

27 July 2014

The Secretary  
Joint Select Committee on Constitutional Recognition of Aboriginal and Torres Strait Peoples  
P.O. Box 6100  
Parliament House  
Canberra  
Act 2600  
(by email)

Dear Ms. Matulick

I thank the Committee and its contributors for their excellent work, reflected in the Interim Report, and write to express my opinion of it.

Firstly, the Committee is correct in its view that a referendum must :  
Recognise Aborigines and Torres Strait Islanders as the first peoples of Australia.  
Preserve Commonwealth power to make laws for Aborigines and Torres Strait Islanders exclusively.

In making such laws, to prevent the Commonwealth from discriminating negatively against Aborigines and Torres Strait Islanders.

1. Proposed Preambular Recognition, unnecessary view new Section 51A (Box 1).
2. Proposed Introductory Statement, unnecessary view new Section 51A (Box 1).
3. Proposed Further Act of Recognition, unnecessary view new Section 51A (Box 1).
4. Repeal existing Section 25, necessary.
5. Repeal existing Section 51 (26), necessary.
6. Insert new Section 51A (Box 1), necessary.
7. Insert new Section 116A, banning racial discrimination by Government. This proposal is inconsistent with 51A (Box 1) which requires the Commonwealth in its law-making to discriminate positively towards Aboriginal and Torres Strait Islander peoples if necessary. Also, and equally as logical as repealing Section 25, the proposal serves no useful purpose in contemporary Australia; no modern Parliament will pass laws which discriminate negatively against Aboriginal and Torres Strait Islander peoples, nor against any other group based on their race.

The laws used as examples by the Expert Panel and said to be racially discriminatory (the Northern Territory Emergency Response, the Native Title Act, and Wik Amendments) were drafted to improve the situation of various Aboriginal and Torres Strait Islander groups. That some group members consulted by the Panel described the laws as racist demonstrates only that there are winners and losers in most legal outcomes. Regrettably, there will be some

amongst a losing faction who will blame "racist laws" for an unsatisfactory outcome rather than analysing the situation objectively.

I think the wording of 51A (Box 1) adequately ensures that Parliament does not pass laws to the detriment of Aboriginal and Torres Strait Islander peoples because of their race. Put another way, laws which do not discriminate negatively against Aborigines and Torres Strait Islanders, thereby fulfilling the Committee's third referendum requirement. In my opinion, 116A is superfluous to 51A (Box 1).

8. Insert new Section 127A, recognising Aboriginal and Torres Strait Islander languages as Australia's first tongues. Having the sentence confirming English as Australia's national language is self-evident and unnecessary and it detracts from the proposal's intent.

I think the wording of 51A (Box 1) adequately acknowledges Aboriginal and Torres Strait Islander languages as Australia's first tongues. In my opinion, 127A is superfluous to 51A (Box 1).

Yours faithfully

Paul Nolan