

Mouvement laïque québécois v. Saguenay (City) ¹

Supreme Court of Canada Decision on Prayer before Council Meetings

Summary of the Case:

The Supreme Court of Canada recently ordered the City of Saguenay to cease the practice of reciting a prayer in the municipal council chambers. In reaching its decision, the court held that the state has a duty of neutrality and that the recital of a seemingly Catholic prayer before a council meeting breaches the duty of neutrality because it professes one religion to the exclusion of others.

At the start of each council meeting, the prayer would be recited over a microphone. The Mayor and councillors would end the prayer by making the sign of the cross while saying “in the name of the Father, the Son and the Holy Spirit”. Mr. Simoneau, an atheist who regularly attended council meetings, filed a complaint with the Human Rights Tribunal claiming that the prayer violated his freedom of religion and conscience.

Following Mr. Simoneau’s complaint, council passed a bylaw which slightly changed the wording of the prayer to make it appear non-denominational and also required a two-minute delay between the prayer and the start of council to allow those who objected to the practice to temporarily leave the chamber. The Human Rights Tribunal found the bylaw and prayer to be discriminatory, but its decision was overturned by the Court of Appeal.

The Supreme Court dismissed Saguenay’s claim that the prayer was non-denominational and rooted in tradition, rather than religion. Some key findings were that the practice only arose after amalgamation, the prayer was followed by some Catholic rituals, the supposedly non-denominational prayer invoked ‘God’, and the mayor’s comments in the media suggested that he was concerned with preserving Catholic values. The Court also said that the solution adopted by council to invite citizens to leave the chamber if they took offence to the prayer only accentuated the discriminatory effect of the practice.

The Court commented on, but did not rule on a number of additional issues, including the presence of religious symbols and artifacts in the council chamber and the prayer of the House of Commons. The Court also seemed to leave open the possibility that a non-denominational prayer may not breach the duty of neutrality if crafted correctly and where there is no intention to profess denominational views.

¹ Mouvement laïque Québécois (unofficially, the 'Quebec Secular Movement') is a non-profit organization that has as its goal to defend and promote freedom of conscience, separation of church and state and secularization of public institutions in Quebec.

Analysis:

The Saguenay decision expresses the principle that governments and persons acting in an official capacity have a duty to be neutral in matters of religion. While we have not had a legal research, opinion, it would appear that a statute, regulation, or bylaw will be deemed inoperative if its purpose is religious. A court will go beyond the plain text to look at the structure, evolution, and context to determine the true purpose of the bylaw, etc.

The case puts forth that the test for state neutrality is whether: 1) the government professes, adopts, or favours one religious belief to the exclusion of all others; and 2) it has the effect of impeding an individual's ability to act in accordance with his or her own beliefs. In determining the second criterion, the court must only be satisfied that the complainant has a sincere belief and that his or her ability to act in accordance with that belief has been interfered with in a non-trivial manner by the government action.

The court in this case recognized that there are many Canadian traditions that are rooted in religion, particularly Christianity. However, they cannot be used in a way that discriminates against others, including atheists and non-theists. While the court made its decision on the basis of the specific facts in Saguenay, the implication is that reciting a prayer in a municipal council chamber will generally breach the duty of neutrality.

Municipal governments in Ontario may wish to review their own council meeting practices in light of this decision. Some municipalities have initiated a review of whether their prayer reflects the principles of this decision and the test of neutrality (for both theists and non-theists). Some councils have a moment of silence and self-reflection.

Please note: This is not a legal opinion or direction. It is for information purposes only.