



**ROB MESSENGER MP  
MEMBER FOR  
BURNETT**

## Rob's speech (Surrogacy Bill—2010)

The timing of the introduction of this bill is purely political. It did not need to be. There is no doubt that the government's bill is being rushed through the Queensland parliament without proper and honest community consultation because the Premier knows that she is fast running out of time as the leader of the Labor Party and therefore so is her ability to impose a radical socialist agenda, which is essentially only shared by her Labor Party faction—the Left—and the Greens political party. As a result, we have the presentation of a bill which is so unpopular with and so little understood by the overwhelming majority of ordinary Queenslanders.

The example used by the Premier, of Kirsty and her husband, in order to add credibility to her argument for her bill is regrettable. It is dishonest and desperate to use a legitimate reason for surrogacy to distract and mask the illegitimacy and obvious dangers to children of the Premier's argument and the legislation. The Premier deliberately failed to mention in her speech that Kirsty and her husband's sad personal situation could have been solved by the measured, balanced and fair surrogacy legislation presented by the Deputy Leader of the Opposition, which I support. The Premier has used disgracefully, unremorsefully and in a mercenary manner a legitimate reason for surrogacy for her own selfish, egotistical, ideological, socialist agenda.

I am alarmed by the glib simplicity and the paucity of the Premier's arguments and the arguments of those other members opposite, which can be distilled down to approximately four or five catchphrases. 'Any adult in Queensland over 25 should have the right to parenting if they wish.' Why is the Labor Party discriminating against 18-year-olds? Why would the state be involved in what are generally the private affairs of individuals? Because there are children's lives at stake. 'If you agree that it is not a crime then you should let Queenslanders decide for themselves.' That opens the ethical door for paid surrogacy. 'All children deserve to be treated the same.' 'It will bring Queensland into line with the rest of the Australian states in a legislative sense.'

Let us look at the other states' legislative and legal argument. I commissioned a Parliamentary Library brief that looked at the legal status for those interested in surrogacy.

According to the latest parliamentary information from the library, in South Australia, under the Family Relationships Act, surrogacy is illegal. The report then gives the relevant surrogacy legislation references. The report then goes on to state in relation to New South Wales—

The relevant legislation is the Assisted Reproductive Technology Act 2007. Sections 42-44 describe commercial surrogacy arrangements (which are prohibited). In addition, Section 45 states:

'A surrogacy agreement is void whether made before, on or after the commencement of this section.'

This does not mean, of course, that altruistic surrogacy does not occur in NSW; it is currently unregulated and any 'agreement' would not carry the force of law.

Tasmania

The Surrogacy Contracts Act 1993 is silent on permitting altruistic surrogacy.

West Australia

Under the Surrogacy Act 2008

... Transfer of child's parentage

19. Circumstances for seeking parentage order

(a) the arranged parents reside in Western Australia and at least one arranged parent has reached 25 years of age; and

(b) ... (i) the arranged parents are an eligible couple;

And in subsection (1) (b) it states—

eligible couple means 2 people of opposite sexes who are married to, or in a de facto relationship with, each other and who, as a couple—

(a) are unable to conceive a child due to medical reasons.

In Victoria the intending parent must be married or de facto and heterosexual. That is the latest information that I have received from the Parliamentary Library. It would seem to contradict the argument from the Attorney-General that we are just going into line with the other states.

I do not believe that most Queenslanders have a proper understanding of the meaning of surrogacy. We need to consider those glib Labor catchphrases in the light of a very simple definition of child surrogacy, which the Attorney-General supplied, and that is that a surrogacy arrangement is where a woman—the birth mother—agrees to become pregnant and to relinquish the child to another person or persons, the intended parents, who will be the child's parent or parents.

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## Surrogacy Speech Continued

If the state is going to allow a baby to be taken away from its birth mother, then the state better be absolutely sure that that baby is going to a safe home—a home where the child has every chance to be loved and where they can thrive and prosper. Right now, the minimum standard that the state sets for a definition of a safe home is one where a loving and committed heterosexual couple, who have been together for a minimum of two years, are allowed the privilege of having that baby, and even after that screening process there are failures.

This legislation significantly lowers—in fact, it shatters—the minimum standard that the state has already set for a safe home for a child. This legislation allows a baby to be taken away from its birth mother and given to a single man, which means no immediate hope of a mother. This legislation allows a baby to be taken away from a birth mother and given to a single woman—no immediate hope of a father. This legislation allows a baby to be taken away from its birth mother and given to two gay men—no hope of a mother. This legislation allows a baby to be taken away from its birth mother and given to two lesbians—no hope of a father. Whatever the reason or circumstances motivating or medical technology enabling a child surrogacy, surrogacy still involves taking a baby away from its birth mother and it is fraught with moral, ethical and physical dangers to both the baby and the birth mother, no matter what deals have been agreed to before the birth.

Take, for example, the stolen generation. The stolen generation involved children being taken away from their Aboriginal birth mothers. Are Aboriginal or Torres Strait Islander women going to be used as surrogate mothers? Once those babies are taken away from those Aboriginal and Torres Strait Islander birth mothers, is there any requirement that they be raised in a culturally appropriate way? Or does that not matter, because the surrogate children will not be considered Aboriginal, even though they had an Aboriginal birth mother? Will this legislation allow an Aboriginal birth mother to give away her baby girl, for example, to a single man, or to two men, or to two men and one woman who decide to live in a committed relationship? Where are the limits on the types of social and personal arrangements that are allowed by this legislation? There is no limit. It is open slather.

In a desperate bid to not be politically incorrect, or accused of discriminating against some adult and their sexual preferences, we as legislators are forgetting about the children. It is when you start to ask these serious questions about this legislation that you realise how hollow, false, glib and mercenary the clever socialist catchphrases of the Premier and other members opposite really are.

It is the best interests and the rights of an innocent child, who cannot speak for themselves, to protection that must always be taken into account and put first in surrogacy legislation—not the perceived civil rights of some 25-year-old single person who wakes up one day and feels like they want to become a parent but it is too much of a hassle to try and, first of all, fall in love and then live in a committed relationship. If you fail those tests, I would suggest that is nature's, and millions of years of evolution's, way of saying that you are not ready for children right now and that, if you do manage to have children, the chances of their continued wellbeing and survival will be lessened.

Why has the government chosen the magic number of 25 in order for people to qualify for surrogacy? If we use the government's naive argument based on the dignity of all citizens being free from unlawful discrimination, would not all Queensland adults aged 18 to 24 years and 11 months who are excluded by this legislation feel as though their dignity had been taken away from them and that they had been unlawfully discriminated against? Those people are old enough to join the military, fight and die in wars overseas for our rights and freedoms, which include child surrogacy, and yet the Labor Party has just told them, 'You may be old enough to fight and die overseas but you are not old enough to be the intended parent or parents of a surrogate child.'

The Surrogacy Bill 2009 is legislation that is not being driven from the grassroots of the community. In the past six years that I have been in parliament I have never had anyone bump into me on the street and say, 'Rob, that surrogacy legislation really has to change.' Plenty of people have said to me, 'Rob, that adoption legislation has to change. There is too much red tape. It has emotionally and financially exhausted us,' and 'Rob, why are we being taxed to the hilt with nothing to show for our taxes?' and 'Why is the Labor government so wasteful and refuses to listen to me?'

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## Surrogacy Speech continued

But no-one has actually come up to me and said, 'That surrogacy legislation really has to change.'

Many of those opposite have tried to paint people on this side of the House as being homophobic. Of course, two men living together in a committed, loving relationship can raise a child and do it successfully. But two dads cannot give a child a mother's love. All two men can do is to provide that child with double the daddy love, which leads to the important question that those opposite have deliberately avoided in this debate: how important is a mother's love to a child? Margaret Atwood writes the following in her book *Payback*—

If we were Freudians, we might talk about psychic child development: the first food comes from the mother, so do the first lessons in justice and punishment and in the fair sharing-out of goods.

There are already enough systemic and cultural threats to the psychic development of the child: poverty, unemployment, legal behaviour modification drugs, illegal drugs, abusive parents, violent films, computer games, the uncensored internet, the TV news. Should we be enabling and encouraging the development of a society where a child, by reason of a lifestyle choice of an adult, can be deprived of a mother, where by reason of a lifestyle choice of an adult a child can be deprived of the chance to experience their first food from a mother, where by reason of a lifestyle choice of an adult a child can be denied a mother's love and care? Or in the style of Atwood, if you would like to be a little bit more anthropologically clinical and factual, where by reason of a lifestyle choice of an adult, a child can be denied the first lessons in justice and punishment and in the fair sharing out of goods from a woman. If the Freudians are correct about the ideal conditions for the proper psychological development of the child, as described by Atwood, and we have as a result of this legislation more and more children being raised without ever knowing the love of a mother, then maybe we will end up with an Australian society in 2110—100 years from now—that will be more unjust, selfish and less merciful than it should be.

I am not so naive to not acknowledge and realise that many children, through difficult, tragic and different life circumstances, are raised successfully without knowing a mother's love. But this, I believe, is a sad thing. It is less than ideal and should not be legally facilitated, encouraged or celebrated, which is what this legislation does. This legislation before this place, by allowing, merely through a lifestyle choice of an adult, children to be raised without the love of a mother, has implied and ingrained in it a very dark message and subtext. This is an official message from the state that facilitates, encourages and even celebrates a human life without a chance of a mother's care and love.

A father's care and love for a child is obviously different from that of a mother's care and love. In an ideal world, in order to raise a child in a healthy, balanced manner a father's love is equally as important as a mother's love. In an ideal world, the best interests of the child is served if they are raised by a loving, caring woman and man in a committed relationship. This principle is not only common sense and agreed to by the majority of our community, it is also recognised by the state and federal governments and by our legal system.

There are three great legal standards or sayings that your average layperson will likely hear at some time in their lives. Guilt should be proved beyond a reasonable doubt—of course, we hear that phrase when we sit on jury duty. On the balance of probabilities—if you take civil action against any person, you will obviously come in contact with that phrase. What is in the best interests of the child—you will obviously come in contact with that if you have had any dealings with the federal law courts or have been involved in any child custody debates. In every instance where you talk to a judge, a lawyer, or a Family Court reporter, they will say, 'We are going to make a decision based on the best interests of the child.'

The concerns that I have from a layperson's point of view about this legislation is that it appears to undermine and contradict federal family law in relation to child custody cases and also the state adoption and fostering laws, regulations and conventions in relation to the adoption and fostering of children insofar that it plainly does not take into account as a principle of the legislation—even though the Attorney-General tries to make out that it does, but actions speak louder than words—the best interests of the child.

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## Surrogacy speech continued

In closing, quite clearly, this legislation's first priority is to put the individual's right to procure a child for whatever reason, including a lifestyle choice, before that of the best interests of the child. This legislation displays a dangerous hypocrisy and double standard when compared with other state and federal legislation. I would like the shadow Attorney-General to explain the difference between the other states' legislation as set out in the Parliamentary Library study, which I tabled in this debate at an early moment. It certainly seems that Queensland is not just bringing its legislation into line with that of the other states; it is taking it way beyond that line and far down a very dangerous and dark road.

This legislation disregards long-held legal and social principles. There are laws of this state that ban polygamy and same-sex couples marrying for good reasons. I suggest that if this legislation passes, the next piece of social engineering legislation that the Premier will introduce, when it is politically convenient for her to distract the attention of the state away from the horrific debts that we have and the sale of public assets, will be an attack on those two legislative standards.

**Mr Dick:** It's a matter for the Commonwealth parliament, not the state parliament.

**Mr MESSENGER:** The Attorney-General wants to be legalistic, but let us talk about it. Those principles are being ignored in this legislation. Unfortunately, the issue of surrogacy is being used as a stalking horse, or a front, for people who want to fiddle with and undermine the fundamental cultural norms and customs that have made our state and nation prosper and become the envy of the world.

One of the advantages of living in a free, liberal, western democratic country is that you should be able to do anything that you want as long as you are not hurting anyone and not breaking the law, which is there to protect people's personal wellbeing and property. The Labor surrogacy legislation, if passed, has the great potential to hurt two very important people in the surrogacy story: the birth mother and the baby. For that reason I oppose it.

*End of speech*

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