

CONSTITUTION AMENDMENT (RECOGNITION OF ABORIGINAL PEOPLE) BILL 2014

Second Reading

MS J. FARRER (Kimberley) [4.02 pm]: I move —

That the bill be now read a second time.

Firstly, Mr Acting 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.

[Leave granted.]

[*Words spoken in Gidja language —*

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.

I would like to acknowledge the Premier and his recognition of the Noongar people's traditional ownership, when he introduced the draft Noongar (Koorah, Nitja, Boordahwan) (Past, Present, Future) Recognition Bill 2014 in February this year. Earlier this year, I raised this issue and invited the Premier and the Leader of the Opposition to step forward with me and deliver a great act for all Western Australian Aboriginal people. Today I ask that all members of this Parliament also step forward and provide their support to pass this bill.

This bill seeks 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.

When European settlers came to Western Australia, there were people here before them. These people did not just come from another European country. These people—my people—had been here for tens of thousands of years. Aboriginal people have lived in Australia for over 60 000 years. Let me put that into perspective: 2016 will mark the four hundredth year since the first recorded European contact with WA, in 1616—almost four centuries ago. It has not even been two centuries since the first permanent European settlement was established in Western Australia. Two centuries, even four centuries, may sound like a long time, but compared with the 600 centuries of Aboriginal connection to this land, European settlement is clearly secondary.

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. The Constitution Act 1889 has been amended 24 times in the last 125 years. Until the 1967 referendum, Aboriginal Australians were excluded even from 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. We are a strong and vibrant people, and we share with you a beautiful country, unique culture and languages. However, we continue the pursuit of true reconciliation.

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 it 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. The bill was passed on 4 November 2004 and 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.

Passage of 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. Some members may have concerns that altering the preamble of the Constitution to recognise Aboriginal

people as the first people of Western Australia might have wider legal implications. This bill is based on and uses the same wording for the preamble amendment, as a bill commissioned in 2004 by a previous President of the Legislative Council, Hon John Cowdell, MLC. Advice was sought from the then Solicitor-General as to whether any legal consequences flowed from inserting these words into the preamble of the Constitution Act 1889 and the advice, according to my notes, was as follows —

I do not believe that an amendment to the preamble in these terms would have any significant legal consequences. I would see it as principally a statement of historical fact.

The 2004 advice from the Solicitor-General of 2004 goes further —

In terms of its constitutional significance, it could only be relevant to the extent that it might be the foundation for some implied limitation on the legislative power of the Parliament. However, I find it difficult to see how any limitation of substance could be constructed from such a provision.

That advice is still relevant today, and I expect that will put any fears to rest. Other mainland states have also had amended preambles in their state Constitutions for some time, without legal issues arising. I therefore think that any fears along those lines are unfounded.

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. Acknowledgement is not a distraction.

I agree with Paul Keating, who spoke about these ethical and moral issues. 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.

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 opposition is keen to consult with Aboriginal and non-Aboriginal Western Australians about the Constitution Amendment (Recognition of Aboriginal People) Bill 2014, and I would urge stakeholder groups and individuals to contact the opposition and provide their input in relation to the bill. However, I believe extensive consultations have already been done, and I refer to the 2012 commonwealth consultation document, “Recognising Aboriginal and Torres Strait Islander Peoples in the Constitution: Report of the Expert Panel”.

Despite all our differences, I believe Western Australian people and, for that matter, all Australian people, will understand better than anyone the need for the recognition, acknowledgement and respect of ancestral lands. Like all of you that reminisce your connections to Australia and your ancestral links overseas, wherever that may be, there is an opportunity before us for all parliamentarians to do something remarkable. Assist me with passing this bill and let us make history, acknowledging Aboriginal people as being the first peoples of Australia. I invite you again, members—be magnificent and support this bill. The fact of the matter is: black people were here first. Let us recognise this in a meaningful and united way.

After that, I would like to acknowledge some of our young Aboriginal leaders who have been taking part in the leadership program and who are with us today in the gallery, and past and present members of the Parliament, and friends who are here with us today.

I commend the bill to the house.

[Applause.]

Debate adjourned, on motion by **Mr A. Krsticevic**.