LAW REFORM COMMITTEE

Inquiry into Coroners Act 1985

Melbourne — 22 August 2005

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Witnesses

Mrs L. King; and
Mrs A. Anderson.
The CHAIR — I welcome both Lyn King and Anne Anderson. I understand you are going to divide the time between the two of you. Combined, we have an hour. Obviously we would like the opportunity to ask questions, so if you can weave that into the time you spend on the presentation, that would help us to get on top of some of the information that we are looking for.

Mrs KING — We will do our best. As you can see, half an hour is really pushing it for us, but we will do our best.

The CHAIR — Bear in mind we have read your submissions, and we will have an opportunity to reflect on that and the transcript as well.

Mrs KING — My name is Lynette King. I need to read in order to keep my emotions under control, and then I am happy to answer whatever questions you might have. I am starting with something you do not have a copy of, but I will leave you with a copy of it. It is my very first letter after Mum had been in residential care for four years. This was in low care or special accommodation facility. This was a letter of 28 March 2000. She had just started her journey in the Villa Maria Society, Berwick.

'To whom it may concern. The purpose of this correspondence is to highlight the need to scrutinise all personnel and all facilities where caring for the individual patient residents is professed to be a priority. I believe there is real concern in this regard particularly in the area of aged care. My perspective is that the term “duty of care” seems in many cases to only cover the provision of basic rights such as food and a roof over one’s head. Anything further seems to come at a cost and that cost varies enormously.

Financial matters and physical needs are the more obvious aspects which draw attention in the aged care industry, but what of the hidden needs of a frail older person with, for instance, an added complication of some form of dementia? My mother fits into this category.

The more I have seen and felt, this situation is rife with shortcomings, thanks largely to the lack of systems, questionable guidelines and inadequate network, the common practice of avoiding accountability, frequent denial of responsibility and preoccupation with budget. There also seems to be a common assumption or convenient presumption that the greater the needs, the more vulnerable the person, therefore the less likely that person will be to make any complaint, particularly on an official level.

Unfortunately I suspect this may well be so and may also underpin the feelings of frustration, intimidation, fear, loneliness despair, powerlessness that many older people have to cope with each day. My mum used to get enjoyment from visiting interesting places, travelling on public transport, helping at family functions. Now, because of her need for 24-hour care in a safe and secure environment, mum spends much more time sitting and doing nothing. This has, over a period of some four years, diminished her capability to move with ease, to maintain an ability to perform tasks previously accepted as second nature, to feel useful and experience more happy times.

This time has been spent in various facilities — special accommodation, private hospitals, hostels and most recently nursing homes. Each of the moves has been because of dissatisfaction and indeed concern over mum’s fairly basic needs failing to be met. My hope has always been to find a suitable facility which would help mum to find comfort and peace and therefore some quality of life. The apparent haste with which the personnel at or connected with each facility to administer drugs as a means of behaviour management and of course pain management is something else I find of great concern.

Mum is currently under the guidance of a naturopath at family instigation because we were fed up with the distress, the confusion and the lack of control mum was telling us she felt. The naturopathic treatment seems to be having some positive effects. I feel natural therapy should be more widely considered when looking for strategies to enhance the wellbeing of our aged citizens. Something else I have found to be of concern is the mysterious disappearance of personal items, including dentures, glasses, a watch and two gold rings. Mum was experiencing great difficulty with movement at the times when these went missing from her person. Is it acceptable for our aged to be stripped of all they value, hold dear and identify with I still wonder how these disappeared and where they ended up.

Without exception each of these facilities has presented more favourably at the outset than when visiting mum at a later date. It seems to me the harsh reality is that often the day-to-day care and attention afforded the individual is neglected, perhaps because of paperwork, inconvenience, inappropriate staffing, inappropriate facility and shortage
of funding. Whatever the reason, there can be no excuses. This is a sad reflection of what I had expected after having been given assurances of the aged care support network. Instead, I found it to be an environment where systemic control exists at the expense of personal respect and dignity. Budget and profit take precedence over appropriate quality care. Some of those in positions of authority are unwilling to be accountable for their actions or lack thereof.

Perhaps if narrow-mindedness and hidden agendas were put to one side and replaced by cooperation and a willingness to look at alternative strategies to address the needs of our aged citizens, the situation might just improve. Quality may once again touch the lives of our aged relatives and friends who do feel vulnerable in the present climate. A true care environment should show people working with people, recognising the needs of the person as distinct from the needs of the system. An impersonal approach and little or no initiative to make changes is proving detrimental to the most vulnerable caught in the system. The scientific advancements prolonging life, I can only hope for quality of time, of treatment and of life in my latter years. I would hate to become a statistic in a particular category as so often seems to be the norm from what I have seen and heard'.

That was prior to all of this occurring to mum. There is something else I will also read. One of the reasons that I certainly am here today, apart from impressing upon you the journey that mum has had over a period of years and a period of facilities, was government bureaucracy and other major players in the so-called care industry is that there has been a lot of talk, much empathy and much sympathy expressed to me, to my sisters, to our extended family, but no action has been taken. This is simply not acceptable. Unlike the other people who have been here — and I have been listening to speakers and even shed some tears myself over their stories — they do not necessarily push for the idea of blame. I hate to call it blame too; I much prefer to call it accountability. This is where the legal system must come into play.

The powers that be in one end of the system whether at a facility, bureaucratic, political or legal level must understand the implications. Unfortunately it seems finances must come into play. We always hear of how much the government is going to put into certain areas — how much you have to pay to go into the facility. Finance is right across the board — it speaks all languages and cuts through everything, but accountability to the person, in this case my mum, and the debt to her is enormous. Mention of compensation is so loudly silenced, it just beggars disbelief.

This is where principles, ethics and moral issues come into play. Not only that, when mum was in these facilities there were contractual arrangements in place; they were signed by mum or on her behalf. Part of that was money was to be paid so that services would be provided. On many occasions the services were anything but provided to a satisfactory level. Consequently my mum suffered tremendous injury, enormous pain and ongoing suffering. As a result, we also experienced those consequences and to this day we are suffering. But nobody seems to understand that debt remains unless compensation is paid over. It seems the coroner does not have the jurisdiction to follow that process. But I also understand that the coroner’s process is one over a network of systems which are supposedly in place to protect us all. It did not protect my mum; I do not believe it is protecting a lot of other people.

What follows is what I wrote this morning. I hope that what you hear during the course of the hearings will leave you both disturbed and motivated to take action to ensure others do likewise to fix the problems which exist. How can anyone expect the aims of the Coroners Act to be achieved particularly in the case of an open inquiry when firstly, relevant information is not made available; secondly, witness statements in the brief are prepared by a third party well after the incident and are unsighted and therefore unsigned by the witnesses in question; thirdly, witnesses routinely fail to give satisfactory responses to specific questions instead preferring to rely on statements or phrases such as ‘I am unable to recall’ or ‘I am not sure’; fourthly, required paper work or written notes have simply not been done — these would facilitate recall particularly when a considerable amount of time has elapsed between the incident and the inquiry; fifthly, truth is either deliberately or inadvertently distorted as a means of self defence and by that, I mean exoneration.

The fact that this was the reality in mum’s case leaves me in no doubt that for families, who are highlighted beyond the issue of inadvertent administration of a diabetic medication, that the Coroners Act appears to prevent the investigation of these problems and assigns it at facility level and beyond and chooses to ignore them or remain apathetic to the need to investigate further. How will they be addressed and by whom?
This is where the issues of prevention, responsibility and accountability need to be looked at very carefully and thoroughly and not wait until a significant number of cases are brought before coronial inquiries. This is likely to result in many more incidents occurring which may not be referred to such an investigation.

I have no doubt that had Mum died at the residential aged care facility and had the local GP attended, mum’s death would have been certified as due to natural causes and the information that came to light would have remained well hidden. I am left to wonder how often this different scenario is played out. If little or nothing changes to address the issues of responsibility and accountability both before and after the coroner’s process, then I fear many more vulnerable individuals aged and otherwise will endure more unnecessary injury, pain and suffering well beyond what could be considered reasonable.

Further to this is the likelihood that many deaths which occur in questionable circumstances go undetected or at best under-investigated. Those that get to the coroner’s offices and some of the few that find their way to an open inquiry will probably leave more unanswered questions than was foreseen when the process began, certainly for those who have shared a close personal relationship with the person who has died.

Responsibility comes way before death occurs. Accountability needs to be facilitated without the narrow guidelines which currently exist. The owners, the service providers and various members of government all have responsibilities to the patient, resident, client and constituent. Their responsibilities revolve largely around contractual arrangements and financial matters. They utilise advertising opportunities very effectively to their advantage and gain the trust of the vulnerable and fragile in the process. When accolades are to be distributed, photo shoots are in the offing and financial contributions are to be made, all doors are open and the above are only too prepared to deal with the individual. But when things go horribly wrong there is limited or no access; red tape and protocols become a minefield of frustrations and conveniently privacy and confidentiality exclude dealing with the individual case.

How can accountability be retained or attained for victims and survivors? How can there be trust and confidence once you become aware of this reality? What would encourage greater accountability at a higher level? I wish I had all the answers. If I did, my feeling is no-one seems to care enough to listen. Some may say this is only one old person who had dementia, only one emotionally charged family, only one worker and only one facility which does not reflect on the care overall. I say to this: this is exactly what it does do and I still wonder where principles could be found, if indeed they still exist.

I have another thing to read. I am here today as a family member who has been wrecked emotionally and traumatised and is still endeavouring to come terms with a totally preventable and extremely personal tragedy — the injury, pain and suffering and subsequent death of my mum, Freda Mary Cameron. This occurred as a consequence of a medication mistake. Mum was administered a medication medically prescribed for another resident while in an aged care facility.

I found myself struggling to address only the coroner’s process. I believe there are many problems right across the board when I reflect on what happened to mum. As an elderly citizen in need of proper care in a safe environment, mum’s health and well being and indeed her safety were put at risk on more than one occasion. On these other occasions however, she was able to recover, to weather the impact. This time mum was not so fortunate. The fact that previous concerns had been highlighted at an official level should have improved the situation or so I would have hoped. I related my concerns by speaking and writing to the facility management, the state and federal governments, the bureaucracy and even media outlets among others. I dared to think that perhaps this would make a difference. I did not know what else I could do. Things certainly needed to change.

I expect you have guessed by now none of this made much impact. If you needed any proof of that, then the circumstances surrounding mum’s death and the information which did come to light because of an astute, persistent and caring doctor working in the emergency department at the Dandenong Hospital and the coronial inquest should allay any doubts. This suggests to me there are systemic problems, and they are not necessarily confined to within this facility. Legislation must change to favour the protection of the vulnerable residents in these aged care facilities. The facility management, the service provider, the state and federal governments and the relevant bureaucracy should not be given any more control over the lives of these individuals.

This is just to put it into perspective. When this latest incident occurred Mum was in her bed, in a confined area of a dementia unit, in a purpose-specific facility — which was the Villa Maria Aged Care, in the care of qualified staff,
under the auspices of Catholic health and under the watchful eye of state and federal government requirements, policies and procedures. To believe that Mum was the only resident to endure injury and pain and suffering, and also have her life put at risk, is, I believe, naive in the extreme. This is particularly so when the protocol for administration of medication is blatantly ignored by more than one person on a seemingly routine basis. Surely this would suggest to any thinking person that there were failures at a systemic level. What sort of orientation process, mentoring program, supervisory procedures and medication audits were in place? Although it seems many people are of the opinion that adequate systemic safeguards are in place, this is obviously not so. Perhaps added incentives, better resources and mandatory compensation would lead those in positions of authority to be more accountable for their behaviour. I suspect this might impact favourably on the care and the protection afforded to our already vulnerable elderly citizens.

It is possible to improve our systems of care thereby restoring the trust and the confidence which has been lost, but this requires changes on many fronts: in attitude, in behaviour, in communication, in funding, in staffing and in legislation. This committee can help to facilitate such a transformation. I will not read out the suggestions but I have put some suggestions here and this is something that you have copies of.

Mum’s journey through all this was not a solo one travelled in a vacuum. As a family member and as a daughter who accompanied her on this devastating journey, I can assure you that the consequences are far-reaching, long lasting and they penetrate very deeply. The images have not been forgotten, and I would ask you to have a look at those photos that I have turned up the other way. It is for these reasons that my resolve is to take this matter — Mum’s case — to a court process which does allow for apportioning of blame and for the provision of compensation. Nothing will diminish the injury and the suffering; nothing will bring Mum back to life and nothing will fill the void in my life.

Compensation, as far as I am aware, is about helping the survivors to deal with and perhaps overcome some of the damage which has been done. It also serves to send a clear and potent message to those who prefer to remain ignorant, that what happened to Mum was not merely a mishap or as simple as the fault of one person. Certainly my view is that the evidence supports a much more likely theory, that there are inherent systemic problems which have been kept hidden and caused lives to be unnecessarily put at risk.

I hope my input has been of some benefit and will promote or provoke some serious discussion, and that it will influence some action. I have something I would like to read at the conclusion of my half hour, so if you would like to ask me any questions, please feel free to do so.

The CHAIR — On the question of how the coronial process itself went, I got the impression from your submission that you were reasonably pleased with the findings of the coroner; is that correct?

Mrs KING — Most definitely — more so because there was a positive; not vindication that our suspicions were right, that was one issue, but the fact that recommendations were brought forward. It was certainly our intention, and we understood it to be the coroner’s, to prevent similar things happening to other people, so those recommendations we saw as a big plus, as most important and certainly needing to be and able to be implemented. To find that the places they were to be sent to were not expected to respond blew my mind, because I thought this was something that we talk about — our ageing population. I have concerns for myself as well; I am getting on too.

I know what the process does for you — very little; my mum is proof of that. She was not a one-off or out-of-the-blue case. I do not mean to demean other people’s circumstances, but it was not an accident that was not foreseen or that there was no lead-in to. My many phone calls highlighted major concerns, which to me indicated the attitudes left much to be desired; the communication channels were almost non-existent — and the protocols were in place; they were in writing and they were quoted to you and there were reassurances given by people at the facility, by bureaucrats and by government. All these things were in place, so it is not like you need to write anything else in. What you need to do is to monitor and oversee that what is in place is being adhered to. I just think it is a terrible shame that we have had to find our way to the coroner’s process in order to have these things looked at seriously. That is why I see that the coroner’s process is part of an overall network. I cannot understand how it can be so clearly expected to be seen as a separate entity without the influence of these other processes, in the same way that the other processes should not be seen as separate entities when the end result could well be part of the coroner’s process.
The CHAIR — At the inquest did you feel that the nursing home was cooperative? Were their lawyers there? Was it an adversarial type of process or do you feel that it was a process designed to get at what happened?

Mrs KING — No, I do not. I believe they were there purely to defend themselves and the facility against any adverse effects. I believe they conveniently and deliberately scapegoat one person. I have very strong feelings about that simply because of the way things came to light through the process of the Coroners Court. I believe they were a cover up; I have no doubt about that either, because it was just too convenient to scapegoat one person. Having said that, I do not believe that Danielle did the best she could do. I do not believe that Rhonda the manager did what a manager in a care facility should do. If a phone call comes from somebody who is subordinate to you explaining that somebody in their immediate care and vicinity is struggling to live and you, as the manager, might be 100 to 200 metres away on the facility on the day — I did not believe this until I heard it with my own ears — and do not leave your post and support your worker, if not the person the worker is trying to support, begsgers belief to me. This is a manager in a Catholic care facility who was not only the manager of that facility, but she was the manager over all aged care for Villa Maria. I am not sure whether you are aware or not, but there are a number of facilities.

This is something I will send around; it is the spiel and is what has betrayed our trust. We have been brought up through the Catholic system. Our mum and dad, and all of us, have held that faith very seriously and the ethos and the principles and everything that go with it. We have been betrayed. I cannot speak strongly enough about it. What we saw our mother go through, what we have heard and the response that I got back, I am disgusted, and I am embarrassed, and I think they should be as well. Through the course of the three days of the process, one by one the facility people got up and at no stage did I feel or recognise any remorse for what had happened to mum, but certainly when there was defence there was remorse for what was coming out and how they were feeling the pressure on them. That was very demeaning to mum, to her memory and to us, and it was inexcusable.

These are all reasons why I need to find a way to make them accountable to where they understand, because I do not believe that they do. If I had heard anything from any of them saying that they could have done better or they should have done better — and this is freely admitting that the protocols are in place, but they did not follow them because they were in this dementia-specific area and because people were wandering around trolleys from time to time. My mother was not wandering around the trolleys; she was in her bed. It was a dementia-specific unit, so why would you bring that in as an excuse for not behaving in an appropriate manner, other than it is just discriminatory? That goes to attitude. This is an older person who has dementia. The degree of dementia does not matter. Mum did not have a great degree of dementia, but to be so easily dismissed in an area where the claims are made that they can care for you — at no stage did they say they could not meet Mum’s needs. It was always, ‘Yes’, and, ‘We will look into this’, and all the jargon that came out with it.

Prior to Mum dying and prior to getting into this coronial process, my sisters and I had a meeting at the headquarters in Kew. At that meeting was Rhonda Garad, who was the manager of the overall thing. Incidentally she also worked for state and federal governments on the accreditation processes to other facilities, so I suspect that might be a little bit of a conflict of interest. That is not what we are here to discuss, but I had to get it in because it needs to be on record. The CEO of Villa Maria at the time was John Patone. Their lawyer from Nunan and Bloom, who was also the assisting lawyer to the barrister through the process of the coronial inquest, was there.

I had much correspondence with a number of places, including the complaints resolution scheme — toing-and-froing; I have letters, everything here. I had said Mum had been administered this medication on 27 September 2000. This meeting took place on 1 November 2000; Mum died on 5 November. So at this meeting on 1 November we did not want to go through the process of mediation and no legal representatives and the confidentiality. It was way past that. This was my second complaint I had been through to do with that facility, among others. Reluctantly I closed off that first one, but not quietly I must admit.

This second one was a major issue, with Mum frothing at the mouth, clinging to life and fighting against death at the time. That meeting was over at their facility and all of us were there. Knowing that Mum was in a terrible state, we had already sent a letter saying Mum would not be returning to the dementia-specific area of that facility, giving them the last option, the final ray of hope: ‘Please understand what our concerns are. Understand what your responsibilities are. Understand the failures. This is what has led our Mum to be on this journey’. But even then they did not get it. They came to that meeting with the offer of a bed, obviously in one of their facilities. Our trust had been blown out of the water. Did that give us any relief that they understood what Mum had gone through or
what we were going through? Not at all. It was very belittling. Not only that, but they did not actually know Mum’s state.

We had a solicitor who had given us freely of his time at that stage before this meeting. He said to them, ‘If you are coming with the offer of a bed for Mrs Cameron, when was the last time you saw her to know what her needs are, therefore to know that you can meet them?’ They had not seen Mum since she left the facility in the state she did on 27 September. Mind you, that was largely to do with the fact that we did not want anything to do with it, and we were so angry, so hurt and so upset and lots of emotions. Then the solicitor said, ‘Okay, you are coming with the offer of her bed, then we would like to know when you would able to go to see Mrs Cameron to assess her needs and to see what those needs really are. Before you can offer that you must have to do this’. This was the Wednesday, 1 November. He said, ‘Obviously we can see that somebody will go there tomorrow’, which was the Thursday. ‘No, cannot manage that.’ John Patone, who was the CEO, wanted Rhonda, the overall manager, to go and assess Mum — nobody else. This is an umbrella organisation here where they have a number of facilities, but they are only happy for this one person, who was at the facility and who did bother to go to see the worker and see Mum at the time, but she is the one they designate to go to assess Mum. No, she was having some sort of procedure in hospital herself on that day, so then it was, ‘Would you be able to go on the Friday possibly?’ That seemed to be the idea. So we left that meeting under the impression that somebody, possibly Rhonda, was going to go to visit Mum in St Vincent’s Private Hospital and assess her needs in order to decide whether they could care for her or not. This goes to attitude. This goes to really serious stuff.

So later on the Friday they faxed through a care plan. For all intents and purposes somebody has been and assessed Mum’s needs, drawn up this care plan and away we go again. But — surprise, surprise! — nobody fronted up to the hospital; nobody assessed Mum’s needs. They drew up this care plan from what information they had got. I gather it was over the phone. I do not expect that the hospital sent anything in writing. This is attitude and the type of honesty that you are trying to deal with. The protocols can be written and all the things can be in place, but you can have these hidden dangers. I am sure it was not just Mum; and they made a big mistake in having Mum finish up this way because we are not a pliant family. We had tried desperately to work with this facility because we had struggled with other facilities. This was our big hope. Mum had been on a waiting list for four years. She started off on that waiting list when she was not in need of high care, when it was a low-care facility. The facility was able to take high-care patients at a later time, and then an opening came up. Mum was paying for the privilege of being in this bed. She had been on a waiting list for four years.

We put an enormous amount of trust in this facility, in the ethos that they said was there, and in all the promises and all the reassurances that we were given along the way. We were doing our best to be there as often as we could be to support them in whatever ways that they could support Mum. We have beaten ourselves up over this. Could we have done more? What else could we have done? Who could we have written to? How could we have let this happen? But it was not in our control; it was in the control of a lot of other people.

This is why the coroner’s process was so important for us. It was to highlight the failures within a number of areas across a number of facilities. So when those recommendations came down, even though they only dealt with the medication because that was all that could be dealt with, to find that they need not be responded to or enacted in any way was a huge failure in the overall system. Who drew up this Act? Who allowed this to be? If you go through this process and something like that comes out, the reasonable thing is to expect that something will be forthcoming from it — not more talk, not more written anything, but actual action to take place and people can believe that the convictions that everybody has adhered to and spoken of along the way, that they actually have the courage to stand up and say, ‘What we have said to you is what we will do’, but that does not seem to be the case. That is a very sad reflection on us as a society if ordinary people like us cannot be heard or will not be heard.

Mrs ANDERSON — We are not allowed to be heard.

Mrs KING — Unless we are someone who has a power base in order to get votes, and unless we have huge financial input to make financial contributions to make a difference to somebody else, we are silenced. It was enough in the coroner’s process? I firmly believed that had great benefits for what we needed to do to be sure that Mum did not die in vain. But having said that, we did not have representation at the time in a legal sense, and I am sorry about that. Somebody else touched upon that earlier on. I firmly believe that in cases such as ours, such as mum’s, you should not be restricted by the financial burden of losing everything you have got. Our family, through what had gone on with mum, had paid a high enough price. We should have been supported by our government, by
that facility, by the insurance companies who make huge profits and refuse to pay out, because mum’s case has been a learning curve, not just for me but I hope for a lot of other people.

Nobody wants to deal with individual cases. They quote privacy and confidentiality. We see it and hear it in media all the time. To speak to federal or state MPs is nigh impossible. I have written to many. I have spoken to advisers and they have assured me they will get me appointments and all this sort of stuff. Now, somebody is dead. Under these circumstances I would think it would be important enough to at least get an audience with somebody who has the clout to make a difference. That has not been the case. That includes both federal and state government and opposition, so it covers the big parties, the ones who speak out that they care for you. They will look down the barrel of a camera in any photo-shoot opportunity and make a point of speaking to me; me the individual, not me the stereotype, or me the average or me the statistic, but me the person. I am more than open to put my trust and my belief in what they are telling me, that they believe. But now even my trust and my belief in all those things has gone as well, and with very good reason. I have not been able to speak with anybody at any length about any of this because nobody wants to deal with an individual case.

There is always an opportunity to speak with individuals. Once you get in the media you see highlighted, ‘Federal MP spoke with’, or ‘State MP spoke with representative company’. You see the fellowship and they are all in there together, so to say that they cannot get together and speak with someone who has been through this sort of trauma and who is concerned about saving the lives of some other people, who is not just talking about the money, getting down to the real nitty-gritty, to the people, to the ones who put them in those positions of power, who pay those wages — if economics is what it is about I can bring it to economics too.

The CHAIR — I do not want to interrupt what you are saying but — —

Mrs KING — You probably need to!

The CHAIR — I am conscious of the time. I do not know whether you want to allow Anne to say a few things and then we might come back with questions. We only have about 15 minutes left.

Mrs KING — I am not sorry I have taken the time.

The CHAIR — It is up to you how you use the time, but to be fair to the witnesses that follow I need to stay to schedule. It is up to you how you share the time.

Mrs ANDERSON — I do not need to say too much. The thing is you have all read the submission and hopefully this one included. I will probably get my butt kicked for that one, but anyway

The CHAIR — Do you want to talk to those at all, Anne?

Mrs ANDERSON — I would like to say a few things. I have already written to the Prime Minister and I have had responses back from his secretary. I have written two letters to Bruce Bilson, my local member, and I have had three or four replies from him as well as the minister, Ms Bishop.

I know the committee does not wish to deal with individual cases, but sometimes if you do information may be revealed that could help change the system. I absolutely, 100 per cent, believe my mother is that case. I have no doubts at all. In this from the Coroners Court and the process, you have got a few things in here that just amaze me. ‘Held in care’: the definition of ‘held in care’ is very broad. It includes people in police custody, people in jail, involuntary patients in psychiatric institutions, and children in juvenile centres, but where is aged care? It is not included in there. I am less than thrilled with that.

A review of the person’s medical history and the circumstances of the death: the coroner can decide if there is going to be an investigation, and yet we were told this was not to be produced. But we turned up at the Coroners Court and found we might as well have had our mouths strapped and our hands held behind our backs. We were not allowed to say anything. There was nothing we could bring in at all. We sent submissions in to the coroner to say things that had troubled us for a long time about mum. Drugs were our main problem. They were drugging our mother and we could not stop them, all because they said she had this, and she had this, and she had this. Fair dinkum, it was very annoying.
The Coroner’s Assistant: I had a little bit of trouble with the coroner’s assistant, if you will read what I wrote the last time, not necessarily with the first coroner’s assistant. I do not believe the Coroner’s Office has enough help, individual help that cannot be compromised, where it can delve deep enough into information.

The information: I was surprised we had the finding that we did from the coroner. I was more than pleased, I have to say.

In here it says if the family is not represented by a lawyer the Coroner’s Assistant will check whether they have any questions they would like to ask of the witnesses. Both my sister and I tried, and I got one question across. It was up to him if he chose to ask the question. I cannot believe it. I mean, the kind of job is to find out, and I believe the coroner’s assistant’s job is to find out what is going on and to ask questions. He was scared to ask questions, or he has got guidelines where he does not know if he can go over them or not. It seems just crazy to me.

In here it says the current legislation must be amended by adding a complete new inclusion of terms. One amendment that must be included is a special amendment to cover the aged people of society and the vulnerable. I have absolutely no doubts.

Another thing I think the Coroner’s Court should look at, and maybe deal with other departments — The Health Department, Discrimination Department, Human Resources — is the filling in of terminal wishes on the day of arrival at facilities. If this information is prematurely given, when and who has the personal discretion to decide for the resident if they live or die? Should they have that power? This for me is a trouble-filled area that should only be addressed when it is actually needed. I have absolutely no doubts at all had this section been filled in by my sister, my mother would not have been transferred to the hospital and there would certainly not have been a “Coronial Inquiry”. Why? Because of her deteriorating health and her age. What is going on and just how difficult is it? Unless you change these circumstances of the Coroners Court and its guidelines no-one will find out.

Freda’s health was continually compromised because she was scared and stressed. Freda had obvious physical indicators showing that personal care was nonexistent, incorrect or not effective. Her spiritual requirements had not been addressed by the facility and her medical history shows that the drugs given had detrimental effects. Freda experienced altercations, proven physically and inappropriately — some were verified and some were not, for lack of information; she experienced a loss of freedom. There was manipulation of residents for self-promotion of facilities. I may be supersensitive but I believe there was inequality in residents care because of blatant discrimination between different sections in the high-care area and because of believed mental abilities.

Our family was manipulated to control situations and to divert or diffuse unwanted attention from what other people could see as unwarranted scrutiny. On one occasion I had gone to collect Mum and take her out only to discover she had been so drugged she could not stand up, and there were many other occasions. Mum had slid down the wall. All Mum wanted me to do was to take her to bed and lie with her, holding her in my arms. She said I made her feel safe; isn’t that a joke?

I have made a couple of suggestions. I think the Coronial Office should maybe look at sending out new forms to all these care facilities and maybe hospitals — and in the case of some of these people here, maybe the Mental Health Offices — for each resident who arrives, for it to be filled out and sent to the Coroners Court when that person actually dies — whether they die in the facility, whether they die in a hospital, wherever they die. Wherever that person goes, that form should go with them and it should be filled out about their health status. I have absolutely no doubt about that at all. Whether it would come to fruition or not, I do not know. People have not filled out forms. I do not know what they have done with them. There is a problem, and it is about time to recognise and acknowledge it.

Not one person seemed to understand. We had trouble with people from the legal profession. It was amazing. Some comments were: ‘State problem?’, ‘No, it is a Federal problem.’; ‘We are legal professionals; No, we do not deal with that. That is somebody else’s’. Does anybody talk? Does anybody talk to each other and find out?

The Coronial process was the only available chance left to highlight just how inadequate, dangerous, unprotected and discriminatory the aged care system is managed. Unfortunately my mother had to die for this to happen, and I certainly thank God for the person who made the decision to have an inquest. I felt emotionally paralysed. My mother became physically paralysed, and then she suffered terribly and she died. Witnessing Mum suffer was excruciating. The whole trip has certainly been a minefield. The only thing I know that will help me and many other people is to tell the people who can change the circumstances for the better, and that is you, this Committee.
The government needs to know I am just one of many people who have lived and are still living with the effects of what occurred because of their loved one’s journey through the health, the aged care and the coronial systems. I have practically destroyed my own family trying to figure out a way to highlight this problem so that your parents — you, this Committee — or your sons or your nephews do not have to go through this.

There were signs that behaviour and attitude could lead to dangerous situations. These people should not be anywhere near Freda. I considered their actions reckless and them dangerous because of what was happening, and sometimes their logic just made me stare in amazement. The whole thing was not making sense. Aged people have rights. They are just not upheld and given much respect or valued. Most of the residents of these facilities have contributed tremendously with taxes, toil and tenacity through their lives to make this country one of the best. These residents deserve respect and full and proper care, and after the trip I have endured with Mum, I deserve to have my opinion heard. It seems ludicrous to think the Coroners Court at the end of the line is actually where appropriate care for the elderly and the vulnerable begins.

Are there any issues? There are plenty. We are running out of time and I would love to talk about this another time. The assistant told me we are not here to be prosecutors, but we are here to ask questions for the safety and wellbeing of all society. Your interest and ours is really secondary to how society can be affected by the outcome.

Big mistake. Two weeks before Freda’s case she had an accident and was unable to attend. There was time wasted in the court when we had to wait for material to turn up. On the other hand the brief was inadequate. The court itself was cold and felt quite clinical, which was unnerving. Time delay seemed to play right into the hands of the facility managers when paperwork can be changed and dismissed in the court and whole sentences can be stricken from the record.

The jurisdiction of the Coroner extends to the investigation of non-fatal fires. If this is so, the jurisdiction should also extend to the investigation of non-fatal and fatal incidences transported from care facilities to hospitals. If prevention is the key, as the government says it is, then this is a forward step that must be acknowledged. If the state coroner and the Attorney-General can investigate fires and injuries which happen occasionally, then I hope they will consider it fit to use that power in respect of the residents in aged care facilities.

We speak for the dead to protect the living. To do this you must understand them and to do this you need to ask questions and listen to the answers, improve investigation standards, experiment and open up the guidelines to improve your chances of finding imperative information. To identify similar types of deaths and/or “Cluster Deaths”, the Research Unit may need to extend in size to be able to target growing questionable areas, injuries and death — A prime example, the aged care related industry and deaths from care facilities.

I am here before you with the memory of my parents in mind, hoping somehow Mum and Dad will know that I, and we, never gave up trying to protect Mum even if now it is only her memory. Age should not mean questions are not asked. Please legislate to recognise actions that are criminally inept and are counterproductive to changing behaviour, preventing deaths being reported to various authorities for the returnable input into Coronial investigations. Legislate so doctors must have coronial input into death certificates. As to death certification, introduce legislation specifically targeted for vulnerable residents. Legislate so that investigations may need to be commenced prior to the death.

Freda died after six weeks. Information may be lost or tampered with in that time. Legislate to recognise all interested family and friends. The Coronial Court must send powerful messages. Give recognition to an immense but particularly vulnerable group of citizens. Instil specifically targeted requirements into Coronial legislation.

I will just finish. There have been three occasions where I feel Freda was close to visiting Coronial Services. On the last occasion she succeeded. The first was a low-level facility, close to bleeding to death. The reason? The effects from drugs given, inadequate care and monitoring. The second was a high-care facility. Protocols did not seem to matter in there either. Mum had been harnessed to a chair, and there was more there, but she nearly ended up choking herself. One of my sisters and I actually removed Mum and her bed, and the manager was harassing us as we were leaving. We did not report this. We were just so glad Mum was not there any more. I can bet the woman manager on duty that day did not report it either. How would she explain it? The facility was shut down a while later. It was the same facility and the same day I was there with the kerosene.
The last was a high-care facility, a fully accredited, approved facility. Freda did die off this facility site six weeks later. The reason? Drug effects. This time it was a man’s medication for an illness Freda did not have. No occasion has been acceptable. Each has been devastating. I consider the last is criminal and should be taken to trial.

It has certainly been a hell of a trip. Do visiting doctors really delve deep for information when they do visit? Do they see all residents? Do they consult with family or just the managers of these facilities? What would be the ramifications to the facilities reputations? It would be quite easy and convenient to find a reason not to report, especially given the age of the residents and their previous health.

The CHAIR — Do you mind if we ask some questions in the brief time we have left?

Mrs ANDERSON — Can I just finish with two things?

The CHAIR — Yes.

Mrs ANDERSON — I believe there should be a Public Relations Office set up in the Coroner Investigation Office, absolutely of maybe 5 to 20 people. The government needs to look at doing this in every state. The other thing is I think there should be a solicitor or a barrister-based section within the Coroner Section with I believe maybe 5 to 10 people in that section who may not be compromised by outside influences.

Mr DALLA-RIVA — You said you wanted a form and you said that a form should be completed when someone goes into an aged care facility.

Mrs ANDERSON — I think we need a form for people to fill out showing their terminal wishes. It is a very big problem. I slacken off from suggesting that most people would not sign it before they go in. But if there are deviations — and there were proven deviations in our mother’s case which we knew about because we had seen half of them — questionable things can occur and people from outside, like you and I, would not be able to ask about it because it is not written down anywhere. If the Coroners Court was to initiate a form to be filled in by everyone who goes into one of these facilities, which goes back to the Coroner at death or in the case of serious injury, I think you might find that if there are cluster deaths or cluster injuries occurring within these facilities, you would pick it up. But there is nothing at the moment. The Coroners Court does not have that power and the government should give it that power.

I am here today to say that the both State and Federal Government need to wake up and talk to each other, and they must give the Coroner more investigative powers. Recommendations from the Coroners Court must be tabled in Parliament, and when a Coroner sends questions to a facility they absolutely must be answered. As it is no-one has to answer anything about anything or to anyone. It leaves every one of us in this room vulnerable, including our parents and our children, because we all know it is not only aged people who are in these facilities; there are people who have damage to their brains whose parents cannot look after them. Something must be done. It must be changed.

Mrs KING — May I just put a suggestion about getting information out to people. I noticed other people saying that they did not know about the processes. Perhaps you could utilise the opportunity of where people gather to send out a pamphlet so people know about them, and a school is an ideal place. We have to get rid of the stigma attached to death. It is going to happen to all of us. We cannot pretend that we are going to live forever. Part of the process of living is dealing with death. So just in case people come across the coronial system, it would be good idea to de-stigmatise it by giving them some idea of what it is about. There are positives that can come out of this; not just the negative stuff. Schools, health care centres and places like that could put out a brochure to say to people, ‘If you happen to come across this, here is a contact number where you can get more information’, or something like that. It is hard to find out as you go along when you are already devastated.

Mrs ANDERSON — Changes to legislation must help life, not bring on premature death, which is what I absolutely believe happened to my mother.

This scrapbook shows what I have been doing. Sometimes I get so depressed I cannot buy the paper. This was my mother. It shows pages and pages of incidents in Aged Care Facilities. My mother’s case was not a one-off. We were just fortunate enough to have my sister write letters and fortunate enough to go through the Coroner. We were also fortunate enough to have a Coroner who asked questions.
I was not particularly impressed with the Coroners Court although I was impressed with the finding. We were virtually shut down, but then we were virtually shut down from the beginning, even before we got to the Coroners Court. So I am amazed. This goes on for pages, so something is seriously wrong. You need to tell both State and Federal Parliaments that something needs to be done. I worked on these pages at times when I had enough strength to go through the papers. I started laughing because there were just so many stories. I could not believe that people were not waking up to it.

The CHAIR — We have gone well over time.

Mrs ANDERSON — Could I just do one more?

The CHAIR — No; we have gone well over time. I know it must be frustrating because there is an enormous amount to be said about every case. May I assure you that we have your submission and it was very comprehensive. You have raised a wide range of issues between you. It seems to me that you were saying that there is clearly under reporting of deaths in nursing homes.

Mrs ANDERSON — Absolutely.

The CHAIR — There needs to be some way in which the Coroner can systematically look at those. You made a strong case for the act making it clear that one of the roles of the Coroner is to protect vulnerable consumers, and to investigate circumstances around death. You also talked about the Nursing Homes Act as well, but translating that to the Coroners Act. You also argued that the coroner should be able to award compensation in cases where clearly someone dies as a result of negligence.

Mrs ANDERSON — Absolutely.

Mrs KING — And it should be mandatory.

The CHAIR — It should be part of what the Coroner is able to do. He should also be able to return a finding of blame. You indicated that you would like to see response teams to reduce delays in the Coroners Court. You also indicated that the rights of the next of kin should be incorporated into the Coroners Act; that was something that came out in your submission.

In your additional submission today, you say that the Coronial Process needs to be more robust. The Coroner should be able to initiate inquiries; there should be legal representation for families; it should be mandatory for Government Agencies, Nursing Homes and others to respond to Coroner’s recommendations and basically that the office needs to be beefed up, both in terms of information — I think Anne referred to public relations — and a need for a Solicitor’s Office to help represent families in the Coronial Process.

Mrs ANDERSON — Absolutely.

Mrs KING — The profile needs to be lifted to a point where it is taken seriously, because the response from the facility suggested that even it did not take it seriously.

The CHAIR — Yes. I thank you both. It has obviously been a huge emotional journey for you, and I know that it is still going on. You are still pursuing every avenue. It has been incredibly helpful for us as a committee to understand the circumstances surrounding your mother’s death, and hopefully we will be able to make recommendations that will help prevent such deaths happening in the future. I certainly hope we can do that. Thank you.

Mrs KING — We hope so to. Before I go, may I just ask whether the transcript will be on the public record?

The CHAIR — Yes, it will be on the web site.

Mrs ANDERSON — Thank you for listening to us.

The CHAIR — It was a pleasure.

Witnesses withdrew.