

## CHAPTER 13 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.<sup>1</sup> 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 that 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 recognized 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 prevent any possibility of that kind as regards the Commonwealth...<sup>2</sup>

Higgins in his April address to the Geelong electors scoffed at Barton for this turnabout,<sup>3</sup> 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.<sup>4</sup> There was, however, little comment. The journalists and editors in question either did not see, or regarded as exaggerated, the dangers that 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.<sup>5</sup> 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 nation-wide 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 the 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.'<sup>6</sup>

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.<sup>7</sup>

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'.<sup>8</sup> 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.<sup>9</sup>

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.<sup>10</sup> 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.<sup>11</sup>

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 enjoying their role as spiritual adjunct to the federation movement. Within the now more 'spiritualised' ranks of that 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.'<sup>12</sup> 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'.<sup>13</sup> 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.'<sup>14</sup> 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 per cent 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 could well be a close one, the attitude of the New South Wales churches became vital. One way or the other their attitude could prove decisive.

In the event, Protestant churchmen in New South Wales mostly supported the Bill, although as a result of its 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.<sup>15</sup> 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 F. 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.’<sup>16</sup> In May 1898 the prominent Victorian Congregationalist, the Rev. Dr L. Began, an ardent federationist, conducted a well-publicised speaking tour of Sydney and its suburbs in favour of the Bill.<sup>17</sup> Higgins many years later ruefully recalled that ‘churches and meeting places were open to the “Billites”, and generally closed to the “Anti-Billites”’.<sup>18</sup>

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 H. Copeland, A. G. Meagher and T. Slattery were strongly opposed to it. That was why, from the Billite point of view, Moran’s participation possibly was 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.<sup>19</sup>

Bernhard 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.<sup>20</sup>

Revenge was sweet; and 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 opprobrium 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. 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’;<sup>21</sup> 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.’<sup>22</sup> Dr MacLaurin, a prominent Anti-Billite leader, referred in his analysis of their defeat to ‘the influence of the dominant religious bodies’.<sup>23</sup> Slattery made the same claim but singled out Moran’s intervention as having ‘had an enormous effect’.<sup>24</sup> 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’.<sup>25</sup>

The key to estimating clerical influence on the result of the second referendum probably lies in Slattery’s diagnosis: that the people were ‘perplexed’, and that this gave great leverage to the clerics.<sup>26</sup> Clerical involvement *may* have been decisive; it *must* (although precision necessarily eludes) have been highly influential.