



Address by Senator Andrew Bragg | Liberal Senator for New South Wales

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Good Morning Ladies and Gentlemen

Thank you for inviting me to speak at this the 2019 SIETAR Conference on the Celebration of Indigenous Knowledge.

I would like to acknowledge the Ngunnawal people who are the traditional custodians of this land on which we are meeting and pay respect to the Elders of the Ngunnawal Nation both past and present.

Let me just say at the outset that I am not an Indigenous man, but I am passionate about the issues concerning Indigenous Australians.

In particular I'm concerned about National Reconciliation and Constitutional Recognition.

I was unashamedly vocal about it in my First Speech to the Senate in July and I'd like to address it again this morning.

INDIGENOUS CONTRIBUTION TO PARLIAMENT ... PAST PRESENT FUTURE

It all began with Neville Bonner.

Unfortunately, I never met Neville Bonner but I have utmost respect for his contribution to Australian life.

He was born (on Ukerebagh Island) on the Tweed River in New South Wales in 1922.

Like many Indigenous children of his age he never knew his father and had no formal education.

He worked as a ring barker, cane cutter and stockman before settling on Palm Island, near Townsville in 1946 where he rose to the position of Assistant Settlement Overseer.

In 1960 he moved to Ipswich, joined the One People Australia League and served as a director until he was elected Queensland President in 1970.

Following the 1967 referendum, which amended the Constitution to give the Commonwealth government power to make laws in relation to Aborigines, Bonner joined the Liberal Party.

In 1971 he became the first Aboriginal person to sit in the Commonwealth Parliament - he was chosen to fill a vacancy in the Senate caused by the resignation of a Liberal Senator for Queensland.

But not before enduring a rigorous preselection process. And let me tell you as someone who has recently been through a preselection myself, it is a gruelling process!

Neville Bonner was subsequently returned at elections held in 1972, 1974, 1975 and 1980.

Never a Minister, he was a respected commentator on Indigenous issues and served on numerous Senate and Parliamentary Committees.

Neville Bonner was controversially dropped from one of the winnable positions on the Liberal Party ticket for the 1983 election. He resigned from the party and contested the election as an independent.

He narrowly missed retaining his seat, but Neville Bonner continued to be a strong advocate for Indigenous rights until his death in 1999 at the age of 76.

But what I love most about the Neville Bonner story is that he was almost unique in being an Indigenous activist and political conservative, a fact which he often acknowledged.

And he unashamedly would remark he owed his political career to this combination.

In the face of often savage personal criticism from left wing indigenous activists, he often denied being a 'token' in the Liberal Party.

He stood up for what he believed in.

Just three years before I was born Bonner was the only government voice opposing a Bill put forth that would allow drilling in the Great Barrier Reef.

He was a lone voice on this issue, and staunch in his personal beliefs.

When I was preparing my First Speech, I read a long interview Bonner gave to the ABC about his life and his career.

One thing he said stuck with me:

"As they were leading me up, I looked up and around the galleries and I could feel the whole Aboriginal race, of those who had gone before, were all up there, and I could visualise, I could hear voices and amongst those voices was the voice of my grandfather saying, 'It's alright now boy, you are finally in the council with the Australian Elders. Everything is now going to be alright.'

Of course it's a lovely sentiment, but it's not correct.

And as I will outline, there is much more work to be done.

But I'd like to pay tribute to the trailblazers ... those who succeeded Neville Bonner.

Including Bonner there have been 40 Indigenous members of the ten Australian legislatures.

Of these, 22 have been elected to the Northern Territory assembly, 8 to the Australian Federal Parliament, 4 to the Parliaments of Queensland and Western Australia, and one each to the Parliaments of Tasmania, Victoria and New South Wales and 1 to the Australian Capital Territory Assembly.

Out of the 40 Indigenous Australians elected to any Australian Parliament, 16 have been women.

As I mentioned 8 Indigenous Australians have been members of the Federal Parliament, six in the Senate and two in the House of Representatives. Four of them sit in the Parliament today.

After Bonner, Aden Ridgeway sat in the Senate for New South Wales for the Democrats from 1999 to 2005.

He was followed by the Member for Hasluck, my colleague Ken Wyatt, who has been in the House of Representatives since 2010, and in May was sworn in as the first Indigenous person to hold the position of Minister for Indigenous Australians.

Quite rightly, the appointment came with praise, hope and high expectation.

Minister Wyatt said he was incredibly honoured to take the post and to be the first Aboriginal person to sit in Cabinet.

He said he was committed to working and walking together with elders, families and communities to ensure the “greatness of our many nations is reflected in the greatness of the Australian nation, now and forever.”

Significantly the appointment was made on National Sorry Day and at the start of Reconciliation Week.

It was welcomed by Aboriginal organisations and advocates because it paves the way for progress on Constitutional reform and Closing the Gap targets.

Prime Minister Scott Morrison has said he is committed to getting an outcome on recognition.

He has said we will work together with Indigenous leaders, the community and the Parliament to develop and bring forward a consensus option, in this term of Parliament, for Constitutional recognition of Indigenous Australians.

Labor Leader Anthony Albanese said the ALP was ready to advance the agenda of Constitutional recognition in a bipartisan manner.

The Opposition Leader has appointed the Member for Barton, Linda Burney, who has sat in the House of Representatives since 2016 as the Shadow Minister.

NATIONAL RECONCILIATION

In my First Speech to the Senate, I voiced my strong views on Constitutional recognition.

I quoted Noel Pearson and how he offers a way of thinking that I love.

His Declaration of Recognition presents Australia as a unified nation drawing on three great heritages:

- The Indigenous as first peoples
- The British as creators of institutions which underpin the nation
- And the multicultural gift which has enriched us all

The Constitution does a great job of securing these institutions.

That's why I am a Constitutional conservative. I regard the Constitution as an incredibly successful document.

But I am also a supporter of Constitutional recognition.

I believe the latest chapter in this long journey is the Uluru Statement.

It offers a challenge to our country.

The Uluru Statement says, and I quote: "We seek Constitutional reforms to empower our people and take a rightful place in our country."

It imagines a Constitution where Indigenous Australians are guaranteed a say on laws made under the races and territories powers which affect them.

Uluru asks legislators to consult Indigenous people on the laws which are relevant to them.

I believe this is a good idea, and I believe this is a fair idea.

But having said that, I would not support Constitutional recognition at any price.

That is why I offered five principles in my First Speech if we are to succeed.

My five principles are that any proposal must:

- Capture broad support of the Indigenous community
- Focus on community level improvements
- Maintain the supremacy of parliament
- Maintain the value of equality
- And strengthen national unity.

Constitutional recognition is both desirable and achievable if the design work reflects these principles.

A workable framework was outlined by John Howard's Chief Justice Murray Gleeson in a recent address for Uphold and Recognise...In Murray Gleeson's words:

"What is proposed is a voice to Parliament, not a voice in Parliament.

It has the merit that it is substantive, and not merely ornamental."

I said, and I believe, this must be a unifying project because the Constitution belongs to all Australians.

As Minister Wyatt, has said:

"Indigenous Australians want to be recognised on the birth certificate of our nation because we weren't there when it was written but we were ensconced in it in two sections, 51 (subsection 26) and 127.'

As I said to the Senate in that speech, I will walk with Indigenous Australians on this journey.

So, while I am here with you today I'd also like to address another issue which has become somewhat contentious.

Ensuring that Indigenous voices are heard by Parliament does not mean creating a third chamber.

The Uluru Statement does not require an Indigenous body with the standing, scope or power of the Senate or the House of Representatives.

Further, the campaign that 'race has no place' in the Constitution may sound good, but it's a campaign that should have been run in the 1890s as we crossed that Rubicon in 1901.

Yes, our Constitution already contains race in several places.

Today, the races power provides the Constitutional authority for the Native Title Act.

Although some would extend native title rights and others would wind them back, everyone agrees that the Parliament should retain this authority and power.

All Australians will always be equal, but we cannot have Indigenous people feel estranged in the land of their ancestors.

Almost every comparable nation has landed some form of legal recognition of First Peoples.

And I believe we should not wait any longer.

Will it present challenges for my Party? Of course it will.

It would be naïve to think otherwise.

But the Liberal Party is used to opening the batting on difficult issue if I may make a cricketing analogy.

We made the first moves to abolish White Australia.

We opened trade with Japan in 1957.

And we delivered the Indigenous Referendum in 1967.

As I said, we are the party of Senator Neville Bonner.

I believe we Liberals are good at big changes because we take the forgotten people or the Quiet Australians on the journey.

THE WAY FORWARD

The Morrison government is committed to recognising Indigenous Australians in the Constitution, and working to achieve this through a process of true co-design.

Constitutional recognition is too important to get wrong, and too important to rush.

The successful 1967 referendum was the result of tireless advocacy and an extraordinary nationwide momentum for change.

If we want to see that kind of national consensus again, we need to be thorough and take the time to get it right.

We have allocated \$7.3 million for a co-design process to improve local and regional decision making and \$160 million has been set aside for a future referendum once the model has been determined.

As the Prime Minister said in May at the time of our re-election: “My priorities for Indigenous Australians are to ensure Indigenous kids are in school and getting an education, that young Indigenous Australians are not taking their own lives and that there are real jobs for Indigenous Australians so they can plan for their future with confidence like any other Australian.”

“We support the process of co-design of the voice because, if we are going to change the lives of Indigenous Australians on the ground, we need their buy-in on the matters and policies that affect them —and that includes the targets in things, like *Closing the gap*, that they should have a very strong say and a partnership in defining, and then having a participation role in having met them. So we support Constitutional recognition but maintain our reservations about a voice.”

This is the framework we have to deliver Constitutional recognition.

Ladies and gentlemen, as a Senator for New South Wales, I will be focusing on two things:

1. Supporting the co-design process and the Minister for Indigenous Australians in his leadership role
2. Working with groups like Uphold & Recognise to paint the picture

Achieving Constitutional change will be hard.

Changing the Constitution requires a referendum. A successful referendum requires a majority of people in a majority of states. As a Constitutional conservative, I welcome the high barrier.

That’s why we must look at recent precedents such as the failed 1999 republic referendum and the victory of the same sex marriage plebiscite in 2017.

During the 2017 same sex marriage debate, we established that it was essential to speak to Liberal and conservative voters.

Accordingly we created Libs & Nats for Yes which was focussed on these voter groups which respond less emotionally to issues. I led this campaign as National Director.

For instance, we appealed to notions of fairness and family rather than rainbow flags.

Ultimately this campaign helped deliver 71 / 76 Coalition seats as yes majorities.

This is where Uphold and Recognise comes in.

It’s about conservative and liberal voices making the case.

UPHOLD AND RECOGNISE

Uphold & Recognise is the brainchild of the brilliant lawyer and academic Damien Freeman and my colleague Julian Leaser MP.

It was established by Constitutional conservatives who have a deep commitment to upholding the Constitution because, like me, they believe it has served Australia well.

“Con-cons” are concerned about changes that risk undermining how our country works by transferring political decision-making powers from the democratically elected Parliament to the unelected judges of the High Court.

They are also concerned that inserting symbolic statements in the Constitution might have unintended consequences when the High Court is required to interpret those statements.

But the founders of U&R also believe that it is important to find a way of realising the aspirations of Indigenous people. They are committed to recognising Aboriginal and Torres Strait Islander peoples in the Constitution – providing we can find a way of doing this without undermining how the Constitution works.

U&R will not give more power to the High Court or allow a third chamber of Parliament to be established. It is committed to maintaining the sovereignty of Parliament.

Those of us who believe that Constitutional recognition of Indigenous people is a good thing should take seriously the concerns of U&R. The institutions of the Constitution, and the values such as equality which underpin them are worth preserving at all costs.

The interesting thing is that U&R has shown that, like walking and chewing gum, it is possible to recognise Indigenous peoples and at the same time uphold the Constitution.

This is the view expressed by Murray Gleeson. Mr Gleeson is no bleeding-heart loony lefty. He was appointed by John Howard to be Chief Justice because Mr Howard trusted him to uphold the Constitution.

I would encourage you to read Mr Gleeson's speech.

In it, he explains why the Uluru Statement's proposal to hear Indigenous voices is compatible with our commitment to equality.

He also explains why its proposal to hear Indigenous voices is not racist.

Impressive as the Uluru Statement is, some people pointed out that it was full of "big ideas" but short on "detail" about those big ideas.

That is a fair call. Australians are not going to vote for something until they see the detail of what they are voting for.

This is where U&R made another useful contribution. Together with the PM Glynn Institute, it developed a set of options for different ways in which we could flesh out each of the Uluru Statement's big ideas.

In particular, it provided two options for how the Constitution might ensure that Parliament hears Indigenous voices.

One of these options particularly appeals to me, because it provides the detail for the kind of bottom-up approach that the Governor-General spoke about at the opening of Parliament.

This is called the "Speaking for Country" model, and it builds on ideas first put forward in a paper that Warren Mundine wrote for U&R.

This bottom-up approach involves establishing local and regional bodies for the various Indigenous communities around Australia.

It would be for each of these communities to identify a structure that will enable a local or regional body to best represent its community. Indigenous communities around Australia are very different. So their needs are different, and the kind of local or regional body that can help address these needs will be different.

Neither the Government nor anyone else should tell these people how to set up their local or regional body. Once they have decided this for themselves, and providing an independent authority

is satisfied that there are adequate governance structures in place, they should be ready to get going.

All around Australia, local and regional Indigenous communities will start developing their own bodies under this model. These local and regional bodies will then voluntarily affiliate, to create a national body.

The role of the national body, on this model, will be a bit like a post box or a conduit. It will be the pathway through which the Australian Government and the Australian Parliament are able to speak directly to the local bodies.

The national body would not control the local bodies or tell them what to do. Its role would be to facilitate communication between the national Parliament and Government and the local Indigenous peoples.

The Government and the Parliament will then have a one-stop-shop that they can go to in order to receive advice from Indigenous people. The genius of this is that they will be able to hear directly from the local communities who will be affected by a proposed law or policy.

In this way, we'll get a system through which local communities can be heard directly by the Parliament.

This is how we'll get good Indigenous policymaking in Australia.

This much meets the Uluru Statement's requirement that the Parliament should hear Indigenous voices. But it doesn't provide a Constitutional guarantee that Parliament will hear their voices.

In order to make good the Uluru Statement's requirement that there is a guarantee that Indigenous voices will be heard, the Constitution needs to be amended to require the Australian Parliament to establish bodies for the various Indigenous peoples across Australia.

In my opinion, if we amend the Constitution in this way, we would create a Constitutional guarantee that the Parliament will establish bodies for the different Indigenous communities around Australia.

But the Constitution would give the Parliament a free hand in deciding how to establish these bodies. So the sovereignty of parliament would be upheld.

There would be no third chamber of Parliament.

And there would be a Constitutional obligation for the Parliament to set up voices to ensure it can hear the voices of Indigenous people all around the country.

This is just one possibility, and there is a lot more work to be done on it. But I think it is on the right track.

It provides the kind of bottom-up approach that gives voice to the people on the ground.

It ensures there is a way for the Parliament and the Government to enter into dialogue with the different communities on issues that affect them.

It provides a Constitutional guarantee that Parliament will set up bodies to speak to it for the different Indigenous communities.

And it does all of this in a way that upholds the Constitution and the values of liberal democracy.

These are my ideas, not to be confused with anyone else's!

CONCLUSION

Ultimately, Indigenous Australians are 3.3 per cent of the Australian population. Carrying a referendum will require lots of friends.

To be successful, many people will need to take the time to understand the issues and hopefully become advocates.

Australia is a richly diverse nation. I have no doubt the Quiet Australians are the backbone of the nation - they will need convincing.

Many will not be convinced by flowery rhetoric but may be convinced by hard reason and notions of unity as outlined in my five principles for success.

I encourage you to look at U&R's work and share it in your circles. I believe this body of work is the best material for mainstream consumption.

Without mainstream support, this process will not succeed.

The task ahead is clear: a good co-design process and careful thinking about how to present the case will maximise our chances of getting just the ninth change to our Constitution.

Ends.