

CHAPTER 7

The Debates in the Colonial Legislatures

Although the Adelaide Convention rebuffed the churches on 'recognition', it did agree to include (as Clause 109) Inglis Clark's 1891 provision that 'A State shall not prohibit the free exercise of any religion'. This received little notice in the legislatures. In the House of 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 Francis 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, Sir Henry Cuthbert, simply noted that 'recognition' had received wide public support and that the Queen's regal power had certain religious aspects. The amendment was accepted without further discussion.³

In New South Wales a bipartisan approach was adopted. William 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 that he heard them. The amendment was accepted by 62 votes to 7.⁵ 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, Robert Caldwell, having indicated that he personally supported 'recognition', launched a sarcastic attack on the spiritual bona fides of the churchmen who had organized 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 'recognition' in the lower and upper house.⁸ Later 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 great 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, who on 22 April had voted against Glynn's 'recognition' amendment. Downer declared that he personally was against 'recognizing' 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 the rather unspecific '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. Richard Septimus Haynes, a strong anti-federationist, 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'. The only other speaker, George Randell, defended the Adventists, describing them as 'a society of persons' moved by 'some conscientious principle'. However, he dismissed their fear that the federal parliament would be able to pass religious laws if 'recognition' were accepted. The amendment was approved on the voices.¹¹

In the Assembly the 'recognition' proposal was introduced by Walter James, one of the Convention delegates, on 24 August. James was apologetic. He was sure opponents of 'recognition' were as reverent as supporters, and he would not propose it if he thought it could be 'a lever of future discord'. However, 'Section 109 was a sufficient guarantee against that.' He added that 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. Some speakers opposed 'recognition', the most articulate being F. C. B. Vosper. Clerics in politics, he declared, were a danger to liberty. 'Recognition' was 'only the beginning' and by no means the end, so we 'should put our foot down on it at the first'. In a division, 'recognition' was approved by 17 votes to 6.¹²

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, part from Inglis Clark, J. B. W. Woollnough, an atypical Anglican minister; B. S. Bird, an atypical 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 F. W. Piesse.¹⁴

On 18 August, in the Assembly, F. Archer briefly moved that before the word 'have' in the preamble there 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. Sir Philip 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, however, 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.' Inglis Clark strongly opposed the amendment. He pointed out that a large number of signatories of the class to which Fysh had referred had petitioned *against* recognition. He might have agreed with Fysh if the feeling for 'recognition' had been 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 E. 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 Confederate States had recognized 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 that 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 17 votes to 3.¹⁵

In the Council, however, the recognitionists received their soul setback.¹⁶ William 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 acerbic critic at Adelaide. Douglas still was 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.' W. Crosby, in support, referred briefly to the enthusiastic praise of God at the recent Record Reign celebrations. Piesse was opposed. 'Recognition' would not help religion, and no one should interfere between a man and his belief. Furthermore the statement that everyone was anxious to recognize God in the desired manner simply was false. Charles H. 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 John 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 negated by 5 votes to 4.¹⁷

Clause 109 met trouble only in South Australia. The main South Australian critics were Glynn and E. L. 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.'¹⁸ Batchelor, expressing a viewpoint that eventually would find many supporters, declared the clause 'an insult to the states'. Downer and King O'Malley, however, strongly defended it.¹⁹ They needed, Downer said, a 'guarantee' against reversion to a religious intolerance. Clause 109 was agreed to by the Assembly on the voices.²⁰

The Tasmanian legislature was urged by Inglis Clark on 18 August to add to Clause 109 the words 'nor appropriate any portion of its revenue or property for the propagation or support of any religion'. In the brief debate Clarke 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.'²¹ What he had in mind he later made clear in a memorandum which he forwarded in 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 of endowments to particular forms of 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.²²

The Assembly on 18 August accepted Clark's amendment on the voices. However on 20 August the Council, in a curious pendant to its 18 August rejection of 'recognition', rejected Clark's amendment as well.²³ Yet just this once the Council did not have the last word. The Sydney session of the Convention on 3 September agreed to give consideration to 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.²⁴

Overall the treatment of 'recognition' in the colonial legislatures was fairly uniform. Those who supported it 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 it 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 that Inglis Clark received, for his proposal to prevent a State paying money to any church, from a house decidedly in favour of 'recognition', scarcely allows any other conclusion.