GOD, THE CHURCHES, AND THE MAKING OF THE AUSTRALIAN COMMONWEALTH

by

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This thesis contains no material which has been accepted for the award of any other degree or diploma in any university. To the best of the candidate's knowledge and belief, the thesis contains no copy or paraphrases of material previously published or written by another person, except where due reference is made in the text.

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CONTENTS

ABBREVIATIONS

Australian Dictionary of Biography	A.D.B.
National Library of Australia	A.N.L.
Convention Debates, Adelaide, 1897	Con. Deb. Adel. 1897
Convention Debates, Sydney, 1897	Con. Deb. Syd. 1897
Convention Debates, Melbourne, 1898	Con. Deb. Melb. 1898
Daily Telegraph	D.T.
La Trobe Library	La T.L.
Mitchell Library	M.L.
Parliamentary Debates	P.D.
Parliamentary Papers	P.P.
Archives Dept., State Library of South Australia	S.A.
Archives Dept., State Library of Tasmania	T.A.
Sydney Morning Herald	S.M.H.
J.S. Battye Library, State Library of Western Australia	W.S.L.

Whereas the people of New South Wales, Victoria, South Australia, Queensland, and Tasmania, humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth under the Crown ...

(Preamble to the Commonwealth of Australia Constitution Act.)

The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

(Section 116)

SYNOPSIS

This study began about three years ago as an inquiry into how the two religious clauses in the Australian Constitution - the "recognition" of deity in the preamble, and Section 116 - became part of the Constitution; and also into the meaning of these clauses in the minds of the Convention delegates. That remains its core, but the study has expanded its scope in two ways. It soon became evident that behind the events immediately associated with the inclusion of the two religious provisions lay a story of considerable interest, and that the natural terminal point for this story was not the close of the Convention in March, 1898, or even the referenda in 1898 and 1899, but the early Commonwealth period.

It was only late in 1896 at the "People's Convention" at Bathurst that extensive Catholic and Protestant interest in the federation movement became aroused. From early 1897 the public efforts of the non-Catholic clerics, who operated largely under the aegis of Councils of Churches in the various colonies, chiefly were directed to two aims: to obtain the formal "recognition" of deity in the preamble; and to secure the saying of prayers in the federal parliament. On a less publicized level, many hoped to achieve some kind of official or semi-official standing in the emerging Commonwealth. Some hoped, additionally, to obtain a new source of politico-legal leverage for pet projects such as sabbath reform.

These Protestant and Anglican initiatives received in their publicized aspect wide public support. They also, in 1897-8, provoked spirited, well organized, and extensive public opposition. This came partly from secularists (such as Barton and Higgins) who were concerned to protect civil government from clericalism and involvement in religious quarrels; and partly from religious

voluntarists - notably the Seventh Day Adventists - who were concerned rather to protect the Church from the State. The Adventists, who had suffered legal persecution at the hands of "Sunday observance" Protestants, provided the main organizational base for the counter-campaign.

Both groups achieved some success. By March, 1898, Protestant-Anglican pressure had secured the incorporation of a "recognition" clause in the Constitution. In June, 1901, the two Houses of the Commonwealth parliament, responding to similar pressure, agreed to commence their sessions with corporate prayer. However their opponents, in March, 1898, were able to persuade the Convention to include a clause (Section 116) totally prohibiting the clerics from achieving their less advertized political and status ambitions.

Catholic initiatives largely came from or remained closely associated with Cardinal Moran. He intervened on three occasions. Once, to stand for election to the Federal Convention; once, to support the Federation Bill in the 1899 referendum; and once, to secure what he deemed his right of precedence at the 1 January ceremony at Centennial Park at which the Commonwealth was inaugurated. Each intervention was dramatic and controversial. Only one was successful. Yet although many federationists were loath to admit it, the eventual success of the federation movement probably owed more to Moran than to any other church leader.

INTRODUCTION

The first formal approach to the question of what should be the relation of religion, or of the churches, to the Commonwealth, was made by the Tasmanian Unitarian, Andrew Inglis Clark, at the 1891 Constitutional Convention at Sydney. In the Draft of a Federal Constitution which Clark presented to the Convention, one clause (Clause 81) declared:

> The Federal Parliament shall not make any law for the establishment or support of any religion, or for the purpose of giving any preferential recognition to any religion, or for prohibiting the free exercise of any religion.

Another clause (Clause 81) declared:

> No Province [that is, State] shall make any law prohibiting the free exercise of any religion.[1]

The second of these proposed clauses, that relating to the states, was recommended to the Convention by its Constitutional Machinery Committee, with a slight verbal change (replacing "No Province shall" by "A State shall not"), and was accepted by the Convention without discussion. The former clause was not recommended by the Machinery Committee. The official records of the committee's deliberations have only recently come to light - their discovery a by-product of the recent flooding of the basement of the New South Wales parliament - and are not yet available to researchers.[2] However Barton, a member of this committee, stated in 1898 that the committee had rejected this clause because it regarded it as unnecessary. Religion, the committee considered, was not one of the designated subjects about which the Commonwealth parliament could legislate; and that lack of power in itself prevented the Commonwealth from making laws respecting religion.[3]

The 1891 draft was put aside for reasons relating mainly to the internal politics of New South Wales, now the wealthiest of the Australian colonies and without whose cooperation federation between the other colonies was impractical. Only in 1895-6 did the federation movement recover momentum, and by then its character was somewhat changed. Whereas in 1891 the effective constituency of the "federal interest" extended little beyond colonial business and political circles, by the mid-nineties this constituency was beginning to range in depth over many classes and sections of colonial society. By 1896 federation was becoming, in a sense in which it had not been in 1891, a popular cause.

By 1893 many committed federalists had come to feel that a grave weakness of the previous approach to federation was its piecemeal nature. The delicate process of consultation between and deliberation within the various colonial legislatures could effectively be broken off by any government at any point. At an Australian Federal League Conference held in Corowa in 1893, a plan was devised (the "Corowa Plan") which overcame this difficulty, while still recognizing the sovereignty and the right to consultation at every point of the various colonies. The idea was that each colony would bind itself, through passing an identical Enabling Act, to adhere to a certain consultative programme. According to this, the electors of each colony would elect ten delegates to a Federal Convention. This convention would meet and formulate an initial draft of a federal Constitution. The draft would at once be remitted by the Convention to the parliament of each participating colony. Each parliament would discuss the draft and propose amendments it thought proper. The convention would meet once more, to consider these amendments, and to finalize its draft. This draft then would be submitted, for acceptance or rejection, to the electors of each participating colony.

By 1894 Reid, the New South Wales premier, had announced his support for the plan. He called for a Premiers Conference, which was held in January 1895 at Hobart. There the premiers of Victoria, New South Wales, Tasmania, South Australia and Queensland agreed to submit Enabling Bills to their respective parliaments. Only Forrest, the Western Australian premier, expressed reservations. By mid 1896 Victoria, New South Wales, Tasmania and South Australia had passed Enabling Acts on the lines proposed at the Hobart conference. In October 1896 Western Australia also came in, but with two reservations. The first was that the delegates from that colony were to be elected by the parliament rather than the people; and the second that, when a draft Constitution was finally agreed upon by the Federal Convention, the consent of the Western Australian legislature was required before it could be submitted to that colony's electors. The Queensland parliament declined to pass an Enabling Act of any sort, so did not participate in the "Corowa plan" at all.

Late in 1896, in an imaginative bid further to popularize the federal idea, the Bathurst Federation League organized a "People's Convention". It was at this convention, composed of invited delegates from municipalities, from other Federation Leagues, and from various colonial parliaments, that the issue of the relation of religion, and the churches, to the Commonwealth was first taken up on a popular level. The perspective of those who raised the religious issue at Bathurst was, however, different to that of Inglis Clark. Their problem was rather how to put God <u>into</u> the Constitution.

FOOTNOTES

1. Clark's Draft Bill is reprinted in John Reynolds "A.I. Clark's American Sympathies and his Influence on Australian Federation", Australian Law Journal, Vol. 32 (1958), pp. 62-74.

2. The records are at present being classified by officers of the Australian Archives. J.A. LaNauze, in The Making of the Australian Constitution, Melbourne, 1972, pp. 45-71, has reconstructed the story of the Machinery Committee's activities from other sources.

3. Con. Deb. Melb., 1898, Vol. 1, p. 661.

CHAPTER ONE

CHURCHMEN AT THE BATHURST CONVENTION

Why did the religious issue revive at this time, and from such a different standpoint? The answer relates partly to socio-economic and political changes which had been taking place over the past few years; partly to certain changes of clerical outlook occasioned by these socio-economic and political changes; and partly to the policy of the organisers of the Bathurst Convention to encourage churchmen to become participators in and promotors of the federal cause.

Economically and in certain respects ideologically the short period of the early and middle nineties was one of the watersheds in Australian life. A sharp contraction of the British and European demand for Australian wool, poor seasons, and increased difficulty in raising or renewing overseas loans had created severe difficulties for the colonial economy, and for the social structures which hitherto that economy had supported.

Depending on differences of value, of institutional attachment, of social class, of material interest, of presupposition as to how social and human reality was to be conceived, the problems and opportunities presented by the economic crisis were variously diagnosed. However the emergence at this time of labour parties, the firming electoral and parliamentary discipline of the older political parties, and also the growing electoral popularity of the largely bourgeois federal movement, reflected something close to a consensus that the remedy for society's illness lay not in the violent overthrow of the established order, but in political reform. Orderly and lawlike political restructuring, it was hoped and expected, would prevent the recurrence of the economic and, in terms of human dislocation and deprivation, social disasters of the early nineties.

Yet while it was assumed that the remedying of society's ills needed to be gradualistic, the sheer scale of the hardship and dislocation produced by the depression gave to many of the remedies which were proposed an intensely moral dimension. That largely was where the churches came in.[1] "They feel that they are too cloistered", said John Clifford, an English Baptist who visited the colonies in 1897,

> and ought to come forth and determine the direction of the whole of the surrounding life. They are ashamed and lament because they are discovering ... their failure to exert their full influence on the social and political life of men ...

Traditionally, the colonial Protestant and Catholic churches had assumed responsibility for ameliorating the sort of hardship and distress which the depression had produced. Hitherto they had operated either through specifically denominational charitable agencies, such as the Sydney Central Methodist Mission and The Society of St. Vincent de Paul, or through voluntary philanthropic associations of citizens such as the Benevolent Society of New South Wales. But in this case, the scale of the economic and social breakdown placed this task well beyond the scope - and often the imagination - of such welfare agencies. Some Protestants and Catholics, looking to the past, saw the main solution as augmentation of government subsidies; but there was widespread doubt in government circles as to the efficiency of such charitable agencies. Another solution, which generally was more popular among Methodists, Catholics and High Anglicans than among Presbyterians and Low Anglicans, was for the State itself, acting within guidelines drawn by the churches, to direct and finance welfare work. Imperatively in the Christian view extensive welfare action was needed. This was now largely beyond the physical and organisational capacity of the churches. So many argued, let the State, with clerical guidance, do it.

However prevention is better than cure. Many clerics and zealous laymen, tending to see economic and social breakdown as products in part of moral breakdown, and closely associating moral breakdown with sabbath desecration and alcholic intemperance, formed societies to educate the public as to the evilness of such evils, and to persuade or induce legislatures to enforce salutary prohibitions by law. "Moral suasion is undoubtedly the highest method of turning a sinner from the error of his ways," William Saumarez Smith, the Anglican bishop of Sydney, told the Vigilance Association in 1892,

> ... but the salus respublica demands the interposition of legal requirements and legal penalties to facilitate the practice of righteousness.[2]

Again, since the overall task was beyond the capacity of voluntary religious agencies, let the State agree to do the bulk of it.

Evidently, part of what lay behind this new attitude was compassionate and theological concern engendered by the magnitude of the social problems now seen to be generated by commercial and industrial expansion. It is of interest that a similar response, occasioned by similar commercial and industrial expansion, was manifested at about this time among many churchmen in England, and a little later in the United States.[3] The Baptist globe trotter, Clifford, discussing the British Empire as a whole, described the phenomenon in the following terms:

> Retaining all the old emphasis on the inward and spiritual ..., on the living energy of redeemed men and women, on the all-sufficiency of Jesus Himself, and recognizing that the supreme business of the Church is to save men ..., it is clear the churches of Greater Britain have received from God the gift of a more vivid sense of their responsibility for surprising the evils around them, for ejecting evil powers and persons from the control and direction of our civic life, for initiating and sustaining movements calculated to reach the roots of human misery. ...[4]

In the wake of partial economic and social breakdown the older ecclesiastical tradition of charitable paternalism, operating now indirectly rather than directly, was returning to overlay the newer conceptions of laissez-faire and self help. Yet more was involved than theological atavism. There was also the matter of public standing.

Religion is the key to morality; and morality the key to social happiness and material prosperity. However the churches held the key to religion. It followed that the churches generally, and the clergy in particular, were not merely useful, but necessary functionaries in any society. Yet most of the solutions advanced in the early nineties for society's economic and social problems - varieties of socialism and liberalism, single taxism, protectionism - saw little need for God, and less for his ministers. Hitherto, despite the cessation of State aid to religion, relative prosperity had enabled the churches to maintain, in the corners of public life, a similitude of the role of community conscience. Now even that was at stake. It was not simply compassion and piety, but also in some measure anxiety over public status, over their public role and rank in a future rendered uncertain by partial economic breakdown, which lay behind the resurgent Protestant and Catholic political initiatives of the nineties.*

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* The concept of status motivation, while central to some parts of this study, has nevertheless sometimes proved difficult to handle with satisfying precision. The concept, as used, has a double aspect. Mostly, it refers to clerical desire for formal recognition, by the community at large, of the validity of those religious roles (prophetic, didactic, intercessory, etc.) undertaken by clerics on the community's behalf. Less often, it refers to the clerical desire to be accorded, as clerics, public rank or precedence. Taken overall, the evidence examined shows that, in relation to the federation movement, clerics persistently sought status in one or other, and sometimes both, of these senses. Yet the evidence has not in every case proved compelling: Clerics in the heat of battle did not always analyse or refer to their own motives. In such cases the "a priori imagination", as discussed by R.G. Collingwood, has perforce supervened.

By 1896 many politically minded clerics were not only deeply involved in colonial politics, but were responding with increasing enthusiasm to the surging currents of national feeling in the community. Some of the more nationalistically minded clerics became involved as organizers or delegates in the People's Federal Convention. Naturally they stressed the religious aspect of federation, an aspect which they considered the colonies could ignore at their peril. The particular ideas which they expressed at Bathurst, and the tactics they employed, may usefully be examined in detail. In many ways they foreshadowed the intense campaign which soon developed.

Because the Convention essentially was a bid to publicize the idea of federation on a popular level, the presence and assistance of prominent churchmen was welcome to the body organizing it - the Bathurst branch of the Australian Federation League. The Catholic and Anglican bishops of Bathurst, Byrne and Camidge, were among the Vice Presidents of the Convention, and a prominent local Wesleyan minister, A.J. Webb, was Secretary to the Convention.[5] Furthermore, Cardinal Moran, a long standing advocate of federation, had specially been invited to address the Convention.

The Convention was preceded by the observance of "Federation Sunday" in the churches of Bathurst. The sermons and addresses given were amply reported, and show the way many churchmen were thinking of federation. Were he able to "read the signs of the times", declared the Reverend Professor Gosman at the Congregational Church, God was "calling us as a nation and empire" to the civilising mission to which He had committed the "British people". Only a federation regulated by principles of righteousness, he considered, could prosper. Later in

the day, as a guest speaker at the Wesleyan Pleasant Sunday Afternoon, Gosman asserted that government should be conducted by Christians: It "should not be allowed to be manipulated" by those who were without faith in God.[6] Gosman was a theologically liberal Victorian Congregationalist who often involved himself in social reform issues. In 1896, in fact, he became chairman of the Victorian shirt (wages) board[7]. Webb, at the morning service in the Wesleyan Church, preached on the "Federal Lord". Federation, he proclaimed, "was a mightly fact in God's universe". Afterwards at the Pleasant Sunday Afternoon, he turned to politics. Federal questions, he said, "should not be left to a few professional politicians and nobodies; but they wanted men of character and religion to go into them, and carry them on in a noble spirit."[8] At the Roman Catholic cathedral, O'Dowd cited as an exemplar of the union that was needed the Roman Catholic church itself, uniting as it did some 260,000,000 persons of all nations, castes, conditions and stations of life.[9] Bishop Camidge, a high Anglican, sounded a note cooler and more remote than Gosman or Webb, and less triumphalist than O'Dowd. "Let them remember", he declared:

> ... that there was one Federation to which they belonged as members of the mystical body of Christ. While they worked as Australians today, and while they took their place as citizens of no mean city, let them remember their wider and truer citizenship to which God was drawing them all in the fulness of time. The citizenshipof the City of God.[10]

In many respects the treatment of the federal question in these sermons and addresses typified both points of similarity and also points of difference between the Anglican, Catholic and Protestant approach to federation. On the one hand, most churchmen assumed that they were specially knowledgeable as to the divinely ordained principles of social order, and that their advice ought specially to be sought by political leaders; on the other hand, closer inspection shows differences

of approach and concept. The Protestant clergy, presumably because they ministered to those sections of society (largely, middle-class sections)[11] most materially interested in federation, were often ready to conceive of federation itself in religious terms. The Catholic and Anglican clergy, who were linked rather with sections of society — labouring classes in the case of the Catholics; pastoral and upper-middle urban classes in the case of the Anglicans[12] — by whom federation, while often regarded as useful, was not hoped for with the same sense of urgency, were less inclined to see the federal movement itself in religious terms. It was characteristic that, for O'Dowd, federation in the religious sense of the term meant the Catholic church; for Camidge the high churchman, it signified the Civitas Dei; while for the Protestants Webb and Gosman it meant, rather, a brotherly and British association of sovereign communities.

In the nature of the situation, one may add, clerical interest in federation was bound to relate far more to considerations of status than of power. Under the 1891 draft Constitution, which the People's Convention took as the basis for its deliberations, the division of powers between the federal and state legislatures left to the states nearly all the "morally" interesting powers such as health, education, liquor licensing, and public welfare.[13] Later it will emerge that for some clerics the "recognition" of deity was seen, in one of its aspects, as a device which would enable the Commonwealth constitutionally to legislate for such matters as national Sunday observance, for the setting aside of special days for religious purposes, and perhaps for certain aspects of temperance reform. However this latter group probably was not numerous.

Two distinct strategems were employed by the clerical delegates in order to represent themselves to the Convention as necessary and desirable partners in the federation enterpise, and to have God "recognized". First, there was the device of the clerical united front. Second, there was an effort to stage-manage the presentation of religious resolutions in such a way as to make criticism appear petty or extremist.

It was the fact that the interest of churchmen in the federal movement related much more to their anxieties over status, than to their hopes in the field of social policy, which made the united front approach practicable. Since about 1890 Councils of Churches in the various colonies had promoted what they considered to be the Christian view in relation to public issues. These Councils, which usually met monthly, were composed of leaders of the major non-Anglican Protestant churches, and sometimes (as with the New South Wales Council of Churches) of the Anglican church as well. However Catholics, who usually took a less stringent view of temperance and Sunday observance issues, who usually were more suspicious of economic individualism than their Protestant brethren, and who were in any event enjoined by Rome to stand apart from inter-denominational organisations, remained aloof. But when what was at stake was the religious view of society as such, and when divisive social issues were not involved, co-operation on an informal basis was possible. That is what happened at Bathurst.

The press noted with approval the willingness of clerical delegates to cross bridges in brotherhood. Here,declared the Sydney Mail, "were two bishops of Bathurst, Anglican and Roman Catholic clergymen, and clergymen of the non-conforming churches, all working together admirably for the common cause."[14] Cardinal Moran's irenic and patriotic advice to "Catholic people", in his Convention address, was:

> Go hand in hand with your Protestant fellow citizens in any measure that may have for its purpose to advance the interest, to develop the resources, or promote the welfare of Australia.[15]

The Anglican Dean of Bathurst, Marriott, moving a vote of thanks to the cardinal, described his address as one which "breathed a spirit of wide Catholicity and true Patriotism."[16] The Wesleyan, Webb, also busy in an ecumenical way, accepted an invitation to attend a conversazione at Saint Stanislaus's College, at which Moran was to be present.[17]

A "recognition" proposal was planned. It was to be put to the Convention by the Congregationalist Gosman. The text was:

> ... that this Convention of the people, acknowledging the existence of a wide-spread belief in the government of the world by Divine Providence, desires to commend the cause of Australian Federation to the wisdom and piety of the people; that the Supreme Ruler may be invoked to further, if it please Him, the Federal Movement, and so to guide and direct the course of events that Australian unity may rest upon an enlightened public opinion and on a solid foundation of righteousness, the only guarantee for the creation and continuance of national prosperity and peace.[18]

The issue could be expected to be touchy; and Gosman, before the start of the Convention, had attempted to arrange with the organisers for it to be brought to the Convention in such a way that possible critics would be embarrassed into silence. His plan was that

> ... it should be read by the chairman - approval to be indicated by standing, either before or immediately after the National Anthem. It would be better to be divested of any personal aspect.[19] (emphasis in text)

Better indeed! In one step, critics would utterly be disarmed by not wishing to appear unpatriotic; while the "recognition" proposal would at once acquire a patriotic and national aura. In this way the religious perspective would in one stroke become one of the norms of the federal movement; and the clerics, the expositors par excellence of this perspective, would thereby obtain modest but secure status in the movement.

In the event, the organisers insisted that Gosman take personal responsibility for moving his resolution. Whether the reason was that they did not wish to take sides, or simply that they did not think Gosman's strategem would succeed, is not clear. However if they anticipated trouble, their judgement was vindicated.

Gosman may have been encouraged by the approval, at a public meeting held on the evening of the first day, of the following resolution moved by himself and seconded by Webb:

> As the influence of the ideal upon the national character cannot be other wise than strengthening and beneficial, the pursuit of that ideal by the people of Australasia should be encouraged by the political, religious and intellectual leaders of the community.[20]

However when he attempted on the second day of the Convention to obtain leave to move his "recognition" resolution, he met a storm of protest. One speaker declared that they might as well be called on to express a belief in the solar system. Another stated that, "while a firm believer himself", he thought that such questions should be left to the clerics, "who might as a preliminary federate the churches." More generally, it was suggested that the religious question ought not to be raised, that all discussion should bear directly on federal legislation, and that Gosman's resolution was out of order. A leading federationist, Dr. John Quick, one of the main organisers of the 1893 Corowa Conference, author of the influential Digest of Federal Constitutions, and shortly to be elected as one of the Victorian delegates to the coming Federal Convention, offered it as his personal view that Gosman's motion was perfectly in order. But Gosman, understandably in the circumstances, did withdraw.[21]

So neither backroom manoeuvring nor clerical solidarity carried the day. The secularist Sydney Morning Herald dismissively referred to

"recognition" as a "debating society" question.[22] The position of the churches and the clerics in the coming Commonwealth was still uncertain. Despite ready acceptance of clerical contributions to other aspects of the Convention's work, the hostility evident in the response to Gosman showed that the separationist sentiments expressed in Inglis Clark's 1891 draft Constitution were well entrenched at the popular level.

A devout lay delegate, Donald Cormack, who saw Church and State ideally as partners in government, the former ruling by love and the latter by force; who believed that "it is to the Church that the State must look for conserving the virtues"; and who held that "a recognition of this truth should be expected of the framers of our Federal Constitution"; had planned to table at the Convention a motion calling on the churches to unite in a biblically based "Federal Church of Australia". Its relation to the State was to be defined. It was to organise parochial systems of education and poor relief; and it was to model its government on the Hebrew Sanhedrin. While Cormack's proposal certainly would have been congenial to some, it bristled with controversial political and religious implications. Not surprisingly, in view of the vigour of the hostile response to Gosman's theologically much milder resolution, Cormack did not put his proposal.[23]

Then on its closing day, perhaps partly as a result of the good impression made by Cardinal Moran's speech the day before, perhaps partly because only about a quarter of the delegates remained (it was the Saturday), and perhaps partly because of some lay resentment at the rough treatment of Gosman's resolution,[24] the Convention resolved, on the motion of the Rev. J. Fielding:

> That this Convention, acknowledging the Government of the World by Divine Providence, commends the cause of Federation to all who desire, not only the material, but also the moral and social advancement of the people of Australia.[25]

This resolution, which was treated as formal and was approved nem con, was largely a simplified version of Gosman's.[26] The most substantial point of difference between it and Gosman's proposal, and perhaps a major reason for its acceptance now by such separationists as remained, was that the reference in Gosman's resolution to "invoking God" had been deleted. The point may have been that while "invoking" God clearly was a religious act, "acknowledging" Him implied merely a religious state of mind. Or it might have been that the idea of the Convention actually invoking God was not only patently false but contained elements of the absurd. The modification, on either interpretation, plausibly can be read as a concession to the separationists.

In a certain sense then, God, and "the right of religious ideals, though not of religious sects, to a place in politics", were eventually "recognised" by the tail end of the People's Convention:[27] but it did not follow from this, as it would have from Gosman's unsuccessful resolution, that the Convention itself could be said to have engaged in a religious act. Thus the idea of separation was formally, and perhaps deliberately, preserved. Thus, also, the "recognitionists", while gaining something, gained less than might at first appear. One reasonably can suspect that behind the scenes a face-saving compromise was negotiated between the "recognitionists" and the "separationists".

There was another consolation prize for some of the more political clerics. Enhanced possibilities for future political leverage were opened up by the amicable and often enthusiastic Catholic-Protestant partnership at Bathurst. However, as Moran was soon to discover, these possibilities could easily be over-estimated.

FOOTNOTES

1. Some recent studies which discuss the political activity of Australian colonial churches in the 1890s are: J.D. Bollen, Protestantism and Social Reform in New South Wales, 1890-1910, Melbourne, 1972; R.P. Davis, "Christian Socialism in Tasmania, 1890-1920", Journal of Religious History, Vol. 7, no. 1, June 1972, pp. 51-68; B. Dickey, "Charity in New South Wales, 1850-1914", Journal of the Royal Australian Historical Society, Vol. 52, pt. 1, March 1966, pp. 9-32; P. Ford, Cardinal Moran and the A.L.P., Melbourne, 1966; R. Lawson, "The Political Influence of the Churches in Brisbane in the 1890s", Journal of Religious History, Vol. 7, No. 2, Dec. 1972, pp. 144-162; J.M. Mahon, "Cardinal Moran's Candidature", Manna, No. 6, 1963, pp. 63-71; P.O'Farrell, The Catholic Church in Australia, Melbourne, 1968, Chapter 4; "The History of the New South Wales Labour Movement, 1880-1910: a Religious Interpretation", Journal of Religious History, Vol. 2, No. 2, December 1962, pp. 131-151.

2. S.M.H., 22 July, 1892.

3. Bollen, op. cit., pp. 43-4; E.R. Norman, The Conscience of the State in North America, Cambridge, 1968, pp. 16-19; Philip Wogaman, "The Changing Role of Government and the Myth of Separation", A Journal of Church and State, Vol. V, No. 1 (1963), pp.61 ff.

4. J. Clifford, God's Greater Britain, London, 1899, pp. 165-6.

5. Byrne, Camidge, and probably Webb, it may also be noted, were members of the Bathurst Federation League. Confidential memo by T. Astley (typescript), Astley Papers, M.L. 9 of the 56 members of the General Committee of the Convention were clerics. Sydney Mail, 28 November, 1896.

6. Bathurst Times, 16 November, 1896.

7. Australian Dictionary of Biography, Vol. 4, Melbourne, 1972, pp. 274-5.

8. Bathurst Times, 16 November, 1896.

9. Cited in J.G. Murtagh, Catholics and the Commonwealth, Melbourne, 1951, p. 20.

10. Bathurst Times, 16 November, 1896.

11. J.D. Bollen, op. cit., pp. 4-5, has concluded that "The strongholds of Protestantism were the suburbs of Sydney and the larger country towns. The absence of working man from worship caused increasing concern in the eighties, but all the efforts of the churches over the following decade failed to reverse a general decline of inner city parishes. Protestant ministries can barely have touched the greater part of Sydney's teeming labour force." There were some "acceptable" Methodist congregations in "predominantly working class localities", but these Bollen regards as exceptional.

12. Perhaps the most telling evidence for this sweeping "tendency" claim lies in the geographic distribution and incidence of viable Catholic and Anglican congregations. Viable Catholic congregations tended to be found in inner city and "poorer" areas. Viable Anglican

congregations tended to be located in all types of area except working class. Bollen (op. cit. p. 114) points up the irony of the fact that those Anglicans (often associated with the Christian Social Union) who displayed the greatest concern to involve their church in the life and problems of the industrial poor mostly ministered in rural dioceses - where such problems scarcely arose. Camidge was a case in point (Ibid.). Anglican congregations certainly were a significant, and sometimes dominant, element in suburban religious life. However in the New South Wales Anglican church as a whole - the "evangelical" Sydney diocese being a partial exception - the suburban segment was far from predominent. Hans Mol, in Religion in Australia : a sociological investigation, Melbourne, 1971, Chs. 12 and 16, has suggested that it is not correct, for this period, to speak of Catholics as typically working class, of Protestants as typically middle class, and of Anglicans as typically upper class, or perhaps as typically upper-and-lower-but-not-middle class. His evidence, essentially, is the fact that, at the turn of the century, the occupational profiles of "census" Catholic, Methodist, Presbyterian, and Catholic churches did not differ greatly from each other. Mol's argument, which is interesting but implausible, rests on two extremely risky assumptions: The first is that "objective" class affiliation corresponds closely to "subjective" affiliation; the second is that the ratio of religious nominalism to religious seriousness is approximately the same across comparable categories in the respective churches.

13. J.A. La Nauze, The Making of the Australian Constitution, Melbourne, 1972, Appendix 5.

14. 28 November, 1896.

15. J.G. Murtagh, op. cit., p. 30.

16. Sydney Mail, 28 November, 1896.

17. Methodist, 29 May, 1897.

18. S.M.H., 18 November, 1896.

19. Memorandum from A. Gosman to Convention organisers, Astley Papers, M.L.

20. Bathurst Times, 17 November, 1896; Sydney Mail, 28 November, 1896.

21. Bathurst Times, 18 November, 1896; Sydney Mail, 28 November, 1896; S.M.H., 18 November, 1896.

22. 18 November, 1896. The 28 November Sydney Mail had a similar perspective: "The agenda sheet submitted by the Procedure Committee contained motions on every sort of thing that could possibly be dragged into Federation, including one ... acknowledging the existence of Divine Providence." The Sydney Mail, a weekly, was produced by the same publishers as the S.M.H.

23. D. Cormack, Australian Federation, a Lecture, Sydney, 1897, pp. 27-30.

24. Australian Christian World, 22 January, 1897.

25. Bathurst Times, 23 November, 1896.

26. Fielding's motion was one of a large batch which were rushed through at the close, with scarcely any discussion. S.M.H., 23 November, 1896: Bathurst Times, 23 November, 1896; Minute Book, People's Federal Convention, M.L.

27. Quick Papers, M S. 53, A.N.L. Newspaper cuttings of Bathurst Convention, pp. 46-47.

CHAPTER TWO

THE CARDINAL STEPS OUT

The election of delegates to the Federal Convention, in the colonies in which delegates were to be popularly elected, was to be held on 5 March 1897. Each colony was to send ten delegates. In New South Wales, one of the candidates was "Moran, Patrick Francis; of Manly; occupation: Cardinal Archbishop of Sydney". Naturally there was a religious side to his platform: "I would wish to see inserted in the preamble to the Constitution", he said in his Address to Electors, "some such clause" as the following:

> Religion is the basis of our Australian Commonwealth and of its laws; and in accordance with the spirit of religion, genuine liberty of conscience is the birthright of every Australian citizen, and full and free exercise of religious worship, so far as may be consistent with public order and public morality, shall be accorded to all.[1]"

This proposal, whose meaning and scope was not completely clear, apparently involved extending Inglis Clark's free exercise provision to the Commonwealth legislature, widening it to include some sort of guarantee of "genuine liberty of conscience", but subordinating this guarantee to a "consistency with public order and public morality" requirement. Perhaps, in adding this rider, and also in requiring that "liberty of conscience" be "genuine", he was seeking to square his proposal with Leo XIII's 1888 directive that:

> It is quite unlawful to demand, to defend, or to grant unconditional freedom of thought, of speech, of writing, or of worship, as if they were so many rights given by nature to man.[2]

However the intention of his proposal, taken as a whole, clearly was to secure for religion, and perhaps also for its spokesmen, some sort of fundamental status in the Commonwealth.

Moran's proposal accorded closely with the standpoint taken by the ecclesiastical united front at Bathurst. Probably he was hoping that the elevated ecumenical experience at Bathurst, and the general Protestant and Anglican approval of the patriotic and ecumenical tenor of his address, would

induce the leaders of the non-Catholic churches to accept him as a Christian, rather than simply Catholic, spokesman at the coming Federal Convention. The composition of the delegation to Moran which requested him to stand, containing as it did a sprinkling of prominent lay Protestants, and bearing a warm message from a local rabbi, Rabbi Davis,[3] conveyed to the public - as one can expect it was meant to - the impression that Moran represented the broadly theistic, rather than the specifically Catholic viewpoint. "It is time", said the Catholic Press on 13 February,

> ...that the Christian community should rise and assert its principles and cast [confusion] and despair among the handful of arrogant atheists who sneer at what nine tenths of the populace hold most sacred...His Eminence will be a representative not only of the Catholic Church, but of Christianity; and every man who detests infidelity and wishes to see the Constitution of the Commonwealth founded on religion and liberty will not fail to...cast a vote for Cardinal Moran.

With hindsight, one can suggest that over and above its implications for Catholic-Protestant relationships, and for the place of religion in the coming Commonwealth, Moran's candidature was one of the most ambitious political initiatives taken by a Catholic prelate in Australia during the nineteenth, or indeed this present century. O'Farrell, in a thoughtful study of Moran's candidature, has suggested that Moran was hoping that the "Australian electors would demonstrate their acceptance of him as a symbol of their willingness to banish the past and welcome Catholics into the central area of national endeavour."[4] One might go a little further, and propose that Moran was seeking nothing less than to gain a central and reputable place in Australian political life.[5] So far, the participation of Catholic prelates in Australian politics had never been both central and respectable. But Moran now wanted both.

Behind Moran, deriving mainly from his church's organisational and ideological centre in Rome, lay distrust of many features of liberal and democratic institutions, and an imperative command to convert these institutions

from within to conformity to Catholic social and political principles. In 1885, Leo XIII had directed:

> ...it is the duty of all Catholics...to make use of popular institutions, so far as can honestly be done, for the advancement of truth and righteousness, to strive that liberty of action shall not transgress the bounds marked out by nature and the law of God; to endeavour to bring back all civil society to the pattern and form of (Catholic) Christianity.[6]

The trenchancy of this command should not be misunderstood. Its implications for political action were less drastic than might at first appear. One can also accept, as not inconsistent with Leo's directive and as offered in good faith, the declaration of Monsignor O'Haran, Moran's spokesman, that: "We give allegiance to the powers that be for conscience sake..."[7] Conventional civic loyalty was not inconsistent with or a repudiation of an ultimately subversive or revolutionary intention. For the "Leo XIII" Catholic, there simply were self-imposed ethical limitations ("so far as can honestly be done") as to the means which legitimately could be employed to advance "the pattern and form" of Catholic Christianity.

Moran was from the viewpoint of his masters in Rome seeking the active assistance of heretics, in order to strengthen the Catholic social position and Catholic political standing in a liberal, democratic, and largely non-Catholic country. The surprising thing is that in the circumstances he thought he had any chance at all of success, even taking into account his personal triumph at Bathurst. He failed to realise that one swallow does not make a summer. Possibly his judgement was adversely affected by the heady prospect of personally, and as a Catholic leader, achieving honour and fame as one of the founding fathers of a new nation. O'Farrell's study has made it clear[8] that there is no reason to doubt either the strength of Moran's vanity, or the sincerity of his patriotic and pious commitment to federation. It is likely that he was impelled to disaster by powerful although mixed motives.

Although Moran, who attended the People's Convention only for a short time, may not himself have realised it, there were rifts even in the ecumenical lute at Bathurst. Webb's attendance at the conversazione at St. Stanislaus's college, in order to greet Moran, had caused grave concern to some of his Methodist brethren: "The Romish Delilah in Bathurst", warned one, "is plainly trying her fascinations on the Protestant Samson."[9] A number of the non-Catholic churchmen who were associated with the Convention, noting the great prominence accorded to Moran's visit, came to suspect that at least some of the Roman Catholics among the organisers deliberately had been using the Convention to achieve precisely that result. Whether or not these suspicions were justified is not, here, the central point; although it may be noted that one of the Vice-Presidents of the Convention, Camidge, gave them some credence.[10] The crucial point is the fact that such suspicions existed at all. If Moran's motives even at Bathurst were a little suspect, what chance was there that his bona fides as a Christian rather than Catholic spokesman at the coming Federal Convention would pass muster?

And what a storm there was! Protestant reaction was prompt and determined. By mid-February a large number of clerics had come together under the aegis of the United Protestant Meeting, an ad hoc organisation formed for the specific purpose of defeating Moran. The core of its strategy was to canvass vigorously for the election of ten strong candidates other than Moran, and to stimulate in the community the latent fear of Romish aggression. In an attempt to ward off the allegation that they were moved by a "sectarian" spirit, they included one Roman Catholic, O'Connor, in their "bunch".[11] They extensively circularised electors, organised protest meetings, and called for special prayers in the churches.[12] Letters of protest were written to whatever sections of the press would accept them. Both the Sydney Morning Herald and the Daily Telegraph, while not supporting the Protestants as such, were sufficiently

opposed to Moran to give extensive coverage to material emanating from the U.P.M.

Moran's counter-strategy was dictated by the nature of one of his main objectives in standing. Because his hope was to attend the Federal Convention as an informally acknowledge representative of all the churches, he had to accept two consequences. First, he could not afford to conduct an energetic personal campaign. Not only would this be a possibly damaging admission that he might not be elected; but it could readily produce situations in which his dignity would be jeopardized, and he would be hard put to convince the electorate that he represented more than simply the Roman Catholic Church. Even a suggestion from some of Moran's campaign organizers that a public meeting be held at this time in connection with his coming episcopal silver jubilee was ruled out as "sure to be misrepresented".[13] Second, he did need to convince the electors that the U.P.M. was an "extremist" or "fringe" organisation ; that it did not represent "true" Protestant thought at all.

In his development of this latter strategy Moran was unsuccessful. He, or rather his supporters, employed two methods. One was a version of the unity ticket. The Anglican primate, Smith, was approached to stand for election. The Presbyterian Moderator, and a number of other church leaders were also invited to stand. Naturally Smith, who by policy and disposition was friendly to the Protestants, declined. So did the Moderator and the others.[14] The whole proposal was then quickly dropped. It was quite unrealistic. As a correspondent to the Worker pointed out, the implication was that these clerical leaders should be candidates because of their position as ecclesiastics rather than their qualifications as citizens.[15] In the circumstances, that was political dynamite. Furthermore, in the unlikely event of any other clerical candidates being elected, this clearly would only have been by favour of the (to them)distasteful electoral patronage of Moran.

Even some of Moran's supporters saw the idea as ludicrous. The Australian Star, a Sydney daily with Catholic leanings, initially supported the clerical ticket proposal. Its argument was that while churchmen should not descend to the arena of "common politics", the making of United Australia was not politics in the ordinary sense. However by 16 February the editor (who revealed, inter alia, that he had some separationist sympathies) could not constrain himself from observing that if the Primate, or the Moderator, or the President of the Wesleyan Conference, of even the Grand Master of the Loyal Orange Lodge, had offered himself for election, "there would have been no protest or objection ", but "a ripple of amusement might have been universal."

The other method might perhaps be called the "divide-and-neutralise strategem". In an interview with a Daily Telegraph reporter, Moran, commenting on a press report of a recent meeting of the U.P.M., remarked disparagingly that: "In the long list of gentlemen present at the meeting I see very few respectable names..."[16] The point presumably, as with most denials of "respectability", was to draw an unstated but understood distinction between the acceptable and the unacceptable on a certain criterion, without actually saying what that criterion was. In this case, Moran clearly was indicating, without spelling out what he himself thought "true" Protestantism was, that from the Protestant viewpoint there was something defective and undesirable about the Protestantism of the U.P.M.

That certainly was how E.T. Dunstan, the fiery Welsh Chairman of the Congregational Union, and a prominent member of the U.P.M., interpreted Moran's aspersive comment. In a neat riposte, he represented Moran as meddling in Protestant affairs:

> The cardinal would scarcely be recognised by Protestants generally as a judge of the respectability of those who took part in the meeting...Certainly, for my own part, I have no wish to seek a testimonial from his Eminence as to my own respectability.[17]

Moran gave the U.P.M. another useful stick to stir up latent anti-Catholic feeling, when he expressed the hope that his candidature would "crush...anti-Catholic bigotry".[18] Probably, all he meant was that he hoped a sufficiently large number of non-Catholics would support him to discourage those Protestants who might wish to criticise him simply because he was Catholic. Yet his words lent themselves easily to a much more sinister interpretation.

In fact, the non-Catholic churches were divided in their response to Moran's candidature, although Moran received little benefit from this. The non-Anglican Protestant churches (Methodists, Presbyterians, Baptists, Congregationalists, Salvationists, etc.) - perhaps Moran's most vital target - were with few exceptions solidly opposed to him. Indeed, so overwhelming was their solidarity, that when a Presbyterian minister, George Hay, called for a combined Protestant-Catholic campaign to ensure that the federal Constitution was based on religion, he suddenly became a hero to the Catholic Press and the Freeman's Journal.[19] The Church of England, under Archbishop Smith's lead, did indeed refuse to join the U.P.M.'s "Stop Moran" campaign,[20] but their neutrality cut both ways. It did not mean simply refusal to oppose Moran, but also refusal to support him. So there was small comfort for Moran here. The fact that among Protestants and Anglicans the main polarisation lay between the opponents of Moran and the neutralists, rather than between his opponents and supporters, conclusively makes the point that Moran had failed to persuade the non-Catholic churches to accept him as a spokesman for the "Christian" view of federation.

Yet while Moran badly mishandled the strategy which, in the circumstances, his aim of election as a "Christian" spokesman virtually forced upon him, there was more to Moran's defeat than simply bad tactics. The

situation was loaded against him from the start.

In the first place, in recent years the non-conformist churches had come to act and to see themselves as a "moral" power bloc in the colony's politics.[21] Their solidarity and political sophistication were proof against the blandishments of any cardinal. Furthermore, a strong and fundamental feeling existed among them that Australia was essentially and should remain British and Protestant. Given the strong anti-Catholicism which lay not far beneath the surface of much colonial Protestantism, Moran's candidature was bound to attract vigorous and fairly unified Protestant opposition; and that in turn would certainly stir anti-Protestant feeling among Catholics. In a short while, correctly prophesied a writer in the militantly secular Bulletin, the "yellow pup of sectarianism may be expected to howl...and the Holy Roman and the vicious Orangemen to reach for each other's hair in the sacred cause of unity."[22] It was unrealistic for Moran to expect otherwise.

Secondly, the secularist conception, that it was mutually beneficial for Church and State to operate in separate spheres, was widely diffused through the community. The antipathy of this section of the community to Moran's candidature, if that candidature was considered in itself and not in terms of the sectarian conflict it would generate, would mostly express itself in little more than firmly declining to vote for Moran and hoping that he would fail to be elected. Often this sort of secularism consisted more of an unreflective aversion to mixing religious and secular affairs than to a positive determination immediately to stop such mixing when it occurred. In some circumstances then, this secularist group was a negligible political force. However in one type of situation secularist aversion quickly would become outright hostility; namely, when Protestants and Catholics introduced their quarrels into the political domain. A cardinal at the Convention, provided there was no Protestant backlash, could easily enough be ridiculed, ignored, and generally contained. He would in

the secularist viewpoint be out of his "proper place"; but still no great threat to anybody or anything. But the introduction of sectarian conflicts in the political arena was by contrast regarded not simply as "out of place", but positively dangerous. Religious conflict, it was widely felt, generated passions and a loss of perspective fully capable of destroying those networks of social and religious tolerance on which economic prosperity and the security of life and property ultimately depended. "The giant of religious sectarianism has awoken from his slumber", warned the Sydney Morning Herald:

> His exclusion, hitherto, has been secured rather by the strong distaste of the secular world for religious controversies and animosities, than by self restraint or the conversion to milder ways of feeling of the sectarian spirit itself. It was held in check by being shut out of the arena of public life...[The only way of preventing sectarianism] from imparting to our public life its own rancour and disunion is by forbidding its intrusion into the field upon any pretext whatsoever.

The Daily Telegraph, expressed a similar view:

> The place for cardinal Moran and every other ecclesiastic to use his influence for making religion the basis of our Commonwealth is in the Church...There can be no guarantee of liberty of conscience so effectual as that of the State keeping aloof from the religious question altogether...[23]

It was remarkable that Moran did not foresee that, in the circumstances, his candidature was bound to trigger off strong secularist antagonism, precisely because it was bound to trigger off that Protestant-Catholic public wrangling which so alarmed many secularists.

So in sum it was not simply Moran's tactics or timing which were at fault. The time itself was wrong. The predictable opposition of the Protestants to Moran meant that, if he was elected, it would simply be as a Catholic rather than a Christian spokesman; while the predictable strengthening of secularist antagonism to Moran, once Protestants and Catholics began to lay into one another, meant that he was unlikely even to be elected.

In the poll on 5 March, Moran finished only fourteenth. Since it can safely be assumed that not many Protestants voted for him, the conclusion must be that quite a few of his own people - tinged by secularism perhaps, or frightened of the consequences of sectarian conflict - failed to support him. The Australian Star, on 6 March, suggested that the general feeling of Catholics was that it was "a wrong step for His Eminence to take".[24]

Moran failed to understand, or perhaps in a surge of patriotic or pious ambition simply forgot, that in the Australian colonies in his day a Catholic prelate had to choose between a modest portion of secular power, and a modest portion of secular glory. A Protestant correspondent to the Sydney Morning Herald, writing on the eve of the election, and making reference to Moran's predecessor but one, Archbishop Polding, pointed the moral. Polding, he said, had been a "gentleman". He

> recognised the privilege of freedom, [and] though never afraid to champion his church, so did it as not to offend others. Pity 'tis, that the unwritten law which these men made...was not observed at the present time. It would have preserved us from the sectarian fight forced upon us by the Cardinal.[25]

Moran, after the rebuff he had received, retired from the "recognition" campaign. If the issue was to be carried forward, it would be by hands other than his own.

FOOTNOTES

1. Freeman's Journal, 20 February, 1897.

2. Encyclical letter Libertas Praestantissimum, 1888, cited in J.J. Wynne (ed.), The Great Encyclical Letters of Pope Leo XIII, Chicago, 1903, p.161.

3. S.M.H., 6 February, 1897.

4. P.J. O'Farrell, The Catholic Church in Australia, Melbourne, 1968, p.180.

5. A number of historians (P.J. O'Farrell, op.cit., p.177; P. Ford, Cardinal Moran and the A.L.P., Melbourne, 1966, pp.204-6; J.M. Mahon, "Cardinal Moran's Candidature", Manna, No.6, 1963, pp.65-66) have suggested that one of Moran's principal motives for standing was the hope that thereby he might influence the electorate against returning "socialist" candidates. Some Labour leaders at the time suggested this too (D.T., 9 March, 1897; Workman, 20 March, 1897). It must be conceded that Moran was personally strongly anti-socialist and that he saw federation as (among other things) providing some security against socialist "extremism"; but that does not in itself establish anti-socialism as a principle motive for his candidature. Had it really been so, he either would not have stood, but have chosen rather to speak out simply as a cardinal, or he would have stood and run a boots-and-all campaign. As it was he did stand and then scarcely mentioned the socialist issue. The likelihood is rather that Moran quite realistically recognized that on an issue like federation, in which social issues did not often arise, the "socialists" had no show; and that he therefore felt free to launch himself into the mainstream of Australian social and religious life.

6. Encyclical letter Immortale Dei, 1885. Cited in J.J. Wynne (ed.), op.cit., p.132. An article,"The Cardinal and Leo XIII", which appeared in the Catholic Press for 13 February, 1897, stated that Moran was "thoroughly in accord with the religious, social and political views of Pope Leo. In the wide realms of Catholicity the great Pontiff has none more competent and more willing to aid him in his designs for the regeneration of society than the illustrious Cardinal-Archbishop of Sydney." The article concluded with the hope that soon the Australian church would be "the brightest jewel in the tiara of Leo XIII". The Catholic Press was virtually the official organ of the archdiocese.

7. S.M.H., 17 February, 1897.

8. Op.cit., pp.172-176.

9. Methodist, 29 May, 1897. The writer, Rev. J. Waddell, would no doubt have been even more horrified had he known that on 16 January Webb had written to Moran warmly congratulating him on his decision to stand. Webb to Moran, Moran Papers, Federation Folder.

10. S.M.H., 31 March, 1897. Rev. G. McInnis, Chairman of the United Protestant Meeting, naturally saw it that way. See S.M.H., 3 March, 1897. The Bulletin 23 January, 1897, saw Moran's Bathurst speech as: "the Cardinal's little feeler: should a complaisant public make no objection to him there, he could try a bigger coup." Moran himself, in an interview with a Herald

reporter (S.M.H., 14 January, 1897) stated: "It was thought that my position barred me from attending the Bathurst Convention. It does not do so any more now than then."

11. The Loyal Orange Institution chose a "bunch" containing no Catholics at all. (D.T., 16 February, 1897). However, in the daily press at any rate, their campaign was greatly overshadowed by that of the U.P.M.

12. See, for instance, reports in Argus, 5 March, 1897; D.T., 17, 19, 23 February, 1897; Tasmanian Mail, 27 February, 1897. The press sometimes called the group the "United Protestant Conference", however McInnis, the Chairman, called it the United Protestant Movement, and I have followed that usage.

13. T. Walton to Slattery, 11 February, 1897, Moran Papers, Federation Folder.

14. A proposal that Moran and Smith stand for election was publicly proposed as early as 13 November, 1895, by the Protectionist politician Henry Copeland, a nominal Protestant but politically associated with Catholics (D.T., 13 November, 1895; Sunday Times, 24 January, 1897). On 19 January, 1897, Copeland publicly renewed the proposal that Archbishop Smith stand (D. T., 19 January, 1897). However Smith had already, in reply to a previous telegraphed inquiry by the editor of the (Sydney) Sunday Times, advised: "Surprised receive wire on such subject. I answer no". Later, he declined the invitation of a formal delegation. Copeland had also publicly called for nomination by leading non-Anglican Protestants, but these also, when formally approached, declined to stand. However it is of some interest to note that one of the non-Anglican Protestants referred to by Copeland, the Congregationalist Dr Bevan of Victoria, publicly declared that he would have liked to stand had his personal circumstances and the law of the colony of Victoria allowed (S.M.H., 20 January, 1897). Evidently Moran's backers were not altogether astray in their calculations. For those interested in following through the story of the various delegations, of which the Catholic politician T. Slattery seems to have been the main organizer, the following references convey the gist. S.M.H., 8, 9 February, 1897; Age, 10 February, 1897; Australian Star, 8, 9, 10, 18 February, 1897; Sunday Times, 17, 24 January, 1897; Evening News (Sydney), 6 February, 1897; Freeman's Journal, 23 January, 1897; Worker, 23 January, 1897; Australian Workman, 20 March, 1897. Of special interest also, as giving a brief inside picture of one of these delegations, is S. Bradley to B.R. Wise, Wise Papers, M.L.

15. 23 January, 1897.

16. 18 February, 1897.

17. D.T., 19 February, 1897. The issue contained similar letters from Rev. W.W. Rutledge, and J. Auld.

18. D.T., 18 February, 1897.

19. Freeman's Journal, 27 February, 1897. Catholic Press, 27 February, 1897. An editorial in the Australian Christian World, friendly to Moran's candidature, was also reprinted in the Catholic Press of that date.

20. Argus, 5 March, 1897; D.T., 11 February, 1897.

21. J.D. Bollen, Protestantism and Social Reform in New South Wales, 1890-1914, Melbourne, 1972, Chs. 5 and 6.

22. 13 February, 1897.

23. S.M.H., 18 February, 1897; D.T., 6 February, 1897. The Herald was not completely separationist. In the Herald viewpoint, it was appropriate for clerics to preach general political principles, but not to take sides between political parties. See editorial, 23 January, 1897. Moran, fairly accurately, described the Herald as "the organ of the extreme Congregationalists." (D.T., 18 February, 1897).

24. See also Freeman's Journal, 13 March, 1897; Catholic Press, 13 March, 1897; Truth, 14 March, 1897.

25. S.M.H., 4 March, 1897.

CHAPTER THREE

CAMPAIGN AND COUNTER CAMPAIGN

By early March it was clear that other hands were more than willing to carry forward the "recognition" of God campaign. At a special meeting on 1 March the New South Wales Council of Churches resolved to embark upon a campaign to obtain signatures for the following petition to the coming Federal Convention:

> 1. That in the preamble of the Constitution of the Australian Commonwealth it be recognised that God is the Supreme Ruler of the world, and the ultimate source of all law and authority in nations.
>
> 2. That there also be embodied in the said Constitution, or in the standing orders of the Federal Parliament, a provision that each daily session of the Upper and Lower Houses of the Federal Parliament be opened with a prayer by the President and Speaker, or by a chaplain.
>
> 3. That the Governor-General be empowered to appoint days of national thanksgiving and humiliation.

Petition blanks were to be sent to ministers of religion throughout New South Wales. These forms were to be accompanied by circulars from the heads of various denominations, inviting the help of clergy and others in obtaining signatures. The heads of churches in other colonies were to be invited to co-operate by promoting similar petitions.[1]

The Council of Churches' campaign had taken shape during precisely that time in which all its members (except the Church of England) were busy trying to prevent Moran's election to the Convention. It had, indeed, been at the Council's January meeting that the question of mounting some sort of "recognition" campaign was first considered. At a special 10 February meeting of the Council the matter was further discussed, and it was resolved:

> That this Council considers it of utmost importance that in the Constitution for Federated Australia there should be a recognition of God as the Supreme Ruler, and that provision be made for such acts of common worship as should be deemed suitable for a legislative body.

A subcommittee was also formed to inquire into the practice in the United States and Canada and to suggest an appropriate course of action. This sub-committee presumably composed the text of the petition cited above, and formulated the proposal to send the petition blanks to ministers of religion, and to heads of denominations in other colonies.[2]

In organisational terms, the Council of Churches' plan of campaign was in one way fairly effective. It took advantage of the fact that the point at which the minister of religion would in practice mainly be forced to solicit signatures, namely during, or at the close of religious worship, was precisely the point at which the most likely potential signatories, namely the members of his church, would be least inclined to demur at signing. However the weakness of such a plan lay, paradoxically, in the very feature which gave it strength. For the fact that it was a system of signature collecting which depended on a mild but real form of situational duress weakened its validity as an indicator of electoral feeling. While such a system could and did produce tens of thousands of signatories, for instance in Victoria on the scripture in State schools question, its political effectiveness was likely to vary inversely with the awareness of politicians as to how it actually worked. Such numerically massive petitions would always carry some sort of political weight; and at times would reflect a genuine consensus. The point however, is rather that, in general, their political persuasiveness would not be as great as their sheer numerical strength would suggest.

In certain respects, the earlier campaign to "keep out the Cardinal" was now of assistance to the Council of Churches. It had considerably heightened both lay and clerical awareness of, and interest in, the federal question. It obviously strengthened the political morale of many Protestant clergy. The Convention elections, triumphantly declared a writer in the Presbyterian and Australian Witness on 26 March, had given a much needed lesson to the newspapers. The result had shown that the Protestant churches were "not effete and destitute

of influence." However in certain respects the anti-Moran campaign now was a source of considerable embarrassment. Moran, after all, had himself been a strong supporter of "recognition". It was all very well to say, as did E.T. Dunstan, that: "If a Constitution was to be built up, it should be free from priestly control on the one hand, and a God dishonouring secularism on the other."[3] Yet such a distinction, while in itself coherent, was bound in the hurly burly of colonial politics to appear to many as artificial. In any event, energetic Protestant clerical involvement in and since the 1894 New South Wales election , especially over the local option issue,[4] would certainly have made Dunstan's avowal appear to many secularists, and to many Catholics, as less than honest. "The combined Protestant churches", mocked a writer in the Catholic Press "are now, without the slightest sense of humour, working to have the Creator recognised in the Federal Constitution as the source of all authority and all law." The Bulletin, he added with satisfaction, "will scarcely help them in this with the same enthusiasm and zeal with which it supported their crusade against the Cardinal."[5]

Nor indeed were all non-Catholic churchmen convinced of the propriety of the "recognition" campaign. Some, such as the Unitarian George Walters, spoke strongly in support of strict Church-State separation: "The majority of so-called Protestant churchmen", he wrote to the Daily Telegraph on 17 March,

> ...are exultant because they have 'kept out the Cardinal' from the Federal Convention; but they are themselves playing the very game to which they have made such loud and effective objection...There is a movement on foot to secure what is called "the recognition of God" by some formal words in the new Constitution. What is this but the intrusion of theology into the domain of politics?

The Seventh Day Adventist Echo was even more trenchant. "The friends of religious legislation", it declared on 29 March,

> ...are showing great activity at the present time. A new nation is to be formed, and they desire to capture, and, we are sorry to say, corrupt and misdirect it at the outset.

By and large however, non-Catholic church leaders willingly fell in with

the Councils of Churches campaign.

Ironically, the Councils of Churches' problem was structurally similar to Moran's. Having displaced Moran as a central figure in the "recognition" campaign, they had now themselves to secure for the colonial churches, and more broadly for the theistic perspective, a central and reputable place in the new Commonwealth. They faced great obstacles. The Sydney Morning Herald earlier had described the "recognition" proposal at Bathurst as a "debating society" question;[6] and clerical intervention in politics normally was regarded by politicians as an intrusion, which for practical reasons might need to be suffered, but only rarely was welcome. Federation was practical business, which at a certain level tended also to be patriotism. However, except where participation in the federation movement was an expression of personal piety, it was not a religious matter. Religious remnants in the colonies from the days of establishment, such as proclamations by Governors of days of prayer for rain, were tolerated without discomfort by practical politicians. Although such remnants often were subject to mockery,[7] practical politicians ignored them. Such survivals pleased some, and caused no serious inconvenience. Yet while these vestiges might be tolerated, it would be out of place in their "enlightened" age to seek actually to introduce them. This undoctrinaire but deeply ingrained secularism was the main obstacle which the Councils of Churches needed to overcome, or circumvent. Nor were all churchmen, at this point, optimistic. "We confess", said the Southern Cross on 19 March, "that we are not too sanguine that the new Australian Commonwealth will in any way acknowledge religion. The secular idea has temporarily captured the public mind." They perhaps would receive a more sympathetic reception from convention delegates (such as the N.S.W. Presbyterian banker, J.T. Walker) who were not themselves professional politicians, than they would from those who were. Yet in the final analysis it was obvious that if the churches were to have any hope of securing for themselves in the coming federation something

like the public status and position which they desired, they would need to operate with threats and promises, rather than prayer and persuasion.

The Councils of Churches in Victoria and South Australia responded with enthusiasm to the invitation from the New South Wales Council to participate in the petitioning campaign.[8] In the early days of the first session of the Federal Convention, which was held in Adelaide, "recognition" petitions poured in. About 14,100 signatories came from New South Wales, 16,700 from Victoria, and 7,000 from South Australia. Two small petitions came from Tasmania; and the Catholic bishop of Adelaide signed a petition on behalf of Roman Catholics in South Australia and the Northern Territory.[9] Even allowing for the element of situational duress no doubt often present in the way signatures were collected, it was an impressive performance.

However, the recognitionists did not, somewhat to their surprise, have it all their own way in the petitioning field. About 7,800 persons signed the following counter petition:

> We, the undersigned adult residents...believing that Religion and the State should be kept entirely separate, that Religious Legislation is subversive of Good Government, contrary to the principles of Sound Religion, and can result only in Religious Persecution, hereby humbly but most earnestly petition your Honourable Body not to insert any Religious Clause or Measure in the Constitution of the Australian Commonwealth which might be taken as a basis for such legislation, but that a Declaration be made in the Constitution stating that neither the Federal Government nor any State Parliament shall make any law respecting religion or prohibiting the free exercise thereof.[10]

So the fat was in the fire once more. Evidently, from among the separationist ranks a vigorous counter attack had been mounted, and the churches would by no means have a walkover.

The Counter Campaign

No doubt the recognitionists expected opposition, but the form it took was unexpected. Suttor, writing about the Australian colonies in the sixties and seventies,

has perceptively remarked that secular liberalism, while pervasive, was hard to pin down: "not Prometheus, but a reputation, a rumour, a breath of wind".[11] In the nineties, secularism was clearly evident in many aspects of colonial life. Yet characteristically it was always both more and less than those persons, parties, journals and institutions which manifested it. It was present not so much as a distinct entity with a specific and in principle quantifiable causal weight, but rather as an extensively ramified but harmoniously converging network of impulses, conceptions, tolerances, and aversions. However, and this was the surprising point, the opposition to the "recognition" campaign was in many ways not like this. The counter-petitions bore that reliable hallmark of disciplined organisation - an identical text.

The group responsible for circulating the counter petitions, while not specially shrouding its identity, made little effort to draw attention to itself. The counter-organizers were one of the colony's fringe Protestant denominations.

An amusing, but perhaps not typical exemplar of emerging Protestant consciousness of the opposition organisation was the Victorian Protestant journal, The Southern Cross. On 26 March it noted:

> Somebody in Melbourne, who wisely shrouds his personality in mystery, is, it seems, getting up a secular petition against any recognition of God in public affairs. The petition emerged into light in Maryborough, and the correspondent of the Age in that town sent it down for insertion in the columns of the great organ of secularism in Melbourne.

By 9 April the Southern Cross had discovered the culprit:

> It is curious to learn that this petition, that God and religion may be 'ignored', is largely signed by Seventh Day Adventists. This is a new proof that this remarkable body is made up of cranks; and in the case of cranks - religious or other - nobody can be quite sure at what point, or how suddenly, reason may lapse into bankruptcy.

To their astonishment, recognitionists became aware that the main villain was one of their own kind. The active association of a small fringe religious group with militant Church-State and Religion-State separationism

was unusual, although the association of Unitarianism (which generally postulated a sharp distinction between the religious and the political) and separationism does provide a parallel. Yet why did the Adventists take this particular line? What in their eyes was the rationale for their energetic campaign? To answer, it is necessary to say something of the background and character of Australian Seventh Day Adventism.

On the afternoon of 3 January, 1875, in Battle Creek, Michigan, U.S.A., a Mrs Ellen Gould White received what she considered to be a divinely inspired vision. Mrs White's writings then occupied, and still do, a special position in the Seventh Day Adventist movement. In the Adventist view Mrs White, while not quite of the standing of the biblical prophets, stood especially close to God: and to her had been revealed God's plan for mankind during the latter days. The 3 January vision was however in one respect a bother to her. In it she had, she believed, been shown the places to which God's word was next to be carried. But when she came to record the vision, she hardly was able to remember any of the places revealed to her. However, there was one she could recall without difficulty - Australia.[12]

The first Adventist missionaries came to Australasia in 1885. Shortly after came A.G. Daniels, the son of a Unionist surgeon who had been killed in the Civil War. He was a convert, who for some years had been personal secretary to Mr and Mrs White.[13] In 1897 the Adventists in Australia were little more than a thousand strong. The President of the Australasian Conference in that year was the same A.G. Daniels.[14] Mrs White had been living in Australia since 1891.[15] The Adventists dietary views, and their belief that God, at some broadly identified time, although probably not in the near future, would wind up human history, troubled few people. The former, because of its essential privacy, hurt nobody; the latter was a view often held by Catholics and Protestants. However the Adventists viewpoint on Sunday observance caused

much trouble. The main difficulty was not that like the Jews they believed in worshipping God on the Saturday. It was rather that, in contrast to the generally quietist colonial Jewry, they were firm believers also in freedom to work on the Sunday. This latter practice was to a certain kind of Protestant provocative and offensive. Indeed, in both the United States and Australia, "Sabbath desecrating" Adventists had been prosecuted in the civil courts on charges of sacrilege. In Sydney in 1894 some Adventists had been sentenced to a spell in the stocks under a 1677 statute of Charles II.[16]

The Adventists, while broadly identifying with the "middle class", tended to be low income earners.[17] Many were craftsmen, teachers, printers, farmers or ran small businesses. The basis for their intransigence on the Sunday question may partly have been economic. In the economically depressed conditions of the nineties, perhaps two days of "rest" was more than many thought they comfortably could afford.

By 1897 the Australian Adventists had come seriously to fear that the "recognition" of God in the federal Constitution would enable the federal parliament to exercise an implied power to legislate for nation-wide Sunday observance. This fear derived partly from their Australian experience; but stemmed more fundamentally from certain experiences of the parent church in the United States. There, arising in part from legal and political difficulties created by Protestants who were scandalised by their position on Sunday observance, the Adventists had become enthusiastic and dedicated proponents of liberty of conscience, and of the strict separation of Church and State.

By the 1890s, in the United States, many church and church-related groups (including, prominently, the National Reform Association, which since its formation in 1863 had agitated vigorously for the insertion of a religious amendment in the Constitution of the United States)[18] were placing

considerable pressure on Congress to legislate on such issues as temperance, Sunday observance, and the "recognition of God" in the United States Constitution. On the temperance issue, petitions to Congress from church-related groups, such as the W.C.T.U., were prolific. In 1892, Sunday observance interests coerced Congress into tying a Sunday closure provision to its five million dollar grant to the Chicago World Fair. Congress on that occasion had been besieged by petitions from religious groups. In 1894 (twice), 1895, and 1896, "recognition of God" amendments to the Constitution were introduced in Congress.[19] The Adventists, at first somewhat dismayed, had developed by 1890 what was for a small group an effective counter-strategy. Under the auspices of the National Religious Liberty Association, an organisation which they set up in 1889,[20] they produced numerous separationist pamphlets, lobbied energetically, and collected a large number of signatures to counter-petitions. In 1890 they secured a quarter of a million signatures to one of their petitions to Congress.[21] Thereafter they remained enthusiastic pamphleteers, lobbyists, and petitioners.

In the Australian setting, similar moves from W.C.T.U.s, Lord's Day Observance societies, and the Councils of Churches in the various colonies, evoked among Adventists not only the same fear, but eventually the same resort to petitioning, pamphleteering and lobbying. The similarity should not surprise. A number of Australian Adventist leaders, who mostly at this stage were Americans, had participated in the massive 1890 counter-petitioning campaign.[22]

By 1897 the Australian Adventists were effectively placed to organise a vigorous counter campaign. The ground for such a campaign had, over the previous four years especially, been well prepared. In 1894, arising out of concern that they would increasingly become subject to legal prosecution for Sunday violation, the Adventists launched a quarterly journal entitled

The Australian (from 1895 The Southern) Sentinel and Herald of Liberty. They followed American precedent. Since 1886 the American Adventists, moved by a similar concern, had published a "religious liberty" journal entitled The American Sentinel. The Australian counterpart, according to its title page, was "set for the Defence of Liberty of Conscience, and therefore uncompromisingly opposed to a union of Church and State, either in name or in fact." The editorial in the first issue declared, with a terseness and conciseness (in a sense, an Americanness) which always was one of its characteristics, that:

> The Sentinel is set for the defence of the rights of men. As its name indicates, it is to be a Sentinel guarding these sacred rights, and a Herald of True Liberty. We refer especially to civil liberty and to religious freedom. By 'liberty' we do not mean license; nor do we by 'freedom' mean lawlessness.
>
> We advocate that liberty which guarantees to every man the enjoyment and free exercise of his natural rights. We plead for the freedom to worship God, or not to worship Him, according to the dictates of conscience.
>
> We are not of those who would detract from the importance of religion or the utility of civil government. We believe that the Church and civil government are both of divine origin. We believe that the Church was established by God for man's spiritual welfare; and that civil government was ordained by the same authority to protect men in the exercise of their rights.
>
> But while we believe that both the Church and the State are ordained of God for the good of man, we also hold that they are ordained for entirely separate lines of work; that each has its particular sphere and that the realm of one is in no sense the realm of the other.
>
> Believing this, we are decidedly opposed to the union of Church and State. We do not mean that we are opposed simply to the union of some particular church with the State. We are opposed to the union of any church or any combination of churches with the State. And more, we are opposed to anything and everything tending towards a union of religion and the civil power.
>
> We see dangerous movements in this direction. From every quarter we hear appeals from the Church to the State for help. Monster petitions are being sent to the governments of every country for religious legislation. Powerful combinations are formed to speak for the church with authority. And such has been the progress in this line that in some instances the Church has ceased to petition, and now demands! Under these powerful influences the State is beginning to 'bend', and thus the liberties of men are endangered.
>
> Against this whole line of work the Sentinel raises the

> note of warning. With men it has no controversy; but to all principles and measures which imperil the civil and religious liberties of men, it stands uncompromisingly opposed.[23]

The Sentinel mostly confined itself to these themes, and rarely promoted the more distinctive dietary or eschatological Adventist views. Since 1888 the Adventists had produced another journal, a monthly entitled the Bible Echo, for that specifically denominational purpose. The first issue of The Australian Sentinel was widely and favourably noticed in the colonial press.[24] By 1897 its quarterly circulation had reached 4000.[25] Two things are evident from this circulation figure and the generally friendly reception by the secular press. First, a sizeable portion of the community must have been in sympathy with the Adventists position on Church and State. Second, and this is the point more especially to note, the Adventists had established some sort of contact with many of these people.

How could such contacts be turned to good effect? How was the reservoir of community antagonism to clerical political involvement effectively to be tapped? It was precisely at this point that the Adventists were well placed. The normal method whereby Adventists evangelised and distributed much of their literature was by systematic door-to-door visitation. Adventist members each month personally delivered the Bible Echo and other Adventist literature to subscribers, and to other possibly interested persons.[26] Many copies of the Sentinel were also distributed in this way. Each quarter, there simply was a further piece of literature for the door-to-door canvassers to deliver.

This means that by 1897 the Adventists not only possessed an extensive network of addresses of persons likely to be in sympathy with them on the Church-State and Religion-State issue, but that they often had personal contact with such people. The way thus was open for conducting a speedy, extensive, and personal circulation of counter-petitions. A survey of the

areas from which the counter-petitions emanated confirms this view, since these nearly always were areas where the Adventists had congregations, or companies of Sabbath keepers.[27]

The Adventists were limited, however, by the fact that owing to the sheer smallness of their organisation, there remained large areas of the community in which they lacked the necessary pre-existing network of personal contacts. Nevertheless, for the alert politician, that very organisational weakness embodied a message. If such extensive support for the counter-petitions could be raised in a relatively restricted set of areas, what must be the feeling on the issue in the community generally?

FOOTNOTES

1. D.T., 3 March, 1897.

2. Age, 12 February, 1897. D.T., 3 March, 1897.

3. S.M.H., 22 February, 1897.

4. J.D. Bollen, Protestantism and Social Reform in New South Wales, 1890-1910, Melbourne, 1972, ch. 6.

5. 13 March, 1897.

6. 18 November 1896.

7. For example, Bulletin, 10, 24 April, 1897; Truth, 18 July, 1897; 1 August, 1897.

8. The Victorian Council of Churches, however, slightly changed the text of its petition. Substantially, it omitted reference to a chaplain, and amended "...the Governor-General has power to..." to "the Governor-General in Council has power to..." Argus, 12 March, 1897.

9. Proceedings, (Adelaide, 1897), pp. vii-viii.

10. Southern Sentinel, Vol. 3, No. 2, (1897), p. 32.

11. T.L. Suttor, Hierarchy and Democracy in Australia, 1788-1870, Melbourne, 1965, p. 12.

12. An account of the "vision" is provided in the Seventh Day Adventist Encyclopedia, Vol. 10, p. 1410. The "vision" was referred to in some detail by S.N. Haskell in an address to the 1899 Australasian Union Conference. Haskell had been the leader of the first (1885) Seventh Day Adventist mission to Australia and New Zealand. Mrs White was present during the address, and when she later spoke in no way rebutted or amended what Haskell said. One may conclude both that the "vision" story was known to the Adventists, and that its circulation was endorsed by Mrs White. Union Conference Record, 28 July, 1899.

13. Ibid., Vol. 10, p. 326.

14. Union Conference Record, January, February, 1898. pp. 13, 23.

15. Seventh Day Adventist Encyclopedia, Vol. 10, p. 1411.

16. Age, 8 May, 1894; Sydney Evening News, 9, 13 August, 1894; S.M.H., 10 August, 1894; Argus, 14 August, 1894.

17. M.F. Krause, "The Seventh Day Adventist Church in Australia, 1885-1900", M.A. Thesis, University of Sydney, 1968, pp. 156-179.

18. McAllister, D., The National Reform Movement, Allegheny, 1898, p. 16.

19. Proposed Amendments to the Constitution, 1889-1928, 70th Congress, 2nd Session, House Document No. 551, (1929), pp. 184-5.

20. Seventh Day Adventist Encyclopedia, Vol. 10, p. 1030.

21. Krause, op. cit., p. 242.

22. Such as J.O. Corliss, W.A. Colcord, and Mrs E.M. White. In 1889 Corliss and Colcord were members of the (U.S.) Adventist Press Committee, which had a watchdog brief on Sunday Observance issues. (See Seventh Day Adventist Encyclopedia, Vol. 10, p. 1029). In 1897 Corliss was the editor of the Southern Sentinel, Colcord was editor of the Bible Echo, and also General Field Secretary of the Department of Religious Liberty. (See Union Conference Record, January-February, 1898, p. 23.).

23. May, 1894.

24. Australian Sentinel and Herald of Liberty, Vol. 1, No. 2, (1894), pp. 62-63. Here are printed extracts from 26 of these reviews. Interestingly, among them is a favourable notice from the Freeman's Journal.

25. The Gleaner (from 1898 the Union Conference Record) 1896-7, p. 56.

26. The Gleaner, 1896, 1897, and the Union Conference Record, 1898, contain numerous reports from and about these sales agents. They appear to fall into two categories. All members of congregations or of "unorganized companies" distributed the Bible Echo, while full time canvassers (that is, members who made a living from the commission received) sold more specialized and expensive Adventist literature.

27. For locations of Adventist congregations, see any issue of the Gleaner or the Union Conference Record for these years. Locations of petition signers are usually indicated in the Proceedings of the Federal Convention, and the Parliamentary Papers of the various colonial legislature.

CHAPTER FOUR

THE RECOGNITION ISSUE AT ADELAIDE

As a result of pressure from the smaller colonies - Western Australia, Tasmania and South Australia - the first session of the Federal Convention was held in Adelaide. This displeased the governments of the two larger colonies. "Great was the wrath in the Victorian Turner cabinet", wrote Deakin, "and indeed among the New South Wales representatives also. A stay in Melbournewas looked forward to with pleasurable anticipation, but in Adelaide, the city of churches, it was quite another matter."[1] There is perhaps an echo of this irritation in the diary of Randolph Garran, the young Sydney lawyer who came to Adelaide as assistant to Reid, the New South Wales premier:

> Adelaide at nine fifteen a.m. on Sunday, where we disappointed the Press by preferring cleanliness to godliness, and not going to Church.[2]

The city's sober and decorous tone was possible of some assistance to the recognitionists; and early in the piece they received encouragement from a possibly unexpected source. On 25 March the Convention received a telegram from Chamberlain, the British Secretary of State for Colonies, advising that Her Majesty desired him

> ... to acquaint the Federal Convention that she takes special interest in their proceedings and hopes that under Divine Guidance their labours will result in practical benefit to Australia.[3]

In order to expedite the construction of a working draft, the Convention initially formed itself into three committees: a Constitutional Committee, a Finance Committee and a Judiciary Committee. It was during a meeting of the Constitutional Committee on 8 April that the "recognition" issue was first raised. Quick, a supporter of Gosman's resolution at Bathurst, and (as Chapter 12 will argue) a man whose Church commitment subsequently led him to provide a distorted historical account of some of the central issues discussed by this study, moved that the preamble be amended to declare that the people of the colony, in agreeing to form an indissoluble Commonwealth, were "invoking Divine Providence". The Minutes, the only official record, simply

set out the words of Quick's amendment, and stated that it was negatived.[4]

However some months later one of the New South Wales members of this committee, Carruthers, speaking to a Christian Endeavour delegation, offered an account of the viewpoints expressed in the debate on Quick's amendment. The credibility of this account is subject to some doubt, not simply because Carruthers may have been tempted to tell the delegation what it wanted to hear, but more substantially because he seriously misdescribed the words of Quick's amendment. Carruthers told the Endeavourers the words were: "by the Grace of God".

According to Carruthers, "the question was exhaustively dealt with" by the Constitutional Committee. Some members had wondered whether the recognition of deity would yield any practical benefit. Some were worried that, if they associated the name of God with the Constitution, and the Constitution broke down, they would be guilty of irreverence. Some doubted whether they should load the deity with their necessarily imperfect Constitution. Finally, some considered that inserting a religious clause in the preamble meant putting a religious affirmation into the mouth of the British parliament; and that this might lead to irreverence, and make the name of God empty.[5]

So perhaps partly for these pious reasons, but almost certainly for other more secular ones, Quick's proposal was rejected by the Constitutional Committee. The other items in the recognitionist petitions, those relating to prayers by the Commonwealth parliament, and to the setting aside of special national days for religious purposes, were not formally raised or discussed in either this or subsequent sessions of the Convention. The evidence does not indicate why, but probably the main reason was that such proposals could not meaningfully be canvassed in the Convention until "recognition" itself was accepted.

The Consitutional Committee's rejection of Quick's amendment was briefly reported in the press,[6] and provoked an immediate response. Some expressed satisfaction. "Better a Christian atmosphere," declared the Argus, "than any formal clause carried by strife."[7] A Bulletin columnist jeered:

> If some arrangement could be made for God recognizing the Convention, it would be a great deal more to the point.[9]

However the strongest reaction naturally came from the losers. The Victorian recognitionists moved first. On 17 April the Victorian Council of Churches forwarded a petition to the Convention asking:

> ...Before finally disposing of the matter, to grant that at least the first and chief prayer ... as to the national recognition of God... should be granted, so that God's name might be glorified and the conscientious convictions of thousands of Christian people in Australia may not be wounded.[9]

Additionally, personal representations were made by the Council to some - perhaps all - members of the Victorian delegation.[10]

From about this time, one may note, the initiative in organizing the "recognition" campaign shifted from New South Wales to Victoria. Such a shift hardly was surprising. Protestant-Catholic-secularist tensions mostly were sharper in Victoria than in New South Wales, and as a rule Victorian Protestants were more militant than their New South Wales counterparts. Probably only the unusual circumstance of Moran's candidature, and his initial enthusiasm for the "recognition" cause, had placed the New South Wales Council of Churches for a time at the head of the campaign.

This renewed Victorian Protestant agitation achieved one result almost immediately. On 22 April the "recognition" question was raised one more - this time in full Convention. However the matter was no longer in Quick's hands. With a view to making "recognition" appear ecumenical rather than simply Protestant, the Victorian Protestant Simon Fraser had invited the South Australian Roman Catholic, Glynn, to raise the issue.[11] Glynn was

agreeable, and on 22 April in a carefully prepared but literary speech reintroduced Quick's "recognition" proposal.

There was, Glynn said, a widespread desire in the community that God be recognised. Such a consensus had force because it was a consensus; and it also strengthened rather than weakened the security of "liberty of thought". He referred to the

> spirit of reverence for the unseen [which] pervades all the relations of our civil life...It is felt in the forms of our courts of justice, in the language of our statutes, in the oath that binds the Sovereign to the observance of our liberties, in the recognition of the sabbath, in the rubrics of our guilds and social orders...

Then, after citing evidence as to the antiquity of the idea of a "Divine Mind" guiding the destiny of States, he concluded by asking the Convention

> ...to grant the prayer of [the "recognition"] petitions; to grant it in a hope, that the justice we wish to execute may be rendered certain in our work, and our union abiding and fruitful by the blessing of the Supreme Being.[12]

The short debate which followed encapsulated most viewpoints on the "recognition" issue. The next speaker was the octogenarian Tasmanian, Adye Douglas, who caustically chided Glynn for giving the Convention "a sermon" which would have been interesting if "given in another place". Invoking the divine blessing, Douglas suggested, was "not the proper way of carrying out the religious idea at all." It had not been done in the constitutions of the United States or Canada. "Nothing can make religion more ridiculous than to have the form without the substance."[13]

Barton then spoke. To the accompaniment of cheers from some members of the Convention,[14] he expressed the hope that Glynn would withdraw his amendment. The invocation of God, he suggested, offering a theological pendent to Glynn's partially libertarian argument for "recognition", was "more reverently left out than made." Moving from reverence to ridicule, he then stressed the difficulty of either predicting in advance, or

discovering after the event, whether or not when citizens came to vote on the Federal Bill they actually were "invoking Divine Providence".

He carefully sketched his own view of the relationship of the sacred to the secular:

> The whole mode of government, the whole province of the State, is secular. The whole business that is transacted by any community - however deeply Christian, unless it has an established Church, unless religion is interwoven expressly and professedly with all its actions - is secular business as distinguished from religious business. The whole duty is to render unto Caesar the things that are Caesar's, and unto God the things that are God's.

He concluded:

> The best plan which can be adopted as to a proposal of this kind, which is so likely to create dissension foreign to the objects of any church, or any Christian community, is that secular expressions should be left to secular matters while prayer should be left to its proper place.[15]

Barton was followed by the devout New South Wales Presbyterian, J.T. Walker, who supported Glynn. He in effect suggested that since the churches were aiding the federation movement, the Convention might properly by way of return agree to Glynn's amendment. He also reminded the Convention of the reference to deity in the telegram from Chamberlain, and of the "unanimous" acceptance at the Bathurst Convention of Fielding's "recognition" motion.[16]

At this point, judging that he did not have the numbers, Glynn sought to withdraw his amendment. But Turner and Zeal, for reasons that do not clearly emerge, but which probably reflected pressure from clerical constituents, strongly urged Glynn nevertheless to perservere.[17] He did so, and his amendment was negatived by 17 votes to 11.[18]

FOOTNOTES

1. A. Deakin, The Federal Story, Melbourne, 1963, p. 75 (written 1898-1900).

2. Rough Diary, 21 March, 1897, MS. 2001, Ser. 3, A.N.L.

3. 'Records', G.R.G./72, Ser. 4/9, Commonwealth Archives .

4. 'Records', G.R.G./72, Ser. 8/13, Commonwealth Archives .

5. S.M.H., 23 July, 1897.

6. For instance in the Age, 9 April, 1897; Argus, 9 April, 1897. It was not mentioned in the S.M.H.

7. 23 April, 1897.

8. 17 April, 1897.

9. Proceedings (Adelaide, 1897), p. VIII.

10. This seems a reasonable inference from Zeal's statement, Con. Deb. Adel. 1897, p. 1189.

11. P.D., Victoria, 1897, Vol. 86, p. 1485.

12. Con. Deb. Adel. 1897, pp. 1184-1186.

13. Ibid., p. 1186.

14. Adelaide Advertiser, 23 April, 1897.

15. Con. Deb. Adel. 1897, p. 1186-1188.

16. Ibid., p. 1188. Interestingly, Walker was the seconder of Fielding's proposal. Minute Book, People's Federal Convention. M.L.

17. Ibid., p. 1188-1189.

18. Ibid.

CHAPTER FIVE

THE PROTESTANTS FIGHT BACK

"You can break up a setting hen", declared a writer in the Adventist Echo on 10 May, "but you cannot convince a worldly church that it ought not to unite itself to worldly power." Pleased though they were at the secularist victory at Adelaide, the Adventists held no illusions that the clerical interest would simply accept this rebuff. Those who sought to unite religion and State, the Echo writer predicted, would continue to pray, petition, and besiege legislators at every turn, until they got what they wanted: "A fallen wordly church is bound to unite itself with worldly power, come what will."

The Victorian Presbyterian Monthly, of which the enthusiastic "recognitionist", Professor Andrew Harper, was editor, was especially vexed by the editorial opinion of the Argus, already cited, that "a Christian atmosphere" was better than "any formal clause carried by strife". Scenting in the Argus's viewpoint an essential irreligion, the Presbyterian Monthly countered:

> [In] vain is the snare spread in the sight of any bird, ... the Christian communities will assert themselves, notwithstanding the new doctrine of Christian peace.[1]

This forecast proved substantially right; provided one reads "Christian communities" in a fairly ecclesiastical way, that is, as covering only the clergy, and those members of the laity closely associated with the liturgical and organisational life of the colonial churches.

The Adelaide session of the Convention had concluded on 23 April, and the draft it had constructed was now, in accordance with the provisions of the Enabling Acts, to be examined and commented on in the various participating colonial parliaments; those of Victoria, New South Wales, South Australia, Western Australia, and Tasmania. These legislatures could propose any amendments they saw fit. However, even before the rejection

of Glynn's amendment on 22 April, there were indications of a virtually nation-wide revival of the "recognition" campaign. When, earlier, it became known that the Constitutional Committee had rejected Quick's "recognition" proposal, letters or statements began to appear in the press, suggesting or hinting in various ways that no Christian could in conscience vote for a Federal Bill which did not "recognise" God. For instance, the Sydney Morning Herald reported on 14 April a statement by Rev. W. Matheson at the Congregational Union Conference that, if God was not "recognised", he "trusted the people of the colonies would decline to accept such a Constitution"; while in the Adelaide Advertiser of 20 April there appeared a letter from a C.H. Goldsmith, in which, after complaining tersely about the Convention's failure to "recognise" God, and also about intercolonial railway sabbath violations, he threatened:

> If no further steps are taken, the loyal servants of God will know what to do when the referendum takes place.

As early as 13 April, it had been suggested in a letter to the Argus, from J. Walsford, that a new campaign be organised on an intercolonial basis by the various Councils of Churches.

After the full Convention's refusal on April 22 to "recognise" God, this campaign rapidly took shape. On 26 April, in a letter to the Age, the fiery Presbyterian, Dr. Rentoul, a colleague of Harper's at Ormond College, declared:

> [The] Convention, by their refusal, have simply forced upon us, needlessly, the labour and expense of having this good thing effected through the respective colonial Legislatures.

The New South Wales Council of Churches in late April resolved to present a petition to the New South Wales parliament, signed by its chairman on its behalf, urging that legislature to refuse to adopt the Federation Bill, unless that Bill "recognised" God. However the Victorians envisaged now a

much more forceful campaign. They would not give in to "a little squad of Seventh Day Adventists." "Let the Churches unite to see that this great blunder is not perpetuated." Rentoul told the Commission of the Victorian Presbyterian Assembly on 6 May. "Let them bombard Parliament." Nor were the fathers and brethren thinking solely of circulating petitions, and arranging delegations to leading politicians. They also resolved:

> That in view of the coming general elections, ministers be instructed to impress upon the people the imperative duty of supporting only such candidates as ... promise to maintain the recognition of God in the Constitution of the proposed Commonwealth.

The Public Questions Committee (of which Rentoul was joint-convenor) was also instructed to communicate "with the various churches of the respective colonies" in order to formulate and set in motion an intercolonial "recognition" campaign.[2] By the end of May, the Councils of Churches in New South Wales, Victoria, Tasmania and South Australia had committed themselves to an energetic campaign, which mostly consisted of collecting signatures to petitions, writing to the press, holding public protest meetings, canvassing members of parliament, and sending delegations to leading government ministers.[3] The organisational initiative remained broadly Protestant and Anglican; although a few Catholic bishops sent petitions to the colonial parliaments on behalf of their flocks; and a few prominent Catholic laymen, such as Sir W.P. Manning, lent their names to public meetings of protest.[4] In Sydney, Rabbi Davis participated at the public meeting level;[5] while in Victoria Isaac Isaacs, one of the Convention's two Jewish members, who was acting-premier while Turner was overseas at Queen Victoria's Diamond Jubilee, was actually the one to introduce the "recognition" amendment in the Legislative Assembly. So that the campaign, while at its core broadly Protestant, had something of an interdenominational, and indeed at times merely theistic, character.

Why had colonial Protestantism become so intensely involved in this campaign? More specifically, what was the basis of that imperative quality which the campaign held for many Protestant leaders - especially those in the non-conformist tradition? Considerations of public status, of being regarded in the community at large as performing some essential public function, clearly had something - and perhaps at times a great deal - to do with it. While each of the separate colonies, declared the Presbyterian Monthly on 1 May, betraying this anxiety, "has a history which runs back always to some point at which the supremacy of God was acknowledged in some way... [the Commonwealth] will have absolutely no traditions of this kind." If some "explicit reference to God in the Constitution was not insisted on," it warned, "the omission will in the future be made the ground for asserting that our new Constitution was deliberately founded on the negation of God." Yet there was more involved than the need to "belong".

When in the days of multiple establishment the State recruited non-conformist clergy into its ranks as moral policemen, it necessarily gave them wider scope to exercise themselves on one of the perennially recurring themes of biblically oriented Christianity; namely, the total reach of the salvation offered in and through Christ. Salvation, it was natural to say, pertained to the whole of man; of all men, and of every aspect of man - social, economic, political, etc. This overarching concern survived the termination of State aid. "How", asked a writer in the Southern Cross on 4 May, "can human life be divided into two air tight compartments ... one of which is labelled 'religious' and the other 'secular'?" To Protestants such as Gosman, Rentoul, and Dunstan, what was at stake in the "recognition" campaign was, on a certain level, public status and political power. The Adventists were right about that. But what the Adventists either failed to notice, or

underestimated, was that behind the recurring political involvements of Protestantism was a dream; a dream, nurtured by the entry of the middle classes into the main stream of political life, of the total power of God and the total reach of His salvation, which they would not now willingly give up.[6]

This social concern, as one might expect in such an individualist religious tradition, was often rationalised in terms of a conception of the State as "an aggregate of individuals, all of them moral, or immoral ...."[7] But it was, nevertheless, fundamentally a concern for society envisaged as a kind of morally responsible unit. The State had a conscience; and they, the Protestants, were or ought to be the main interpreters of the dictates of that conscience. The vote, said Harper, in Australia without God,

> as the symbol of political and social duty, ought to be prized and exercised as a great trust, of which we must give an account to God. The Puritan demand for a State worked in accordance with the divine law of righteousness needs to be renewed.[8]

Sometimes, although not typically, this concern was linked to a kind of racial mysticism, a conception of racial destiny. "We are one great community," declared a Protestant commentator on the draft Federal Bill in 1898, "Christian in faith and British in blood, set in the Southern Hemisphere ... We are, by mere force of our geography, a sort of great missionary outpost ... The Pacific is to be our Mediterranean."[9] "We do not ask for an elaborate creed ", declared the Australian Christian World, "we simply ask the Commonwealth formally to say that God is the great Governor-General."[10]

Many of those Protestants who were so deeply and passionately involved in the "recognition" campaign were, in a sense, locked into this commitment by the contrarieties of their recent history. The anguish which conscientious commitment to a total conception of salvation was bound sometimes to bring to a sensitive Protestant mind is conveyed vividly

by the following:

> No wise man ... desires to see the Christian pulpit turned into a political sounding board, or to have the great themes of Christianity - themes which have the spaciousness of eternity and the seriousness of life and death - thrust aside for the wrangles of secular politics. But if Christianity has no law that is applicable to politics, and no message to men on their national concerns, then it disappears utterly from the great chamber of human life.[11]

The Christian was bound in conscience to watch over and care for the total welfare of the community. He was, as a Christian, responsible not simply to his fellows but ultimately to God for the material and moral welfare of the community. "For the condition of this community," said Harper,

> ... for its readiness to forget God, for its greed, its vices, its sins, for every unrighteous law, for every unnecessary burden on the poor, for the war of classes, for the evil social conditions which everywhere are marring human lives, for our collective pride, for the base elements in our politics, for all the darker features in the character of this community, we shall have to give an account at the judgement seat of Christ.[12]

But while the Protestants' commitment was at times deeply and painfully felt; and while, given their values and outlook it was perhaps necessitated by the situation in which they were placed; it remained in certain respects deficient in moral seriousness. Whether through a lack of specificity in the overall vision, or a lack of nerve, or too great care not to jeopardise beyond a certain point the worldly standing which they still retained, they steadily sacrificed - at least to outward seeming - the substance of "recognition" for the mere form. Formalism might have a certain justification. Harper, for instance, argued that,

> ... while the formalisms of our best moods may lead us into hypocrisy, they yet remain an incitement to aspiration , and an encouragement to us in our sincere moments to aim at an ideal in our conduct.[13]

But more deeply, formalism represented a failure of nerve, or a clouding

of vision, or a love of high places in the market place.

A move in the direction of form and away from substance was evident in the proposed prayers in the "recognitionist" petitions. There was now, largely perhaps in response to Barton's criticisms,[14] no reference to Quick's or Glynn's "invoking" of Divine Providence, or indeed to any sort of invoking at all. The "recognition" proposals now being canvassed did not any longer convey or imply that the Australian people, in electorally accepting federation, were in the process performing an act both political and religious. The New South Wales and South Australian petitioners wanted: "acknowledging Almighty God as the Supreme Ruler of the universe". The Victorian petitioners wanted: "in reliance on the blessing of Almighty God". The Tasmanian petitioners wanted: "Duly acknowledging Almighty God as the Supreme Ruler of the Universe, and the source of all true Government."[15] Conceptually, the change was fundamental. To depend on, to acknowledge, to be grateful to God, was to be in a religious condition or state; but since such a condition or state was not in itself an act, there was no longer an implicit denial of, or retreat from, the secularist viewpoint that religious and secular activity belonged in different although related spheres.

FOOTNOTES

1. May 1897.

2. Presbyterian Monthly, June, 1897; Argus, 7 May, 1897.

3. Secular and church periodicals and newspapers commented frequently on the issue. But see more especially: Argus, 30 June; S.M.H., 3, 6, 29 July, 2, 3, 4, 5 August; Launceston Examiner, 20 July; Hobart Mercury, 17 July; South Australian Register, 13 July; Bible Echo, generally; Catholic Press, 14 August; Freeman's Journal, 10 July; Methodist, 1, 8, May, 31 July; Southern Cross, 2 July. Public petitions were circulated in New South Wales, Victoria, and Tasmania, but not in South Australia or Western Australia. In Western Australia the "recognition" campaign was confined to delegations to the government by the W.C.T.U. and ad hoc groups of clerics, West Australian, 5, 6, 12 August, 1897.

4. S.M.H., 6 July, 1897.

5. Ibid.

6. See, for instance, sermon by Rev. J. Nancarrow, Australian Christian World, 30 July, 1897.

7. Southern Cross, 26 March, 1897.

8. P. 20.

9. Southern Cross, 22 April, 1898.

10. 21 May, 1897.

11. Southern Cross, 27 May, 1898.

12. Australia without God, Melbourne, 1897, pp. 20-21.

13. Ibid, p. 20.

14. Press cuttings, Glynn Papers, MS. 4653, Ser. 15, items 114, 116, A.N.L.

15. Texts of the petitions set out in Proceedings, (Sydney, 1897), pp. 81-82.

CHAPTER SIX

THE ADVENTISTS PERSEVERE

How did the Adventists respond to the challenge of the revived "recognition" campaign? Admitting that their task would be even more difficult, they applied themselves nevertheless with resolution and enthusiasm. On the surface their morale was excellent. When the first petitioning campaign was at its height, perhaps foreseeing that their struggle would be a long one, the Adventist central executive telegraphed to A.T. Jones, who had very successfully directed this sort of campaign for the Adventists in the United States, requesting that he come to Australia to assist in "the present religious liberty crisis."[1] Jones didn't come; but the suggestion that he should was an indication of the seriousness with which the Adventists regarded their situation. However a number of Adventist leaders in the Australian field had had considerable experience in the United States in the kind of work involved. These included W.A. Colcord, the Religious Liberty Secretary, J.O. Corliss, Mrs White, and her son, W.C. White.[2]

No less than with the recognitionists, there was an imperative quality about the Adventist campaign. Just as to the Councils of Churches there seemed a fundamental rightness in any civil constitution "recognising" God, so, to the Adventists, there was in this an equally basic wrongness. Furthermore, to each, the position of the other was not merely incorrect; it was, in some basic sense, odd or contrary.

Separating religion and the State, a columnist in the Southern Cross had written on 26 March, with reference to the first petitioning campaign,

> ...is a divorce which it passes the wit of man to make. Religion, in a word, is interwoven with human life at every point...society is built on it, and is only possible by virtue of it.

Colcord, in sharp contrast, writing in one of the pamphlets which the

Adventists distributed in July and August, saw the matter in this way:

> Civility - or the duty to recognise and respect the natural rights of men as men - belongs to Caesar. Religion - or the duties which men owe to God as Creator and Redeemer - belongs to God, and is to be rendered to Him and to Him only. 'Thou shalt worship the Lord thy God, and Him only shalt thou serve.' Religion is not to be rendered to civil government. This being so, with the subject of religion civil governments can of right have nothing to do.[3]

The adversaries very often did not so much talk to, as through, each other. When this happens, it usually indicates that the disagreement is not solely, or mainly, about the facts, or even about value preferences in relation to those facts, but stems rather from different conceptions - differing presuppositions - by reference to which those facts are described or evaluated. Largely that was the case in the continuing conflict between the Adventists and the Councils of Churches. They never could agree because their conceptions of what religion basically was and of what the State basically was were in many respects sharply different. The recognitionists, through the mediating concept of morality, typically saw man's relations to man, and man's relations to God, as serially linked within what was to the eye of faith a single ensemble. The Adventists saw man's relations to man, and to God, as constituting two irreducibly distinct ensembles of relationships. The two ensembles were related, in that God made both; but they were related as ensembles, not within an ensemble.

The tactics which the Adventists relied on basically were an extension of those they already had employed. As before, a counter-petition was circulated, although, since the petitions now were to be forwarded to the colonial parliaments, and since to the Adventists the Adelaide decision constituted a favourable precedent, the text differed in a number of respects. The Adventist petition now asked the colonial Parliaments

> ...not to pass any Measure or Amendment for the insertion of any Religious clause or Declaration of religious Belief in the Constitution of the Australian Commonwealth which

> might be taken as a basis for such legislation, but that in this respect it be allowed to remain as framed and adopted by the delegates to the Adelaide Federal Convention. (Underlining in original).[4]

Like the recognitionists, although on a smaller scale, they organised public meetings.[5] They sent numerous letters to the colonial press, and interviewed such parliamentarians and government ministers as would receive them.[6] A great quantity of pamphlet material was distributed to every member of each colonial parliament. "Every Hon. member", remarked a speaker in the Western Australian Legislative Assembly, "has been deluged by papers from the Australasian Tract Society."[7] The Adventists were now more open in their approach, and it became more widely known that they were the organisers of the counter-petitions. On 31 July a Bulletin columnist gave the following vivid but overdrawn portrayal of the Adventist canvassers:

> A petition against [the "recognition" proposal] is being pushed around Melbourne, not by Jos. Symes, or the Anarchist club, or any disreputable, unbelieving body, but by - the Australian Tract Society. The Non-Conformist conscience is, in this matter, astoundingly commonsensical, and its arguments are briefly set forth in a tractlet:
>
> The recognition of God is an act of faith. A statement of that recognition is a declaration of faith. To incorporate in the Constitution of a civil government a recognition of God, or a declaration of faith, is to insert a religious clause. And so on. A religious clause necessarily tends towards interference with man's secular right to believe, or disbelieve, anything he chooses, therefore let us keep God's name out of the blessed Constitution, says the Tract Society. It is quite interesting to find citizens of ordinarily modern snufflebustious aspect walking apologetically into city offices for the purpose of explaining that state recognition of God is inconsistent with original Christianity. Fat merchants, trading as pillars of their particular churches, stare at the petition mongers with scorn... .

On 21 August, the Bulletin remarked with obvious, if oblique, approval, that: "the Seventh Day Adventist people [were] evidently 'mad only nor-nor-west.'"

The tractlet referred to was one of two circulated by the Adventists. One had been written by Colcord, the other by Daniels.[8] 100,000 were printed and circulated during May, July and August.[9] Furthermore, a special 10,000 edition of the Southern Sentinel, was printed in July.[10] "In addition to

the circulation given to [the Southern Sentinel] by our members ", noted the Union Conference Record, a journal which circulated only among Adventist members, it was "supplied to all the members of Parliament in Australia and Tasmania and to about six hundred leading newspapers in the colonies."[11] There was about the Adventist campaign a professionalism, an efficient adjustment of small means to large ends, which the recognitionist effort mostly lacked. For a church which so rigorously and with such determination believed in the separation of Church and State, the Adventists played politics very well.

However professionalism, or perhaps inspired amateurism, was not now enough to win the day for the Adventists. Although in their petitions to the various legislatures the Adventists obtained the support of about 22,000 distinct signatories,[12] the Councils of Churches, in those colonies in which they organised public petitions - Victoria and Tasmania - obtained about two signatories for every one by the Adventists.[13] Even before the colonial parliaments met, some but not all of the leading secular newspapers [14] and many leading politicians had declared their support for the insertion of some sort of "recognition" clause in the preamble. Politicians needed to have their ear to the ground. So one safely can accept that while the explicit and doctrinaire secularism expressed in the Adventist petitions was electorally popular, the religious formalism lying behind the "recognition" petitions was even more so. This question, a difficult but crucial one, will be discussed in detail in chapter eight.

So it was clear in advance that the churchmen would obtain the backing of most of the colonial legislatures. Yet it was also plain that while their victory was in one way sweeping, it was also a limited one. Their victory would secure for religion some sort of "place" or special status in the coming Commonwealth. However those politicians and newspapers who announced

their support for "recognition" usually made it clear that they regarded it as purely formal, and devoid of political implications. These were the terms, and the recognitionists had to accept them; for the size of the counter-petitions made it clear that they had no hope of winning better ones.

The editorial of the Sydney Morning Herald for 10 July, in which it announced its support for "recognition", typified the swing on this question. "The case appears to be", declared the editorial, "that a large portion of the people have had their feelings touched." Since this was so, and since the reference to God was so unspecific that any theist could accept it, there was no danger that its insertion could be employed to stir up "sectarian controversy". In other words: "Recognition" offered nothing specific, and threatened nothing specific; so therefore safely could be supported. Yet the clerics clearly were successful on one point. They had succeeded in carrying a theistic perspective right to the centre of the federation movement. They had had that perspective, and themselves as its especial bearers, accepted as part of that movement. In this respect they had succeeded where Moran had failed. Federation was still secular business, but now its tone had slightly changed. At the time of the Bathurst Convention, the Sydney Morning Herald could afford airily to dismiss the "recognition" issue as a "debating society" question. No longer could it do so. "If the demand [for "recognition"] comes accredited with the support of a large and representative portion of our people," concluded the 10 July editorialist, with an astonishing turnabout:

> ...we cannot think that the Convention would be so influenced by the pedantry of secularism as to refuse to give effect to the proposal.

Nevertheless, there were limits to the conversion of the secular dailies. The editorial columns of the Age and the Argus simply ignored the "recognition" issue. However the following sardonic report on the presentation of "recognition" petitions to the Victorian legislature, from

the news columns of the 30 June Argus, captures the flavour of their "neutrality":

> Honourable members extracted a considerable amount of amusement from the presentation of petitions. Nearly every member of the House had a petition to present from some congregation; several had two, and some even three or more. There was keen competition for turns, and when at least half the members rose to their feet at the same moment each with a long document dangling in front of him, the effect was striking, and a laugh was raised, which was renewed from time to time, until the spirit of frivolity pervaded what should from the nature of the case have been, at least, a grave proceeding.

It was not only the parliamentarians who were being mocked.

Once many of the colonial political leaders had made their peace with the recognitionists, the Adventist view of the situation darkened, although their energy remained undiminished. "Satan has ever been at work to restrict religious liberty," stated the Bible Echo on 9 August, "and to bring into the religious world a species of human slavery." And there were, throughout the colonies, numerous other intransigents. To "claim the authority of God, by the insertion of His name in the preamble," declared an editorial of the Australian Workman on 10 July, "for a Constitution which is, above all things, imperfect, and likely to be subversive of human liberty, is simply to blaspheme. Religion has need of deliverance from its friends." A fortnight later (one may presume this was one of the journals on the receiving end of the Adventist distribution of literature) it noted with approval Colcord's statement that "a religious basis to the Constitution and the laws of the nation would practically disfranchise every logically consistent unbeliever." The Hillgrove Guardian on 17 July warned:

> Grant this recognition of God in our new Constitution, and it is only the thin edge of the wedge towards perpetuating religious strife, and the next step will be in the direction of an established religion with State Aid.

A Bulletin cartoonist had similar thoughts. A cartoon of 10 July pictured

a group of parsons, portrayed as scruffy and unshaven pirates, driving an enormous wedge into the crack of a door marked "Parliamentary Government". Along the thin edge was written "Recognition of Deity". On the large end of the wedge, which was about to be struck by a huge wooden club entitled "Church Militant", was written "sectarianism". However, these commentators had become voices in the wilderness. It was quite clear that the next round would be won by the churchmen.

FOOTNOTES

1. Minutes of the Executive Committee of the Australasian Union Conference, May 20, Avondale.

2. On Colcord, Corliss and Mrs White see Chapter Three.

3. The pamphlet is reprinted in the Bible Echo, 12 July, 1897. It is unsigned, but in the file copy of the Bible Echo in the Adventist Library at Warburton, "W.A.C." is handwritten at the foot of the reprinted pamphlet.

4. P.P., New South Wales, Victoria, Tasmania, South Australia. (One of the canvassers, S. Pretyman, recalled 58 years later: "Pastor Daniels visited Hobart and clearly set forth the issue; and our members responded well in soliciting signatures, and thus was performed the first task assigned me in our work..." Australasian Record, 3 October, 1955).

5. See, for instance, S.M.H., 14 July, 3 August, 1897.

6. Union Conference Record, January-February, 1898, p. 13.

7. P.D., Western Australia, 1897, Vol.10 (New Series), p. 299.

8. See footnote 3. The other pamphlet was also printed in the 12 July Bible Echo. At the foot is handwritten "A.G.D."

9. The Gleaner, 1897, p. I.

10. Union Conference Record, January-February, 1898, p. 13.

11. Ibid.

12. P.P., South Australia, 1897, Vol. I; P.P., New South Wales Legislative Council, 1897, Vol. 56, Part 1; P.P., Tasmania, 1897, Vol. 36. The number of signatories in Victoria is not given in the Parliamentary Papers. The petitions themselves are in the Parliamentary archives, and the number of signatories was kindly counted by Mr R. Nilsen.

13. The Councils of Churches organised public petitions in Victoria and Tasmania. In Victoria the Council obtained about 25,000 signatories. Bible Echo, 16 August, 1897. In Tasmania they obtained about 1,500 signatories. P.P., Tasmania, 1897, Vol. 36. The adventists obtained about 13,000 signatures in these colonies.

14. The Hobart Mercury was mildly opposed to "recognition", 29 July, 1897.

CHAPTER SEVEN

THE DEBATES IN THE COLONIAL LEGISLATURES

The clause in the Adelaide draft which provided that: "A State shall not prohibit the free exercise of any religion " received little notice in the legislatures. In the Legislative Assembly of South Australia it was the subject of a short but lively debate, and the House of Assembly of Tasmania proposed an addition to it. However "recognition" was discussed in all the participating legislatures, sometimes with acrimony.

In general, the larger the colony, the less the disturbance. In New South Wales and Victoria, perhaps because of their relatively well disciplined party structure, the "recognition" amendment went through quickly and with almost no debate.

In Victoria, the Government had pledged its support in advance.[1] Isaacs introduced the amendment in the Assembly in the vaguest of terms, his only substantial point being that in the Governor's speech there always was some reference to "a Higher Power". Only the irascible and aged radical Longmore created any difficulty. Even so he did not precisely oppose the amendment. "I think", he said, "if we prayed to the devil, we would be more in unison with what we are doing." He added:

> 'Ye are of your father, the devil ',said One who knew. It is just and right on the part of this House to acknowledge the Creator, but it is also just and right for this House to put themselves at one with the Creator by making righteous laws. We do not honour God when we blaspheme his name.

The amendment was carried on the voices.[2] In the upper house, the Government leader, Cuthbert, simply noted that "recognition" had received wide public support, and that the Queen's regal power had certain religious aspects. The amendment was then accepted without discussion.[3]

In New South Wales a bi-partisan approach was adopted. Lyne, the Leader of the Opposition, introduced the "recognition" amendment in the Assembly.[4] He stressed the political inexpediency of rejecting it; adding that there was no danger in the amendment because it did not apply to any particular religion. When he concluded, a number of members rose to speak, presumably to oppose. But the Speaker resolutely decided not to "see" them, although the Hansard makes clear he must have heard them. The amendment was accepted by sixty two votes to seven.[5] There was no trouble in the upper house.[6]

In South Australia the debate was livelier. In the 15 July Assembly debate on going into committee, Caldwell, having indicated that he personally supported "recognition", launched a sarcastic attack on the spiritual bona fides of the churchmen who had organised the petitions and deputations. It seemed, he declared:

> ... unaccountably strange why all at once such an outburst of religious fervour should glow and burn in the breasts of so many at the same time. But he supposed that if a Jubilee bonfire was lit on the tops of the mountains of New South Wales, the hills of all the other colonies must respond.[7]

Perhaps anticipating difficulties, the government on 15 July deferred the debate on the "recognition" amendment in the lower and upper house.[8] In the Council "recognition" was accepted without difficulty as having "no denominational significance".[9] However in the Assembly it had a stormy passage. One speaker suggested that "they should keep the State and religion clear from each other." Another argued that they "would show the greatest amount of respect by not placing the words in the Bill." Supporters couched their appeal, as had Lyne, on purely non-religious considerations. The most interesting speech certainly was that of Sir John Downer, one of the Convention delegates, and one who had voted against Glynn's "recognition" amendment. Downer declared he

personally was against "recognising" God in the Constitution. It was not usual; and while some "expressed their reverence in words, others simply felt it in their hearts." However he respected the opinions of his fellows, and would not now oppose "recognition". The amendment was agreed to on the voices.[10]

In Western Australia the Forrest government was sympathetic to "recognition", but did not commit itself. Interestingly, the Council debated inserting: "acknowledging Almighty God as the Supreme Ruler of the Universe"; while the Assembly debated the obliquely separationist: "grateful to Almighty God for their freedom, and in order to secure and perpetuate its blessings".

The Council discussed the question on 24 August. Haynes, a strong anti-federalist, declared gruffly that "recognition" was "the only portion of the Bill he heartily approved of", and that those who opposed "recognition" were "a small and undesirable section" of the public. The only other speaker, Randell, defended the Adventists, describing them as "a society of persons" moved by "some conscientious principle". However he thought far fetched their fears that the federal parliament would be able to pass religious laws if "recognition" was accepted. The amendment was approved on the voices.[11]

In the Assembly the "recognition" proposal was introduced by James, one of the Convention delegates, on 25 August. James was thoroughly apologetic. He was sure that opponents of "recognition" were as reverent as supporters. He would not advocate it if he thought it could be "a lever of future discord". However "Section 109 was a sufficient guarantee against that." Indeed, he added, had the question not been raised, "perhaps it would be better not to raise it now." Yet since it had,

they should support it so as to avoid the imputation of atheism. A number of speakers opposed "recognition", the most articulate being Vosper. Churchmen in politics, Vosper declared in a long and vehement speech, were a danger to liberty. "Recognition" was "only the beginning" and by no means the end. We "should put our foot down on it at the first." In a division "recognition" was approved by seventeen votes to six.[12]

In Tasmania, the smallest of the colonies, the recognitionists met the strongest and most articulate resistance. Disregarding the West Coast mining areas, Tasmania was more socially conservative and economically static than any of the mainland colonies. Yet there had emerged in the 1880s, chiefly in Hobart, a politically influential network of doctrinaire separationists. Inglis Clark, at this time Attorney-General in the Braddon government, probably was its dominant figure.[13] While not numerically large, the group spanned many occupations and classes. In the nineties it was well represented both in the Assembly and the Council. Members of the Assembly who belonged to this group included, apart from Inglis Clark, Woollnough, an untypical Anglican minister; Bird, an untypical Congregational one; John Henry, a former cabinet minister; Neil Lewis, the Leader of the Opposition; and Nicholas Brown, a former cabinet minister. Members of the Council connected with this circle were Adye Douglas, a former premier, and Piesse.[14]

In both the Assembly and Council debates on going into committee "recognition" attracted notice. Woollnough stressed that he was a Christian and that he objected to "recognition". Bird declared that public documents were not the proper place for confessions of faith. He disliked all cant, but religious cant the worst. It was righteousness exhalted a nation, and to "have the spirit of God embodied in the Constitution would be best of

all." The Catholic Matthew Clarke, a Convention delegate, declared that he was only an averagely pious man; but since many sincerely religious people had petitioned, "it would be a matter of expediency, if nothing else, to insert a reference to God as the petitioners required." Not surprisingly, when the preamble first came up for consideration in committee, debate was deferred.[15]

The debate on going into committee in the Council produced a similar foretaste of trouble. Rooke stated he would vote for "recognition", but suggested the petitions approached blasphemy. It was "not necessary at all that infinitesimal atoms like ourselves should patronise the Supreme Being as to whether He should be admitted into the preamble." The Council debate on the preamble was also postponed. Piesse hoped that some agreement could be arrived at so as to avoid a division.[16]

Attempts to negotiate such an agreement failed. On 18 August, in the Assembly, Archer briefly moved that before the word "have" in the preamble be inserted the words "duly acknowledging Almighty God as the Supreme Ruler of the Universe and the source of all true Government". He hoped the amendment would be accepted without discussion. Fysh, the first speaker, had voted at Adelaide against Glynn's amendment; and in an interview with the Adventists had congratulated them on their work and wished them well. Now he felt he should change his vote "out of respect to the opinions and conscientious scruples of a large number of his fellow subjects ... who were entitled to respect on account of their age, their value, and their opinions, which commended them to all right thinking men." Clark strongly opposed the amendment. He pointed out that a large number of signatories of the class to which Fysh had referred had petitioned <u>against</u> recognition. He might have agreed with

Fysh, if the feeling for "recognition" was universal; but many were opposed and he did not wish to offend their susceptibilities. Indeed, those who were opposed and those who were indifferent were a majority. The Roman Catholic Mulcahy supported "recognition" as non-sectarian. It could be acknowledged by the Turk, the Jew, and the Christian. Lewis was opposed. He remarked that the Conferate States had recognised God; and also slavery. Public lip service was not necessary for acknowledging God. This should be left to men's consciences. The final speaker, Woollnough stated they were in parliament

> ... to legislate in order that the lives and properties of the people in Tasmania might be cared for; but ... they were not there to legislate in any direction whatever as regards their spiritual welfare. [E]very man's conscience was free; he had a perfect right to believe what he would. They had no right to compel him to believe anything ... the world had suffered quite enough by compulsion. This was merely a small matter, but it involved a very important principle.

However the recognitionists had the numbers, and Archer's amendment was carried by twenty votes to six.[17]

In the Council however, the recognitionists received their sole setback.[18] Moore introduced the "recognition" amendment on 19 August. Since "God presided over their destiny ",it was "the right thing" to acknowledge Him in the preamble. As a concession, however, he would not object to striking out the words: "and the source of all true Government". Moore was followed by Douglas, Glynn's ascerbic critic at Adelaide. Douglas was still strongly opposed. The Adelaide decision had been misunderstood, he said. The omission of God's name sometimes was more reverent than its inclusion. Douglas then continued, bitingly:

> Some people had the name of God constantly on their lips, and they were not the best people. His own belief was first in the love of God, and then of one's neighbour. That was enough.

Crosby, in support, referred briefly to the enthusiastic praise of God at the recent Record Reign celebrations. Piesse was opposed to the amendment, "Recognition" would not help religion, and no one should interfere between a man and his belief. Furthermore, the statement that every one was anxious to recognise God in the desired manner was simply false. Grant also was opposed. He alleged that the bona fides of the "recognition" petitions were dubious. Many had been signed "by women and children who had done so through persuasion." More reputable were the signatories of the counter-petitions, who "were capable of judging for themselves, and had a distinct opinion on the matter." Finally Watchorn claimed, correctly but irrelevantly, that: "There was a great preponderance of the petitions in favour of invoking the assistance of God, if not in the number of signatories." The "recognition" amendment then was negatived by five votes to four.[19]

Clause 109 met trouble only in South Australia. The main South Australian critics were Glynn and Batchelor. "The draftsmen had looked through the American Constitution", Glynn sarcastically remarked, smarting perhaps over his defeat on 22 April,

> to see what they could stick in the Bill, and had picked out a sentence from the first article. Thank you for nothing...

Yet he was not opposed to the idea expressed by the clause:

> There were evolutions of public opinion from which the public could not go back. To say otherwise would be to deny permanent civilization.[20]

Batchelor, expressing a viewpoint which eventually would find many supporters, declared the clause "an insult to the states." Downer and

O'Malley, however, strongly defended it.[21] They needed, Downer said, a "guarantee" against a reversion to religious intolerance. Clause 109 was agreed to on the voices.[22]

The Tasmanian legislature was urged by Inglis Clark to add to Clause 109: "nor appropriate any portion of its revenues or property for the propagation or support of any religion." This was carried on the voices in the Assembly on 18 August. In the brief debate Clark explained, with unusual evasiveness, that:

> The clause as it stood in the Bill, dealt with one state of things, but it did not meet that provided by his amendment.[23]

What he had in mind he later made clear in a memorandum which he forwarded to the Sydney Convention:

> In its present form Section 109 secures religious equality for all the citizens of a State, so far as it prevents the State from placing the adherents of any form of religion under any disadvantage or restriction in the exercise of it in comparison with adherents of other forms of religion; but it does not secure perfect religious equality to all the citizens so far as the granting of any special privileges or favours or endowments to particular forms or religion is concerned. And the object of the proposed amendment is to secure perfect religious equality in both directions, by preventing any particular benefit or support being given by the State to any form of religion.[24]

However on 20 August the Council, in a curious pendent to its 18 August rejection of "recognition", decided also to reject Clark's amendment. This it did without discussion by six votes to five.[25]

Yet for once the Council did not have the last word. The Convention on 3 September agreed to consider amendments suggested by only one house. So in the end, despite the Council, both Clark's and Archer's amendment qualified for consideration by the Convention.[26]

Overall, the treatment of "recognition" in the colonial legislatures

was fairly uniform. Those who supported "recognition" were, on the face of it, moved by considerations of political convenience rather than intellectual or religious conviction. The idea that God would be dishonoured, or would punish their impiety, was not advanced. They spoke rather of the popularity of "recognition" as evidenced by the petitions; of its harmlessness; of its survival in the trappings of Queen Victoria's reign; and of its continued embodiment in public documents and ceremonies. Those who opposed "recognition" nearly all argued, although with varying degrees of precision, that religion was private and personal and that religious formalities were out of place in public business. Whereas the parliamentary supporters of "recognition" produced often painfully ad hoc arguments, the critics manifestly shared a position. It is hard to doubt that, beneath often clumsy argumentation, the supporters of "recognition" often shared that position too. The strong backing which Inglis Clark received for his proposal to prevent a State paying money to any church, from a house decidely in favour of "recognition", scarcely allows any other conclusion.

FOOTNOTES

1. Methodist, 3 July, 1897.

2. P.D., Victoria, 1897, Vol. 86, pp. 522, 1697. On Longmore, see K. Thomson and G. Serle, A Biographical Register of the Victorian Parliament, 1851-1900, Canberra, 1972, p. 119.

3. Ibid., p. 1474, Vol. 86, p. 170.

4. P.D., New South Wales, 1897, Vol. 89, pp. 2599-2600; S.M.H., 3, 27 July, 1897.

5. P.D., New South Wales, 1897, Vol. 89, pp. 2599-2600.

6. Ibid., Vol. 90, p. 3470.

7. P.D., South Australia, 1897, p. 201.

8. Ibid., p. 336. Each house, it was decided, should initiate its own discussion of the Adelaide draft.

9. Ibid., p. 174.

10. Ibid., pp. 521-522.

11. P.D., Western Australia, 1897, Vol. 10 (New Series) p. 65.

12. Ibid., pp. 299-301.

13. On Inglis Clark and his circle, see R.G. Ely, "Andrew Inglis Clark and Church-State Separation", Journal of Religious History, Vol. 8, No. 3 (1975), pp. 279-80; and H. Reynolds, "The Island Colony, Tasmania: Society and Politics 1880-1900", M.A. thesis, University of Tasmania, 1964 .

14. All spoke, or at any rate voted, against "recognition" in the debate.

15. Parliament of Tasmania, Debate on the Draft Commonwealth Bill, 1897, pp. 46, 56. (A rare occasion on which the Tasmanian parliament published its own debates. Copy held by Library of Parliament of Tasmania.)

16. Ibid., pp. 134, 191.

17. Ibid., pp. 266-268.

18. The Tasmanian legislature had decided procedurally to treat the Adelaide draft as an ordinary bill. It was considered first by the House of Assembly, and then, as amended, by the Council.

19. Ibid., pp. 288-290.

20. P.D., South Australia, 1897, p. 497.

21. Ibid.

22. Ibid., p. 498.

23. Parliament of Tasmania, Debate on the Draft Commonwealth Bill, 1897, p. 257.

24. 'Records', G.R.G./72, Ser. 12/9 (Commonwealth Archives).

25. Parliament of Tasmania, Debate on the Draft Commonwealth Bill, 1897, pp. 278, 290.

26. This was confirmed at the Sydney Convention. Con. Deb. Syd. 1897, pp. 31-2.

CHAPTER EIGHT

THE LINES ARE DRAWN

"It is a very significant fact," declared the Southern Sentinel,

> ... that while many members of Parliament look upon the demand made by the Council of Churches as a ridiculous, if not positively dangerous experiment, yet they have yielded to their demand in order to avoid their displeasure, and administer a 'soothing balm' to that section of their constituency. [1]

The Adventists wondered how far the politicians would be willing to go.

Since it could not reasonably be doubted that the Convention now would agree to insert a reference to deity into the preamble, the Adventists only resort lay in a revival of something like the suggestion which they had made in their petitions to the Adelaide Convention; that is, that a clause be inserted in the Constitution which would ensure that neither the federal parliament nor any state parliament could make any law respecting religion or prohibiting the free exercise thereof.

How realistic, in the circumstances, was this? What was the true state of public feeling on the question of the relationship between religion (and the churches) and government? The almost unanimous support for "recognition" in the legislatures points to fairly considerable public support. Many advocates of "recognition" sweepingly claimed that practically everyone was in favour. According to that turbulent New South Wales Presbyterian cleric, Dill Macky, "the whole of the people of [New South Wales] with the exception of a very few infidels, and a few agnostics, were in favour of recognition."[2] However, there had been a large number of signatories to the counter-petitions; and one anti-recognitionist, Andrew Inglis Clark, had claimed that if those persons who were indifferent, and those who were opposed, were added together, the recognitionists would not be able to show that a

majority desired it.[3] A Bulletin commentator on Moran's candidature said something perhaps relevant. The "sectarian row of the day", he wrote on 20 February, 1897, was much milder than twenty or ten years before. This had not, however, arisen

> ... from the increasing intelligence of the community, so much as from its increasing indifference. The Australian element, as distinguished from the imported one, grows more and more predominant, and the Australian, as a rule, doesn't take his religion very seriously. Unluckily he takes very few other things with much seriousness either. He is the great casual cuss of the English speaking races...

A Sydney Morning Herald editorial on 3 April, 1897, saw the history of the colonial communities in a different way; but was not more impressed than the Bulletin commentator as to the quality of colonial piety. "Started originally as a convict station," the editorial loftily declared, "the resources of the country rapidly attracted a large number of the best class of colonists." Among these, it continued,

> ... not one was forced to leave his home by the stress and strain of warring religious or political opinions. The motives that led the pioneers to come to Australia may have been very different, but they may be summed up in the rather prosaic phrase that each hoped to better his condition ... It is certain, at any rate, that nobody had a desire to start an ideal community, which is a notion that has only been heard of lately.

Yet such comments are imprecise, impressionistic, and perhaps far from disinterested. Is there some surer indicator of the nature of public feeling? Perhaps there is one - the 1896 South Australian referendum on education.

The 1896 Education Referendum

In South Australia in April 1896 a public referendum was held in conjunction with the parliamentary election on three questions related to education. The educational policy of the South Australian

legislature had for some years been thoroughly secularist. No religious or scriptural instruction was provided in the State schools in school hours, and no public moneys were paid to denominational schools or pupils attend them. This secularity was the main issue in the referendum. The total number of eligible voters was approximately 136,400.[4] Voting in the election, and in the referendum, was not compulsory. Furthermore, in the referendum, in which the electors were to answer Yes or No to three questions, electors were not compelled to answer every question, or any question. If an elector answered, say, one question, but not the other two, then that one answer would be counted.

The first question was: Did they favour the "continuance of the present system of education in State schools?" Approximately 52,000 voted Yes; 18,000 No. The second question - a Religion-State question - was: Did they favour the "introduction of scriptural instruction in State schools during school hours?" Approximately 19,500 voted Yes; 35,000 No. The third question - a Church-State question - was: Did they favour the "payment of a capitation grant to denominational schools for secular results?" Approximately 13,500 voted Yes; 42,000 No.[5]

There are two matters of concern to us here to which the results of this referendum have some relevance. First: What, in South Australia specifically, and in the other colonies generally, were overall public attitudes to the general questions of the relation of the churches to the State, and of religion to government? Second: What, in South Australia specifically, and in the other colonies generally, was the state of public feeling on the "recognition" issue?

Respecting South Australia itself, certain broad inferences can be drawn from the answers to the second and third referendum questions. However,

the answers to the first question should probably be disregarded, since secularity was not the only issue involved. The conservative National Defence League, which supported re-introducing fees in public schools, had campaigned for a No vote to the first question.[6] Hence, quite a few who voted Yes to the first question (meaning they favoured continuing the present system) may have meant their vote to signify, not support for the continuing secularity of the State schools, but that they opposed re-imposition of fees. This would also help account for the much larger overall vote on the first question than on either the second or third.

Referring to the second referendum question, the Religion-State question, the number of those who supported the introduction of scripture instruction in State schools was about 14% of the total electorate. It should be noted that the Anglicans, Methodists, Presbyterians, and the W.C.T.U., but not the Catholics or Lutherans, had campaigned for a Yes vote on this issue.[7] One might therefore rate the militantly Protestant vote at about 14%. The number of those who opposed the introduction of scripture lessons in State schools was about 25% of the whole electorate. Since the Catholic hierarchy usually took an equivocal position on this question, being prepared to support scripture lessons in State schools provided the Protestants supported capitation grants for Catholic schools,[8] it is possible that this 25% included some leaked Catholic votes. But since the Methodists and Presbyterians, although not the Anglicans, had advised their people to vote against capitation grants to denominational schools,[9] there would scarcely be many of these, so one safely can assess the militantly secularist, in the sense of separationist rather than necessarily

irreligious, percentage as lying between 25% and (say) 20% of the total electorate.

Referring to the third referendum question, the Church-State question, the number of those who said Yes to capitation grants to denominational schools was about 10% of the whole electorate. The Catholic and Anglican hierarchies here campaigned for a Yes vote, so one can rate the Catholic-Anglican State aid vote at about 10%. The number of those who opposed capitation grants was about 31% of the total electorate. Since the Methodist and Presbyterian churches recommended a No vote, this 31% represented, approximately, the combination of militant Protestants and militant secularist votes.

However, it is more politically interesting to express these referendum votes, not as a percentage of the number of eligible voters, but as a percentage of the number of votes actually cast - a little under 100,000 - in the concurrent parliamentary election. If one does so, using as a basis the answers to the second and third referendum questions, it emerges that between 30% and 40% of the active electorate were indifferent to Church-State and Religion-State issues in relation to the colony's education system. The militantly Protestant vote amounted to a little over 20%. The militantly secularist vote amounted to about 30%, perhaps a little higher. The State aid to denominational schools vote came to about 13%.

What conclusions, in regard to popular attitudes in South Australia to the general Church-State and Religion-State issues, are suggested by these latter percentages? Since it scarcely can be doubted that an elector's view as to the proper relation between Church and State, and between religion and the State, in regard to education, would approximately correspond to his general view of these relationships, certain conclusions

emerge. Broadly, one can conclude that about one third of those who showed some interest in politics, in that they exercised their right to vote in the election, did not particularly care whether Church and State, or religion and the State, were linked or not. About a third inclined to a separationist viewpoint on Church-State and Religion-State issues. Finally, a third tended to favour either some link between Church and State, or some link between religion and the State, or both. Many militant Protestants agreed with the secularists at least that the Catholic church should be kept functionally and financially separate from the State. Many militant Catholics agreed with the secularists at least that the Protestant churches, and Protestantism, should be kept separate from the State. The Anglicans, under the vigorous high church leadership of Bishop Harmer, took the view both that scripture lessons should be given in State schools, and that the State should pay capitation grants to church schools, and sought, but without much success, to mediate between the Protestants and Catholics.

What conclusions, if any, can be drawn from these percentages, as to what was likely to be the electoral response in South Australia to the "recognition" issue? It is tempting and broadly reasonable to conclude, by extrapolation, that about one third - the militantly religious Protestant, Catholic and Anglican third - of the electorate would be in favour of "recognition" as a matter of course; that about one third would be indifferent; and that about one third (the strong separationists) would be more or less vigorously opposed to it. However one needs to bear in mind that the "recognition" issue, unlike the education, welfare, sabbath observance and temperance issues, was, at least on the surface, merely formal with no political or behavioural

implications. Some strong secularists could well have been won over to the recognitionist side, or at least to neutrality, through being persuaded that "recognition" was a mere formalism. The "recognition" debates in the colonial legislatures described in the preceding chapter offer a number of examples. However the situation was clearly such, that if the Adventists or any other organised body plausibly could argue that "recognition" was intended by its promoters to enable the federal parliament to pass religious laws, then a fairly sizable section of the electorate - about a third - would oppose "recognition". The hard secularist vote, in point of fact, almost certainly was divided over the "recognition" issue. However the impressive response in South Australia to the Adventist counter petitioning campaign - they obtained about 3,500 signatures[10] - shows clearly that there was by July 1897 an electorally significant secularist opposition to "recognition".

Turning from South Australia to the other colonies, does the referendum result suggest any conclusions as to what were overall attitudes to Church-State and Religion-State issues, and more specifically, as to what was likely to be the electoral response to the "recognition" issue? In each case, the answer is Yes. The central argument - general, but compelling - is that since the social composition, ethnic and denominational distribution, economic structure, and political culture of all the colonies were broadly similar, the distribution of electoral attitudes in any one colony on these issues would approximately be duplicated in the others.

Of course no colony was identical with any other. Moreover, some of the identifiable differences may have produced or reflected variations in attitude on Church-State and Religion-State questions.

At least two differences between South Australia and the other colonies require to be examined. The first was that only in South Australia did women have the vote.[11] The second was that South Australia had a significantly lower proportion of Anglicans, a significantly lower proportion of Catholics, and a significantly higher proportion of Protestants than any other colony. About 30% of South Australians were at least nominally Anglican; whereas the average in the other colonies was about 42%. About 14% of South Australians were at least nominally Catholic; whereas the average in the other colonies was about 23%. About 50% of South Australians were Protestants of some kind or other; whereas the average in the other colonies was about 33%.[12]

What sort of difference might the womens' vote make? If colonial women, on balance, were more "religiously" inclined than colonial men (and probably it is safe to assume this) one would expect, other things being equal, that the South Australian electorate was slightly more favourable than were those in other colonies to forming, or restoring, links between Church and State and between religion and the State. Respecting "recognition", the suggestion was made at the time (although direct evidence is lacking) that it held special appeal for women.[13] There is some plausibility in suspecting that, other things being equal, support for "recognition" was a little higher in South Australia than in the other colonies.

What sort of difference might derive from South Australia's lower proportion of Anglicans and Catholics, and higher proportion of Protestants? It would be superficial to suggest that this difference did not correspond to or produce <u>some</u> variation. Because the South Australian ratio of Protestants was relatively the highest among the colonies, and

its ratio of Catholics the lowest, then the incidence of South Australian support for specifically Protestant links between religion and the State, such as scripture lessons in State schools, and specifically Protestant links between Church and State, such as Sabbath Observance laws, would be higher than in any other colony; while the incidence of South Australian support for specifically Catholic links between Church and State, such as financial support for church schools, would be lower than elsewhere. But against this, two points must be noted. First, that on the Religion-State issue of scripture instruction in State schools, the Anglicans of South Australia were farther away from the Protestants, and closer to the Catholics, than almost anywhere else in Australia.[14] This would tend to make the "Catholic" position stronger. Second, that the voluntarist, and hence separationist, tradition was more firmly and extensively entrenched in South Australian Protestantism, than in that of the other colonies. This would suggest that the politically militant Protestant group was less influential electorally than the overall Protestant ratio might suggest.

As regards the general attitude in the other colonies to "recognition", two main implications are suggested by the differing South Australian denominational ratios. These implications, also, seem to point in opposite directions. Since it nearly always was the Protestants, rather than the Anglicans or Catholics, who were behind the "recognition" campaign, and since the Protestant percentage was higher in South Australia than elsewhere, it is plausible to conclude that the "recognition" cause would be relatively more popular in South Australia. On the other hand, as noted above, religious voluntarism - with its separationist implications - was stronger in South Australia than in other colonies.

This would suggest that South Australian Protestantism was likely to be, in percentage terms, a more fruitful source of anti-recognitionist sentiment than that of any other colony.

Overall, one is left with a number of general reasons for accepting, and no conclusive reasons for denying, that in the other colonies, on general Church-State and Religion-State issues, the active electorate divided into three approximately equal portions. About one third would tend to be separationist, but mostly in a pragmatic rather than doctrinaire way; about one third would favour some kind of augmented connection between Church and State, or between religion and the State, and about one third - the "casual cusses" - were fairly indifferent. Of course, these ratios would be bound to fluctuate with the nature of the issue.

On the "recognition" issue, one might expect to find in the other colonies approximately the same ratios of support, opposition, and indifference as in South Australia. That is, about a third, but probably a little more than a third, of the active electorate would be in favour; about a third would be indifferent; and, depending on whether "recognition" was regarded as a formality or as having political implications, up to a third would oppose it.

It was this secularist third of the active colonial electorates which made the Adventist strategy, of seeking to place some sort of separationist clause in the Constitution, feasible as well as necessary.

The Entry of Higgins

The Adventists, as early as July, had discovered a powerful secularist ally - the Victorian barrister, Henry Bournes Higgins. Higgins was a senior member of the Victorian equity bar, one of the

Victorian delegates to the Federal Convention, a radical democrat, and an influential and respected secularist leader. He had voted against Glynn's amendment at Adelaide, although he did not speak on that occasion. The son of an Irish Methodist minister, Higgins was, publicly and perhaps privately, a theist. In early life he adhered to conventional Christian views, but was converted from orthodox Christianity through reading Grote's History of Greece. At first a school teacher, he had turned to the study of law, in which he proved very successful.[15] In 1897 he was one of the two members for Geelong in the Victorian Legislative Assembly. He first publicly became associated with the Adventist campaign in connection with a 7 July attempt in the Assembly to prevent him presenting an anti-recognitionist petition. The prayer of the Adventist petition had been printed rather than, as was customary, handwritten. However the Standing Orders of the Assembly (although not of the Council) directed that the text of all petitions be written by hand. The objection obviously was harassment by opportunist recognitionists, and Higgins was annoyed. On 14 July he moved, and by 41 votes to 25 the Assembly agreed, that the Select Committee on Standing Orders consider the advisability of receiving printed as well as written petitions.[16]

When, early in September, the Convention reconvened in Sydney, Higgins had in some measure become the agent and ally in the Convention of the Adventist counter-campaign. It probably was at some point during the Sydney session, which was relatively short because the Victorian elections were to take place in mid-October, that Higgins placed on the notice paper a proposal to amend clause 109.[17] The clause, as he proposed to alter it, would read:

> A state shall not, nor shall the Commonwealth, make any law prohibiting the free exercise of any religion, or imposing any religious test or observance.

The relevance of this amendment to Adventist fears of persecution on the Sunday issue was obvious; as was also its relevance to devotees of the "Continental Sunday".

Becoming clear at this stage was the structure of the controversy between the recognitionists and their opponents. Each side probably would need to concede something, while striving to minimize that concession. The decision of the Sydney session to postpone consideration of the preamble, until after the other clauses of the draft had been debated, partly should be seen in this light. Those whose first priority was the federal cause itself no doubt hoped that some mutually agreeable arrangement could be negotiated behind the scenes. Another factor in the postponement may have been the sheer variety of amendments proposed. That both parties expected now to proceed mainly by informal negotiation rather than by public confrontation is indicated by the greatly reduced tempo of public activity on the issue. There was, at both the Sydney and Melbourne sessions, little "recognition" petitioning,[18] and no counter-petitioning at all. Each side, essentially, had made its political point.

However Higgins's personal involvement with religio-political controversy in this period was far from diminishing. No sooner had he returned to Victoria to conduct his re-election campaign, than he became acrimoniously involved in a dispute with the National Scripture Education League. A study of what took place will throw light on two crucial issues. The first is the question of what Higgins thought some

clerics really were up to in the "recognition" campaign; and the second is his broad conception of what should be the proper relation between the churches and the State, or more broadly, between religion and government.

In order to understand the conflict between Higgins and the Scripture Education League, one must say something about the previous activities of the League, and also about the political situation during the 1897 election campaign. Victorian State schools legally had been "secularised" by the 1872 Act. By the eighties this secularisation had proceeded so far that the official school Reader excluded every religious reference, even the name Christ. However by 1893, by a resolution of parliament, "the name of our Lord and Saviour" was brought back into the Reader.[19] In 1895, Peacock, the Minister of Public Instruction, introduced the School Paper, which combined "moral improvement" with undenomination Christian elements.[20] In July 1896, Graham, acting on the League's behalf, introduced in the Assembly a Bill authorising a plebiscite on the issue of whether the explicitly Christian Irish National Scripture Lesson Books should be used in the State schools. The League claimed to have received forty written, and twenty verbal, pledges of support from members of the Assembly.[21] Graham found, however, that "a very grave misunderstanding existed among honourable members and, in fact, the community at large, as to the object of the Bill and as to the books referred to in the Bill." He could obtain scarcely any parliamentary support. Many members who had given pledges declared that the book which they had undertaken to support was the religiously innocuous Irish National Reader, rather than the Irish National Scripture Lesson Books.[22] Also, the results of the South Australian referendum had

since become known; and it had become clear that electorally the League's case was likely to be a loser. There for a while the matter rested. However, by mid-1897 the League had set in motion a new campaign. This time they did not seek a plebiscite, but simply that parliament authorise the use of the Irish National Scripture Lesson Books during school hours in State schools. The eventual objective, probably, was to Protestantize the State schools.[23] However at this point the League sought only that the Scripture Lesson Books be brought into the State school course. The focal point of the campaign was the October election. Their strategy was to obtain "signed pledges" from voters not to vote for any candidate who would not undertake to support the League's request in Parliament. The text of the pledge was:

> I approve of the introduction of scripture lessons into the State school course, in the form of extracts known as the Irish National Scripture Lesson Books (with a conscience clause as in New South Wales), and I pledge myself to vote for no candidate at the forthcoming general election who will not support this platform in Parliament.[24]

League pledge gatherers were active in many constituencies; however many candidates, including the premier, Sir George Turner,[25] refused to give the required undertaking. In political terms this was not necessarily foolhardy, since in place of the Protestant votes which such candidates would lose, they stood to gain both the Roman Catholic and the secularist vote. In Higgins's own electorate the League was particularly active. According to Higgins it obtained about fifteen hundred pledges.[26]

Higgins, as an outspoken secularist and one of the more trenchant critics of the Bible in State schools movement, was a special target of the League. He did not, he told the Geelong electors on 1 October,

"want the people of Victoria to forget the difficulty they had of getting free, secular, the compulsory education." He was willing to allow, as a concession, that accredited clerics or lay religious instructors be permitted to enter the school in school hours to offer doctrinal instruction to the children of their particular denomination. But he would tolerate no substantive nexus between the State school, as such, and any religious view point. "They should", he told the electors, " ... open the windows to all denominations, but on no account should they endeavour to put in any particular kind of air of light through those windows."

They were, he further asserted, now faced with a clerical conspiracy:

> It was not a time to flinch the subject. They would have to be frank and out with their objection. (Cheers) There was more in the proposal than they thought in regard to the teaching of the scripture lessons. It was the thin edge of the wedge. That was shown by Mr. Robert Harper, brother of Professor Harper, when he acknowledged that the modicum of religious instruction was small, and failed to meet the objective intended, and added that it was meant to break the extreme secularity of the education system.

Provocatively, he also told the electors that he

> ... remembered a passage in one of the gospels where Jesus Christ addressed one of his disciples 'Simon, son of Jonas, lovest thou me?' and Simon said 'Yea, Lord, thou knowest I do.' And Jesus said 'Feed my lambs.' What did they think of the alteration at the present time when those who professed to be disciples, said 'Let Caesar teach the lambs'? (Cheers). What would those proud men of the theological halls say to that?[27]

The picture which emerges is one of considerable and personalised hostility between Higgins and the League; or ultimately, since the League was virtually a sub-committee of the Council of Churches, between Higgins and the Victorian Council of Churches. Higgins believed that a group of militant and resolute Protestant churchmen were engaged in a long term

campaign to Protestantize the State schools. One can see Higgins's point. There was or appeared to be a pattern to Protestant political activity. First, in 1893, the names of God and Christ had been brought back into the schools. Then, in 1896-7, citing the need for a greater "recognition" of God in State schools, Protestants vigorously demanded that the scriptures themselves become part of the State school syllabus.The logical next step was Protestantization.

How does the foregoing "pattern" assist an understanding of Higgins's thinking on the "recognition" issue? Higgins told the Geelong electors that:

> ...a few men had taken up the [recognition question] with a defined object, and he would have preferred them to have had more candour. Their object was not to have respect or reverence to the Almighty... the object ... was to bring about religious oppression ....[28]

What did he mean? The above analysis gives the clue. What, in Higgins's view really was happening was that, just as "recognition" in the colonial sphere had been the initial "wedge" in a Protestant plan to de-secularise the State schools, so, too, in the federal sphere, "recognition" was to be the "wedge" for achieving de-secularisation there. In the former case the clerics' ultimate aim was the linking of religion and the State in the State schools; in the latter their ultimate aim was the linking of Church with Commonwealth, largely through the institution of some form of nation-wide Sunday observance.

Higgins was not however opposed to "recognition" as such. As in the Scripture in State schools controversy, he was willing to make small concessions. Higgins told the Geelong electors that with "proper safeguards" he had no objection to pleasing those people who

wanted some reference to the Almighty in the preamble.[29] However, the key words are "proper safeguards". What did he have in mind?

To find out how Higgins planned to "open the windows to all denominations", while not putting "any particular kind of light or air" through those windows, one must look elsewhere. Specifically, one must look to the Melbourne Convention debates on 7 and 8 February, and 2 March, 1898.

FOOTNOTES

1. 4th Quarter, 1897.
2. S.M.H., 23 July, 1897.
3. See Chapter 7.
4. South Australian Register, 25 April, 1896.
5. Ibid., 26 May, 1896.
6. J.B. Hirst, Adelaide and the Country, 1870-1917, Melbourne, 1972, p. 162.
7. Adelaide Advertiser, 14, 17, 22 April, 1896; South Australian Register, 15 February, 1896; 24 March, 1896; 20,25,29 April, 1896; 26 May, 1896; Church News (South Australia), 20 December, 1895; Presbyterian Monthly (Victoria), June, 1896 (comment by Andrew Harper); Age, 28 September (comment by "late Secretary" of the South Australian National Scripture Education League). The Congregationalists were divided on the issue. South Australian Register, 24 April, 1896.
8. South Australian Register, 15 February, 1896; 24 March, 1896; 29 April, 1896; 26 May, 1896.
9. Ibid., 24 March, 1896.
10. P.P., South Australia, 1897, Vol. I, p.11.
11. The referendum, and the accompanying Parliamentary election, were their first opportunity to exercise their electoral rights.
12. These percentages are derived from the 1901 Commonwealth Census. Official Year Book of the Commonwealth of Australia, No. 1, 1908, p. 174.
13. P.D., Western Australia, 1897, Vol. 10, (New Series), p.299.
14. South Australian Register, 24 March, 1896; Presbyterian Monthly, June, 1896; Age, 28 September, 1897. Queensland may be the
14. exception.
15. Nettie Palmer, Henry Bournes Higgins, London, 1931, pp. 49-83.
16. P.D., Victoria, 1897, Vol. 85, p. 232.
17. Con. Deb. Melb. 1898, Vol. I, pp. 656, 661.
18. Six petitions for "recognition" were received at the Sydney Session, one from 37 "citizens", three from religious bodies, and two from the Australasian National League. Three petitions were received at the Melbourne Session, each from a Christian Endeavour group. Proceedings, (Sydney, 1897). Proceedings, (Melbourne, 1897).

19. P.D., Victoria, 1897, Vol. 87, p. 238.

20. Ibid., Victoria, Vol. 87, pp. 250-251.

21. Ibid., Victoria, 1893, Vol. 69, pp. 123-125 and 282-292.

22. Ibid., Victoria, Vol. 87, pp. 238-239.

23. Speech of Robert Harper (brother of Professor Andrew Harper), Argus, 28 September, 1897. Harper said that the present proposal of the League was fairly ineffective, but would "break the extreme secularity of the system". Overarching moral governance of a Protestant hue exercised through state agencies was the broad idea: "We of the League seek to remove one principle hindrance to the State doing its proper work - caring for the morals of the community, work which cannot be accomplished without the aid of religion". Statement by annual meeting of National Scripture Education League, 1896. Cited in Presbyterian Monthly, January, 1897. "Religion" here, would of course tend to mean Protestant religion. Andrew Harper's Presbyterian Monthly of September, 1897, was a lot more explicit. The State much teach morals, it asserted, and morals "can be inculcated only on a scriptural basis". One of the main keys to understanding the Protestant frenzy over the scripture in State schools issue was clerical anxiety over the effect on the quality of Protestantism of the increasing ratio of native born to British born among the laity. "The generation who enjoyed a home training is fast dying out," declared the Rev. J. Steele in his Moderator's address to the Victorian General Assembly in November, 1897, "and from this time forth the burden of upholding the church must fall on their children born and brought up in the colony .... But our children are badly handicapped by the exclusion of the Bible from out State Schools. The element of reverence is, thereby, stunted and minimized ...." (Presbyterian Monthly, December, 1897).

24. Southern Cross, 16 July, 1897

25. Age, 29 September, 1897.

26. Geelong Advertizer, 9 October, 1897.

27. Geelong Times, 2 October, 1897.

28. Ibid.

29. Ibid. It is relevant to note that in one of his speeches seeking election to the Federal Convention Higgins concluded by citing the words of the Bendigo poet, William Gay: "Let us rise, united, penitent,/And be one people - mighty, serving God", (Age, 10 February, 1897). Prudential piety perhaps, but it indicates a certain consistency.

CHAPTER NINE

DISASTER FOR HIGGINS

Clause 109 - which provided that "A State shall not make any law prohibiting the free exercise of any religion"-came up for further consideration on 7 February, 1898. It had been recommended by the Constitutional Committee at Adelaide, and so far had attracted little comment or criticism. At Adelaide, the Convention had simply accepted the Constitutional Committee's recommendation; while in the colonial legislatures it was criticised but once. The only positive recommendation was the proposal made by the Tasmanian House of Assembly, but rejected by the Legislative Council, that there be added the words: "nor appropriate any portion of its revenue or property for the propagation or support of any religion."

On 7 February however, the picture startlingly changed. Higgins, as noted, had proposed to extend the reach of Clause 109 to the Commonwealth, and to strengthen its terms by making it also prevent either the Commonwealth, or a state, from imposing any religious observance or test. However about this time he evidently became dissatisfied with this proposal too. It emerged by 8 February that he wished for the moment to drop the reference to religious tests, perhaps to introduce it later. He also wished to add a further prohibition, binding on states and Commonwealth, which would prevent the establishment of any religion. The Tasmanian, Braddon, had an amendment too. He wished to add to clause 109 "some such words" as:

> ...but shall prevent the performance of any such religious rites as are of a cruel or demoralising character or contrary to the law of the Commonwealth.

Finally, Symon from South Australia wished to scrap clause 109 altogether, and to replace it with:

> No religious test shall be imposed as a qualification for any public office or trust in the Commonwealth or in a State.

Higgins, perhaps because his initial amendment had been on the notice

paper longest, introduced the debate. What followed was, for the participants, rather confusing. Partly this can be explained by the sheer variety of the ideas that had emerged as to what the Convention should do about the clause; partly by certain tensions relating to the "states rights" issue which had arisen during the days immediately preceding; and partly by the imprecise and confusing way in which Higgins introduced his own amendment.[1]

Higgins began by claiming that clause 109 did not go "far enough". "[T]he matter" needed to be dealt with "because a strong effort has been made to have a reference to the Almighty inserted in the preamble." While to some the notion of prohibiting the establishment of a religion was "idle at this time of day", it was "not idle in the eyes of a number of people whose votes we would like to secure for the Constitution." If God was "recognised", then a large number of good people would need to be reassured that "their rights with respect to religion [would] not be interfered with." The South Australian Gordon here interjected, asking Higgins what his amendment was; and Higgins, surprisingly, since a moment earlier he had referred to the need for a no-establishment provision, replied by citing without any explanation his original amendment - the one which contained no reference whatever to establishment.

Higgins then alleged:

> ...[T]he recognition of God was not proposed merely out of reverence; it was proposed for distinct political purposes under the influence of debates which have taken place in the Unites States of America.

In 1892 the United States Supreme Court had declared that country "a Christian country"; and this declaration had given rise to an intense political campaign to "impose...a compulsory sabbath all through, in, and upon every state, and a lifting of the banner of those opposed that movement." He would have preferred to rest on the fact that the powers of the federal parliament were limited, and

that parliament had no power to do anything except that which was expressly permitted, or by implication necessary. Yet experience showed that the presence of a declaration of a religious character in the preamble might form the basis for attempts to pass legislation "of a character which I do not think we intend to give the Federal Commonwealth power to pass."

Higgins thereupon made a statement, whose motivation and sincerity is difficult to gauge. "I think", he said, that

> ...whatever is done in this matter, if anything is done, ought to be done by the states. I do not think that we ought to interfere with the right of the states to do anything they choose, if they think fit to do anything.

On the surface no difficulty exists. Higgins was saying that it only was the Commonwealth and not the states which he really was concerned to prevent from passing laws to prohibit the free exercise of religion, or to establish any religion, or to impose any religious observance. It is a point which Higgins was to make several times in this debate, and also in the 2 March debates. The difficulty however is that Higgins, in a letter to the Adventist Colcord a few weeks later, suggested that it would have been desirable had the clause (which by then had been accepted by the Convention) which prevented the Commonwealth from legislating in relation to religion, had also prevented the states from doing so.[2] The problem is: Did Higgins, despite frequent Convention statements to the contrary, really wish to prohibit only the Commonwealth from legislating in respect to religion? Possibly Higgins was seeking to mislead Colcord, although it is hard to see why. However if one assumes for argument's sake that Higgins did wish to apply his amendment to the states as well as the Commonwealth, and if one asks whether any particular circumstance on 7 and 8 February might have discouraged him from pushing the point in regard to the states, light perhaps dawns. During the preceding few days, specifically in the debates concerning conciliation and arbitration in relation to interstate commerce, and the "rights" of New South Wales and Victoria to the Murray River

waters, a distinct anxiety had emerged among many delegates over endangering states rights.[3] On 7 and 8 February, Clause 109, a clause which placed a prohibition on the states, would have been likely to provoke "states rights" fears. The Age, indeed, remarked that there was at this point in the debate a "general hostility" to attempts to limit the existing rights of the colonial governments.[4] So perhaps Higgins, by indicating willingness to allow the application to the states to slide, had thereby been hoping to save the prohibition on the Commonwealth.

To return to Higgins's speech. Moving from his effort to conciliate the "states rights" element, Higgins made a friendly overture to the recognitionists. He reiterated the offer made a few months earlier in Geelong; that if proper safeguards were included, he was himself willing to vote for "recognition".

He then suggested that "in these days" there was a tendency for government more and more, and in all sorts of directions, to interfere with a man's actions. "[I]t is not at all clear", he added, "where the line will be drawn."

> If we interfere with a man's action in his economical relations, it will be hard to draw the line and say that he is not bound to act in a certain way with regard to religious observances.

Therefore, to reassure those who objected to "recognition", let the Convention draw that line now.

He concluded by suggesting that his original amendment would need to be qualified in some way because the prohibition on "any religious test" was in one respect defective: it would void the imposing of the ordinary oaths in the courts and elsewhere.[5]

The day's discussion was now drawing to a close, and in the few minutes remaining Braddon announced that he had a Tasmanian amendment, Inglis Clark's, and also one of his own - the one he had foreshadowed at the beginning of the

debate.[6] Braddon was concerned at the possibility, on his reading of the free exercise provision, that "it might make lawful practices which would otherwise be strictly prohibited." He cited as examples the "suttee" and the "churuck" of the "hindoos" - "one meaning simply murder, and the other barbarous cruelty to the devotees who offer themselves for the sacrifice." Braddon may genuinely have been concerned. But when one notes that Braddon later in the debate made no attempt whatever to support Clark's amendment; that the original free exercise clause had also been Clark's; that in October of the previous year Clark had resigned from Braddon's cabinet, alleging among other things improper conduct by Braddon; and that shortly afterwards Clark became Leader of the Opposition, it is possible to wonder whether Braddon was moved partly by personal considerations.

The next day Higgins produced no modification to solve the difficulty over the religious test provision. He brought forward instead a substantially altered amendment containing no reference to religious tests, but to which a no-establishment provision had been added. These alterations made the proposed clause read:

> A State shall not, nor shall the Commonwealth, make any law prohibiting the free exercise of any religion, or for the establishment of any religion, or imposing any religious observance.

This chopping about could scarcely have helped Higgins. After the tiring days recently spent by the Convention on the rivers question, Higgins's rambling approach may well have caused irritation.

As soon as Higgins announced his new amendment O'Connor, the New South Wales Roman Catholic delegate introduced in an interjection what soon became one of the main criticisms of Higgins's proposal. O'Connor indirectly suggested that the application of the clause to the Commonwealth was unnecessary since the Commonwealth lacked any power to make laws relating to religion anyway.[7]

Higgins in reply said it was not uncommon in the United States for "inferential powers" to be deduced very largely from "single expressions", and suggested that a "recognition" declaration might be used in the same way in Australia. Then, planning to put his amendment part by part, he formally moved:

> That the words, 'nor shall the Commonwealth' be inserted after the word 'not'.[8]

Now the attack began in earnest. As Colcord, who may have been a spectator, wrote to Higgins a couple of days later: "[It] seemed you stood almost if not quite alone."[9] The first critic was the South Australian, Gordon. "So long as the prohibition only extends to the mere mental exercise of faith", he said, "I am with Mr Higgins." But then, developing Braddon's criticism, he suggested that some exercises of faith were objectionable from a sociological point of view. He cited the case of certain faith healers in Wales who, properly in his view, had been punished by a United Kingdom court for acting on the belief that the cure of the sick should be made, not a matter of medical advice and medicine, but a matter of faith and prayer.[10]

Symon, the next speaker, another South Australian, agreed with Gordon and developed further criticisms. More precise than Gordon, he pointed out that strictly speaking Gordon's fears would only be realised if the prohibition applied <u>both</u> to the Commonwealth and the states. But in neither case, he considered, was a prohibitory clause desirable. With respect to the states, the clause was objectionable in that it was: "an interference with the legislative authority of the state itself." As regards the Commonwealth:

> We are living in a very advanced age, not in medieval times, and there is no necessity for a prohibition of this kind, but if there be a prohibition there should also be a provision stating what is meant by religion, and what is meant by free exercise.

It would, he stated, be better to do away with this clause altogether, and limit the prohibition to the prohibition of any religious test. Higgins then asked Symon if he would support a prohibition on imposing any religious observance.

Symon, without explanation, but possibly because he considered they were not living in "medieval times", replied that this went "too far". He concluded by affirming that his own amendment effectively committed the Commonwealth to the principle that:

> [R]eligion or no religion is not to be a bar in any way to the full rights of citizenship, and that everybody is to be free to profess and hold any faith he likes; but the Commonwealth must be the judges of when it is proper to interfere with its open exercise.[11]

Symon was followed by a third South Australian, Cockburn, who regarded the "whole clause as an anachronism", and argued that the states, under the Commonwealth, should have "the same rights of self preservation" as the colonies then had. There was "no atrocity which the human mind can devise which has not at some time or another been perpetrated under the name of religion". He then in effect claimed that if the prohibition on the states in regard to religious observance was inserted in the Constitution, "it would prevent a state from making laws against Sunday trading". Higgins replied: "No; it would only prevent the making of laws for a religious reason." Cockburn then wondered how the state's intentions could be discovered; and suggested that the amendment "would simply prohibit the enactment of these laws." Higgins, presumably seeking to cut his losses, replied that it was his "desire" to "prevent the Federal Parliament from dictating to the state in these matters."[12]

Barton, the Leader of the Convention, spoke next; and he spoke strongly against both the original clause, and Higgins's proposed amendments. It can be inferred from Barton's speech, especially from his reference to a handbook which Higgins had loaned him, that Higgins before the debate had sought and failed to obtain Barton's support. It can also be suspected, on the basis of some remarks of Higgins in an address to the electors of Geelong a couple of months later, that it was in fact Barton, who in his way was quite as resolute a separationist as Higgins, who was chiefly responsible for Higgins's defeat in

this debate. Higgins two months later told the Geelong electors:

> I even succeeded in carrying, on my own motions, clauses which I am amused to find Mr Barton now referring to as inducements to accept the Constitution. But he spoke against them, and he voted against them. I refer, for instance, to the power given to the Federal Parliament to legislate for conciliation and arbitration in labour disputes extending beyond the limits of any one State. I was beaten in Adelaide, but I succeeded in Melbourne, in the face of Mr Barton's opposition; and I now find Mr Barton referring to the clause as a valuable and attractive provision. I may also refer to the clause which prohibits the Federal Parliament from imposing religious observances or interfering with religious liberty. Mr Barton did all that he could against it, and he could do a great deal as leader of the Convention.[13]

Higgins here is referring, not to the debates on 7 and 8 February, but to the 2 March debate on the clause (then 109A) which now stands as Section 116. But if that was Barton's attitude on 2 March, it certainly would have been his attitude on 7 and 8 February, and during the days immediately preceding. Part of the basis of Barton's antagonism may have been Higgins's increasingly evident hostility towards the Bill.

Barton declared that it scarcely was conceivable that the insertion of a provision in the preamble acknowledging the existence of the power of the deity "could ever induce the High Court or the Court of Appeal" to hold that that imported a power to do anything. He added that "under a Constitution like this, the withholding of a power from the Commonwealth is a prohibition against the exercise of such a power." Then, puzzingly, he stated in reply to a question that if Higgins's amendment were accepted, the clause would read: "A State shall not, nor shall the Commonwealth, make any law prohibiting the free exercise of any religion, or imposing any religious test or observance":[14] which makes one wonder whether the Hansard reporter was dreaming, or whether Barton came late to the session that morning!

However nothing was said, and Barton turned to the prohibition on the states. Here he saw no unfortunate consequences although he warned "that

humanity has a habit of throwing back to its old practices." He then pointed out a difficulty involved in any attempt to guarantee the free exercise of religion:

> [Trouble] arises when you try to insert a proviso modifying this prohibition. For instance, if it were desired to prevent the application of the clause to any fiendish or demoralising rite, that might be done by inserting the words 'so long as these observances are [not] inconsistent with the criminal laws of the state,' ...[But] if there were no criminal law in existence at the time with which these observances were inconsistent, it would be possible for the State to pass such a law, and so, to use a common expression, euchre the whole business.

"I think, however," he concluded, "that we can do remarkably well without the clause at all."[15]

Sir John Downer broadly followed the lines of Barton's argument. The main interest of his speech was that he provoked Higgins categorically to say that he was "willing that the prohibition should extend only to the Commonwealth." Braddon then briefly spoke, declaring that, even with the qualifications he earlier suggested, some deplorable religious excess might "make us regret that the clause was ever put in the Bill." He preferred to see it struck out.[16]

Higgins again addressed the Convention. All he sought now was the prohibition on the Commonwealth: "[The] importance of preserving to the states the residuary power is overwhelming." He repeated his former arguments, and added a brief analysis of how the terms "promote the general welfare" in the preamble of the United States Constitution, coupled with certain statutory powers, "have extended the power of the [American] Commonwealth hugely." In conclusion, he stated that the prohibition on religious observances would not prevent the imposing of a day of rest. It would "simply prevent the imposing of a day of rest for religious reasons."[17]

That perhaps seemed straightforward. The trouble was from a debating viewpoint that it was not the view which the Adventists themselves took. In

their view it was beyond the province of the State to direct a person not to work on the Sunday.[18]

The right to work, they believed, like the right to life, liberty, and the pursuit of happiness, was God-given. Human governments were instituted solely to protect people in the enjoyment of their rights. A person might choose to rest on that day or any other but the State had no business penalising him if he didn't. Unfortunately for Higgins, the last speaker, Sir Joseph Abbott, was aware of the Adventists's by now well publicised views on this matter. "I believe they are earnest, good people," he said, "but, in defiance of our laws, they persist in working on the day which we set aside and call Sunday." With effective brevity he represented the Adventists as having set at defiance both those concerned to preserve the sovereignty of parliament, and also those concerned to preserve the "sanctity" of the sabbath.[19] The Sydney Morning Herald correspondent claimed that Abbott's speech "sealed [the] fate" of the amendment.[20]

Higgins's amendment was put, and negatived on the voices. The Tasmanian amendment (Clark's), such perhaps was the strength of "states rights" feeling, found not a single supporter from among the Tasmanian delegates. It also was negatived on the voices. Braddon declined to put the amendment he had proposed on the previous day. Finally, clause 109 itself was put and was rejected on the voices.[21]

So Higgins failed totally. Partly, this was the effect of a "states rights" backlash; partly, one must suspect, a result of Barton's behind the scenes manoeuvring; and partly a consequence of Higgins's ineffective management of his own amendment. Except in Abbott's speech, there was almost no suggestion of clerically inspired opposition to Higgins's proposal to prohibit the Commonwealth, and perhaps originally the states, from imposing any religious

observance, or establishing any religion. One can assume that this opposition was in some degree present, and that it showed itself in the final vote. Yet why should it display itself when a powerful anti-recognitionist group was so vigorously opposing Higgins? Among Higgins's critics, Barton, Braddon, Cockburn, Downer, Gordon, O'Connor, and Symon had all voted against "recognition" in Adelaide. It was a prominent section of the federal-level separationist group which, perhaps inspired by Barton, and differing from Higgins over means rather than ends, defeated Higgins.

The clerics were hardly displeased. The Presbyterian Monthly, commenting on the Convention's refusal constitutionally to prevent the imposition of religious observances, remarked (giving a clue to the thinking of some of the Convention "recognitionists" who so discreetly and effectively kept silent on 7 and 8 February) that:

> It was felt that [the prohibition on imposing religious observances] might be used to prevent a State Parliament, or the Federal Parliament, from opening their meetings with prayer, or arranging on suitable occasions for acts of public worship. By the rejection of the clause a Christian nation is left free to give expression to its religious convictions as may from time to time seem best.

The Presbyterian Monthly went on to "observe with pleasure" that Mr Higgins expressed himself in favour of inserting an acknowledgement of God in the Constitution. "This", it purred, "is all that is necessary."[22]

FOOTNOTES

1. The temperature, which on 8 February rose above the century, may also be relevant - D.T., 9 February, 1898.

2. The letter from Higgins to Colcord, in which Higgins said this, cannot be traced. However on 23 March, 1898, Colcord wrote to Higgins: "Your letter of some days ago was duly received ... While, as you suggest, it would have been desirable to have included the States as well as the Commonwealth in the provision...". Higgins Papers, MS. 1047, A.N.L.

3. The debates are summarised and discussed in J.A. LaNauze, The Making of the Australian Constitution, Melbourne, 1972, pp. 206-11.

4. Age, 9 February, 1898.

5. Con. Deb. Melb. 1898, Vol. I, pp. 655-657.

6. Ibid., p. 657.

7. Ibid., p. 658.

8. Ibid.

9. Higgins Papers, MS. 1047, A.N.L.

10. Con. Deb. Melb. 1898, Vol. I, pp. 658-659.

11. Ibid., p. 660.

12. Ibid.

13. H.B. Higgins, The Convention Bill of 1898: Address Delivered by Mr H.B. Higgins, M.L.A. (Member of the Federal Convention) to his Constituents in Geelong, Melbourne, 1898, pp. 12-13.

14. Con. Deb. Melb. 1898, Vol. I, pp. 660-661.

15. Ibid., p. 662.

16. Ibid.

17. Ibid., pp. 662-4.

18. Australian Sentinel, 1st Quarter, 1895, pp. 114-115; Southern Sentinel, January, 1898, pp. 5-6. Commenting on Abbott's speech, a Southern Sentinel commentator remarked, in the June 1898 issue: "But what right have men to 'set aside' and command their fellow men to observe as a day of rest a day which God has never ordained to be thus observed? Moreover, why has not everyone a perfect right to work on a day concerning which and the other five laboring days of the week God has said: 'Six days shalt thou labour and do all thy work'? Plainly the conflict here is not between

Sir Joseph Abbott and the Seventh Day Adventists, or between the State and Seventh Day observers, but between the laws of men and the law of God."

19. Con. Deb. Melb. 1898, Vol. I, p. 664.

20. 9 February, 1898.

21. Con. Deb. Melb. 1898, Vol. I, p. 664.

22. March, 1898.

CHAPTER TEN

GLYNN'S TRIUMPH

On the morning of 2 March, the preamble once more came up for consideration; and Glynn, once more, moved a "recognition" amendment. His proposal, now more moderate than at Adelaide, was to amend the preamble to declare that the people of the various colonies "humbly relying upon the blessing of Almighty God" agreed to unite in one indissoluble federal commonwealth. Glynn, in his diary entry for that evening, remarked that "the words were settled after consultation with the Drafting Committee [which consisted of Barton, Downer and O'Connor] and reference to several other members of the Convention."[1] There may have been difficulty in agreeing upon a formula.

Glynn, a Roman Catholic, probably was put forward once more by the recognitionists because, as a Catholic, he gave the cause an interdenominational aura. He was by profession a barrister. Privately, he sometimes had intellectual doubts as to his faith. He had a taste for Shakespeare, and a sensitivity to the resonance of words and things.[2] He was also, as his private diary shows, a dry and amused observer of mankind. In the entry for Christmas day 1897 for instance, he had reflected:

> ...One cannot moon life away - in actions being is man's scope and duty. Yet what is duty? Are there any obligations not transitory, or relative to accidental phases of existence; any that relate to an external morality or righteousness, and which, apart from self regarding aims, call for personal sacrifice. The desirable, and best in the end, may come from each following his personal bent; for prudence enforces the exercise of altruistic impulses to an extent that renders healthy egoism workable. The world is largely governed and deceived by phrases.[3]

Or again, one Sunday evening in Adelaide a few months later he wrote of the churches pouring out "their contingents of festive and jaded respectabilities".[4]

So now, on the morning of 2 March, he was trying again; and this time with every prospect of success. Some delegates, he knew, would still

oppose him; but that would be only for honour and consistency's sake. He spoke more briefly than at Adelaide, and without classical allusions, but still ornately. The arguments were similar. The amendment was "simple and unsectarian", and would recommend the Constitution to thousands to whom the rest of its provisions "may forever be a sealed book." It was consonant with our "ceremonial life"; and, because it was so unspecifically theistic, and therefore could be appropriated equally by adherents of many different creeds, it would become the "pledge of religious toleration." He asserted that "the stamp of religion is fixed upon the front of our institutions," and that it is religion, and not "the iron hand of ... law, that is the bond of society". Religion, he added, turns discord to harmony, "and evolves the law of moral progress out of the clashing purposes of life." (which was not, one may note, quite what he said to his diary on the previous Christmas day.) Then momentarily drawing a veil from inner incertitude, he also reminded his fellow delegates:

> Say what they will, there are moments, short though they may be, when the puzzle of life and destiny staggers the sense, when the shadow is cast and obscures the vision, and the best of us feel our weakness and loosening grip of the unseen. Then it is that the symbols of faith and reverence attest their power and efficacy, and brace the reeling spirit with a recovered sense of the breadth and continuity of man's consciousness of an inscrutable Power ruling our lives.

In conclusion, he hoped that in his proposal "faith [would] find a recommendation, and doubt discover no offence."[5]

The next speaker was Higgins. At Adelaide he had voted against "recognition". Here also he regretted he would have to do so. The wording was not now "quite so objectionable", but since the Convention had declined to provide a sufficient safeguard against the passing of religious laws by the Commonwealth, he still was not able to support Glynn's amendment. He hoped he would afterwards be given an opportunity to explain to the Convention "how exceedingly important" such a safeguard was, and to present a modified version of his earlier proposal. He then returned to a consideration of the

United States precedent which he had discussed on 7 and 8 February; and once more analysed its implications. As before his argument was that, following the Supreme Court decision in 1892 that the United States was "a Christian nation", even the absence of any recognition of deity in the preamble of the United States Constitution proved no bar to Congress passing a sabbath law. On the face of it, Congress had no power to pass such a law. Yet it had done so. Higgins once more criticised the motives of the organisers, although not the rank and file, of the "recognition" campaign. The main leaders had known of the course of the United States struggle, but had not "told the people what the course of that struggle is, and what the motive for these words is." All that he wanted now was a clause preventing the Commonwealth passing religious laws. "I want to leave that as a reserve power to the state, as it is now." Lyne interjected, asking where the danger was. Higgins, in reply, stressed his "states rights" bona fides:

> The point is that we are not going to make the Commonwealth a kind of social and religious power over us. We are going into Federation for certain specific subjects. Each state at present has the power to impose religious laws. I want to leave that power with the state; I will not disturb that power. But I object to give the Federation of Australia a tyrannous and overriding power over the whole of the people of Australia as to what day they shall observe for religious reasons, and what day they shall not observe for that purpose.

He concluded with the essentially voluntarist declaration that "the Christian or religious observance is no good if it is enforced by law."[6]

Quick, who unsuccessfully had sought to persuade the Constitutional Committee at Adelaide to accept the "recognition" amendment, then spoke. He "for one" disputed the realism of Higgins's warning. If Congress could pass a Sunday Observance law in the absence of a "recognition" clause in the United States Constitution, "what further danger will arise from inserting the words in our Constitution?" He did not see how, "speaking in ordinary language" the words "humbly relying on the blessing of Almighty God" could

possibly lead to the interpretation that "this is necessarily a Christian country". It could be subscribed to "even by Mahomedans." Recognition of deity in the preamble, he continued, "will not necessarily confer on the Federal Parliament power to legislate on any religious matter." There "may", he added, "be reasonable grounds" for doubting the constitutionality of the United States Congressional law in question. He concluded by challenging Higgins to name any "clause" in the Bill which would authorise religious legislation. Altogether - with its "possiblys" and "mays" - an evasive contribution from the future co-author of the Annotate Constitution of the Australian Commonwealth.[7]

Barton followed with a careful speech. At Adelaide he had spoken strongly against "recognition". He began now by stating that the form of "recognition" proposed by Glynn was "the least objectionable which could be devised." But he still opposed "recognition". "I have all along thought", he said, "that it is, to a certain extent, a danger to insert words of this kind in the preamble." Higgins he declared in something of a reversal of his position of 8 February, "has clearly put before us the difficulty which arose in the United States ..." Quick's counter-arguments did not, Barton believed, stand up. If there was a danger of religious laws even in the absence of the recognition of deity in the preamble, then "that danger, by every consideration of experience or common sense would be increased by putting in [such] an express amendment". However he then criticised, as in itself untenable, the mode of argument employed by the United States Supreme Court in the case in question. He concluded by declaring that legislation in regard to religious matters should entirely be left to the states.[8]

Lyne then spoke. It will be recalled that he proposed the "recognition" amendment during the New South Wales Legislative Assembly's discussion of the Adelaide draft. He declared that for him the key question was whether "recognition" would enable the Commonwealth to interfere with

the states in religious matters. On the basis of United States precedents, he thought it likely that even without "recognition" the Commonwealth parliament could legislate as Congress had done in 1892. But "remembering that the Federal Parliament will represent the various states to a very great extent ", he considered Higgins's fears untoward. "I suppose," he concluded,

> ... [that] none of us pretend to be actuated on a question of this kind other than by sentiment - but I feel convinced that the insertion of this amendment in the preamble will influence a large number of votes in favour of this Federation Bill.[9]

The Tasmanian Douglas spoke next, and was no less scathing than at Adelaide. Up to this point the tone of the debate had been restrained. Douglas now sharpened it. The words of the amendment would do no good . They would not make the people more religious. While "we all rely upon ...God in our daily transactions, we do not talk about it." Doing so tended merely to make a mockery of religion. At one time they had used the Lord's Prayer in the Tasmanian Legislative Council, but it had become "a matter of such indifference that the custom was given up." He asked whether they had prayers in the parliament in Victoria. Peacock replied that in the Legislative Council the President read the Lord's Prayer; and Deakin, apparently infected by Douglas's tone, added: "And nearly all the members know it now." Douglas then affirmed that he was "ordinarily as religious as any member of this Convention"; but added: "I do not make a parade of it. I take my Sunday walks, but I do not do as the Quaker did, who said to his assistant -'John, if you have sanded the sugar and wetted the currants, you can now come in to prayers.'" This, at last, provoked a response.

> Mr. Walker - It was not a Quaker who said that.
>
> Mr. Douglas - Well, it was somebody like the honourable member, then.
>
> The Chairman - Order. 10

Douglas then suggested that there were so many varieties of Christianity, not to mention other religions, that the words of the amendment could have no clear sense. "I want to be sincere ", he continued, "... and I do not want to make the people believe by going into the street and saying - 'I am a religious man', that, therefore, I am a religious man." He concluded by asserting that the Convention, in considering Glynn's amendment, was "travelling out of the range of the purpose for which we were sent here ..."[11]

Douglas was followed by Downer. Since, he said, it was the law of England which the Australian colonists had brought with them, and since the Christian religion was obviously even more a part of the law of England than it was a part of American law, then there was even more reason in Australia, than in America, specifically to prohibit the Commonwealth from making religious laws. Downer clearly had changed his mind since the February 8 debate. "I would suggest to Mr. Higgins", he stated, no doubt considerably to Higgins's gratification,

> ... to seriously consider whether it will not be necessary to insert words distinctly limiting the Commonwealth's powers.

Indeed, Downer continued, even if the words of Glynn's amendment were not inserted, it still would be necessary expressly to limit the legislative power of the Commonwealth in regard to religion.[12]

Reid concluded the debate by briefly noting, perhaps in consideration of the fact that it always was a point with him to get on well with churchmen when it cost him nothing, that he wished to support Glynn's amendment.[13] Glynn's proposal then was agreed to on the voices.

So the churchmen, at least formally, had made their point. Now in return they were morally obliged to recommend to their people that, in the coming referendum, they vote for the Federal Bill. They were not however altogether happy about certain features of the debate. The Presbyterian

Monthly gently chided Sir John Downer. It regretted his statement that "the piety that is in us must be in our hearts and not on our lips ". It also noted with regret "that Mr. Higgins was . . . among the opponents of the clause: " ... we expected better things of him". Douglas was severely reprimanded.[14] However it was not simply Downer, Douglas and Higgins who from the clerical viewpoint had behaved disappointingly. It was clear that the support of nearly all their political "friends" arose merely from considerations of expediency. As the Argus remarked, those who supported Glynn's amendment "thought it safer to defer to the strong expression of public feeling in favour of [it]".[15]

Glynn, himself, thought little differently:

> Today I succeeded in getting the words 'Humbly relying on the Blessing of Almightly God' inserted in the preamble. It was chiefly intended to secure greater support from a large number of voters who believe in the efficacy for good of this formal act of reverence and faith.[16]

Militant secularists naturally were scornful. The Bulletin especially had a field day. A poetic contributer remarked:

> The politicians grave, who nod,
> Assembled in Convention,
> Have voted to the Most High God -
> An Honourable mention.

Another declared:

> The news was spread at night. Alone
> I lifted up my eager eyes,
> And saw the constellations blaze
> And heard a cheering round the throne.

One commentator even saw in Glynn's triumph the occasion for a sardonic reflection on the country's history:

> When Governor Phillip founded the settlement of Botany Bay, he rejected overtures made by the Fleet parson to have the name of God associated with the establishment of the province. The chaplain of the day, writing about it, complained that he was officially ignored. The soldiers were drawn out, the flags run up, the proclamation read, and cheers and volleys of musketry followed, "but all the time," wrote the parson to the Secretary of State, "I was left to stand under the shade of a tree, and was made to feel that neither God nor I was wanted at the foundation of the new nation." One hundred and ten years later the parson, it seems, has been invited to come from under that tree.[17]

Religious voluntarists would have considered that the Protestants, with friends such as they had found in the Convention, would have had no need for enemies. But Harper's Presbyterian Monthly, single minded in its way, saw in the worldly tone of the Convention's eventual support of "recognition" little more than an incitement to greater political vigilance. If the Argus was right, the Presbyterian Monthly declared, this showed

> ... the necessity for the utmost vigilance on the part of the Christian public in political matters, especially where these touch on the domain of religion and morals.[18]

The "proud men in their theological halls" forgot nothing; but some people would have argued they had learned nothing.

FOOTNOTES

1. P.M. Glynn, Diary, 2 March, 1898. MS. 558, A.N.L.

2. J.A. LaNauze, The Making of the Australian Constitution, Melbourne 1972, pp. 102-103; G. O'Collins, Patrick McMahon Glynn, Melbourne, 1965, Chapter 14.

3. MS. 558, A.N.L.

4. Ibid., 12 June, 1898.

5. Con. Deb. Melb., 1898, Volume 2, pp. 1732-1733.

6. Ibid., pp. 1734-1736.

7. Ibid., pp. 1736-1737.

8. Ibid., pp. 1737-1738.

9. Ibid., pp. 1738-1739.

10. Ibid., pp. 1739-1740.

11. Ibid., p. 1740.

12. Ibid., pp. 1740-1741.

13. Ibid., p. 1741.

14. April, 1898.

15. 3 March, 1898.

16. Diary, 2 March, 1898, MS. 558, A.N.L.

17. 12 March, 1898.

18. April, 1898.

CHAPTER ELEVEN

THE COMMONWEALTH SHALL NOT .....

Because the delegates were anxious to hasten the conclusion of the Convention, they decided at the close of the morning session on 2 March to revise a previous arrangement not to sit during that afternoon and evening.[1] Accordingly, Higgins's proposed replacement for clause 109 came on for discussion a little sooner than expected. Its text, which differed slightly from the present Section 116, was:

> The Commonwealth shall not make any law prohibiting the free exercise of any religion, or for the establishment of any religion, or imposing any religious observance, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.[2]

Higgins had placed the new amendment on the notice paper shortly after his defeat on 8 February,[3] and no doubt had spent some time canvassing support. The prospect of even partially reversing the Convention decision may have seemed bleak, even to someone as obstinate as Higgins often was about getting his way on matters of principle. As far as "recognitionist" churchmen were concerned, the religious issue could reasonably be regarded as settled. "If any group of 'cranks' is to be allowed to set up its Sabbath", remarked the Southern Cross contentedly on 11 February,

> ...it is certain that the general Day of Rest will run some danger of vanishing. It is pleasant to note that when it was seen that under the proposed law it would be impossible to enforce the law against Sunday trading, the Convention promptly rejected Mr Higgins's entire amendment.

On the ecclesiastical front all seemed well. In its 18 February issue the Southern Cross reported that on the previous Sunday the Protestant churches of Victoria had prayed for rain to ease the drought, and "already the rain had come."

The Adventists by contrast were appalled; and probably a little surprised. "Heretofore", Colcord wrote to Higgins on 10 February,

> ...some of the Federal delegates have, in conversation with us, told us we need have no fears over a religious declaration of faith being inserted in the preamble; that there was a clause in the proposed Constitution, clause 109, which would prevent anything like religious legislation.[4]

This letter may have contributed to Higgins's resolve to persevere. In it, Colcord presented the Adventist reply to the main arguments urged on 7 and 8 February against clause 109 and Higgins's amendment. On the actual letter, which was typewritten, appears some pencilled underlining and sidelining. Presumably this was added by Higgins himself.

Colcord contested the argument that protecting the free exercise of religion prevented a State from legislating against barbarous and immoral acts committed in the name of religion. His reply was that governments

> ...have a perfect right, and it is their duty, to suppress any act of incivility or crime under whatsoever cover or plea it may be committed; but they do not need to enact *religious* laws to do this, even though the act involved had behind it the sanction or demand of some religion. They should deal with everything with which they have a right to deal from the standpoint of *civility*, and not *religion*. Everything which properly comes within the scope of this term they have a right to deal with; all else is beyond their proper limits. ("religious", "civility" and "religion", were underlined by Colcord. The other words emphasised were either underlined, or sidelined in pencil, presumably in each case by Higgins.)

Concerning the fear that prohibiting the imposition of religious observances might prevent the state and Commonwealth legislatures from making Sunday a day of rest, Colcord was more diffuse, but less accommodating. God not only called upon man to rest on the seventh day, the Saturday, but He also enjoined man to labour on the other six. Christians could not, in good conscience, not work on the Sunday. Provided a man's conscientious Sunday labour was neither uncivil nor criminal, in the commonly accepted meaning of those terms, the State had no right whatever to prohibit such divinely sanctioned labour.

It was of course unlikely that the secularist Higgins would have been impressed by the latter argument. It was a view he explicitly rejected on

8 February. However the former argument may have held some appeal. It may be, too, that Higgins was a little moved by the impassioned benediction Colcord bestowed upon him at the close:

> I am glad and thankful to my God, whom I serve night and day, that there was even *one* man in the Convention who would stand up for principles. May God bless you, and the peace of Heaven rest rightly upon you.
> (emphasis in text.)

This scarcely was the kind of letter Higgins received often.

In the Bible Echo, and in the Southern Sentinel (which since January, 1898, in view of the heightening of the "religious liberty" crisis, had been changed from a quarterly to a monthly),[5] the Adventists sounded their alarm loud and clear. On 23 February, Mrs White herself arrived in Melbourne, ostensibly to attend an Adventist Conference at Balaclava during the next month; but certainly also, one would think, because of the "religious liberty" crisis.[6] However, precisely what communications passed between Higgins and the Adventists in these busy days is not clear.

Nor does direct evidence survive as to how Higgins in the period between 8 February and 2 March set about his persuasive task. Yet it was in general terms clear which delegates he would have needed to convince, and what sorts of argument he would have employed. His target was the secularist group which on 7 and 8 February, probably on Barton's inducement, had opposed him. Higgins no doubt pointed to the threat to the secularity of the Commonwealth which, in the light of United States precedents, "recognition" might pose. Probably he suggested that, if no neutralizing clause was placed in the Federal Bill, many electors would refuse to vote for it. He may have threatened - a point at which he hinted on 2 March [7] - that he personally would be unwilling to recommend a Federal Bill which lacked such a clause.

In his introductory speech, Higgins spent some time stressing that

what he wanted was to make it clear that, although the Constitution now "recognised God" in a way which on some United States precedents would involve "certain inferential powers," there was no intention on the part of the Convention to confer, even indirectly, such powers on the federal parliament. Previously, "according to the views of the members of the Convention," he had gone too far in saying that "neither a state nor the Commonwealth was to have this power." He had however done this, he explained, because the existing clause 109 referred only to a state.

> He then read out the text of his proposed new clause, and stated that
>
> ...most of this clause, with regard to the making of laws, is already in the American Constitution, either in the original Constitution or by way of an amendment of the Constitution.

The only difficulty, therefore, was "[the] words about imposing religious observances". These were "rendered necessary" by the Convention's inclusion that morning of "words which they have not got in the American Constitution." In conclusion, he reiterated "that there [could not] be an overriding Commonwealth law" which would interfere with the power of the states to legislate regarding religion.[8]

As Higgins was concluding his speech, Reid interjected, asking whether Higgins "could point out in the Bill any subject allied with religion which would make it necessary to insert a clause such as this in the Bill". If Higgins could, Reid declared, "[he] would vote with him." Higgins replied: "The preamble."[9]

Reid's question is of special interest, indicating as it does his understanding of the prohibitive scope of Higgins's clause. Evidently to Reid the prohibitive power of Higgins's clause was such that, if there <u>was</u> "any subject allied to religion" with respect to which the Commonwealth could legislate, then Higgins's clause would prohibit the Commonwealth from using

that power to legislate with respect to religion.

Barton then spoke at length. Clause 109, he said, had been struck out "partly on the ground that we did not desire to interfere unnecessarily with the states." But it was also struck out on the more "solid ground" that

> ...there was no likelihood of any state ever prohibiting the free exercise of any religion - that there had been nothing of the kind in the past, and that there was not the slightest reason to expect the occurrence of any such thing in the future; that the more the institutions under which we live expanded, the less likelihood there was of any religious persecution of any kind.

However, if that was the view the Convention held as to the states, why should they hold such a fear in regard to the Commonwealth?

At this point Wise interjected, stating they might say the same about the United States Congress. Barton in reply said that the Supreme Court decision, that the United States was a "Christian country", was probably an affirmation that the institutions of England at the time of the revolution were, under the common law, Christian institutions, "which, so far as they are not interfered with by any written Constitution, belong to citizens of the United States". If that was so, then "the same thing applies in some of these colonies." But even if it is "part of the common law of England that we shall be regarded as a Christian community ",what danger would that in fact present of their suffering any of the difficulties referred to in the amendment? "I do not see any danger of the kind to be anticipated." "I think", he continued, with a play on the word "christian",

> ...that because we are a Christian community we ought to have advanced so much since the days of State aid and the days of making a law for the establishment of a religion, since the days of imposing religious observances or exacting a religious test as a qualification for any office of the State, as to render any such dangers practically impossible, and we will be going a little too far if we attempt to load this Constitution with a provision for dangers which are practically non-existent.

Higgins interjected: "That is the question. Are those dangers non-existent?" Barton, however, saw no need for concern.

> The whole of the advancement in English speaking communities, under English laws and English institutions, has shown a less and less inclination to pass laws for imposing religious tests, or exacting religious observances, or to maintain any religion. We have not done that in Australia. We have abolished state religion in all these colonies; we have wiped out every religious test, and we propose now to establish a Government and a Parliament which will be at least as enlightened as the Governments and Parliaments which prevail in various states...

If there was "any - the least - probability or possibility" of "any of these various communities utterly and entirely retracing its steps," then he "might be with" Higgins. But he was confident that would not happen. If, he said,

> ...as this progress goes on, the rights of citizenship are more respected; if the divorce between Church and State becomes more pronounced; if we have no fear of a recurrence of either the ideas or the methods of former days with respect to these colonies,

then, he believed, Higgins's fears would prove unfounded. Certainly this was a question begging argument, but it does at least show clearly what Barton considered to be the prohibitive reach of Higgins's new clause.

Barton shifted to another tack. He thought that preventing the Commonwealth making any law prohibiting the free exercise of any religion gave rise to certain dangers. The Commonwealth under the Constitution could legislate with regard to immigration and emigration, to naturalisation, and to special races other than the aboriginal race. In these areas it might be necessary for the Commonwealth to regulate religious practices, since sometimes these were of a kind abhorrent to any civilised community. However the effect of the free exercise provision would be to prevent this. Higgins, at this point, apparently agreeing with Barton that the free exercise provision would prevent the Commonwealth from legislating against "abhorrent" religious practices, interjected that he wished to leave such regulation to the states. Barton replied, not so much with an argument, but with the dictum that, when a power

to make laws in regard to any subject is given to the Commonwealth, "...we should take care not to take away any incident of it which it may be necessary for the Commonwealth to use by way of regulation."

Barton then reiterated his claim that the establishment of any religion was "entirely not to be expected". Symon interjected: "It is part of the unwritten law of the Constitution that a religion shall not be established "; and Barton, echoing so to speak his own echo, declared: "it is so foreign to the whole idea of the Constitution that we have no right to expect it". He added that "whatever may be the result of any American case ", he doubted whether any member of the United States Congress would suggest that Congress had the power to establish any religion. He was sure the United States Supreme Court would not say so. He concluded by saying that the only part of the clause on which he had any doubt was that prohibiting religious tests. On reflection, he had decided that such a test was not possible. Therefore he would vote against the whole clause.[10]

When Barton finished, Reid, evidently following up his question to Higgins as to whether there was any subject "allied with religion" with respect to which the Commonwealth could make laws, asked Barton: "I suppose that money could not be paid to any church under this Constitution?" Barton replied: "No, you have only two powers of spending money, and a church could not receive the funds of the Commonwealth under either of them."[11] This question, no less than Reid's previous one, is of considerable interest, since it clearly presupposes that one thing which would be prohibited to the Commonwealth by the proposed clause - presumably by the no-establishment provision - was the paying of money "to any church."

Wise spoke next. No subject, he asserted, was more fit for state control than that of religious observance. There should be no opening to doubt

that the Commonwealth was excluded from this area. He wished he could share Barton's optimism as to the death of religious persecution; "but we have seen in our own time a recrudescence of that evil demon, which, I fear, is only scotched and not killed." He knew of a large body of New South Wales people, not represented by petitions, who were alarmed at the insertion of a "recognition" clause in the preamble, and who feared that behind it lay an ulterior design by some people to give the Commonwealth power to interfere with religious observances. Higgins at this point interjected. "We had 38,000 signatures to a petition from the people in Victoria against the inclusion of these words in the preamble." Wise, naturally enough, said he was glad to hear it, and asked the Convention why could not they "meet the scruples of these gentlemen as we met the scruples and feelings of another class in the community". Furthermore, he suggested, Higgins's speech that morning had shown that the fears of those who opposed "recognition" had legal substance. "In a matter of religious feeling ",he added, "a minority are entitled to the utmost respect and should have their feelings guarded."

Fraser interjected: "Is not the majority entitled to respect?" Wise replied: "Certainly." Fraser then declared: "A very small minority might shock the great majority of people." Wise retorted: "Let everyone follow his own religious observances without shocking anybody, and do not let him impose his rule on anyone else."

Wise then, after repeating that they should make clear in the Constitution that "the Commonwealth shall not interfere in any way with the rights of the states to regulate religious matters ", suggested that the observance of Sunday was largely a matter of climate; one rule tending to prevail in the tropics and another in the south. It should be made clear that people in one part of the Commonwealth could not impose on people in another in the matter of Sunday observance, or in any other religious matters.[12]

Wise was followed by Cockburn, who asked Higgins whether there was any other power whose exercise by the Commonwealth was forbidden. Higgins said he thought not. Cockburn then suggested that, while he was "very much in sympathy" with Higgins, his proposal would open up an ambiguous area "between the powers specially vested in the Commonwealth, and the powers forbidden." Specifically, it raised a doubt as to whether the Commonwealth might not have more powers than those vested in it.[13]

Fraser then spoke. He agreed with Barton that the clause was unnecessary, adding: "We are a homogeneous people, and the safer plan is to leave us so." Higgins interjected that that was what "we want to do." Fraser however, was not sure. He asserted that if they agreed to Higgins's new clause, all sorts of practices might be resorted to which would shock the whole people. Wise, thinking perhaps of Fraser's recent interjections to his own speech, interjected that if Higgins's new clause was not passed, the Commonwealth might be able to pass a law permitting Sunday newspapers in Victoria. He was, presumably, extending the 1892 United States precedent to non-religious Sunday observance. Isaacs, an astute lawyer, then came to Fraser's rescue; and a brief but sharp interchange between Isaacs, Wise and Fraser followed, in which Wise's knowledge of the United States Constitution was shown up as less than perfect. But then probably Wise at this point was more concerned to bait Fraser than to make a serious legal point. Fraser concluded, after a fierce denunciation of the public men of New South Wales for not "putting down" that colony's Sunday newspapers, by repeating that the acceptance of Higgins's clause might lead to results which would "offend the sensibilities of a homogeneous people".[14]

At this point Symon moved, by way of amendment, that all words down to "and" be omitted, and that the clause as a whole read instead:

> Nothing in this Constitution shall be held to empower the Commonwealth to require any religious test as a qualification for any office or public trust under the Commonwealth.

On 8 February Symon had suggested that Clause 109 be replaced by a clause similar to this, but applying also to the states. Hence this clause, like Higgins'sown, was substantially a carry over from that debate.

Symon began by saying that he had changed his mind since the 7 and 8 February debate on the question of the prohibitive scope of the free exercise provision. Then he had thought it would protect inhumanities and cruelties committed in the name of religion. Now he was satisfied that, "under the ordinary operation of the common law", either state or federal parliament could legislate to stop inhuman or cruel acts. He still opposed the free exercise provision, but not on the same grounds. Essentially, his argument now was not that the provisions he wished to remove were dangerous, but that they were unnecessary. On the one hand the Commonwealth would have no power to restrict the free exercise of religion, to impose religious observances, or to establish any religion. On the other hand, he was satisfied that

> ...it is embodied in the Constitution as a part of the unwritten law that no church establishment shall prevail and that religious freedom shall be observed.

However, he thought the "recognition" clause in the preamble might enable the Commonwealth to impose a religious test in appointing its officers. His own amendment would prevent this, and would make it clear that "recognition" would not overspread the Constitution. It would also, being of the nature of a "counterblast" to "recognition", help secure for the Federal Bill the support of those whose worries had been expressed by Higgins. Fraser interjected that there was "no necessity for it ",but Symon disagreed.[15]

Kingston then spoke. He supported Higgins. Only the states, he believed, should be able to legislate in regard to religion. The new amendment

to the preamble made necessary a declaration "in the broadest possible terms." His particular concern was that, now that God had been "recognised", the Commonwealth would use its power to legislate with respect to the affairs of special races in order to pass laws relating to their religion. However this was "purely a domestic concern", with which the states were particularly qualified to deal. If they accepted Higgins's proposal, they would "secure to the states the power which they at present possess ",and "prevent any unnecessary interference by the Federal Parliament".[16]

Kingston was followed by Lyne, who had been impressed by what Higgins had said in the discussion of Glynn's amendment. Higgins's proposal would "get rid of the possibility of danger." "Sunday observance", he thought, "was to a very large extent a matter of climate", and it varied from colony to colony. The "recognition" clause might allow the Commonwealth to decide how Sunday was to be observed, and to prevent that happening Higgins's new clause should be inserted. Symon's proposal, by contrast, would in this respect be ineffective.[17]

Wise followed Lyne. He invited Symon to express his view as to whether, if the "Commonwealth Supreme Court" accepted the arguments which prevailed in 1892 in the United States Supreme Court, "the Commonwealth Authority would have an implied power to administer the common law in respect to the observances of Christianity." Symon did not comment. Wise then appealed to Symon to withdraw his amendment.[18]

However O'Connor, the next speaker, another who had voted against Glynn at Adelaide, said he hoped Symon would not withdraw his amendment since he intended to support it. Higgins's proposal, he considered, was more likely to run them into danger than avoid it. "Upon the face of the Constitution", he said (making clear, incidentally, his conception of the scope of Higgins's

clause), "the Commonwealth has certainly no power whatever to deal with religion, either directly or indirectly."[19]

Higgins here interjected, asking O'Connor to explain why the provisions in the first amendment were placed in the United States Constitution. O'Connor replied that they were inserted because the powers given to the American Federal Government were less definite than those which the Convention was allocating to the Commonwealth. Higgins interjected again, pointing out that the United States Constitution contained no reference to deity. In reply, O'Connor maintained, in effect, that the powers allocated to the Commonwealth were so definite that he could not imagine it dealing with religion "in any way." However then, replying to an interjection from Kingston, he qualified this by agreeing that, as the Constitution stood, the Commonwealth was able to make laws respecting the religion of "special races".

O'Connor then analysed the "danger" which he saw in Higgins's proposal. His main point was a development of one Cockburn already had made. By preventing the Commonwealth "from making certain specified laws", O'Connor asserted, "you create the implication that the Parliament had power to deal in other respects with religious observances." If they examined Higgins's proposal they would find that

> ...it deals expressly with Sunday observance, with the exercise of religion, and with the imposition of religious observances. But it might very well be argued that the closing of places of public amusement on Sundays does not rest upon any of these grounds; and if you inserted a provision of this kind in the Constitution, there would be the strongest possible implication that the Federal Parliament would have the power to legislate in regard to social questions which had a religious aspect other than those expressly excluded from its jurisdiction by this provision.

However he agreed with Symon that the Commonwealth might, under the present Constitution, "impose any form of oath which it thought fit".[20]

Fraser then spoke briefly, asserting bleakly that:

> ...if we give the right to an infinitesimal minority to come here and indulge in extraordinary practices, under the pretence that this is a new religion, we may have all the theatres and all the music halls in Australia open on Sundays. If that is possible, we ought to do what we can to provide against it.[21]

The final speaker was Higgins. He first hinted that he might not be able to support the Federal Bill if his proposed clause was not carried. Then he briefly repeated or alluded to his previous arguments. However there was one small but interesting change. He referred this time not to 38,000 signatures from Victoria alone, but simply to "38,000 distinct signatures".[22]

The first question to be decided was whether Symon's clause replace that of Higgins. By twenty two votes to nineteen the Convention decided that the clause on which it would vote would be that of Higgins. This really was the crucial vote. Braddon, Downer, and Gordon, each of whom had spoken against Higgins on 7 and 8 February, now supported him. It is of more than passing interest to note that among other supporters of Higgins was Glynn.[23]

The next question put was whether Higgins's proposed new clause be inserted. This time Higgins won comfortably by twenty five votes to sixteen.[24] Moore from Tasmania, and Peacock and Isaacs from Victoria, changed sides. While they preferred Symon's clause to Higgins's, evidently they preferred Higgins's clause to nothing. Glynn once more supported Higgins; and that night in his diary explained why:

> To prevent any doubt as to whether [the words of the "recognition" amendment] authorised the imputation of Christianity as the law of the land, or religious intolerance in legislation, Higgins succeeded in getting in a Provision against any legislation either establishing or suppressing a religion, or imposing a religious test.[25]

One probably can deduce from Glynn's sarcastic attack on Inglis Clark's free exercise provision during the preceding August[26] that Glynn felt little enthusiasm for Higgins's clause as such. However, a handwritten note by Glynn, from the time of the Adelaide Convention, stating that: "Negative provisions in

a Constitution are safe because they [?have] stood the test of historical experience", suggests that he saw little danger either.[27] So, by little more than a whisker, those who had wanted a constitutional guarantee of strict Church-State and Religion-State separation in the Commonwealth sphere, made their point against those, such as Barton, who considered such separation desirable, but did not wish to achieve it that way; and also against those, as such Fraser, who did not think separation desirable at all.

Finally, an attempt will be made to draw together precisely what, on the basis of what was said in the debates, the Convention delegates thought Higgins's new clause actually prohibited. Clearly the clause as a whole was thought of as designed to keep the Commonwealth entirely out of the religious field. It was also, a point reiterated time and again, intended to secure to the states alone power to legislate regarding religion. There was, in the debates of 7 and 8 February, and 2 March, some doubt as to the extent to which the Commonwealth would be prevented by the free exercise provision from interfering with "abhorent" religious practices. Symon at first doubted, but came later to accept, that the free exercise provision would not prevent the Commonwealth from outlawing inhuman or cruel acts committed in the name of some religion. Higgins tended at one point to imply that the Commonwealth was in fact so prevented. However he did not develop the point. As to the religious observance provision, there can be no doubt that in the minds of most delegates the Commonwealth was prohibited from legislating with respect to the observance of Sunday. However Higgins on 8 February, and O'Connor on 2 March, took something close to the view that it only was those Sunday observance laws which embodied a religious intention which were prohibited. O'Connor, indeed, suggested that a prohibition on the Commonwealth imposing religious observances in itself carried a strong implication that the Commonwealth had power to legislate in regard to non-religious observances.

It was only with respect to the no-establishment provision, and the prohibition of religious tests for Commonwealth trusts or offices, that one finds complete unanimity. However, the unanimity over the religious test provision related to the fact that no-one thought it worthy of explicit definition, while the unanimity over the no-establishment provision stemmed rather from the fact that those who did discuss its scope and meaning expressed, or implied, concordant views. Higgins indicated at the outset that his no-establishment provision duplicated the one in the United States first amendment; and to the delegates that would have meant - as will be argued in the next chapter - that it was to be understood as strictly separationist. Barton, in his speech, made it clear that the no-establishment provision prohibited the Commonwealth from recognising any religion as the religion of the State, and from giving financial support to any religion. Reid in his interjection made it clear that he believed the no-establishment provision prevented the paying of money to any church. O'Connor assumed that the no-establishment provision prevented "indirect" (in an unspecified sense), as well as "direct" dealing by the Commonwealth with religion. Quick, some time later, advanced a less strictly separationist interpretation of the no-establishment provision. However, the view as to the scope and meaning of the no-establishment provision stated or assumed in the debate by Higgins, Barton, Reid, and O'Connor must be accorded considerable weight in any attempt to assess the mind of the Convention on this point. Each was an able lawyer; each was a leading figure in the Convention proceedings. Barton, O'Connor, and Higgins later became judges of the High Court of Australia. It is safe to assume that, where these men agreed over the meaning and scope of a Constitutional provision, that almost certainly would be what most of the other delegates thought, or wanted to think, too.

FOOTNOTES

1. Con. Deb. Melb. 1898, Vol. 2, pp. 1741-1742.
2. Ibid., p. 1769.
3. Garran Papers, M S. 2001, Ser. 8, A.N.L.
4. Higgins' Papers, M S. 1047, A.N.L.
5. See Minutes of the Executive Committee of the Australasian Union Conference, 1 December, 1897.
6. Bible Echo, 7 March, 1898.
7. Con. Deb. Melb. 1898, Vol. 2., p. 1779.
8. Ibid., pp. 1769-1770.
9. Ibid., p. 1770.
10. Ibid., p. 1770-1772.
11. Ibid., p. 1772.
12. Ibid., pp. 1773-1774.
13. Ibid., pp. 1774-1775.
14. Ibid., p. 1775.
15. Ibid., 1775-1776.
16. Ibid., pp. 1776-1777.
17. Ibid., p. 1777.
18. Ibid., pp. 1777-1778.
19. Ibid., p. 1778.
20. Ibid., pp. 1778-1779.
21. Ibid., p. 1779.
22. Ibid. Higgins was wrong both times. 7807 citizens signed the "anti-recognition" petitions to the Adelaide Convention (see chapter 3, p.39). About 22,300 signed the "anti-recognition" petitions to the colonial legislatures (see Chapter 6, p.66). No doubt there was considerable overlap; and the overall total may not have exceeded 25,000. The source of Higgins's error possibly can be traced. On p. 13 of the January-February, 1898, Union Conference Recorder the signatories for the country as a whole are listed in an incorrect and misleading way so as to yield a total a little below 38,000. Probably Higgins got the incorrect number from the Adventists, first applied it to the Victorians, realized this could not be right, and then hopefully applied it to the whole country!

23. Ibid.

24. Ibid., pp. 1779-1780.

25. Diary, 2 March, 1898, MS. 558, A.N.L.

26. See Chapter Seven.

27. Glynn Papers, MS. 558, Ser. 4, Item 28, A.N.L.

CHAPTER TWELVE

QUICK AND GARRAN'S ACCOUNT

Anyone familiar with Quick and Garran's analysis of the meaning and scope of Section 116 in their Annotated Constitution of the Australian Commonwealth[1] will regard the conclusions reached in the preceding chapter with surprise. Overall and in points of detail there are clear differences. In this chapter an attempt will be made to show that their analysis of section 116 is seriously defective, on both the factual and the interpretative side. An explanation of the presence of these defects will also be offered.

As to factualness, one may cite a number of more or less serious inaccuracies. Quick and Garran mistakenly drew a sharp contrast between the "numerous and largely signed petitions" in favour of the recognition of deity in the preamble, and "a few petitions.....in opposition to the proposal."[2] This was quite misleading, in view of the numerous signatories to those (relatively) few counter-petitions.

They were also factually in error in regard, not only to the amendment to Clause 109 which Higgins wanted to propose, but also in regard to the amendment which he actually proposed. According to Quick and Garran, Higgins moved to amend clause 109 to make it read:

> A State shall not, nor shall the Commonwealth, make any law prohibiting the free exercise of any religion, or imposing any religious test or observance. 3

However, according to the Hansard of the debate,[4] Higgins had become dissatisfied with certain features of that amendment, and wished that the clause instead read:

> A State shall not, nor shall the Commonwealth, make any law prohibiting the free exercise of any religion, or for the establishment of any religion, or imposing any religious observance.

And in the end the only amendment which Higgins actually moved, was to add "nor shall the Commonwealth" after "A State shall not".

However perhaps their most serious factual error arose in their treatment of the United States background. Higgins had claimed that the 1892 Congress decision to tie a Sunday closing condition to an offer of financial aid to the World Fair was religiously motivated, in that it was based on an earlier declaration by the Supreme Court that the United States was a "Christian country". However according to Quick and Garran:

> in the debates which took place in Congress during the passage of the amending Bill, no reference appears to have been made to any religious aspect of the proposed closing of the Exposition on Sundays or to the case of the Church of the Holy Trinity v United States. 5

This is not so. Not only was Congress, as the Congressional Record for 1890-1892 shows, besieged by petitions - mostly from religious bodies - praying that the exposition be closed on Sunday, but the debate in the Senate on 11, 12 and 13 July 1892, (to look no further) included copious references to "religious aspects".[6] Many of these references moreover, involved precisely the sort of analysis (The United States is a Christian nation etc.) which was advanced shortly before by the Supreme Court in the Holy Trinity case. One should not, perhaps, attribute any particular piety to the members of the United States Senate in this. It may well have been, as the Washington reporter of the New York Times suggested, that "the essence of the whole business" was the intention of some senators "to gain the esteem of a good many people who had petitioned them to vote against Sunday opening."[7] But even if the motives of these senators derived more from political interest

than from religious sentiment, what they were clearly enough doing was seeking to make Congress - in this particular matter at least - a conduit for imposing on visitors to the World Fair the wishes of a religiously motived Sunday observance pressure group. The Field Secretary of the American Sabbath Union clearly thought so too:

> We are prepared to make Congress understand that this is a Christian Nation. We would be a set of fools to give up the battle now, after gaining the victory over Congress in the World's Fair. 8

There scarcely can be any doubt that the Sunday closure amendment, regardless of the secular nature of the power under which it was passed, was in essence a religious law.

Discussing the arguments in support of Section 116 which Higgins put before the Convention, Quick and Garran declared:

> The prohibition contained in the [United States] first amendment was one of the ten articles of the so-called "American Bill of Rights" adopted after the establishment of the Union, in order to satisfy popular demands and sentiments. No logical or constitutional reasons have been stated why such a negation of power, which never had been granted and which, therefore, could never be legally exercised, was introduced into the instrument of Government. It does not appear that its necessity has ever been demonstrated. Still, that was one of the grounds on which Mr. H.B. Higgins asked the Convention of 1898 to adopt the section now under consideration. 9

In stating that "No logical or constitutional reasons have been stated why such a negation of power which had never been granted and which, therefore could never be legally exercised, was introduced into the instrument of Government". Quick and Garran have merely begged in advance what is fundamentally at issue between themselves and Higgins. When further they say, after having declared that "It does not appear that its [the first amendment's] necessity has ever been demonstrated", that, "Still, that was one of the grounds on which Mr H.B.Higgins

asked the Convention of 1898 to adopt [Section 116]", their argument simply is mystifying. It is not at all clear what they regard this "ground" of Higgins to be. Grammatically, it would seem that the "ground" which they attribute to Higgins, as one of his reasons for seeking to incorporate United States first amendment provisions relating to religion into the Australian Constitution, was the "necessity" of these provisions. But not only is this an odd, in the sense of question-begging, reason; more fundamentally, it is not even a "reason" which Higgins, in those terms, advanced in the debate.

At times Quick and Garran do not so much perpetrate a factual error as convey a misleading impression. After summarising Higgins's arguments in favour of including a provision which, as they somewhat inconsistently but accurately put it, "clearly denied to the Federal Parliament" the "power to deal with religion in any shape and form", Quick and Garran went on to say, but without further comment, that: "These arguments were allowed to prevail."[10] Well, of course, they were. But the unargued hint is that really, they should not have been.

A final piece of misleading writing may be noted. Referring to the guarantee of religious liberty:

> A State shall not make any law prohibiting the free exercise of any religion.

which was included in the draft federal constitution handed down by the 1891 Convention, Quick and Garran remarked:

> How such a clause crept into the Bill of 1891 it is difficult to conjecture. It was rejected without hesitation by the Convention of 1898, which saw no reason or necessity for interfering with the States in the free and unfettered exercise of their power over religion. 11

One may note the one-sided rhetorical loading of such phrases as "crept into", "rejected without hesitation" and "no reason or necessity". With regard to the actual question of why the religious liberty provision "crept into" the Draft, La Nauze remarks briefly but aptly that "Inglis Clark could have told them." [12]

The most relevant feature of these errors and inexactitudes is not so much the carelessness they show, although that is food for thought, as the fact that they mislead, so to speak, in a single direction. The impression which collectively they convey is that Higgins's new clause was accepted on the basis of inexact and defective arguments; that it did not reflect a wide base of community feeling; and that, constitutionally speaking, there was something a little improper about it.

What interpretation do Quick and Garran provide of the meaning and scope of Section 116? They offer little explicit commentary on the provision relating to religious observances. Concerning the religious test provision, their most substantial point was that it was "of practical use and value". [13] With regard to the other two provisions, those relating respectively to the "establishment", and to the "free exercise" of religion, they made it clear that these provisions were based on, and were essentially reproductions of, the United States first amendment. [14] That is, Quick and Garran did not deduce from the slight terminological difference of the Australian from the United States version any sort of distinctive Australian interpretation. Indeed in this connection it is of some interest to note that when Quick himself, in his 1896 Digest of Federal Constitutions, translated the United States first amendment into eighteen-nineties legal English, he used words strikingly similar to those of Section 116. Congress, Quick then wrote, could pass "no law for establishing any religion", and "no law prohibiting any religion." [15]

How did Quick and Garran interpret the meaning and scope of the free exercise provision? Briefly, they took the view that it was only opinions and beliefs which strictly were made "free", in the sense of being placed beyond the scope of Commonwealth legislation. Religious actions of an uncivil, inhuman, or cruel nature could be regulated by the Commonwealth, if they were performed in connection with a subject about which the Commonwealth was empowered to legislate.[16]

Two crucial questions arise: Was this how the provision was understood by the United States Supreme Court? Was it the way it was understood by the Federal Convention?

So far as the first question is concerned, there can be little doubt that Quick and Garran have accurately captured the Supreme Court's interpretation at that time. That interpretation, it is generally agreed,[17] was the one laid down in Reynolds v United States (1878), and Davis v Beason (1890).[18] Quick and Garran cite both judgements. The most succinct statement of this interpretation is perhaps the following, from the Reynolds judgement:

> Congress was deprived of all legislative power over mere opinion, but was left free to reach actions which were in violation of social duties or subversive of good order. 19

However the understanding of this provision by the Federal Convention was more complex. Symon, whose personal view was that belief should be free, but that actions should not, had thought on 8 February that the free exercise provision went beyond this; that it protected religious actions as well as religious opinions. However by 2 March, perhaps having studied the United States judgements, he became convinced that it protected only opinions. Barton, in both debates, although certainly aware of the United States decisions, took the view that nevertheless the free exercise provision might prevent any

legislature from regulating religious acts of a cruel or inhuman nature. Higgins said little on this point, but may have agreed with Barton as to the scope (although disagreeing with him as to the desirability) of the free exercise provision. Inglis Clark, who was not a member of the 1897-8 Convention, was nevertheless in a certain sense part of this particular debate. For the actual words "for prohibiting the free exercise of any religion" came originally from the draft constitution which he submitted to the 1891 Federal Convention. Furthermore, in an 1897 Memorandum to the Convention, to accompany the amendments suggested by the Tasmanian legislature, Clark defined what he regarded as the meaning of this provision. In his view, equality was the key concept:

> In its present form Section 109 secures religious equality for all the citizens of a State, so far as it prevents the State from placing the adherents of any form of religion under any disadvantage or restriction in the exercise of it in comparison with adherents of other forms of religion.... 20

While Clark's "equality of State-imposed disadvantages" interpretation was not actually cited in either the 7 or 8 February, or 2 March, debates, it may still have represented the position of some of the delegates, especially the Tasmanian ones.

Of course, it does not follow from the fact that such differences of interpretation existed among the delegates, that any of them thought that what they were advancing was anything other than what the United States' free exercise provision really meant. Some may have; but in view of the general familiarity of many of the legally trained delegates with United States judicial interpretation, it is more likely that some of them thought, as indeed the United States Supreme Court today thinks, that the interpretation of this

provision in the Reynolds v United States and Davis v Beason judgements was wrong. One may note the familiarity verging on contempt with which Barton analysed the argument of the Supreme Court in Church of the Holy Trinity v United States.[21]

One can conclude that Quick and Garran's interpretation of the meaning and scope of the "free exercise" clause, while skirting some of the complexities, was nevertheless broadly defensible. However this is more than can be said about their interpretation of the meaning and scope of the no-establishment provision.

Their interpretation of this provision is based on the following definition of the "establishment" of religion.

> By [this] is meant the erection and recognition of a State Church, or the concession of special favours, titles, and advantages to one church which are denied to others. It is not intended to prohibit the Federal Government from recognising religion or religious worship. The Christian religion is, in most English speaking countries, recognised as a part of the common law. 22

The same two questions arise as before. Firstly, was this the conception of establishment which, at the time, the Supreme Court of the United States understood to be prohibited by the no-establishment provision? Secondly, was this the conception of establishment which the members of the Federal Convention thought they were prohibiting?

Before considering these two questions, it will be useful to say something as the variety of senses which the term "establishment" could at that time carry in English-speaking courts. Three fairly distinct senses can be identified, which may conveniently be termed the "strict American", the "non-preferential", and the "English". Broadly, the difference was as follows: In the "strict American" sense of "establish", a law could be said to "establish"

religion if it did one or more of the following things: If it declared, or assumed, or prescribed, adherence to any doctrine of any or every church; if it conferred public office as of right on any officer of any or every church; if it financed the charitable or educational institutions of any or every church; if it paid the salaries of the officers of any or every church; it is subsidised the erection of any building of any or every church. To do any of these things was, in the "strict American" sense, to "establish" a religion. In what has been called the "non-preferential" sense, a law could be said to "establish" religion if it produced any of the foregoing results with respect to some particular church, or group of churches, while denying it to some other churches. In the English sense, a law could be said to "establish" religion, if it conferred on any church, in a substantial way, the kind of legal and financial privileges which the Church of England in the eighteenth and nineteenth century did enjoy, but which other English churches of that time did not.

What then, at about this time, did the United States Supreme Court deem to be prohibited by the no-establishment clause? In what sense, or senses, that is, did it understand the term "establishment"? Quick and Garran clearly take the view that it was the "no-preference" view which prevailed in the United States Supreme Court. That is, Congress was permitted if it wished to assist religion in any way, so long as it did so non-prefentially. But was that really the Court's position? Three judgements are relevant. Two of them Quick and Garran could and did notice. Reynolds v United States (1878); and Bradfield v Roberts (1899). The third was handed down a few years after they wrote: Quick Bear v Leupp (1908).

Quick and Garran noticed the relevance of Reynolds v United States for the interpretation of the free exercise provision. However they did not

mention that this judgement was, in the 1890s, the locus classicus for the Supreme Court's interpretation of the no-establishment provision. In that judgement the Court accepted, "almost as an authoritative declaration of the scope and effect" of the no-establishment provision, the following statement made by Jefferson, while President, to the Danbury Baptist Association:

> Believing with you that religion is a matter which lies solely between man and his God, that he owes account to none other for his faith and worship, that the legislative powers of the government reach actions only, and not opinions, I contemplate with sovereign reverence that act of the whole American people which declares that their Legislature should 'make no law respecting an establishment of religion, or prohibiting the free exercise thereof', thus building a wall of separation between church and state. 23

Plainly, in adopting Jefferson's "wall of separation" doctrine, the Court was opting for the "strict American" rather than the "no preference" or "English" interpretation of the scope of the no-establishment provision.

The majority judgement in Bradfield v Roberts (1899) involved a more complex interpretation of the no-establishment provision. In 1897 Congress appropriated 30,000 dollars for the erection of two buildings in the District of Columbia to be used for the benefit of poor patients. The Commissioners of the District contracted to construct a building on the grounds of the Providence Hospital corporation, a corporation chartered by Congress, but consisting entirely of Catholic Sisters of Charity. This action by the federal government was challenged in the Supreme Court on the basis that it violated the no-establishment provision of the first amendment.

The court held that the District Commissioners's contract with the Providence Hospital Corporation was not in violation of the first amendment. Although the hospital was conducted under the auspices of the Roman Catholic church, and was staffed by the Catholic Sisters of Charity, the charter of its

incorporation was a purely secular one.

> Assuming that the hospital is a private eleemosynary corporation the fact that its members....are members of a monastic order or sisterhood of the Roman Catholic Church, and the further fact that the hospital is conducted under the auspices of said Church, are wholly immaterial, as is also the allegation regarding the title to its property... The facts.....do not in the least change the legal character of the hospital, or make a religious corporation out of a purely secular one as constituted by the law of its being. Whether the individuals who compose the corporation under its charter happen to be all Roman Catholics, or all Methodists, or Presbyterians, or Unitarians, or members of any other religious organisation, or of no organisation at all, is of not the slightest consequence with reference to the law of its incorporation, nor can the individual beliefs upon religious matters of the various incorporators be inquired into.
>
> Nor is it material that the hospital may be conducted under the auspices of the Roman Catholic Church. To be conducted under the auspices is to be conducted under the influence or patronage of that church. The meaning of the allegation is that the church exercises great and perhaps controlling influence over the management of the hospital. It must, however, be managed pursuant to the law of its being. That the influence of any particular church may be powerful over the members of a non-sectarian and secular corporation, incorporated for a certain defined purpose and with clearly stated powers, is surely not sufficient to convert such a corporation into a religious or sectarian body. That fact does not alter the legal character of the corporation, which is incorporated under an Act of Congress, and its powers, duties and character are to be solely measured by the Charter under which it alone has any legal existence.
>
> There is no allegation that its hospital work is confined to members of that church, or that in its management the hospital has been conducted so as to violate this charter in the smallest degree. It is simply the case of a secular corporation being managed by people who hold the doctrines of the Roman Catholic Church, but who nevertheless are managing the corporation according to the law under which it exists..... 24

Once more the court upheld a strict separationist viewpoint. Quick and Garran, citing this case, remarked only that: "An appropriation of money to a hospital conducted by a Roman Catholic sisterhood is not a law respecting an establishment of religion", thereby altogether overlooking the nuance of the actual judgement.

It is relevant too, to note in passing that at this time Congress, no less than the Supreme Court, was committed to a theoretically strict

separationism. In 1897 Congress included in its Appropriation Act for the District of Columbia a statement declaring it

> ...to be the policy of the Government of the United States to make no appropriation of money or property for the purpose of founding, maintaining or aiding by payment for services, expense, or otherwise, any church or religious denomination, or any institution or society which is under sectarian or ecclesiastical control. 25

The third relevant Supreme Court judgement, Quick Bear v Leupp (1908), also related to an alleged breach of the no-establishment provision. Certain Treaty funds, held by the federal government as trustee, had been paid to the Bureau of Catholic Indian Missions at the designation of the Indians to cover the cost of their tuition. The court held these payments to be constitutional, since they came strictly speaking from private and not public funds. However, had the payments come from public funds, it is clear the Court would have taken a different view:

> But it is contended that the spirit of the Constitution requires that the declaration of policy that the government shall make no appropriation whatever for education in any sectarian schools should be treated as applicable on the grounds that the actions of the United States were always to be undenominational and that, therefore, the Government can never act in a sectarian capacity, either in the use of its own funds or in that of the funds of others, in respect of which it is the trustee; hence that even the Sioux trust fund cannot be applied for education in Catholic schools, even though the owners of the fund so desire it. But we cannot concede the proposition that Indians cannot be allowed to use their own money to educate their children in the schools of their choice because the government is necessarily undenominational, as it cannot make any law respecting an establishment of religion or prohibiting the free exercise thereof. 26

Again, it is the strict separationist viewpoint which was held by the Supreme Court.

From this brief survey it is clear that Quick and Garran were at variance with the facts in suggesting that the United States Supreme Court

interpreted the no-establishment provision on "no preference" lines. Before turning to the question of which interpretation one should attribute to the Federal Convention, it would however be appropriate to say something as to the source of Quick and Garran's error.

What happened was that Quick and Garran linked themselves completely, and without qualifications, to an earlier "no-preference" stream of interpretation in American jurisprudence. Mainly under the influence of Judge Story, the Supreme Court in the first half of the nineteenth century had gone some way, in Terret v Taylor (1815) and Vidal v Girard's Executors (1844), [27] towards adopting the "no-preference" interpretation of the first amendment. According to Story, in his 1833 Commentaries on the Constitution:

> Every American colony, from its foundation down to the Revolution, with the exception of Rhode Island, if, indeed, that State be an exception, did openly, by the whole course of its laws and institutions, support and sustain in some form the Christian religion, and almost invariably gave a peculiar sanction to some of its fundamental doctrines. And this has continued to be the case in some of the States down to the present period without the slightest suspicion that it was against the principles of public law or republican liberty.....Probably at the time of the adoption of the Constitution, and of the amendment to it now under consideration, the general if not the universal sentiment in America was, that Christianity ought to receive encouragement from the State so far as was not incompatible with the private rights of conscience and the freedom of religious worship. An attempt to level all religions, and to make it a matter of State policy to hold all in utter indifference, would have created universal disapprobation, if not universal indignation...The real object of the amendment was not to countenance, much less to advance, Mahometanism, or Judaism, or infidelity, by prostrating Christianity; but to exclude all rivalry among Christian sects, and to prevent any national ecclesiastical establishment which should give to an hierachy the exclusive patronage of the national government. It thus cuts off the means of religious persecution (the vice and pest of former ages), or the subversion of the rights of conscience in matters of religion, which had been trampled upon almost from the days of the Apostles to the present age. 28

In Vidal v Girard's Executors he declared further, that "the Christian religion is part of the common law". 29

A recent historian, R.E. Morgan, himself a firm supporter of the idea of the "no-preference" interpretation, found himself constrained to remark that "the most interesting thing" about Story's viewpoint was "its aberrational quality....[I]t never led anywhere." He continued:

> Could later accommodationists have marshalled sufficient support in courts or legislature for their plans of supportive cooperation between governments and the churches in America, it would have been perfectly possible to reach back to Story for historical support. This has not been done however, and the Story approach sits high and dry, out of the mainstream of American constitutional law. 30

Yet it never did sit completely high and dry. In the latter half of the nineteenth century it was vigorously advocated by Thomas Cooley, in his Principles of Constitutional Law. Cooley not only asserted that "the Christian religion was always recognised in the administration of the common law", but he defined the "establishment of religion" as

> ....the setting up or recognition of a State church, or at least the conferring upon one church of special favours and advantages which are denied to others. 31

This, almost word for word, was the definition offered by Quick and Garran. One can see what Quick and Garran have done, if not necessarily why. That question will be taken up later in this chapter.

Turning now to ask whether the members of the Federal Convention interpreted the no-establishment provision in Quick and Garran's "no-preference" way, the answer is quite categorically that they did not. In the debate on 2 March, as the analysis of the preceding chapter makes clear, the no-establishment provision was uniformly regarded as securing the complete non-involvement of the Commonwealth in religious matters.

In gauging what the delegates thought, one can add to an analysis of the views they expressed a consideration of what they read. La Nauze, in

The Making of the Australian Constitution, has stated, in connection with Bryce's (1888) The American Commonwealth, that:

> In the years ahead of 1890 the cleverest and the dullest of the men of the Convention would quote Bryce to add weight to their words. The Americans themselves regarded that book highly. It taught them a lot about themselves; but to them a Federal system was "natural". Most Australians, for all the rhetoric about union, really knew little about the technicalities of Federation and the mysteries of divided sovereignty. The American Commonwealth might have been deliberately written for their instruction. It is again Deakin who speaks, but nearly seven years later: "An authority to whom we have often referred since 1890, an authority to whom our indebtedness is almost incalculable, is the Hon. Mr. Bryce." 32

What, then, did Bryce say on Church-State and Religion-State issues in the United States? "No voice," he wrote,

> ...has ever since been raised in favour of reverting - I will not say, to a State establishment of religion - but even to any State endowments, or State regulation of ecclesiastical bodies. It is accepted as an axiom by all Americans that the civil power ought to be not only neutral and impartial as between different forms of faith, but ought to leave these matters entirely on one side, regarding them no more than it regards the artistic or literary pursuits of the citizens. There seems to be no two opinions on the subject in the United States. 33

Bryce of course was not referring only, or even mainly, to United States jurisprudence. Nor obviously in the last sentence did he mean to be understood in a strictly literal way. But the implication is clearly that the legal consensus of the time was of the "strict separationist" kind.

One must conclude that Quick and Garran's interpretation of the meaning and scope of the no-establishment provision, in both the United States Supreme Court of that time and the Federal Convention, is on the evidence indefensible. In respect both to the Supreme Court and to the Federal Convention Quick and Garran have flown in the face of a massively consistent body of evidence.

But how could they have made such a mistake? Both were present during the Federal Convention - Quick as a Victorian delegate, and Garran initially as Reid's secretary, and later as assistant to the Drafting Committee.[34] Each without doubt was in an excellent position to know what happened. Indeed, that probably is the main reason why their rhetorically forceful analysis has stood virtually unchallenged for so long. It is true that each - but especially, or at any rate more evidently, Quick - was at the time firmly opposed to the line which Higgins took in proposing Section 116. Garran, in The Coming Commonwealth, published shortly before the Convention met at Adelaide in 1897, expressed considerable doubt as to whether a religious liberty provision, such as that contained in the 1891 draft, was "necessary".[35] Quick voted against Higgins's new clause. Yet what is hard to understand is the virulence of their animus towards Higgins and towards the viewpoint he represented. Especially one should ask this of Quick, since patently the style and tone of the commentary on the "recognition" amendment, and on Section 116, was Quick's rather than Garran's.

It probably is relevant that Quick was a "loyal Methodist",[36] and that from an early stage he was associated with the "recognition" movement. In his 1896 Digest of Federal Constitutions he reproduced a "patriotic and stirring" poem written by "Wm. Gay, the Bendigo poet", which began :

> From all divisions let our land be free,
> For God has made us one.

And which, after indicting Australians-in-general for their greed, pettiness, and dividedness, concluded:

> O let us rise, united, penitent,
> And be one people, - mighty, serving God.[37]

At the Bathurst Convention Quick had been one of the supporters of Gosman's "recognition" motion. In the Constitutional Committee at Adelaide, it was

Quick who proposed a "recognition" clause.

It is very likely that Quick personally felt strongly as to the religious side of federation. This strength of feeling may very well be a key not only to the distinct animus shown to Higgins, but also to the Annotated Constitution's advocacy of the "no-preference" interpretation. That, after the Melbourne Convention, Higgins became perhaps the leading Victorian campaigner against the Federation Bill, may be another key. A clear possibility, suggested by Quick's equivocal defence of Glynn's recognition proposal on 2 March, is that Quick hoped that the insertion of a "recognition" clause would enable the Commonwealth eventually to aid religion in a substantial, but non-preferential, way. Perhaps, having lost the debate, Quick in the Annotated Constitution was hoping still to win the interpretation. That is, in precisely the same way in which the National Scripture Education League was striving to interpret the "secularity" provision of the 1872 Victorian Education Act to mean that State schools should be non-denominational, rather than exclude religion altogether, so Quick was striving to interpret the no-establishment provision to mean, not strict separation, but merely that preferential assistance to denominations was prohibited. Indeed, the two moves were so similar, conceptually and rhetorically, and the former, in church circles at any rate, so intellectually respectable, that it is not implausible to suggest that Quick knew quite well what he was doing, and thought it morally and intellectually defensible.

However, this analysis of motives is in some measure speculative. What does nevertheless stand out, as beyond reasonable doubt, is that Quick and Garran's analysis of the scope and meaning of Section 116, especially of the no-establishment provision, is so often shot through with misstatement and tendentious rhetoric, that from the point of view of understanding the original meaning of this section of the Constitution it simply should be disregarded.

FOOTNOTES

1. Sydney, 1901, pp. 287-290, 951-953.

2. Ibid., p. 287.

3. Ibid., p. 951.

4. Con. Deb. Melb. 1898, Vol. 2, p. 658.

5. Op. cit., p. 290.

6. Congressional Record, Senate, 1892, Vol. 23, No. 6, pp. 5993-6004, 6042-6056, 6099. In conducting this research, the present writer unexpectedly came across, in the Victorian Public Library, a curious fragment of the 1890s events here being investigated. This library happened to hold Congressional Records for the 1890s. It was these volumes which I consulted in checking the accuracy of Quick and Garran's claim. It was soon evident that someone had been examining the Congressional debates with a similar question in mind. Many of those sections of the debate in which references were made to "religious aspects" were separated with little slips of paper; and furthermore someone had been busily underlining many of those portions in which the relation of Church and State was being discussed by the Congressmen. Who had been doing so, and when? Surprisingly, it is possible to suggest a fairly conclusive answer, because the slips of paper used to mark off these places were parts of an envelope, and about half of the postmark remained. "FIT....TH.... VIC and JA...20...98" is fairly clearly, Fitzroy North, January 20, 1898. 251 St. Georges Road, North Fitzroy, was at this time the address of the Australian Tract Society and the Echo Publishing Company. It was also the Victorian headquarters of the Adventists. Therefore, one reasonably can surmise that the letter to the reader of the Congressional Records came from the Adventists. We know that about this time Colcord, the Adventist's Religious Liberty Secretary was corresponding with Higgins. We know that at this time Higgins lived in the suburb of Malvern, not Fitzroy (Sands and McDougalls Melbourne and Surburban Directories, 1897, 1898). We know from what Higgins said on 7 and 8 February, and 2 March, that he was closely familiar with the events relating to the closing of the 1892 Chicago Exposition on Sunday. The probability therefore is that the vigorously underlining reader was none other than Higgins himself, and that he was conducting some personal research preparatory to the debate on clause 109. The point has special interest in suggesting great care on Higgins's part in preparing for the debate. The envelope fragments are now in my possession.

7. 14 July, 1892.

8. Cited in Australian Sentinel and Herald of Liberty, August, 1894.

9. The Annotated Constitution of the Australian Commonwealth, Sydney, 1901, p. 952.

10. Ibid.

11. Ibid., p. 953.

12. J.A. La Nauze, The Making of the Australian Constitution, Melbourne, 1972, p. 228.

13. Op. cit., p. 952.

14. Ibid., pp. 951-953.

15. p. 25.

16. The Annotated Constitution of the Australian Commonwealth, Sydney, 1901, p. 953.

17. See, for example, T. Cooley, The General Principles of Constitutional Law, (4th ed.), Boston, 1931, p. 260; H. Rottschaefer, Handbook of American Constitutional Law, Minn, 1939, pp. 726-727; L. Pfeffer, This Honourable Court, Boston, 1965, pp. 346-7; W. Willoughby, The Constitutional Law of the United States, (2nd ed.) N.Y., 1929, pp. 1185-1186.

18. 98 U.S. 145, (1878); 133 U.S. 333 (1890).

19. 98 U.S., (1878), pp. 249-250.

20. 'Records', G.R.G./72, Ser.12/9 (Commonwealth Archives).

21. Con. Deb. Melb. 1898, Vol. 2, p. 1738.

22. Annotated Constitution of the Australian Commonwealth, Sydney, 1901, p. 951.

23. 98 U.S. (1878), p. 249.

24. 175 U.S. 291, pp. 178-180.

25. 29 Stat. 411.

26. 210 U.S. 50 (1908).

27. 9 Cranch 43 (1815); 1 How. 127 (1844).

28. pp. 592-594.

29. 2 How. 127 (1844).

30. The Supreme Court and Religion, New York, 1974, pp. 39-40.

31. 3rd edition (1898) pp. 224-225.

32. p. 19.

33. pp. 468-469.

34. J.A. La Nauze, op. cit., p. 135.

35. pp. 172-3. Many years later Garran expressed hearty endorsement of the recognition proposal (Church of England Messenger, 9 April, 1925, p. 172. Cutting in Garran Papers, 2001, Ser. 6 A.N.L.) Garran in retirement became Chancellor of the Anglican Diocese of Goulburn (Later, Canberra - Goulburn).

36. By C. Daley, Sir John Quick, A Distinguished Australian, 1934, p. 16. L. Fredman (ed.), Sir John Quick's Notebook, Newcastle, 1965. In the latter, pp. 8-12, Quick describes with retrospect approval his youthful induction to the bible and Protestant christianity.

37. p. 18.

CHAPTER THIRTEEN

ANALYSIS OF VOTING ON THE CLAUSES RELATING TO RELIGION

In this chapter an attempt will be made to construct a religious profile of the Convention as a whole, to compare the voting on Glynn's 22 April "recognition" proposal and Higgins's 2 March separationist proposal, and to analyse each vote. The main basis for this analysis, a set of brief religious profiles - one for each delegate - is presented in an appendix. Certain familiar terms ('State', 'Church-State', 'Religion-State', 'separationist') will in this chapter carry a special technical sense. One contrived term ('coordinationist') was found necessary. Preliminary definitions are appropriate.

The term 'State' signifies civil government as such, and may refer either to the federal government or the colonial governments.

It is useful to distinguish between Church-State relations and Religion-State relations. Not every relation of a civil government to a church (for example, protecting its property from thieves) involves religion, and not every relation of a civil government to religion (for example, requiring State school teachers to read scripture lessons to pupils) involves churches.

It is also useful to distinguish between a State being related to a religion (helping it, or hindering it), and a State being religious. In formally "recognizing" God in its Constitution, and in eventually commencing its legislative sessions with formal prayers, the Commonwealth was being religious. But it was not thereby, in the usage adopted here, necessarily related to any religion.

Both distinctions are useful in clarifying what a vote for Section 116 signified. Such a vote in essence indicated opposition to the Commonwealth legislature or its executive helping or hindering either the religious activity of any church, or religious activity

as such. It did not indicate any view as to whether God should be "recognized" in the preamble; or as to whether the Commonwealth legislature and its executive were religious entities. Nor did it indicate any view as to whether, if the legislature or executive were regarded as having a religious aspect, this religiosity ought formally to be manifested in their internal workings.

A coordinationist takes a partnership view of the relation of the Church, or religion, to the State. He supports the idea that the Church (or religious elements in the society) and the State are functionally distinct but closely related parts of a greater whole. Concretely, depending on which of the partners is dominant, the greater whole will be thought of as State-like or as Church-like. The "moral policeman" idea of the function of the Church, a common theme in the late nineteenth century Australian debate on State aid to church schools, presupposed an idea of the greater whole as State-like. The "moral-person-writ-large" or "Christian people" idea of the State, a traditional theme in Protestant and Catholic social thought, presupposed an idea of the greater whole as Church-like.

A 'separationist' is one who opposes what the 'coordinationist' supports.

ANALYSIS

To construct a religious profile of the Convention as a whole, the following questions probably are most central: What were the ratios of denominational association among the delegates? Among those delegates who possessed some kind of denominational link, how many were merely nominally associated? How many were firmly connected? How many delegates, in their personal as distinct from their public lives, were genuinely committed to some religious viewpoint? More tritely perhaps: How many of the delegates were freemasons? How many were orangemen?

First, what were the ratios of denominational association (interpreting association in a broad way) among the delegates? Taking the Convention as a whole, there were, out of the fifty four delegates (ten each from New South Wales, Victoria, South Australia and Tasmania, and fourteen from Western Australia) thirty six (about 66.5%) with some sort of Anglican association. These were:

Abbott	Forrest	Kingston
Baker	Hassell	Leake
Barton	Grant	Moore
Berry	Henning	Peacock
Braddon	Hackett	Piesse
Briggs	Henry	Sholl
Brown	Howe	Symon?
Brunker	James	Taylor?
Cockburn	Lee Steere	Turner
Dobson	Lewis	Venn
Douglas	Loton	Wise
Downer	Lyne	Zeal

There were four (about 7.5%) with some sort of Presbyterian association (Reid, Walker, Gordon(?) and Fraser); four (about 7.5%) with some sort of Methodist association (Carruthers(?), McMillan, Quick and Holder); four (about 7.5%) with Catholic associations (O'Connor, Glynn, Clarke and Crowder); two (about 3.75%) with Jewish links (Isaacs and Solomon); one (about 2%) Congregationalist (Fysh); one (about 2%) Australian church (Deakin); one (about 2%) theist (Higgins); and one (about 2%) atheist (Trenwith).

When one compares these ratios with the national ratios[1] it is evident that while the Presbyterian and Methodist percentages correspond roughly, and while Judaism and heterodoxy do not differ significantly, there is a large discrepancy with respect to Anglicans and Catholics. Anglicans represented about

67.5% of the membership of the Convention as compared with about 42% in the country as a whole; Catholics represented about 7.5% of the Convention as compared with about 23% in the country as a whole. Clearly among the delegates as a whole there was a great disproportion of Anglo-Protestants; and among Anglo-Protestants a great disproportion of Anglicans.

Taken colony by colony the ratios show an interesting variation, falling into two sharply contrasting sets. On the one hand, Western Australia and Tasmania produced out of twenty four delegates the remarkable total of twenty two Anglicans. However Tasmania had only about 50% Anglicans in its population, and Western Australia only about 40%. On the other hand, New South Wales, Victoria, and South Australia produced out of their thirty delegates fifteen Anglicans (50%), four Presbyterians (about 13%), four Methodists (about 13%), two Catholics (about 7%) and five others (about 17%). Here the Anglican percentage (50%) is still well above the Anglican average for these three colonies (about 38%), but not nearly to the extent of Western Australia and Tasmania. Also, while in New South Wales, Victoria, and South Australia the Catholic percentage is still disproportionately low (7% to a population percentage of about 22%) the combined Presbyterian-Methodist percentage, about 26%, was almost exactly right.

The Anglican dominance in Western Australia and Tasmania is largely explained by, or at least correlates with, the dominance in each colony of an Anglican gentry, or would-be gentry. Such gentry groups also carried considerable political weight, although not to anything like the same degree, in the other three colonies. This helps account for the still strong but not outrageously preponderant Anglican showing there. The much greater strength of the Presbyterian-Methodist group among the delegates from these three colonies probably reflects the fact that in those colonies "town" interests, as compared with the typically more Anglican "country" interests, were relatively much

stronger than in Western Australia and Tasmania.

A further point of interest is the fact that, of the five delegates who were not either Anglican or conventional non-conformist Protestant or Catholic, four came from Victoria - Isaacs, Higgins, Deakin and Trenwith. This is an interesting pointer to or reflection of the strength of heterodox religious currents in Victoria.

A second question is: Among the fifty three delegates who had some kind of denominational association, how many were nominal, and how many firmly committed? Allowing for uncertainty in some cases, signified by interrogation marks, the result is as follows:

The denominational link (but not necessarily the religious interest) of each of the following nineteen delegates probably was fairly nominal:

Baker?	Hassell	Reid?
Barton	Henry	Taylor?
Berry?	Higgins	Turner
Briggs	Howe?	Wise
Cockburn	Kingston	Zeal
Douglas	Leake?	
Gordon	Moore	

Thirty four delegates maintained, not necessarily for religious reasons, more or less firm denominational links:

Abbott	Fraser	Lyne
Braddon	Fysh	McMillan
Brown	Glynn	O'Connor
Brunker	Grant	Peacock
	Henning?	

Carruthers?	Holder	Piesse
Clarke	Hackett	Quick
Crowder?	Isaacs	Sholl
Deakin	James	Solomon
Dobson?	Lee Steere	Symon?
Downer	Lewis	Venn
Forrest	Loton	Walker

Allowing for uncertainties in some cases, a clear but not overwhelming majority of delegates (about 64% to 36%) were at least externally good churchmen.

A third and more difficult question relates to the religious "seriousness" of the delegates. How many were sincerely committed in their personal lives to some sort of religious viewpoint? The special difficulty here is that to answer one must step behind the public man's persona; and public men often made it difficult for others to do this. In some cases we know beyond reasonable doubt that the internal spiritual condition and the outward display closely corresponded. Holder and Hackett clearly were such cases. In many others an element of doubt remains.

Of the nineteen delegates whose denominational links were fairly nominal two (Berry and Reid) probably were fairly "serious". Another four (Barton, Wise, Baker, and Kingston) probably were not. Of the remaining thirteen (Briggs, Cockburn, Douglas, Gordon, Hassell, Henry, Higgins, Howe, Leake, Moore, Taylor, Turner and Zeal) not enough was discovered firmly to classify them either way. Of the thirty four delegates whose denominational links were more or less firm twenty eight (Abbott, Braddon, Brown, Brunker, Clarke, Deakin, Downer, Forrest, Fraser, Fysh, Glynn, Grant, Holder, Hackett, Isaacs, James, Lee Steere, Lewis, Loton, Lyne, McMillan, O'Connor, Peacock, Piesse, Quick, Solomon, Symon, and Walker) probably were fairly serious. Six (Carruthers, Crowder, Dobson, Henning, Sholl and Venn) were unclear. Not one

of the thirty four on the evidence safely can be described as not serious. Of course, this may simply mean that some who really were unserious took sensible precautions to prevent this becoming known. With respect to the Convention as a whole there is therefore some reason to classify thirty of the fifty three denominationally-linked delegates as "serious", four as not "serious", and nineteen as not clear.

A final question of interest, if one concedes a religious or spiritual dimension to masonic or orange association, is: How many delegates had such connections? Nineteen, at least, of the fifty four delegates were freemasons:

Abbott	(N.S.W.)	Henry	(T.)	Peacock	(V.)
Braddon	(T.)	Holder	(S.A.)	Quick	(V.)
Briggs	(W.A.)	Isaacs	(V.)	Sholl	(W.A.)
Cockburn	(S.A.)	James	(W.A.)	Taylor	(W.A.)
Hackett	(W.A.)	Leake	(W.A.)	Turner	(V.)
Hassell	(W.A.)	Lewis	(T.)	Venn	(W.A.)
		Piesse	(W.A.)		

Only one of the fifty four can clearly be identified as an orangeman - Simon Fraser of Victoria.

Were there any significant correspondences between those who supported or opposed Glynn's 2 April "recognition" proposal and those who supported or opposed Higgins's 2 March proposal? The answer is clearly but interestingly no. Of the eleven delegates who voted for Glynn's "recognition" motion on 22 April, ten voted, one way or the other, on Higgins's 2 March proposal. Of these ten, seven supported Higgins's proposal, and three opposed it. Of the seventeen delegates who on 22 April voted against "recognition", fifteen voted one way or the other on Higgins's 2 March proposal. Of these fifteen, eleven supported Higgins's proposal and four were against.

It is noteworthy that the ratios among the 22 April voters of eventual support or opposition to Higgins's clause were almost the same among both supporters and opponents of Glynn's clause - 2.3 to 1 among Glynn's supporters; 2.75 to 1 among his opponents.

This makes clear that the issue on 22 April for most of the voting delegates was not the external relation of the Commonwealth parliament to religion, or the churches, but simply the propriety of the Commonwealth acknowledging God. When later it seemed possible that, on the basis of recent United States judicial precedents, "recognition" might actually convey to the federal parliament an implied power to legislate respecting religion, most of those separationists (including Glynn!) who had voted for "recognition" at Adelaide hastened to neutralise that possibility by supporting Higgins's separationist clause.

Was there any significant difference between supporters and opponents in the 22 April vote? A number of features need to be examined: denominational association, religious "seriousness", masonic association, Australian nativity,[2] and (artificial though such polarisations usually are) where those who voted stood on the radicalism/conservatism scale.

The distribution of denominational association is easily established. Of the eleven who voted for "recognition" five (Moore, Peacock, Turner, Howe and Zeal) were Anglicans; two (Holder and Quick) were Methodists: one (Walker) was Presbyterian; one (Glynn) Catholic; one (Isaacs) Jewish; and one (Deakin) Australian Church. Of those who voted against "recognition" twelve (Barton, Berry, Braddon, Brown, Cockburn, Douglas, Downer, Grant, Henry, Kingston, Symon? and Wise) were Anglicans. One (Gordon) probably was Presbyterian. One (McMillan) was Methodist. One (O'Connor) was Catholic, and one (Higgins) was probably nothing.

It is of interest that each group contained a wide spread of denominational associations. The only differences were that Anglicans were relatively more numerous among the "antis" (twelve out of seventeen) than among the "pros" (four out of eleven), and that Protestants were relatively more numerous among the "pros" (five out of eleven), than among the "antis" (three out of seventeen). By and large, therefore, support for or opposition to the issue of "recognition" cut across denominational association.

The relatively greater Protestant strength among the supporters of "recognition" presumably derived from affinity with or pressure from the largely Protestant organised "recognition" campaign itself. The relatively greater Anglican strength among the "antis" is harder to explain.

Religious seriousness is more difficult to estimate than denominational association. Of the eleven pro-recognitionists , seven (Deakin, Glynn, Holder, Isaacs, Peacock, Quick, and Walker) probably were fairly "serious"-about 64%. The remaining four (Howe, Moore, Turner and Zeal) were unclear. Of the seventeen anti-recognitionists , nine (Berry, Braddon, Brown, Downer, Fysh, Grant, McMillan, O'Connor and Symon) were probably fairly serious- about 53%. Of the remaining eight, three (Barton, Wise and Kingston) probably were not serious, and five (Cockburn, Douglas, Gordon, Henry and Higgins) were unclear. If this difference is significant at all, it suggests that the religiously earnest were a <u>little</u> more likely than the religiously nominal to support the formality of "recognition". The pro-recognitionists were therefore very far from holding a monopoly of religious devoutness or concern.

Four of the eleven pro-recognitionists had masonic links. So also did three of the seventeen anti-recognitionists . The percentage difference is noticeable, but far from overwhelming. No serious suggestion arises of any special link between masonic association and either support for or opposition to "recognition".

If one includes Quick and Walker (each of whom arrived in the colonies in childhood) as honorary natives, seven of the eleven pro-recognitionists (Deakin, Holder, Isaacs, Peacock, Quick, Turner and Walker) were Australian natives - about 64%. Counting Gordon (who came to the colony as a child) as an honorary native, seven of the seventeen anti-recognitionists (Barton, Brown, Downer, Gordon, Kingston, O'Connor and Wise) were natives - about 41%. The difference is clear, but not necessarily significant. It raises the question of whether, taking the "recognition" issue in its symbolic aspect, there was a stronger religious dimension to nativist as against non-nativist conceptions of Australia's future. (Of course, bearing in mind how ethnically unrepresentative the Convention was, one here only can be referring to the nativity and non-nativity of the Anglo-Protestant section of the population.)

To construct a radical-conservative scale on which to rank the delegates who voted on Glynn's proposal would be to assume concreteness and clarity in often largely rhetorical labels. There were, furthermore, many differing issues on which politicians might or might not seek change; many differing reasons why such changes might be sought or opposed. No single scale could encompass them all. However if one divides the voters on Glynn's proposal into those who generally were dissatisfied with the established social economic and political order, and those who generally found that order satisfactory, it becomes difficult to identify any radical-conservative differentiation between the respective "pro" and "anti" groups. The pro-recognitionists ranged between the moderate radicalism (to pluck a term from the air) of Deakin and Glynn, to the moderate conservatism (to pluck another) of Zeal and Walker. The anti-recognitionists ranged between the rather more sharply-drawn radicalism of Higgins, Wise and Kingston, to the moderate conservatism of Barton, Downer and Douglas.

The last matter for consideration is the voting on Higgins's 2 March

clause. One here would like to identify differentia of support or opposition to Church-State and Religion-State separation in the federal sphere. However this does not seem possible. The reason is not that some known or probable federal level separationists (such as Barton, Cockburn and O'Connor) voted against Higgins's clause. That is not a problem, precisely because such separationists can be independently identified. The difficulty is rather that among the forty one delegates who voted the number of clearly identifiable federal level non-separationists is too small to allow meaningful comparisons between that group and the separationist one.

To the twenty five supporters of Higgins's proposal, who ipso facto established themselves as federal Church-State and Religion-State separationists, must be added (at least) Barton, Cockburn, Leake, Venn, and O'Connor. Probably one should also add Symon. That gives thirty or thirty one known federal level Church-State and Religion-State separationists. Of the remaining ten who voted only two (Fraser and Quick) emerge as in some respects federal level coordinationists. The other eight (Briggs, Brunker, Crowder, Forrest, Hackett, Hassell, Walker, and Zeal) cannot confidently be classified either way. The methodological problem which arises is, that while a group of thirty or thirty one is large enough reasonably to expect that adventitious conformities will tend to cancel out, a group of two definitely is not. Common sense suggests that the fact that Fraser and Quick both were "good Protestant churchmen" is relevant to their opposition to Higgins. But beyond truisms like this (depending on common sense rather than scrutiny of the sample) one cannot safely go.

However there still are some interesting positive and negative conclusions revealed in the denominational association, religious seriousness, masonic association, Australian nativity, and radical/conservative profiles of the known federal level separationist group. For this analysis the

separationist group can appropriately be augmented by adding those members of the Melbourne session who did not vote either way on Higgins's clause, but who nevertheless can be considered federal level separationists - Reid, Turner, Solomon, McMillan and (probably) James. That (rather hesitantly including Symon) gives a basic group of thirty six.

Denominational ratios are again easy to establish. Of the thirty six known or probable federal level Church-State and Religion-State separationists, twenty three (about 64%) had some sort of Anglican association. Three (about 8%) had some sort of Catholic link; two (about 5.5%) had probable Presbyterian associations; two (about 5.5%)Methodist; two (about 5.5%)Jewish; one (about 2.75%)Congregationalist; one (about 2.75%) Australian church; one (about 2.75%) theist (Higgins); and one (about 2.75%) atheist (Trenwith). These ratios do not differ significantly from those among the entire fifty four delegates, as the following table shows:

Convention as a whole			Known Federal Level Separationists	
Church of England	66.5%		64.0%	
Catholic	7.5%		8.0%	
Presbyterian	7.5%		5.5%	
Methodist	7.5%	17%	5.5%	13.75%
Congregationalist	2.0%		2.75%	
Other (including Trenwith)	10.0%		11.00%	

This correspondence cannot however mean much, while we do not know how many of the remaining eighteen were separationists or coordinationists. Yet what can safely be concluded, regardless of the federal level Church-State and Religion-State attitude of these eighteen, is that the separationist viewpoint spread over all the denominations represented at the Convention. It was not denominationally distinctive, except possibly in the sense that some

denominations were more likely than others to produce separationists. However one cannot explore that question further without knowing more about the eighteen.

Twenty two (60%) of the known federal separationists can be shown to have been religiously fairly "serious". Among all fifty four delegates the ratio was similar: thirty (about 55%) can be shown to have been religiously fairly "serious". Ignorance of how many of the remaining eighteen were coordinationists, makes impossible any estimate of whether separationists were as a group more or less "spiritual" than coordinationists. However one can conclude that federal level separationists were more likely than not to be religiously "serious".

Of the thirty six members of the known separationist group eight (25%) had masonic associations; of the entire fifty four delegates nineteen had such links - that is, about 35%. The difference - 10% - is too small definitely to mean anything, especially in view of our ignorance of the federal Church-State and Religion-State viewpoint of most of the other eighteen. The result does at least suggest that, on the federal level Church-State and Religion-State issue, freemasonry was not distinctively anti-separationist. It does not exclude although it does not entail a close link between freemasonry and federal level separationism.

Of the thirty six members of the known separationist group, twenty one (58%) were Australian natives: Of all fifty four delegates twenty eight (about 52%) were Australian natives. The difference (in view of uncertainty about most of the remaining eighteen) is perhaps suggestive rather than significant. But it is interesting to link it with the fact that, at the Adelaide vote on "recognition", while "natives" were only six out of the seventeen opponents, they were seven of the eleven supporters. The suggestion then offered was that

"nativist" nationalism was perhaps a little more likely than "emigre" nationalism to admit of a religious dimension. The relatively high "nativist" element in the known separationist group inclines one to add that perhaps the religious dimension of "nativist" nationalism was of a lay-sponsored rather than clerical-sponsored character. It is especially interesting that four of the six "natives" who at Adelaide voted for "recognition" (Deakin, Holder Isaacs, and Peacock), voted also for Higgins on 2 March.

As suggested earlier precise ranking on a radical-conservative scale is not possible. However perhaps for certain purposes it is not necessary either. Almost every social, political and economic standpoint found a place in the separationist ranks. Alongside social "conservatives" like Lewis and Downer stood social "radicals" such as Trenwith and Higgins; alongside political "conservatives" like Cockburn and Lee Steere stood political "radicals" such as Kingston and Lyne; alongside free traders like Wise and Glynn stood protectionists such as Turner and Deakin. Federal level Church-State and Religion-State separationism spread over nearly all social, political and economic "isms", although not necessarily proportionately.

Perhaps the most interesting conclusion to be drawn from this analysis of the 2 March vote on Higgins's clause stems from the very negativity of all but possibly one of the results - from the difficulty encountered in correlating federal level Church-State and Religion-State separationism with anything but itself. Such separationism transcended specific denominational, theological, nativist, non-nativist, class, political and economic links. It reflected the zeitgeist.

FOOTNOTES

1. Denomination ratios for the Commonwealth, and in each state, are calculated on the basis of the 1901 census. Official Year Book of the Commonwealth of Australia, No. 1, Melbourne, 1908, p. 174.

2. Information provided about the nativity of delegates, here and later in this chapter, is based on J.A. La Nauze, The Making of the Australian Constitution, Melbourne, 1972, pp. 328-333.

APPENDIX TO CHAPTER THIRTEEN

RELIGIOUS PROFILES OF INDIVIDUAL DELEGATES

New South Wales

Five of the ten New South Wales delegates possessed some sort of affiliation with the Church of England - Abbott, Barton, Brunker, Lyne and Wise.

Sir Joseph Palmer Abbott was an Anglican. On occasions he was a member of the Sydney Synod. He was a high churchman, and a firm supporter of the view that Anglican children should be educated in Anglican schools. He was an enthusiastic and prominent freemason. From 1895 to 1899 he was Grand Master of the United Grand Lodge of New South Wales. On Church-State issues his position is not completely clear. In speaking on 8 February, 1898, against Higgins's proposed amendment to Clause 109, he in effect suggested that on the colonial level the State should be able for religious purposes to declare a certain day a day of rest. Hence on that level - and his "high" churchmanship points also this way - he probably was in some respects a Church-State coordinationist. He abstained from voting on either Higgins's or Symon's 2 March proposals; which leaves his Church-State views on the federal level uncertain, unless one speculatively reads his 8 February speech as implying support for some sort of federally imposed Sunday observance. He was absent during the Adelaide debate on Glynn's "recognition" proposal, but according to J.T. Walker would have supported it. So on the federal level - and a fortiori also on the colonial - he accepted the propriety of a State formally acknowledging its dependence on God.[1]

James Nixon Brunker, also a firm Anglican, was at times a member of the Newcastle Synod. He linked his churchmanship with zeal for the cause of temperance, and probably was the most "wowserish" of the New South Wales delegates. He also was an advocate of the "British Sunday".

Despite his link with the Newcastle diocese he perhaps was a low churchman. His wife was a Methodist; and the New South Wales Baptist recognitionist petitioners to the Adelaide session invited Brunker to present their petition. His views on the Church-State issue are not altogether clear. His support for legally enforcing Sunday trading prohibitions suggests that on the colonial level he was in some respects a Church-State coordinationist. He voted against Higgins's 2 March proposal, but whether for Barton's sort of reason or Fraser's is not clear. He was absent from the Adelaide debate on Glynn's "recognition" proposal, but according to J.T. Walker would have supported it had he been present. So on the federal level, and probably therefore also on the colonial, he considered it proper or at any rate permissible for the State formally to acknowledge God.[2]

William John Lyne was an Anglican, although as a child he attended a Methodist school. His image in Australian historiography has not been that of a churchman; and indeed none of the evidence gathered suggested that Lyne was personally much interested in religion. Archdeacon Boyce in a 1913 obituary article commends Lyne merely for his moral probity, and for possessing humane and liberal sympathies. The Daily Telegraph obituarist remarked that "Out of the society of men who did not understand and talk politics he found only a passing interest. He liked the races. He was fond of a first class concert." After a trip to England, probably in 1907, Lyne boasted that he saw the inside of very few churches. Thus far one has the conventional image of "Big Bill" Lyne. But there is at least in the 90's another side. Bollen without argument or explanation calls Lyne a "good Protestant". In fact, from 1891 to 1894, Lyne was a member of

the Sydney Synod. In 1900 he emerged with Brunker as a defender of the "British Sunday". Piddington, alluding to the Cavaliers' description of the parliament men, referred to Lyne as a "heavy-bottomed Christian"; by which perhaps he sought to convey an idea of stolid but unimaginative earnestness. Lyne in the nineties must be classified as a 'good churchman', and this helps make clear why he was invited by the churches to propose the "recognition" amendment in the New South Wales Legislative Assembly. On Church-State issues Lyne's views show some complexity. On the colonial level he advocated enforcement of Sunday trading restrictions, at least in most respects. But he did not actually propose this for religious reasons. Indeed, his remark on 2 March in debating Higgins's clause that Sunday observance was largely a matter of climate, suggests that his reasons were largely pragmatic and secular. However, whatever his reasons, his policy marks him as something less than a straight Church-State separationist on the colonial level. On 2 March he spoke and voted for Higgins's proposal, so on the federal level was an unqualified Religion-State and Church-State separationist. Since he personally introduced the "recognition" amendment in the New South Wales Legislative Assembly, he must be classed with those who accepted that a State should formally declare its dependence on God.[3]

Edmund Barton has been described by his biographer as a "nominal Anglican". In a sense, his whole career affirms the correctness of this; however during the 1897 campaign to elect the New South Wales delegates to the Federal Convention, Barton, sensitive presumably to the electoral weight of church "tickets", publicly affirmed his Anglicanism. On Church-State and Religion-State issues he was of course firmly separationist on both federal and state levels, as his Convention

speeches on 22 April, and 2 March, make clear beyond doubt.[4]

Bernhard Ringrose Wise's Anglicanism was perhaps even more nominal than Barton's. However the formal link remained. He was, as was Barton, born, married, and buried by the Church of England. He derived from his family and from his experiences as a student at Rugby the ideal and ethos of social service; and when studying at Oxford became associated with the work of Toynbee Hall. He also was a great admirer of J.H. Newman. In the early 80's after his return to Australia he became involved with the temperance movement, and became associated with Archdeacon Boyce. However according to his son, A.F. Wise, Bernhard was in his private views an agnostic. On the Church-State question, and less clearly on the Religion-State issue, his general approach was separationist. He spoke and voted in favour of Higgins's proposal on 2 March. On the federal level he was therefore a complete Church-State and Religion-State separationist. With respect to the colonial level his views were more complex. He in effect maintained, on 2 March, that under federation the states should be entitled to make laws relating to religious practices. But he stressed that they should in fact only intervene to secure the religious liberty of citizens, and to prevent any section of the community from imposing its religious rules or viewpoint upon any other section. Thus he was at least in a general way a Church-State separationist on that level too. He voted against Glynn's "recognition" proposal at Adelaide, which suggests that on the federal level, and probably on the colonial too, he was opposed to the State declaring its dependence on God. How strongly is not clear.[5]

Two of the New South Wales delegates were Presbyterians - James Thomas Walker and George Reid. Walker's Presbyterianism was firm.

At one time he was a member of the New South Wales General Assembly. When he died in 1923, numerous Presbyterian clerics attended his funeral. He was, he said in 1901, while seeking to persuade the Senate to open its daily sessions with prayer, one who had been "taught to acknowledge the guidance of the Almighty in all his ways". On 2 March he voted against Higgins's proposal. However there is some reason for suspecting that, good Protestant churchman though Walker was, this negative vote did not necessarily imply opposition to Church-State separation on the federal level. When Walker introduced his prayer resolution in 1901, he emphatically opposed a cleric saying this prayer. His support for parliamentary prayers, and his strong "recognitionist" stance at Bathurst and in the Convention, make clear beyond doubt that on the federal level, and therefore presumably on the colonial, he believed that the State should formally acknowledge its religious character.[6]

George Reid's Presbyterianism was rather more complex. A son of the Presbyterian manse, he had himself once considered entering the ministry. He considered himself a Protestant and a Presbyterian; but except apparently for a willingness to give talks to church youth groups on such theologically safe topics as mutual improvement, he usually put some distance between himself and organised Christianity. However Reid in 1898 declared his support for "recognition". When, furthermore, in September 1900, about 6000 annoyed Protestants gathered at the Sydney Town Hall to express their protest at aspersions which, in the presence of the Governor, had been cast by a visiting New Zealand archbishop on the moral character of the sixteenth century reformers, Reid stood prominently on the platform:

> All through his public life [he told the meeting] he tried to keep himself free from matters of a religious controversial character, but he had Scotch blood in his veins, and though he was a most unworthy member of a Protestant denomination, he would be something less than a man if he had stood by. ...

How much this indignation arose from a desire more firmly to attach the Protestant interest to the free trade party is worth asking. But conventional cynicism may sometimes mislead. Reid, among Protestant churchmen, had important advocates. The Reverend J.D. Carruthers, for example, who at the turn of the century was associated with the Evangelical Council, an interdenominational body whose main function was to co-ordinate Protestant sabbatarian and temperance agitation, many years later wrote:

> Reid's reverence for sacred things and the high ideals he cherished of individual Christian life led him to shrink from direct association of a personal sort with church life and work. But his sympathies were always in that direction.

As one might expect from the leader of a political party which always was in some measure dependent on the "Protestant vote", his Church-State and Religion-State views showed some complexity. On the State aid question he was a firm separationist, but in the 1890's in New South Wales that cost nothing. On the "local option" issue, which marginally raised Church-State issues, he succeeded during his premiership in attracting Protestant support for his party in return for little more than the promise of an open vote at some unspecified future date. He had little sympathy for the British Sunday; and it is interesting that in 1900 there was a sharp parliamentary clash on its merits between Reid and Lyne. Overall, on the colonial level, Reid was a firm but cautious Church-State and Religion-State separationist. He did not vote on Higgins's 2 March proposal, perhaps for prudential reasons, but made clear in the debate his support for the principle of Church-State separation in the federal sphere. He was absent during the Adelaide

debate on "recognition", but during the second (2 March) "recognition" debate explicitly announced his support. Thus he was on the federal level, and no doubt also on the colonial, one who believed that the State properly could declare its reliance on God.[7]

One, perhaps two, of the New South Wales delegates can be classed as Methodist. There is no doubt about William McMillan's Methodism. The son and grandson of Methodist clerics, he was educated at Wesley College, Dublin. He was in his personal life of religious inclination; and he maintained some degree of formal association with the Wesleyan church. The relationship was perhaps marred but not broken by his divorce in 1888. The work of the Methodist Seaman's Mission may have been of some special interest to him in the 1890's. On Religion-State issues his views are hard to pin down with precision. He supported Knox's 1901 prayers-in-parliament resolution in the House of Representatives, but made clear that he didn't personally much care for it and only supported it because it had strong public backing. Clearly, his inclination on Religion-State issues was separationist, but he would soon yield before a firm show of public pressure. There is also some unclearness on the Church-State issue. He refrained from voting on Higgins's 2 March proposal. However the secular tone of his 1901 prayers speech again makes it likely that, on both the federal and the colonial levels, his personal inclination on Church-State questions was firmly separationist. He voted against "recognition" at Adelaide; but later, according to Walker, was willing to support it. Hence he considered it permissible, but not specially desirable, for the State to acknowledge God.[8]

Joseph Hector Carruthers's denominational association is much more difficult to identify. Like MacMillan, he was a son of the Methodist manse. He was also the brother of the Wesleyan cleric, J.E. Carruthers. However when he died, in 1932, it is clear from the reports of his

funeral that his religious associations were by then firmly and exclusively Anglican. His death was not even noticed in the Methodist. J.E. Carruthers, in his 1922 Memories of an Australian Ministry, writes at length at one point about the career of his political brother; but makes no reference at all to his denominational loyalty. The omission is interesting, perhaps even significant, but hardly decisive. At any rate, in the 1890's Carruthers still retained some sort of link, but not necessarily that of membership, with the Methodists. At the Adelaide Convention session he presented a "recognition" petition for the Primitive Methodists. A month earlier he exercised his ministerial prerogative (he was Minister of Lands) to treat the annual Wesleyan Conference to a harbour picnic in the New South Wales Government launch. He did not vote on Higgins's 2 March resolution. Hence on the federal level his position on the Church-State and Religion-State issue is unclear. On the colonial level he was a consistent and fervent "local option" supporter: and when later he became the leader of the free traders, he sought and obtained strong Protestant political backing. But "local option" was much more a moral than a Church-State issue. Carruthers was absent during the Adelaide debate on "recognition", but later indicated his support. So on the federal level, and presumably also on the colonial, he considered it proper for the State formally to acknowledge God.[9]

The final New South Wales delegate, R.E. O'Connor was that colony's only Roman Catholic delegate. A lawyer and politician of superior ability and some independence of mind, he maintained fairly close religious and political links with the Irish Catholic segment. In January 1897 he had tried to persuade Moran not to seek election to the Convention. At Adelaide he voted against "recognition". On 2 March

he supported Symon's anti-religious-test amendment, but opposed Higgins's resolution. He regarded Higgins's proposed clause as untidy in its legal implications, and unnecessary. The Constitution already by implication prohibited the federal parliament from passing laws respecting religion. It is probable therefore that on the federal level O'Connor personally was a Church-State and Religion-State separationist. His position on the colonial level was not ascertained, but his opposition to "recognition" suggests that perhaps his separationism was not confined simply to the federal sphere.[10]

Of the New South Wales delegates one - Abbott - was a freemason. Probably seven - Abbott, Lyne, Brunker, Walker, O'Connor, McMillan, and Carruthers (perhaps) - maintained fairly firm links with organised religion. Two - Barton and Wise - didn't. Reid characteristically eludes firm classification.

Victoria

Four of the Victorian delegates were Anglican - Turner, Peacock, Zeal and Berry. Sir George Turner's Anglicanism was probably fairly nominal. He was a state school product. Although married and buried in the Church of England, his spirituality, such as it was, found greatest scope in organised philanthropy and freemasonry. In 1896-7 he was Senior Grand Warden of the Grand Lodge of Victoria. His strong opposition to introducing scripture reading in State schools marks him clearly as in that respect a Religion-State separationist on the colonial level. His remark in October 1897 that this campaign was the "thin edge of the wedge" tends also to suggest that he was a

Church-State separationist on the colonial level. At Adelaide he voted for "recognition", which indicates that on the federal level, and a fortiori on the colonial too, he was agreeable to the State formally acknowledging reliance on God. On 2 March he refrained from voting either on Symon's amendment or Higgins's resolution. However his colonial performance points to him being a Church-State separationist on the federal level. Probably he was uncertain how to decide between Barton's and Higgins's position.[11]

Alexander Peacock's Anglicanism is hard to assess, but probably was more than nominal. He like Turner was a State school product; however his family may have had strong church links. His brother became an Archdeacon! He was a keen and prominent freemason. In 1899 he became Grand Master of the Grand Lodge of Victoria. His standpoint as Minister of Public Instruction on the Religion-State question was ambivalent. An opponent of the campaign to introduce scripture reading into State schools, he nevertheless took some pride in earlier having sponsored as minister the reintroduction of the name of Jesus Christ into the School Readers. He was, furthermore, a firm advocate of religious education as such. On the colonial level he probably was on balance a moderate Religion-State separationist. However the key to this moderate separatism may not have been secularism so much as a desire to avoid taking sides between Protestants (who wanted scripture readings) and Catholics (who didn't). At Adelaide he voted for "recognition", as one would expect; so on the federal level was happy that the State formally acknowledge God. On the Church-State issue his position shows some complexity. On the colonial level he was broadly

speaking a Church-State separationist. No explicit statement by Peacock to this effect was discovered; but it was politically unthinkable at the time for any man to hold the ministry of Public Instruction who did not at least broadly endorse the principles of the 1872 Education Act. On 2 March he voted for Higgins's clause, but only after earlier having sought to replace it by Symon's religious-test-only amendment. Why he was so reluctant, and why in the end he overcame that reluctance, is not completely clear. But he did in the end align himself on the federal level with the Religion-State and Church-State separationists.[12]

The character of Sir William Zeal's Anglicanism is also not easy to assess. He spoke briefly but strongly at Adelaide in support of Glynn's proposal; and some Victorian churchmen had earlier enlisted his support in this cause. This perhaps points to some strength of church commitment. He also as President of the Legislative Council regularly opened its proceedings with prayer. However neither press obituaries nor the press reports of his Anglican funeral referred to any personal religious inclination, or to any specific church link. In the 2 March debate he voted against Higgins's clause, but did not explain why. Whether his reasons were separationist like Barton's, or coordinationist like Fraser's or Quick's, cannot be ascertained. However his strong support for "recognition" indicates that on the federal level, and presumably on the colonial, he regarded it as proper for the State formally to acknowledge God.[13]

Sir Graham Berry's Anglicanism was according to Serle tempered by some unorthodoxy of belief. He probably cannot be called a 'good churchman". However he was a firm temperance advocate and, in his own light, a religious man. On the colonial level in some respects,

and on the federal level in all, he was clearly a Religion-State and Church-State separationist. In the Victorian education debates of the 1860's and 1870's he emerged as essentially, if at times obliquely, separationist. In the 2 March debate in Melbourne he supported Higgins. At Adelaide he voted against "recognition".[14]

Simon Fraser, Grand Master of the Loyal Orange Institute of Victoria, and therefore firmly Protestant in one of the orthodox moulds, was the only Presbyterian among the Victorian delegates. A firm church link perhaps is suggested by the fact that it was "at [his] instigation that [Glynn] proposed the [recognition] amendment". It is also implied by the sabbatarian enthusiasm so strongly revealed in his bitter 2 March attack on Higgins and Wise. Fraser of course was opposed to State aid to church schools. So he was in that respect a Church-State separationist on the colonial level. In the 2 March debate, as stated, Fraser indicated his support for some measure of sabbath regulation by the Commonwealth. Insofar as this is a Church-State as well as a Religion-State issue, Fraser was in this respect both a Church-State and a Religion-State coordinationist on the federal level. His firm support for "recognition" shows that in the federal sphere, and no doubt in the colonial too, he considered it proper that the State formally avow its dependence on God.[15]

Quick was the Victorian delegation's only Methodist. He was, as noted in an earlier chapter, a "loyal" one. In his youth, he states in his Note Book, he was introduced to the Bible, Shakespeare, and Protestant Christianity. In the Preface to his 1896 Digest of Federal Constitutions he explicitly asserted a religious side to federation. He was a

prominent freemason: Master of the Zenith Lodge at Bendigo; and Secretary of the Royal Golden Arch Chapter of the Royal Freemasons. He was elected First Principal in 1902. In 1915-16 he became Deputy Grand Master of the Grand Lodge of Victoria. It is clear from the commentary on Section 116 in the Annotated Constitution that on the federal level Quick was in some respects a coordinationist on both the Church-State and Religion-State issues: Provided that the negative injunctions in Section 116, whose scope he interpreted narrowly, were not contravened, he considered that the Commonwealth could recognize religion and assist churches. Strength of commitment to the religious idea of the State, and to the formal avowal of this by the State itself, is indicated by his perseverance on the "recognition" issue.[16]

The Judaism of Isaac Isaacs was conventional but genuine. An alert upholder of the civil and religious rights of Victorian Jewry, he was equally alert to opportunities to build bridges between Jews and gentiles. He was a keen freemason, and in 1889-90 was Grand Register of the Grand Lodge of Victoria. He voted for Glynn's "recognition" resolution at Adelaide, and he was willing to introduce the recognitionist proposal to the Victorian Assembly in 1897. It is clear on the federal level, and a fortiori on the colonial, that he considered it proper for the State formally to assert dependence on God. On 2 March at the Melbourne session of the Convention he voted for Higgins's proposal, and hence was a federal level Church-State and Religion-State separationist. However he made it clear, by voting first for Symon's amendment, that in a choice between Higgins's proposal and Symon's, he preferred Symon's. His position on the colonial level, other than his defense of religious liberty and equality, was not ascertained. Of interest, as showing the

consistency of his religious libertarianism, was his well publicised 1947 critique of the United Nations decision to establish a State of Israel in Palestine. "The express terms on which Great Britain accepted the mandate", he wrote,

> were that the status of all citizens of Palestine, in the eyes of the law, shall be Palestinian, and it has never been intended that they, or any section of them, should possess any other juridical status. ... I regret that it has not been adhered to so that every race and religion in Palestine shall stand on an equal political footing on every inch of the territory. [17]

Alfred Deakin was an individual mixture of the religiously orthodox and heterodox. Shortly before the Convention - in May 1896 - Deakin had left the Spiritualists to join Charles Strong's theologically liberal Australian Church. In regard to social and educational issues Deakin often aligned with conventional Protestantism. He was not on the colonial level a through-and-through Church-State or Religion-State separationist. He was broadly sympathetic with Protestant sabbatarian views, and he was one of the leaders of the Protestant movement to break down the "arid secularism" of the State education system. Specifically, in October 1898, he had proposed to the Victorian Assembly, "that, in the opinion of this House, the State system of Education should provide for elementary, unsectarian, religious education." He sought "a further recognition of religion in our State school system". The greatness of the State depended on the good citizenship of its members, he considered, and such good citizenship in turn depended on religious influences and sanctions. He also hoped to see a time when Victorian State schools would be opened with prayer, although allowing withdrawal for conscientious reasons. He voted for "recognition" at Adelaide. His reason, as he later explained, was that good citizenship

had an irreducible religious side. However he also voted for Section 116. In the federal sphere therefore, although not the colonial, he was a Church-State and Religion-State separationist.[18]

The religious views of Henry Bournes Higgins have broadly been noted in earlier chapters. A son of the Methodist manse, he early drifted away from Methodism and indeed from Protestant orthodoxy altogether. In the 1890's he probably had no church connections, but did call himself a "Protestant". Higgins received an Anglican burial in 1929, but the obituaries and the press reports of the funeral neither suggest nor imply any personal link with the Church of England. In public at any rate he was a theist. He was, he told the Geelong electors in October 1897, "not an agnostic or atheist". A little earlier (February 1897) he expressed to the Convention electors (probably borrowing from the preface to Quick's Digest) the hope that "Australians would rise as one people, serving God". Nor was he even at the Convention unconditionally opposed to the "recognition" of God in the federal Constitution; but only if its insertion was likely to imply some power of the federal parliament to legislate respecting religion. Nor did he in the 1901 House of Representatives debate on opening its sessions with prayer speak against the proposal. He was not therefore an opponent of the religious idea of the State as such, or of the propriety of this (but only this) being formally acknowledged by the State. He certainly was however a firm Church-State and Religion-State separationist on both colonial and federal levels.[19]

The tenth Victorian delegate, William Arthur Trenwith, was the only self-proclaimed atheist in the entire Convention. Prior to

1882 he had been a member of the Sunday Free Discussion Society. When during that year the Australasian Secularist Association was formed, he became a foundation member. A trade union organiser by profession, an enthusiastic advocate of self improvement, and a leading spokesman for the "labour interest", he was in 1897-8 perhaps the most outspoken secularist in the Victorian parliament. Ideologically there was much in common between Trenwith and Higgins, so it is a little surprising that Trenwith did not speak in support of Higgins's proposal on 2 March. Of course he voted for it. Trenwith did not speak or vote on Glynn's "recognition" proposal at Adelaide, nor did he speak in the second "recognition" debate. Perhaps he had no strong feelings about the formalism involved. But his quiet response on the "recognition" issue was in sharp contrast to the vigour of his attack in 1897 on the in some ways comparable Protestant attempt to have God "recognized" (via scripture readings) in the State schools.[20]

Of the Victorian delegates four were prominent freemasons - Turner, Peacock, Isaacs and Quick. Six of the Victorian delegates possibly or probably maintained fairly firm links with organised religion - Peacock (perhaps), Zeal (perhaps), Fraser, Quick, Isaacs and Deakin. Four possibly or probably didn't - Turner, Higgins, Trenwith and Berry.

South Australia

Of all the colonial delegations at the Convention, that from South Australia was religiously the most complex, or at any rate most opaque.

Five, perhaps six, of the delegates were Anglican: Kingston, Cockburn, Baker, Downer, Howe, and (perhaps) Symon. Charles Cameron Kingston was only nominally Anglican. His stress was on the ethical

rather than the theological import of Christianity. "He was inclined to think", he stated on the eve of the 1896 education referendum,

> ... that it would be better if people did not prate so much about what they had read [he was referring to Symon's publicly declared love for Bible reading], but instilled into their lives - goodness knows he did not profess much and had no cause to - a little more of the precepts which were laid down in that Book in reference to the relation between man and man, and show in their daily lives the benefits to society of the readings in which they indulged.

Noting also his buoyant and sometimes scandalizing social life, and his general disdain for Protestantism, one never could classify him as a good churchman. In the 1896 referendum he was opposed, although not outspokenly, to the scripture reading proposal. However he was and always had been sympathetic to the capitation grant. Perhaps this was one of the reasons (the other being the allegation that he favoured Catholics in cabinet appointments) why the suggestion surfaced during the referendum campaign that Kingston was a crypto-Catholic! That was nonsense; but an interesting reflection of the antipathy between Kingston and the Anglo-Protestant establishment was the fact that after Kingston's State funeral (Anglican rite) in 1908, the bells of the Roman Catholic cathedral tolled all day, while those in the Anglican Cathedral remained silent. On the colonial level Kingston was a separationist with respect to the scripture in State schools issue, and a coordinationist (but probably for secular rather than religious reasons) with respect to capitation grants. On 2 March he supported Higgins's proposal, and so was on the federal level a Church-State and Religion-State separationist. At Adelaide he voted against "recognition". It is not clear whether this represented a denial that the State was a religious entity, or just a denial of the propriety of the State saying so.[21]

John Alexander Cockburn, a prominent and enthusiastic freemason (Grand Warden of the Grand Lodge of South Australia in 1902), was probably a fairly nominal Anglican; but the picture is not completely clear. At times he seemed to reduce religion to little more than ethics. "[A]lmost the whole" of religious teaching, he asserted in 1895 expressing a view similar to Kingston's, was "concerned with the relation of man to man". In line with this reductive approach it is not surprising to find that in 1896 he opposed introducing scripture reading in State schools. Furthermore, his well publicised (1929) English funeral and memorial service evoked no public testimony to any religious qualities. However there may be another side. In the 1896 referendum he also declared, but without explaining his reasons, that "He had always supported and still believed in the capitation grant". Probably however this stemmed from some conception of distributive justice, rather than from religion motives. On the colonial level Cockburn was thus, in some respects, a Religion-State separationist, and in others, but not necessarily for religious reasons, a Church-State coordinationist. However on the federal level on both the Religion-State and Church-State questions Cockburn clearly was separationist. At Adelaide he voted against "recognition"; and while he was one of those who voted against Higgins on 2 March this was, on his own account, not because he disapproved of Higgins's aim, but merely because he doubted the wisdom of his means.[22]

Sir Richard Baker's Anglicanism was probably nominal. Contemporary biographies mention no religious interest or commitment. Press obituaries and reports of his funeral, which was Anglican, make no reference to any personal religious association. Baker was a keen racing and club man. In the federal sphere Baker's view of the relation of

religion and of the churches to the State cannot be determined. As Chairman of Committees he had only a casting vote, so could not vote on either Glynn's 22 April "recognition" proposal, or Higgins's 2 March proposal.[23]

Sir John Downer's Anglicanism was far from nominal, although his attitude to Christian orthodoxy was at times somewhat critical. He was "profoundly reverent in spirit", one obituarist wrote: He studied the bible in a "scholarly way", and sometimes read the lesson in the Church of England service. His speeches in the South Australian House of Assembly recognition" debate, and on 2 March, identify him clearly as one who regarding religion as an essentially personal matter. Downer supported scripture readings by teachers in State schools, although without commentary by the teachers. Hence on the colonial level he supported at least some links between religion and the State. He opposed "recognition" at Adelaide, thereby indicating a basically separationist outlook. However in the subsequent South Australian Assembly debate he declared that in deference to popular feeling he would change his vote. On the colonial level Downer showed some sympathy to capitation grants, so was a Church-State coordinationist in that respect. On the federal level he both spoke and voted for Higgins's 2 March proposal. Hence on that level he was a clear Church-State and Religion-State separationist.[24]

Josiah Symon's denominational association is elusive. His early Scottish links were so firmly Baptist that he considered entering that church's ministry. When he was married however, in 1881, his marriage was in St. Peter's Anglican Cathedral, Adelaide; and his 1934 burial service was also held there. This suggests that by the 1890's Symon's links were Anglican; and this suggestion is strengthened by his friend-

ship over a very long period - about 64 years - with the Reverend Frederick Slaney Poole, an Anglican minister. Also, his children received Anglican educations. However, cutting somewhat against this is not only Symon's close friendship from about 1902 with Rev. Henry Howard of the Central Methodist Mission, but also the fact that in later life Symon gave generous endowments to the Australian Inland Mission, and to Scots College, Adelaide. Finally, in 1927 he financed the erection of a stained glass window in the Stirling Baptist church in Scotland in memory of his father. One can say that his personal religious commitment, although not perhaps any firm denominational involvement, stands out clearly. In the 1896 referendum Symon firmly supported the Scripture in State Schools League. The Bible and Shakespeare, he declared, were his favourite reading. As to the capitation grant: "He would rather have it than that they should be without the Bible in schools". He was thus on the colonial level in some respects both a Religion-State and Church-State coordinationist. However there was another side. In 1882, as a member of the House of Assembly, Symon introduced, and persuaded that House to pass, the Oaths Abolition Bill. This Bill, which then was rejected by the Council, would have allowed substitution of a declaration for the customary oath in the courts of justice. In 1929 when the issue arose in South Australia once more, Symon again supported it. The core idea of course was that no citizen shall suffer disability on account of religious heterodoxy or unbelief. Symon's proposal to the Convention on 2 March, that there be no religious tests for public offices under the Commonwealth,is fully consistent with this and indicates tenacity of personal commitment. On the federal level there is complexity too. At Adelaide he voted against "recognition", which strongly points to Symon being a federal level

Religion-State and Church-State separationist. However this is far from the impression conveyed by Symon's contributions to the 8 February and 2 March debates. More confusion (or is it clarification) is added by the fact that in a 1900 article on the Constitution Symon affirmed that "The bounds of religious freedom [were] made sufficiently wide" by Section 116.[25]

It is likely that one South Australian delegate - Gordon - had Presbyterian links; but unlikely that they were more than nominal. John Hannah Gordon was a son of the Presbyterian manse and for two years in his youth studied to enter the Presbyterian ministry. However, impressed perhaps by the then current liberal critique of Presbyterian orthodoxy, he turned instead to the study of the law. Thereafter, while the stages cannot now be traced, he seems to have abandoned Presbyterianism altogether, although a 1923 obituary comment suggested that he retained some religious beliefs of the liberal kind. He received in fact a Church of England burial. However the very ample report of the funeral (he was a judge of the Supreme Court when he died) made no reference to church connection or religious qualities. One suspects the Anglican component of the funeral was simply a polite formality. On the federal level, his approach to Church-State and Religion-State questions is clearly separationist. He voted against "recognition" at Adelaide, and supported Higgins on 2 March.[26]

James Henderson Howe, although Scottish by background and cultural association, was probably a fairly nominal Anglican. His funeral was Anglican, and that was the only church link noted. An examination of Howe's contributions to religiously sensitive debates in the South Australian parliament during the 1880's and 1890's suggests (largely ex silentio) that it was his policy to avoid publicly taking sides in religious controversies.

He voted for "recognition" at Adelaide, which indicates that on the federal level, and also presumably on the colonial, he accepted the religious idea of the State, and the propriety of the State acknowledging this. He voted for Higgins's clause on 2 March, and hence was on the federal level a Church-State and Religion-State separationist.[27]

Frederick William Holder was South Australia's only Methodist delegate. He was a good churchman - indeed a lay preacher. He was a firm teetotaller, and a freemason. His views on Church-State and Religion-State issues show some complexity. In 1896 he favoured introducing scripture reading in State schools, and so was in that area a Religion-State coordinationist. In 1896 he also supported capitation grants to church schools. He probably considered this a price worth paying in order to secure scripture reading in State schools. Hence he was on the colonial level in that respect a Church-State coordinationist. On March 2, 1898, he voted for Higgins's clause, which makes him a straight federal level Church-State and Religion-State separationist. At Adelaide he voted for "recognition", indicating that on the federal level, and no doubt on the colonial, he considered the State formally should declare its reliance on God.[28]

Vaiben Louis Solomon was one of those Jews who successfully combined institutional and personal Jewish links with close participation in the general life of the gentile community. Educated in a Presbyterian school, he sent his sons to Saint Peter's, Adelaide, and to Scotch college, Melbourne. He was at some stage a trustee of the Adelaide Jewish Ladies Benevolent Society, and he also was a keen member of the Australian Natives Association. On the colonial level he opposed both the capitation grant

and the introduction of scripture lessons in State schools, and hence was a strict Church-State and Religion-State separationist. He was ill during the vote on "recognition" at Adelaide, and so could not vote. He was in attendance on 2 March, 1898; but neither spoke nor voted on Higgins's clause. No doubt his outlook on the federal level was separationist, but he may have been unsure how to choose between the viewpoint of Higgins and Barton.[29]

Complex was Glynn's religious position. He was of Irish Catholic background, with a sister in religious orders. He was a regular attender at mass, and a champion of the claim of Catholic parents to receive capitation grants. He was, perhaps the most eminent Roman Catholic in South Australian public life - on the surface a model Catholic. He was a teetotaller. But he diverged from the "good Catholic churchman" norm in two important respects. First, he did not, at least in the federal sphere, share the Leonine dream that Christianity become "the law of the land". Second he personally was worried at times, as his diary and letters to his family make clear, by severe doubts as to the intellectual validity of Catholicism. His speeches in support of "recognition" at Adelaide and Melbourne show that he considered that all governments formally should acknowledge God as Author and Sustainer. His long-term and firm support for capitation grants makes clear that on the colonial level he supported at least some links between Church and State. However his appeal largely was based on non-religious arguments - such as the rights of parental conscience, the benefits of educational variety, and the dictates of distributive justice. His support of Higgins's 2 March proposal indicates that on the federal level he was both a Church-State and Religion-

State separationist.[30]

Two of the South Australian delegates - Cockburn and Holder - were freemasons. Five - Downer, Symon (probably), Holder, Solomon and Glynn - maintained fairly firm links with organised religion. The other five didn't.

Tasmania

Eight of the Tasmanian delegates were linked in some way with the Church of England.

Sir Edward Nicholas Coventry Braddon was Anglican by background, and was also a freemason. He can be classed as a loyal but somewhat independent minded churchman. He was a member of the 1896 synod. But late in that year differed sharply from Bishop Montgomery on the issue of allowing Tattersalls Lottery to operate in the island. When Church-State and Religion-State issues arose in Tasmanian politics, Braddon's approach was broadly separationist. For instance, in 1885, in discussing an attempt to introduce State aid to Tasmanian denominational schools, he declared that while "Christian teaching" must be "the basis of education", nevertheless the State "did its share of the education of the children by providing a secular education". He added that "it was not part of the duty of the State to impart dogmatic teaching". This rather was the task for the home, the Sunday school, and the minister of religion. He supported Higgins's 2 March proposal, and was thus on the federal level a Church-State and Religion-State separationist. He voted against "recognition" at Adelaide. In his case this suggests, not a denial of an ultimate religous dimension to

federation, but of the propriety of the Constitution acknowledging this.[31]

Henry Dobson's Anglicanism probably was more than nominal. He was educated at the Hutchins (Anglican) school. He showed some interest in temperance reform. At his 1918 funeral, held at St. David's cathedral, clergy from St. George's and All Saints, as well as from the cathedral, officiated. This suggests some firmness of organisational connection, at least towards the close of his life. Dobson, in 1901 and 1902, as a member of the House of Representatives, tried hard despite strong church protests to push through a bill to establish uniform and secularized marriage and divorce laws for the Commonwealth. The Church News, the Tasmanian Anglican journal, took him severely to task. The implication is perhaps that while Dobson probably was a churchman, he was like Braddon a rather independent-minded one. His views as to what should be the relation on the colonial level between religion and the State, and the churches and the State, are difficult to determine. But since he was one of those who voted in 1897 to extend rail travel concessions to children who attended church schools, he cannot be classified as a strict Church-State separationist. On 2 March he voted for Higgins's proposal, and hence on the federal level was a strict Church-State and Religion-State separationist. He did not vote or speak on Glynn's "recognition" proposal at Adelaide, but did vote for it in the subsequent House of Assembly debate. So on the federal level, and probably therefore on the colonial as well, he accepted it as proper that the State formally acknowledge its reliance on God. But he may have done so reluctantly.[32]

Neil Lewis was a strongly committed Anglican. Indeed in 1898 he became a member of the Diocesan Council. When he died in 1935 it passed a resolution of regret. Lewis was also a prominent freemason.

In 1890 he was one of the founders of the Grand Lodge in Tasmania. In July 1897 he voted against granting free rail passes to pupils at church schools, which suggests that on the colonial level he was a Church-State separationist. He voted for Higgins's 2 March proposal, which indicates that he was a Religion-State and Church-State separationist on the federal level. He voted against "recognition" at Adelaide, and also in the House of Assembly a few months later. Very much as with Braddon, this would have meant, not a denial of the religious character of the State as such, but rather of the propriety of the State formally declaring this.[33]

John Henry's Anglicanism was probably nominal. His funeral was Anglican, but press obituaries and funeral reports refer to no religious qualities or connections. Nor was his death noticed in the Anglican Church News. He was a prominent freemason in the Irish Constitution. On Church-State issues he was fairly strictly separationist. In the July 1897 Tasmanian debate on free rail passes for church school children he was a forthright advocate of Church-State separation. Not surprisingly, on 2 March he voted for Higgins's resolution, thereby indicating that on the federal level he was both a Church-State and a Religion-State separationist. He voted against "recognition" at Adelaide, and later in the House of Assembly debate. Whether this expressed a denial of the religious idea of the State, or just a denial of the propriety of a State formally avowing this, is not clear. Probably the latter.[34]

Nicholas John Brown's Anglican connection was firm. He earned a detailed obiturary in the Church News. Indeed he was a subscriber. He was educated at the Hutchins School. On the colonial level he probably was a Church-State separationist. In 1885 he voted against the "payment

by results" amendment which would have restored State aid. On the federal level he voted for Higgins's 2 March proposal, and was therefore a strict Church-State and Religion-State separationist. He voted against "recognition" at Adelaide, and also a few months later in the Tasmanian House of Assembly debate. Probably he considered an avowal of dependence on God by a State to be, not untrue, but improper.[35]

William Moore's Anglicanism may have been fairly nominal. Neither press obituaries nor press reports of his 1914 Anglican funeral point to any specific religious interest or connection . He supported Glynn's "recognition" proposal at Adelaide, and also in the Tasmanian Legislative Council debate in August later that year. Justifying the latter, he stated: "As God presides over their destiny they should acknowledge it." He probably was a Church-State separationist on the colonial level, since he was one of those who in 1885 supported the secularity of the Tasmanian education system. He was also in some respects a Religion-State separationist on that level. In August 1897, in the Legislative Council, he voted for Inglis Clark's State level separationist amendment to clause 109. On the Federal level he clearly was a Church-State and Religion-State separationist since he supported Higgins's 2 March proposal.[36]

Charles Henry Grant's Anglicanism was firm, but somewhat individualistic. He was a member of Holy Trinity, Hobart. After his death the Church News noted that, although "not very directly identified with the actual work of the diocese", Grant nevertheless gave his "substance for the church's cause." It perhaps revealingly added: "Scouting for the moment any thought of theological controversy, [he left] the inspiration of a bright example." Grant supported Higgins's 2 March proposal; and he voted against "recognition" not only at Adelaide but later in the Tasmanian Legislative Council debate. On the federal level he thus emerges as both

a Church-State and Religion-State separationist of the strongest kind. On the colonial level the situation is more complex. Grant was one of the Legislative Councillors who in August 1897 voted against Inglis Clark's State level separationist amendment to Clause 109. However neither he nor any of the other Councillors stated their reasons; and it is a moot point whether his objection was to colonial-level separationism as such, or (as Barton's might have been) simply to legislatively spelling out an accepted separationist convention.[37]

Adye Douglas was Anglican only in the most nominal sense. He sometimes attended formal gatherings of the church, and received an Anglican funeral. But he once virtually described himself as a "reverent agnostic", and declared "his own belief" to be "first in the love of God and then in one's neighbour." He was a firm and consistent Church-State and Religion-State separationist, on both federal and colonial levels. In 1867 he had been closely involved in the attempt to abolish State aid without compensation. In 1885, when premier, he firmly resisted church inspired efforts to restore State aid by the "payment by results" scheme. Religious instruction, he considered, was best left to parents, to day schools, and to ministers. It was furthermore "better for the community that the State should give moral secular education." In the 22 April and 2 March debates, and in the Tasmanian Legislative Council, he strongly opposed "recognition". He thought it hypocritical and improper. He also supported in the Council Inglis Clark's State-level separationist amendment. On 2 March he voted for Higgins's federal level separationist proposal.[38]

Sir Philip Fysh was the only Congregationalist at the Convention. He belonged to that "class of man", wrote an obituarist in 1919, "who

did not wear their heart on their sleeve." For many years he was a Sunday school teacher at the Davey Street Congregational church, and he was a "most faithful" adherent of that church. On Church-State issues his attitude on the colonial level was broadly separationist. In 1885 he voted against Lucas's State aid amendment. On 2 March he voted for Higgins's proposal, and hence on the federal level was both a Church-State and Religion-State separationist. On the question of whether the Commonwealth should formally acknowledge God his views were complex. At Adelaide he had voted against "recognition", but in the subsequent Tasmanian House of Assembly debate he announced that he would change his vote "out of respect to the opinions and conscientious scruples of a large number of his fellow subjects." However, and this gives an indication of his real view, he had told the Adventists in an interview shortly before the House of Assembly debate that he wished them well and that his sympathies were with them.[39]

Matthew John Clarke was a Roman Catholic. He once described himself as an "averagely pious man"; but his obituaries indicate a firmer attachment to the church than this suggests. In 1897 he supported the granting of rail passes to church school children. Hence on the colonial level he was not a Church-State separationist. On 2 March, 1898, he voted for Higgins's proposal, indicating that on the federal level he was both a Church-State and Religion-State separationist. He was not present during the Adelaide "recognition" debate; but advocated "recognition" although without much enthusiasm in the subsequent House of Assembly debate. To pass it, he said, "would be a matter of expediency, if nothing else." So on the federal level, and presumably also on the colonial, he was willing that the State's reliance on God formally be acknowledged.

Yet he was less than enthusiastic. As with Glynn, there are with Clarke hints of the voluntarist.[40]

Three of the Tasmanians had masonic links - Braddon, Lewis, and Henry. At least six - Fysh, Clarke, Braddon, Brown, Grant and Lewis - had fairly firm links with organised religion. Perhaps one could add a seventh, Dobson. At least three - Henry, Douglas and Moore - seem to have lacked such links.

Western Australia

There are fourteen Western Australian delegates to consider. Between the Adelaide and Sydney sessions of the Convention the retirement of Taylor, and a colonial election, caused Taylor, Piesse, Loton, and Sholl to be replaced by Briggs, Crowder, Henning and Venn. Of these fourteen, thirteen were Anglicans. The fourteenth, Crowder, was the Convention's fourth Roman Catholic.

Sir John Forrest was involved with the organisational life of the Church of England, although estimates differ as to the quality of his personal piety. He was on occasions a synodsman; and it was claimed by Archbishop Riley at Forrest's funeral that he was a regular student of the bible. On his expeditions of discovery Sunday was 'bbserved", and he read Divine Service. On Church-State issues his views are not completely clear. Up to 1895 he supported State subsidization of both churches and church schools. In that year, responding to strong separationist sentiments in the electorate, he reluctantly proposed abolition of both forms of State aid. By 1897-8 on the colonial level one could classify Forrest as a coordinationist at heart, but a separationist in practice. In the 2 March debate Forrest voted against Higgins's proposal,

but whether for Barton's sort of reason or Fraser's, or some other, is not clear. He was absent from the Adelaide debate on "recognition", as were all the West Australians, but did vote for it in the subsequent Western Australian Legislative Assembly debate. So on the federal level, and presumably also on the colonial, he was agreeable to the State formally acknowledging God.[41]

John Winthrop Hackett, editor of the West Australian, lover of knowledge and nature, was an active and devout Anglican. At times he was a synodsman. He also was a prominent freemason. Religiously he was a voluntarist. The church, he considered, should avoid State links. His attitude to Church-State issues on the colonial level was firmly separationist. In 1895 he was one of the leaders of the move to abolish State aid to church schools. However one must ask whether it was more the fact that nearly all the schools receiving aid were Catholic, than that they were church schools per se, which lay closer to the heart of Hackett's stand. On the federal level one probably should regard him as a Church-State and Religion-State separationist. He voted against Higgins's clause on 2 March; but bearing in mind his stand on State aid, he probably did so for Barton's rather than Fraser's reasons. His attitude to the "recognition" issue could not be traced. He did not declare himself in the Legislative Council. The West Australian took no editorial position, and published letters on both sides.[42]

Another firm Anglican was Walter James. In 1897 he was a member of the Perth Synod. He was a freemason. It is perhaps relevant to note that in an 1899 letter to Bernhard Wise, a close friend, James referred forward to the time when he would die as "the time when the Lord sends

for me". Such a locution is scarcely intelligible except as coming from someone of genuine religious sensibility. In later life (he died only in 1943) he became legal advisor to the diocese. In 1892 he declared that "politics can tolerate no religion ... the State is made for the people and not any religious body." In 1895 he was a firm opponent of State aid. Probably he was both a Church-State and Religion-State separationist on the colonial level. He was not present during the debate on Higgins's 2 March proposal, but his 1895 opposition to State aid rather suggests that on the federal level he was a Church-State and Religion-State separationist. James moved the "recognition" amendment in the Western Australian Legislative Assembly, but his approach showed unusual features. The text of the Assembly resolution,"... grateful to Almighty God for their Freedom, and in order to secure and perpetuate its blessings", had a clear separationist ring. His speech, furthermore, was qualified and apologetic. Not only did he declare his personal support of "recognition" to be conditional on the presence in the Constitution of Section 109; but he added that in his own view it would have been better not to have raised the "recognition" question. However since it had been, they should support it to avoid the imputation of atheism.[43]

Robert Fredrick Sholl attended only the Adelaide Session. The Sholls were a leading Anglican family, one of "the six". But it is not completely certain that Sholl was closely involved with the church. He was personally acquainted with Bishop Riley, but this could have been because he and Riley both were members of the St George's masonic lodge, or because Sholl's wife and the Sholls generally were such firm Anglicans. He took a strong separationist line in the 1895 debate on

the Ecclesiastical Grants Abolition Bill, which indicates a separationist Church-State outlook on the colonial level. Had his vote been called for on the Church-State and Religion-State issue at the Convention, one reasonably could have expected him to respond as a separationist.[44]

The quality of Albert Young Hassell's Anglicanism is hard to assess. No direct evidence of close personal Anglican involvement was noted, although in 1897 his wife was a "working associate" of the Anglican Girls' Friendly Society. Hassell was a "keen racing man", which perhaps assorts ill with good churchmanship. He was an enthusiastic freemason. In 1895 he supported the principle of State aid to church schools, but possibly his reasons were more sentimental and secular than theological. On 2 March Hassell voted against Higgins's clause, but did not explain his reasons. On the evidence, they may have been coordinationist.[45]

William Thorley Loton attended the Adelaide session only. Businesslike and devout, he was closely involved in the organisational side of Anglicanism. When he died in 1924, it was stated that when he and his wife could not attend the Sunday service at St Georges, they read the Divine Service to themselves. In 1897 he was a member of the synod, and for some years had been a diocesan trustee. Although naturally a proponent of religious education as such, in 1895 he opposed State aid to Church schools. While this may reflect anti-Catholic more than secular motivation, one still must on balance classify Loton on the colonial level as a Church-State separationist. Had a Religion-State or Church-State issue arisen while he was a delegate at the Convention, one would have anticipated a separationist response.[46]

Frederick Henry Piesse was a delegate only at the Adelaide session.

He was a firmly committed Anglican. He was also a temperance advocate, and a freemason. In 1897 he was a member of the Perth Synod. At his funeral in 1912 Piesse was described as "a worthy Christian gentleman", who held "the fear of God in his heart." In 1895 he expressed regret at the abolition of State aid to churches. In some degree, at least on the colonial level, Piesse was sympathetic to the coordinationist view of Church-State relations. Piesse voted for "recognition" in the Legislative Assembly debate, as one would expect. Clearly, on the federal level, and no doubt also on the colonial, Piesse endorsed the religious view of the State, and the propriety of the State formally avowing this.[47]

Harry Whitall Venn attended the Sydney and Melbourne sessions only. His Anglicanism was probably more than nominal. He was associated with the Anglican church at Dardanup, and received an obituary in the (Anglican) Church Chronicle. He also was a generous contributor to church funds. He was a freemason. On the Church-State issue he should on balance be called a separationist. In the early 1890's he was one of the leading opponents of State aid in the Western Australian parliament. In the 2 March debate he voted against Higgins's clause; which probably means that he was a federal level Church-State and Religion-State separationist of Barton's rather than Higgins's kind. He supported "recognition" in the Legislative Assembly debate. He therefore believed that on the federal level, and presumably also on the colonial, the State should acknowledge God.[48]

Sir James Lee Steere was a firm Anglican. During the 1890's he was a member of the Perth Synod. His view on Church-State and Religion-State relations on the colonial level are surprisingly difficult to discover. On the federal level he voted on 2 March for Higgins's clause,

indicating that at least on the federal level he was a firm Church-State and Religion-State separationist. He supported "recognition" in the Legislative Assembly, showing that on the federal level and probably on the colonial he considered it proper that the State acknowledge its reliance on God.[49]

George Leake's family had very strong Anglican connections. His sister was the wife of Bishop Barry, Riley's predecessor. At Leake's State funeral (Anglican rite) his family took communion. But it is not evident that Leake himself was more than nominally Anglican. In neither the press obituaries (which as he was premier when he died were extremely detailed), nor in the very full press reports of the proceedings during the funeral, was reference made to church membership or any religious interest. He was a member of the Committee of the Western Australian Turf Club. He also was a freemason. On the colonial level, he was a Church-State separationist. "Here in this country", he asserted during the 1895 debate on abolishing State aid to Church schools, with perhaps more than a hint of anti-Catholic animus, but with a basic secularity of outlook, "where there is no State church, it is a fallacy, and it is highly improper, to support, by a grant out of public funds, a system of religion which will be advanced solely in one particular direction." In the 2 March debate he voted against Higgins's clause. But probably this just means that on the federal level he was a separationist of Barton's kind. In the Legislative Assembly debate on "recognition" he abstained from voting, but in his brief speech made it clear that he did not like the proposal. Whether his dislike arose from some form of religious voluntarism, or from rejection of the religious idea of the State as such, is not clear. One suspects the latter.[50]

Henry Briggs attended the Sydney and Melbourne sessions only. His 1919 funeral was Anglican, but no reference was made in press obituaries, or in the reports of the funeral, to any organisational link with the Church of England, or to any religious interests. He had come to Fremantle from England in 1882 as headmaster of the Fremantle Grammar School. Such an appointment would hardly have been offered to a man without some religious commitment, but it is hard to see Briggs' Anglicanism as deep running. He was a prominent freemason. Indeed freemasonry may fundamentally have been his religion. Freemasonry made men feel, he once stated, that "mystic tie which made them links in a chain of life and light." On Church-State issues his position is difficult to discover. On 2 March he voted against Higgins's clause, but it is not clear whether he did so as a separationist who thought Higgins's clause redundant, or as a coordinationist who considered it undesirable.[51]

John Howard Taylor, wealthy Coolgardie stock and sharebroker, attended the Adelaide session only. He was born a Quaker. His 1925 funeral was Anglican. In the 1890's he probably should be classified as Anglican, but nominal. He was a sportsman, club man, and a keen freemason. After he lost his fortune he spent his last years as Secretary of the Melbourne Club and playing bridge. No evidence whatever was obtained as to his views on the proper relation of the churches and the State, or religion and the State.[52]

Andrew Harriot Henning attended the Sydney and Melbourne sessions only. He received his secondary education at Prince Alfred College, a South Australian Methodist school. Late in life he became a keen "old boy". In Western Australia he was an Anglican, but how firmly connected is not clear. He died in 1947, but his period in the public limelight had so long passed by, that no press obituary or funeral report appeared. No evidence was obtained as to his views on Church-

State and Religion-State relations on the colonial level. However on 2 March he voted for Higgins's clause, so can be considered a Church-State and Religion-State separationist on the federal level.[53]

Frederick Thomas Crowder, cordial manufacturer, West Australia's only non-Anglican delegate, and also West Australia's only Catholic representative, attended the Sydney and Melbourne sessions only. He received a Catholic funeral in 1902. His death and funeral were noted in the West Australian, and an obituary article also appeared in the (Catholic) W.A. Record. In none of these reports was any suggestion made as to personal piety or church involvement. But the fact that an obituary appeared at all in the W.A. Record indicates that Crowder's Catholicism probably was more than nominal. His Church-State and Religion-State views on the colonial level have not been discovered. On 2 March he voted against Higgins's clause, but did not state why. Recalling however that Glynn and Clarke, who supported Higgins, were federal level separationists, and that O'Connor, who voted against him, probably was too, it would be unwise to suggest that, simply because Crowder was a Catholic, his opposition to Higgins was likely to have been for coordinationist reasons.[54]

Nine of the Western Australians had masonic links - Hackett, James, Sholl, Hassell, Piesse, Venn, Leake, Briggs and Taylor. At least eight - Forrest, Hackett, James, Loton, Piesse, Venn, Lee Steere and Crowder - had fairly firm links with organized religion. The other six - Sholl, Hassell, Leake, Briggs, Taylor and Henning - were unclear.

FOOTNOTES

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2. A.D.B., Vol. 3, pp. 278-9; J.D. Bollen, Protestantism and Social Reform in New South Wales, 1890-1910, Sydney, 1972, p. 102; Martin, A.W. and Wardle, P., Members of the Legislative Assembly of New South Wales, 1856-1900, Canberra, 1959, p. 23; Newcastle Morning Herald, 8 June, 1910; Methodist, 11 August, 1894; Presbyterian Monthly, June, 1897.

3. P. Serle, Dictionary of Australian Biography, Sydney, 1949, Vol. 1, p. 52; A.B. Piddington, Worshipful Masters, Sydney, 1929, p. 59; J.D. Bollen, "The Protestant Churches and the Social Reform Movement in New South Wales, 1890-1900", Ph.D., University of Sydney, 1966, p. 259; Proceedings of the Diocese of Sydney, 1894-6; D.T., 4, 6, August, 1913; Protestant Banner, 30 October, 1897; Presbyterian Monthly, June, 1897; J.T. Walker Press Cuttings, Vol. 37, M.L.; P.D., New South Wales, Vol. 104, p. 1529, Vol.107, p. 4745, p. 4993; Vol. 108, p. 6009.

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5. J.A. Ryan, "B.R. Wise: an Oxford Liberal in the Free Trade Party of New South Wales", M.A., University of Sydney, 1965; Illustrated Sydney News, 20 May, 1883; Morning Post, 25 September, 1916.

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9. S.M.H., 23 July, 1897, 13 December, 1932; Methodist, 11 August, 1894, 20 March, 1897.

10. J.A. LaNauze, The Making of the Australian Constitution, Melbourne, 1972, p. 100; J.M. Mahon, "Cardinal Moran's Candidature", Manna, No. 6 (1963), pp. 66-7.

11. Age, 14, 16, August, 1916; Argus, 14, 16, August, 1916.

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23. South Australian Register, 20, 21 March, 1911; Adelaide Advertiser, 20 March, 1911.

24. Adelaide Advertiser, 3, 4, August, 1915; P.D.,South Australia, 1890, p. 1810.

25. Australian Encyclopedia, Sydney, 1958, Vol. 8, pp. 405-6; South Australian Register, 13 April, 1896; Adelaide Advertiser, 31 March, 1934; Sir Josiah Symon Papers, M.S. 1736, A.N.L., especially Ser. 1, correspondence between Symon and Revs. W. Charteris, H. Howard and F. Slaney-Poole; Ser. 13; and Ser. 29, Item 454; Lady Symon papers S.A.A., F. Slaney Poole to Lady Symon, 27 March, 1934. Sir Josiah Symon possessed at his death a wide ranging and fairly select collection of religious and theological books. (Josiah Symon Collection, S.A.P.L.).

26. South Australian Register, 24, 27 December, 1923.

27. South Australian Register, 6 February, 1920; information supplied from Registry of the Diocese of Adelaide.

28. P. Serle, Dictionary of Australian Biography, Sydney, 1949, Vol. 1, pp. 440-1; South Australian Register, 8 April, 1896; 24 July, 1909; Adelaide Advertiser, 26 July, 1909; P.D.,South Australia, 1890, p. 1810.

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CHAPTER FOURTEEN

TO THE REFERENDA

Before the Convention rose, the Drafting Committee slightly altered the wording and varied the order of the provisions of Higgins's new section.[1] It now appeared as Section 115, and read:

> The Commonwealth shall not make any law for establishing any religion, or for imposing any religious observance, or for prohibiting the free exercise of any religion, and no religious test shall be required as a qualification for any office or public trust under the Commonwealth.

Barton in his closing speech commended the new clause as "important"; not presumably because he liked it, but because it now was part and parcel of a Federation Bill which he earnestly hoped would prove acceptable to electors at the coming referendum. After noting that as a result of a "large agitation" the Supreme Being was now recognised in the preamble, he declared:

> It was feared that some interpretation such as has been taken up in one or two cases in America might lead to this phrase being regarded as an action taken against religious liberty. The Convention has agreed to a clause which prevents any possibility of that kind as regards the Commonwealth ... [2]

Higgins in his April address to the Geelong electors scoffed at Barton for this turnabout,[3] but Barton's reversal was of approximately the same order as his own on the question of states rights. The truth is that Barton and Higgins were in some measure moved by partisanship; Barton for the Federation Bill, and Higgins against.

The inclusion of Higgins's new clause received little or no attention in either the secular or ecclesiastical press, although for different reasons. Most of the secular dailies briefly noted the acceptance of Higgins's clause, and a few summarised the debate.[4] There was, however, little comment. The journalists and editors in question either did not see, or regarded as exaggerated, the dangers which had alarmed Higgins and Wise. The religious

journals nearly all remarked at the success of Glynn's "recognition" motion, some of the Protestant ones fulsomely.[5] Very few however even mentioned Higgins's clause. It is not hard to see why. On the one hand, Higgins's clause gave to churchmen what most were confident they already securely possessed, namely, religious liberty. On the other hand it nullified certain political possibilities, such as nationwide sabbath observance and temperance laws, which some Protestant leaders had hoped for. However it was not easy for clerics to criticise Higgins's clause without making it appear to militant separationists that Higgins's allegation of a clerical plot had substance. The Councils of churches had built the "recognition" campaign on the premise of its political harmlessness, and now could oppose Higgins's clause only at the cost of admitting that hitherto they had deceived the public. On an organisational level, there was nothing good about Higgins's clause which more militant Protestants wanted to say, yet nothing bad they were able to say.

Of course, individual militants here and there did speak out forcefully against Section 115. On 7 April in a sermon preached at All Souls, Leichhardt, the Rev. T. Holme asserted that the Commonwealth, through its rulers,

> ...must make a definite profession of the Christian religion, that is the religion of 99 out of 100 of the people; they must recognise our Lord Jesus Christ, King of Kings, and Lord of Lords as the head of it.

He was very specific as to what this would entail. The Senate and the House of Representatives would open their sessions with prayers in the name of Jesus Christ. The Commonwealth would have power to set aside days of humiliation and thanksgiving. The Commonwealth would, further, need to deal with education; "and in dealing with education it must recognise religion, for education without religion is a proved failure." It also "must deal with the observance of Sunday, because the established law of the land deals with

it, and so must recognise religion."[6]

Writing to the South Australian Register, the Rev. J. Owen declared that in his estimate the proposed Constitution was "nakedly secular", and

> ... not a single real Christian can vote for the Bill in its present state. Clause 115 forbids them to do so. It would be to affirm the principle that all religion is just a matter of human opinion, and that a State under the Crown - a part after all of Christian England - can get along quite as well without the religion of Christ as with it.[7]

Back in April 1897 a South Australian, C.H. Goldsmith, had announced, with regard to the Constitutional Committee's rejection of Quick's "recognition" amendment, that if no further steps were taken "the loyal servants of God will know what to do when the referendum takes place."[8] Then he was prophetic, one of the first of many voices. Now once more he entered the journalistic fray. What, he asked, did the "establishment" and "religious observance" provisions really mean?

> Are they intended to imply the 'non-recognition' by the State of the Christian Sabbath, as a day of rest or worship, as at present? And that as far as the Commonwealth is concerned, shops and places of public amusement may be open or closed according to the will of the proprietors? The legal meaning of these clauses will greatly influence the votes of a considerable number of the electors, especially if there should be any infringement of our present religious privileges.[9]

Now, he was a voice almost alone.

On 13 June, 1898, it was reported in the press that a delegation of three New South Wales ministers, the Revs. Spear (Anglican), Sharkie (Wesleyan), and Herford (Congregational) waited on Reid, the New South Wales premier, seeking his support for the omission of the establishment and religious observance provisions.[10] However a couple of days later it was further reported that Sharkie and Herford had "emphatically" protested against

> ... the report as furnished by the Rev. Mr. Spear (Anglican). They say they were not present when the deputation was introduced, nor do they agree with the amendments proposed by the deputation, but are in perfect accord with every word contained in clause 115 in its original form.[11]

The Protestant clerical consensus was no longer on the side of the turbulent ones. Not only was the Section 115 issue now an embarrassing one; but since God had been "recognised", many clerics felt duty bound to support federation. Indeed, many obviously were coming to enjoy their new role as spiritual adjunct to the federation movement. Within the now more "spiritualised" ranks of the federal movement, a new solidarity developed. Old antipathies were softened or glossed over. Barton declared on 19 April in the Sydney Town Hall that: "God means to give us this Federation."[12] The Victorian Council of Churches announced in May as one reason why electors should vote for the Federation Bill, that it carefully guarded "the civil and religious rights of every member of the Commonwealth."[13] The Australian Christian World repudiated Owen's claim that the inclusion of Section 115 made it impossible for Christians to vote for the Bill: "To ordinary minds", it declared "[Section 115] declares for religious freedom, and surely that is not a reason why Christians should reject the Bill."[14] A Federation Sunday, furthermore, was observed shortly before the referendum in a large number of non-Catholic churches in Victoria, South Australia and Tasmania.

Yet there was, from the federal viewpoint, a crucial absentee from the clerical ranks - Cardinal Moran. Of the four colonies which, in accordance with the programme set out in the Enabling Acts, were submitting the Federation Bill to referendum, Victoria, South Australia and Tasmania could be regarded in advance as safe for the Bill. However New South Wales, which contained influential and vocal anti-Bill elements, was the vital colony. There, the parliament had stipulated that for a referendum to be deemed to have endorsed the Draft Bill, not only was a majority necessary, but

the affirmative vote had to reach 80,000. This meant that in New South Wales the "Billites" (as they came to be called) needed not simply to win, but also to attract the votes of at least 30% of the electorate - no mean feat on such a technical issue as federation. In practical political terms, the Billites needed to tap or generate strong popular feeling for federation; and this in turn meant that for the "Anti-Billites" their best hope of defeating the Bill lay in stirring up or creating popular fears and anxieties. In consequence of the resultant populist character of the New South Wales contest, and also of the fact that the vote well could be a close one, the attitude of the New South Wales churches became vital. One way or the other, their attitude could prove the decisive element.

In the event, Protestant churchmen in New South Wales mostly supported the Bill, although in consequence of its highly controversial character they tended not to express their support organisationally. The New South Wales Council of Churches, for instance, unlike the Councils in Victoria, Tasmania, and South Australia, took no official stand; and at the New South Wales Presbyterian Assembly held in May, 1898, a resolution affirming support for the Bill failed to pass.[15] It was, rather, as individuals that New South Wales Protestant clerics mostly expressed their support for the draft Bill. For instance, at the April meeting of the Central Federation League, Archdeacon Boyce was present, and the Reverend S. Tovey successfully moved that: "The ministers of religion ... be further solicited to urge on all citizens prior to the referendum the great desirability of every elector exercising his voting right."[16] In May, 1898, the prominent Victorian Congregationalist, the Rev. Dr. Bevan, an ardent federationist, conducted a well publicised speaking tour of Sydney and its suburbs in favour of the Bill.[17] Higgins many years later ruefully recalled that "churches and meeting places were open to the 'Billites', and generally closed to the 'Anti-Billites'".[18]

This largely Protestant ecclesiastical assistance gave to the Billites access in depth to the middle classes, but mostly not - and electorally this was important - to the working classes. With the working classes the Billites were clearly in trouble. The Labour Party was on balance distinctly cool about the merits of the Draft Bill; and a number of populist politicians such as Copeland, A.G. Meagher and Slattery were violently hostile to it. That was why, from the Billite point of view, Moran's participation was possibly indispensable. The Roman Catholic Church, of the major churches, enjoyed by far the most extensive and intimate contact with the working classes. But now, understandably in the light of his souring experience of the previous year, Moran was chary of becoming involved. On 11 April, 1898, he loftily announced to the press that although many had sought his personal views on the Bill, and

> ...although he had thrown his sympathies and heart into the Federation of the Churches, he did not intend to take any part in the question of material federation. [Since the political leaders of the colony were so fiercely divided] it would not be becoming to intrude his own opinions.[19]

B.R. Wise, now one of the Billite leaders, anxiously sought to persuade Moran to abandon neutrality, and to take a stand for the Draft Bill. On 13 April, combining flattery with a slight hint of warning, he wrote to Moran:

> [In the] other colonies the Heads of other churches and denominations have combined to advocate the Bill, going even so far as to set apart a special Federation Sunday, upon which the duty of union may be preached from every pulpit. In New South Wales several Protestant organisations (for example, the Western Suburbs Association of Churches) and many individual ministers have already announced their intention to actively support the Bill. Would not the abstention of the Head of the Catholic Church, be, under those circumstances, open to dangerous misinterpretation ... We politicians can do much to explain and interpret the Bill; but more remains which we cannot do unaided, viz: to awaken the hearts and stir the consciences of the people to a sense of their personal responsibility .... We must look to the clergy - Your Eminence will pardon my frankness - to teach the people to recognise that 'peace and goodwill among nations' is no idle phrase, but has a direct significance for themselves, when they are asked to give a vote.... Would it not be possible to

> urge these lessons - as your Eminence did with such triumphant success at Bathurst - without trenching upon the controversial points in the Bill?

Moran's reply was cool, but revealing:

> I beg to thank you for your criticism of the position which I have taken in regard to the present Federation project. When I took some part in the Bathurst proceedings in 1896 I hoped that the Federation question might be lifted up from the mire of political intrigue to the higher plane of genuine patriotism. My anticipations in this respect have not been realised. Looking around me at present, and considering the manner in which the question is being set before the electors of New South Wales, I feel convinced that I have adopted the right course. It amuses me a good deal to find that the Morning Herald and some prominent champions of the cause at present are troubled in that I do not interfere, which twelve months ago they abused me in every mood and tense, in public and in private, for having intervened. I do not at all reckon you among these, but the fact of their being thus troubled makes me feel the more justified in the course on which I have resolved.[20]

Revenge was sweet; and was perhaps even more so when, at the referendum on 3 June, 1898, although the Billites obtained a majority - 71,595 to 66,228 against - they came nowhere near the statutory minimum of 80,000. Most post-mortem Billite approbrium fell on the New South Wales premier, Reid, for his equivocal and half-hearted advocacy of the Draft Bill, but it is arguable that Moran was entitled to an equal share.

However by the time of the second New South Wales referendum, which was held on 20 June, 1899, to decide on a slightly revised Draft Bill, Moran had linked himself with the Billites. Perhaps patriotism triumphed over pique. At any rate, his public intervention, at a comparatively late stage of the second campaign, arguably was electorally as significant as his non-intervention probably was in 1898. He proceeded as discreetly as the heated circumstances would allow. The Catholic Press, virtually the official organ of the archdiocese, published on 13 May, 1899, an interview with Moran. He there stated that although personally in favour of the Bill he would not, since the matter had "become a bitter party question", take "an active

part in the campaign". However, commented the interviewer, "the bogeys of the Anti-Billites are a great fund of amusement to the Cardinal. He is confident that only blessings can follow the acceptance of Federation on the present lines." The publication of this interview may have been electorally innocuous; but Moran's next move was not. Page 3 of the Catholic Press for Saturday, 17 June, featured a large photo of Moran, under which appeared in bold type:

A Federalist Through Good Report and Ill

THE CARDINAL

His Eminence says: "Only Blessings can follow

the Acceptance of Federation on the Present Lines."

This could not have appeared without Moran's approval. Probably it was the basis of complaints, made just after the referendum, that many priests had advised their parishioners to vote for the Bill.

At the second New South Wales referendum the Draft Bill was approved by 107,420 votes to 82,741 - a clear although less than overwhelming victory for the Billites. The winning margin of about 25,000 was sufficiently large to make implausible any claim that Moran's intervention by itself turned defeat into victory. However, as the Anti-Billite Daily Telegraph complained, the churches were "all on the one side";[21] and there is more plausibility in the claim that in the second referendum the clerical intervention as a whole tipped the balance of popular opinion in favour of the Bill. There is much evidence of a qualitative - although not quantitative - kind that the electoral weight of the clerical consensus was considerable. The pro-Bill Catholic Freeman's Journal declared editorially that: "Speaking generally, religious people were on the side of the Bill, and most potent of all the Catholic denomination."[22] Dr. McLaurin, a prominent Anti-Billite leader,

referred in his analysis of their defeat to "the influence of the dominant religious bodies".[23] Slattery made the same claim, but singled out Moran's intervention as having "had an enormous effect".[24] A.G. Meagher, in a letter to Higgins, asserted that the Anti-Billite defeat stemmed largely from two factors. One was the absence of a leader to counteract Reid (who now wholeheartedly supported the Bill) and the other was the "sectarian vote." Regarding the latter, he chiefly blamed the influence of the Anglican archbishop and "the Cardinal".[25]

How influential the churches were as a whole, or Moran in particular, will always remain in some measure conjectural. Clerical involvement may have been decisive. It must have been very influential. The key to their influence lies probably in Slattery's explanation, that the people were "perplexed", and that this gave great leverage to the clerics.[26]

A final question: What in these months did the "recognition" campaigners really seek? What on balance and looking beyond rhetoric were their true priorities? During the "recognition" campaign, the ostensible - and not necessarily insincere - objective of the Protestant campaigners had been to glorify God, and to increase thereby the expectation that in a British-Protestant sort of way, Australians would enjoy Him forever. Yet often the accessible evidence suggested or hinted that what the campaigners mainly hoped to achieve was moral and social status in the community, and power legally to regulate certain religious aspects of colonial life such as the observance of Sunday.

A telling indication during the referenda of the shallowness of clerical feeling about "recognition" was the "Post-Card Plebiscite". In April and May, 1898, the Review of Reviews organized what it called a Post-Card Plebiscite of the Federal Bill. One hundred prominent persons were asked

to indicate on a post-card whether they supported the Bill or not, and to give their reasons. Seventy-seven replied, all but two in favour of the Bill. Twenty-nine churchmen, all "prominent", were among those who replied. They all supported the Bill. Seven of the twenty-nine included some sort of religious consideration among their reasons for supporting the Bill. Only one of the seven, a Tasmanian Baptist, mentioned the recognition of God as such as a reason for voting for the Bill.[27]

FOOTNOTES

1. Con. Deb. Melb., 1898, Vol. 2, pp. 2439-2444, 2474.

2. Ibid., p. 2474.

3. H.B. Higgins, The Convention Bill of 1898: Address Delivered by Mr. H.B. Higgins, M.L.A. (Member of the Federal Convention) to His Constituents in Geelong, April 18, 1898, pp. 12-13.

4. Perhaps the fullest report was that of S.M.H., 3 March, 1898.

5. Presbyterian Monthly, April, 1898; Australian Christian World, 18 March, 1898.

6. Australian Christian World, 29 April, 1898.

7. 12 May, 1898.

8. Adelaide Advertiser, 20 April, 1897.

9. South Australian Register, 16 May, 1898. In an editorial comment this interpretation was described as "positively inconceivable".

10. S.M.H., 13 June, 1898. Age, 13 June, 1898. The ministers in question came from Milton, N.S.W.

11. Age, 15 June, 1898; S.M.H., 16 June, 1898.

12. S.M.H., 20 April, 1898. Generally, however, Barton avoided religious references in his campaign speeches. Perhaps that was because on this occasion he was rather tellingly accused of inconsistency. D.T., 21 April, 1898.

13. Southern Cross, 20 May, 1898.

14. Issue of 17 June, 1898. See also issue of 22 July, 1898.

15. S.M.H., 13 May, 1898.

16. D.T., 16 April, 1898.

17. Extensively reported in S.M.H.

18. Higgins Papers, MS. 1057, Ser. 3, Autobiography (manuscript) A.N.L.

19. D.T., 12 April, 1898.

20. Wise Papers, M.L.

21. 26 June, 1899.

22. 24 June, 1899.

23. D.T., 21 June, 1899.

24. Ibid.

25. Higgins Papers, MS. 1057, Ser. 1, A.N.L.

26. D.T., 21 June, 1889.

27. Rev. E. Harris.

CHAPTER FIFTEEN

COMMONWEALTH PIETY AND PROBLEMS OF PRECEDENCE

Despite a vehement prediction in August 1899 by a member of the New South Wales Legislative Council,[1] Section 115 was not tampered with when the Federation Bill was debated by the Imperial Parliament during May and June, 1900. It now became Section 116. After this, the task which faced the more co-ordinationist minded who had been involved in the "recognition" campaign was to explore the practical implications of the "recognition of deity" in the preamble, and of Section 116. Given that "recognition" formally legitimised the notion that the Commonwealth was a religious entity, what scope did Section 116 then leave for developing the practical implications of that idea? Through 1899 and 1900 Quick and Garran hastened industriously towards the publication of their Annotated Constitution. Their opus was available to the public by late December 1900.[2] So by that time Quick and Garran's theoretical answer to this politico-legal problem began a circulation which has never really ceased. Yet it was after all only a theoretical answer. Quick and Garran's analysis sometimes would be resorted to in the coming months and years to justify and explain developing clerical initiatives. However the problems facing the churches were not simply theoretical, but political.

The religious issues were twofold: What was to be the place of religion in the Commonwealth sphere? And what was to be the place of the churches? Both issues arose in a particularly sharp and challenging way at the 1st January, 1901, ceremony at Centennial Park at which the Duke of Cornwall and York opened the federal parliament; and also in connection with the issue of prayers in parliament. By July 1901 after some occasionally turbulent give and take, an approximate practical consensus had been reached as to the place of religion and

the churches in the Commonwealth arena. However one aspect of the Church-State issue remained unsettled. This was the essentially status issue of ecclesiastical precedence at Commonwealth ceremonies, which was not resolved until late 1905.

In some broad respects developments paralleled those of 1897-8. Once more Sydney was the location of initial clerical activity. Once more, a verbally violent confrontation quickly emerged between Cardinal Moran and some leading Protestant churchmen. Once more, Protestant-Catholic status rivalry in the emerging Commonwealth lay close to the heart of the controversy. Once more, the Protestants emerged not so much triumphant but with a clearly conceived programme of action. Once more, the Sydney clerical initiative broadened, soon becoming national in scope, but centering on Melbourne rather than Sydney. Once more the clerics won in the end only a partial victory.

However there were broad differences too. The Adventists now played no part in developments; and the various Councils of Churches, when the violent and discrediting echoes of their status rivalry with Moran and with each other died away, mostly sought to avoid publicity, developing instead a deliberately quiet campaign. Perhaps the politicians could more readily be pulled than pushed into the desired godly course.

Commonwealth Inauguration

In October 1900 the New South Wales Council of Churches took the first formal step towards instituting a nation-wide campaign to win the Commonwealth for God, and God for the Commonwealth. Their

immediate object was to secure a religious element in the 1 January ceremony in which the new Commonwealth would be inaugurated. They also committed themselves to a longer term campaign to secure the saying of prayers in the federal parliament-to-be.[3] However the inauguration ceremony was their immediate concern. The Anglican Primate, Smith, and the Secretary of the Council, the Congregationalist Dr. Fordyce, were delegated by the Council to approach the New South Wales government, which was responsible for arranging the Centennial Park ceremony.[4] The co-operation of member denominations was also sought, and also that of Councils of Churches in other colonies.[5] The response was encouraging both within and beyond New South Wales. The general synod of the Church of England, and the Bathurst Wesleyan synod, both of which happened to be holding meeting shortly afterwards, pledged earnest support and assistance.[6] Since God was recognised in the preamble, the Wesleyans declared, it was proper that there be a public religious service as part of the inaugural ceremony.[7] The heads of all member churches, and also the Councils of Churches in the other colonies, prepared formal requests to the New South Wales government that prayers be an integral part of the ceremony. These apparently were forwarded to the Council to be used at its discretion.[8]

The New South Wales government, of which Lyne now was premier, had already shown some capacity for sympathy to the churches. Even before the Council of churches formally approached the premier in November, the government's Organising Committee had, on 27 October, on instructions from Lyne, invited the churches "of all denominations in New South Wales", to hold special watchnight services at 11.00 p.m. on

Monday, 31 December "for prayer and intercession to Almight God for Divine Blessing on the Empire, the Commonwealth, and the States." The government had also declared Sunday, 6 January, to be "Commonwealth Sunday". The New South Wales churches were invited to hold on that day "Special Services befitting the momentous occasion".[9] Hence it was with reasonable hope of Lyne's compliance that in November Archbishop Smith and Fordyce waited upon the Premier. Lyne's response was apparently encouraging, but before arriving at a final decision he discussed the question with Moran.

It was prudent, even necessary, for Lyne to do this. Moran, as the head of a church whose membership throughout all the colonies approached one million, and which was not linked in any way with the essentially Anglo-Protestant Council of Churches, had a clear prima facie right to be consulted about, and indeed invited to participate in, any religious ceremony at the Inauguration. Furthermore, Protestant-Catholic relations in New South Wales, rarely amicable, were at this particular time at a specially low ebb. At the religious service held on 9 September of that year at which the new St. Mary's cathedral was officially declared open, the New South Wales Governor, and many civic leaders, were present as guests. Two things happened which deeply outraged many New South Wales Protestants. The first was that the Governor, despite being the Queen's representative, remained in the church during the celebration of mass. The second, and for most Protestants this was the sorest point, was the fact that the preacher at the service, Archbishop Redwood of New Zealand, spoke deprecatingly about the moral character of the sixteenth century Protestant reformers. In prompt response to this

Roman assault on Protestantism, and also the vice-regal indiscretion, the New South Wales Evangelical Council (a Protestant, but not Anglican body) promptly called a protest meeting at the Sydney Town Hall for 24 September. The Town Hall was filled to overflowing, as also was the nearby Pitt Street Congregational Church.[10] The major non-Anglican Protestant denominations were represented on the platform. The Primate sent a message protesting at Redwood's sermon. Several Protestant politicans also stood on the platform, notably ex-premier George Reid; Fegan, current Minister of Mines and Agriculture; and Perry, Minister for Public Instruction.[11] The meeting was stormy, but unified in its protest. Moran however, in the loftily provocative way so characteristic of him, dismissed the protest as a "storm in a teacup".[12] Rarely however had the gulf of feeling between New South Wales Protestantism and Catholicism been so deep. From Lyne's point of view, Moran clearly had to be consulted, his attitude gauged, and his co-operation if possible enlisted.

Moran was reasonably helpful. He was after all an enthusiastic federationist. He told Lyne he would arrange Commonwealth celebrations in Roman Catholic churches on 31 December and 6 January. Not surprisingly, he declined to participate with the Primate in the inaugural religious ceremony itself. But he did offer to recite a prayer for the Commonwealth, either before or after the ceremony. This Lyne would not consider, and Moran (according to Moran's later account) at this time "made no complaint".[13]

The government in late November formally agreed to the proposal from the New South Wales Council of Churches. The Primate

was invited to compose the prayer, and to arrange the religious portion of the swearing-in ceremony. On 7 December, the Australian Christian World announced, with evident satisfaction, that:

> There will be a religious service at the proclamation of the Commonwealth conducted by his Grace, and at this service the Archbishop is the representative, not only of the Anglican church, but practically of all the other Protestant Churches of Australia. The service will consist of a hymn ("O God, our Help in Ages Past"), the Lord's Prayer, Prayer for the Queen and Commonwealth, and a short prayer for the Governor General, the service to close with the singing of the Te Deum.

Now, the journal exclaimed, not only was "the name of Almighty God... acknowledged in the preamble to the Federal Constitution," but "the Commonwealth will be inaugurated by solemn acts of worship."

Whether Moran at this stage really was willing to accept exclusion from any independent role in the religious ceremonies is not clear. However, two events now took place which offered to Moran not only firm provocation, but also a plausible pretext, for seeking after all to play an independent - indeed dominant - role in the religious side of the inauguration ceremony. The first was the insult which, as he saw it, was offered to him by the order of precedence list issued by the New South Wales government, early in December, for the landing on 15 December of the new Governor-General, Lord Hopetoun. This list grouped all the heads of denominations together.[14] Moran, when he learned of this, "of course" (as he put if) declined to attend.[15] In his view, as he later made clear,[16] the current rules of colonial precedence placed him above other clerical

leaders. In Moran's view, the Cardinal and Primate ranked together above other church leaders, and took precedence inter se (as between each other) according to the date of episcopal ordination. Indeed, on the day before Hopetoun landed, the government did adjust the order of ecclesiatical precedence. Now the Primate and the Cardinal were bracketed together fairly high on the list. Then, after a gap, came the Presbyterian Moderator, who was immediately followed by the Dean of Sydney. Finally, after a further gap, appeared "Clergymen of all denominations according to population".[17] This revision may in itself have been acceptable to Moran. But it came too late. "The change was not intimated to me till the day of the landing of His Excellency", Moran later stated, and he was then unable to alter his plans.

The second event was the intervention in the precedence issue of the newly arrived Governor-General himself. Hopetoun, using as a model the general "Table of Precedence for the Commonwealth" approved by the Queen, had issued a special "List of Precedence" for the inauguration.[19] According to this list, the Cardinal and Archbishop were bracketed together, in that order, as number 6, quite close to the top; while (a point soon to become equally controversial) "Heads of other denominations" were bracketed together in second last place. When Moran came unofficially to hear about Hopetoun's new precedence list is not clear, but he officially was told about it by Lyne himself in a personal interview shortly after Christmas. Moran's version was as follows:

> A few days after Christmas I called on the Premier at the Treasury, when he intimated to me that the matter of precedence was definitely settled by the

> instructions from the Colonial Office conveyed through the Governor-General. The Premier read for me the official arrangement, which, he stated, he had just received from Government House; the due place was assigned to the Cardinal-Archbishop, and the Protestant Archbishop, and the Cardinal's precedence of the latter was officially sanctioned.[20]

The precedence list, a copy of which is in the Australian Archives, simply stated: "The Cardinal and the Primate". There is no annotation on the list itself as to precedence inter se. What probably occurred was that Moran - perhaps not unreasonably - interpreted the fact that the Cardinal was named before the Primate as implying that he had precedence inter se. How Lyne himself (who of course, in connection with Lord Hopetoun's "blunder" had his own troubles) interpreted the list he read out is not clear. However it is at least clear that Lyne either was not aware of, or at any rate did not concede, any claim by Moran to precedence over Saumarez-Smith.

Probably, during the interview Moran simply interpreted Lyne's reading of the list in one way, and Lyne in another.

So now if not before Moran felt free to act. He at once sought authorization from Government House to read a prayer of his own composition during the Ceremony and before the Primate's.[21] No doubt Moran recalled the time in 1868 when his uncle, Cardinal Cullen, had scored a notable and dramatic precedence triumph over the Anglican archbishop of Dublin. In that year, as part of Great Britain's never-ending efforts to solve the "Irish problem", the Prince and Princess of Wales paid a formal goodwill visit to Ireland. A State banquet was arranged at Dublin castle, at which the Anglican

archbishop initially was given precedence over Cullen. Cullen had protested, refusing to attend. Yet one of the main reasons for the royal visit was to create goodwill, so Cullen's boycott proved intensely embarrassing. Cullen's precedence, despite the protests of the Anglican archbishop, was conceded.[22]

Moran was not the only covert clerical negotiator in the interval between Christmas and 1 January. Some of the non-Anglican Protestant leaders, annoyed at their relegation to second last place, made strenuous behind-the-scenes efforts to alter this. The first to take action were the Presbyterians. On 28 December McDonald, Moderator of the New South Wales Presbyterian church, wrote to Lyne. The "recognized" position of the Presbyterians, McDonald considered, was not at the bottom but "next in order after the Heads of the Anglican and Catholic church". He requested that Lyne remedy the situation.[23]

Lyne replied by telephone that this matter was rather in the hands of Captain Wallington, the Governor-General's Secretary.[24] So on the 29th, McDonald, together with Tait, the Victorian Moderator, waited upon Wallington. However, Wallington, too, told them he was unable to help. The formation or order of the procession, he said, was the responsibility of the New South Wales government. Probably by now convinced that either Lyne or Wallington was deliberately putting them off, McDonald and Tait nevertheless appealed once more to Lyne;[25] but Lyne refused to act.

The Presbyterians did not rest content after this rebuff. However they did change their tack. Failing to obtain a special position of their own in the procession, they became determined - in the name of religious equality - that there should be no special positions at all. About mid-afternoon on 31 December, a delegation of Wesleyan and Presbyterian leaders waited on Lyne. Both McDonald and Tait were members. The delegation had been shocked to learn, it told Lyne, that in contrast to the position assigned to the Anglican and Catholic heads the "Heads of other denominations" had been "grouped together far away at the other end." Claiming that "the singling out of two churches ... [violated] the principle of religious equality", the delegation requested that Lyne re-arrange the order of the procession so as to rank all church leaders together.[26] Lyne apparently expressed sympathy, but claimed that his government had no power to act. The "order", he allegedly said, "came from Downing Street."[27] The unsatisfied delegation, upon taking leave of Lyne, arranged an immediate meeting of the heads of the non-Anglican Protestant churches. They decided that, as an act of protest, they would "stand out of the Procession".[28]

In the meantime, Moran also was running into difficulty. During the afternoon of 31 December the New South Wales Council of Churches came to hear of Moran's confidential negotiations with Government House. At about 6.00 o'clock that afternoon Lyne was faced by a second angry clerical delegation. However this one, representing the Council of Churches, was led by the Primate. It was concerned, not that Lyne make certain changes, but rather that he prevent them. It insisted that Lyne take action to ensure that Moran not be allowed to read a prayer before that of the Primate.[29]

The sources do not mention a threat by the Primate to withdraw, but almost certainly such a threat was either made or implied. Lyne, faced with the likelihood of an intensely embarrassing disruption of the swearing-in ceremony itself, could scarcely fail to act. Probably he at once called a meeting of the Organizing Committee.[30] At 9.00 o'clock, he requested an interview with a representative of the Cardinal. At 9.30 Monsignor O'Haran, Moran's Secretary, came to Lyne's office.[31] A cool, perhaps terse interview followed, of which Lyne and Moran (who claimed to reproduce what O'Haran told him) later gave significantly different versions.

Lyne's version was more detailed. According to Lyne, he at once asked O'Haran if it was true as reported that the Cardinal was seeking to arrange with Government House to read his prayer before that of the Primate. O'Haran said this was so, and then showed Lyne a copy of the prayer. He added that he had sent two copies to Captain Wallington at Government House. Lyne then telephoned Wallington, who said he had received a letter from O'Haran, but not the prayer. Lyne at once sent a copy of the prayer by messenger. Wallington, on receiving this, immediately rang back to say that at this stage the prayer could not be included. Lyne then told this to O'Haran. Wallington also advised Lyne a little later that he had confirmed this decision in writing to O'Haran.[32]

Thus Lyne's version. According to O'Haran, (as reported by Moran) the emphasis of the interview lay rather on the question of precedence. Lyne, according to O'Haran, told O'Haran that the government had decided that the order of precedence in the procession should be rearranged. Some parties, Lyne said, had claimed

precedence for the Protestant archbishop. This was on the ground that the Government House official programme, which gave the Cardinal precedence inter se over the Primate, did not control other social functions. The Organising Committee, Lyne continued, had endorsed this distinction. The Committee "approved of this precedence of the Protestant Archbishop", and "the government had given their sanction."[33]

What really happened ? Lyne in his version denied that the question of precedence in the procession was ever touched on. The order of the procession, he stated, was not "altered in any way after Captain Wallington's list had been sent to him." However two pieces of evidence lend some support to the Moran-O'Haran version. The first, which tends to suggest that Moran's precedence in the procession really had been altered to his detriment, is the fact that the Sydney Morning Herald and Daily Telegraph for 31 December printed a procession list in which the Anglican archbishop was in fact placed one clear rank ahead of Moran. The second piece of evidence, which suggests not simply that Moran's precedence was altered to his disadvantage, but that the decision to do this lay squarely with the government, was a statement which Moran felt free to make in an interview published in the semi-official Catholic Press. The Governor-General, Moran stated, had "personally intimated" that the government, and not himself, had made the decision to award precedence to the Primate.[34] If Hopetoun really had said that, and it is hard to believe Moran would have cared or dared to implicate the Governor-General in a lie, then it becomes hard to doubt that at least in essentials the Moran-O'Haran version is to be preferred. What therefore probably happened was that Lyne, placed in an impossible

position by Moran's behind-the-scene-manouvering, since to concede Moran's claim would probably force the infinitely more embarrassing withdrawal of the Primate, considered that the situation required a bold lie, and a small usurpation of the royal prerogative.

Moran, when O'Haran reported back, decided that he too would stand down.[35] So now there were two embarrassing gaps in the procession, and the Primate rode in his carriage in more solitary state than expected. However neither the affronted Protestant leaders nor the angry Cardinal withdrew completely. The dissenting Protestants still occupied their places at the Centennial Park ceremony. Moran didn't do this, but as a gesture of cordiality - very much in the grand episcopal style - seated himself, on the morning of 1 January, outside Saint Mary's, facing the street along which the procession was to wend from the Domain to Centennial Park. He was surrounded by a welcoming choir of about three and a half thousand Catholic children.[36]

The actual religious phase of the inauguration proceeded without a hitch. Of course, in the nature of things, such ceremonies mean different things to different people - and to some very little at all. The Southern Cross, reflecting on the inauguation ceremony in its 4 January issue, glowed with generalised optimism:

> Century and Commonwealth had their first moments richly baptised with prayer. It will be a century of victory and progress ... "God's in his heaven; all's well with the world."

A Methodist churchman relished, rather, the religious particularities of the moment:

> The effect produced as the strains of "O God our Help in Ages Past" floated in the breeze was more than electrical - it was religiously thrilling; and as the Archbishop proceeded with the prayers appointed for the occasion, there was a hush from the vast concourse of spectators as if conscious of a presence unseen.[37]

Some high churchmen who were present were, however, scornful at the Archbishop's choice of Jackson's setting of the Te Deum.[38]

A Daily Telegraph reporter was altogether more detached:

> A signal was given, and a choir somewhere sang the hymn, "O God, our help in Ages Past." It was now five minutes to 1, and the heat was insufferable.[39]

What did the Council of Churches' somewhat tarnished triumph mean? From the point of view of interpreting the implications of the two religious clauses it meant little. The Constitution, after all, came into effect only in consequence of the inauguration ceremony itself. Responsibility for arranging the ceremony, and its religious and clerical content, was divided - although not in a completely clear way - between the New South Wales government and the British government's representative, Lord Hopetoun. Technically, authority must finally have lain with the British government; but Hopetoun's relatively late arrival virtually forced the New South Wales government to assume responsibility for some matters technically outside its ambit. What emerged in regard to the form which the religious arrangements eventually took was not an interpretation of the Constitution, but an ad hoc mixture of what initially the local colonial government, and subsequently Lord Hopetoun and British government, regarded as suitable

religious and clerical trappings for the birth of the Commonwealth. This technical-legal point was not, however, always noticed. Some Protestants who objected to the Cardinal's claim to precedence over the Primate, and also to the Cardinal and Primate jointly having precedence over themselves, asserted that any official sanction of these precedence distinctions breached the equalitarian implications of Section 116.[40] Furthermore, it became a fairly common rhetorical ploy during the following months for clerics advocating prayers at the opening of parliament, and in the parliamentary sessions, to cite the religious element in the inauguration ceremony as a relevant precedent. "The Commonwealth", declared one advocate the following March, "has not changed its character since January, and what was done in Sydney may fitly be done in Melbourne."[41] The legal complexity inherent in a federal system made such errors of interpretation not only convenient, but in some degree natural.

The Prayers in Parliament Campaign

However, from the point of view of the Council of Churches' longer-term campaign to secure the saying of prayers in the federal parliament, the events of January had considerable import. Positively, these events showed that associating religion with the new Commonwealth did not give offence in the community at large. Some secularists considered such prayers undesirable, or at any rate unnecessary, but no campaign of opposition developed. Even the Bulletin had shown little interest in the fact that prayers were offered. It confined its derision mainly to the clerical quest for status and precedence.[42] The Adventists expressed no concern. The events of 1 January, therefore, clearly showed that in the public mind there was a place for religion in the new Commonwealth.

Yet there was an obvious negative side. During the first three weeks in January the columns of Sydney and Melbourne daily newspapers (but especially, of course, the Sydney ones), and of the religious journals, resounded with maledictions issued by Protestants and Catholics against each other, and sometimes against the organisers. The more anti-clerical segments of the public settled down, no doubt often with amusement, to enjoy the verbal fireworks. Among the first in the field was the Catholic Press, with a savage attack on Lyne:

> Sir William Lyne has never thought that the way to honour and distinction in political life is an upright course along a straight path. He has never regarded truth as necessary to sustain his own dignity as a public man. He is a pitiable character, and it must have been the knowledge of it, and the conviction that dishonour would dog his footsteps and humiliate everyone associated with him, that led the public men of the other States to refuse to take seats in his proposed Federal Cabinet.

The Catholic Press also warned that "[it was not] good policy to make the Catholic people of Australia discontented and angry at the present moment ... they will not rest quietly under the insult."[43] The high Anglican Christian Commonwealth, no doubt to Archbishop Smith's embarrassement, not only attacked "Rome's lust for power," but also vigorously attempted to put down the non-conformists: "Religious bodies dating from yesterday", it dismissively called them. The non-conformist desire for parity with the Church of England, the Christian Commonwealth considered, was "petty". Since, it then continued with perhaps odd logic, "all churches are equal in the sight of the State", it might therefore be assumed that, on national

occasions, "the precedent of the Old World should be followed."[44] The non-Anglican Protestants did not enter the fray until the second week of January. They took the - perhaps not internally consistent - line both that Australia was a Protestant country, and also that, by virtue of Section 116, all religions were equal.[45] On a rhetorical level the point of the latter perhaps was that an appeal to Section 116 gave leverage against both Catholic and High Anglican pretensions, while the "Protestant country" ploy was an effective second stick to beat the Catholics with. The Evangelical Council, a body consisting of representatives of the major non-Anglican Protestant denominations, discussed the issue at its 14 January meeting. It resolved that: "[A]ll churches are free and equal"; and that "under the administration of the Commonwealth the principle of religious equality shall strictly be observed." If however for any public Commonwealth purpose the churches needed to be ranked, then the Council considered such ranking should be based solely on the numerical strength of the denominations represented.[46] This proposal, which came in subsequent months to receive strong although not overwhelming support among Protestant churchmen, did of course concede a numerically derived precedence to the Church of England. However - and it was this which commended the scheme to many Protestants - the resulting hierarchy of status was based on the official recognition of quantity rather than quality.

The sectarian row, which even the participants knew damaged them severely in the public eye, was probably unavoidable once Hopetoun issued his "official" precedence list for the opening ceremony. Did he, once he perceived the religiously tense local situation, really have to do so? It is hard to believe that Hopetoun late in December

could not have found a way of heading off trouble. Perhaps he owed Lyne at least that. However he did not, and once he had launched his own precedence list, Catholics and Protestants inevitably became locked in conflict with each other. The imperatives of their respective histories perhaps gave them little choice. Moran would not take second place to the Primate. The Methodists and Congregationalists - naturally egalitarian on this sort of issue - would not take second place to either Moran or the Primate. The Presbyterians - still evidently with something of the smell of Establishment in their nostrils - would perhaps have preferred to concede undisputed ascendancy to the Catholics and Anglicans, in return for sole tenure of third place. But denied that, naturally resorted to the egalitarian plea.

Specifically, the sectarian conflict which developed almost certainly nullified whatever chance might otherwise have existed that not only religion, but its clerical spokesmen, would find an official place within the structure of the Commonwealth. On the Church-State as distinct from the Religion-State issue a resolute and widespread secularist response quickly became evident. One of the first shots was fired in a Sydney Morning Herald letter: "I have keen recollection", R.T. Vale wrote, "of the vigorous fight we had to destroy the connection between Church and State." He entered a protest "against our would-be rulers bringing into the arena of politics this vexed question."[47] Another correspondent, a little later, asserted that:

> [I]n the Commonwealth there is no State Church. All religious communities are in law absolutely equal, and precedence here is but the ghost of ancient ghostly existences.[48]

Another cited as applicable to Australia the United States principle of "a fair field and no favour".[49] The Bulletin, on 12 January sneered:

> Bishop Smith should have no more pull in the secular State than Cardinal Moran or pastor Howlman of the Little Ebenezer. The State shouldn't know any one of them from a crow.

The Age of course could rarely resist the chance to draw attention to, and to deplore, "petty squabbles" for "trumpery" honours:

> An excellent divine once remarked that there was no reason why the devil should have all the best tunes. In the same way there is no reason why the layman should have all the humour. Did the clergy possess a fair share of it, they would see that nothing could be better calculated to bring ridicule upon them than petty squabbles for the trumpery honour of ceremonial precedence.[50]

An interesting editorial distinction emerged, in the Age and the Sydney Morning Herald, between strong-line (Higgins-type) and soft-line (Quick and Garran-type) secularism. The hard-line approach was developed by the Age thus:

> The Commonwealth has wisely enacted that there shall be no State religion, and the corollary of this is that ecclesiastics have really no status in official eyes. It was a matter for regret that this was not distinctly laid down in technical legal phraseology, in order to dispense with the unseemly clerical strife for merely worldly distinction ...[51]

The soft-line approach was put forward by the Sydney Morning Herald in a carefully formulated 19 January editorial. "In the interests of peace and good citizenship", the Herald considered, the facts should clearly be stated.

> In the different Australian States when they existed as colonies there was no State Church, so that no one Church could claim precedence over another as the Anglican Church does in England.

In New South Wales, it is true, the order of precedence between the Anglican and Catholic heads was assigned according to seniority of office. But that practice related to dinners and social functions only. It did not "touch the question of the official State recognition of the heads of the religious bodies as such. The two Archbishops were and are visitors and invited guests at Government House, and the heads of some of the other religious bodies are not..." Yet what held good on the colonial level must at least hold good on the federal. It therefore would be a "singular anomaly" if a church was "accorded a status in the Commonwealth which was not given to it in the States." Indeed, from the fact of the inclusion of Section 116 in the Constitution it

> ...would seem to follow, as a matter of course, that the question of precedence amongst the churches is one with which the Commonwealth has nothing to do.

The question of the "recognition" or "non-recognition" of a State church, the editorial continued, involved more than consideration of the status to be accorded to Archbishop or Cardinal, or of the supremacy of the Roman Catholic or Protestant, or of the relative numerical strength of the various religious organisations. It was

rather a question, the editorial asserted, picking its way towards the non-preferentialism of Quick and Garran,

> ...of the State leaving the churches and various forms of religious faith absolutely free, or showing its preference for one to which it assigns a position that is denied to others.

The conferring of any such preference, the editorial declared, was "in direct oppostion to the spirit of our Constitution, and ... the wish of the vast majority of the citizens of the Commonwealth." The editorial concluded by inviting the Primate and the Cardinal to forgo "their supposed claim to special recognition."

In the face of such anti-clerical feeling, and their own lack of unity, any moves by clerics to acquire any sort of meaningful official standing in the soon-to-be-created machinery of the infant Commonwealth obviously were doomed from the start. Nevertheless feelers shortly would be extended in that direction. However this, one suspects, was more for form's sake than with any genuine hope of success.

During the next few months the Anglicans and Protestants resolved most of their differences and were able to apply themselves with fair unanimity, mainly through the New South Wales Council of Churches, to the prayers in parliament campaign. They could not expect, did not obtain, and probably did not want, any assistance from Moran. However later on at a useful point they were pleased enough when Catholic Archbishop Carr, of Melbourne, offered support.

The prayer issue was not the only focus of concerted clerical concern. The issue of ecclesiastical precedence in the Commonwealth,

so turbulently raised in connection with the Centennial Park inauguration ceremony, probably stirred the hearts of many clerics even more strongly than did the parliamentary prayers question. However the two issues, while obviously linked in some ways, developed in sufficient independence of each other for it to be more convenient to discuss them separately.

On the prayer issue, which will be discussed in this section, there was indeed need for some haste. Soon the first federal elections must take place; and not long afterwards the federal Parliament would formally be declared open in Melbourne. Archbishop Smith, acting as spokesman for the New South Wales Council of Churches, wrote to Barton, now prime minister, as early as 17 January. He attached to his letter a copy of the General Synod resolution on prayers in federal parliament. It was his earnest wish, he declared,

> ...that you and your colleagues in the Federal Ministry may be unanimously in favour of "opening each sitting of the Federal Parliament with prayer." Difficulties may arise in detail, but, whatever these may be, the principle is surely one wh[ich] sh[ould] be admitted and carried into practice in the parliament of the Commonwealth which, I am thankful to say, has been inaugurated with public prayer, and the Constitution of wh[ich] expresses our reliance upon "the blessing of Almighty God".[52]

Early in March the Primate sought,[53] and presumably obtained, interviews both with Barton and the Governor-General. No doubt other political leaders were approached by the Council as well.

These things were done quietly. The essence of the Council's approach now was discreet negotiation, well out of the public eye.

The prayer issue scarcely entered the March election campaign. The Evangelical Council issued an "Appeal to Electors", enjoining them to elect only candidates who favoured the "recognition" of God at the opening of the daily sessions of parliament, and who endorsed the "numerical" principle of precedence.[54] However the "Appeal" was scarcely noticed, even by the religious journals. "All the influence that the Council could bring to bear on public men has been used", declared the Australian Christian World in May, in the process of rebutting the criticism of a correspondent that the New South Wales Council of Churches was failing in its job, "but of course it would not be proper for us to enter into such matters."[55]

The Council's campaign fell naturally into two phases. The first question was whether formal prayers would form a part of the 9 May ceremony at Melbourne in which the Duke of Cornwall and York was to declare the federal parliament open. Thereafter, the issue became whether the two houses of federal parliament would allow the saying of formal prayers at the start of their sessions.

On 26 March George Tait wrote to Barton on behalf of the Victorian Presbyterian Church urging "the desirability of opening the Federal Parliament with prayer." He suggested that the head of the Anglican church, as representing the church with the largest number of adherents, be asked to do this. The offering of prayers would give effect to the "recognition" clause in the preamble, and would be "in harmony with" the precedent set at the inauguration ceremony.[56] On 3 April Meiklejohn, President of the Victorian Council of Churches,

wrote to Barton on similar lines, except that he made no reference to the Primate conducting the ceremony.[57] On 8 April Burgess, General President of the Australasian Wesleyan General Conference, also wrote to Barton. His request was similar to Meiklejohn's. He wanted "an act of worship in connection with the opening of the Federal Parliament", but said nothing as to who should conduct it.[58]

The question of whether the House of Representatives and the Senate should commence their meetings with prayer was a question for those bodies themselves, although the cabinet might take a view on the issue. But the question of whether prayers should form a part of the ceremony for opening parliament was an issue squarely for cabinet and the Governor-General. It was likely to be a sticky one. In March, Barton directed his staff to compile a survey of the practices which were followed respecting prayer in the various state legislatures, in the Canadian parliament, and in the British parliament.[59]

On 11 April the matter was considered for the first time by cabinet, which decided that Barton should consult with the Governor-General. Cabinet considered the matter again on 14 April but deferred the issue, simply resolving that "an offical arrangement would shortly be made defining the procedure to be followed at the opening ceremony." On 16 April the cabinet agreed that some form of prayer would be offered at the opening ceremony; but not, apparently, who should offer such prayers, or what they should consist of. On 17 April Barton had a long interview with Hopetoun about the opening ceremony. No doubt the prayer issue was one of the matters discussed. On 20 April the matter was discussed again and deferred. The cabinet's

final decision was made only on 26 April: There would be an act of worship; the prayers would be modelled on those used in the House of Commons; and Lord Hopetoun, not the Primate or any other cleric, would offer the prayers.[60]

In the absence of direct evidence, one can only guess at the reasons for the difficulty which the Cabinet found in reaching a decision. Clearly there must have been disagreements, but whether they lay more between Hopetoun and the Cabinet, or within the Cabinet, is not clear. Hopetoun himself was a Presbyterian,[61] but in the light of his inauguration performance that may not be very relevant. He certainly would have wanted prayers, and initially he may have wanted the Primate too. In the Cabinet Barton, Kingston, Lyne, Fysh and (probably) O'Connor, were federal level Religion-State separationists; but perhaps only Barton and Kingston trenchantly so.[62] Broadly then, one suspects that there may possibly have been something of a Church-State conflict between Hopetoun and the Cabinet, and something approaching a Religion-State conflict within the Cabinet. However that remains speculation.

The Cabinet decision represented a partial defeat for the New South Wales Council of Churches, though in the circumstances hardly an unexpected one. The Australian Christian World for 10 May tried to represent the decision as a kind of victory for ecumenism:

> The [New South Wales Council of Churches] has asked practically in the name of all the Churches that if the prayer is to be offered by a clergymen, His Grace, the Archbishop, shall be that person. But so anxious has the Council been to avoid anything that might cause strife or division, that it has professed its entire willingness that His Excellency the Governor-General should himself offer the prayer.

Indeed, adjusting quickly to events, the Council formally had requested, about mid-April, that Hopetoun offer the prayer at the opening ceremony.

However the Southern Cross, as so often, was blunter. The basic trouble, it asserted on 10 May, was the running dispute over precedence among the churches. Had the Protestant churches agreed among themselves, "the fact that the Roman Catholic Church stood sulkily aside might have been ignored." Had the Protestants but been willing

> ...to put aside as irrelevant and contemptible all questions of social precedence, they would hardly have been counted out so dramatically and completely as they have been in a great national function like the present.

But that now was water under the bridge. On 9 May, the day on which the federal Parliament was officially to be opened, it became Melbourne's turn to adorn itself with flags, streamers, decorative arches and a thronging patriotic citizenry. The death of Queen Victoria, a few months earlier, had interfered with a previous British plan to send the Prince of Wales to preside at the ceremony. The Prince of Wales now was Edward VII. However, as the Australian Christian World put it, "His Majesty wisely ... resolved to carry out the purpose of his Royal mother's heart." Therefore, as "an outward and visible sign of the new importance of Australia to the Empire and in the world ", Australia was honoured instead by a visit of "the King's son", the Duke of Cornwall and York.[63]

The ceremony itself, diligently preserved on canvas by the "official" painter, Tom Roberts, was conventionally splendid but otherwise unremarkable. The prayers which Hopetoun read were, as noted, based on those of the British House of Commons. They included, as had the Primate's prayers at the inauguration, christological references, and a trinitarian benediction. They also included a prayer composed by Lord Tennyson, the governor of South Australia. The flavour of the occasion was well captured by the reporter from the Sydney Morning Herald:

> Twelve! the musicians got themselves ready for the national anthem; the crowd figitted, rose, and sat mute. There was heard a peal of trumpets outside, and to the strains of "God Save the King" the Duke entered with the Countess of Hopetoun, and the Governor-General with the Duchess. The whole audience was upstanding, despite some cries from the rear of "Sit down". The Duke nodded, and the orchestra played the "Old Hundredth". Then ensued a rather distinct wait, which gave Lord Hopetoun some concern. The Representatives were slow in obeying the summons to attend the Duke. They came, led by their officers, in wig and gown, the members various in attire, but eagerly observed. Then Lord Hopetoun stepped forward, and in a voice at first low and tremulous, but soon firm and audible, commenced the order of prayers contained in the official programme. There were the prayers for the Royal Family and the Commonwealth, the Lord's Prayer and the Benediction. The Governor-General read them well, reverently, yet distinctly.[64]

Cardinal Moran again absented himself. This time however his protest was of a different, and, in the Australian context, more

generally acceptable kind. The Duke had declined to perform an opening ceremony at St. Vincent's Hospital, Melbourne, on the ground that during his Australian visit he should play no part in any sectarian ceremony. Yet when the Duke went to Brisbane, he laid the foundation stone of the Anglican Cathedral.[65]

However for the Protestants the opening ceremony was on balance a partial victory. An element of formal religiosity was officially introduced to the federal parliamentary machinery. Admittedly this had happened only once, and it took place on a completely untypical parliamentary occasion. But the prayers offered at the opening of parliament, unlike those offered at the 1 January ceremony, provided a genuinely compelling precedent. Virtually, a principle had already been conceded.

Up until this point, while the Councils of Churches in the other colonies had, as the Australian Christian World put it, given "most loyal help", the "initiation of the movement and the main direction and control of it belonged to the Sydney Council." From this time, with parliament sitting in Melbourne, control of the prayer campaign passed to the Victorian Council. However before examining further developments, a puzzling side issue briefly should be discussed.

What had happened to the Adventists? In 1897 and 1898, they had strenuously fought the "recognition" proposal. In 1901 they seemed completely indifferent to the churches' campaign. Part of their quietism may have derived from the fact that in the federal sphere they now had Section 116. Part of the explanation may relate

to the fact that the United States parent church tended not to regard Congressional prayers, and the Congressional chaplaincy, as major aberrations. Yet almost certainly there was more than that to their quietism.

After 1898, probably taking a lead from Mrs. White, the Adventists isolated themselves much more from political involvement. Hitherto, specifically for the sake of securing themselves from prosecution under Sunday Observance laws, and more broadly for the separationist principle, they had over the period 1894-1898 entered positively into colonial political life. However by late 1898, perhaps partly because their political and legal position was more secure, and perhaps because Mrs. White and some other Adventist leaders had become concerned over contaminating consequences of political involvement, the key note for the Adventists became withdrawal. The Southern Sentinel ceased publication late in 1898. In 1899 Mrs. White developed a more isolationist viewpoint in her "special testimony relating to politics".[66] By 1900 the Religious Liberty secretaryship in the Australasian Union Conference, which previously had functioned as a separate office, had become attached to the Presidency. At the 1901 July Conference there was no "Religious Liberty" report as such.[67] Isolation, rather than separation, had become the watchword.

The tone and substance of the new outlook were firmly conveyed in President Irwin's July 1901 address to the Australasian Union Conference:

> His mind reverted to the recent events which have taken place in our midst - the inauguration of the Commonwealth, the opening of Parliament, the creation of a new nation. The imperial Government sent a worthy representative in the person of the King's son, and the occasion had awakened the intense interest of all the people of this continent. Various cities have vied with each other in providing suitable entertainment in celebration of the event. But as august as the political occasion has been, the humble gathering of a few of God's people, occupied in His special work in this retired spot [Avondale], was of more importance to the Heavenly Intelligences, because this company represents the work of God. [68]

However, returning to the Churches' campaign, the Victorian Council of Churches acted with characteristic energy. The situation now was that the federal cabinet, which probably was in some measure internally divided, had declined to accept responsibility for including a reference to prayers in its preliminary draft of the Standing Orders. The Victorian Council of Churches therefore approached two sympathetic Presbyterian parliamentarians, W. Knox in the House of Representatives, and J.T. Walker in the Senate, requesting them to raise the matter in parliament.[69] Early in the first session Knox gave notice of motion in the House of Representatives that the House begin each session with prayer. Walker did similarly with respect to the Senate.

On 7 June Knox formally raised the question in the Representatives. Before that date, the Victorian Council of Churches had prepared the ground thoroughly. Formal declarations of support had been obtained from the Primate, from the Moderator of the Presbyterian

Church in Victoria, and from the President of the Victorian and Tasmanian Wesleyan Conference. Most strategically, the Council had succeeded in obtaining a supporting statement from the Roman Catholic Archbishop of Melbourne, Dr. Carr. Copies of these statements, together with a covering plea from the Council of Churches, were sent to each member of the federal parliament.[70] Concurrently, some other religious bodies - the Australasian Wesleyan Conference, the Presbyterian Church of Victoria, and the General Synod of the Church of England in Australia - issued and circulated statements of support.[71] However there was not, and at least here there was clear continuity with the New South Wales Council's behind-the-scenes approach, any formal petitioning of the federal parliament.

By 7 June, the Victorian churches not only had mounted an ambitious ecumenical lobbying campaign, but had avoided giving serious provocation to potentially antagonistic secularists. The latter accomplishment probably was as impressive as the former, especially since practices regarding prayers in the colonial legislatures differed considerably. The New South Wales, Tasmanian, and South Australian legislatures, and the Victorian Legislative Assembly, did not have prayers at all. The Victorian Legislative Council opened its sessions with the Lord's Prayer. The Queensland and Western Australian legislatures used prayers based on the Book of Common Prayer. Clearly, while the practice of saying prayers in federal Parliament was unlikely to be unconstitutional - in that what was at issue was a Standing Order, and Section 116 merely prohibited a certain class of laws - neither was it, among either politicians or the citizen body in general, likely to be seen as especially

desirable or necessary.

Knox moved "that the standing orders should provide that, upon Mr. Speaker taking the chair, he shall read a prayer." He spoke as one who was personally involved in the Churches' campaign. He admitted that colonial practices differed, but suggested that the more relevant precedent for the Commonwealth lay with the British and Canadian parliaments, and with the United States Congress, all of which opened their sessions with prayers. Then, noting that in the United States prayers were read by a specially appointed chaplain, he stressed that in his own view prayers in the House of Representatives should be read by the Speaker. Such prayers, moreover, "should be entirely unsectarian in character and refer only to the fundamental truth acknowledged and professed by all Christian people." He considered the Lord's Prayer best.[72]

Glynn seconded the motion. He could "quite appreciate the motives of the opponents as well as the supporters of [the motion]". For some, the prayerful quest for "prevenient grace" was a constant adjunct to their lives. Others, "taking a less ideal view of the occasion, think it should be regarded as a purely business one". However, taking human nature "as it is, with its many imperfections", some religious ceremonies had value. He thought the Lord's Prayer appropriate. Perhaps even those whose faith was "somewhat delicate", would share in that.[73]

The next speaker was the somewhat eccentric King O'Malley, the former "bishop" in his American days of the Water-Lily Rock Bound Church. He moved as an amendment that the prayers be read by "a chaplain appointed for that purpose". He feared that at some

future time the moral character of the bearer of the speakership might degrade the act of offering prayer.[74]

Barton did not support O'Malley's amendment, but would not oppose Knox's motion. He clearly hinted, while carefully avoiding actually saying so, that the cabinet had been divided. For himself, while not actually opposing the motion, he doubted its value. Effective prayer should be a personal and private matter. However, since the "large number" who doubted the "propriety" of "these ordinances" would not be so offended if they were carried out, as would be those who demanded them if they "were not complied with", he felt he should "give way". But he certainly would not support a chaplain:

> To appoint a chaplain of any denomination, unless we are so eminently successful as to find a religious chaplain of no denomination, would only go to feed those religious quarrels of which we have had more than enough.

The prayer selected should, he thought, be one "which can be accepted by the Unitarian [and the Hebrew]". He too suggested the Lord's Prayer.[75]

McMillan stated that he would have had some difficulty in coming to a decision on the prayer question, had it not been for the strong public movement to include a reference to deity in the preamble. At any rate, he concluded, if the prayer resolution was "not a necessary corollary" of the "recognition" of deity, it was "at least a reasonable consequence".[76] The Queenslander, Groom, considered that the experience of the Queensland legislature with prayers, and with having them said by a layman, was a happy one. The Lord's Prayer was appropriate, he suggested, as embracing no religious

dogma. He hoped O'Malley would withdraw his amendment.[77] O'Malley evidently judging this to be the feeling of the House, did so.[78]

Poynton from South Australia at once formally proposed, as an amendment, to replace "a prayer" by "the Lord's Prayer." But Solomon objected. Perhaps the Lord's Prayer would prove quite satisfactory. He had no personal objection to it. However, it was desirable that the prayer chosen be beyond doubt "such as would not be objectionable to any section of the Commonwealth community." Poynton withdrew his amendment, and Knox's original motion was resolved in the affirmative.[79]

The Standing Orders Committee as directed devised a prayer, which it submitted to the House on 13 June. The proposed prayer had two parts. The first, a segment of the prayer composed by Lord Tennyson which had been used at the ceremony for opening parliament, read:

> ALMIGHTY GOD, we humbly beseech Thee at this time to vouchsafe Thy special blessing upon this Parliament, and that Thou wouldst be pleased to direct and prosper all our consultations to the advancement of Thy glory, and to the true welfare of the people of Australia.

The reference in the original prayer to the triune nature of God was omitted. The second part of the proposed prayer was the "authorised" translation of the longer-ending version of the Lord's Prayer. The Standing Orders Committee's proposal was agreed to without debate.[80]

In the Senate the matter was first brought forward on 14 June, when Walker moved:

> That it be an instruction to the Standing Orders Committee to frame a standing order providing that the proceedings of the Senate be opened daily with prayer.

Not much needed to be said, since he had

> ...ascertained that almost all honourable members are disposed to allow it to pass in deference to the views of outsiders, even if honourable members themselves have not very strong opinions on the subject.

It behoves us, he continued, "to maintain the old idea on the subject of the Almighty, with all consideration for those who differ from us". However he firmly rejected any idea of the Senate employing a chaplain to read the prayers: there did not need to be a "particular person" to offer up prayer.[81]

He was seconded by Drake, the Queensland member of Barton's cabinet. He disclaimed qualification to speak from a religious point of view. However,

> ...a few moments spent in that way make a break in the business of the day, and perhaps induce an attitude of mind on the part of members of the Legislature that is favourable to the dispatch of the business which they have to perform.

If for no better reason, the saying of prayers was desirable.[82]

Ferguson from Queensland, and Symon, briefly indicated support. However Macgregor, the Labour senator from South Australia, brought some vigour to the debate. He suggested that, strictly speaking, the prohibition of religious observances in Section 116

prevented parliament from including prayers in its proceedings:

> What did the framers of the Constitution mean? Did they mean that Parliament was not to impose religious observance in the streets or in the schools? Did they mean that Parliament was not to impose religious observances anywhere else but here?

He concluded by affirming, in the voluntarist tradition, his belief "in the religion that is in the heart of us, and not in the religion that is on the coat sleeve."[83]

Macgregor's challenge was taken up by Gould of New South Wales, and Sir Frederick Sargood of Victoria. [I]n the highest court of our realm", Gould considered, an example should be provided to the people of recognition of divine authority, and adherence to "the principles of a Christian country". We know, he continued, perhaps echoing Quick and Garran, "that Christianity is regarded as portion of the law of Great Britain". Sargood's response was more concise. Noting that Section 116 began: "the Commonwealth shall not make any law...", he simply commented: "A standing order is not a law."[84]

Best of Victoria supported Walker's proposal, without adding new argument. He was followed by Pearce of Western Australia, who hoped that the prayer would simply be the Lord's Prayer: He objected to "man-made prayer". Finally Nield from New South Wales, and Barrett from Victoria, briefly indicated assent. Walker's motion was then agreed to.[85]

So the prayer question was at last settled. On the one hand, as the Sydney Morning Herald editorial of 8 June remarked, such prayers would provide a "regular expression of the statement in the

preamble to the Constitution Act that we as a people 'humbly rely on the blessing of Almighty God.'" However on the other hand, as the debates themselves had made clear, the religion of the federal parliament would be undogmatic, unsectarian, and unsacerdotal. A door had been opened, slightly, to religion; but not to the churches.

Responses to the parliamentary decision were of course varied. Protestants now could look back on "many years" of "ignorant and bitter secularism" as some "hateful nightmare", declared the Southern Cross. "We have, so to speak, re-discovered the truth which explains the history of the British Empire and which, for a Protestant People, ought to be a platitude ; that God is the author of our National life."[86] The Church Commonwealth was pleased, but with qualifications. It was a pity that "Our Lord's name was not included ". Some Jews might be offended, but "the first principle of Parliamentary Government is that the majority shall rule."[87] Some dissatisfaction was expressed. The Argus did not comment editorially, but the sarcastic tone of its report of the Senate debate conveys its disdain.[88] The Age also was obliquely critical. "It is to be hoped", its parliamentary reporter remarked on 14 June,

> ... that the prayer will be recommitted and revised, for it is a weak piece of composition, and would be easily improved by an application of the blue pencil.

One of the most surprising critics, and one of the most outspoken, was Rentoul, one of the leaders of the 1897 "recognition" campaign. The prayers chosen, he declared forcefully if perhaps obscurely, were "such as a free people, touched with the modern Christian spirit of altruism and of the power of the people, and of the brotherhood

of man, would not think of drawing up as a form of prayer for a modern popular parliament, unburthened by the notions of absolute monarchy, which ruled and often crushed the past."[89] Another rather surprising critic, in view of the support which he earlier had given to the prayer movement, was Archbishop Carr. Not only did he, like Rentoul, consider Lord Tennyson's prayer "not worthy of the occasion", but he also had sharp words to say about the choice of the "authorised" version of the Lord's Prayer. This version, he considered, was unsatisfactory in that it contained the "distinctly Protestant" longer ending. The "revised" version would have been a better choice.[90] However, overall, critical responses to the prayer decision were isolated, and received little publicity.

The Precedence Question

The British government claimed, and the federal government conceded without question, the right finally to decide the order of precedence to be observed at formal Commonwealth functions.[91] However as Chamberlain, the British Colonial Secretary, made clear to Hopetoun on 30 November, 1900, the Table of Precedence which Hopetoun was to implement was only provisional. The federal government would be invited to express its views; and it would "arrange with [Hopetoun] a permanent Table for submission to Her Majesty".[92] In this kind of consultative situation the wish of the local government was likely eventually to prevail, provided no substantial imperial interest was at stake, and provided the local government was resolute and unified on the issues involved. But normally a period of negotiation would be required. In the case of the Commonwealth Table final agreement was not reached until 1905. The clerical precedence

issue was only one, but perhaps the most difficult. Some other contentious areas were : The rank of State Governors in and out of their State; the rank of State Chief Justices in relation to the ordinary justices of the High Court; the rank of the Chief Justice of the High Court in relation to ministers of the Crown; the relative precedence accorded to different federal ministers; the rank of federal ministers in relation to state ministers when the Commonwealth ceremony was held in that state; and the rank of executive councillors authorised to use the title "Honourable".[93] The controversy regarding ecclesiastical precedence at the 1 January ceremony, while generated initially by the ranking accorded in the special inauguration-ceremony list, applied however in much the same way to the Table drawn up for the Commonwealth as such. This general Table is set out in an Appendix. In it, Cardinal and Primate were ranked together, but in that order; while "Heads of other Denominations"were accorded no rank whatever.[94]

During the next few months the clerics, the federal cabinet, and Hopetoun took up fairly well defined and clearly contrasting positions. Moran was quiet, but did not forgo his claim to precedence inter se over the Primate. He presumably took this quiet line because he judged that his claim would not be advanced by controversy. Some Catholics however, at least by implication, came close to questioning clerical precedence distinctions as such. The Freeman's Journal for 19 January, commenting on the 1 January dispute, cited Section 116 with approval. If Australians, the journal declared,

> ...once permit the setting up of a right of precedence by virtue of either numerical superiority or the dominance of the English over the British in the affairs of the Empire, then worse evils may follow.

The argument is not developed, but points more readily towards the unwisdom of recognising precedence distinctions at all, than to the wisdom of endorsing the basis (namely, Colonial Office practice at the time) of Moran's specific claim. Archbishop Smith was quiet too, but for different reasons. His claim to ascendancy was supported not only by most Anglicans, but by many other Protestants. The trouble was that many of his co-religionists supported his claim mainly or solely because he was Primate, while many of his non-Anglican supporters backed him rather because the Church of England was "the most numerous" church.[95] Which of these potentially incompatible principles Smith personally adopted was not clear. Perhaps, in the delicate circumstances, could not be clear.[96]

However, the non-Anglican Protestants, unlike the Catholics and Anglicans, manifestly were "have-nots" in the precedence struggle, and clearly needed to be active. On 10 January, the General Purposes Committee of the New South Wales Presbyterian Church wrote to Lyne, in his role as Minister of the Interior, urging him to support the "numerical principle".[97] On 14 January the Evangelical Council, appealing to Section 116, resolved in favour of the same principle.[98] On 16 January the Council wrote to Barton seeking his support.[99] On 18 January the Committee of Privileges of the New South Wales Wesleyan Methodist Church resolved similarly to the Evangelical Council, and forwarded copies of these resolutions to Lyne and Barton.[100] On 31 January the Committee on Public Questions of the Presbyterian Church of Victoria sent to Lyne, as Minister of State for Home Affairs, a rather more complicated proposal. The Committee began its plea by commending the "numerical principle". It deplored "the principle that the State is able to determine the value of the Ecclesiastical Titles which the various Churches give to their respective heads."

For the State "to take upon itself this duty is to intrude into a sphere which the States of the Commonwealth have expressly declared to be beyond their Province." However, the Committee continued, if any other principle than religious equality was adopted "it should be the Standing in the Old Country of the Churches which the Churches in the Commonwealth represent." If this principle was adopted,

> ...it would rank the Anglican Church, the representative of the Established Church of England, and the Presbyterian Church, the representative of the Established Church of Scotland, together and group the Roman Catholic Church with the other Churches which represent Churches not established in any part of the Empire.[101]

On 12 February, the Executive of the Baptist Union of New South Wales wrote to Lyne and Barton, advocating the "numerical" principle as "a matter of righteous equality."[102] On February 28, the Victorian and Tasmanian Conference of the Australasian Wesleyan Church resolved similarly;[103] and at its February meeting, the Brisbane Council of Churches also joined the chorus.[104] On 12 March the Queensland United Conference of the Australasian Wesleyan Church declared its support for the "numerical" principle.[105] In April, the New South Wales Baptist Union approached the New South Wales Congregational Union on the question. In response, the Congregationalist Committee of the Church and Home Mission resolved:

> That the Committee is willing to act with other denominations in approaching the Commonwealth Government with the object of removing the right of any particular religious denomination to precede any other denomination in public functions.[106]

On 8 May, at the annual meeting of the New South Wales Presbyterian Assembly, Dill Macky proposed that New South Wales Presbyterians "boycott public functions in which perfect equality of denominations was not recognised." However a boycott was a little further than the Assembly wished to go. It affirmed the principle of equality, but declined the boycott. On 27 May, rounding out the picture of massive non-conformist protest, the General Conference of the Australasian Wesleyan Methodist Church firmly declared its support for the "numerical" principle.[107]

The only alternative to the principle of equal public status to all, which was likely to hold any appeal to egalitarian Protestants, was the principle of no public status to any. This latter alternative was egalitarian enough. Its defect was that it offered nothing to those Protestants who also wanted "official" recognition. Surprisingly, this option received endorsement from the influential Victorian Protestant journal, the Southern Cross. "Plainly", the Southern Cross declared on 10 May, the numerical rule would not work:

> As one absurd consequence, ... the Heads of the various Churches would have to walk in single file. If they walk two abreast, the law of numerical rank would sustain mortal injury!

Questions of social precedence, the journal added, were "irrelevant and contemptible". However, during the next few years, at least on the organisational level, the Southern Cross' rigorously separationist approach remained unpopular with Protestants.

What view, as the Protestant campaign developed momentum, did Hopetoun and the cabinet take? On 18 April, 1901, Hopetoun forwarded

a suggested Table of Precedence to Barton. "I think", he declared hopefully, "on the whole it works out very well." He ranked "the Cardinal and Primate" as number 7, and "the Archbishop and Bishop" as number 8. Heads of other religious denominations did not appear at all on the list. In his covering letter Hopetoun devoted some effort to explaining and justifying his views on certain other contentious areas; but said nothing regarding his proposals for ranking the clerics.[108]

The only evidence of the Cabinet's response to this initiative by Hopetoun is indirect, and consists of certain markings added to the sheet on which the proposed table was set out. There are a number of ticks and crosses, written in ink, in the margin beside the listed dignitaries. Most items were ticked. One, "Chief Justices of States", had beside it either a cross-stroke superimposed upon a tick, or a tick superimposed on a cross. Two, those relating to "The Cardinal and Primate", and "The Archbishop and Bishop", simply had crosses placed beside them.

The Cabinet's initial response to Hopetoun's ecclesiastical ranking may well have been as critical as these marginal crosses suggest. On 20 July, 1901, Hopetoun forwarded to Barton a revised Table of Precedence, in which "The Cardinal, the Primate, the Bishop, and the Archbishop", were now ranked together, and relegated to the lower rank of 11. Heads of other denominations still appeared nowhere. "You will see", Hopetoun uninformatively explained, in a covering letter:

> ...that I have placed the Cardinal and the Primate, the Bishop and the Archbishop, after Peers which appears to me to be a suitable position for these particular dignitaries in Australia.[109]

However this too proved unacceptable to the Cabinet. Further negotiations followed, not now traceable; and by March of next year Cabinet had firmly declared its mind. On 26 March, 1902, Barton sent to Hopetoun a "Proposed Table of Precedence", approved by the cabinet, with the request that Hopetoun forward it to the King for approval.[110] Cabinet's proposal respecting ecclesiastical precedence was simple. None of them ranked anywhere. Probably, recalling the marginal crosses, that had been Cabinet's intention all the time.

However the issue of clerical precedence was not yet resolved. The Colonial Office still wished to negotiate on a number of issues although, by mid 1903, it at least had conceded to Cabinet on the ecclesiastical question.[111] Normally, that might have settled the issue. However in Barton's Cabinet diary for 10 June, 1903, a curious entry appears, which suggests that Cabinet was having second thoughts. On the previous day, Barton had received a Protestant and Anglican delegation, still urging the "numerical" principle.[112] The question of ecclesiastical precedence then came up for cabinet discussion. In the part of the diary in which cabinet decisions were recorded, appear the following words:

> The giving of any relative precedence to religious ecclesiastical dignitaries at functions which are in themselves secular does not and ... [gap here] No answer to deputation at present.[113]

During the next few months, the various interested churches forcefully renewed their claims. Protestants and Anglicans still urged the "numerical" principle.[114] Moran, in a letter to Barton, canvassed rather the merits of the Colonial Office scheme still provisionally in force. He cursorily dismissed Protestant claims for parity of official status:

> There are some Protestant communities which do not pretend to any regularly ordained ministry and in fact repudiate all idea of ecclesiastical rank. The representatives of such communities can only lay claim to such precedence as in their lay position they may be entitled to, but assuredly any ecclesiastical precedence would be out of place in their regard.[115]

Perhaps the most interesting, or curious, feature of the Protestant and Anglican campaign was that its leaders seem sincerely to have believed that the federal government was planning, after all, to follow the original Colonial Office plan, and to allow precedence to Moran. No valid basis for this belief was discovered; and its persistence its perhaps testimony either to the strength of the convention of cabinet confidentiality, or (more likely) to the Protestant tendency sometimes to see plots where none existed. Possibly the main cause of Protestant and Anglican suspicion of the government's intention was Barton's "outrageous" 1902 interview, in company with Moran, with Pope Leo XIII.[116]

The cabinet beat what can in retrospect probably be seen as a strategic retreat. There was shortly to be a federal election, and perhaps the cabinet had decided to tread softly on religious issues. Barton announced that no final decision on the question of ecclesiastical precedence had been reached. However in the long haul

the cabinet (for the next two years, of course, a series of different ones) stuck to its separationist guns. On 30 December, 1905, a revised "official" Table of Commonwealth Precedence was issued by the Governor-General. This was published in the Commonwealth Gazette on 6 January 1906. The Table assigned no place to the heads of any religious organisations.

By now, most clerical leaders seem to have come to terms with their non-inclusion. The publication of the final Table produced - in contrast to the fuss of previous years - scarcely a ripple in either the secular or religious press. In the major secular dailies only the Methodist cleric Rutledge protested, and that simply was over the failure of the Table to make clear that Australia was a Protestant country.[117] Among the major religious journals only the Church Commonwealth commented at length. On balance, interestingly, it was rather pleased:

> Surely the empty show of State or Vice-Regal functions can do better without our [ecclesiastical] leaders. ... It would be more telling to hold aloof than to cling to the last shred of the old order of the Erastian Establishment at home.[118]

FOOTNOTES

1. P.D. New South Wales, Vol. 99, p. 742.
2. S.M.H., 22 December, 1900.
3. Australian Christian World, 2 November, 7 December, 1900.
4. Ibid., 7 December.
5. Ibid.
6. Ibid.; S.M.H., 2 November, 1900.
7. S.M.H., 2 November.
8. Australian Christian World, 7 December.
9. Ibid., 30 November, 1900.
10. Ibid., 28 September, 1900.
11. Ibid.
12. Ibid.
13. Australian Star, 14 January, 1901.
14. S.M.H., 3 December, 1901.
15. Australian Star, 14 January, 1901.
16. Ibid.
17. S.M.H., 15 December, 1901.
18. Australian Star, 14 January, 1901.
19. External Affairs - Correspondence File, 1901. [Question of Precedence in the Colony of Victoria] 1900-1901. Australian Archives: CRS A6, item 01/1800. (Hereafter: Australian Archives: CRS A6, item 91/1800).
20. Australian Star, 14 January, 1901.
21. Ibid.; Argus, 10 January, 1901.
22. E.R. Norman, The Catholic Church and Ireland in the Age of Rebellion, 1859-1873, London, 1965, pp. 29-30.
23. J.C. McDonald to W.Lyne, 28 December, 1900. Department of Home and Territories, Correspondence File Annual Single number series: "Ecclesiastical Precedence", 1900-1908, Australian Archives: CRS A1, item 08/2687. (Hereafter: Australian Archives: CRS A1, item 2687). This letter, and the one of the 29th from J.C. McDonald and G. Tait to Lyne, were addressed to Lyne as New South Wales premier.
24. J.C. McDonald and G. Tait to W. Lyne, 29 December, 1900, ibid.

25. Ibid.

26. S.M.H., 1 January, 1901;
Age, 9 January, 1901.

27. Age, 9 January, 1901; G. Tait to W. Lyne, 31 January, 1901, Australian Archives: CRS A1, Item 08/2687.

28. S.M.H., 1 January, 1900.

29. Argus, 7 January, 1901 (letter from "Oriel"); 10 January, 1901.

30. Australian Star, 14 January, 1901.

31. Ibid.

32. Ibid.

33. Ibid.

34. 5 January, 1901.

35. Australian Star, 14 January, 1901.

36. S.M.H., 2 January, 1901; D.T., 2 January, 1901.

37. Southern Cross, 18 January, 1901.

38. Church Commonwealth, 10 January, 1901.

39. 2 January, 1901.

40. Age, 9 January, 1901 (Letter from G. Tait); S.M.H., 12 January (letter from J.E. Carruthers).

41. Southern Cross, 29 March, 1901.

42. 12, 19 January, 1901.

43. 5 January, 1901.

44. 10 January, 1901.

45. Australian Star, 15 January, 1901 (letter from P.R. Waddy); S.M.H., 12, 17 January, 1901 (letters from J.E. Carruthers); Age, 9 January, 1901, (letter from G. Tait). See also sermon by E.T. Dunstan, S.M.H., 14 January, 1901.

46. S.M.H., 16 January, 1901.

47. 4 January, 1901.

48. Ibid, 11 January, 1901. The writer was A. Black.

49. Australian Star, 15 January, 1901.

50. 10 January, 1901.

51. 17 January, 1901.

52. External Affairs - Correspondence files, 1901. "Papers relating to the Proposal to Open Parliament with prayer", 1901. Australian Archives: CRS A6, item 01/617. (Hereafter: Australian Archives: CRS A6, item 01/617).

53. Ibid.

54. Protestant Banner, 9 March, 1901.

55. 10 May, 1901.

56. Australian Archives: CRS A6, item 01/617.

57. Ibid.

58. Ibid.

59. Ibid.

60. Ibid. The course of Cabinet discussion was reconstructed from handwritten minutes on correspondence received on the prayer question. Barton's long interview with Hopetoun was noted in D.T., 18 April, 1901.

61. "Lord Hopetoun ... is a loyal Presbyterian, well versed in the history of his church, having acted on several occasions as Her Majesty's Lord High Commissioner to the General Assembly of the Established Church of Scotland.", Australian Christian World, 14 September, 1900.

62. See the religious profiles of individual delegates, Chapter 13.

63. 17 May, 1901.

64. 10 May.

65. Bulletin, 18 June, 1901; Protestant Banner, 15 June, 1901.

66. E.G. White, Fundamentals of Christian Education, pp. 475-484. This change in Mrs White's thinking is discussed in detail in M.F. Krause, "The Seventh Day Adventist Church in Australia, 1885-1900". M.A. thesis, University of Sydney, 1968, Chapters 4 and 7.

67. Union Conference Record, 17, 31 July, 1901.

68. Ibid., 17 July.

69. C.P.D., Vol. 1, pp. 815, 1136.

70. Ibid., p. 815.

71. Australian Archives: CRS A6, item 01/617.

72. C.P.D., Vol. 1, pp. 815-7.

73. Ibid., pp. 817-8.

74. Ibid., pp. 818-9.

75. Ibid., pp. 819-20.

76. Ibid., p. 820.

77. Ibid.

78. Ibid.

79. Ibid., pp. 820-1.

80. Ibid., p. 1077.

81. Ibid., pp. 1136-7.

82. Ibid., p.1137.

83. Ibid. pp. 1137-8.

84. Ibid., pp. 1138-9.

85. Ibid., pp. 1139-40.

86. 14 June, 1901.

87. 29 June, 1901.

88. 14 June, 1901.

89. Christian Commonwealth, 13 June, 1901.

90. Advocate, 15, 22 June, 1901; Argus, 15 June, 1901.

91. The British attitude, in detail and in general, is conveyed in Australian Archives: CRS A6, item 01/1800. The federal government's view was succinctly stated by Barton on 16 July, 1903, in reply to a question in the House of Representatives. C.P.D., Vol. 14, p. 2223.

92. See particularly: J. Chamberlain to the Earl of Hopetoun, 30 November 1900, and 14 March, 1901. Australian Archives: CRS A6, item 01/1800.

93. Ibid.

94. Ibid.

95. D.T., 12 January, 1901; S.M.H., 16 January, 1901; W.S. Smith to Barton, 3 September, 1903, clearly conveys the diversity of Anglican thinking: Australian Archives: CRS A6, item 08/2687.

96. In 1903 he told Barton: "To me personally the matter of 'precedence' is not a matter of much moment, but I hold an official position which lays me under an obligation to consider it, and to claim that I deem to be both just and expedient." W.S. Smith to Barton, 3 September, 1903: Australian Archives: CRS A6, item 08/2687.

97. Ibid.

98. S.M.H., 16 January, 1901.

99. Australian Archives: CRS A1, item 08/2687.

100. Ibid.

101. Ibid.

102. Ibid.

103. Ibid.

104. Australian Christian World, 8 March, 1901.

105. Australian Archives: CRS A1, item 08/2687.

106. S.M.H., 17 April, 1901.

107. Australian Archives: CRS A6, item 01/617.

108. Australian Archives: CRS A6, item 01/1800.

109. Ibid.

110. External Affairs - Correspondence files, (folio system), 1901-1902 [Table of Precedence] 1902. Australian Archives: CRS A8, item 01/304/3.

111. This seems a reasonable inference from the report on the Argus.

112. Barton to W.E. Morris, Barton to A. Hardie, 5 June, 1903. Australian Archives: CRS A1, item 08/2687.

113. Barton Papers, MS. 51/951, A.N.L.

114. Australian Archives, CRS A1, item 08/2687.

115. 14 June, 1903. Australian Archives: CRS A1, item 08/2687.

116. F.K. Crowley (ed.), Modern Australia in Documents, 1901-1939, Melbourne, 1973, pp. 28-9.

117. S.M.H., 12 January, 1906.

118. 28 February, 1906.

APPENDIX TO CHAPTER FIFTEEN

TABLE OF PRECEDENCE FOR THE COMMONWEALTH OF AUSTRALIA 1901-1905[1]

The Governor-General.

The State Governors, according to class and the date of their Commissions provided that within the territory of a State the Governor of the State shall have precedence immediately after the Governor-General.

The Naval Commander-in-Chief on the Australian Station.

The Chief Justice of the High Court of Australia.

The Lieutenant Governors of States, according to Seniority.

The Cardinal and Primate.

The Prime Minister of the Commonwealth.

The other Ministers of the Commonwealth, according to Seniority.

Privy Councillors.

The President of the Senate.

The Speaker of the House of Representatives.

The Judges of the High Court of Australia.

Executive Councillors allowed to retain the title of "Honourable".

The Members of the Senate.

The Members of the House of Representatives.

Baronets.

Gentlemen holding the various Orders of Knighthood according to the precedence of those Orders.

The Mayors of the State Capitals, according to the population of their Cities.

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1. External Affairs - Correspondence Files, 1901. [Question of Precedence in The Colony of Victoria] 1900-1901. Australian Archives: CRS A6, item 01/1800.

RETROSPECT

From about the mid-nineties it became clear to many churchmen - who often were quite as sensitive as journalists and politicians to currents of feeling in the community - that federation was becoming a genuinely popular cause . The coming Commonwealth would be not merely a political and economic fact; increasingly it would tend to become a social entity - an organic community. Responding to that perception, many church leaders hoped to become - and be recognized as - the moral and spiritual conscience of the New Commonwealth.

A central aim of the churches' campaign was the achievement of public status - in the sense of public recognition of a distinctive role and rank - within the emerging Commonwealth. At the People's Convention Gosman and Moran clearly regarded themselves, and hoped others would see them, as trustworthy guides to the moral and spiritual side of federation. Moran's Convention candidature was partly, and perhaps largely, motivated by the hope that, once elected, he could lay claim to the status of Christian spokesman in the Convention and the federal movement. When, during the "recognition" campaign, Protestant clerics forcefully dilated on the perils of federating "without God", they both assumed and invited public acceptance of the validity of their prophetic role. When Protestant leaders, and later Moran, campaigned for electoral acceptance of the Federal Bill, they tended to assume, and to wish the electorate to accept, that they were specially expert interpreters of God's will for the outcome of the referendum. When Moran and the Primate clashed with each other over who should offer the first prayer at the Commonwealth inauguration ceremony, their conflict (possible worldy vanities aside) essentially was over which one should be - and should be recognized as - the infant Common-wealth's principal interceder before the throne of grace. However

the most compelling, if also the least dignified, demonstration of the strength of clerical status-ambition was the prolonged quarrel over ecclesiastical precedence at official Commonwealth ceremonies.

The churches achieved success in some small matters; but not in larger ones. Although the sovereignty of God finally was "recognised" in the preamble to the Constitution, the federal parliament was totally prohibited by Section 116 from helping or hindering any religion. Although in June, 1901, the upper and lower houses of federal parliament agreed to open their daily sessions with prayer, that prayer was theistic merely, and not distinctively Christian. Moreover it was, in each case, to be read by a layman. Finally, under the Commonwealth, no clerical leader enjoyed, by right, any kind of official entitlement to place or predecence.

Resistance to the churches' hopes was not prompted by irreligion. The Adventist church had been the organisational pivot of the anti-"recognition" campaign. Of the seventeen Convention delegates who voted against Glynn's "recognition" proposal, nine were religiously fairly serious, five were unclear, and only three (Barton, Wise and Kingston) could be called religiously indifferent.[1]

Not irreligion but fear was the key to separationist resistance. The Adventists, resolutely committed to working on Sundays, feared Protestant legal persecution. Federation supporters feared the destructive potential, in the federal domain, of sectarian conflict. Sectarian turbulence over Moran's Convention candidature pointed a clear warning, the validity of which was amply confirmed by the savage row, in December 1900, as to who should say the first prayer at the Commonwealth inauguration, and who should have precedence over whom in the procession.

So out of fear came light.

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1. See p. 168 above.

ILLUSTRATIONS

ON THE ROAD TO UNITY.

"Didn't I told you so!"

A N.S.W. DOMESTIC ITEM.—A BAD QUARTER-OF-AN-HOUR FOR TOM SLATTERY.

THE THIN END OF THE WEDGE ONCE MORE.

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