



Aboriginal Constitutional Recognition (W.A.) Role-Play

Constitution Amendment (Recognition of Aboriginal People) Bill 2015

Legislative Assembly (First & Second Reading)

Extracts adapted by Parliamentary Education Office, from
the original text of the Hansard Western Australian
Parliamentary Debates, 2015.

Preparation for Role Play

It is important that the background information contained in the Introduction and the listed glossary terms be discussed with the students. Roles can be allocated and rehearsed prior to the visit to Parliament so that the students can read their part with confidence and understanding. This not only avoids potential embarrassment on the part of the reader, but also enables those students who do not have reading roles to better understand and follow the debate.

Curriculum Links: Year 11 ATAR Politics and Law:

Unit 1 Democracy and the Rule of Law –

The role and structure of the legislature.

Legislative processes at the State level.

A contemporary issue involving the legislative process.

Unit 2 Representation and Justice-

Political representation and the role of political parties.

One contemporary issue centring on representation

Analysis of statute law, political decisions and legal decisions.

APRIL 2016

Aboriginal Constitution Recognition (WA)

TEACHER NOTES

Background Information on the Passage of the Bill

The Member for Kimberley, Josie Farrer, introduced a Private Members bill for Constitutional Amendment for the recognition of Aboriginal People, on 11 June 2014. The bill was to amend the Constitution Act 1889 (WA) to officially recognise the Aboriginal people of Western Australia as the First People of Western Australia and traditional custodians of the land. The amendments also stated that, through this bill, Parliament sought to effect reconciliation with Western Australia's Aboriginal people.

On 12 and 19 November 2014, the bill was debated in the Legislative Assembly. Due to some government concerns regarding the drafting and legal ramifications of the bill, on 26 November 2014, the Legislative Assembly passed a motion directing the matter to a Joint Select Committee to:

...“consider and report on the appropriate wording to recognise Aboriginal people in the Constitution of WesternAustralia.”

On 2 December 2014, the Legislative Council appointed its members to that committee. The committee tabled its report in the Legislative Assembly on the 26 March 2015. The findings of the report led to some minor amendments to the 2014 bill's wording, supported the removal of Section 42 of the Constitution Act 1889 (WA), and the removal of the definition of the Aboriginal Protection Board in Section 75 of the Constitution Act 1889 (WA). The Report found *that*:

–“the continued presence of these spent provisions would be inappropriate and inconsistent with the spirit of reconciliation inherent in a statement of recognition by the Parliament.”

Additionally, the report provided strong reassurance on the following points:

Firstly, it found that a *Statement of Recognition* in the Preamble of the Constitution Act 1889 could be enacted by ordinary legislative procedures—in other words, without the need for a referendum. Secondly, it found that the suggestion that such a *Statement of Recognition* could limit the legislative power of the state can be discounted. Thirdly, it found that the risk of such a *Statement of Recognition* having any impact on the interpretation of other Western Australian legislation or legislative powers is exceedingly low or negligible. Fourthly, it found that the *Statement of Recognition* would not have any substantive effect on native title law or pastoral leases. Finally, the report found 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, the Constitution Amendment (Recognition of Aboriginal People) Bill 2015 was substantively the Constitution Amendment (Recognition of Aboriginal People) Bill 2014, with the Joint Select Committee on Aboriginal Constitutional Recognition's recommended changes incorporated.

The Constitutional Amendment (Recognition of Aboriginal people) Bill 2015 was also introduced by the member for Kimberley, Josie Farrer, and had its First Reading in the Legislative Assembly on 17 June 2015. With bipartisan support, it passed through both Houses of Parliament and received Royal Assent on 22 September 2015. From hence, the Constitution Act 1889 (WA) includes the Statement of Recognition of Aboriginal people as the first people of Western Australia and as traditional custodians of the land.

Glossary

(Concepts and vocabulary within the context of this exercise)

Vocabulary	Meaning	Usage
bill	a proposed or draft law.	<i>The bill was debated yesterday.</i>
commend	Is to give approval and support - (base word in <i>recommend</i>).	<i>I commend this bill to the house.</i>
motion	Is a formal proposal – an application for a ruling.	<i>The motion is, we all wear uniform to the parade.</i>
adjourn (v)	Is to close a session of discussion.	<i>We will adjourn the meeting.</i>
Aye	This is the old-fashioned word used for voting "Yes" in Parliament.	<i>All those in favour say "Aye".</i>
Joint Select Committee on Aboriginal Constitutional Recognition	JSC are made up of Members from both houses and assist the Parliament to research and consider complex issues. Committees report their findings and recommendations to the Parliament	Chair: Hon Michael Mischin, Deputy Chair: Josie Farrer Members: Ben Wyatt, Murray Cowper, Wendy Duncan, Hon Sally Talbot, Hon Jacqui Boydell
Constitution	This is the set of basic rules by which a country or State is governed: Australia's Constitution came into force on 1 January 1901	The Constitution Act 1889 (WA) was passed by the -British parliament for the establishment of the rules of governance for the colony of Western Australia
Preamble	This is an introductory statement in the Constitution that explains the document's purpose and underlying philosophy and may recite historical facts pertinent to the Constitution.	A Statement of Recognition has been added to the Preamble of the Constitution Act 1889 (WA)
Bipartisan	This is when both major parties are in agreement and both support a measure.	A bipartisan approach enables a smooth and speedy passage of a bill through parliament
Non-effects clause	This is an explicit statement that the amendment will have no substantive legal effect on land title	A non-effects clause was not required as any risk to land title was negligible and counter to the spirit of the bill
Spent provisions	Out-dated and unable to be used again.	Reference to the Aboriginal Protection Board is spent; - it is out-dated as it is disbanded.
Hansard	The official written record of debate in Parliament, named after the first British family who printed the record of the House of Commons.	
Introduction and first reading LA:	The House formally grants permission to a Member to introduce a bill and the Clerk then reads the long title.	
Second reading speech	In moving the second reading of a bill, the principle or purpose of the bill is summarised in the second reading speech by the Minister, Parliamentary Secretary or Member.	
Second reading debate	The debate of the bill by members of the House.	
Consideration in Detail (LA) Committee (LC) [not occurring in this role play]	Is a stage where the bill is considered clause by clause and changes can be suggested through a motion and then voted on.	
Third reading [not occurring in this role play]	The final reading of the Bill commences when the member or Minister in charge of the Bill moves that it read a third time by the Clerk. A final vote is taken before it is delivered to the other House, with a message seeking concurrence the bill.	
Royal Assent	The last step of making a bill into an Act of Parliament is the signing of a bill by the Queen's representative (The Governor in the case of State Parliaments, the Governor-General in the case of federal Parliament).	

CAST DATA SHEET PARLIAMENTARY DEBATES EXERCISE
 "Aboriginal CONSTITUTIONAL
 Recognition" (13 reading roles)

<p>Member for Kimberley Ms Josie FARRER Party affiliation: Labor</p>	<p>Member for Carine Mr Tony KRSTICEVIC Party affiliation: Liberal</p>
<p>SPEAKER Hon. Michael SUTHERLAND Member for Mount Lawley Party affiliation: Liberal</p>	<p>Leader of the National Party Hon. Terry REDMAN Member for Warren-Blackwood Party Affiliation: National Party</p>
<p>Premier Hon. Colin BARNETT Member for Cottesloe Party affiliation: Liberal</p>	<p>Member for Mirrabooka Ms Janine FREEMAN Party affiliation: Labor</p>
<p>Member for Victoria Park Mr Ben WYATT Party Affiliation: Labor</p>	<p>Leader of the Opposition Member for Rockingham Hon. Mark McGOWAN Party Affiliation: Labor</p>
<p>Member for Willagee Mr Peter TINLEY Party Affiliation: Labor</p>	<p>Clerk Ms Kirsten ROBINSON Parliamentary Officer</p>
<p>Member for Geraldton Mrlan BLAYNEY Party Affiliation: Liberal</p>	<p>Sergeant-at-Arms Ms Isla MACPHAIL Parliamentary Officer</p>
<p>Member for Dawesville Hon. Dr Kim HAMES Party Affiliation: Liberal</p>	<p>Additional roles allocated on the day: Two Hansard Reporters Non-speaking Members</p>



Aboriginal Constitution Recognition (W.A)

The following role-playing exercise is based on the original text from the Parliamentary Debates of the 39th Parliament of Western Australia, Legislative Assembly 2015. It has been adapted by the Parliamentary Education Office to suit the needs of students.

Best results occur when the reading roles are allocated and rehearsed beforehand.

LEGISLATIVE ASSEMBLY

OPENING OF THE SITTING

SERGEANT-AT-ARMS:
(Ms Isla MACPHAIL)

(Enters the Chamber from Behind the Speaker's Chair with the Mace over her right shoulder and stops beside the Speakers Platform)

Honourable Members. The Speaker. *(All Members Stand)*

SPEAKER:
(Hon. Mr Michael
SUTHERLAND)

(Enters the Chamber from behind the Speaker's Chair, stands in front of his Chair). The Speaker bows to the government side, the government side bows back, bows to the opposition side, the opposition side bows back. The Speaker sits, then all members sit and the Sergeant-at-arms places the mace on the table bracket with the head facing the government side, and takes her seat in the chamber)

INTRODUCTION AND FIRST READING

SPEAKER:
MEMBER for KIMBERLEY:
(Ms Josie FARRER)

The Member for Kimberley

Mr Speaker, I move that the Constitution Amendment (Recognition of Aboriginal people) Bill 2015, a bill to amend the Western Australian Constitution Act of 1889 to officially recognise Western Australia's Aboriginal people as the first people and traditional custodians of this land and to express the parliaments' aspiration of a reconciliation with the Aboriginal people of Western Australia, be read a first time.

Mr Speaker, I present a copy of the bill.

(Member of the Kimberley 'Presents the bill'-holds up a copy of the bill.)

SPEAKER:

The question is that the bill be read a first time.

Those in favour say "Aye" *(most members say "Aye")*.

Those against, "No" *(nobody says "No")*

I think the "Ayes" have it. The "Ayes" have it.

SERGEANT-AT-ARMS:
CLERK:
(Ms Kirsten ROBINSON)

(Attendant delivers the bill - hands it to the Clerk for its First Reading)
Constitution Amendment (Recognition of Aboriginal People) Bill 2015, a bill to amend the Western Australian Constitution Act of 1889 to officially recognise Western Australia's Aboriginal people as the first people and traditional custodians of this land and to express the parliaments' aspiration of a reconciliation with the Aboriginal people of Western Australia.

SPEAKER: The Member for Kimberley

MEMBER for KIMBERLEY: Mr Speaker, I move that the bill be now read a second time.
(The Member for Kimberley commences the Second Reading speech.)

Firstly, Mr Speaker, I seek your leave to pay my respects in the Gidja language, which will contain nothing unparliamentary. I will then provide the house with an English translation.

SPEAKER: Leave granted.

MEMBER for KIMBERLEY: *(Try to read some Gija language, optional)*

Kilingen jarrak ngenen ngenengka, Noonga-m pe taam warringarrem- pe — ngarri / ngayen kulu kulu ngenan perrem purru marnum.

Ngayen ngarra ngenau Gidja-m warringarrem-pe jijiyilem-pe, ngali ngalem pe of Western Australia.

In English I have said —

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. I also acknowledge my people the Gidja tribe in the East Kimberley, and all the Aboriginal Nations of Western Australia.

This year will mark 125 years since the Constitution Act was passed, and so it is long overdue that recognition is given to Australia's first people, Aboriginal people. This is the chance to come together as a Parliament and as a community in a

sincere, mature and heartfelt spirit of reconciliation. Members, let us make history in Western Australia by acknowledging Aboriginal people as being the first people of Australia. I invite you again members to be magnificent and support this bill.

I commend the bill to the House.

ALL MEMBERS:

Hear, Hear! (*Applause*)

MEMBER for CARINE:
(Mr Tony KRSTICEVIC)

Mr Speaker

SPEAKER:

The Member for Carine

MEMBER for CARINE:

Mr Speaker, I move that the debate be adjourned.

SPEAKER:

The question is that the debate be adjourned?

Those in favour say “ Aye” (*most members say “Aye”*).

Those against, “ No” (*nobody says “No”*)

I think the “ Ayes” have it. The “ Ayes” have it.

Debate adjourned.

LEGISLATIVE ASSEMBLY
Second Reading Debate Resumes *(4 weeks later)*

Second Reading debate

PREMIER:
MEMBER for COTTESLOE
(Hon. Colin BARNETT) Mr Speaker

SPEAKER: The Premier

PREMIER: I acknowledge the traditional owners of the land on which we stand today—the Noongar people. I also acknowledge in particular Aboriginal people who have come to the public gallery today for this significant event. I commend the member for Kimberley for progressing the Constitution Amendment (Recognition of Aboriginal People) Bill 2015, which succeeds the Constitution Amendment (Recognition of Aboriginal People) Bill 2014. As I outlined to the house last year, the government supports the recognition of Aboriginal people in our Constitution and offers its full support for the bill.

This bill is not intended to create new rights or obligations. It is not intended to change any existing law, other than to add two important phrases to the preamble of the Constitution Act. The first is to formally acknowledge Aboriginal people as the first people of the lands bounded by this state. The second is aspirational, expressing this Parliament's desire to effect a reconciliation with the Aboriginal people in Western Australia. The bill also takes the opportunity to remove two provisions that no longer have any legal effect. This bill is another step toward reconciliation with the Aboriginal people of Western Australia but, as a Parliament, we have more to do to ensure greater equality for Aboriginal people in this state.

**MEMBER for VICTORIA
PARK:**
(Mr Ben WYATT)

Mr Speaker

SPEAKER:

The Member for Victoria Park

**MEMBER for VICTORIA
PARK:**

I rise to make a contribution in support of the Constitution Amendment (Recognition of Aboriginal People) Bill 2015. I acknowledge the member for Kimberley, Josie Farrer, for moving both the original bill in 2014 and this bill in 2015. For a woman who was born on Moola Bulla station and was then taken to Fitzroy mission, to then, through grit, determination and certainly merit, work her way up to the Parliament of Western Australia, and then move with bipartisan support this amendment to the Constitution, is an extraordinary story.

I want to remind the house of one passage of the second reading speech of Prime Minister Keating when he moved the Native Title Bill in the federal Parliament in November 1993, and I quickly quote —

...as a nation, we take a major step towards a new and better relationship between Aboriginal and non-Aboriginal Australians. We give the indigenous people of Australia, at last, the standing they are owed as the original occupants of this continent, the standing they are owed as seminal contributors to our national life and culture: as workers, soldiers, explorers, artists, sportsmen and women—as a defining element in the character of this nation—and the standing they are owed as victims of grave injustices, as people who have survived the loss of their land and the shattering of their culture.

**LEADER OF THE
NATIONAL PARTY:**
(Hon. Terry REDMAN)

Mr Speaker

SPEAKER:

The Leader of the National Party

**LEADER OF THE
NATIONAL PARTY:**

Mr Speaker, I start by acknowledging the traditional owners, the Noongar people, and in doing so highlight our collective responsibility to ensure the first Australians share in the prosperity of Western Australia. It is an honour to be speaking in this chamber on this bill—to play a small role in making history. History will judge us harshly on what we do next; how we walk the talk of reconciliation, and how we as a government and as a Parliament work with Aboriginal people to make sure the future is an improvement on the past. Today's recognition of historical fact is not where we stop. It is where we start.

**MEMBER for WILLAGEE:
(Mr Peter TINLEY)**

Mr Speaker

SPEAKER:

The Member for Willagee

Thank you Mr Speaker. On this historic day, it is a great privilege to rise and give voice to recognise the contribution of Aboriginal Western Australians, who have served our country in uniform. The Indigenous contribution to the Australian military has been significant. It is believed that there were at least 3,000 Indigenous members of the Australian defence forces during the Second World War.

The friendships that Indigenous personnel forged with non-Indigenous soldiers broke down barriers and fostered non-Indigenous allies in the struggle for Indigenous rights. In fact, I saw during my service life, the contribution that Indigenous and other non-European soldiers made, and it did a lot to actually further the identity of what it meant to be an Australian soldier. Those who come after us will see this as a point in time from which they will have to reflect on what their contribution has been to reconciliation in their time, in this place. I congratulate the member for Kimberley for urging all of us in her second reading speech to do what she has done, which is to be brave.

MEMBER for
GERALDTON:
(Mr Ian BLAYNEY)

Mr Speaker

SPEAKER:

The Member for Geraldton

I wish to deliver the first part of my speech in Wajarri and I seek your permission to do this. I give an assurance that there is nothing unparliamentary in my speech and I will repeat this part of the speech in English afterwards.

SPEAKER:

Yes. Permission granted.

MEMBER for
GERALDTON:

(Try and read some Wajarri language, optional)

Nhurra barndi.

Ngathalu wilhbala waggamanha nhurra banhagula nyinaji, barna gujurda.

Ngatha waayi ngurliyimanha waggagu

Ngatha wagganha, barndiman nhurra Josie Farrer gi, Kimberley thanu. Josielu yalyba walgaman bibarlu nhinhanggu.

Urda nganhu jina yana nyinanyugundi.

What I said in Wajarri was —

Hello, I am speaking as a person from Geraldton, who represents, among others, the Amangu and Wajarri people here. I would like to say thank you to Josie Farrer from the Kimberley for her work on this bill.

We will all continue to walk this journey.

MEMBER FOR
MIRRABOOKA:
(Ms Janine FREEMAN)

Mr Speaker

SPEAKER:

The Member for Mirrabooka

MEMBER FOR
MIRRABOOKA:

I also rise to speak on the Constitution Amendment (Recognition of Aboriginal People) Bill 2015. I am very fortunate that the Aboriginal elders of the electorate that I represent have enabled me to give my acknowledgement in Noongar: **Ngala kaaditj Noongar moort keyen kaadak nidja boodja.** I am sorry; I did not ask for permission to do that,

**MEMBER FOR
MIRRABOOKA:**
(Continues)

and I should have. I acknowledge the traditional owners of the land on which we meet and the elders past and present. I congratulate the member for Kimberley, a noble and inspirational Gidja woman, and the member for Victoria Park, a proud and remarkable Wongi, Noongar and Yamatji man.

**LEADER OF THE
OPPOSITION:**
(Hon. Mark MCGOWAN)

Mr Speaker

SPEAKER:

The Leader of the Opposition

**LEADER OF THE
OPPOSITION:**

Mr Speaker, I also begin by acknowledging the traditional Noongar owners of the land on which we stand today. I acknowledge the Indigenous people and their supporters in the gallery today. I acknowledge Aboriginal people across Western Australia, in particular the Member for Kimberley, Josie Farrer, and thank her for her contribution to getting us to this point.

Although the bill is symbolic, I want to quote Paul Keating, who brought forward the native title legislation nationally 22 years ago, and what he had to say about these ethical and moral issues. He said —

Distraction comes 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.

**MEMBER for
DAWESVILLE:**

Mr Speaker

SPEAKER:

The Member for Dawesville

**MEMBER for
DAWESVILLE:**

Mr Speaker, I was Minister for Aboriginal Affairs probably for seven years altogether. During that time, I met some amazing Aboriginal people with whom I became good friends. One of the greatest experiences of my time was when consideration was being given to the damming of Diamond Gorge to create another Ord River dam.

**MEMBER for
DAWESVILLE:
(Continues)**

I met with some of the elders from that community to discuss that. One of the elders, who was in his late 70s but has now passed, was from Mt Barnett. He was a tall, proud man. He told the story of seeing his first white man when he was 14 years old. We sat around a fire where they cooked up some beef. The beef was probably the toughest I have ever had in my life, but old Billy said it was fantastic and so tender! They also cooked some fish that they had caught from the dam and told stories of the region. Walking into that spot, we walked past mounds of rocks covered in flint. Spears and axe heads used as skinning implements were scattered over the mounds. One was picked up and shown to me. He said that before whitefellas came along, 5 000 people had lived in this gorge—an amazing number—and had lived off the plenty of that land. As a result of that visit, I strongly opposed the damming of that gorge. As members know, the damming did not go ahead. It was certainly one of the most amazing experiences of my life.

SPEAKER:

The Member for Kimberley

MEMBER for KIMBERLEY

Mr Speaker, I will now conclude the debate on the second reading of the Constitution Amendment (Recognition of Aboriginal People) Bill 2015. I have been overwhelmed by the support from so many different people all over the state, from Wyndham to Albany and everywhere in between. I am particularly pleased that, through the Joint Select Committee members from both sides of this chamber have taken up my challenge to step forward with me and do what is right and just. Despite all our differences, I believe that Western Australian people – in fact, all Australian people – understand better than anyone the value of mutual recognition, acknowledgement and respect. I said earlier that true reconciliation means bold action, brave people and meaningful dialogue. I also challenged members to not be afraid and not be timid, just be magnificent. Today I thank all members for being magnificent in supporting this bill. I hope that, as a Parliament, we can all work together in the future for our Indigenous people and our country.

I now commend the bill to the house.

Mr Speaker, I move that this Bill be read a second time.

ALL MEMBERS

Hear, Hear! (*Applause*)

SPEAKER:

The question is that the bill be read a second time.
Those in favour say “ Aye” (*most members say “Aye”*).
Those against, “ No” (*nobody says “No”*)
I think the “ Ayes” have it. The “ Ayes” have it.
The bill will be read a second time.

CLERK:

Constitution Amendment (Recognition of Aboriginal People) Bill 2015, a bill to amend the Western Australian Constitution Act of 1889 to officially recognise Western Australia’s Aboriginal people as the first people and traditional custodians of this land, to express the parliaments’ aspiration of a reconciliation with the Aboriginal people of Western Australia and to delete Section 42 and Section 75 as spent provisions from the Western Australian Constitution Act of 1889.

This bill received leave from the House to proceed directly to its third reading.

The bill was read a third time, on motion by **the Member for the Kimberley**, and transmitted to the Legislative Council for their consideration.

In the Legislative Council, after debate, it was passed without amendment and returned to the Legislative Assembly on the 10th of September 2015

The bill was given Royal Assent by the **Governor, Her Excellency** Ms Kerry Sanderson on 22 September 2015

Upon receiving Royal Assent, the preamble of the Western Australian Constitution Act of 1889 includes the following Statement of Recognition:

- *The Parliament resolves to acknowledge the Aboriginal people as the First People of Western Australia and traditional custodians of the land, the said Parliament seeks to effect a reconciliation with the Aboriginal people of Western Australia*

Furthermore, upon receiving Royal Assent:

Section 42 was deleted as a spent provision from the Western Australian Constitution Act 1889 as it 'excluded Aboriginal natives from being counted in the Western Australian population.'

Section 75 was deleted as a spent provision from the Western Australian Constitution Act 1889 as it provided a definition for the Aboriginal Protection Board which no longer exists as an entity.