

CHAPTER 10

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 about 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, ore 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 very 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 American precedent which he had discussed on 7 and 8 February, and once more analyzed 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 criticized the moves of the organizers, although not the rank and file, of the 'recognition' campaign. The main leaders had known of the course of the American 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 Higgin'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 congressional law in question. He concluded by challenging Higgins to name any 'clause' in the Bill that would authorize religious legislation. Altogether – with its 'possiblys' and 'mays' – an evasive contribution from the future co-author of the *Annotated Constitution of the Australian Commonwealth*.⁷

Barton followed with a careful speech. At Adelaide he had spoke 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, 'that danger, by every consideration of experience or common sense would be increased by putting in [such] an express amendment'. However, he then criticized, 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 be left entirely 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 American 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, '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 Adye 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. Alexander 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."¹⁰ 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 that 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, 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 8 February 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 Federation Bill. They were not however altogether happy about certain features of the debate. The *Presbyterian Monthly* gently chided 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 Almighty God' inserted in the preamble. It was chiefly intended to secure greater support from a large number of voters who belie[ve] 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 contributor 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 Gov. 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, complains 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 voluntaryists would have considered that the Protestants, with friends such as they had found in the Convention, would have had no need for enemies. But Andrew 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 that they had learned nothing.