

NATIONAL MARRIAGE DAY

Statement

HON SALLY TALBOT (South West) [5.27 pm]: Earlier this week Hon Nick Goiran marked National Marriage Day by speaking in defence of what he called the traditional definition of “marriage”. In fact, as we all know, what he is actually defending is an amendment made to the Marriage Act in 2004 that defined “marriage” as the union of a man and a woman. It is worth noting that Hon Alastair Nicholson, the former Chief Justice of the Family Court of Australia, summed up the views of many of us when he said of the 2004 amendment —

In my view, this Act is one of the most unfortunate pieces of legislation that has ever been passed by the Australian Parliament.

Of course, as I am sure at least the lawyers in this chamber know, the Marriage Act as originally enacted in 1961 did not contain a definition of “marriage”.

Hon Michael Mischin: It adopted the common law definition.

Hon SALLY TALBOT: Thank you, Hon Michael Mischin; I am just coming to that. In the second reading speech given by Attorney-General Garfield Barwick on 19 May 1960, he said —

... it will be observed that there is no attempt to define marriage in this bill. None of the marriage laws to which I have referred contains any such definition.

Senator John Gorton, as he was then when he took the bill through the Senate in April 1961, said —

... in our view it is best to leave to the common law the definition ... of the meaning of ‘marriage’ ...

The defence mounted by Hon Nick Goiran is of a relatively recent legal concept of marriage, one that we might almost be tempted to call a fashion of the moment.

Several members interjected.

Hon SALLY TALBOT: That aside, I am happy to add my comments today in support of marriage, if what is clearly understood is that my support is for people being able to choose to marry if they feel that marriage is an appropriate way to mark their relationship. That is an important qualification, because the reality is that marriage is like motherhood. When it is good, it is very good; but a bad marriage can be a living hell of exploitation, abuse and violence. It has always made me queasy to hear people mount a defence of marriage without acknowledging that marriage is about building a story, not about a series of necessary and sufficient conditions for enforcing property rights and parental obligations. I enjoyed the way Hon Nick Goiran wove that particular metaphor into his speech the other night—the metaphor about building the story. Unfortunately, I did not enjoy anything else about his speech, because what he was doing was not defending marriage but attacking marriage equality. That member makes some interesting speeches in this place and is clearly a man of some capacity and intellect, but, frankly, most of the content of his speech the other night was complete twaddle at best, and at worst a sinister and malevolent attempt to mislead browsers of *Hansard* about what marriage equality or same-sex marriage is about.

Let me cut straight to the point here and run through a simple checklist of facts about what will happen when we have marriage equality in Australia. I say “when” rather than “if” very deliberately because I am one of millions of Australians who are genuinely perplexed why such a fundamental human right has been denied for so long. Let us remember that the premise underlying the law that currently restricts marriage on the grounds of gender is the same premise that once defined the right to marry in terms of a person’s race or religion. Such laws were the result of entrenched discrimination, and changing those laws was both instrumental in and a result of removing that discrimination. This I am certain will be the case soon with discrimination against people in the gay, lesbian, bisexual, transgender and intersex community and their right to participate in the civil institution of marriage.

So, a quick fact check for Hon Nick Goiran, and for anybody else who is interested in how to answer questions about marriage equality. First, marriage equality will not lead to polygamy, incest or marriage between people and their pets or their pot plants. Of course, the kind of unhappy situations where people find themselves in incestuous relationships will still arise. One of the saddest of these is when people do not know their family history. That is a perpetual nightmare for people who are adopted, fostered or otherwise removed from their origins. But to connect things like polygamy with marriage equality is ludicrous. We might just as easily say that educating girls causes their uterus to atrophy. That, of course, was the argument used in previous centuries to warn women off book learning. Well, women are now full participants in the education system and they do still have gynaecological problems, but only the most fanciful or mischievous imagination would connect those two things.

Hon Michael Mischin: Who suggested they would? Is that Hon Nick Goiran?

Hon SALLY TALBOT: I will give Hon Michael Mischin the source later. I am sorry he missed out on that.

Second, marriage equality will not change the definition of marriage. Speaking as a member of the GLBTI community, I can tell you that the reason we want marriage equality is because we like marriage, not because we want to change it. We believe that to marry is to do something meaningful and deeply significant. There is no dogma attached to that belief. We do not think marriage is mandatory. We do not think it is the only meaningful and significant thing people can do to express their love for each other, but we do think that the exclusion of people solely on the basis of their gender is the last remnant of discrimination that once included race and religion, and is as unfair and outdated as these past practices.

Third, and I assume this is not news to Hon Nick Goiran, people living in same-sex relationships have always had children, children who look and behave exactly like other children, going to school, playing with their friends, putting the adults who love and care for them through exactly the same roller-coaster of joys and sorrows that accompanies the raising of all children. What is good for children—all children—is to be surrounded by love and loving, secure relationships. Of course being brought up in a good marriage is good for children; how can it possibly be logical to deny the children of same-sex parents the opportunity to be brought up in a family whose adults have formalised their commitment to each other by marrying?

The final point I want to make is to reassure Hon Nick Goiran that there is absolutely no evidence whatsoever, anywhere on the face of the earth, that the concern he has about the marriage equality “slippery slope” has any basis in reality. These are just fears, and fears can be overcome by acquaintance with fact. I understand that in terms of defending an argument, it is not logical simply to cite other examples of a practice; but it is worth noting that in the other major jurisdictions all around the world where same-sex marriage is already legal, we have not seen marriage change in the way he fears. It just does not happen, and that may be one of the reasons why a majority of Australian Christians support marriage equality—another indisputable fact that is worth adding to the mix. We look back at the arguments that once defended discriminatory exclusions from marriage with shame and embarrassment. Before too long, arguments like the one we heard from Hon Nick Goiran will be relegated to that same archive, to be pored over by historians of the future who will wonder at some of our past practices and beliefs. That day, for me and for millions of Australians, cannot come soon enough.