LAW REFORM COMMITTEE

Inquiry into Coroners Act 1985

Melbourne — 22 August 2005

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Mr L. Hain.

The CHAIR — I welcome people to this inquiry by the parliamentary Law Reform Committee. Our work is undertaken under the auspices of the Parliamentary Committees Act and therefore any evidence that you give to us today is subject to parliamentary privilege. I also indicate that in general if you are giving evidence in public, and this is a public hearing, that evidence will be put up on the web site as a public document and the committee will quote from and utilise aspects of your evidence in preparing its report to the Parliament. We are assisted in our task today by Hansard reporters.

Mr Hain, welcome to the inquiry. Thank you for taking the time to come and talk to us about things which are obviously very difficult. We have about half an hour. Obviously there are lots of issues associated with your son's case which have to do with different systems and things that happened. We are particularly focusing on what happens in the coronial system, so if you could direct your remarks towards that, it would assist us in asking questions. If you could leave some time in the last 15 minutes or so for us to questions, that would be appreciated.

Mr HAIN — The advance submission goes into Hansard also?

The CHAIR — Yes.

Mr HAIN — I will very briefly summarise the seven pages. I am aiming at rectification; nothing will bring our son back. He would have turned 25 last Friday — he died at 18 in June 1999. Had he died of heroin, as we were told by the police when we arrived — we were going there to visit him, prearranged, had seen him several days earlier — so be it. We were told it was self-inflicted heroin on top of first-week methadone, a deadly combination. As a pharmacist I am well aware of that. However, the police were pretty nice overall when we got there, especially a policewoman.

He just did not wake up that morning. I cannot remember which constable or sergeant had told us that in one day they had done a thorough investigation. There was no question it was a heroin death, full stop — photographed, the works. At the inquest over a year later we found out that several people who had been visiting the home he was at in Benalla were confirmed drug addicts. They had been coming to visit him at his home quite regularly, allegedly to do laundry — an amazing amount of laundry. I have got no doubt needles and things were found. We saw the premises the next morning, and we spent 3 or 4 hours with the police that night. The police had kindly booked us into a motel so we would not try to drive to Melbourne et cetera.

However, we have since found out that the police had no idea of medical problems, because that is left to state health or the DPU — the poisons unit — then and after. There is a gentlemen's agreement, as I understand it, that the police take no action unless the poisons unit advises it. Phone calls went in all directions that night, and they even had an all-night phone rigged up in our motel room. We were advised in phone calls from Jewish undertakers and others to sign the standard Jewish form, although we are not ultrareligious, to please not cut up his body unnecessarily. It is a heroin death. What do you want to cut him up for? So we signed the form. It was dictated; we signed it — no dispute.

By next morning we found a bottle of diluted methadone liquid in his refrigerator which the police had missed, surprisingly, when they took all sorts of things out of the house, and it was labelled as containing 1000 milligrams. The maximum first-week dose for an acute addict is 40 milligrams. That bottle was never analysed and presumably was not used. It probably was correctly dispensed, because the pharmacist would have to account for where they lost so much methadone otherwise, but it had us highly suspicious. We handed it in to the police. We did not believe he was an addict. The police sergeant who came to the inquest and who advised the coroner did not believe it was a heroin death. He had met him alive wandering the streets in an absolute daze in the previous week or so and took him to hospital with a slashed wrist. His hand allegedly went through a glass window trying to break into a hospital. If you are going to break into a hospital and you know what you are doing, you are not going to put your wrist through a window, surely.

A day or two later in Melbourne the body was at the undertaker's, the Jewish Chevra Kadisha, and we were sitting with the manager. The time of the funeral is arranged and the phone rings. It is the Coroners Court. They are recalling the body. I missed something out; sorry, I will just go back a second, because it is vital. He died in Benalla but was taken to Wangaratta hospital. The morning after we went there, identified the body and spoke to the medical pathologist. He had done blood and urine tests. We said we were suspicious. If there is heroin in him, that is it, but if there is only the prescribed high-dose methadone and whatever else — we did not know what he had

had prescribed apart from that — it is a suspicious death. He was in what they call a loud-snoring coma from the previous afternoon, with people coming in and out of his home and nobody thinking of calling for any help.

Take morphine for cancer victims or anyone in road accidents; the dose must start low and you work up gradually, because the major side effect is respiratory failure with any of the variations of narcotics. Methadone is a narcotic. It is used to counterbalance the addiction, but it is still a narcotic. You start low and you work up unless you have got absolute proof that the person is what they call neuro-adaptable — an addict at that moment. As DPU's own instructors stated at a methadone course I did after he died, a lot of people die in the first few days out of prison. They have been off heroin, and they go back to the methadone or heroin dose that they were used to, but their system is no longer neuro-adaptable. They die, just like that; another heroin death. Who cares? It is one less on the street. That is not my view. The official attitude at the time was to get them off the street. If we lose a few, so what?

That is where we started. The pathologist that morning at Wangaratta made it quite clear that he had done blood and urine tests that would be sufficient, because they would indicate what else was in him. Many months later — six months or something — we were advised by the Coroners Court: here is a copy of the pathology; blah, blah; no heroin; no 80 other possible legal or illegal medications which would have caused the same type of coma with respiratory failure and gasping for air. Some people call it snoring. I would say it is like a terminal pneumonia patient. The sound gets horrific towards the end. Sorry, I am working under a little bit of difficulty. By the way, my wife and daughters are not here. They still cannot bear to talk about the matter at home, let alone here.

He assured us that the tests he did would establish it. All that was in him was methadone in the appropriate dose and any residual medicine, which we later found out was a massive overdose of prescribed Valium, not illegal Valium — a deadly combination. That would tell the story. That same pathologist at the inquest a year later told the coroner — a part-time, sincere, country coroner but inexperienced in inquests and certainly medical inquests — that he had no doubt this was a methadone death, that Joel was not obviously an addict at that time, if he had ever been. To our knowledge he had never been. Yes, we know he had tried it. He rang me and I said to go to a doctor and get some help. He said, 'I tried it, and I can't stand the result'. Nine doctors — he was not 'doctor shopping' — either at the clinic or doctors he was referred to by that clinic, saw him in the next 13 days. No-one did any blood tests other than HIV and hepatitis — both negative — to see whether he had things in him. I am jumping around a bit.

This is a vital one. At the undertaker's the body is recalled. 'Can I please speak to them?'. They said it was not necessary. 'Yes, all right. You want an autopsy. It is against my religious beliefs and, we are told, his religious belief, but if you want it that is okay.' He says he will sort it out. He goes in and comes back and says they did not want an autopsy. When we eventually got the forensics months and months later there is a signed statement by the doctor he saw on the recall — same thing on the forensic. You can almost certainly say heroin or no heroin, but he cannot give a 100 per cent decision, maybe 99 per cent — or words to that effect — without a full autopsy. The doctor says he wanted one and was not allowed to do it. The undertaker says he gave the message, and they did not want to do it.

To this day I do not know who was at fault, but I do know that Graeme Johnstone, the state coroner, has spoken with me on several occasions about it and has assured us that he is voluntarily stating — and they should have done it at the time — no-one who goes to the Coroners Court is to release a body until the coroner's own staff talks directly to next of kin, if possible. There was no attempt to contact us, that we know of, and none recorded in the coronial court as attempting to contact us. I think that should be made legally compulsory and not just that the state coroner would like it to be done, because on that alone a later, part-time coroner declared our inquest a non-event — no full autopsy, no verdict. She sent her recommendations to 16 different authorities including the Victorian Premier, the health minister, the Attorney-General, the federal health minister, various boards and organisations.

I also wrote a letter to all of them expressing my concerns. The only one I ever heard back from was Mr Thwaites, as the then Minister for Health, in a personally signed letter — we were told later it was dictated on the advice of DPU — saying that no-one had done anything wrong, there was no need to refer it to any pharmacy or medical boards, there was no need to prosecute and everything was fine. We found out later that the police, right up to the commissioner's office but maybe not her in person, were aware before the three-year limit came out to prosecute a doctor who ordered methadone for a patient he had never met before without a legally-required permit for every patient, not just to prescribe in general. Like the pharmacists, they have to do a course and they spell out the dangers like crazy. But the DPU advised police at senior level that this doctor had no guilt, therefore he should not

be prosecuted. I have got it in writing from the police at senior level. There is no guilt — they have to do the course where this is spelt out like crazy before they can even start prescribing it. Pharmacists do not have to sight the permit, but if they are suspicious if there is no permit, if they are suspicious that someone is getting 150 by 5 milligram Valium prescribed from one clinic in one week, they ring the DPU and police to say that that needs to be checked. At our inquest the DPU said it did not.

There were many things in the then methadone guidelines and a new set of guidelines released before the end of our inquest, which was spread over six months in a country town — we all packed up and went there three times. We had no support whatsoever at this country inquest. There was not even someone there to give you a cup of tea if you wanted it. There was certainly no-one there to advise you. There was no-one you could ask legal questions of. We had a junior barrister — sincere but obviously inexperienced in medical things — at $1000 a day. We could not afford a QC at $5000 to $10 000 a day.

The various doctors and pharmacists involved had advice from their indemnity insurance, and there was at least one senior lawyer there who only had to ask one question, virtually — that is, 'Could he have died of asthma?'. One of the witnesses said, 'Yeah, maybe'. Hang on: respiratory failure, asthma, breathing stopping — of course if you have got asthma it is going to stop quicker. The autopsy: heart, brain, kidneys, liver — you name it — if oxygen is not getting into it, or negligible oxygen, you are dying slowly of respiratory failure. Of course something is going to give if there is the slightest weakness anywhere but people at our inquest did not seem to think so.

The coroner incidentally came into the court in Melbourne to save us going to Benalla about six months after the inquest started. She was in and out in 3 minutes, read the first paragraph which virtually said that, due to there being no autopsy, she was giving an open finding, therefore all the evidence is just evidence. Why have it? In Melbourne, before we went up, they invited us in one night to talk to their welfare people — or whatever they are called — and we asked what we would need to know before we go up — for instance, is there any point going through all of this with no autopsy. There have been numerous autopsies even without a body, but not in our case.

I will try to track myself back. The autopsy rules obviously need to be changed. An expert pathologist in Wangaratta says he was not given the forensic results until the day before he was called as a witness 12 months later — and he would have taken one look at it and said, 'This is a methadone death, not a heroin death'. The coordination is crazy. You look at the dates on various other forensic things from the recall and elsewhere — Monash University; all top experts — but it appears as though no-one looked at them all together until the inquest. There was no-one there with any medical knowledge other than myself.

We had a coroner who ruled that, as a pharmacist — even on oath; as a witness — I could not make any comment about anything any doctor does. That is absolutely against pharmacy requirements. I do not how many of you know what your local pharmacist has to do, but he or she is legally responsible for anything they supply, any advice they give or do not give, and they shall contact the prescriber if they have the slightest doubt about the safety.

We had a pharmacist, obviously in remorse, who had supplied the allegedly fatal dose of methadone, saying, yes, she rang the doctor. The other town did not know him. This guy is being treated in our town. Yes, he has been sent over to us because the local methadone doctor is not in town for a week. He is supposed to check him. He was on a lower dose the Tuesday before he died on a Sunday. A doctor, being more cautious, may have given a very low dose and maybe he might have survived.

But he was still having symptoms taken as heroin. Roche, who make Valium and who have taken it off the market in England since Joel died, supplied the evidence to give to the coroner, including on massive doses of Valium. A dose of 5 milligrams for an injury to me just about left me in fairyland — he was on 40 milligrams a day, prescribed with no known previous use of Valium, for alleged heroin addiction. He got muddled, rang the hospital, got one of the doctors from the same clinic, and said, 'I think I have got muddled and took too much'. I have put in my notes that he did have a reading and learning problem — if he was given any brochure, that would not have helped, but he had the gift of the gab, and you would not think it if you did not know. A couple of days later two other doctors in the same clinic had increased it to 80 milligrams a day, and then by the end of the week, 90 milligrams a day.

You are a walking zombie at that stage — I have worked with people who have been put on doses like that. They do not know what they are doing. They cannot sleep, they are hallucinating. In our son's case, as I point out at the end of my submission about Telstra, he spent the night talking to whoever would answer — who answers a 1900

number in the middle of the night? I still do not know who they were. No-one has told us. His phone was disconnected by Telstra the day after, on the Wednesday before he died — he died on a Sunday — because he owed a couple of hundred dollars, we were told, on the phone. It turned out he owed about $5000; his phone had been on a 1900 number for about 3 or 4 hours. Was he asleep or not? But you have to pay for whatever number of minutes the phone has not been closed down on his mobile. We were not told that.

Joel made about a dozen calls to 000 in the last few days. What were they about? Was he calling for help? Was he calling for who knows what? No-one has investigated it. We do not know to this day. They are supposed to be recorded calls, but no-one bothered to check, or if they did we certainly are not aware of it. They promised to connect a phone, which was already in the house but was not connected, the same day and gave us a number; he cannot ring out on that one except 000, but we could ring him. It was connected 10 days after we notified Telstra that he had died. That is a side issue. There are a lot of side issues here.

I hope this panel will consider, although it is not part of this agenda, if there is anything here that you believe should be referred to another authority or if you can open a door for me to get into authorities that will not talk to me, it would be appreciated. But we are talking coronial at the moment.

Two witnesses, a pharmacist and a welfare worker, gave sworn evidence that they could not contact him in the last few days on matters that they were very concerned about. The pharmacist even sent someone to knock on his door, but he was not there, or was out to it. I am jumping around, but you have most of it in there.

Trying to get to the reality, I think I have gained enough information to say — and maybe I am biased — I believe what appeared to be a conspiracy to pervert the course of justice in our case, and that is a strong comment. State health spoke to me — I rang them several days after we got back to Melbourne after the death — and the second-in-charge officer said to me 'Yes, Leon, I know you, you are a pharmacist colleague, I know exactly what happened', which we did not know at that stage, 'but I am not allowed to discuss it'. Was that under privacy law 99? I do not know.

They knew several days after he had died that he had been given an illegal no-permit dose of methadone which was supplied despite a pharmacist challenging it. On oath the pharmacist said the doctor's note put them in their place, or words to that effect, to supply it or else, and they did. This same department and his chief withheld the knowledge from police, coroner and family. This is a few days after Joel had died. I am not sure if he was buried yet, from memory, but an autopsy would have been very possible; I am sure the coroner in Melbourne would have insisted on it, and so would we if we had known what was going on.

We knew something sounded suspicious, but we did not suspect a dose for which any other pharmacist or doctor in Victoria who supplies or prescribes methadone has to comply with massive rules — and God help you if you do not. The same witness then told the coroner, 'Yes, but the methadone guidelines which applied at the time will be relaxed'. Those guidelines include the advice to never believe what a patient tells you if that is the only reason to believe they are an addict. Some will lie. Some will be under the influence of drugs and would not have know what they were saying. Some might be trying to get a sickness benefit instead of the dole. I do not know what happened in Joel's case, and never will know. They were the guidelines at the time. And for goodness sake, you do not prescribe high-dose Valium, which was the previous treatment, if it is outside of a hospital or similar setting. This is someone who went home with no-one to care of him, and he was living in a country town at the time.

He could not get work in Melbourne. He was not academic but he was very good at farming, cooking and all sorts of things, and he was doing a sort of work-for-the-dole experience in the country, with good recommendations and people who assured us that they had seen no sign of heroin addiction for over a year — not like the doctors claimed, four doses a day. This includes Typo Station, which is a very well-respected youth training place near Wangaratta that he was at voluntarily, and he was one of only two boys to complete the course.

Sorry that I am wandering. The same senior person — I do not know whether I should name him or not but he is certainly in the coronial report, and the coroner believed every word — said a pharmacist should never query a high dose, a pharmacist should not query an illegal supply. That is an absolute contradiction of everything his department has circularised to pharmacists and doctors before and since. He told the coroner there was a new set of methadone guidelines coming out which will relax all this.

In effect he was saying, 'Although these are the guidelines and the law at the moment, it is all being changed in the near future'. The same doctor who admitted he wrote Mr Thwaites's letter on DPU advice came to our home, gave

me a copy of the new guidelines, agreed that they were absolutely contradicted in Joel's treatment — or lack of treatment, whichever way you want to look at it — and in front of witnesses said that he would not go as far as saying that someone had committed perjury or simply did not understand their job.

The thing is, yes, I put an objection into the pharmacy board. I am a whistleblower — forget getting work now — but basically what I am simply saying is whether or not the coroner wrote to everyone, it all went back to the same person or department that withheld the illegal dose in the first few days, and declared that no-one including themselves had done anything wrong. Is that an independent inquiry? A person has never been stood down or sacked, to my knowledge. They are strong words, but I will say them. Of course he is entitled to try to defend himself in due course but that one thing made our whole inquest a non-event.

He called a so-called independent medical expert to answer the medical side of the treatment, because he was not going to comment on it, and that is probably why the coroner assumed no other pharmacist could — I do not know. This independent witness came in, he told us he had gone and seen I think it was two days transcript, hundreds of pages, about a day or two before. He had browsed through them and he told the coroner in his opening comment that the doctor who gave the illegal dose was a hero. He had never seen the patient et cetera, did not have any history, did not check for contrary indications but he was a hero to prescribe without checking anything. And yes, the previous doctors that referred him gave him nothing wrong either. It makes you wonder.

However this doctor did in the end, I presented documentation from Roche, which makes Valium, and managed to get a few comments in on it. In the end it was actually not my barrister who was asking the questions; my barrister was not asking the questions I had given him. In fact, when we got back a registrar of the state coroner told me that I should ask the questions myself because I knew what was being said and would be contradicted or challenged. No-one told me that I could have asked questions.

And what is the use of my calling an independent expert pharmacist, a professor of pharmacy or someone like Professor Colin Chapman or someone like that to give independent evidence when the coroner has ruled that she will not accept evidence from a pharmacist on anything the doctors did? What do you have pharmacists for? We are not there just to whack the label on a packet and hope you survive. We are there to make sure you do survive, hopefully. I can assure you I have stopped many an overdose or drug interaction in my time, as has every other pharmacist; it is our duty — but not according to what our coroner was told.

The coroner has altered his instructions on autopsies so it will never happen again. He has formed a medical advisory panel — part time, and some unpaid, I believe — to advise in the very early stages. I believe if anybody with appropriate training had seen that stuff and collated the evidence, there would have been tonnes of time for an autopsy, let alone an appropriate investigation, but he does not have enough funds to employ whom he needs. If you could give him that, it would be a great help.

He told me that he did not have the right to overrule the coroner's verdict and he could not accept things like the pharmacy board's caution of pharmacists and all sorts of irregularities on the assumption that our son survived. They could not assume he had died because it is an open finding. He either died almost certainly of massive withdrawal from Valium, which can be fatal on its own, or the combination of the two substances — and the combination of Valium and methadone is just as deadly as the combination of heroin and methadone.

So he is trying to do that, and he told me, and he put it in writing, that even though the medical board has reprimanded a doctor for endangering life — that is, the guy who ordered the massive Valium — not the methadone guy, who got off scot-free — the pharmacy board cautioned four pharmacists involved. I did not realise there were that many in one shop: three of them were in one pharmacy, and the other one had started to give him the Valium and said, 'No, I am too busy to give you the methadone', which is a polite way of saying he knew something was wrong but was not going to tell anyone.

He just sent it down to the chemist down the road, which has since bought him out, and then did not tell them, 'Hang on, this guy is on massive Valium'. That pharmacist had acute amnesia. He did not keep signed records as required, because the last Valium was daily dosage: you have to get a signature every time et cetera. He forgot everything. He did not plead self-incrimination, he pleaded amnesia. He saw Joel on a Friday, he knew Joel had died by Monday morning, but he knew nothing about his treatment.

The police did go to all the local doctors and pharmacies in the days after Joel's death and got statements from them, and they all gave the bare minimum statements — for example, 'This was what I did' or, 'I do not know

what anyone else did', et cetera, et cetera, and, 'Nothing's wrong'. The lady who put the wrong labelling on the methadone did not even mention that; she gave a statement afterwards that she did not know how to type the right dose on the label!

At the inquest I just wanted to say that the pharmacist who did the methadone and a another doctor that gave a low-dose methadone a couple of days earlier all made it quite clear that they knew what had happened and they did not agree with it, but not one of them gave the slightest hint to the police, family or coroner. It was a case of, 'He died, so what?'.

The week Joel died we had the death notices in a weekly Jewish newspaper, where they print them a bit bigger than ordinary death notices, and on the front page was an article from the manager of the Jewish burial service saying, 'Another heroin death this week'. The readers, many of whom would know us, jumped to the obvious conclusion — it was what we were told, too, at the time, but that has never been corrected either. We had about 500 people come to the funeral and memorial services at the synagogue, and about 450 people have not been sighted since they read that he was a confirmed heroin death.

It is all in here. I am sure I have left a lot out, but I am hoping you will go through this and pick up the other points and the obvious, what I believe, recommendations to stop it happening again.

I am now an aged pensioner instead of the top-of-the-field pharmacist that I was at the time; I got a state government award for pharmacy six months or thereabouts — maybe a bit more than six months — before Joel died. I cannot afford the appeal to the Supreme Court. That is another thing that the lady hinted at earlier: the family has to pay all their expenses, and in our case that was not just to get to Benalla and back and accommodation. It is not just the lack of income when everyone takes time off from work. It is not just to get there, but to recover from what went on there. Some have had quite considerable time off since. I am still on one tablet a day. I will not comment on the rest of my family. You can imagine.

A lot of things happened which should never have happened. Graeme Johnstone would not dispute it, but he told me he did not have the right to overrule it. He gave us written grounds to go to the Supreme Court but told us that if we did get another inquest ordered, he could not instruct a Coroner, and whichever one we get, if they do not believe in a verdict without autopsy, you are back to square one. The recommendations on part-time coroners, no matter how sincere they are, is obvious. Now I will let you get a word in.

The CHAIR — Leon, obviously in terms of what happened with your son, you are indicating that the level of training for country coroners, particularly when they are doing that in a part-time capacity, the level of assistance they need should be upgraded?

Mr HAIN — Yes, I am not doubting her sincerity, but I think she was out of her depth. Graeme Johnstone has written a book about the risks of methadone. All she had to do was refer to his book or Graeme to know what was going on. I assume she did not. She as a magistrate is used to dealing with alleged criminals. And that is how we felt. We had a barrister who was not asking the questions we wanted. I was not allowed to ask my own and, as I say in there, I think on the second-last day I nearly came back to Melbourne saying, 'What is the use? This is going to be a non-event', and it was. We cannot bring him back.

We have not issued writs on anybody. This is not an attempt to make a fortune and, even if it was, thanks to the state government and because it is past three years, the doctor cannot be charged after three years. You cannot issue writs after three years, and this is what I point out for future ones. In cases where people want to or are able to issue writs, what is the use if the legalities go for four years or more? I have not gone to the Ombudsman, but on second thoughts I might, but I am hoping that through this panel that will not be necessary. If you want to refer it to him, by all means.

The CHAIR — Our focus as a committee is to — —

Mr HAIN — Stop it happening again.

The CHAIR — Looking at what changes can be made to the coronial system and process and legislation in order to correct this situation in the future.

Mr HAIN — And you are all bright enough to make the obvious recommendations without me spelling them out.

The CHAIR — What I took out of your submission was that apart from the issue of training, particularly for part-time country coroners, you also obviously were raising the importance of coroners having greater training and experience in medical issues or the roles of pharmacists in monitoring patients' drug dosage levels. You were indicating that the autopsy rules obviously need to be changed but also clarified so that people can make informed choices at the time about whether or not they would object to an autopsy or want to request an autopsy.

Mr HAIN — Some people will object on genuine religious or other lines, but they need to be warned that that could stop a finding should something unforeseen come up. Let's face it, there are probably some people out there who would love there not to be an autopsy so things will not be found. It works both ways.

The CHAIR — The other thing that came out of your submission, I think, was that you want more information for families on how the coronial process works — who can ask questions, who can participate in that process. The families need to be able to have legal representation, where appropriate?

Mr HAIN — Even if they cannot afford it, to be able to ask the questions themselves or to be able to make a statement at the end, as at an inquest I sat in at to help another family.

The CHAIR — The forensic results need to be made available much earlier so that they can be both utilised and questioned in the process.

Mr HAIN — It is a farce when they are not put together, when it is too late to do anything about it, and then when a Coroner ignores it. An important point I left out, if I may, was that in the end the independent medical doctor who is a recognised methadone specialist did say, 'Hang on, I have suddenly realised what it was. It was the Valium plus the methadone'. Whether the Valium killed him or the methadone, there was no question he was in a fatal coma.

The CHAIR — And it came far too late in the process?

Mr HAIN — That came at the end of the inquest and, if you look up the report, the coroner calls that a hypothesis, but infers that if she had found a cause of death, it would have been another story. He was dying anyway. The way she put it is, did something else unexplained kill him when he was going to die in the next hour or so anyway? Why have an inquest?

The CHAIR — The other things that came out of it were there needs to be much more support given to families at inquests and we need to look for a cheaper or more accessible way for people to appeal against decisions or findings of the coroner because I think in your submission — —

Mr HAIN — Can I add one thing that is very important that I have not mentioned because my mind is wandering?

The CHAIR — Sure.

Mr HAIN — It is in here. The one that absolutely stunned us again was that two doctors who gave unsworn, unquestioned evidence on what they did, went back to their surgeries, by coincidence or otherwise realised their evidence contradicted doctors in the same surgery in their evidence, and simply sent a letter to the coroner saying, 'Ignore all my evidence. I have just remembered this is what really happened', and without questions being able to be asked or anything in her report, the coroner has accepted their letter off oath completely against her sworn and questioned evidence. If that is not, on its own, a ground for a mistrial or whatever the word for an inquest is, what is?

I believe our inquest was a farce from which our family has not recovered and never will recover. We long know now why Joel died, but as a pharmacist to know that my colleagues in pharmacy and medicine, with the help of state health, managed to cover it up, I think that does not quite warrant a royal commission but I would hope that someone high up, seeing I have a letter from the then Minister for Health saying nobody did anything wrong and the board should not even take action, but they did, is that justice? Is that why we have coroners?

The CHAIR — All I can say is that we will take on board all of the things that you have put forward in your submission. We appreciate the time you have taken to speak to us. You have made a number of really good recommendations that we can consider now, and we will have an opportunity to reflect not only on your written submission but also on the transcript. I really appreciate your coming to talk to us because it is difficult, I know, to talk about these things. We certainly, hopefully, can make recommendations that will improve the system.

Mr HAIN — As I have said to Graeme Johnstone and others, the aim mainly is to stop it happening again, not just as a next of kin but as a pharmacist who up until state health disagreed with me had a pretty good reputation. If I can help anywhere on any of these committees or things where someone wants someone first hand who has been there, done that and buried it, at this stage I think I am healthy enough to do it. The last couple of years, no.

The CHAIR — It has certainly been very helpful to us today. Thank you.

Mr HAIN — And I thank you for being, for the first time since he died, what we feel is a caring audience, if that is the way to put it, irrespective of what you do or do not do.

Up to now every time we have spoken to someone, it was like we were on trial, and what we need from the whole coronial system for everyone — and I heard part of the last one — is a bit of tender loving care in the approach to the next of kin, immediate family et cetera. Yes, there are some cases where maybe the next of kin were the cause, but in most cases when an 18-year-old son goes to sleep one day and does not wake up the next morning, and you are told it is self-inflicted, and all your friends are told that, and then a year later roughly you find out, 'Hang on, it was not', but no-one cares.

I walked out on the health professions. That is the only way I can put it. I did not want to be a part of it if that is the way it works, and I believe, not just on inquest, but a lot of my colleagues, including some of the younger ones, have also walked out in disillusionment. I stress that there are a lot of very, very good ones out there, but in any profession — pharmacists, parliamentarians — anywhere, there is always someone who is perhaps not the best.

I do not want to reflect on any of the professions. All I am saying is that in our case something happened — I have not killed anyone, that I know of — that could happen to anyone in the lapse of concentration. But to take the attitude that you do not only not incriminate yourself but if there are other pharmacists, doctors or someone else in the health field involved, state health hopes it goes away and no-one notices, that is sickening.

The CHAIR — Thank you very much, Mr Hain. We appreciate the time you have spent with us today. Thank you for your submission. We appreciate it.

Witness withdrew.