



Speech by

BILL FELDMAN

MEMBER FOR CABOOLTURE

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MASTER B. KENDELL

Mr FELDMAN (Caboolture—CCAQ) (11.30 a.m.): At eight years of age, Ben Kendell was seriously injured in a horse riding accident that caused him to bleed internally into his hip joint. This immediately destroyed the head of his femur. In November 1998, the head of his femur began collapsing. Ben was seen at the Mater Hospital following this. On three occasions orthopaedic doctors at the hospital sent Ben Kendell and his parents away with the advice that their child's condition had nearly resolved itself with a great outcome expected. Their advice contradicted the evidence of radiographs, which these doctors had refused to examine.

One doctor sarcastically and repeatedly asked the Kendells—in particular Mrs Kathy Kendell—if they would like him to hurt their son. That doctor promised them that, if allowed to operate, he would hurt their child and hurt him good. He then accused the parents of child abuse for keeping their son on crutches in order to help him cope with the increasing pain in his hip and leg. The Kendells were denied the names of other medical experts or information on treatment options. The Mater Hospital has never disputed Mrs Kendell's recorded documentation of these events.

On 22 April 1998, Mrs Kendell presented correspondence to Sister Madonna Joseey and Medical Superintendent Dr Peter Steer at the Mater Hospital from an internationally recognised Melbourne orthopaedic surgeon, Dr Ian Torode, and X-ray evidence that the hip was further collapsing. I seek leave of the House to table those two documents.

Leave granted.

Mr FELDMAN: Dr Ian Torode's correspondence indicates that the child's condition was serious and requested an MRI to see whether anything was worth salvaging. On receipt of this documentation, Dr Steer made statements to the effect that his Mater Hospital doctors were incompetent in refusing to carefully review all radiographic information and failing to determine the severity of the child's condition. Dr Steer made promises of full financial support and assistance for any necessary treatment anywhere in Australia.

On 27 April 1998, Dr Steer requested Mrs Kendell's urgent attendance whereupon he criticised her for recording his comments of doctor incompetence and withdrew all offers to assist, as well as claiming that his doctors were not mistaken. Dr Steer refused to schedule an appointment with any doctor, refused to arrange an MRI and told Mrs Kendell to go overseas if she wanted further help.

Given all the medical evidence to the contrary, including correspondence from Melbourne orthopaedic surgeon Dr Mark O'Sullivan, shown to Dr Steer on 27 April 1998—which I will also table—a reasonable doctor would recognise his legal, moral and ethical obligations to resolve existing differences in medical opinions by arranging the MRI. However, a suspicion of malicious intent begins to take even further shape on several accounts from a number of different sources.

After the parents paid privately for an MRI, Dr Steer stood firmly by his erroneous advice in failing to act upon the MRI finding sent by fax to him and Dr Fairbairn on 27 April 1998. I seek leave to table that MRI report.

Leave granted.

Mr FELDMAN: The MRI provided no material evidence that the head of the femur was healing or remodelling. Instead, the MRI confirmed that there was no signal on any sequence throughout the

entire head of the femur, that it was fragmenting and was no longer contained within the joint itself, meaning that ultimately the child would suffer a severe disability accompanied by tremendous pain. I seek leave to table Dr Steer's correspondence dated 5 May 1998.

Leave granted.

Mr FELDMAN: In that correspondence, Dr Steer does not inform the Kendells of the Mater Hospital's error, nor does he inform them of the severity of their son's condition; his correspondence focuses on self-justification rather than the child's interests. It would seem, on the face of the evidence, that Dr Steer's medical advice to the Kendells could be made only without an honest belief in the truth of it. It is disturbing that any doctor of such experience and standing could not reasonably foresee a number of serious consequences if such advice was relied upon and yet do nothing to correct or lessen the potential consequences of information provided by the MRI that proved to be incorrect.

In an attempt to reconcile Dr Steer's medical advice, Mrs Kendell felt that she had no option but to see world authorities in America about her son's condition. They subsequently confirmed the seriousness of her son's condition and the opinion of the Melbourne doctors. Upon returning from America, Mrs Kendell returned to the Mater for a clinic appointment with Dr Fairbairn. Although no new information was available at this time, Dr Fairbairn admitted that the child required major surgery. He told Mrs Kendell to go to Melbourne for information and refused to schedule a further appointment for her son, thus abandoning him. Mrs Kendell then became aware that Dr John North, a Queensland orthopaedic surgeon, had contacted her GP to pressure him to have Mrs Kendell's children removed by the State. To support this demand, Dr North told the GP that the Mater doctors had agreed with his impressions and were making seriously derogatory and dangerous statements against Mrs Kendell. A statutory declaration was prepared by her GP at that time. I seek leave to table that document as well.

Leave granted.

Mr FELDMAN: That declaration also documents that Dr Steer told the GP that Mrs Kendell was psychotic in an apparent effort to discredit Mrs Kendell or pressure the GP into not arranging a private MRI for the child. Dr John North's contact with the GP was apparently prompted entirely by a Courier-Mail article of 5 May 1998, which I also seek leave to table.

Leave granted.

Mr FELDMAN: That article reports that Mrs Kendell was compelled to travel to America as a consequence of mistaken advice from doctors at the Mater Hospital. Dr John North abused the GP for allowing Mrs Kendell to travel overseas for this purpose. Mrs Kendell had seen Dr John North only once in March 1998 in an attempt to have him look at her son's radiographic history after the doctors at the Mater Hospital had refused. Dr John North also refused and attempted to take the radiographs away from her. Dr North told Mrs Kendell that God had healed her son but that she had serious problems with God, and he wrote out for her what he called a prescription to read the Bible. I seek leave to table that prescription.

Leave granted.

Mr FELDMAN: Dr North also named a number of orthopaedic surgeons, telling her to avoid them as they could not be trusted.

As if this behaviour had not gone far enough, following Ben's operation in Melbourne, the surgeon, Dr Mark O'Sullivan, rang Mrs Kendell to request a loan of the radiographs. He told Mrs Kendell that malicious and vexatious comments against her were coming out of the Mater Hospital after he and surgeon Dr Gary Nattrass operated to save her child's hip. He told Mrs Kendell that he felt that he needed to protect her family as well as to protect his own reputation and his department, which was officially involved in the decision to operate. To do this, he planned to raise the child's case at an international orthopaedic conference in Cairns. His comments were repeated to Mr Kendell at the Brisbane Airport when radiographs for the conference were passed to him. I seek leave to table Dr Mark O'Sullivan's correspondence following the conference.

Leave granted.

Mr FELDMAN: Clearly, this is not a complaint for the Health Rights Commission. Mrs Kendell quite reasonably approached the CJC to determine their jurisdiction to investigate a complaint of possible official misconduct by the medical superintendent of the Mater Children's Hospital. The CJC took months to respond to Mrs Kendell's question of jurisdiction on this matter, and only after underhandedly requesting Mrs Kendell to hand over detailed information did the CJC inform her of its jurisdiction over the Mater Children's Hospital. The CJC has now reported that it cannot investigate under its legislation any matter regarding the Catholic Mater public hospitals. However, according to the CJC Act, as the Mater fits the criteria of a unit of public administration in that it receives Government funding, it should be open to a CJC investigation.

The public are at great risk when suspicions arise that senior management of a major public hospital make diagnostic and treatment decisions based not on professional or medical grounds but on

personal feelings towards a particular patient or their relative. The Mater public hospitals are listed as such in the 1993-98 Medicare Agreement and the list is confirmed as remaining unchanged in the current Medicare Agreement.

This case demonstrates a clear breach of patients' rights. Although eligible, despite his substantive clinical need, this child was prevented from accessing public hospital services as a public patient, through the deliberate and sinister conduct of senior hospital management and staff. It would appear that the State, as trustee for the people of Queensland under that Medicare Agreement, and the Mater public hospitals are in substantive and serious breach of the strict obligations and responsibilities that bind them under the current Commonwealth Medicare Agreement.

The Federal Medicare Agreement clearly holds the State Government accountable for ensuring that public hospitals funded under its agreement operate in complete accordance with Medicare funding principles. Recently we have heard of a number of instances in which Mater public patients have not been able to access either their medical records or treatment as a public patient at Mater public hospitals. Over many years, the Mater public hospitals, owned and operated entirely by the private Catholic religious order the Sisters of Mercy, have absorbed billions of dollars of public funding. There can be no reasonable grounds upon which to justify the exclusion of the Mater public hospitals from legislative forms of accountability and transparency.

This case sets alarm bells ringing. It highlights the need for the same legislative checks and balances that apply to every other public hospital but from which the Catholic Mater public hospitals are currently exempt and protected—or perhaps neglected—by the CJC's unwillingness to intervene. I call for a judicial inquiry to investigate how Queensland's major public Mater hospitals will be held fully transparent and accountable to the people of Queensland, as are all other public hospitals in this State.
