

PARLIAMENT OF VICTORIA

LEGISLATIVE COUNCIL

Procedure Committee



Commencement of sitting day proceedings

Parliament of Victoria
Legislative Council Procedure Committee

Ordered to be published

VICTORIAN GOVERNMENT PRINTER
November 2019

PP No 102, Session 2018-19
ISBN 978 1 925703 92 4 (print version), 978 1 925703 93 1 (PDF version)

Committee membership



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President



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Deputy President



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Southern Metropolitan



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Western Victoria



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Fiona Patten
Northern Metropolitan



Hon. Jaala Pulford
Western Victoria



Hon. Jaclyn Symes
Northern Victoria

About the Committee

Functions

The Procedure Committee considers any matter regarding the practices and procedure of the House and may consider any matter referred to it by the Council or the President.

The following Members were appointed to the Procedure Committee on 21 March 2019: Hon. Shaun Leane, Hon. Wendy Lovell, Hon. David Davis, Ms Georgie Crozier, Mr Stuart Grimley, Dr Tien Kieu, Ms Fiona Patten, Hon. Jaala Pulford, and Hon. Jacyn Symes.

The Committee held its first meeting on 1 May 2019. The President assumed the Chair and Ms Lovell was elected Deputy Chair pursuant to Standing Order 23.08(4).

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This report is available on the Committee's website.

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Commencement of sitting day proceedings

1.1 Background

During consideration of adopting new sessional orders for the 59th Parliament, the House discussed the procedures for the commencement of each sitting day, in particular Standing Order 4.02 which states: *The President will take the Chair as soon after the time appointed for the meeting of the Council as a quorum of Members is present, and will read the Lord's Prayer.*

The Leader of the Government, in contributing to the debate on various proposed sessional order changes, suggested that the matter of the Lord's Prayer may be something for the Procedure Committee to deliberate on. However, the House did not formally resolve to refer this matter to the Procedure Committee. As highlighted in the preamble to this report, the Procedure Committee may consider any matter referred to it by the Council or the President.

1.2 Committee consideration

The Procedure Committee met on 1 May 2019 and 5 June 2019 and considered the matter of the commencement of proceedings each sitting day, including the Lord's Prayer and the Acknowledgment of Country.

The President indicated that the Committee could consider undertaking a public inquiry into the commencement of proceedings, including a possible call for written submissions and conduct of public hearings. However, the President advised that he would consider the Department's resourcing capacity to undertake a public inquiry with there being an expectation that there would be a high level of public input, as well as review how other Parliaments in Australia commence their proceedings.

The Committee noted a recent Senate Procedure Committee report into a proposal to replace the parliamentary prayer (September 2018). The Senate Committee received 820 written submissions with the vast majority (over 90 per cent) opposing any change.

At its meeting on 17 October 2019, the President advised the Procedure Committee that the Department's capacity to conduct a public inquiry was limited due to the many references currently before the Council Standing Committees, including several inquiries that are yet to commence due to limited resourcing.

The President further advised the Committee that the matter of the Lord's Prayer and commencement of sitting day proceedings could only be changed by a resolution of the House following debate on a motion moved by any Member.

The House may consider a motion to change proceedings or may formally resolve to refer this matter to a Committee for a public inquiry. However, at this stage the Procedure Committee has decided to take no further action in relation to the Lord's Prayer and commencement of sitting day proceedings.

Committee Room
14 November 2019

Minority report

**Liberal Members of the Legislative Council Procedures Committee minority report on
Proposal to remove the Lord's Prayer from the commencement of each sitting day**

Introduction

The longstanding practice of reading the Lord's Prayer at the commencement of meetings of the Legislative Council had been referred by the President of the Legislative Council to a Procedure Committee Inquiry, at the instigation of the Leader of the Government in the Legislative Council, Gavin Jennings, and the Member for Northern Metropolitan Region, Fiona Patten.

19 March 2019 COUNCIL, Mr JENNINGS – “Ms Patten flagged with the government earlier today her interest in including a sessional order that deals with the prayer at the beginning of the day. The government has responded to her by indicating that we believe the Procedure Committee should examine this issue properly”.

13 MS PATTEN — To move — That until the end of the Session, unless otherwise ordered by the Council — 1. Sitting and Adjournment of the Council Standing Order 4.02 is suspended and the following will apply: The President will take the Chair as soon after the time appointed for the meeting of the Council as a quorum of Members is present.

The Lord's Prayer has been a longstanding part of the formal processes of both houses of the Victorian Parliament. However, the Lord's Prayer is clearly more than just a symbol for Christians. It is also a marker of the long Westminster Parliamentary tradition and a reflection of our Judaeo-Christian tradition of individualism and rule of law.

While the Liberal Members of the Procedure Committee support the retention of the Lord's Prayer we also recognise, respect and support the growing diversity of religious belief and tradition in Victoria, and in particular Islam, Buddhism, Hinduism, Sikhism and Judaism.

The incorporation into existing arrangements of an Indigenous welcome to country is a recent, notable example of appropriately recognising the rich diversity of our wonderful multicultural community, which is both a social and economic strength for our state.

Any examination of the continuing role of the Lord's Prayer in the workings of the Parliament should, in the view of the Liberal Members of the Procedure Committee, rightly, through full, transparent and public inquiry, attempt to determine how the Victorian Parliament can more appropriately and respectfully recognise the rich diversity of religious belief and tradition in our community and the valuable role that all faith communities play in the life of our state.

The Leader of the Opposition the Hon Michael O'Brien MP and the Shadow Minister for Citizenship and Multicultural Affairs, Neil Angus MP, have recently undertaken wide discussions with religious groups and senior religious figures on the principle of protecting the heritage and symbolic role of the Lord's Prayer.

Progress of the Inquiry

The Clerks of the Legislative Council gave advice, incorrect in our view, to the President and to the Committee that the Procedure Committee did not have sufficient resources or personnel to

undertake a full, transparent and public inquiry. In our view, it is the role of the President and the Clerks to ensure Parliamentary Committees are properly resourced to undertake community and public inquiries, including formal submissions and hearings on matters of great cultural, heritage, religious and constitutional significance.

It is our view the decision to withhold resources from the Inquiry was a cop out when the going got too hot for the Andrews Labor Government.

It is for this reason that the Liberals opposed the abrupt termination of the already commenced inquiry, noting there is still a notice of motion no 177 on the Notice Paper presaging a change in arrangements without public input.

Secretive changes, changes by stealth to longstanding practices, are wrong.

We note that in a number of discussions surrounding this process key Labor MPs, including Upper House Ministers, expressed their views that the Lord's Prayer should be ditched, but none was keen to face the public scrutiny of a full and transparent inquiry.

Evidence submitted

A number of key Victorian religious groups made submissions to the Inquiry noting that the Inquiry's commencement was a matter of public record. We believe these submissions should be made public.

Senate Inquiry

The Australian Senate recently conducted an inquiry into a similar matter. The Senate inquiry received a relatively high number of submissions, primarily from individuals. Of approximately 820 submissions received, approximately half were form letters or variations of form letters. The vast majority of submissions do not support replacing the prayer. All of the approximately 390 form letters opposed the change. Of the substantive submissions, 359 opposed the change, compared with 73 in favour.

We attach a full copy of the majority report but here highlight the recommendation of the Senate Inquiry which the Liberal Members of the Procedure Committee note amendments proposed in the Senate reference should not be adopted.

Recommendation

The committee does not consider, on the evidence before it and after its own deliberations, that there is a momentum for change. The committee therefore does not recommend that the amendments proposed in the reference should be adopted.

Conclusions and recommendations

The Liberal Members of the Legislative Council Procedure Committee are of the considered opinion that the Lord's Prayer:

1. should continue to be read at the commencement of every Parliamentary sitting day, as it has since 1857;
2. reflects not only Victoria's Judeo Christian heritage, but also the principles and traditions of our Westminster parliamentary democracy, including our common law, independent courts, and respect for the rights of each and every individual; and
3. provides an opportunity for reflection at the commencement of the Parliamentary day for those of many religious traditions, or no religious tradition, on the solemnity of the proceedings, the serious debates about to begin and the responsibilities of Members to their constituents and to the Victorian community.

We strongly recommend that no motion of similar intent to that discussed by the Procedure Committee (for example no. 177) ought to be debated prior to a full, open and transparent process involving all who are interested in the Victorian community, the many religious communities in Victoria and those who legitimately have strong views about the cultural, heritage and symbolic significance of the Lord's Prayer being read at the commencement of each Parliamentary day.



The Hon David Davis MP



Georgie Crozier MP



The Hon Wendy Lovell MP

Attachment 1 - The Senate, Procedure Committee, Proposal to replace the parliamentary prayer, Second report of 2018, September 2018

The Senate

Procedure Committee

Proposal to replace the parliamentary prayer

Second report of 2018

September 2018

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ISBN 978-1-76010-837-3

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Printed by the Senate Printing Unit, Parliament House, Canberra.

Senate Standing Committee on Procedure

Membership of the Committee

Senator the Hon Scott Ryan (President of the Senate, Deputy Chair)

Senator Sue Lines (Deputy President and Chair of Committees, **Chair**)

Senator the Hon Mathias Cormann (Leader of the Government in the Senate)

Senator the Hon Penny Wong (Leader of the Opposition in the Senate)

Senator Catryna Bilyk (Tasmania)

Senator David Bushby (Tasmania)

Senator the Hon Jacinta Collins (Victoria)

Senator Rachel Siewert (Western Australia)

Senator the Hon Mitch Fifield (Victoria)

Senator Jane Hume (Victoria)

Former members:

Senator the Hon Simon Birmingham (South Australia) to 10 September 2018

Senator Dean Smith (Western Australia) to 10 September 2018

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Report

Background

Standing order 50 provides for the President to read a prayer and make an acknowledgement of country on taking the chair on each sitting day:

50 Prayer and acknowledgement of country

The President, on taking the chair each day, shall read the following prayer:

Almighty God, we humbly beseech Thee to vouchsafe Thy special blessing upon this Parliament, and that Thou wouldst be pleased to direct and prosper the work of Thy servants to the advancement of Thy glory, and to the true welfare of the people of Australia.

Our Father, which art in Heaven, Hallowed be Thy name. Thy kingdom come. Thy will be done in earth, as it is in Heaven. Give us this day our daily bread. And forgive us our trespasses, as we forgive them that trespass against us. And lead us not into temptation; but deliver us from evil: For thine is the kingdom, and the power, and the glory, for ever and ever. Amen.

The President shall then make an acknowledgement of country in the following terms:

I acknowledge the Ngunnawal and Ngambri peoples who are the traditional custodians of the Canberra area and pay respect to the elders, past and present, of all Australia's Indigenous peoples.

The prayer has been the same since it was adopted by the Senate on 26 June 1901, some 6 weeks after the first sittings of the Parliament. The requirement for an acknowledgement of country was added on 26 October 2010.

Reference

On 27 June 2018, the Senate referred the committee for inquiry and report a proposal to replace the requirement for a prayer with an invitation to prayer or reflection; proposing to amend standing order 50 as follows:

- (a) in the first paragraph, omit all words after "following", substitute "invitation to prayer or reflection:

Senators, let us in silence pray or reflect upon our responsibilities to all people of Australia and to future generations"; and
- (b) omit the heading to standing order 50, and substitute, "Prayer or reflection and acknowledgement of country".

As background to the inquiry, the committee noted a paper by a researcher with the Senate department, published in 2015¹, which sets out the history of the adoption of the prayer by the Senate in 1901 and the details of previous proposals for change. The committee also had regard to the information set out in that paper concerning the practices of each of the Australian legislatures which, with one exception, all commence their proceedings with a prayer.

The committee invited public submissions, which are published on the inquiry's web pages² except where withheld on request. The committee also received responses from five senators, which are similarly published online. The committee thanks all those who contributed their views.

Summary of submissions

This inquiry received a relatively high number of submissions, primarily from individuals. Of approximately 820 submissions received, approximately half were form letters or variations of form letters³. The vast majority of submissions do not support replacing the prayer. All of the approximately 390 form letters opposed the change. Of the substantive submissions, 359 opposed the change, compared with 73 in favour.

There were five responses from senators (Senators Collins, Kitching, Reynolds, McGrath and Anning), all in favour retaining the prayer.

Submissions in favour of change

Submitters that supported the proposal to replace the prayer put forward arguments including:

- Australia is a 'secular nation', was founded on secular principles, including the separation of church and state, and therefore one religious perspective should not be given special treatment by government. (See submissions from Sydney Atheists; Council of Australian Humanist Societies; Monique Mayze)
- Australia is a multicultural and religiously diverse country, and saying a Christian/Anglican prayer in Parliament is unrepresentative, discriminatory and exclusionary of people of other religions and people who have no religion. (Council of Australian Humanist Societies; Rationalist Society of Australia; Monique Mayze)
- According to the last census, an increasing number of people in Australia have no religion. (Council of Australian Humanist Societies; National Secular Lobby)
- Other recent surveys indicate that a majority of Australians consider it important to separate personal religious belief from the business of government. (Stuart Mynard; National Secular Lobby)

¹ Jarrod Jolly, *Prayers in the Senate: abolition, retention or change?*, Department of the Senate, 2015. A copy of the full paper is published on the web page for the inquiry.

² <https://www.aph.gov.au/Parliamentaryprayer/Submissions>

³ https://www.aph.gov.au/Parliamentaryprayer/Additional_Documents

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- Saying a Christian prayer infringes on human rights such as freedom of religion and freedom from discrimination. (A/Prof Luke Beck; Feminist Legal Clinic; National Secular Lobby; ACT Humanist Society)
 - Section 116 of the Constitution constrains the Commonwealth from making laws with respect to religion; this constraint should extend to Senate standing orders requiring the prayer. (A/Prof Luke Beck, p. 4; Victorian Secular Lobby; National Secular Lobby)
 - The prayer is not simply a Christian prayer but a Protestant prayer (and was introduced in response to lobbying from churches) (A/Prof Luke Beck)
 - Symbolism and tradition are important, but these should not be promoted at the cost of excluding people (Rationalist Society of Australia; Max Wallace)
 - An invitation to prayer and reflection recognises diversity in spiritual and religious beliefs, is more inclusive, and will focus senator's minds on their responsibilities to all Australians (Catholic Women's League Australia; Atheist Foundation of Australia)
 - When non-believing parliamentarians say the prayer (or give it 'hypocritical lip service'), it is undermined for people for whom the prayer is meaningful (Feminist Legal Clinic; Philip Zylstra).

Submissions in favour of retaining the prayer

As has been noted, however, the vast majority of submissions favoured retaining the prayer in its current form. Arguments put forward included the following:

- The prayer is a valuable part of Australian heritage and tradition; both in that it has been said since federation, and in continuing the Westminster tradition. (See form letters; submissions from the Canberra Declaration; Warwick & Alison Marsh/Australian Christian Values Institute)
- Australia and its system of government were founded on Christian values, such as being inclusive, tolerant and compassionate, respecting the rule of law and upholding individual freedoms, and the prayer is a reminder of these values. (See form letters; submissions from FamilyVoice Australia; Rev Paul Clark)
- Removing the prayer will create division, and will make Christians uncomfortable to talk about their values in public. (See form letters from Australian Family Association)
- The preamble to the Constitution still includes reference to the states "humbly relying on the blessing of Almighty God". (See submissions from the Canberra Declaration; Warwick & Alison Marsh/Australian Christian Values Institute)
- The prayer encourages senators to consider themselves answerable to a higher power, reminds them to look beyond their own self-interest to the welfare of others, and encourages humility. (Australian Christian Lobby; Australian Catholic Bishops Conference)

- An invitation to reflection is a ‘weak’ or ‘insipid’ alternative to the current prayer, and will not remind senators of their responsibilities to serve Australians. (Australian Family Coalition)
- Some submitters note that they chose to migrate to Australia because it is a ‘Christian country’, and that replacing the prayer would erode this. (Anna Soh; Varkey Kaithakulam)
- Christianity is still the majority religion in Australia (52% in the most recent census), and 60% of Australians have a faith – the prayer ensures these people are represented by parliament and publically acknowledges the value of their faith. (FamilyVoice Australia; Australian Catholic Bishops Conference)
- Calls to discontinue the prayer have not succeeded in the past, and senators should not be forced to defend matters which relate to their personal religious convictions (See submission from FamilyVoice Australia).

Committee's views

The motion referring the matter asked that the committee hold public hearings. Generally the committee does not operate that way: its purview is the Senate's standing orders and it typically deals with technical questions about their application and interpretation. An argument was made that the standing order relating to prayers is different; that it holds more significance in the community. The committee formed the view, however, that the opportunity to present submissions had afforded the community an opportunity to comment and that hearings would add little to the its consideration of the matter. Partly this reflects the nature of the inquiry. For most committees, investigating bills or matters of public policy, inquiries are deliberative and therefore aided by technical evidence, or evidence from those affected. In this matter, the outcome goes to senators' own opinions as to whether the procedure requiring an opening prayer ought be replaced. The submissions provide interested senators with a range of community views which may influence their consideration of that question.

Essentially the same matter was referred to the Procedure Committee in 1997. On that occasion, the committee reported:

It is clear that many senators who join in the prayer regard its retention as important, but among those who do not join in the prayer there does not appear to be a strong view that its proposed abolition is a significant question which should occupy the time of the Senate.

A motion to amend the standing order was subsequently moved and negatived, without division.

The submissions put to the committee on this occasion, and the views of committee members and their colleagues, suggest that opinions about the prayer are not significantly different in 2018 than during the 1997 inquiry, nor indeed than when the prayer was first adopted. Those in favour of the prayer strongly favour its retention, while those opposed to the prayer are less vocal and less concerned to see it changed.

Recommendation

The committee does not consider, on the evidence before it and after its own deliberations, that there is a momentum for change. The committee therefore does not recommend that the amendments proposed in the reference should be adopted.

In reaching this conclusion, the committee also considered whether an invitation to personal prayer or reflection could be inserted alongside the current prayer. The committee did not reach a conclusion on this question, but notes that the Senate could achieve this by inserting a preamble to the traditional prayer along the following lines:

Senators, I invite you, as I read the prayer, to pray or reflect in your own way on your responsibilities to the people of Australia and to future generations.

As has been observed elsewhere, for the most part it remains a personal matter for senators whether to attend for the prayer, or join in the prayer, at the start of sittings. One exception, of course, is that the standing order requires the President to be present to read the prayer. The committee notes that some jurisdictions provide the option of the presiding officer inviting another member to read the prayer. The Senate may wish to consider whether that option should be made available through a change to the standing orders. Again, the committee makes no recommendation on this matter.

Senator Sue Lines

Chair

Australian Greens Dissenting Report

The Australian Greens firmly believe that the current prayer, which has been read each sitting day since 1901, is outdated and no longer reflective of Australia's religiously diverse and secular society.

In 1901, 97% of Australians identified as Christian. Today we are a far more diverse society. As of the last census in 2016, only 52% of the population identified as Christian.

As the National Secular Lobby notes in its submission:

“In the 2016 census, “No religion” was, for the first time ever, the most popular individual response given to the question of religious affiliation. Australia today has a significantly more varied and less religious population that no longer relies exclusively on a Christian concept of morality for guidance. It is therefore no longer appropriate for our senators, many of whom are themselves atheist, agnostic or followers of non-Christian faiths, to be called to order with an entreaty to a Christian God.”

The Catholic Women's League Australian Inc supports this view, stating:

“We also recognise that in an increasingly secular society not all Australian citizens chose to pray. Such an amendment recognises the diversity in spiritual and religious beliefs and is a positive development. Therefore a space for them to reflect is important too, and provides an opportunity of mindfulness for every person engaged in Parliamentary work.”

This view is supported by the Council of Australian Humanist Societies, which comments in its submission:

“The current prayer is unrepresentative of the diversity of beliefs of the Australian community that MPs are elected to represent.”

It is clear that the Lord's Prayer is no longer appropriate for the representative body of a religiously diverse society. Nor is it appropriate for a proud secular society. It is the Greens strong view that the Australian Parliament should uphold our secular values, and not have those important values undermined at the beginning of each sitting day with the Lord's Prayer.

The proposal put forward by the Greens, of an invitation to prayer or reflection, is based on the opening statement read at the start of each sitting day in the Legislative Assembly of the Australian Capital Territory, which was adopted in 1995.

The Leader of the Australian Greens Senator Richard Di Natale summarised the reasons for the Greens' pursuit of change in 2014, in relation to a similar proposal put forward by the Greens. He said:

“We are doing this because we live in a country where there is a clear separation between church and state. We live in a country of many different

faiths - in fact, a country where many people have no faith - and a modern Australian Parliament should reflect that. We do say that there should be some opportunity for reflection or, indeed, prayer, if people feel that way, and that is why we would like to see a minute at the start of each day in this place being offered for that reason.”

Recommendation

- 1. The Australian Greens recommend that the requirement for prayer under standing order 50 be replaced with an invitation to prayer or reflection.**

Senator Rachel Siewert

The Australian Greens

