

**CONSTITUTION AMENDMENT (RECOGNITION OF ABORIGINAL PEOPLE) BILL 2015**

*Receipt and First Reading*

Bill received from the Assembly; and, on motion by **Hon Stephen Dawson**, read a first time.

*Second Reading*

**HON STEPHEN DAWSON (Mining and Pastoral)** [12.22 pm]: I move —

That the bill be now read a second time.

*[Words spoken in Noongar language —*

*Ngala kaaditj Noongar moort keyan kaadak nidja boodja.]*

I pay my respects to this land and to the Noongar people, the original inhabitants and traditional custodians of the land on which we meet today. The Constitution Amendment (Recognition of Aboriginal People) Bill 2015 is to amend the Western Australian Constitution—the Constitution Act 1889—to officially recognise Western Australia’s Aboriginal people as the first people of this land. Make no mistake; this is important. Recognition, acknowledgement and acceptance are necessary steps to true and lasting reconciliation and this bill is just one of those steps. In a way it is more than a step; it is a confident stride forward. Reconciliation between Indigenous and non-Indigenous Australians is not about friendship, it is about making our histories—the stories that we tell about ourselves and our nation—consistent, and that means non-Indigenous Australians acknowledging the truths of the first Australians. This bill had its genesis in the Constitution Amendment (Recognition of Aboriginal People) Bill 2014, introduced into the other place last year. Certain members had concerns with that original bill and it was referred to a Joint Select Committee on Aboriginal Constitutional Recognition. The committee found that original 2014 bill was correctly drafted, and I thank the members of that committee for their hard work.

The human history of Western Australia commenced between 40 000 and 60 000 years ago with the arrival of Indigenous Australians on our north west coast. Our shared history and our cultures will remain separate forever until we recognise who was here first. That is what this bill does; it means that once we have amended the Constitution to recognise the original people who occupied this land, then our collective history joins at that point and history becomes our history from now on. We can join and walk together. As a reminder to members of where this journey has taken us, the 2014 bill was introduced in the other place on 11 June 2014. My colleagues in that place then began extensive consultation, contacting more than 400 stakeholder groups and receiving feedback that extended into October 2014. The bill was debated on 12 and 19 November. Concerns were expressed that the bill may not be properly drafted, that there may be legal ramifications, so the matter was directed to a Joint Select Committee. The committee met through the summer and tabled its report on 26 March this year. The report’s 16 findings concluded that the words in the 2014 bill were —

... a suitable starting point for considering an appropriate form of words for constitutional recognition in Western Australia.

It recommended some minor amendments to improve readability. The report supported the removal of section 42 of the Constitution Act 1889 (WA). In addition, the report recommended the amendment of section 75 to remove the definition of the Aborigines Protection Board. The report found that —

The continued presence of these spent provisions within the *Constitution Act 1889* (WA) would be inappropriate and inconsistent with the spirit of reconciliation inherent in a statement of recognition by the Parliament.

The report contains two recommendations. First, some minor amendments to the 2014 bill’s wording for the Constitution Act 1889 (WA) preamble, and second, that the 2014 bill “appears to be an option available to the Parliament” should it wish to consider a bill to recognise Aboriginal people in the Constitution Act. Importantly, the report found that if the 2014 bill were passed, “the risks of unintended legal consequences appear to be negligible.” The report also provides strong reassurance on the following points. First, it finds that the addition of these words of recognition could be enacted by ordinary legislative procedures; in other words, we do not need a referendum. Second, it finds the suggestion that such an addition could limit the legislative power of the state can be discounted. Third, it finds that the risk of the addition having any impact on the interpretation of other Western Australian legislation or legislative powers is exceedingly low or negligible. Fourth, it finds that the addition will not have any substantive effect on native title law or pastoral leases. Finally, and very importantly, the report finds that a non-effects clause should not be incorporated into any statement of recognition, and notes that “a non-effects clause ... would undermine the spirit in which the statement of recognition is made”. As a result, this 2015 bill is substantively the 2014 bill with the joint select committee’s recommended changes incorporated.

This year will mark 126 years since the Constitution Act was passed, and so it is long overdue that recognition is given to Australia's first peoples. The Constitution Act 1889 has been amended 24 times in the last 126 years. Until the 1967 referendum, Aboriginal Australians were excluded from even being counted in the tally of citizens under section 127 of the Australian Constitution. Moving forward in an equal future together, we must all remove acts of discrimination against one another. Other mainland states have provided constitutional recognition of Aboriginal Australians as the first people of our country. South Australia was the most recent State to recognise Aboriginal people in its state Constitution through the Constitution (Recognition of Aboriginal Peoples) Amendment Bill 2012, which was introduced into the South Australian Parliament on 29 November 2012, passed on 5 March 2013 and assented to on 28 March 2013. The New South Wales Parliament introduced the Constitution Amendment (Recognition of Aboriginal People) Bill 2010 on 8 September 2010, passed the bill on 19 October 2010 and received royal assent on 25 October 2010. Queensland introduced the Constitution (Preamble) Amendment Bill 2009 on 24 November 2009, passed it on 23 February 2010 and the bill received assent on 25 February 2010. The first state in Australia to give constitutional recognition to Aboriginal people was Victoria, which introduced the Constitution (Recognition of Aboriginal People) Bill 2004 on 26 August 2004, passed the bill on 4 November 2004 and it was assented to on 9 November 2004. At a federal level, the Aboriginal and Torres Strait Islander Peoples Recognition Bill 2012 was passed by the House of Representatives on 13 February 2013 and was read into the Senate on 25 February 2013. Passing this bill will make Western Australia the last mainland state to recognise Aboriginal people in its Constitution. This Western Australian bill recognises that Aboriginal people are the original custodians of Western Australia. Recognition of Aboriginal people as the first people of Western Australia through our Constitution is vital in addressing the ethical issues that face all Australians. The task of government is to show leadership and advocate unity. Acknowledgment is not a distraction or a side issue.

It was Paul Keating who spoke about these ethical and moral issues when he said —

The distraction comes when we fail to address them, when we avert our eyes from these core moral issues of national responsibility and pretend we can shuffle towards the future without acknowledging the truth of our past. That is what impedes our ability to move forward as a nation.

And none of these issues is more central than addressing the place in our society of indigenous Australians.

Members of this Legislative Council may think that this bill has travelled only the 80 metres down the corridor from the other place to us. But the truth of this bill has travelled across 60 000 years of Aboriginal history to this moment. The intent of this bill was born in the Aboriginal people when they saw the first European settlers come to these western lands almost 190 years ago. The potential of this bill was born in the cries of the newborn Josie Farrer on Mulla Bulla station 68 years ago, and the spirit of this bill was carried in the heart of the young Josie Farrer, taken from her family to a mission school, running away from that school to return home and growing into the proud Gidja woman we see in our Western Australian Parliament today. This has been a long journey, members.

I close with the words of the member for Kimberley, who has carried the spirit of this bill in her heart for so many years —

This is the opportunity for us to stride into the future, not shuffle forward with eyes closed from the truths of the past. This is the chance to come together as a Parliament and as a community in a sincere, mature and heartfelt spirit of reconciliation.

Members, I said earlier this year that “true reconciliation means bold action, brave people and meaningful dialogue”. I also challenged members to “not be afraid, do not be timid, just be magnificent”.

The member for Kimberley continued —

Assist me with passing this bill and let us make history, acknowledging Aboriginal people as being the first peoples of Australia.

We all stand on the same lands, beneath the same Southern Cross. Let us take this step so that we can at last stand side by side, looking with honesty at our past and gazing with hope at our future.

I commend the bill to the house, and table the explanatory memorandum.

[See paper 3189.]

Debate adjourned, pursuant to standing orders.