

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON SURROGACY MET IN  
COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART, ON 1 JULY 2008**

**Ms ERIN HOPSON AND Mr MALCOLM DUGGAN** WERE CALLED, MADE THE STATUTORY DECLARATION AND WERE EXAMINED.

**CHAIR** (Ms Thorp) - We would like you to give us an overview of the evidence you would like to give and then we will ask a few questions if you are happy to do that.

**Ms HOPSON** - Basically we saw the advertisement in the paper and wanted to give evidence. I have a congenital heart condition. I grew up wanting to have a family and that was always a possibility until about five years ago when I had to have a mitral valve replacement. My surgeon refused to do the surgery unless I had my tubes tied so any hopes of having a baby went out of the window.

We really want a family but my doctors - GPs, cardiologists - have said it's a possibility, but there is a high chance that Mal would have to look at not having me here if we went through with the pregnancy, and me having the child. It could be fatal for me or the baby. That is why we are here; we really want to have our own babies.

**Mr DUGGAN** - We are both family-orientated people. I have 13 nieces and nephews and I am very close to them. We might be looking at surrogacy in the future and if we could do it in Tasmania, it would be much easier for us to pursue. I understand it is currently available in Sydney.

**CHAIR** - Have you looked into it?

**Ms HOPSON** - We have looked into it. We looked at adoption first, but that was terrible because we learned that we had to have been married for three years and there would be another three years until you got a child. Both of us are going to be 30 in the next 12 months or so and we are not married. We would have to get married and wait for three years before sending our application in, then wait another three years. We would be looking at being in our late 30s.

**CHAIR** - So the time lines don't work.

**Ms HOPSON** - They do not work.

Then we looked at surrogacy. Mal's sister had approached us and said, 'If you guys would like to have a baby, I would be prepared to do that for you'. That is what started us thinking about it. We looked into surrogacy and found all references to Tasmania said it was really hard. I ended up going to Sydney for some information. Around that time, we saw the notice in the paper and thought it would be fantastic if it were to come to Tasmania. We had thought about the logistics of how we could get to Sydney and go through the process and come home. We would also need to have the baby there.

**Mr WILKINSON** - Can I take you through the steps in relation to you having been told by the doctors - GPs and specialists - that unfortunately you are not able to have a child, you

were told that if you endeavoured to have a child you could die and also the child could die. To get to that stage, had you gone through much of a process? Had you had to see your cardiologist and to see your cardiologist had you had to see your GP? You may have had to see the surgeon who carried out the operation as well.

**Ms HOPSON** - I did not see the surgeon as he was in Melbourne. I have a really good relationship with my cardiologist and my GP. Before 2003-04 in most of my conversations with people they suggested that although I was obviously sick that was okay because I would not need to work and all I would ever be is a housewife and a mum. I grew up with this mentality that it was going to be okay because I would stay home and I love kids and doing things around the home. I thought this life would be fantastic.

Then at 24 suddenly having this surgeon walk into my room and say, 'Right, you must go home now, have your tubes tied and come back in four weeks to have heart surgery' I did not have any time to process what was happening. There may have been other ways I could have done it, but that was what had to happen there and then because I was so sick.

At this point Mal and I had known each other a few years but we did not initially get together because this was such a huge issue for us. Mal really wanted to have a family, as do I, but it was so important to him that we felt we could not go there.

**Mr WILKINSON** - In other words, that affected your relationship for a period of time and especially the commencement of that relationship.

**Ms HOPSON** - It did.

**Mr WILKINSON** - For how long approximately?

**Ms HOPSON** - For about three years.

**Mr DUGGAN** - Probably about a year and a half. We were friends for some time before we got together.

**Mr WILKINSON** - Then you started to investigate surrogacy.

**Ms HOPSON** - We had investigated adoption first.

**Mr DUGGAN** - We looked at adoption and looked at surrogacy as well. Erin was trying to find information on it. We researched it.

**Mr WILKINSON** - Can I take you to adoption? Obviously, it is difficult, there are a number of prerequisites you have to have prior to adoption. Who did you go to in finding out how to adopt a child and if it was possible?

**Mr DUGGAN** - On the Internet.

**Ms HOPSON** - We googled it and found DHHS. We went along to one of their monthly meetings.

**Mr DUGGAN** - It was an information seminar which we attended to see what we did need to have in order to try to adopt. I don't think it went too badly; it was pretty good apart from the three years.

**Mr WILKINSON** - So the stumbling block was what? One, there was a three-year waiting period.

**Ms HOPSON** - Three years of having to live together or be married. Then you could submit an application which would take around three years to process to get a child.

**CHAIR** - There are no guarantees, though.

**Ms HOPSON** - No, there are no guarantees.

**Mr DUGGAN** - We have not ruled it out. I think I would prefer adoption to surrogacy.

**Mr WILKINSON** - In other words, for you, as I understand it, when you first got together and, although not married were living as man and wife, there would be approximately a six-year period before you could even envisage adopting a child.

**CHAIR** - My understanding is that in Tasmania it is the IVF part that is the stumbling block. How far have you been in discovering what's possible with IVF?

**Mr DUGGAN** - There is an IVF clinic up north, I think.

**Ms HOPSON** - I am not sure if there is.

**Mrs RATTWAY-WAGNER** - In Launceston.

**Mr WILKINSON** - But unfortunately you cannot carry the baby.

**Ms HOPSON** - That's the thing, so I didn't look at that aspect.

**Mr WILKINSON** - In relation to getting the news and the fact that it took some time before you cemented your relationship because of the difficulties in having a child and the problems with adoption, how did all these issues affect you?

**Ms HOPSON** - It is hard to say - how didn't it affect me?

**Mr WILKINSON** - I am trying to get some background.

**Mr DUGGAN** - It was difficult, but we want to keep as many options open as we can to pursue that because both of us want to have our own children at some stage. The adoption process is still worth looking at but, because of the time frame, if surrogacy is ruled in it would make it much easier for us to pursue that option.

**Mr WILKINSON** - I don't want to dig too deep.

**Mr DUGGAN** - It is tough.

**Mr WILKINSON** - That is what I want to pursue. Does it cause you to become depressed, have days when you are down?

**Ms HOPSON** - Certainly on my side, before Mal came along, it was always a huge thing for me. I didn't really think of surrogacy. I thought it was only an American thing so I didn't look into it prior to meeting Mal. Within other relationships it had always been a huge thing for me in the last five years. I had to train myself not to say, 'Hi, my name is Erin and I can't have children'. Every time my friends rang me and said, 'I'm having a baby' I burst into tears because it was not fair when you see kids on the streets with terrible parents. You wonder why they had kids. There is that aspect of it; you get angry, sad and depressed about it all. That has been a huge thing even with us. We have had a roller-coaster of a relationship from when we started it. We really liked each other but Mal wanted to have a family and I did not want to hold him back from that.

**Mr DUGGAN** - Yes, it was pretty tough because we knew we were meant to be together. We loved each other, wanted the same thing but we knew we couldn't do it together. It made it really frustrating to have fallen in love with someone you can't have that with. It was really hard to deal with. Because we care for each other so much we knew we didn't want to be with anyone else so that's fine. We're together.

**Mr WILKINSON** - With the evidence in relation to reports it's good to get some first-hand stories to back why it should be or why it shouldn't be.

**CHAIR** - Should surrogacy become available in Tasmania and as your sister has agreed to help, how would it work? How would you sort that out.

**Mr DUGGAN** - Melissa already has four children of her own - I don't know if she wants me to talk about it - and they are not going to have any more children. The eldest is 13 and the youngest is one. She is only 32 years old. She has shown interest but it is not 100 per cent certain that we are going to go ahead.

**CHAIR** - As a hypothetical.

**Mr DUGGAN** - That would be the most likely case. We didn't ask her, she just came straight out and said, 'Look, I'd do it straightaway'. At first I wasn't entirely comfortable with it because she is my sister and the baby would be mine, but once I looked into it and understood how it worked, it was okay. From what I understand, there are no genetic complications as far as that goes. Is that correct?

**CHAIR** - You are not connected.

**Mr DUGGAN** - She showed interest in it and even got to the stage of asking her partner whether he would be comfortable with it. He was okay with it. That is how it came about. It was fantastic, an amazing thing for her to offer without us having to ask her. That was pretty special.

**Ms HOPSON** - From my point of view, as well, of looking at somebody else carrying my child, if you're going to have anybody do it I would prefer family. I had thought about the friends I trust and I do not think there is anybody that I would trust with that job apart from somebody in our families. The child will have some connection with their aunt and

the whole family. Friends can fall out - as can family members - but family is always family and that child would always have family around.

**Mr DUGGAN** - She will have that relationship with the child as well.

**CHAIR** - It sounds as though you have thought about some of the potential pitfalls.

**Ms HOPSON** - Oh, definitely.

**CHAIR** - What do you see as the pitfalls?

**Ms HOPSON** - I guess I have my fears of Mal's sister wanting to keep this child. That could be the scary reality of it.

**Mr DUGGAN** - That one never comes to my mind.

**Ms HOPSON** - You never know how a person is going to react when she's carrying a child.

**Mr DUGGAN** - One of my biggest things was that while I thought her offer was great, I also thought what if something happens to her when she's carrying the baby. I would think that I had put her in that situation and it would be terrible. It's a, 'What if?' and you just don't know. It is one of those things but it's at the back of my mind. She has her own family to worry about.

**CHAIR** - You can only do some much in legislation. You cannot legislate for every possibility, but we have been thinking about what kind of issues commissioning couples, like yourselves, would have to think about and talk through prior to coming to any agreement.

**Mr DUGGAN** - There would definitely be a legal point of view, as well. If my sister does want to go ahead, it would be a bit easier because she is family so there is more trust involved. If it was another party who was not a relation, then you would have to have a huge element of trust that they will go through with it. Also, I believe that you still have to legally adopt the child. Is that right?

**CHAIR** - It depends on which State you are in and who you are talking to at the time.

**Mr DUGGAN** - Even though you may be the genetic parents, the mother is the birth mother and it goes on the birth records as such.

**CHAIR** - There is a lot of discussion about developing parenting orders to clarify all that.

**Ms HOPSON** - From my reading, I know of some women who have had a child for someone else and whenever that child is sick the parents have to contact the birth mother and ask her to accompany them to the doctor because she is the birth mother on the birth certificate. That's a hard part for me, as well. Ideally I would want my name as the birth mother because we are the biological parents. That is how I would like it to work.

On the issue of attachment to the child, I feel that with Melissa being part of our family that would not be a hard aspect. It is going to be hard for her, but she would not have to walk away completely, she will always have that child in her life because we're family.

**Mr WILKINSON** - What other complexities have you envisaged? There have been those in relation to legalities, who is the 'mother'. Are there any others?

**Mr DUGGAN** - Off the top of my head I can't think of any.

**CHAIR** - What about costs and expenses involved?

**Mr DUGGAN** - That would play a small part in it.

**Ms HOPSON** - I think, from what we've read about other States and America, generally you cover the costs of the birth mother.

**Mr DUGGAN** - I gather it's illegal to make any payment. You can cover reasonable costs.

**CHAIR** - I would imagine there would be costs involved.

**Ms HOPSON** - IVF and other ways are not cheap, at all. We've looked into that aspect of things. We still keep going back to the possibility of me carrying a child but I think that's one of my big aspects. I would be at the borderline of being willing to sacrifice my life for the risk of childbearing. I probably would not go down that track, but because it is so important to both of us, I wonder if I should as there is a small chance I would be okay and we would all end up happily ever after with a family. The alternative is Mal being left with no-one.

**Mr DUGGAN** - That's very difficult because it is something we both want to do, and may even consider doing but from a medical point of view it's difficult. Obviously there are risks involved with any pregnancy, but as there is already something wrong with Erin it would make the risks a lot higher. You would be gambling with someone's life, which we don't really want to do. It is a reality. We have to weigh up the risks of trying to have a family.

**CHAIR** - Are you aware of anyone else in similar circumstances to yourselves? We do not know of many people.

**Mr DUGGAN** - Probably not in quite the same circumstances, no.

**Ms HOPSON** - No, most of the people I know with a congenital condition are not affected in the same way.

**Mr WILKINSON** - Is there any information that you can get from within Tasmania?

**Ms HOPSON** - About what?

**Mr WILKINSON** - About surrogacy. In other words, could you ring DHHS, the Department of Health and Human Services?

**Ms HOPSON** - I have done that.

**Mr DUGGAN** - They referred us to the IVF clinic in Sydney.

**Ms HOPSON** - They say they can't talk about it.

**Mr DUGGAN** - They basically said that they can't and referred us to Sydney IVF which we have contacted.

**CHAIR** - My understanding of our legislation is that advertising, contracting for and IVF are the issues specifically referred to in the Tasmanian legislation which would mean DHHS could not advocate, could they?

**Mr WILKINSON** - That is right because there is an act already which means that they could be in contravention of the act.

**CHAIR** - From your point of view, what would you like to see come out of this investigation?

**Mr DUGGAN** - I guess we would like to see it be the same as Sydney. We would like to see the same outcome, the same rules and guidelines which they have in place there to make it national legislation which everyone would have available if they chose to use that option.

**Ms HOPSON** - I think there should be some sort of ruling. It is hard to say that but maybe selection criteria is what I see as how a thing could work. There could be some sort of process, like a counselling process not just a free, open service but specific checks.

**CHAIR** - So people have had a chance to think through the issues.

**Ms HOPSON** - Like the adoption side of things, the same sort of process as with that. Maybe not as long but those sort of scenarios are what I would like to see in place, not allowing anyone to go for it, because I think it is really a precious thing. It is not just a baby bonus.

**Mrs RATTRAY-WAGNER** - Not a whim thing.

**Ms HOPSON** - Yes.

**Mrs RATTRAY-WAGNER** - It's long-term.

**Ms HOPSON** - Yes, exactly.

**Mr WILKINSON** - I understand what you are saying in relation to your situation. Surrogacy laws can also apply to same-sex couples -

**Ms HOPSON** - That is where I am torn.

**Mr DUGGAN** - It is more a matter of personal opinion, isn't it, really?

**Mr WILKINSON** - Yes. Are you saying that, therefore, there should be - for want of another word - a committee or a process that a person or a couple has to go through prior to being given the opportunity to be involved with the surrogacy system?

**Mr DUGGAN** - Yes, that is a tough one.

**Ms HOPSON** - It is a really tough one. I would hate to say directly that same-sex couples shouldn't be allowed, but because I know how precious it would be for me to have a child I cannot say it's okay for me because I have a congenital condition but because you choose to be in a same-sex relationship you don't have those same desires. It would be very hard for me to comment at all.

**CHAIR** - It is very compassionate of you.

Are there any questions, members?

**Mrs RATTRAY-WAGNER** - No, I appreciate your honesty and being able to tell us your story. Thank you.

**CHAIR** - Thank you very much. Are there any final comments you would like to make?

**Mr DUGGAN** - No, just thanks for the opportunity to appear.

**CHAIR** - We very much appreciate your coming in and we will, of course, be in touch with you. We will send you a copy of the report and you are very welcome to stay and listen to further witnesses.

**THE WITNESSES WITHDREW.**