or oath required.

Mr ARMSTRONG — Correct.

Mr KATSAMBANIS — Obviously with an affidavit you need a religious oath, whereas with a declaration you need a simple recognition that you are declaring the truth and are bound by the laws of perjury.

Mr ARMSTRONG — Correct.

Mr KATSAMBANIS — Firstly, do you think that that is a possible way you can go with replacing oaths generally in the court process?

Mr ARMSTRONG — As I said earlier, the two ways that are seen by the court are — one, that there is a particular form of affirmation/oath, which is general; however, there is another divergence of views where people believe that everybody should have the right to give evidence as to their religious belief and their personal belief. I suppose it boils down to what their belief is and whether they will give true answers or make true statements.

Mr KATSAMBANIS — Do you believe from your own experience — and you can pull me up if you think it is an inappropriate question — that swearing to a higher order than the laws of the land is something that has added value to the court process today?

Mr ARMSTRONG — No. It depends upon the person and their religious belief. It completely depends upon the individual who is giving evidence and their religious belief. That is the reason that has been suggested for their being asked.

The problem is that a number of magistrates have raised, ‘Well, if you ask them those sorts of questions, a lot of people would not want their religion raised in a packed courtroom’. So it is a matter of what is the most appropriate oath. It was put that there be something along the lines of, ‘I

shall give true answers to questions asked of me', but we discussed that and people giving evidence are not answering questions. It was felt by magistrates that unless everything is covered — people may not feel that they have to tell the truth unless the whole evidence and question-answering that they are giving has been covered by some sort of affirmation/oath.

Mr KATSAMBANIS — I go back to the written declarations, the affidavits and the statutory declarations. If we allowed the broader range of professional groups to witness affidavits, how do you think we could ensure that they would be trained in a way that they would be culturally aware of the sorts of differences that have to be taken into account?

Mr ARMSTRONG — I think there is a need to, even with statutory declarations, unless you really understand what the statutory declaration is — and I think at the moment people are given a four-page document explaining it. In my view there should be more than that. There should be some training and a course — in a similar vein, I suppose, to what the Aboriginal bail justices or justices of the peace go through. In those instances the Justices of the Peace Association has constant training and updates of training, in a similar way to how my training staff conduct courses for Aboriginal bail justices. I think that those types of courses — and they would only be short courses — should be made available to persons who are going to take statutory declarations and affidavits so they are aware of what the requirements are, instead of just getting it on a piece of paper and being appointed.

Mr KATSAMBANIS — Is that likely to cause a situation where we might need to have fees for statutory declarations?

Mr ARMSTRONG — Of going back to fees for statutory declarations?

Mr KATSAMBANIS — Yes.

Mr ARMSTRONG — They were fantastic when they were around. I was a clerk at Carlton at the time and we really appreciated the extra funding. No, I do not think —

Mr KATSAMBANIS — I am not sure the public would, though.

Mr ARMSTRONG — No, I am sure they wouldn't. I do not think there is a need to go to that. I think there is a large number of people around who now volunteer for justices of the peace for doing statutory declarations and declarations, et cetera, and I think they are fairly easy to find in general. It is a matter of whether the people are available, and that is why I think the court used to be used a lot. In my view it is not used as much now for statutory declarations and affidavits as it used to be many years ago because of the availability. I think it should be available, particularly for those people with non-English-speaking backgrounds, who, by the way, often do not want to go to a court or be seen in a court. A lot of people do not want to be seen in a court; they would rather go to a local chemist shop or somewhere else to make an affidavit or a statutory declaration instead of going to and being seen in a courthouse or police station.

Mr BOWDEN — Before I get to the question I will say that I have been a justice since 1980, and a bail justice on the very first intake, and still am. I must have sat in the courts for five years and heard more than 2000 cases. I just give that preface to the question.

I guess the end result is the court being satisfied of the truthfulness and credibility and the binding of conscience of the person giving the information and evidence. So if religion is a difficulty as we move forward in our community, would you care to comment on the question of perhaps the removal of the religious element of the oath and a form of sophisticated or otherwise affirmation being the standard, a non-religious standard, which still ensures a responsibility and expectation for a high level of consciousness and truthfulness?

Mr ARMSTRONG — The answer is that that was the first — I suppose I put together the paper initially and then discussed it with the Chief Magistrate and deputy chief magistrates.

That was my first impression, that you just go with a form of affirmation which was mandatory and everybody took. However, a number of magistrates and others raised the fact that people may not feel bound by an affirmation, where they would feel bound by a religious-type oath. That is why I think we have really had two bob each way on saying, 'Well, it depends upon the person and what they feel bound by'. That is the reason for that. Some people may not feel bound by an affirmation, whereas they may feel bound by swearing on the Bible or the Koran.

Mr BOWDEN — You do not feel the possibility of serious penalties for not telling the truth would be a sufficient deterrent?

Mr ARMSTRONG — I personally do not think that penalties are the answer in the court situation. Regardless of what occurs, the majority of people in court — you have two different versions in most courts; that is why you are there. But in my view people do not go there to lie, in general. It is like going through a red light in a car accident. You might go through it and say 5 minutes after the accident, 'I never go through red lights'. By the time you get into a court situation you really believe what is in your mind. I do not think the majority of people go into court to lie. It is just something that they believe after a certain period of time. After three months they believe, 'I did not do that', or, 'I would not do that', or, 'I was provoked into it'. I do not think that in the main people go into court to lie about what occurs. In their minds it is what would have happened.

Mr BOWDEN — The last element of my question is: in practical terms, is this a daily or a weekly issue? Is the present system a real issue and a current substantial problem?

Mr ARMSTRONG — No, I do not see it as a current substantial problem. But what I do think is that there is a need for a consistent approach. In general it seems that, in Australia particularly, many people have turned away from religion and are not going to churches, et cetera, as much as they did. I do not think there is that following or belief in religion as there has been in the past, so I think it is appropriate that there be some other forms, and I think it should be that people have the right to take a form of oath which they feel bound by and not have to raise the Bible or take an affirmation. There should be some right for them to give whatever they believe is appropriate.

Mr BOWDEN — Thank you.

The CHAIRMAN — Mr Armstrong, an element of your submission states:

The court does not believe that the swearing on the Bible, as the principal form of oath, is justified on the grounds of tradition. As previously stated each person should take a form of oath, or an affirmation, which they believe binds them to tell the truth.

In terms of that statement about the principal form of oath, are you saying that it is reasonable to retain it as one of the forms of oath-taking so that it might be culturally and religiously appropriate for a particular grouping within the community?

Mr ARMSTRONG — I suppose the difficulty was, when we discussed it, as somebody said, if you leave it that way and you leave the oath and affirmation up to individuals, they may say, 'I want to swear on my mother's grave', or swear on something else. That is the problem that comes in if you leave it open. However, if there is some form of affirmation and a person is able to use their religious belief as an alternative — what we are basically saying is that some form of affirmation should be the major form of oath, or whatever you want to call it, instead of the thing at the moment, which is, 'You will take the Bible, and unless you object, you take the Bible'. We are saying that it should be more open and that people should be informed of their rights and have more involvement in the oath or affirmation they take.

The CHAIRMAN — Yes.f

Mr LANGUILLER — In your mind what is the purpose of an oath or an affirmation? What is the principal thing that you, as a magistrate or as a court, would want to extract out of an individual when he or she comes into the witness box and has to take an oath or an affirmation?

Mr ARMSTRONG — The main thing is that they are going to tell the truth in the evidence that they give or the questions that they reply to.

Mr LANGUILLER — On that basis, I put to you — hypothetically — that in my culture if I gave an oath or affirmation on my mother's grave — she is still alive — that would be the most important thing what would compel me to tell the truth and nothing but the truth. What is wrong with that?

Mr ARMSTRONG — Look, I don't — I used that one for the exact — that is what magistrates have put to me, too, and I do not have the answer to that. The problem that comes in then, I suppose, is if they believe it, whether you take that as the form of oath. It may be that in the same instance they have had a dog or cat that has died and they feel bound by something like that. That is the problem; you get into a wider field of it and it is very difficult to answer that question. But that was certainly one of the things that magistrates did discuss and raise. A lot of people feel that would be a better oath than the affirmation, particularly.

Mr KATSAMBANIS — Mr Armstrong, given that people have the right to object to swearing on the Bible — —

Mr ARMSTRONG — But don't know about it, and nobody tells them.

Mr KATSAMBANIS — Can you give us any examples of where you have had requests for unusual oaths, and if so, have they been accommodated? Have there been any, 'I want to swear on my mother's grave' type scenarios?

Mr ARMSTRONG — Technically the legislation now does not allow it, really. The magistrates take the view that if they object for the two reasons, then they are entitled to an affirmation, and that is usually what would be given. The number of magistrates who would ask — there are some magistrates who, when a person gets in the witness box, do ask whether they want to take an oath on the Bible or an affirmation, but to my knowledge there are very few. I am only fully aware of about four or five who do ask a witness. The majority of them will only do it if a person raises the objection when they are told to take the oath. In my view, that is exactly the problem. There is a need for much greater publicity to allow people to exercise their rights.

Ms HADDEN — That would perhaps introduce some logistical problems if people were given a choice because, as we often see in country courts, when the bench clerk says to the witness in the witness box, 'Do you want to swear on the Bible or make an affirmation?', the witness is confused. The whole courtroom is frightening and intimidating and the witness becomes confused, and what should follow is an explanation process. Perhaps that should occur before the witness gets into the courtroom itself?

Mr ARMSTRONG — We have already discussed that with the Chief Magistrate as a result of this inquiry coming up. We had not even given it any thought prior to that. We believe there should be some more involvement and it could be in the form of a brochure being made available or perhaps, as we change, in the form of a video being shown in the court foyer area talking in general about oaths, the giving of evidence and those sorts of things. Yes, we believe there is definitely a need to address those issues.

Mr BOWDEN — We now have in the Victorian community approximately 130 nationalities, and I understand that more than 200 individual languages are spoken by people from different cultural backgrounds. We also have a difficulty because the majority of our community is of the Christian faith and then we have other ethnic groups with other religious backgrounds, all of whom we have to accommodate as a community in the court process. Can you

comment on whether there is a real need to change? Not everyone goes to the courts, and the vast majority of us have a common cultural and community background, and while we as legislators and others would like to accommodate the various components of our successful community, do we really have a problem?

Mr ARMSTRONG — We have the problem that people are just told, ‘Raise the Bible in your uplifted hand and repeat after me’, and unless they think about it at the time or have thought about it previously they just do it automatically and it may have no meaning or very little meaning for them. The most important thing is to raise their awareness before they go in, regardless of what happens as a result of this inquiry, whether it is agreed that the process be changed or not.

There is a need to raise awareness among people that they do not have to take the oath on the Bible. It is my view that a lot fewer people are attending churches et cetera than there used to be a number of years ago. You are saying that our population is still largely Anglo-Saxon, but people are diverging away from the church and from religion, so therefore it is important that people be made aware that they have the right to take an affirmation as distinct from automatically being told, ‘Raise the Bible in your uplifted hand and repeat after me’.

Most people who walk into a courtroom do not even know what is happening and they are more concerned about their case than thinking about what they are doing when asked to pick up a Bible and make an oath. They do it without really thinking about what they are saying or doing. It is an automatic thing. They are in fear of the court and they really would not know what they are doing. They pick the Bible up automatically and do what they are told, but how much meaning does it have?

Mr LANGUILLER — Coming back to your explanation of what commitment we are trying to get out of a person, would you say that if a person is not fully aware of what is going on that that in some ways defeats the purpose of administering the oath? Perhaps for some years we have been defeating the purpose of it because people have not totally understood what is going on in that initial process, which is about making a commitment to tell the truth or however you wish to put it. Have we been defeating the purpose of the oath in some ways and in some cases?

Mr ARMSTRONG — Yes, I think you are right. As I said, I think there has been a move away from the Bible and the meaning of the Bible, so the people who are really honest are those who object to taking the oath on the Bible, but their number is minuscule. It is obvious that people take the oath automatically. It is the same when people they walk out of court. A large number of people who walk out of a courtroom have no idea what has happened. If they were legally represented they ask their barrister or solicitor, ‘What happened to me?’, or alternatively they wait until they get the piece of paper and then they go to the clerk and say, ‘What does it mean? What happened to me?’. It is a fairly daunting thing to be in a court, particularly when you walk in, go into the witness box and are told, ‘Pick up the Bible in your uplifted hand and repeat after me’, and that is all you are told. It is daunting for a lot of people.

The CHAIRMAN — I am trying to track down some figures on this, but there may be a difference between church attendance, which might be a lower proportion of the population today than it once was, and claimed religious faith. I am not sure that the level of professed faith contained in the census data parallels church attendance per se, so there may still be a high level of adherence to a faith that may not be reflected in church attendance figures alone.

On another question, have you seen many people prosecuted for perjury in your time in the courts?

Mr ARMSTRONG — No; very, very few. I cannot even think of the last one I was aware of. Very few people are prosecuted for perjury. It is obviously very difficult in the circumstances because you usually have two people with different versions of a story, and as I said, a lot of people believe what they say and do not intentionally go in there to lie. Not a great

number of magistrates would ever say, 'I do not believe you'. There may be two or three people giving evidence and some may be stronger than others, and obviously there are professional evidence givers such as the informants in criminal cases. It is very, very difficult to say that a person is lying unless you have a lot more than just the data that I would suggest is presented to a court. Very few people are prosecuted for perjury.

The CHAIRMAN — Would you be able to comment on whether there is a preference among those people who give evidence in court on a regular basis and who are familiar with court forms, systems and procedures, as to which form of oath or affirmation they might be more comfortable with?

Mr ARMSTRONG — You would very rarely see any informant in a criminal case who does not take the oath on the Bible. That is very, very rare.

Ms HADDEN — They are police informants?

Mr ARMSTRONG — Police, commonwealth or Office of Public Prosecutions officers in any of the criminal prosecutions. There are prosecutions in a number of areas, including prosecutions by city councils and revocations of orders through the PERIN system. Very, very few people in that area would object to taking an oath on the Bible, but there are very few people in general who would object. As I said, you are not really given the opportunity. You are just told, 'Raise the Bible', and that's it, and unless you are a thinking person or somebody who has deeply religious beliefs, you automatically do it.

Ms HADDEN — The hassle of asking to make an affirmation and putting yourself on the spot within the courtroom might also be a deterrent.

Mr ARMSTRONG — They might believe that the judicial officer could take it in a bad way and think they are not trying to tell the truth or something. Some people could see it that way, I suppose.

Mr LANGUILLER — Have you come across a case where an individual has refused to take an oath or affirmation, and what do you think about situations of that kind?

Mr ARMSTRONG — No, I have never come across anybody who has done that, because there is no other choice. It is up to the magistrate or the court then to determine the matter. I am not aware of any person who has done that. Obviously the legislation allows for only two options, and they take the oath or otherwise they take an affirmation. I am not aware of any person who has objected to taking an affirmation.

The CHAIRMAN — Do you know the history behind taking the Bible in the right hand? Is it necessary to hold the text as one gives the oath?

Mr ARMSTRONG — It is not necessary to hold the text. When I started in the courts 37 or 38 years ago, the wording was 'Raise the Bible in your uplifted right hand' but nowadays it is 'Raise the Bible in your hand'. The wording has changed over the years, but I do not know the reason. I cannot answer that.

Ms HADDEN — I noted when refreshing my memory on the Evidence Act that section 101 states under the heading 'Swearing with uplifted hand':

If any person ... desires to swear with uplifted hand, in the form and manner in which an oath is usually administered in Scotland ...

Mr ARMSTRONG — That is correct, but it did not say 'the uplifted right hand', and for some reason for many, many years we stated in our courts 'uplifted right hand', but that has been taken out and we just say, 'Raise the Bible'. In the past you really had to raise it up and if you did not the clerk would say, 'Raise it in your right hand'. Nowadays people just raise it slightly off the

bench and that is regarded as sufficient, whereas previously you really had to uplift it in your right hand. Even if you go back to the former Scottish and early American days, witnesses were always told, 'Raise the Bible in your uplifted right hand'.

Mr LANGUILLER — Even the Scots are changing now. They have walked away from the Westminster tradition and are going towards the European tradition, and they have probably given up on all these traditions.

Ms HADDEN — Although police officers still very much hold the Bible uplifted.

Mr ARMSTRONG — Yes, the older style police officers still hold it up.

Ms HADDEN — There are not too many in the country courts who would not. They hold it up very high.

Mr ARMSTRONG — There are obvious reasons why. If you walk into a courtroom and you are very confident, you lift it up high, and obviously in the eyes of some of those who are training people that creates a better impression than just putting a hand on the Bible or appearing not to want to pick it up.

It is the same with the removal of gloves, et cetera; although very few people wear gloves nowadays, there was a period when women in particular wore gloves and we used to have to make them take their glove off to take the oath.

The CHAIRMAN — As part of this inquiry process under the Parliamentary Committees Act we have the option of requiring people to give evidence under oath. In our inquiry to date we have not elected to impose that requirement as such. However, if you were to be invited to give evidence under oath, what form of oath or affirmation would you select?

Mr ARMSTRONG — That is interesting.

The CHAIRMAN — What would you be most comfortable with?

Mr ARMSTRONG — I suppose I would be most comfortable with the Bible because I have been brought up through the court system and I also come from that background, and they would be the reasons. It is the same as with the taking of oaths and affirmations and statutory declarations from people — it is an automatic thing. I would say I would be quite happy with either an affirmation or an oath on the Bible.

The CHAIRMAN — If someone elects to make an affirmation, does the court ask why?

Mr ARMSTRONG — Yes. Under section 102 of the Evidence Act if a person objects to raising the Bible and taking the oath, the court has to ask the person why they object. From memory, the only two reasons they can give are 'I have no religious belief' or 'It is against my religious belief'.

The CHAIRMAN — In that case are the witnesses required to reveal their religion?

Mr ARMSTRONG — No, they are not — well, it depends upon the magistrate or judicial officer. In general the court would be satisfied that it was against their religious beliefs. They may be asked, 'What is your religious belief?', so that the Koran, for example, could be used.

Mr LANGUILLER — Is it reasonable for a person to be asked his or her religious beliefs, given the level of prejudice that exists throughout society, which I suggest would be more or less the same within the judiciary, given its traditions and the background that a majority of the judiciary come from? For example, if I were Muslim — I am not — I would not feel comfortable

today having to indicate to a court of law that I am a Muslim because I suggest that some people in the courts or even in a jury may well be prejudiced against my background.

Mr ARMSTRONG — That is a fact. I deal with all complaints to the Magistrates Court with the Chief Magistrate, and two letters of complaint have come in of recent times from people saying they believe that because of their faith, which was announced as a result of their taking an oath, a magistrate had discriminated against them. That was the reason a number of the magistrates said when we were talking about it that a lot of people may not want their religion revealed in a courtroom.

The CHAIRMAN — When you say a lot, would you be able to give a guesstimate of the percentage of people in that category?

Mr ARMSTRONG — No, I cannot. No, it was just that one of the magistrates raised the issue that if you start asking people about their religion or whatever, some may not want it known so you may not get the answer you are after if you go right into the background of their reasons for taking a particular oath.

The CHAIRMAN — Has the oath or affirmation a witness has chosen ever been challenged on the ground that it may not be binding on their conscience?

Mr ARMSTRONG — Yes.

The CHAIRMAN — Are you able to elaborate on those circumstances?

Mr ARMSTRONG — In Collingwood about 26 years ago, a person of Jewish extraction appearing before a justice of the peace objected to taking the oath on the Bible and did not want to take any other form of oath. There was discussion about what form of oath he should take and it was argued by his legal representative that he should take an affirmation, even though he had a religious belief, because he did not want to swear on the Bible or take the other forms of oath that could have been taken. He was allowed to take the affirmation.

Mr KATSAMBANIS — Are the Bibles that are made available New Testament, Old Testament Bibles or both?

Mr ARMSTRONG — Both. There should be a Koran at every courthouse. We purchase new Korans about every two or three years, and similarly the Bibles are purchased in bulk, both Old Testament and New Testament.

Mr LANGUILLER — Given your experience and knowledge of the magistrates and courts in general, if a magistrate or a judge were, very hypothetically, to have to take an oath or an affirmation, do you know which they would take, by and large? What would they prefer themselves as individuals? I know it is very hypothetical.

Mr ARMSTRONG — I honestly could not answer that. As discussed before, the majority of people are of Anglo-Saxon background and there are a number of magistrates and judges of ethnic background, but I would suggest that the majority would be Anglo-Saxon so I assume the majority of them would take an oath on the Bible or take an affirmation.

Mr LANGUILLER — Would they feel uncomfortable in telling a Muslim person, for example, in the witness box, 'I understand that you are a Muslim but I want you to know that I am a Christian'? Would they feel comfortable with that and would they feel that having a Jewish, a Palestinian or a Muslim background today would not in any way whatsoever change the dynamics in a courtroom?

Mr ARMSTRONG — I do not think that the majority of magistrates would be prepared to go into that form of disclosure and I do not think they should have to. They are judicial officers

and they have to be fair and impartial to whoever appears before them, and I think that fairness and impartiality should be respected.

Mr LANGUILLER — I agree with that, by the way, but it is interesting to see the other side of it. If I happen to be in the witness box my entire religious background — which says a lot about my value systems, my traditions, the way I view the world and so on — can be put right out in the open in the courtroom, but the backgrounds and religions of the people opposite me are not.

Mr ARMSTRONG — Magistrates and registrars receive training sessions on the different values in our community and what people hold sacred, et cetera, and they are enforced throughout the courts, particularly of recent years more so than ever before, because of the number of people of different ethnic backgrounds.

Mr LANGUILLER — A final question, if I may, just for the record. Are there are comments you wish to make in relation to people with disabilities of any type — for example, those with visual or hearing impairments — or do any comments come to mind that may be relevant to this inquiry?

Mr ARMSTRONG — The hearing-impaired would usually be represented, and we would get somebody from the Victorian Deaf Society. We also have loops in a large number of the courtrooms so that the hearing-impaired can better hear.

The blind? I have never thought about it. I cannot answer that, to be honest. I have never given it any thought.

Mr LANGUILLER — If anything comes to mind would you let us know?

Mr ARMSTRONG — Certainly.

Mr BOWDEN — In the court process, given that for a lot of people who go to the court it is an intimidatory situation, they are not at ease — as we all understand — and that in history there is almost no record or it is almost unknown where people have been prosecuted for perjury, in the Magistrates Court in particular would it not be probably a benefit to consider doing away with oaths and affirmations?

Mr ARMSTRONG — No. I still believe there is a need for a witness or any person giving evidence to profess that they are going to tell the truth, otherwise if there is nothing then you can say whatever you like and feel free to say whatever you like. Whereas, if a person professes or says that they will tell the truth and they respect that in some format I believe that that should be continued.

Mr BOWDEN — Retained in some form?

Mr ARMSTRONG — In some form, yes.

The CHAIRMAN — Thank you very much, Mr Armstrong, for your evidence. How is the review of court facilities in Lakes Entrance and Kyabram going?

Mr ARMSTRONG — Continuing well.

The CHAIRMAN — Thank you.

Witness withdrew.