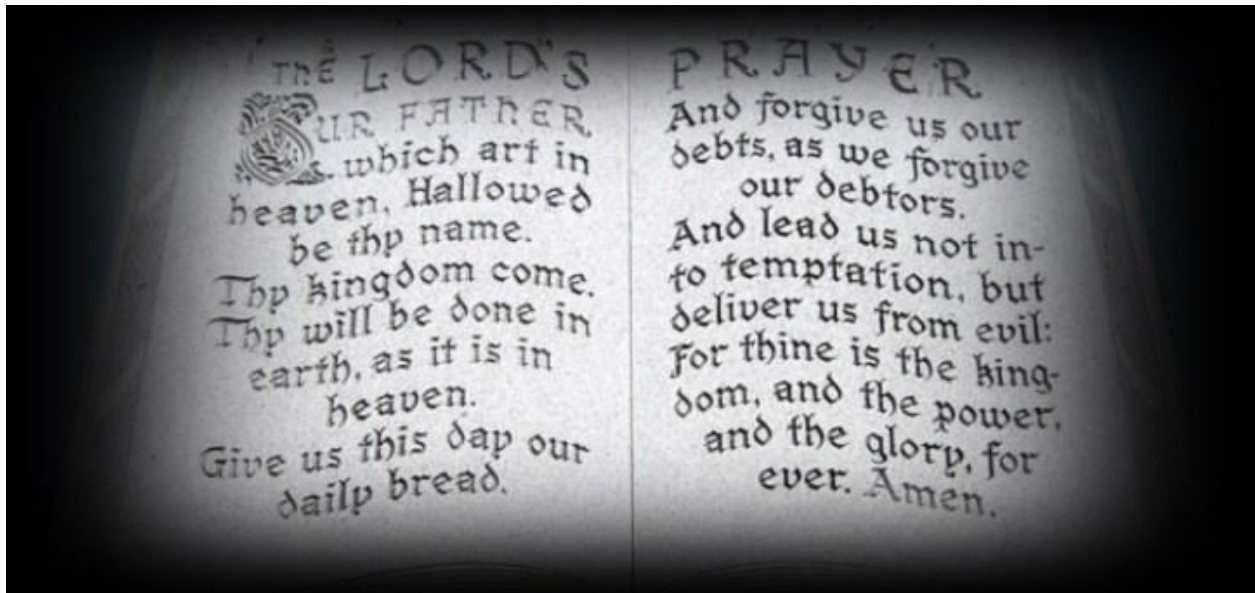


# The Lord's Prayer and the Law



***By Roger C.***

North Americans appear to be getting used to life without the Lord's Prayer.

Many now accept that the recitation in public of a prayer associated with one particular religion is a form of discrimination against those who are not members of that religion or who are not members of any religion.

They accept that in a public environment there should be some effort made to respect the dignity and rights of all those present.

However, this does not apply to all Americans and Canadians. Some of our more religious members still resent the removal of religious observance in public places.

And in the rooms of AA, the Lord's Prayer is ever present, recited in many parts of North America at the end of meetings.

It begs the question, why do so many in AA still cling to the Lord's Prayer? Why have the changes seen in other important public forums not caught on in AA? How has AA somehow managed to remain anchored in a 1935 context, exempt from legal prohibitions against public prayer that have since been imposed on other organizations and institutions?

These questions are especially relevant when we look at how over the past fifty years various judicial bodies have reacted to the the public recitation of the Lord's Prayer.

## The United States Supreme Court

Prayer in public schools in the United States has been prohibited since 1962 as a result of a Supreme Court decision.

The Court ruled on a case, ([\*Engel v. Vitale\*](#)) in which the parents of ten students filed an objection to a prayer that was said aloud each morning by students and teachers in public schools in New York. (Engel was one of the parents and Vitale was the president of the targeted school board.)

The prayer had been written by the State Board of Regents and so was known as the Regent's Prayer:

*Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our Country.*

The parents argued that the use of this official prayer in the public schools was contrary to their own and their children's beliefs. Based upon the First Amendment of the American Constitution, the Court ruled that "it is no part of the business of government to compose official prayers for any group." Justice Hugo Black, delivering the opinion of the Court, went on to affirm that the State should not in any way "ordain or support" any religion "as one the greatest dangers to the freedom of the individual to worship in his own way lay in the Government's placing its official stamp of approval upon one particular kind of prayer." (*Engel v. Vitale*)

The Court was echoing Thomas Jefferson. The third President of the United States, and known for his religious tolerance, Jefferson had once written, "It does me no injury for my neighbor to say there are twenty gods or no God. It neither picks my pocket nor breaks my leg." (*Notes on Virginia*, 1782) But he will forever be remembered for his affirmation in 1802 of the need for "a wall of separation between Church and State."

This principle was clearly on the mind of Justice Hugo Black when he delivered the Supreme Court decision 160 years later that ended the use of prayer – including the Lord's Prayer – in public schools in the United States of America.

For the fifty years since then children in American schools have somehow survived without a daily dose of "Our Father."

## The Ontario Court of Appeal

In Canada, children have been without the Lord's Prayer at the beginning or end of the school day for much less time.

It was only in 1982 that Canada adopted its own [Charter of Rights and Freedoms](#). “Everyone has the right to the following fundamental freedoms,” it begins and at the top of the list in the Charter is the “freedom of conscience and religion.”

Six years later, in 1988, the Ontario Court of Appeal heard a case in which several parents, one of whom was Philip Zylberberg, objected to prayer at the beginning of the school day ([Zylberberg v. The Sudbury Board of Education](#)) on the grounds that it infringed their children’s “freedom of conscience and religion,” as guaranteed by the Charter.

Zylberberg was a Jewish man who, as a boy, had to stand outside in the school hallway during the Lord’s Prayer. When he learned that his own children would have to stand in the hall just like he did, Zylberberg, a lawyer, decided to take legal action.

Every school in the Board’s jurisdiction opened its day with the singing of “O Canada” and the reciting of the Lord’s Prayer. The prayer was most often led by the classroom teacher or broadcast over the school’s public address system. These practices were required by Section 28, Regulation 262 of the province’s *Education Act*: “A public school shall be opened or closed each school day with religious exercises consisting of the reading of the Scriptures or other suitable readings and the repeating of the Lord’s Prayer or other suitable prayers.”

The Court of Appeal ruled that the “recitation of the Lord’s Prayer, which is a Christian prayer... impose(s) Christian observances upon non-Christian pupils and religious observances on non-believers” and constituted a violation of the freedom of conscience and religion provisions in the Charter of Rights and Freedoms.

Zylberberg’s children would no longer have to leave the room.

Interestingly, the respondents had not argued that the Lord’s Prayer was not Christian but instead that no harm was done to those pupils who did not wish to participate in its recital. “The affidavits of two psychologists, filed by the Board, asserted that children from minority religions were not harmed by the policy... (They claimed) that religious exercises resulted in minority children ‘confronting the fact of their difference from the majority.’ This was said to be a normal and healthy part of growing up...”

Both matters were discussed in a letter written by AA co-founder Bill Wilson in 1959:

*There will always be those who seem to be offended by the introduction of any prayer whatever into an ordinary AA gathering. Also, it is sometimes complained that the Lord’s Prayer is a Christian document. Nevertheless this Prayer is of such widespread use and recognition that the arguments of its Christian origin seems to be a little farfetched... Around here, the leader of the (AA) meeting usually asks those to join him in the Lord’s Prayer who feel that they would care to do so. The worst that happens to the objectors is that they have to listen to it. This is doubtless a salutary exercise in tolerance at their stage of progress.*

Any history student who suggested today that the Christian origin of the Lord's Prayer is "farfetched" would get an "F" for his or her contribution. Nevertheless, this dated idea is yet heard in the rooms of AA.

As for the notion that confronting one's differences with the praying majority is "a normal and healthy part of growing up" or "a salutary exercise in tolerance," the Ontario Court of Appeal found this suggestion "insensitive."

"The reality is that it imposes on religious minorities a compulsion to conform to the religious practices of the majority" the Court wrote in its decision. "(It) imposes a penalty on pupils from religious minorities... by stigmatizing them as non-conformists and setting them apart from their fellow students."

The need to seek exemption from saying the Lord's Prayer is in itself a form of religious discrimination and an "infringement of freedom of conscience and religion," the Court ruled.

Of course, some in AA may choose to ignore the American Supreme Court ruling or the decision by the Ontario Court of Appeals. AA is, after all, not a state institution.

However, the principles embedded in the American constitution and in the Canadian Charter of Rights are already beginning to have an impact on the now 77-year-old fellowship. If the history of the evolution of individual rights over the past few hundred years is any indication, this impact will inevitably become all the more powerful and significant in AA over the next several decades.

Between 1996 and 2007, for example, five High Courts in the United States ruled that neither the judicial system nor correctional facilities could force parolees, probationers or inmates to attend AA meetings. ([The Courts, AA and Religion](#)) The Courts ruled that a sufficient number of AA practices were "religious" and therefore coercing attendance at AA meetings would constitute a violation of the principle of the separation of church and state found in the First Amendment.

The High Court decisions were based in part on the presence of the Lord's Prayer at meetings:

*The "meetings were permeated with explicit religious content..."* ([Kerr v. Farrey, 1996](#))

*"Group prayer is common at the meetings attended by (the) petitioner. The meetings open with the 'Serenity Prayer,' essentially non-denominational, and close with 'The Lord's Prayer,' a Christian prayer."* ([Arnold & Evans v. Tennessee Board of Paroles, 1997](#))

*The objection is to "any program that has explicit religious content. This includes, but is not limited to, the recitation of prayers at meetings, whether or not (someone in attendance) is required to participate in the prayer."* ([Inouye v. Kemna, 2007](#))

*"All of the meetings ended with the Lord's Prayer, which is a specifically Christian prayer. In addition, those attending the meetings were strongly encouraged to pray." ([Griffin v. Coughlan, 1996](#))*

Not all probationers, inmates and parolees are opposed to attending AA or other 12-Step meetings. But these rulings – which are increasingly viewed as established law in the United States – make it more and more difficult over time for courts and prisons to force, facilitate or even encourage alcoholics to participate in AA.

It may be just this simple: the rules that define "religion" have become much clearer – and tighter – over the past three quarters of a century since the founding of AA. Calling the program "spiritual" but not "religious" doesn't cut it any longer.

For a fellowship that is committed to being there for all those who reach out for help, there should be some concern as these particular state/government sponsored doors to AA are slammed shut.

## **The Human Rights Tribunal of Ontario**

There was quite the brouhaha the day Intergroup booted two agnostic groups off the official Toronto area AA meeting list.

At one point the representative for the soon-to-be-booted Beyond Belief group, Brian N, warned that excluding it from the meeting list and participation in regional AA meetings – on the basis of their lack of belief in a God – would be a violation of the [Ontario Human Rights Code](#) and that an official complaint could be launched with the [Human Rights Tribunal of Ontario](#).

The hall at the Lansing United Church at Yonge and Sheppard erupted. "There was booing, hissing, shouts of 'bullshit' and other insightful comments," Brian, the duly chosen and recognized Intergroup representative of Beyond Belief, at the time, reported.

As far as many were concerned, this was strictly a matter of "group conscience" and the government had no place in the rooms of AA.

Brian's warning was based on the fact that the Ontario Human Rights Code prohibits discrimination based on religion (or "creed," as the Code puts it).

The provincial Code has actually been around longer than the federal Charter of Rights and Freedoms. It took effect in 1962, and was the first Human Rights Code of its kind in Canada.

Here is how the principle of freedom from discrimination on the basis of religion is articulated in the Code:

*Every person has the right to be free from discriminatory or harassing behaviour that is based on religion or which arises because the person who is the target of the behaviour does not share the same faith. This principle extends to situations where the person who is the target of such behaviour has no religious beliefs whatsoever, including atheists and agnostics who may, in these circumstances, benefit from the protection set out in the Code.*

Nobody at Intergroup argued about why the two AA groups were expelled. It had everything to do with differences with regard to religious beliefs and practices.

Members of the agnostic groups had removed “God” from an agnostic version of the 12 Steps read at their meetings and published online on a page that was provided to them on the Intergroup website.

And of course, they did not say the Lord’s Prayer at the close of their meetings.

In sum, the expulsion of the groups could reasonably be attributed to their non-acceptance of religious creed, to discrimination based upon religion.

Could a human rights complaint be filed, then, as Brian had warned?

Could an AA member argue, for example, that the recital of the Lord’s Prayer at an AA meeting made him or her the target of discriminatory behaviour, in much the same way as its use in schools is considered an infringement of a pupil’s freedom of conscience and religion under the Charter?

The Code covers specific areas such as jobs and services. As a “service provider,” the fellowship of AA would no doubt fall under the jurisdiction of the Ontario Human Rights Code.

To benefit from “the protection set out in the Code” an AA member would have to lodge a formal complaint with the Human Rights Tribunal of Ontario.

In fiscal year 2011-2012 the Tribunal received a total of 2,740 new complaints. Out of all of these human rights complaints, 186 were filed on the basis of religious discrimination. Complaints are dealt with by the Tribunal through mediation. Where mediation fails, a hearing is held. As a result of such a hearing, an adjudicator may order a remedy to correct the discriminatory situation. As the Tribunal puts it: “A finding that a violation of the Code has occurred may lead to various orders, including monetary compensation, other forms of restitution to the applicant, and orders to take action to promote compliance with the Code.”

The situation would no doubt be complicated by the lack of organization in AA. Moreover AA organizations are supposed to be strictly service organizations. (Tradition Nine: “AA, as such, ought never be organized; but we may create service boards or committees directly responsible to those they serve.”) Nevertheless, the [Greater Toronto Area \(GTA\) Intergroup](#) has an

executive committee, representatives from regional groups, regular monthly meetings, committees, an office and paid staff. Moreover, since it has sufficient authority to order that in the GTA “an AA group needs to adopt the 12 Steps, 12 Traditions and 12 Concepts of AA,” as it ruled on June 26, 2012, it is certainly conceivable that Intergroup could be ordered by the Tribunal to take the necessary measures so that the Ontario Human Rights Code is respected within its jurisdiction.

There is one way that an AA group or service organization could avoid the kind of accommodations required by the Code. Under Section 18 of the Code it could identify itself as a “special interest organization.”

Here, in full legalese, is what Section 18 says: “The rights under Part I to equal treatment with respect to services and facilities, with or without accommodation, are not infringed where membership or participation in a religious, philanthropic, educational, fraternal or social institution or organization that is primarily engaged in serving the interests of persons identified by a prohibited ground of discrimination is restricted to persons who are similarly identified.”

In other words, if AA members wanted to identify themselves as a Christian organization and say the Lord’s Prayer at the end of a meeting they would not have to accommodate those who come through the doors and don’t like the Lord’s Prayer.

But isn’t that precisely what AA has been trying to avoid for the last 77 years?

What all of this means at the end of the day is that the bar for declaring that AA is “spiritual but not religious” is getting higher as society moves to demonstrably respect human rights via various Constitutions, Charters and Codes.

That society is moving in that direction should be celebrated by all.

Saying the Lord’s Prayer in AA rooms “for all who suffer... regardless of their belief or lack of belief” may not be considered acceptable behaviour for much longer.

## **Self-Correction**

A funny thing happened at the University of Windsor in Southwestern Ontario a few weeks ago.

For the first time in the university’s history there was no prayer at its fall convocation ceremony. The graduation ceremony didn’t “include an entreaty to God – nor any other religious reference,” the [Windsor Star reported](#).

The University of Windsor has been around for 155 years. It was founded by the Jesuits in 1857 and was initially named Assumption College. It accepted its first woman students in 1950. And it became the non-denominational University of Windsor through an Act of the Legislative Assembly of Ontario in 1962.

More than one hundred thousand students have graduated from the university since it was founded – and they have all done it with a Christian prayer.

The University's [Office of Human Rights, Equity and Accessibility](#) asserted that this was a “permanent” change and that it was done to promote “a more inclusive atmosphere” at the institution.

The move apparently was at least partly the result of a PhD student in clinical psychology. Shawna Scott, who is also the president of the Windsor-Essex County Atheist Society, wrote to the human rights office “about feeling ‘extremely excluded and uncomfortable’ when she was asked to stand in prayer for her undergraduate convocation in 2010.”

Kaye Johnson, the university's Director of Human Rights, described the changes as timely and noted that if people only do what they have always done “we wouldn't have a lot of the advances that our society has made,” the Star reported.

Then she said something that would remind at least a few AAers of something Bill Wilson once said. Johnson described the new secular format of the convocation ceremony as a way of “widening the circle.”

In 1955 at AA's 20<sup>th</sup> Anniversary Convention, Bill expressed the belief that the agnostics and atheists in the early days of AA “had widened our gateway so that all who suffer might pass through, regardless of their belief or lack of belief.”

History has not been kind to Bill's optimistic assessment.

More than half a century later, it is clear that much work remains to achieve that goal. More light must yet shine through the gateway so that all may feel at home in the rooms of Alcoholics Anonymous.

We know what needs to be done.